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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Newberry County

Honorable R. Scott Sprouse, Circuit Court Judge

RICHARD F.V. BOWMAN III,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-000034

APPENDIX

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1	State of South Carolina	)	In the Court
		)	Of General Sessions
2	County of Newberry	)	Indictment No.: 2016-GS-36-0305
		)	
3	State of South Carolina,	)	
		)	
4	Plaintiff,	)	
	vs.	)	Transcript of Record
5		)	
	Richard F. V. Bowman,	)	
6		)	
	Defendant.	)	
7		)	

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July 18, 2016
Newberry, South Carolina

BEFORE:

The Honorable Frank Addy, Junior, Judge

APPEARANCES:

Taylor Daniels, Assistant State Solicitor
Attorney for the State

Russell Brown, Esquire
Attorney for the Defendant

ALSO PRESENT:

Richard F. V. Bowman

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EXHIBITS

9	NO. DESCRIPTION	PAGE
10	NONE	

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1 GUILTY PLEA

2 Whereupon, the following proceedings were had,

3 MR. DANIELS: Your Honor, this is Richard Bowman.

4 The Court is very familiar with this case. He's here to
5 tender his guilty plea to aiding and abetting homicide by
6 child abuse, 16-GS-36-0305. It is a straight up plea,
7 Your Honor, and he's represented by Mr. Russell Brown.

8 THE COURT: Mr. Brown, you are representing
9 Mr. Bowman on these charges. The sentencing sheet
10 reflects this carries a minimum of 10 years, a maximum of
11 20 years. Is that your understanding?

12 MR. BROWN: Yes, Your Honor.

13 THE COURT: My law clerk is verifying that. You
14 have explained then to Mr. Bowman the penalties involved,
15 all the elements of this offense and all his
16 constitutional rights?

17 MR. BROWN: I have, Your Honor.

18 THE COURT: And do you agree with his decision to
19 plead guilty?

20 MR. BROWN: Yes, Your Honor.

21 THE COURT: I take it that you were present when we
22 tried the co-defendant case involving Ms. McArdle some
23 months ago when your client testified. Obviously I think
24 you were present.

25 MR. BROWN: Yes, sir, Your Honor.

1 THE COURT: So you agree with his decision to enter
2 this plea?

3 MR. BROWN: I do, Your Honor.
4 Thereupon,

5 RICHARD BOWMAN
6 after having been first duly sworn, testified as follows,

7 THE COURT: Are you Richard Frank Vernon Bowman the
8 Third?

9 MR. BOWMAN: Yes, Your Honor.

10 THE COURT: Mr. Bowman, in the last 24 hours have
11 you taken any medication, drugs or any kind of substance
12 that affects your thinking right now?

13 MR. BOWMAN: No, Your Honor.

14 THE COURT: Have you ever been treated for any
15 mental illness issues, problems understanding what's
16 going on or were you in special education when you were
17 in school?

18 MR. BOWMAN: No, Your Honor.

19 THE COURT: Mr. Bowman, they are telling me that you
20 want to plead guilty to aiding and abetting homicide by
21 child abuse; is that correct?

22 MR. BOWMAN: Yes, Your Honor.

23 THE COURT: Do you understand that carries a minimum
24 of 10 years and a maximum of 20 years? Your attorney did
25 approach me at the bench before you came out here and

1 indicated to me that he would be asking for probation for
2 you. You do understand though, Mr. Bowman, whatever
3 sentence you receive is entirely up to me?

4 MR. BOWMAN: Yes, Your Honor. I come before you
5 asking for a suspended sentence as well.

6 THE COURT: I understand. But you do realize you're
7 not guaranteed that? I could give you a suspended
8 sentence. I could give you 20 years. I could do
9 anything in between. Do you understand?

10 MR. BOWMAN: Yes, sir.

11 THE COURT: Mr. Bowman, do you understand this is
12 also classified as a violent and a most serious offense?
13 The violent nature of this offense means that you're
14 prohibited from possessing a firearm from this point
15 forward. Additionally, being a most serious offense if
16 you were to be convicted of another most serious offense
17 at any point in the future, and those crimes are things
18 like murder, voluntary manslaughter, obviously homicide
19 by child abuse, rape, criminal sexual conduct with a
20 minor, things of that nature, the State can seek life
21 without the possibility of parole against you if you're
22 convicted of that subsequent offense against you. Do you
23 understand that, sir?

24 MR. BOWMAN: Yes, Your Honor.

25 THE COURT: Additionally, you realize, Mr. Bowman,

1 if the Court decides to impose any sort of active
2 sentence on you, any active time in prison, you would
3 have to serve 85 percent of whatever time I give you. Do
4 you understand that, sir?

5 MR. BOWMAN: Yes, Your Honor.

6 THE COURT: Mr. Bowman, how do you plead to this
7 charge, sir?

8 MR. BOWMAN: I plead guilty, Your Honor.

9 THE COURT: Solicitor, give me the facts. Obviously
10 I do recall the trial of Ms. McArdle. I recall what the
11 testimony was from the stand. I will ask just for the
12 record that he provide me with the facts on this case
13 that involves you. I want you to listen, pay close
14 attention to what Mr. Daniels says and when he's done
15 speaking, I'll ask you if that's what took place, okay,
16 sir?

17 MR. BOWMAN: Yes, Your Honor.

18 THE COURT: Solicitor.

19 MR. DANIELS: Your Honor, the night of December
20 30th, 2014 leading into the early morning hours of
21 December 31st, Mr. Bowman accompanied his live in
22 girlfriend Theia McArdle as well as Theia McArdle's three
23 year old son Minor . He accompanied them to
24 Newberry. They're from Enoree. Ms. McArdle was
25 answering a service call. She was advertising her

1 services, on line prostitute and Mr. Bowman accompanied
2 her for protection. She felt uncomfortable traveling
3 alone to Newberry to meet this John so Mr. Bowman rides
4 along with Ms. McArdle and her son. Ultimately they do
5 go to that service call and after that service call they
6 end up at Newberry County ER bringing in a lifeless child
7 Minor who was cold to the touch, dead on
8 arrival. Turns out that the cause of death was very
9 suspicious. They observed multiple injuries to this
10 child. The Coroner was called out there and it becomes a
11 criminal investigation. Cause of death was ultimately
12 this child was beaten to death. Multiple blunt force
13 injuries to the head, abdomen. A perforation to the
14 duodenum. Mr. Bowman gives statements to law
15 enforcement. Chief Roy McClurkin who is here, Your
16 Honor, he was a investigator at the time. But Mr. Bowman
17 talks about, you know, the arrangement, Ms. McArdle being
18 a prostitute and things like that and Minor coming
19 along with them. Also, Mr. Bowman admitted to actually
20 hitting Minor hours before they came to Newberry which
21 did cause Minor to hit his head on the bathtub. We
22 believe, Your Honor, that Ms. McArdle, she had a history
23 of abusive history towards this child. We do believe
24 she's probably more culpable obviously, but Mr. Bowman's
25 culpability is certainly on up there given the fact he

1 admitted to hitting the child right before his death and
2 the fact that he stood idly by while this child just
3 wasted away in the back seat of that car. Instead of
4 getting help, calling 911, getting medical assistance, he
5 decided to stay in the back seat of that car with the
6 child as his mother was in there performing a
7 prostitution call so we do believe that kind of conduct
8 or omission is criminal in and of itself plus given the
9 fact that he admits to hitting the child, therein lies
10 his criminal culpability. He did testify for us, Your
11 Honor. I think the Court would probably factor that in
12 but at the end of the day this was one of the more brutal
13 child homicides you will ever see.

14 THE COURT: Does Mr. Bowman have any prior criminal
15 history?

16 MR. DANIELS: No, sir.

17 THE COURT: Mr. Bowman, you have heard what the
18 State alleges happened. Is it true that you aided and
19 abetted Ms. McArdle's child abuse of this infant or this
20 child?

21 MR. BOWMAN: Yes, Your Honor.

22 THE COURT: So you are, in fact, guilty of this
23 charge?

24 MR. BOWMAN: Yes, Your Honor.

25 THE COURT: Mr. Bowman, I need to review with you

1 briefly the rights that you are giving up by pleading
2 guilty. If you don't understand something I'm telling
3 you, you stop me and I'll let you talk to your attorney
4 as long as you need to, okay? Do you understand,
5 Mr. Bowman, obviously you do not have to plead guilty.
6 You can have a jury trial in this case. Do you
7 understand that?

8 MR. BOWMAN: Yes, Your Honor.

9 THE COURT: In a trial you and your attorney would
10 help pick 12 people from Newberry County who would be the
11 jury and the State would have the burden of proving your
12 guilt beyond a reasonable doubt with unanimous
13 satisfaction of all 12 of those people. Do you
14 understand that, Mr. Bowman?

15 MR. BOWMAN: Yes, Your Honor.

16 THE COURT: Just like your co-defendant, if you
17 wanted, you could have a jury trial. Do you understand,
18 sir?

19 MR. BOWMAN: Yes, Your Honor.

20 THE COURT: During the course of the trial again the
21 State would have the burden of proving your guilt beyond
22 a reasonable doubt which they would try and do by calling
23 witnesses who would be sworn and you and Mr. Brown would
24 have a chance to see, confront and cross examine those
25 witnesses. Do you understand, sir?

1 MR. BOWMAN: Yes, Your Honor.

2 THE COURT: So you could ask them any question
3 relevant to any issue involved in this case. Even though
4 you have no burden of proof, sir, you could call your own
5 witnesses to testify at trial. You could subpoena any
6 witnesses who were reluctant to come to court. That is
7 you could use the subpoena powers of the court, power of
8 the court to force those individuals to come here. Do
9 you understand that, Mr. Bowman?

10 MR. BOWMAN: Yes, Your Honor.

11 THE COURT: And at the trial, Mr. Bowman, if you
12 wanted, you could take the stand in your own defense and
13 tell the jury like you did in Ms. McArdle's trial exactly
14 what happened and what went on. Do you understand you
15 would be free to do that?

16 MR. BOWMAN: Yes, Your Honor.

17 THE COURT: At the same time if you chose not to
18 take the stand, I would instruct the jury that they could
19 not hold that against you. They could not talk about
20 that or use that as evidence of your guilt. Do you
21 understand that?

22 MR. BOWMAN: Yes, Your Honor.

23 THE COURT: It's your Fifth Amendment Right against
24 self incrimination. Pleading guilty you waive that right
25 and admit to me that you did commit this crime. Do you

1 understand that, sir?

2 MR. BOWMAN: Yes, Your Honor.

3 THE COURT: Additionally, Mr. Bowman, at trial you
4 would be presumed innocent. The way presumption of
5 innocence works, sir, is that right now in the eyes of
6 the law you're innocent of this crime which obviously you
7 haven't been tried yet and I have yet to accept your
8 guilty plea. Do you understand that, sir?

9 MR. BOWMAN: Yes, Your Honor.

10 THE COURT: I would explain to the jury this
11 presumption of innocence is like a robe of righteousness
12 placed about your shoulders and only they, the jury can
13 remove it from you. Do you understand that?

14 MR. BOWMAN: Yes, Your Honor.

15 THE COURT: If you plead guilty though you waive
16 that presumption of innocence. By pleading guilty you
17 also waive your right to present any defense. I have no
18 way of knowing if you have any defense to this charge or
19 not. I'm sure that's something you talked to Mr. Brown
20 about, correct?

21 MR. BOWMAN: Yes, Your Honor.

22 THE COURT: So you understand that any defenses you
23 may have you're waiving your right to present that
24 defense by entering this plea. Do you understand that,
25 sir?

1 MR. BOWMAN: Yes, Your Honor.

2 THE COURT: Finally, Mr. Bowman, I understand that
3 there is some evidence against you, a statement which you
4 gave to law enforcement. Obviously there was another
5 statement that you gave at trial when you testified. You
6 realize by pleading guilty you waive your right to
7 challenge any of the evidence the State has against you.
8 Do you understand that, sir?

9 MR. BOWMAN: Yes, Your Honor.

10 THE COURT: Mr. Bowman, all these are very important
11 rights. Are you certain that you want to give them up
12 and plead guilty?

13 MR. BOWMAN: Yes, Your Honor.

14 THE COURT: And, Mr. Brown, you're happy with the
15 discovery response from the State. I assume that you
16 have also shared that with Mr. Bowman?

17 MR. BROWN: I have, Your Honor.

18 THE COURT: Mr. Bowman, are you happy with the way
19 Mr. Brown has represented you in this case?

20 MR. BOWMAN: Yes, Your Honor.

21 THE COURT: Do you have any complaints to make
22 against him?

23 MR. BOWMAN: No, Your Honor.

24 THE COURT: He's done everything you wanted him to
25 do?

1 MR. BOWMAN: Yes, sir, Your Honor.

2 THE COURT: So you're totally happy with his
3 assistance?

4 MR. BOWMAN: Yes, Your Honor.

5 THE COURT: You have understood all your
6 conversations with Mr. Brown?

7 MR. BOWMAN: Yes, Your Honor.

8 THE COURT: Mr. Bowman, aside from allowing you to
9 plead guilty to a reduced charge of homicide, adding and
10 abetting homicide by child abuse, aside from that has
11 anyone promised you anything else or held out any other
12 hope of reward in an effort to get you to pled guilty?

13 MR. BOWMAN: No, Your Honor.

14 THE COURT: Has anyone tried to threaten you, coerce
15 you or force you in any way to get you to pled guilty?

16 MR. BOWMAN: No, Your Honor.

17 THE COURT: Mr. Bowman, do you have any complaints
18 to make against the Solicitor's Office, law enforcement,
19 court personnel or anyone involved with this case?

20 MR. BOWMAN: No, Your Honor.

21 THE COURT: And no promises have been made to you,
22 no guarantees have been made; is that correct?

23 MR. BOWMAN: Yes, Your Honor.

24 THE COURT: Mr. Bowman, have you understood all of
25 my questions of you here today?

1 or anything that Mr. Bowman may want to tell me.

2 MR. BROWN: May it please the Court.

3 THE COURT: Yes, sir.

4 MR. BROWN: Your Honor, before you is Frank Richard
5 Bowman the Third. He is 27 years old, Your Honor. He's
6 a veteran of the United States Army and served in Iraq
7 and Afghanistan. He was honorably discharged, Your
8 Honor. His family is from the Atlanta, Georgia area,
9 Your Honor. Mr. Bowman as stated earlier as the
10 Solicitor stated has no prior criminal record, Your
11 Honor. This is a matter where he and Ms. McArdle had
12 some sort of a relationship. She had a son.
13 Unfortunately young Minor passed away under the care of
14 Ms. McArdle and under the care of Mr. Bowman. Your
15 Honor, we would ask the Court, the statute allows
16 Mr. Bowman to have a suspended sentence, Your Honor.
17 He's been incarcerated since December 30th, 2014 in
18 either the Newberry County Detention Center or Laurens
19 County. Your Honor, I think again it's an unfortunate
20 incident. Again, he has no prior criminal record, Your
21 Honor. We ask the Court for leniency in this matter. He
22 did testify. He did assist law enforcement. Gave, I
23 believe, at least two debriefings to law enforcement
24 regarding this matter, Your Honor. We would ask the
25 Court to take that into consideration. And again, he

1 does have a daughter he would like to get home to at some
2 point in time and be a part of her life. Your Honor, we
3 would ask for a suspended sentence for Mr. Bowman. We
4 understand that there is a mandatory minimum of 10 years,
5 but the statute does allow the Court to suspend the
6 sentence. I think Mr. Bowman would like to address the
7 Court.

8 THE COURT: Certainly. Mr. Bowman, glad to hear
9 anything you have to say, sir.

10 MR. BOWMAN: Your Honor, all I can say is that I
11 have no prior history of this and unfortunately I
12 understand the situation is bad and what happened was
13 bad. I made a wrong choice with the wrong person. Like
14 I have been told already if I wouldn't have been there
15 that night, the situation - I probably wouldn't be in the
16 situation that happened. So I just ask for mercy, Your
17 Honor, and a suspended sentence.

18 THE COURT: Thank you. Mr. Bowman, I have taken
19 everything into account in this particular case, sir, and
20 I have taken into contact the fact that you have no prior
21 criminal history and I respect the fact that you did
22 serve our country in the army and that certainly weighs
23 in your benefit, particularly the fact that you have no
24 prior criminal history. Understanding, Mr. Bowman, a
25 couple of things that are driving what the Court has done

1 here today. I'm trying to give you as much leniency as
2 possible for you readily admitting your responsibility
3 being involved with this incident. There's a number of
4 things driving this. First of all, of course, we are
5 dealing with a child who died at the hands of his
6 caretakers who were supposed to protect this child. You,
7 of course, were one of those people. I think you
8 understand that and that's why you feel some measure of
9 responsibility for this. I do understand that you, at
10 some point in time you did admit to striking this child
11 and quite honestly, Mr. Bowman, having presided over the
12 case of your co-defendant, the trial of your co-defendant
13 some months ago the Court is somewhat torn as to who to
14 believe, whether Ms. McArdle was more believable or you
15 were more believable. Obviously the jury found that she
16 had some measure of culpability in this case. Obviously
17 the jury concluded that she was responsible on some level
18 for the injuries inflicted on this child, but in all
19 honesty, Mr. Bowman, I feel like the State has been
20 extremely, extremely generous in reducing this charge to
21 something less than homicide by child abuse because from
22 your testimony at trial, Mr. Bowman, based on how you
23 testified, the jury easily could have found you guilty of
24 homicide by child abuse had you moved forward just on
25 your own testimony at trial which pretty much indicated

1 that you were guilty of the principal offense involved in
2 this. I have taken into account that you have no prior
3 record and, of course, your service to the army. I'm
4 sorry this causes a hardship on your daughter,
5 Mr. Bowman, but the only sentence the Court feels is
6 appropriate taking everything into consideration is a
7 sentence of 15 years. So that will be the sentence of
8 the Court. You will, however, receive credit for 566
9 days that you have served in pretrial confinement. Once
10 you're released from prison, of course, you will be
11 placed on the central registry of child abuse and neglect
12 so you have 15 years to serve, Mr. Bowman. I do wish you
13 luck, sir. Take care.

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1 CERTIFICATE OF REPORTER

2 (STATE OF SOUTH CAROLINA)

3 (COUNTY OF LEXINGTON)

4

5 I, THE UNDERSIGNED, Steven E. LeBlanc, Sr., R.P.R.,
6 and Official Circuit Court Reporter for the Eleventh Judicial
7 Circuit in and for the State of South Carolina, do hereby
8 certify that I reported the proceedings in the before
9 captioned case in the Court of General Sessions in and for the
10 State of South Carolina on the 18th day of July, 2016.

11 I FURTHER CERTIFY that the forgoing 18 pages
12 constitute a true and accurate record of said proceedings.

13 I FURTHER CERTIFY that I am neither related, counsel
14 to, nor of interest to any party hereto.

15 IN WITNESS WHEREOF, I have hereunto set my hand at
16 Lexington County, this 27th day of February, 2017.

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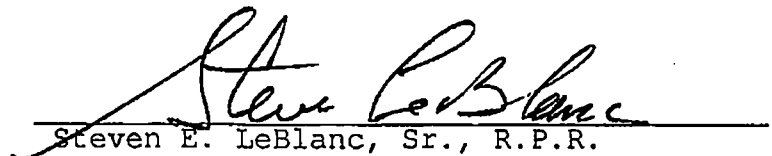
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Steven E. LeBlanc, Sr., R.P.R.
Eleventh Circuit Court Reporter
State of South Carolina.

WITNESSES

Kevin Goodman
Newberry Police Department

WARRANT NUMBER

2016D3600100011

TRUE BILL

mpk007
Foreman of the Grand Jury
Date: 5/13/16

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

May Term, 2016

Indictment # 16GS36-0305

THE STATE

vs.

Richard Frank Vernon Bowman

INDICTMENT FOR

AIDING AND ABETTING
HOMICIDE BY CHILD ABUSE
§16-03-0085

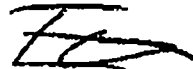
CDR: 2357

THE STATE OF SOUTH CAROLINA**COUNTY OF NEWBERRY****INDICTMENT FOR****ADING AND ABETTING
HOMICIDE BY CHILD ABUSE
§16-03-0085**

At a Court of General Sessions, convened on the 13th day of May, 2016, the Grand Jurors of Newberry County present upon their oath:

That Richard Frank Vernon Bowman did, on or about December 29, 2014 to December 30, 2014, in Newberry County, willfully and unlawfully commit the offense of homicide by child abuse by knowingly aiding and abetting another person to commit child abuse or neglect as defined by Section 16-3-85(B), and the child abuse or neglect resulted in the death of a child under the age of eleven, to wit: ~~██████████~~ ~~██████████~~; in violation of Section 16-3-85(A)(2) of the S.C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.



Asst. Solicitor, Taylor Daniel

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

21

COUNTY OF Newberry
 STATE VS.
Richard Frank Vernon Bowman
 AKA: [Signature]
 Race: AFRICAN AME Sex: M Age: 29
 DOB: [Redacted] SS#: [Redacted]
 Address: [Redacted] Highway
 City, State, Zip: Enoree, SC 29335
 DL#: [Redacted] SID#: [Redacted]

INDICTMENT/CASE#: 16GS36-0305
 A/W#: 2016D3600100011
 Date of Offense: 12/29/2014
 S.C. Code §: 16-03-0085
 CDR Code #: 2357

SENTENCE SHEET

10-20 yrs

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

In disposition of the said indictment comes now the Defendant who was
 TO: Murder / Homicide by child abuse, aiding and abetting (10Y to 20Y)

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0085 of the S.C. Code of Laws, bearing CDR Code # 2357
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

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

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

ATTEST:

Stump, David M.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 15 (fifteen) days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

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

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

SPECIAL CONDITIONS:

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

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(I) (Vehicle Assessment)	\$40/ca	\$
3% to County (if paid in installments)	\$	\$315

TOTAL

128.75

Clerk of Court/ Deputy Clerk:

Court Reporter:

SCCA/217 (07/2016)

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

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

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code:

Sentence Date:

[Signature]
2159
July 18, 2016

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF

Richard F.V Bowman III 369067

Full name and prison number (if any) of Applicant

v.

State of South Carolina

FILED
NEWBERRY COUNTY IN THE COURT OF COMMON PLEAS

2016 DEC 22 PM 12 45

JACKIE S. BOWERS
CLERK OF COURT

2016CP36-576

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention McCormick Correctional Institution
2. Name and location of Court which imposed sentence Newberry County Court of General Session
3. Name(s) of co-defendant(s) (if any) Theia Darnon McCadle
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 16GS36-0305
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) July 18, 2016 15 years
 - (b) _____

DEC 22 2016
Jackie S. Bowers
Clerk of Court

I, Jackie S. Bowers, Clerk of Court, Newberry, South Carolina, do hereby certify that this is a true copy of the original on file in this office.

Revised 2/2003

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ✓
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No lawyer failed to file a direct Appeal
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) Lawyer failed to file a Direct Appeal even though I informed him I wanted.
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance Counsel
- (b) UNConstitutional guilty Plea
- (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) - see attached sheet -
- (b) _____
- (c) _____

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. NA
- ii. _____
- iii. _____
- iv. _____

(b) the name and location of the Court in which each was filed:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____

Exhibits 11A-11C

IIA. I was denied key witnesses that could & would have shed the truth to the fact that I'm not guilty of this crime. All of these witnesses: Amanda Freeman, Erica N. Butler, Michela Woods, Justin Madore, Megan Cody, Tony K Kendall. They all gave statements that were throughout the extensive motion of Discovery. I was told these witnesses would & could not be subpoenaed due to them living out of state. Not one of them stated anything linking me to this crime nor anything condemning. In fact they all say uplifting/praising my character and conduct and they condone my actions toward the child. Clearly in violation of 17-23-60 S.C. Const Art 1 sec 14 (Compulsory) & Strickland 466 U.S. at 691

II B. My 5th & 6th Amendment rights were violated because my defense team wasn't allowed a respectable doctor to look over the child's body & determine that the bruises & other marks on the child's body happened weeks or days prior. Or to correctly determine the child's cause of death.

II C. My lawyer failed to inquire about my competency to stand trial or if I wanted to stand trial. That being stated I was not offered or sent to a "Competency to Stand trial evaluation". I should have been offered that due to my history as a US Army War Veteran.

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. N/A

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) N/A

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? yes
 - (b) your trial, if any? _____
 - (c) your sentencing? yes
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
 - (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
 - i. Russell O Brown 907 Calhoun St Columbia SC 29201
 - ii. _____
 - iii. _____
 - (b) the proceedings at which each such attorney represented you:
 - i. my plea of guilty
 - ii. _____
 - iii. _____
19. State clearly the relief you seek in filing this application:
Vacate and remand for a new trial
20. Are you now under sentence from any other court that you have not challenged?
No

STATE OF SOUTH CAROLINA)

VERIFICATION

County of Newberry)

I, Richard Bowman, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Richard Bowman III

SWORN to and subscribed before me this 20
day of December, 2016.

J. Franklin (L.S.)
Notary Public

My Commission Expires: 12.16.2019

FILED
NEWBERRY COUNTY
JACKIE S. BOWENS
CLERK OF COURT
2016 DEC 22 PM 12 45

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Richard Bauman, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Richard Bauman

Applicant

SWORN or affirmed to and subscribed before me this
20 day of December, 2016.

J. C. Franklin
Notary Public

My Commission Expires: 12-16-2019

FILED
NEWBERRY COUNTY
2016 DEC 22 PM 12 45
JACKIE S. BOWERS
CLERK OF COURT

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	OF THE EIGHTH JUDICIAL CIRCUIT
COUNTY OF NEWBERRY	)	
	)	2016-CP-36-576
Richard F. V. Bowman, III,	)	
S.C.D.C. No. 369067,	)	
	)	
Applicant,	)	RETURN
	)	
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

Respondent, making its Return to the application for post-conviction relief (PCR) filed December 22, 2016, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Newberry County Clerk of Court. Applicant was indicted at the May 2016 term of the Newberry County Grand Jury for aiding and abetting homicide by child abuse (2016-GS-36-0305). Applicant was represented by Russell Brown, Esquire. On July 18, 2016, Applicant appeared before the Honorable Frank R. Addy, Jr., and pled guilty as indicted. Applicant was sentenced to imprisonment for fifteen years. Applicant did not file a direct appeal.

II.

In his current application for post-conviction relief, Applicant alleges he is being held unlawfully for the following reasons:

1. Ineffective assistance of counsel
2. Unconstitutional guilty plea
 - a. "I was denied key witnesses that could and would have shed the truth to the fact that I'm not guilty of this crime..."
 - b. "My 5th and 6th Amendment rights were violated because my defense team wasn't allowed a respectable doctor to look over the

child's body and determine that the bruises and other marks on the child's body happened weeks or days prior. Or to correctly determine the child's cause of death."

- c. "My lawyer failed to inquiry about my competency to stand trial or if I wanted to stand trial. That being stated I was not offered or sent to a competency to stand trial evaluation. I should have been offered that due to my history as a US Army War Veteran."

Attached herewith and incorporated herein are the application, the Newberry County Clerk of Court records regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, and the plea transcript. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Respondent submits plea counsel rendered effective assistance of counsel. In a Post-Conviction Relief action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under

professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366 (1985).

Respondent submits that Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

To the extent that Applicant alleges that his guilty plea was unconstitutional or that his plea was not knowingly and intelligently made, Respondent submits that this allegation is without merit. In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of

the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Respondent submits that the record fully supports the knowing and voluntary nature of Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact which is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper v. State, 305 S.E.2d 247.

V.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

[signatures on following page]

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

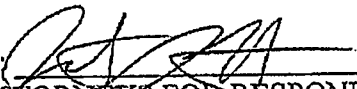
Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Chief Deputy Attorney General

DONALD J. ZELENKA
Deputy Attorney General

JUSTIN J. HUNTER
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211
(803) 734-3737

3/30, 2017

STATE OF SOUTH CAROLINA)

COUNTY OF NEWBERRY)

IN THE COURT OF COMMON PLEAS

2016-CP-36-0576

RICHARD F.V. BOWMAN, #369067)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

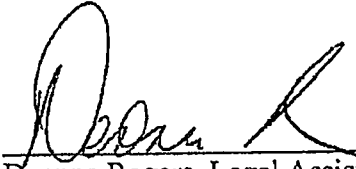
STATE OF SOUTH CAROLINA,)

Respondent.)

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Ashley A. McMahan, Esquire
 Mac | Vance Attorneys, LLC
 PO Box 5501
 West Columbia, SC 29169

DATED this 30th day of March, 2017.


 Deonna Rogers, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	FOR THE 8 th JUDICIAL CIRCUIT
COUNTY OF NEWBERRY	)	Case No.: 2016-CP-36-00576
Richard FV Bowman, III, #369067,	)	
	)	
Applicant,	)	AMENDED POST-CONVICTION
	)	RELIEF APPLICATION
v.	)	
	)	
State of South Carolina.	)	
	)	

The Applicant, by and through his undersigned attorney, hereby amends his PCR application filed on December 22, 2016, to add the following allegations:

1. Ineffective Assistance of Counsel as to Russell O. Brown, Esquire:

a. Counsel was ineffective because Applicant detrimentally relied on a plea agreement from the Solicitor, wherein the Applicant would testify for the State relying on the Solicitor's statement that he "would help him" if the Applicant testified. *See attached*, Excerpts of transcript of trial of State v. Theia McArdle, April 7, 2016. *See also Custodio v. State*, 373 SC 4, (2009), Plea counsel was ineffective in failing to have plea agreement between defendant and solicitor's office enforced based on detrimental reliance and memorialized into writing.

b. Counsel failed to use Applicant's VA records as mitigation during sentencing.

c. Counsel failed to move to have the charges dismissed and/or appeal the guilty plea arguing the charges should be dismissed for lack of accomplice liability. *See State v. Lewis*, 403 SC 345 (2013). "Under accomplice liability theory, a person must personally commit the crime or be present at the scene of the crime and intentionally, or through a common design, aid, abet, or assist in the commission of the crime through some overt act." *Id* at 354.

Furthermore, the Applicant requests that he be permitted to amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues arise during the course of the hearing that have not been specifically addressed in the Application and this Amended Application. *See Simpson v. Moore*, 367 S.C. 587, 627 S.E.2d 701 (2006).

Respectfully submitted,



ASHLEY A. McMAHAN, ESQUIRE
MAC | VANCE ATTORNEYS, LLC
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West Columbia, SC 29171
803-219-1110
ashley@macvance.com
SC Bar No. 71676
ATTORNEY FOR APPLICANT

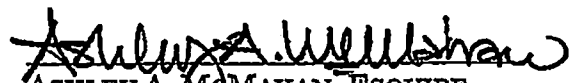
September 13, 2017

CERTIFICATE OF SERVICE

I certify that I have served this document via US Mail to:

Justin J. Hunter
Assistant Attorney General
PO Box 11549
Columbia, SC 29211-1549

This 13th Day of September, 2017.



ASHLEY A. McMAHAN, ESQUIRE
Attorney for Applicant

STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS.)
)
 THEIA DARION MCARDLE)
)
 DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS

CASE NO.: 2015-GS-36-01A

TRANSCRIPT OF RECORD

APRIL 4-8, 2016
NEWBERRY, SOUTH CAROLINA

BEFORE:

THE HONORABLE FRANK R. ADDY, JR., JUDGE

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

DAVID STUMBO, SOLICITOR
TAYLOR DANIEL, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANTS:

CHARLES VERNER, ESQUIRE

TARA T. SCOTT, CVR
CIRCUIT COURT REPORTER

FILED
NEWBERRY COUNTY

2017 SEP 18 AM 10:46

CLERK OF COURT

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6

<u>EXHIBITS</u>			
<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
State's 1-126	Photos		X
State's 127	Photo	X	
State's 128-134	Photos		X
State's 135	CD Redacted		X
State's 136	Phone Records		X
State's 137	CD		X
State's 138	Hospital Records		X
State's 139	Waiver of Rights		X
State's 140	CD Hospital Video		X
State's 141	ID Photo		X
State's 142	CD Cell Phone Data		X
State's 143	Poster Hospital Map		X
State's 144	Photo Google Map		X
State's 145	Poster Map		X
State's 146	Back Pages printout 1 pg		X
State's 147	CT Scan ID only	X	
State's 148	Facebook Printout redacted		X
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State's 150	SLED diagram		X
State's 151	SLED Report		X
State's 152	SLED Report		X
State's 153	T Mobile		X
State's 154	Hospital Affidavit		X

7

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
State's 155	Facebook Affidavit		X
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State's 159	Coogi shirt in brown bag	X	
State's 160	T-shirt cutting		X
State's 161	Towel Cutting		X
State's 162	Yellow shirt cutting		X
State's 163	Pillowcase cutting		X
State's 164	Blood swabs autopsy		X
Defendant's 1	Photos A-H		X
Defendant's 2	Photo Facebook		X
Defendant's 3	Photo Facebook doll		X
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RICHARD BOWMAN: DIRECT EXAMINATION

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1 THE COURT: The record should reflect that the jury is
2 back and seated. Of course, we're still in the State's case
3 in chief. At this point, Solicitor, if you'll call your
4 next witness.

5 MR. VERNER: Your Honor, with the Solicitor's
6 permission, I'm going to make a stipulation. The -- when
7 Agent Williams was testifying I asked her why they were
8 playing the video in the slow mode. Over the lunch break
9 the Solicitor was letting me watch it, and had they played
10 it in the normal speed it would have moved -- apparently the
11 surveillance camera is a time lapse camera. Not a constant
12 moving camera.

13 THE COURT: I see.

14 MR. VERNER: Had they played it actual time it would
15 have moved much faster. Even in slow mode it probably moves
16 slightly faster. I will stipulate that my question was
17 based on incorrect evidence and should be stricken, and I
18 would agree that the jury should disregard the speed that
19 they played in on.

20 THE COURT: So it's one of those cameras that takes a
21 picture and then takes a picture a few moments later, and so
22 it's kind of very stilted and --

23 MR. VERNER: It was not a -- it was not a continuous
24 video I was aware of. It was time lapse, every couple of
25 seconds. And I apologize to Mr. Bentley. He works with the

1 Solicitor, not me. He does volunteer during trials just for
2 the benefit of the jury to move things. And to the extent
3 that it could affect him, I apologize, and the Agent. But
4 they showed me the video and slow mode was actually the
5 appropriate mode to play it on.

6 MR. STUMBO: We do appreciate Mr. Verner's candor,
7 Judge. I believe the point was that the way it was played
8 actually was faster than real time, not slower. So we
9 appreciate Mr. Verner recognizing that at this point.

10 THE COURT: I was under the misimpression myself. So
11 thank you all for clearing that up. Very good. Thank you,
12 Mr. Verner. Call your next witness, Mr. Daniel.

13 MR. DANIEL: Thank you, Your Honor. The State calls
14 Richard Bowman.

15 RICHARD BOWMAN, having been first duly
16 sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. DANIEL:

18 Q Mr. Bowman, you're going to have to speak up. You're
19 soft spoken. Scoot closer to the microphone.

20 A All right.

21 Q You are Richard Bowman?

22 A Yes, sir.

23 Q And presently you are charged with the crime of
24 homicide by child abuse as it pertains to the death of

25 Minor , correct?

1 A Yes, sir.

2 Q And you are charged along with Theia McArdle for this
3 crime, correct?

4 A Yes, sir.

5 Q Are you currently in custody at the Newberry County
6 Detention Center?

7 A Yes, sir.

8 Q And you've been there ever since you were arrested,
9 correct?

10 A Yes, sir.

11 Q And you were arrested on December 30th, 2014?

12 A Yes, sir.

13 Q You're testifying today as a witness -- one of the
14 State's witnesses, correct?

15 A Yes, sir.

16 Q Have you been offered anything in exchange for your
17 testimony today, such as a plea bargain?

18 A No, sir. None whatsoever.

19 Q No offers of leniency have been extended to you?

20 A No, sir.

21 Q Who is Theia McArdle to you? What's your relationship
22 with her?

23 A She was a woman that I met once I was getting out of
24 the military back in 2013. I got out March 26th, 2013.

25 Q So you met Theia McArdle in March of 2013?

RICHARD BOWMAN: DIRECT EXAMINATION

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- 1 A Yes, sir.
- 2 Q Right after you were discharged from the military?
- 3 A Yes, sir.
- 4 Q Which branch?
- 5 A Army.
- 6 Q How old are you?
- 7 A I'm 28, sir.
- 8 Q Twenty-eight. And where did you meet Theia McArdle?
- 9 A At Fort Bragg. Well, I came up to Asheville to meet an
- 10 ex-girlfriend of mine and I met Ms. McArdle. She was a
- 11 friend to my ex.
- 12 Q And did Ms. McArdle have any children?
- 13 A Yes, sir. At that time. Yes, sir.
- 14 Q And who was her child?
- 15 A Minor.
- 16 Q Minor ?
- 17 A Yes, sir.
- 18 Q Little boy?
- 19 A Yes, sir.
- 20 Q So you all eventually start dating, correct?
- 21 A We started dating like roughly a week after we started
- 22 talking. I talked to her via Skype and online for a while.
- 23 And then when I went up to Asheville and we actually
- 24 face-to-face, that's when we actually started dating.
- 25 Q And did you all start living together?

RICHARD BOWMAN: DIRECT EXAMINATION

423

- 1 A Not officially. I had to still get out of the
- 2 military. So I was working on still processing out of the
- 3 military at the time. And like roughly like two weeks after
- 4 that, after I got out and I moved myself to my apartment
- 5 down in Fayetteville, had to take her back up to Asheville
- 6 because somebody she knew had passed away.
- 7 Q Okay. But eventually you all moved in together while
- 8 in Asheville, correct?
- 9 A Yes, sir.
- 10 Q Did you all move to South Carolina eventually?
- 11 A Yes, sir. We moved to South Carolina around September
- 12 2014.
- 13 Q You and Theia and Minor ---
- 14 A Yes, sir.
- 15 Q -- moved to South Carolina?
- 16 A Yes, sir.
- 17 Q And what was the date when you all moved to South
- 18 Carolina?
- 19 A I don't remember the exact date, but it was in
- 20 September, I believe.
- 21 Q September of what year?
- 22 A 2014, sir.
- 23 Q And what part of South Carolina did you all move to?
- 24 A We lived in hotels for like roughly like a month and a
- 25 half, and then around October -- it would either be in

1 October or November 8th that we actually got our trailer --
2 Q You said -- I'm sorry. You said hotels. But what
3 city? What county? What town?
4 A Spartanburg County.
5 Q You all -- September 2014 you move down to the
6 Spartanburg area?
7 A Yes, sir.
8 Q And you all were living in hotels?
9 A Yes, sir.
10 Q The three of you?
11 A Yes, sir.
12 Q So you were going from hotel to hotel, correct?
13 A Not hotel to hotel. We mainly stayed in one.
14 Q And were you working at the time?
15 A I was actually getting ready to have a job, sir. I got
16 hired around December 14th at Lear Corporations.
17 Q At what Corporations?
18 A Lear Corporations, L-e-a-r.
19 Q Is that in the Spartanburg area?
20 A Yes, sir. It's in Duncan.
21 Q What kind of job is that?
22 A They make the chairs for BMW.
23 Q You said you were getting hired?
24 A Yes, sir.
25 Q So really you were unemployed?

1 A Yes, sir.
2 Q Was Theia -- did she have a job?
3 A She -- no, not a legal job, I would say.
4 Q Not a legal job?
5 A Yes, sir.
6 Q What did she do to make money?
7 A She was an escort. We both had did it in Asheville for
8 a while. And when I move to -- when we moved down here I
9 had stopped doing it to get an actual job, because I --
10 Q I'm sorry. You said you and Theia were both escorts at
11 one time?
12 A Yes, sir. In Asheville, North Carolina.
13 Q So strangers would pay you all for sex?
14 A Yes, sir.
15 Q Now, at the time you all were in Spartanburg were you
16 working as an escort?
17 A I was in the process of fading out of doing it, because
18 I was trying to actually get a job. And I didn't like how
19 -- I didn't like the predicament that it was putting me, her
20 and Minor in, and I didn't like the fact that the things
21 that we said on the phone, Minor would repeat them or
22 whatnot.
23 Q So you were not working as an escort when you all first
24 moved to Spartanburg in September 2013?
25 A Roughly I did it for like two weeks and then I stopped.

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1 I Yes, sir.
 2 Q Was Theia working as an escort in Spartanburg?
 3 A Yes, sir. She was.
 4 Q So would it be fair to say that she was primary bread
 5 winner of the household?
 6 A Yes, sir.
 7 Q So she paid the paid the bills? She paid the rent at
 8 these motels?
 9 A Yes, sir.
 10 Q I'll ask you. Were you her pimp?
 11 A No, sir.
 12 Q She didn't invite you to come along these prostitution
 13 calls for protection?
 14 A She told me to drive her because she didn't have no
 15 license, sir. She didn't want to get pulled over. She'd
 16 been pulled over in North Carolina numerous times.
 17 Q She didn't use you as protection and let the clients
 18 know that you were around in case they got out of hand?
 19 A She -- I'm not sure what she told the clients. But I
 20 had Minor.. I took Minor out of the room whenever she
 21 had a client and whatnot.
 22 Q So were you babysitting Minor while Theia would be
 23 with these clients?
 24 A The times I was able to get Minor out of the room
 25 before she had a client in there. Yes, sir.

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1 Q And that's been established. You're not the biological
 2 father of Minor correct?
 3 A No, sir.
 4 Q How old was Minor when you first met Theia?
 5 A When I first met Theia he was less than one, sir. If I
 6 remember correctly.
 7 Q You all eventually stayed -- or did you all eventually
 8 move somewhere else?
 9 A Yes, sir.
 10 Q Where did you last reside, I guess?
 11 A Enoree, South Carolina, on [REDACTED] Highway 49
 12 at [REDACTED].
 13 Q That's in Enoree. That's still in Spartanburg County?
 14 A Yes, sir.
 15 Q So you all went from living in a hotel to moving to
 16 Enoree?
 17 A Yes, sir.
 18 Q And when did you make that move to Enoree?
 19 A I think about November 8th, sir.
 20 Q Around when? I'm sorry?
 21 A November 8th, sir.
 22 Q And what kind of -- was it an apartment?
 23 A No, sir.
 24 Q A house?
 25 A No, sir. It was a single-wide trailer.

1 Q And you all were renting this trailer?

2 A Yes, sir.

3 Q And again, were you making any -- were you earning any

4 money at this time?

5 A At that time, sir, I was hired, but I did not

6 officially start working at Lear yet.

7 Q Again, were you making any money at this time?

8 A No, sir.

9 Q Theia was making money from prostituting?

10 A Yes, sir.

11 Q So all three of you moved to this trailer in Enoree

12 around -- in November of 2014?

13 A Yes, sir.

14 Q I'm going to show you some pictures. This has been

15 admitted into evidence. State's 51. What is that?

16 A That's the trailer that we lived in.

17 Q And describe -- describe for me this -- the living

18 arrangements of this trailer. The sleeping arrangements,

19 that kind of thing.

20 A We had our room. Minor did have a room, but she

21 ended up moving Minor out of his room because we had three

22 cats at the time and she would get upset because the cats

23 would run into our room, get in our faces when we're asleep.

24 So she ended up putting him in the livingroom to get the

25 cats moved into his room while he slept in the livingroom.

1 Like right on the other wall. On the other side of the wall

2 of us.

3 Q So there was, what -- but there's multiple bedrooms in

4 this trailer, correct?

5 A There's two bedrooms, two baths and a livingroom and a

6 kitchen, sir.

7 Q So initially Minor had a bedroom to himself?

8 A Yes, sir. He did.

9 Q But Theia was concerned about the cats being loose?

10 A Yes, sir.

11 Q So she gave that bedroom to the cats?

12 A Yes, sir.

13 Q So where would Minor sleep?

14 A He slept in the livingroom on the other side of the

15 wall from us.

16 Q Because the cats needed that bedroom?

17 A I'm guessing, sir.

18 Q Well, I'll fast forward. We had a -- you and I met a

19 few weeks ago, correct?

20 A Yes, sir.

21 Q And you met with another prosecutor, Dale Scott?

22 A Yes, sir.

23 Q And your defense attorney was present?

24 A Yes, sir.

25 Q Russell Brown, your attorney?

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- 1 A Yes, sir.
- 2 Q He's here today?
- 3 A Yes, sir.
- 4 Q He brought you those street clothes to wear?
- 5 A Yes, sir.
- 6 Q And you told us some things -- this was March 10th,
- 7 correct? This interview a few weeks ago?
- 8 A Yes, sir. It was.
- 9 Q You told us some things that you didn't tell law
- 10 enforcement originally when you arrested. Is that -- is
- 11 that fair to say?
- 12 A Yes, sir.
- 13 Q And essentially what did you tell us that you didn't
- 14 tell law -- what did you tell us a few weeks ago at that
- 15 meeting that you didn't tell law enforcement initially?
- 16 MR. VERNER: Your Honor, my objection is that there's
- 17 been no testimony of what he told law enforcement then. So
- 18 I would argue that it's without a foundation for him to say
- 19 what I said differently when they haven't introduced the
- 20 evidence of what he said then.
- 21 MR. DANIEL: I'll rephrase, Your Honor.
- 22 THE COURT: Please.
- 23 Q Is it fair to say though that you told us information
- 24 that we didn't have before, correct?
- 25 A Yes, sir.

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- 1 Q And you will agree that Minor was pronounced
- 2 dead on December 30th, 2014?
- 3 A Yes, sir.
- 4 Q I want to ask you some questions about 48 hours, 72
- 5 hours leading up to his death, about the events. Tell me,
- 6 was Minor -- what kind of kid was he? Was he an energetic
- 7 kid, hyperactive?
- 8 A Yes, sir.
- 9 Q He was energetic?
- 10 A Yes, sir. He was energetic. He was pretty happy. I
- 11 mean, he was always playing around with us.
- 12 Q So he was a healthy kid?
- 13 A Yes, sir. He was.
- 14 Q And I want to know what happened -- what did you all do
- 15 on December 27th of 2014?
- 16 A From the beginning of the day to the end of the day or
- 17 --
- 18 Q Well, did you all do anything special that day?
- 19 A We went to Asheville, North Carolina for like a late
- 20 exchange of gifts between her mother and her and for Minor
- 21 and whatnot. So we went up there. Gabriel -- Gabriel got
- 22 some toy skates and everything and was skating at the
- 23 playground up there. He ended up falling and busting his
- 24 head on the concrete. He had a helmet on. And I went over
- 25 to check on him and everything. His mother had laughed

1 about it.

2 Q Let me stop you. Did you witness on that day at any
3 time before or after you all went to this trip up to
4 Asheville Theia hit her son?

5 A Yes, sir.

6 Q Tell us about when you first witnessed Theia hitting
7 her son on December 27th.

8 A It was that morning whenever we were getting him ready
9 to get dressed and whatnot. I was getting myself dressed
10 and in the bathroom getting ready. I came in there and I
11 saw her hit him because he didn't have his shoes on the
12 right feet and he wasn't putting on his clothes correctly
13 and she got frustrated with him.

14 Q And you saw Theia hit Minor where on his body?

15 A On the back of his head several times.

16 Q Open hand or closed?

17 A Open hand.

18 Q So would you characterize it as a smack on the back of
19 the head?

20 A Yes, sir.

21 Q And what else?

22 A That day when she was -- we were putting him in the car
23 seat I did see her hit him in the chest because he wasn't
24 putting his -- buckling up the correct way and everything as
25 well.

1 Q Did you say -- when she smacked his head did you say
2 something about a coffee table?

3 A Yes, sir.

4 Q Say that again.

5 A His head had bounced off the coffee table that day.

6 She had smacked him in the back of the head and his head had
7 hit off the coffee table. The front of his head hit off the
8 coffee table.

9 Q So I presume that Minor was standing right in front
10 of the coffee table?

11 A He was sitting.

12 Q Or sitting?

13 A Yes, sir.

14 Q And the force of the slap caused his head to hit the
15 coffee table?

16 A Yes, sir.

17 Q What part of his?

18 A The front of his face hit the coffee table.

19 Q And that was in the morning as you all were getting
20 ready to go to Asheville to meet Theia's mother?

21 A Yes, sir.

22 Q And you said that you all went to the park and he was
23 skating?

24 A Yes, sir.

25 Q And you said he fell down?

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- 1 A He fell down and hit his head on the concrete. And I
2 rushed over to check and see if he was doing all right and
3 everything and she had laughed about it. Her and her mother
4 were talking and whatnot. And then from there he skated
5 around a little bit more. He ended up taking off his
6 skates. Him and his mom -- him and her mother ended up
7 going over to the playground. Well, his mother -- her
8 mother took him to the bathroom first and then they played
9 at the playground for a while. And we stayed there, I
10 believe, for like an hour and a half or maybe two, and then
11 we ended up going to meet a friend of ours named James.
12 Q Did you witness Theia hit Minor any other times that
13 day on December 27th?
14 A When we got back to South Carolina. Yes, sir.
15 Q Where was it?
16 A I had saw her hit him in the chest.
17 Q Where were you all? In Enoree?
18 A In the house. Yes, sir.
19 Q You saw her hit open -- open hand or fist, closed hand?
20 A Closed hand.
21 Q So a punch?
22 A Yes, sir.
23 Q In the chest?
24 A Yes, sir.
25 Q And what prompted her to do that?

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- 1 A A long story short. He ended up saying my mommy's a
2 prostitute. He had repeated some of the stuff he had heard
3 her say on the phone. And we've had that discussion before
4 about trying to quit doing the escort stuff so he wouldn't
5 say things like that. And I was trying to -- we had the
6 discussion before about me letting her know like instead of
7 getting mad at him, teach him something different. It's not
8 his fault that he sees and observes what you do and he
9 knows.
10 Q Did he cry when she hit him?
11 A Yes, sir. He did.
12 Q Does Theia hit hard?
13 A Yes, sir. She does.
14 Q How hard?
15 A She's blacked my eye before.
16 Q Is she a strong woman?
17 A Yes, she is, sir.
18 Q Is she hitting Minor with a lot of force as if you'd
19 hit another adult in a fight?
20 A Yes, sir. I've seen her do that before.
21 Q Any other incidents of striking Minor on December
22 27th?
23 A Not on the 27th.
24 Q And that's a Saturday, correct?
25 A I believe so.

1 Q Let's fast-forward to the next day, December 28th.
2 That's a Sunday.
3 A Okay.
4 Q Tell us about that day. Any incidents of abuse that
5 day?
6 A That Sunday, I mean, I woke up -- because I normally
7 wake up before all the rest. Before me, Minor and her. I
8 went out to start making breakfast. Well, take a bath
9 first. Start making breakfast and stuff. Cleaning dishes
10 and whatnot in the house. Minor woke up a little bit
11 after me and I asked if he was hungry, and I made him
12 breakfast. And then he -- me and him started to play with
13 some of his Christmas toys and whatnot. He ended up
14 proceeding to pick up his cap gun. He went in there into
15 the room and shot at his mom two to three times, and she
16 ended up hitting him in the chest like twice because she got
17 mad. She doesn't like being woken up when she's sleeping.
18 Q December 28th, that Sunday, did you all not go -- did
19 you all take a trip to Laurens?
20 A Yes, sir. We went -- we went to the McDonald's in
21 Laurens.
22 Q Did anything significant happen there?
23 A He ended up hurting a little girl there by accident and
24 she got upset with him and punishing him at the Laurens --
25 while we were in the McDonald's. And I told her we was

1 getting ready to leave because she got -- was getting a
2 little too volatile inside the McDonald's.
3 Q Get a little closer to the microphone. I'm having
4 trouble hearing you.
5 A She had got a little too volatile at the McDonald's
6 because she was punishing him for getting too rough with the
7 little girl. She was trying to download a movie there at
8 the Laurens County McDonald's.
9 THE COURT: Speak a little bit louder instead of
10 getting closer, because we're actually running two different
11 microphones here. The court reporter has one, and so just
12 --
13 THE WITNESS: Oh, okay.
14 THE COURT: -- speak a little bit more loudly instead
15 of closer, if you would, sir. Thank you.
16 THE WITNESS: Yes, sir.
17 Q Minor got a little rough with a girl at the
18 McDonald's play area in Laurens?
19 A Yes, sir.
20 Q You saw her strike him for that?
21 A Yes, sir.
22 Q Anything else that day, December 28th, while in
23 Laurens?
24 A Yes, sir. We went by a friends house of ours. His
25 name is David Moscerelli. We went by his house, and she was

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1 trying to still download the movie that she was trying to
 2 download. And while we were there an incident happened
 3 where -- I'm not sure exactly what the conversation was, but
 4 I had said to her, "Your son has more balls than you," and I
 5 had grabbed my genitals and was joking with her, and he
 6 proceeded to copy me and he grabbed himself and said, "More
 7 balls, momma," and she ended up striking him.

8 MR. VERNER: Say that -- I'm having trouble hearing
 9 you.

10 A He said, "More balls, Momma," and she ended up striking
 11 him in his genitals with a closed fist. And she turned
 12 around and struck me and told me not to teach her son things
 13 like that.

14 Q So you made -- all right. You made the comment to
 15 Theia about "Your son has more balls than you"?

16 A Yeah.

17 Q And then Minor sees you do that and he's mimicking
 18 you?

19 A Yes, sir.

20 Q And he grabs his groin area?

21 A Yes, sir.

22 Q And then you witnessed Theia punch Minor --

23 A Yes.

24 Q -- in the groin?

25 A Yes, sir.

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1 Q And by punching you mean closed --

2 A Yes, sir.

3 Q -- closed hand?

4 A Yes, sir.

5 Q How hard a punch was that?

6 A It looked like it was pretty hard, sir.

7 Q With one, multiple -- one hit, multiple hits?

8 A It was one time, sir.

9 Q Did she appear to hit him with a lot of force?

10 A It looked like a lot of force to me, sir.

11 Q Did he cry?

12 A Yes, sir.

13 Q And where did this happen again?

14 A We were at David Moscerelli's house that day.

15 Q Did -- who all witnessed this? Just you and --

16 A Just me, sir.

17 Q Where was -- you said you were at --

18 A David -- I believe David was in the kitchen at the time
 19 and we were in his room -- his living -- or not his
 20 livingroom but his bedroom.

21 Q And tell us about -- did Gabriel require assistance --
 22 was he potty -- was he in the process of potty training, or
 23 Pull-Ups, diapers? What was the status of that?

24 A He was still in diapers. He was kind of potty trained.

25 Like whenever had to go, if you let him know and he had to

1 --- or if you asked him if he had to go to the potty, he'd go
2 to the potty if he had to. But most times if you just -- if
3 he was in the moment, or if we were doing something, he
4 would either defecate or urinate on himself.

5 Q Would Theia take exception if he would poop his pants,
6 things like that?

7 A Theia did get upset about things like that. About him
8 urinating and defecating on himself due to the fact that we
9 were trying to potty train him. And I tried to explain to
10 her like instead of punishing him you need to like put --
11 try a little bit harder to potty training. Because I let
12 her know, I said, my daughter has been out of like diapers
13 since the age of one. Your son is going on three and you're
14 not really trying to help him to get out of diapers since
15 he's in your care now.

16 Q So is it fair to say Theia would use corporal
17 punishment as a form of discipline?

18 A Yes, sir. Corporal as in like punishment and whatnot?

19 Q Yes.

20 A Yes. Yes, sir.

21 Q Yes. Hitting someone for disciplinary reasons --

22 A Yes. Yes, sir.

23 Q -- Yes?

24 A Yes, sir.

25 Q Anything else on the 28th noteworthy in terms of Theia

1 hitting Minor ?

2 A We got into an argument that day and it was pretty much
3 along the general lines of being upset with me texting
4 somebody that she didn't want me texting. A young lady that
5 was a friend of mine in North Carolina. And she got mad
6 about that and we had a big argument. And she ended up
7 taking Minor and disappeared for like an hour or two. And
8 when she came back she brought some bags in, and then she
9 came back in and she slung Minor on his bed. He was
10 crying and whatnot, whinny. And I asked her what happened
11 and she said that he crapped -- well, I don't necessarily
12 want to use the exact language she used, but she said that
13 he s-h-i-t on himself inside the store. And so, now she had
14 to waste money on getting more diapers for him and a change
15 of clothes. But it was embarrassing for her.

16 Q This is December 28th?

17 A Yes, sir.

18 Q And this argument was because you were texting another
19 woman?

20 A Yes, sir. A friend of mine.

21 Q All right. And we've heard testimony in evidence about
22 your phone being broken.

23 A Yes, sir.

24 Q Can you speak to that?

25 A Yes. That was on -- that happened at the hospital.

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1 Laurens County Hospital. She had dropped my phone while we
 2 were in Laurens County Hospital, and we had to take it to
 3 the repair shop in Laurens.
 4 Q So how were you -- so how -- why was Theia getting
 5 upset with you for texting if you didn't have a phone? How
 6 were you --
 7 A It was her phone.
 8 Q You were using Theia's phone?
 9 A Yes, sir.
 10 Q She had Internet on her phone?
 11 A Yes, sir.
 12 Q And text messaging, obviously, is what you said?
 13 A Yes, sir.
 14 Q December 29th, the next day. It would be a Monday.
 15 A Yes, sir.
 16 Q Walk us through the events of that day.
 17 A December 29th was pretty much almost like any other
 18 day. Wake up. I went to take a bath and everything like I
 19 normally do. Started cleaning up everything. Fixed him
 20 something to eat whenever he woke up.
 21 Q You're going to have to talk louder.
 22 A Oh, I'm sorry. I said I fixed him something to eat
 23 like I normally do. Fixed myself something to eat. I was
 24 cleaning and whatnot. He goes in there to try to wake her
 25 up and play with her a little bit. She gets mad at him and

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1 she struck him. And I bring him back in there with me.
 2 Q You said she --
 3 A She struck him, yes.
 4 Q She struck him?
 5 A Yes. Yes, sir.
 6 Q And Theia -- this is Monday morning, December 29th --
 7 A Yes, sir.
 8 Q -- and Minor goes into y'all's -- to the bedroom?
 9 A Yes, sir.
 10 Q Wakes his mom up and she hits him for it?
 11 A Yes, sir.
 12 Q You got to describe the hit and where.
 13 A She struck him in the chest.
 14 Q Once?
 15 A Yes, sir. And so, whenever I bring him back into the
 16 -- back inside the livingroom with me so we can like finish
 17 cleaning and he can listen to music and I can clean up and
 18 fix him something to eat. She goes back to sleep. She
 19 doesn't wake up until like around 11:30-ish pretty much.
 20 And then she gets up mad, upset because I had her phone.
 21 She saying, "I hope you're not in there texting other
 22 females off my phone and whatnot." And she was mad because
 23 I didn't wake her up for breakfast, or to make her breakfast
 24 or something. So I ended up making her something to eat and
 25 everything. I told her, I said, "It's not my job to wake

1 you up. You're an adult yourself." So he goes in there to
2 play with his momma and whatnot and he ends up biting her
3 and she ends up spanking him on his butt and ended up biting
4 him back.

5 Q So is this around lunchtime that you're describing now?

6 A Yes, sir.

7 Q You said that Minor bit Thela?

8 A Yeah, playfully. We were just playing with her and bit
9 her playfully.

10 Q And then she wacks him in return?

11 A Yes, sir. And spansks him.

12 Q And spansks him?

13 A Yes, sir.

14 Q So open hand on the buttocks?

15 A Yes, sir. And so, afterwards I'm trying to explain to
16 her like instead of, you know, hitting him for stuff like
17 that, you don't really need to bite him back. And I
18 explained to her, like we had the conversations numerous
19 times, like instead of hitting him like try something
20 different. Like put him in time out, take a seat, send him
21 to bed early or something like that instead of hitting on
22 him. Because I explained to her, I said, "Me as a kid, I'd
23 rather have my time taken than be punished and hit all the
24 time." So after that I make breakfast and I told her, I
25 said, "We need to do laundry and take some trash out and

1 whatnot." So we go back out there to Laurens to the

2 McDonald's again, and she tries to download the movie again

3 at the McDonald's. And so --

4 Q So all three of you go to -- go into Laurens?

5 A Yes, sir. We go to the McDonald's again and we're

6 sitting there and we try to download the movie again, and

7 then we end up going to the laundry mat to get the clothes

8 and everything. Then we finally get back to the house. And

9 everything --

10 Q About what time do you get back to the house?

11 A We get to the house around like 4:00 something. And

12 then we get back to the house. Everything seems okay and

13 whatnot. She's still in a bad mood because she's saying

14 that she saw me -- or seeing Facebook messages when I was

15 texting some other female. A friend of mine back in North

16 Carolina. So she ends up making dinner and whatnot. She

17 tells me she has a call in Spartanburg.

18 Q Well now, let me back up. Were there any other

19 incidents of abuse in the afternoon time that you witnessed?

20 A I'm trying to remember. Not that I can remember off

21 the top of my head.

22 Q Anything before or after Laurens? Going to Laurens?

23 A Oh, my bad. Sorry. She did strike him when we were

24 trying to get here. Well, not get there, but to Laurens.

25 When she put him in the cars eat and whatnot. When she was

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1 trying to help him get dressed and everything she got
 2 frustrated with that. Sorry, I forgot. But she -- whenever
 3 -- he normally gets dressed and whatnot she normally would
 4 get frustrated with him because, granted he was two and we
 5 were trying to teach him how to dress on his own and whatnot
 6 and put on his shoes the right way and everything on his
 7 own. It was still -- he still didn't kind of catch on fast
 8 enough for her, I guess. So she would punish him for not
 9 having his shoes on the right way, or he'd put his shoes on
 10 the wrong way and he'd be walking around and she's like,
 11 "You know that's not the right way." She made a comment one
 12 time saying, "I'm tired of my son acting like a dumb
 13 African," from him spending his time with Janice.
 14 Q So you all get back from Laurens and eventually you all
 15 cook -- you all have dinner?
 16 A Yes, sir.
 17 Q You all cook at the house?
 18 A Yes, sir. She does. She starts cooking dinner.
 19 Q What did you all have for dinner that night?
 20 A We had steak, garlic bread, and either mashed potatoes
 21 or corn. And that night he did make a reference to his
 22 groin. He said ouch. He grabbed himself. And I said, "Go
 23 show it to you mom," and she goes and -- he goes in there to
 24 tell his mom. She sends him back in there with me. She
 25 says, "Go watch the movie with your dad."

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1 Q Is Minor -- all right. You had supper. Was Minor
 2 able to eat his food?
 3 A He didn't all of his whole food. Like that whole --
 4 since -- actually since like the 27th -- I'm sorry to
 5 mention. Since the 27th he wasn't really seeming like he
 6 was right. He seemed like he was groggy and kind of
 7 sluggish. I just kind of figured it, too, he might have
 8 been tired or something.
 9 Q I thought that you said earlier he was an energetic
 10 kind of --
 11 A The 27th.
 12 Q So you noticed a change in him on the 27th?
 13 A Yes.
 14 Q December 27th?
 15 A Yeah. Like about --
 16 Q Going back to December 29th. You said -- tell us about
 17 supper and Minor was eating.
 18 A He ate some of his food. He ended up throwing up.
 19 Q Minor threw up?
 20 A Yes, sir.
 21 Q Was he able to hold anything down, or he threw up
 22 immediately?
 23 A He threw -- he ate like a little bit of it. He ate
 24 like maybe five bits and he ended up throwing up.
 25 Q Where did he throw up?

1 A He threw up on the bed.
2 Q He threw up on his bed, the air mattress in the
3 livingroom?
4 A On our bed. On our bed, in our room.
5 Q Did he get sick in the bathroom as well?
6 A Yes. He ended up -- he had defecated on himself in the
7 bathroom.
8 Q Did he throw up in the bathroom?
9 A No, he didn't.
10 Q There is a picture I want to show you. It's been
11 admitted into evidence as State's No. 56. Do you recognize
12 that?
13 A Yes, that's something that -- I had thrown up that
14 night, too, as well.
15 Q Look at State's 56. Do you recognize that?
16 A Yeah.
17 Q And you said Minor had got sick that night?
18 A Yeah. Yes, sir.
19 Q He didn't vomit in the toilet?
20 A No.
21 Q And you said he vomited in y'all's bed?
22 A On our bed.
23 Q Why would he have vomited in y'all's bed?
24 A He was on our -- he was in our room with us.
25 Q And did this alarm you all?

1 A It alarmed me. But, I mean, like I said -- like she
2 got upset with him for throwing up on the bed.
3 Q Was he punished for that?
4 A Yes, he was.
5 Q How was he punished?
6 A She spanked him.
7 Q So detail times on December 29th where you saw Thelma
8 hit her son.
9 A In the morning?
10 Q Altogether. Start again so we get clarification,
11 because I know we're kind of going back and forth. Let's be
12 --
13 A From the morning from waking up it was whenever she did
14 that morning, whenever he went in there to wake her up and
15 talk to her and everything she struck him in the chest.
16 When we got to --
17 Q Punched -- you said punched him in the chest?
18 A Yes, sir.
19 Q And that was in the morning.
20 A Yes, sir.
21 Q Tell us the next time.
22 A The next time whenever she was helping him to get
23 dressed and whatnot she spanked him and punished him for not
24 having his clothes on right and putting his clothes on the
25 correct way. Then we got to Laurens County --

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- 1 Q How did she do that?
- 2 A She spanked him on the butt and popped him on the back
- 3 of the head a couple of times.
- 4 Q Open hand or closed on the back of the head?
- 5 A On the back of the head, open hand. And then when we
- 6 got to Laurens County there was no striking then. We got
- 7 back to the house she did strike him in the chest twice for
- 8 repeating the stuff off that she says on the phone and
- 9 whatnot.
- 10 Q She struck him in the chest after you all got back from
- 11 Laurens?
- 12 A Yes, sir.
- 13 Q Describe how she struck him on the chest.
- 14 A With her hand. Closed hand.
- 15 Q Punched him in the chest?
- 16 A Yes, sir.
- 17 Q And that was before supper?
- 18 A Yes, sir.
- 19 Q And then you all have -- eventually all have supper?
- 20 A Yes, sir. We ate around, I believe, 5:00, 6:00.
- 21 Q And the meal consisted of what again?
- 22 A Steak, mashed potatoes or corn, and garlic bread.
- 23 Q It was either steak, corn, mashed potatoes, and garlic
- 24 bread?
- 25 A Yes, sir.

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- 1 Q And you say Minor got sick immediately?
- 2 A Yes, sir.
- 3 Q And he vomited in y'all's bed?
- 4 A Yes, sir. On our bed. Yes, sir.
- 5 Q You said you got sick as well?
- 6 A Yes, sir. I did as well.
- 7 Q Was it bad food, food poisoning, something like that?
- 8 What caused you to get sick, you think?
- 9 A Truly I don't know.
- 10 Q And what's Minor saying at this point? What's he
- 11 communicating?
- 12 A Minor really didn't communicate anything at the time.
- 13 I asked him was he feeling okay. He say uh-huh. I took him
- 14 to the bathroom so he could -- so he could like wash up and
- 15 everything, after she had stopped hitting him. Took him to
- 16 the bathroom. He took off his clothes and was in the
- 17 bathtub for a while. And I had noticed some bruising on his
- 18 testicles. And so --
- 19 Q You noticed bruising on his privates?
- 20 A Yes, sir. And whenever he sat in the tub I noticed his
- 21 genital, his area, looked purplish blue. So whenever he was
- 22 sitting in the tub I went in there and talked to her. I
- 23 said, "Your son, his stuff is like, you know, looking kind
- 24 of messed up." I told her, I said, "That might be from when
- 25 you hit him the other day and stuff." She said, "Well, you

1 shouldn't have taught him how to say that."
 2 Q And you're referring to the incident where she punched
 3 him in the crotch, or in the groin area in Laurens on
 4 December 28th?
 5 A Yes, sir. So he's in the bathtub getting -- or washing
 6 up and everything. Me and her were still talking and
 7 whatnot. When I go back in there to check on him he had
 8 pooped in the tub. I had to let her know and she said to
 9 spank him, so I just popped his butt.
 10 Q Theia told you to spank Minor for defecating or
 11 pooping in the bathtub?
 12 A Yes, sir. So I had popped his butt. His head hit the
 13 tub. It was a plastic tub though, so that's clear.
 14 Q Open hand on the buttocks?
 15 A Yeah. Just open handed. It wasn't hard.
 16 Q Once or twice on the butt?
 17 A Just once.
 18 Q And it caused him to fall forward?
 19 A Yes, sir.
 20 Q And he hit his head on the tub?
 21 A Yes, sir.
 22 Q Describe how hard he hit the tub.
 23 A It wasn't hard. It's like the tub's right here and he
 24 was right here (indicating). He was bent over. So it
 25 really wasn't that far of a fall for him to actually hit the

1 tub.
 2 Q And what part of his head hit?
 3 A This part (indicating).
 4 Q So Theia was at home when this occurred?
 5 A Yes, sir.
 6 Q Did you ever see -- so what areas of the body that day
 7 did you see her hit? You said chest area, buttocks. Did
 8 you see Theia hit him anywhere else/
 9 A The head as well.
 10 Q An open hand slap on the back of the head?
 11 A Yeah. That was before we end up coming to Newberry.
 12 Q Did you see Theia punch him in the stomach area?
 13 A I saw her do that whenever we were getting in the
 14 carseat to come here to Newberry that night.
 15 Q Does Theia go anywhere else before you all come --
 16 before you all come to Newberry does Theia go anywhere else?
 17 A Yes, sir. She goes to Spartanburg to -- first she
 18 leaves to go to Spartanburg County and she stops at a gas
 19 station and brings back a cat. And I told her, I said, "We
 20 don't really need another cat. We have enough cats already
 21 that we can't take care of. We've got stuff -- other stuff
 22 to take care of besides more cats."
 23 Q And what was she doing in Spartanburg?
 24 A She was going to a call in Spartanburg.
 25 Q And she brings back, you said, another cat?

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- 1 A Yes, sir.
- 2 So this is a stray cat?
- 3 A Yes, sir.
- 4 Q To go in that bedroom?
- 5 A Yes, sir.
- 6 Q Anything significant about this cat other than it was a
- 7 stray?
- 8 A It had one eye.
- 9 Q One eye?
- 10 A It was a grey cat with one eye.
- 11 Q I'm going to show you State's 59. It's been admitted
- 12 into evidence. Do you recognize that?
- 13 A Yes, sir. That's the cat that she brought back.
- 14 Q And that was after she had been to the Spartanburg
- 15 service call?
- 16 A She didn't go to the service call. I'm guessing she
- 17 said she went to a gas station, then brought this back.
- 18 Then she left again to go to that call.
- 19 Q I got you. About what time did she -- what time period
- 20 was this when she leaves?
- 21 A To get the cat or to the call?
- 22 Q To go to Spartanburg?
- 23 A Roughly like maybe 40 minutes to 35, I believe,
- 24 minutes.
- 25 Q Well, what time of -- what time of day on December

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- 1 29th?
- 2 A Oh, I think it was either around 8:30 or 9:00, I'm
- 3 thinking.
- 4 Q So how long was she gone?
- 5 A Roughly like 35 to 40 minutes.
- 6 Q And what's Minor doing while she's gone?
- 7 A Minor was asleep at the time. And I had dozed off
- 8 myself waiting for her.
- 9 Q Minor was asleep on the air mattress?
- 10 A Yes, sir.
- 11 Q Is it possible Minor was sick on that air mattress as
- 12 well? Vomiting on that air mattress?
- 13 A He seemed like he was okay whenever he had laid down,
- 14 I didn't go out there to check whenever I went back into the
- 15 room. I had laid back -- I had laid down myself and went to
- 16 sleep.
- 17 Q So eventually Theia gets back from Spartanburg?
- 18 A Yes, sir.
- 19 Q And what happens next?
- 20 A She comes in, wakes me up and Minor and she says --
- 21 tells us to get ready. And I'm like why don't she just go
- 22 to the call herself. And she explained because she feels
- 23 uneasy about it. She's never been to Newberry. She feels
- 24 like it was -- she feels like it might be a setup for her or
- 25 she feels just off about it. And I'm like, "Well, if that's

1 the case then don't go, because I'm tired myself, and
2 Minor is sleeping. Why would you want to wake me and him
3 up to come out to someplace that we've never been before?"
4 Q She was aware that Minor had gotten sick around
5 suppertime, correct?
6 A Yes, sir.
7 Q And a lot of times you would just stay at the house
8 while she would go on service calls with Minor?
9 A Yes, sir. Or she brought -- or she told people to come
10 to the house.
11 Q Clients would come to the house?
12 A Yes, sir. Even I explained to her and asked her not to
13 do that, due to the fact of Minor living there and myself,
14 and her living there as well.
15 Q So, but she needed you to come to Newberry because
16 she's unfamiliar --
17 A Yes.
18 Q -- with the area?
19 A Yes, sir.
20 Q So that's the reason you went on this call?
21 A Yes, sir.
22 Q But that was not a habit --
23 A No.
24 Q -- that you would go on these service calls?
25 A No, sir.

1 Q So it was unusual for you to actually go?
2 A I mean, unless we were living in the hotel. Which most
3 times if we were living in the hotel she would go on the
4 calls herself, too, as well. Unless we were already out
5 eating somewhere. She would ask me -- she would let me know
6 that she got a call and she's like, "Well, do you mind just
7 coming along." So I would go along because I was already
8 out with her.
9 Q So Minor is asleep and you all had to wake him up?
10 A She woke him up coming in.
11 Q And was he upset?
12 A Yes, sir. He was. He was whiney and he was crying.
13 Q Did he appear ill still at this point?
14 A He sounded like he was tired and he could have been ill
15 the way he was crying, whining.
16 Q And he's verbal? He's able to communicate yes, no, and
17 use sentences and all that? He didn't have any
18 developmental delays?
19 A No, sir.
20 Q Did he say, "No, I don't want to go," or anything to
21 that effect?
22 A Well, he's not able to like sound -- like sound clear
23 like that. But he didn't really seem like he wanted to wake
24 up.
25 Q And what's Theia's reaction to his crying?

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1 A Well, whenever I finally said I'd go she snatches him
2 up and takes him out to the car seat. She yanks him up by
3 his arm.
4 Q I want to show you Defense 1. Do you recognize this?
5 A Yes.
6 Q And what is that?
7 A That's Minor in his other car seat. This is one of
8 the car seats that she got whenever she left the house.
9 Q But is this a fair and accurate depiction of where
10 Minor would be positioned in the vehicle?
11 A Yes, sir.
12 Q In a car seat right behind the driver --
13 A Yes.
14 Q -- in the rear driver's side seat?
15 A Yes, sir.
16 Q And if I represent to you that's taken on December 17th
17 that would appear accurate, in terms of his appearance?
18 A Yes, sir.
19 Q 2014? So you put him in the car seat, or --
20 A She puts him in the car seat.
21 Q Does she -- is he continuing to cry?
22 A He's still whiny and whatnot, and I come out to get
23 inside the car and he's already in the carseat and she had
24 turned around and struck him in the chest twice before I got
25 in the car and I told her to stop. I said, "If it's a big

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1 deal about him being upset, let us just stay and you go on
2 to Newberry because --"
3 Q She struck him in the chest? Be specific.
4 A She struck him in -- like while he was sitting down.
5 She struck him in the chest in this area (indicating) --
6 Q Closed --
7 A -- closed hand. Yes, sir. She turned around and hit
8 him twice. And I told her, I said to stop. "If it's such a
9 big deal, let us just stay here if you really want to go to
10 Newberry, or just don't go at all," because we were both
11 sleeping already.
12 Q And did Theia have an address for this Newberry service
13 call?
14 A I'm guessing it would have been in her phone.
15 Q How did she find it?
16 A GPS on her phone. And she had talked to the guy a
17 couple of times. She had called him. And we were still
18 having a bickering argument, too, as well driving to
19 Newberry.
20 Q And about what time do you all depart for Newberry?
21 A I think about 11:00. Anywhere from between 10:30 to
22 11:00. Somewhere in that area.
23 Q Best you can recollect, about 11:00 p.m.?
24 A Yes, sir. Best I can recollect.
25 Q Well, tell us what happens -- how do you -- how do you

1 get to Newberry? Do you take the interstate, highway or
2 what?
3 A Yes, sir. We take the I-26. And he was still whining
4 and everything. When we hit the Clinton exit he was
5 snoring. He was sleeping by the time we hit the Clinton
6 exit.
7 Q So he whined the whole way down I-26 up until you get
8 around the Clinton exit?
9 A Yes, sir.
10 Q Then he stopped whining?
11 A Then he goes to sleep. I hear him snoring in the back
12 while me and her were having our little disagreement and
13 talking.
14 Q You heard him snoring?
15 A Yes, sir.
16 Q Is that common for him to snore?
17 A The times that I've heard him sleep, like maybe once or
18 twice. But not really common.
19 Q Any more vomit?
20 A No. Not that I saw.
21 Q Any vomit in the vehicle --
22 A No, sir.
23 Q -- at that point?
24 A No, sir.
25 Q So he's snoring once you get to Clinton, and as you

1 continue to Newberry he's still snoring?
2 A Yes, sir.
3 Q So you all eventually pull up to the client's house in
4 Newberry, correct?
5 A Yes, sir.
6 Q And do you recall what that house looked like?
7 A No, sir. It was nighttime. I didn't really get a look
8 at it. I was covered up with the jacket.
9 Q And where are you riding in the vehicle?
10 A In the passenger seat covered by a jacket.
11 Q Front seat?
12 A Yes, sir.
13 Q So you all pull into the house of this guy? The
14 residence?
15 A Yes, sir.
16 Q And do you recall where you all parked?
17 A It was in the driveway next to an RV, I believe. Or it
18 was either an RV or a camper. I'm not sure exactly what it
19 was.
20 Q There was a camper out there?
21 A That's what -- I think it was. It was nighttime at the
22 time, so I couldn't really tell what it was.
23 Q I'm going to show you State's 46.
24 A Yeah, that's what it was right there.
25 Q There was an RV, you said, and you all parked near

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- 1 that?
- 2 A Yes, sir.
- 3 Q Where would you all park in relationship to that RV?
- 4 A Do I need to stand up and show you on there?
- 5 Q You can just point or just -- yeah, you can stand up.
- 6 A In that area right there (indicating).
- 7 Q Was it lit? The --
- 8 A The area right there lit?
- 9 Q Yeah.
- 10 A No, sir. It really wasn't.
- 11 Q And about what time would you say you all arrived in
- 12 Newberry at this residence?
- 13 A If I recollect correctly, I would say -- I would say it
- 14 would be after midnight.
- 15 Q After midnight was when you arrived at this residence?
- 16 A Yes, sir.
- 17 Q Minor was still asleep at that point when you all
- 18 first pull up?
- 19 A Yes, sir.
- 20 Q And Theia gets out of the vehicle?
- 21 A Yes, sir.
- 22 Q Do you see this client come out and greet her?
- 23 A I heard the client, but I never saw him face-to-face.
- 24 I was covered up with the jacket, so I never really got to
- 25 see who the client was at all.

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- 1 Q You're covered up with a jacket?
- 2 A Yes, sir.
- 3 Q What kind of jacket was it?
- 4 A It was a black jacket.
- 5 Q Heavy? Heavy jacket or light jacket or what?
- 6 A I'm guessing it was a heavy jacket.
- 7 Q So Theia gets out and greets him and then they go in
- 8 his house, I assume?
- 9 A Yes, sir.
- 10 Q About how long was this service call? How long was she
- 11 in the house?
- 12 A I fell asleep. So I really didn't have -- I didn't
- 13 time her at all.
- 14 Q So what's happening out in the car once Theia leaves
- 15 and goes inside with the client? What's Minor doing?
- 16 A I dozed off for a little bit, and I -- I'm not sure how
- 17 long. I ended up hearing a noise outside the car. I'm
- 18 thinking it was her. I wake up. And I don't hear Minor
- 19 snoring back there no more, so I turn around and I shake him
- 20 a little bit, "Hey, Buddy, you okay back there?" He wakes
- 21 up. He's like uh-huh, and he goes back to sleep. So I got
- 22 back to sleep myself.
- 23 Q So he was snoring, and then all of a sudden you don't
- 24 hear him snoring?
- 25 A Yes, sir.

1 Q You wake him up?
2 A Yes, sir.
3 Q And ask him if he's okay?
4 A Yeah.
5 Q And he says uh-huh?
6 A Yes, sir. He says uh-huh like --
7 Q Like he's okay?
8 A Yeah.
9 Q Indicating to you?
10 A And he goes back to sleep. I go back to sleep myself
11 for a while. And like a little bit after I go back to sleep
12 I hear the client and her coming out. Well, I hear her
13 laughing and talking with the client. And then she ends up
14 coming in the car and I -- we're backing out, and I ask her,
15 I said -- I started asking her about the whole snoring
16 thing. Because me, myself, I snore, but I have sleep apnea.
17 So I know when people snore sometimes they could have sleep
18 apnea. So I'm asking her. I said, "Your son didn't sound
19 like he was like breathing for a little bit. Like I didn't
20 hear him snoring." She was like, "Stop overreacting. He's
21 okay. He's probably just sleeping hard." So she tells me
22 to wake him up again. So I'm trying to wake him up and
23 there's no response. So I let her know. She was like,
24 well, keep trying to wake him up. So I climb in the
25 backseat. I'm shaking him, pinching his fingers or whatnot.

1 She's telling me to pinch his fingers, continue to shake
2 him. I'm pinching his fingers. I'm patting him on his
3 cheek trying to wake him up. I'm letting her know that
4 there's no response. So I pull him out the carseat to try
5 to give CPR, because I was taught that in the military, and
6 she's still on her way trying to head back home. And I'm
7 like, "Hey, we need to get to a hospital because you're
8 son's not responding." She's like, "Oh, he'll be okay.
9 We'll go to Laurens."
10 Q How is she heading back home? She's got a GPS? How
11 does she know her way around?
12 A She had the GPS on her phone. She was trying to head
13 back by GPS. It kept -- the signal kept coming in and out.
14 But she had her -- on the GPS. So we're trying to head back
15 towards -- she's trying to head back towards home. I'm
16 still letting her know we need to get to a hospital, because
17 if your son's not responding, that's not a good thing. So
18 I'm still trying to work with him back there, trying to give
19 him CPR and everything. And then there's this brown stuff
20 that comes out of his nose. And I let her know. And she
21 turns around and looks back there and she sees the stuff
22 coming out of his nose and she says, "Oh, shit. We need to
23 get to a hospital." I'm like, "I've been telling you that
24 for the past, you know, five, 15 minutes now. Like we need
25 to get to a hospital." So she starts going toward the

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1 hospital. And the GPS is still going on and off, and me and
2 her bickering. I'm like, "You need to hurry up. We need to
3 get to a hospital. Like this isn't cool. Like this stuff
4 is coming out of his nose. He's not responding. Like we
5 need to get there fast." So finally we end up getting. I
6 guess, towards the college and we see the H sign for
7 hospital. The blue sign that has H and the arrow. So we
8 get to the hospital. And I jump out with him in my arms and
9 I run inside the emergency room immediately, and she's. I
10 guess, parking the car, or whatever she's doing out there.
11 Takes her like a good 10, 15 minutes to get in. So they
12 already take him to the back and whatnot. They asked me if
13 I was the biological father and I let them know -- let them
14 know that no --
15 Q Let me stop you. So when you initially tell Thela you
16 thought he had stopped breathing while she was inside with
17 the client she didn't seem too concerned at first?
18 A Not really.
19 Q And you were saying we need to get to a hospital fast?
20 A Yeah.
21 Q And then you said something about she said he'll be
22 fine. We can just make it to Laurens.
23 A Yeah.
24 Q Was she referring to Laurens Hospital?
25 A Yes, sir.

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1 Q Then you saw a brown --
2 A I tried CPR.
3 Q -- substance coming from his nose?
4 A Yes, sir. When I had tried CPR, yes.
5 Q Is she still -- does she stop the car so you can do CPR
6 or is she still moving while -- driving?
7 A She was still moving and she had finally stopped at a
8 stop sign. That's the only time when she had actually
9 stopped.
10 Q Didn't think to call 911?
11 A Me or her? No, sir. Not at the time. I was trying to
12 attend to him and see what was going on with him.
13 Q She didn't say anything about calling 911?
14 A No, sir.
15 Q She didn't say anything about contacting that Newberry
16 client and asking him where the nearest hospital was?
17 A No, sir. She was actually trying to just get to the
18 Laurens County Hospital because she knew where that was, she
19 said.
20 Q So she just happened to see the hospital sign near the
21 college, you said?
22 A Yes, sir. When we actually start trying to find the
23 hospital.
24 Q Is she driving pretty recklessly, real fast?
25 A No, sir.

- 1 Q She's not?
- 2 A No, sir. Not at that time.
- 3 Q So you all find the hospital?
- 4 A Yes, sir.
- 5 Q You bring Minor in?
- 6 A Yes, sir.
- 7 Q You're carrying him?
- 8 A Yes, sir.
- 9 Q Is he still has brown substance coming from his nose?
- 10 A Yes, sir. That ended up on my shoulder actually.
- 11 Q Okay. Did you have to take his tee shirt off or
- 12 anything like that?
- 13 A Yes, sir. I did. I took his tee shirt off.
- 14 Q I show you State's 39. Do you recognize that?
- 15 A Yes, sir. I actually took his tee shirt off to get
- 16 some of the stuff off his face.
- 17 Q Is that the tee shirt he was wearing that night?
- 18 A Yes, sir. It was.
- 19 Q And all that discoloration is from --
- 20 A His nose.
- 21 Q His nose?
- 22 A Yes, sir.
- 23 Q Anything coming from his mouth?
- 24 A No, sir.
- 25 Q Did you have to use any towels back there, anything

- 1 like that? Was it --
- 2 A I believe I did use a towel back there.
- 3 Q State's 26.
- 4 A That was a jacket that I'd used to cover up as well.
- 5 Q That's the jacket?
- 6 A Yes, sir.
- 7 Q Puffy jacket?
- 8 A Yes, sir.
- 9 Q And that towel on top of it?
- 10 A Yes, sir.
- 11 Q You used that to wipe him down?
- 12 A Yes, sir.
- 13 Q So you pull up -- the three of you all pull up to the
- 14 Newberry ER. You carry him in.
- 15 A Yes, sir.
- 16 Q Why didn't she get out with you?
- 17 A She said she was going to go park the car.
- 18 Q Park the car?
- 19 A Yes, sir.
- 20 Q So you go to the ER entrance and to the registration
- 21 desk, correct?
- 22 A Yes, sir.
- 23 Q And did the nurses take him away immediately?
- 24 A Yes, sir. And they asked me was I the biological
- 25 father and I said no. I said the mother should be on her

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1 way in now. So they told me to wait out there since I
 2 wasn't the biological father. She comes in, as I said, like
 3 10 or 15 minutes later and she goes to the desk. They start
 4 --
 5 Q You said 10 to 15 minutes later Theia comes in?
 6 A Yes, sir. She starts -- she starts answering some of
 7 the questions that the nurses and everything have for him --
 8 for her. Sorry. She -- when it gets to the part about the
 9 biological father she says I am, and the nurse said he
 10 already let us know that he's not the biological father.
 11 She turns around and starts cussing me out and calling me
 12 all types of stuff saying, "Why the hell would you say that.
 13 You're like the only father he know," and I said, "Well, I'm
 14 not technically the biological father. So I wouldn't be
 15 lying if I said -- told them I said no."
 16 Q So you all are basically having an argument because you
 17 told hospital staff that you were not the biological father,
 18 correct?
 19 A Yes, sir.
 20 Q And then eventually you learned that Minor was
 21 pronounced dead, correct?
 22 A Yes, sir. Whenever we get brought back to the back we
 23 did -- that they were trying everything they can to like
 24 resuscitate him and everything. They were doing
 25 compressions and everything, clearing the vomit and stuff

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1 from under his airway and whatnot. Was trying to
 2 resuscitate him and get him to come back. All the while she
 3 was either on the -- we were trying to get a hold of James
 4 and her mother. And she finally gets a hold of her mom and
 5 she lets her mom know, and her mother starts yelling and
 6 screaming, "What did you do? What did you do?" And she's
 7 like, "Well, mom, some people -- sometimes people die in
 8 life and the only thing you can do is move on."
 9 Q Is she just hysterical at this point to find out her
 10 son died? Theia?
 11 A No.
 12 Q She's not?
 13 A No, sir.
 14 Q And she does contact her mother?
 15 A Yes, sir. And we get a hold of James as well. James
 16 Dunn.
 17 Q A friend of hers?
 18 A A friend of ours. He's just a friend of ours. Yes,
 19 sir.
 20 Q So law enforcement eventually shows up in the ER,
 21 correct?
 22 A Yes, sir.
 23 Q And so, you agree to be interviewed by law enforcement?
 24 A Yes, sir.
 25 Q Do you remember at that time Captain Roy McClurken?

- 1 A Yes, sir. I do.
- 2 Q He interviewed you, correct?
- 3 A Yes, sir.
- 4 Q And it's fair to say you did not tell Captain McClurken
- 5 at the time everything you just discussed with us, correct?
- 6 A Yes, sir.
- 7 Q Why is that? Why aren't you telling him everything you
- 8 just discussed?
- 9 A There's numerous reasons why, sir. First and foremost,
- 10 I love Minor and I cared about her, too, as well. I
- 11 didn't really want her getting in trouble for all the stuff
- 12 that was going on from the escorting to the child abuse and
- 13 whatnot. I did call DSS one time when I was down here in
- 14 South Carolina from the fact that she had hit him, and I
- 15 told her I got tired of telling her to stop doing it. And
- 16 she let me know that if I ever called DSS on her again that
- 17 she'd be gone. So I didn't want her getting in trouble for
- 18 anything like that. And I never thought that it would lead
- 19 up to Minor dying the numerous times of the hitting and
- 20 abuse and whatnot.
- 21 Q So you were trying to protect Theia to a certain
- 22 extent?
- 23 A Yes, sir. And I didn't want to get blamed for -- I
- 24 didn't want to get blamed for it as well with myself.
- 25 Q What do you mean you didn't want to get blamed for it?

- 1 By not stopping it?
- 2 A Yes.
- 3 Q So you thought you were going to get into trouble?
- 4 A Yes, sir.
- 5 Q Are you and Theia still together?
- 6 A Right now?
- 7 Q Not physically together, but emotionally are you still
- 8 still together?
- 9 A I can't even answer that one, sir. I don't know. I
- 10 know after this whole ordeal I just want something to be
- 11 done for him, in all honesty, and I would like to be able to
- 12 move on with things in my life. Because I have a child of
- 13 my own. She's five. She's going on six this year. And
- 14 this is like taking me away from her. This whole ordeal.
- 15 And I regret that I didn't let them know what happened from
- 16 the beginning and something could have been done for Minor
- 17 from the very start. Maybe -- I don't know. Maybe Minor
- 18 could have been taken, put into kinship or -- I don't know.
- 19 Something.
- 20 Q Why didn't you stop -- stop Theia? Like physically
- 21 intervene when she's hitting on Minor what you describe?
- 22 Why didn't you stop her from doing that?
- 23 A The times that I did try to stop I ended up with an
- 24 arrest for assaulting a female, and it wasn't even
- 25 assaulting a female. I have an arrest record in North

RICHARD BOWMAN: CROSS EXAMINATION

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- 1 Carolina for fraudulent charges that were dropped whenever I
 2 tried to stop her from doing things to Gabriel, or whenever
 3 I threatened to leave, or I did leave, so (pause) ---
 4 Q Were you beating on that child in the car while Theia
 5 was with that Newberry client?
 6 A No, sir.
 7 Q You didn't hit him at all inside that car?
 8 A No, sir. The only time that I struck him, sir, was
 9 whenever I patted his butt.
 10 Q And you're saying that wasn't very hard?
 11 A No, sir. It wasn't.
 12 Q This is kind of a generic question. But describe
 13 Theia's temperament. Is she an angry person?
 14 A When she's not on her medication she goes from zero to
 15 100.
 16 Q So did she have a short fuse when it came to Minor?
 17 A Yes, sir. I've seen her get into arguments before.
 18 Like back when I first met her I saw her get into an
 19 argument with her mother outside at a Bojangles, her and her
 20 mother. They were throwing food and they were literally
 21 playing tug-of-war with him inside -- or outside in the
 22 parking at Bojangles, with Minor
 23 Q So Theia is kind of a volatile person?
 24 A Yes, sir.
 25 Q Is that an accurate description of her personality?

RICHARD BOWMAN: CROSS EXAMINATION

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- 1 A Yes, sir.
 2 Q And you realize how this looks, correct? That you're
 3 telling this stuff the first time a few weeks ago at the
 4 amen hour?
 5 A Yes, sir.
 6 Q And why are you saying this now?
 7 A Because I want the truth out.
 8 Q And why didn't you tell now Chief McClurken this
 9 initially?
 10 A I just said, I didn't know if I was going to be in
 11 trouble for it as well as myself, and I was actually trying
 12 to protect her.
 13 MR. DANIEL: No further questions. Please answer
 14 anything Mr. Verner might have.
 15 THE COURT: Mr. Verner, may I assume that your cross-
 16 examination of this witness is going to take a while?
 17 MR. VERNER: I apologize, Your Honor, but the -- he's
 18 the witness of the case.
 19 THE COURT: Oh, I agree. I just -- if it is going to
 20 take a while the Court will take five. We're going to take
 21 five. Step outside if you need to. Adjourn to the back.
 22 We will be at ease for a quick five minutes. Don't anyone
 23 go too far away. Sir, you can step down or you can stay
 24 there.
 25 (Whereupon, the jury exited the courtroom.)

1 THE COURT: If I may I want to go on the record real
2 quick. The record should reflect that the Defendant is
3 present with counsel. The witness that we are examining at
4 this time is not present.

5 MR. VERNER: He is. He just walked in.

6 THE COURT: Okay, he is now present. The Court has
7 somewhat of a concern. Obviously, that the Court admonished
8 the witness not to use or not to communicate with anybody
9 about the substance of his testimony. I walked through the
10 hallway and I saw him using a telephone in the Solicitor's
11 Office. It seems a peculiar time to order a pizza for the
12 witness in this particular case. I know he had a brief
13 conversation with his attorney after he came off the stand.
14 I just wanted to put that on the record. I don't know if
15 the Defense was aware of it. Since he was using the phone
16 in the Solicitor's Office I assume they were aware of that.
17 Is there an issue here that the Court needs to inquire into
18 further, Mr. Verner?

19 MR. VERNER: No, Your Honor.

20 THE COURT: Are you sure?

21 MR. VERNER: I saw a brief chat with the lawyer. I took
22 it more as a non-testimonial -- just -- he's got an
23 impeccable reputation. So I did not see a problem. I did
24 see the Defendant on the phone.

25 THE COURT: Good. Not so much the conversation with Mr.

1 -- with his counsel, but I'm concerned more with the
2 telephone conversation. Let me hear you on that.

3 MR. VERNER: I took it as they afforded him the
4 opportunity to call a family member or -- but could he
5 answer who he called?

6 MR. BOWMAN: I called my mother.

7 MR. VERNER: I figured. It looked like a family call,
8 Your Honor.

9 MR. BOWMAN: My mother was curious as to what was going
10 on, and I told her I was on the stand today.

11 THE COURT: Did you discuss with her at any point in
12 time any of the testimony, the substance of the testimony
13 that you gave today?

14 MR. BOWMAN: No, Your Honor.

15 THE COURT: Or anything that you're going to testify to
16 in the future? Did you talk to her about that?

17 MR. BOWMAN: No, Your Honor. As I said, my mother was
18 just worrying about what was going on. She came up here on
19 Monday and was turned away at the courthouse or whatever
20 because she was told she couldn't be here. So she wanted to
21 be let known what was going on.

22 THE COURT: Fair enough. No other questions then of
23 this witness from anyone on that issue?

24 MR. STUMBO: Your Honor, my understanding -- I stepped
25 in and grabbed a bottle of water when I came out. It looked

RICHARD BOWMAN: CROSS EXAMINATION

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1 like Mr. Brown was in there with him the entire time, so.
 2 We didn't want to get in the middle of anything.
 3 THE COURT: Very good. Let us have the jury please.
 4 (WHEREUPON, THE JURY ENTERED THE COURTROOM TO RESUME.)
 5 THE COURT: Thank you for your continued patience.
 6 Here's where we are. My understanding is that we have
 7 approximately an hour left to go with this witness. It is
 8 6:15 at this particular point in time. I was indicating to
 9 y'all 6:30 or so. I was not indicating 7:15 or 7:30. It's
 10 very unusual to break in the middle of a witness, especially
 11 the cross of a witness. Mr. Verner has been so kind as to
 12 say that if y'all are fatigued this evening we can retire
 13 for the evening. He has no problem pausing in the middle of
 14 his cross-examination of this witness. I will leave it to
 15 your discretion. If you want to huddle up, Madame Forelady,
 16 and see if y'all are ready to call it an evening or if y'all
 17 want to keep going for approximately another hour and try to
 18 finish this witness. Whatever your choice is. You can
 19 huddle up there and take a quick survey and see where you
 20 stand.
 21 MADAME FORELADY: We're ready to keep going.
 22 THE COURT: You want to keep going. Everybody okay with
 23 that. Anybody not okay with that raise your hand. It's
 24 unanimous. Mr. Verner, you may continue, sir.
 25 CROSS-EXAMINATION

RICHARD BOWMAN: CROSS EXAMINATION

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1 BY MR. VERNER:
 2 Q Mr. Bowman, the prosecutor's final question to you was
 3 that you were testifying today because -- I don't want to
 4 mischaracterize you, but you wanted to get the truth out,
 5 right?
 6 A Yes, sir.
 7 Q You're sure that's not because you want to get Richard
 8 out?
 9 A Yes, sir.
 10 Q How long has Richard Bowman been in custody in the jail
 11 right now?
 12 A Four hundred some odd days, I believe.
 13 Q Since December 30th of 2014?
 14 A Yes, sir.
 15 Q That's a long time, isn't it?
 16 A Yes, sir.
 17 Q Are you doing it -- are you testifying today on the
 18 hope that you will get some help from the prosecutors on
 19 resolving your charges?
 20 A No, sir.
 21 Q Are you testifying today because if you can pin this
 22 charge on Theia McArdle that there will be no charges on
 23 you?
 24 A No, sir.
 25 Q So you're only testifying today to get the truth out?

1 A Yes, sir. In all honesty, sir, I'll tell you this. If
2 I still get a charge off this because for not stopping it,
3 or whatever the case may be, I'll accept it, but I want the
4 truth to be known for what happened to him.
5 Q And what is the punishment to you if you accept it?
6 A I don't know.
7 Q Your lawyer hasn't talked about what you're facing?
8 A Twenty to life for this charge here. I've read up on
9 it. I've read up on the law on it.
10 Q And that's not some reason to want to cooperate to
11 avoid a 20 to life -- mandatory 20 to life sentence?
12 A No, sir. I just want the truth out.
13 Q Because I believe you've told the prosecutors in the
14 past that some of this stuff has happened to you in the past
15 and it hurts you to see children --
16 A Yes, sir.
17 Q Because you yourself was a victim?
18 A Yes, sir.
19 Q And you've told several people that, right?
20 A Yes, sir.
21 Q It hurts you to see hurt children?
22 A Yes, sir.
23 Q The -- now, we've heard that Theiz has a Facebook
24 account. Do you also have a Facebook account?
25 A Yes, sir. I do.

1 Q And it's got a -- what does X3R0 stand for?
2 A Zero.
3 Q Zero?
4 A Yes, sir.
5 Q That's just a way to write a zero?
6 A Yes, sir.
7 Q I want to ask you about some photographs you published
8 within a couple of weeks of Minor 's death, if I can.
9 A Okay.
10 MR. DANIEL: I'm going to have an objection to these
11 photos. It's a matter of law.
12 (Sidebar outside of the presence of the jury.)
13 Q You had a Facebook account?
14 A Yes, sir.
15 Q Have you seen this photograph?
16 MR. DANIEL: Your Honor, objection. This hasn't been
17 introduced yet and he's publishing it.
18 MR. VERNER: It's just his Facebook page. It's nothing
19 --
20 (Sidebar outside of the presence of the jury.)
21 Q What Mr. Bentley is showing you, is that your Facebook?
22 A Yes, sir. It is.
23 Q The jury's looking at your Facebook account?
24 A I actually do have like three Facebook accounts. The
25 main one --

RICHARD BOWMAN: CROSS EXAMINATION

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- 1 Q You have several Facebook accounts?
- 2 A Yes. The main one I use is under my military email
- 3 address. I'm not sure if that's the right one or not. The
- 4 other two I barely use. I'm not sure if that's the main
- 5 one. But that's under Richard.Bowman380. US.Army. So
- 6 yeah, that's the main one.
- 7 Q The one that has Richard Bowman 23RO on it?
- 8 A Yeah.
- 9 Q And it's got apparently a picture of you with some
- 10 buddies?
- 11 A I'm not sure if that's the main one. Like I said, I
- 12 have three.
- 13 Q Do you recognize this image?
- 14 A Yes, sir. I do. That's by a toy maker. That's a
- 15 company that makes baby dolls, like -- baby dolls. A friend
- 16 of mine in Chicago shared it to me. Showed it to me.
- 17 Q And you posted it on Facebook on November 14th?
- 18 A Yes, sir.
- 19 Q That's a picture you published on November 14th, about
- 20 a month before Minor was killed?
- 21 A Yes, sir.
- 22 Q What is that a photograph of?
- 23 A It's a baby doll. A friend of mine had found this
- 24 company that makes like scary baby dolls. It's supposed to
- 25 be like that. And she showed it to me and I thought it was

RICHARD BOWMAN: CROSS EXAMINATION

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- 1 kind of cool. It was a baby doll.
- 2 Q So you posted it on your Facebook because it was
- 3 uncool?
- 4 A It was cool. It was a baby doll. It wasn't a real
- 5 human child.
- 6 Q It appears to be a baby beaten to death, two black
- 7 eyes, blood around the mouth, blood all over the body?
- 8 A It's a zombie baby doll, if you like zombies.
- 9 Q A zombie baby doll.
- 10 A Yeah. It's not two black eyes.
- 11 Q Do you recognize this photograph?
- 12 A Yeah, it's supposed to be like Harry Potter, --
- 13 Voldemort, yeah.
- 14 Q That's a Voldemort baby?
- 15 A Yes.
- 16 Q Do you recognize this photograph?
- 17 A No.
- 18 Q You don't remember posting this on your Facebook
- 19 account?
- 20 A I probably shared it but didn't really take a good look
- 21 at it.
- 22 Q You don't remember making this your cover page for a
- 23 while?
- 24 A No, I don't remember making that my cover page for a
- 25 while.

1 Q I can bring my computer in here. Are you sure this
2 wasn't your cover page?
3 A I don't remember making it my cover page. But if I did
4 --
5 Q I guess let's go to 11/24. What are we looking at
6 here?
7 A It's a scary picture of a clown and a kid.
8 Q A child and a --
9 A It's a made up --
10 Q -- kind of a monster clown?
11 A It's just a made up picture.
12 Q And that was posted on your Facebook on November 24th?
13 A Yes, sir.
14 Q Can we have the next picture? This photograph on
15 October 20th that you posted appears to be a child with his
16 face ripped open -- or her face ripped open?
17 A I don't believe it was a child, but okay. Just
18 pictures that they share on Facebook. There's a lot of
19 different stuff on Facebook.
20 Q That you've posted?
21 A Not -- I didn't actually post it. I just shared it.
22 Somebody else --
23 Q You shared it? You're sharing --
24 A -- posted it.
25 Q -- is reprinting it on your account?

1 A Yes, sir.
2 Q This is the Voldemort baby?
3 A Yes, sir.
4 Q It appears to either be a baby with snake eyes or a
5 dead baby?
6 A With snake eyes.
7 Q Then we have -- I think we already introduced the first
8 screen shot. Screen shot two. What are we looking at here?
9 A A murder spree.
10 Q It appears to be blood in eyes and you posted on
11 December 4th? I'm sorry. You didn't finish your answer.
12 What are we looking at here?
13 A It's a thing me and my friends were talking about. Me
14 and my buddies from the military, as you can clearly see.
15 We were talking about scary movies like Freddie Krueger,
16 Jason, and whatnot.
17 Q And this was on December 4th, 2014?
18 A Yes, sir.
19 Q This -- you might want to step down and tell us what
20 this one is. Can you read -- you can step down all the way,
21 for me.
22 A In 1934 families were receiving -- no one knows who
23 they were or --
24 THE COURT: Sir, speak up some more, please. She can't
25 hear you.

RICHARD BOWMAN: CROSS EXAMINATION

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1 A In 1934 families were receiving. No one knows who they
 2 were or that they did. At --
 3 Q And you got a comment. Lol stands for what?
 4 A Laugh out loud. It's my sister. Me and my sister were
 5 talking about it.
 6 Q This was posted apparently on November 12th of 2014.
 7 Can you read the caption for me?
 8 A It says, "Hey, I just met you and this is crazy. My
 9 name is Slender. I take your babies."
 10 Q And that's kind of a play off of a song. I don't know
 11 the --
 12 A It's about Slender Man.
 13 Q Slender Man is a mythological --
 14 A Yes.
 15 Q -- man who steals babies?
 16 A No, he doesn't steal babies. He --
 17 Q Or kills babies.
 18 A No, he doesn't kill babies either. He just hates
 19 people, I guess. I don't really know the thing about it.
 20 It's from Creepypasta.com.
 21 Q These were all posted as humor? Attempts at humor on
 22 your Facebook account?
 23 A Some of them were humor. Some of them were to show
 24 just pictures.
 25 Q As pictures of warnings to other people of what not to

RICHARD BOWMAN: CROSS EXAMINATION

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1 do or --
 2 A Yeah, and show it to my sister and whatnot, and friends
 3 in the military and whatnot.
 4 Q Now, you've got more Facebook accounts?
 5 A I've got three, due to the fact that she would hack
 6 into my Facebook accounts and talk crap to people on my
 7 Facebook. Friends of mine and whatnot.
 8 Q So you had to keep -- one wasn't for business, was it?
 9 A Nothing was for business.
 10 Q Do you have them under the name Richard Bowman or --
 11 A I have them under Richard Bowman, yes.
 12 Q Now, just so I'll understand, how many times have you
 13 been interviewed by the police, or law enforcement?
 14 A For this case? Once.
 15 Q Yes, sir. Well, I mean --
 16 A Once.
 17 Q Just once?
 18 A Yes. The first day whenever we got arrested. And then
 19 on the 10th when I talked to the Solicitors. That's it.
 20 Q Are you sure about that?
 21 A Yes, sir. Or would you be referring to a Spartanburg
 22 incident that happened?
 23 Q No, sir. I'm just talking about this --
 24 A This incident?
 25 Q -- case with the dead baby Minor .

1 A That's only one time. And then I talked --
2 Q They've only talked to you one time?
3 A Yes, sir. They wouldn't talk to me any other time
4 without my lawyers present, with that being Joseph St.
5 Pierre or Mr. Brown.
6 Q So you have two lawyers in this case?
7 A Yes, sir. I did.
8 Q Well, I'm going to start off with just your testimony
9 today, and then let's talk about some of the stuff you said
10 earlier.
11 A Yes, sir.
12 Q The -- you don't like being called pimp, do you?
13 A I wasn't a pimp.
14 Q Well, I mean, a pimp is not just a guy who wears purple
15 suit. It's a guy who lives with a prostitute and takes her
16 to meet people and protect her from people, right?
17 A I guess, if that's what your version of a pimp is.
18 Q Who's black knife was that in the glove box of Theia's
19 car?
20 A It wasn't mine. I believe that was hers.
21 Q So that was Theia's black knife?
22 A Yes, sir.
23 Q The same with the gun?
24 A That was my first time I ever seen that pistol. But
25 that was hers.

1 Q You've been with her since 2013?
2 A Yes, sir.
3 Q First time you ever saw it?
4 A Yes, sir. She never had a pistol when we lived in
5 Asheville. She had a BB gun when we lived in Asheville. I
6 didn't even know that gun was inside the car until my lawyer
7 was going through pictures and I saw that. And I was even
8 alarmed by that and wondered what that was about.
9 Q What about the Mace?
10 A That was a friend of hers named Tiffany. Tiffany let
11 her have that.
12 Q So you knew about the pepper spray in the car but just
13 not the gun and the knife?
14 A Yes, sir.
15 Q Now, tell me, if you weren't a pimp, living off of her
16 and protecting her, but you were a prostitute or an escort
17 yourself?
18 A Yes, sir. I was an escort myself when I lived in
19 Asheville, and I had a couple clients when I lived in
20 Spartanburg, too, as well.
21 Q But you didn't enjoy that lifestyle?
22 A No, sir. I actually wanted to get an actual job. I
23 didn't want to live like that in front of Minor and
24 wharnot.
25 Q Because of Minor you didn't want to do that?

- 1 A Yes, sir.
- 2 Q Now, who is the client for a male escort? Are you
- 3 doing that for women or men?
- 4 A I had males and females, sir.
- 5 Q So sexually you would ambivalent, yet you would -- it's
- 6 all about money? You're not really interested in the man or
- 7 woman. It's just the bottom line of I've got to get paid?
- 8 A I guess you could say that. Yes, sir.
- 9 Q Now, the mobile home that you stayed in in Spartanburg,
- 10 Enoree, how many air conditioning units or heating units did
- 11 you have?
- 12 A There's one.
- 13 Q Just one?
- 14 A Yes, sir.
- 15 Q Where was that?
- 16 A That was in the kitchen/livingroom area.
- 17 Q The kitchen is one big open room with the livingroom?
- 18 A Yes, sir.
- 19 Q Was it colder -- considerably -- in December, the two
- 20 ends of the room, would it be considerably colder in the two
- 21 bedrooms?
- 22 A If the AC was on.
- 23 Q So that window unit would warm the entire home?
- 24 A Yes, sir.
- 25 Q Even through the doors?

- 1 A Yes, sir.
- 2 Q The reason for moving Minor to the livingroom wasn't to
- 3 keep him closer to the master bedroom so she could hear him
- 4 and that it's heated?
- 5 A No.
- 6 Q Not in your opinion?
- 7 A No. Actually I asked her about that. She wanted the
- 8 cats inside his room because they kept running in, jumping
- 9 on her face and being on her face and she would get mad and
- 10 wake up in the middle of the night. And I told her, I said,
- 11 "Well, you're the one that wanted all these cats, so..."
- 12 Q And the cats didn't stay in the room. They had the run
- 13 of the house, didn't they?
- 14 A Before they got put in Minor's room, yes.
- 15 Q There's feces and there's cat stuff all over the house.
- 16 The cats had free roam of the mobile home, didn't they?
- 17 A Whenever they were let out. Yes, sir.
- 18 Q And then when you all would leave and go out of town
- 19 you'd put them in that one room?
- 20 A Yes, sir.
- 21 Q And the cat with the damaged eye was the cat she found
- 22 the 29th? The day --
- 23 A Yes, sir.
- 24 Q Now, why did you and Theia go to Asheville on December
- 25 27th?

1 A For a late Christmas exchange gifts with her and her
2 mother.
3 Q But you told people before that you all had court that
4 day and that's why you all had to on the 27th?
5 A No, sir. I thought it was court, but --
6 Q But Saturday is really not a good day for court?
7 A No, sir. And I got it confused as well.
8 Q On the 27th was when you met Theia's mother, Patrice?
9 A I've been met Ms. McHardle. I've known Ms. McHardle
10 since I met her daughter.
11 Q That's right. Are you all on a good -- does she like
12 you?
13 A I'm guessing not, due to the fact the incidents that me
14 and her mother -- or me and her daughter have had.
15 Q What kind of incidents are we talking about that you
16 and her daughter have had?
17 A Me defending myself whenever she's put her hands on me
18 and us having mutual disagreements and whatnot.
19 Q You're defending yourself has gotten you arrested a lot
20 in incidents with Theia, hasn't it?
21 A There's only been two incidents where that happened.
22 As I explained to the Solicitor, that the rest of the
23 charges were fraudulent and were dropped. And I would not
24 be with her. I would go somewhere else and then she would
25 want for me to come back, or to try to mend things among our

1 --
2 Q All the charges were innocent? They were fraudulent?
3 A Yes, sir. There's no convictions of anything.
4 Q That's right.
5 A It should be in your record.
6 Q What happened on April 23rd, 2013?
7 A 2013, April 23rd? 2013. That was the first time, I
8 believe, I got arrested when it was an argument that me and
9 her had. She was drunk at the point in time and she wanted
10 to argue with me and I was telling her to stop. There was
11 also a witness that was there, too, Mitchell Gunter. Me and
12 her were bickering back and forth. I told her to leave me
13 alone. Let me go to sleep. We'll discuss it in the
14 morning. She didn't want to leave it alone and drop it. I
15 was sleeping on the bed in the livingroom. She then
16 proceeded to pick up the bed and toss me out of the bed. I
17 got up and I went to the second room, it was in her
18 apartment, to lock her out to get her to leave me alone.
19 She then proceeds to force her way in there and she gets
20 into my face and everything and is still trying to yell and
21 argue and cussing and whatnot. I put my earphones in my ear
22 so I could block her out. She snatches my phone and throws
23 my phone and breaks my phone against the wall. So I broke
24 her phone in response to that, and she punches me in the
25 eye. So after that, yes, I did proceed -- I did place hands

RICHARD BOWMAN: CROSS EXAMINATION

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1 on her for punching me in the eye.
2 Q And by laying hands, you mean you choked her?
3 A Yes, sir. I did.
4 Q By my count, and tell me if I'm wrong, but since you've
5 been together in March 2013 you, or you and she, have been
6 arrested May 11th, 2013, July 6th, 2013, September 15th,
7 2013, June 16th, 2014. One of those incidents involving you
8 stabbing her -- a man she was with.
9 A That was an incident where I came into the house and
10 the man was beating on her and her face was bloody on the
11 floor. And he then proceeded to jump on me. That's
12 actually in the report that the dude had beat on her and
13 whatnot. Her nose was broken and whatnot when she went to
14 the jail. He had broken her nose and whatnot. And the dude
15 then proceeded to jump on me. So yes, I defended myself
16 from him. That was her ex-boyfriend. The guy that she had
17 broke his skull with an iron skillet.
18 Q It's not that black knife that was in the car that you
19 used that night?
20 A No. It was a cup that I used on him. I had --
21 Q It was a cup?
22 A Yes, a glass cup. I had hit him in the head with a
23 glass cup. That wasn't a knife.
24 Q The car. How long had Theia had that --
25 A Theia had a 1994 Nissan Sentra. Not a Malibu at that

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1 time. The same car that's in the parking lot at the house
2 that's in the picture right there at the trailer.
3 Q Who's car was that?
4 A That first car is hers. The -- hers, yes.
5 Q In fact, when you -- how long had you been dating Theia
6 before you moved in with her?
7 A Me and Theia were dating for roughly three weeks, and
8 then I got stuck in Asheville when she wrecked my car. She
9 took my car keys and drove off with her friend, Makayla, and
10 she got into a car wreck and I got stuck in Asheville.
11 Q So you for the next three years couldn't make your way
12 back to Fayetteville?
13 A I didn't have an ID and whatnot and I didn't have
14 money. I ended up getting a job. Was working at Walmart
15 for a while, and then got arrested and lost my job at
16 Walmart.
17 Q So for these three years you were just trapped by
18 Theia?
19 A No, not trapped. I actually did stay because me and her
20 were in a relationship. I was trying to be with her and
21 whatnot.
22 Q And even though you had been arrested and she'd been
23 arrested probably half a dozen times for violence against
24 one other?
25 A Yes, sir. I mean, when you care, love makes you do

1 stupid things. You can't really be held accountable for
2 what makes you do stuff.
3 Q Now, where were you and Thela living when you first got
4 together?
5 A She was living at -- in Erskine. I forget the address
6 off the top of my head.
7 Q Erskine Street. Now, is that private housing or is
8 that public subsidized houses?
9 A Public housing.
10 Q That's run by the Housing Authority?
11 A Yes, sir.
12 Q Were you allowed to be on Housing Authority property?
13 A At first. Yes, sir, I was. And then after the
14 incident that happened, no, I wasn't. Whenever I did inform
15 her that I wasn't supposed to be there she said, "You can
16 stay as long as nobody knows that you're here. Go ahead and
17 stay." I actually did try to leave numerous times, but she
18 kept saying, "Stay, because as long as nobody knows it'll be
19 okay." She had other folks that were living there, as well
20 as drug dealers and other folks that had felonies as well,
21 living in her house as well. And Jody Banks and April
22 Banks, Junior and -- I think it was Danny and Junior as
23 well.
24 Q You didn't get arrested twice for crawling in her
25 windows and breaking back into her apartment?

1 A No. I only got arrested once for that, and I didn't
2 crawl into the window. I was trying to get my stuff to
3 leave. We had gotten into an argument that day. We were
4 walking to the bus station. She put her hands on me and
5 jacked me up and ripped my shirt, and I told her, I said,
6 "You need to get your hands off me. You're not going to
7 beat on me like you do your son." So I ran back to her
8 house to get my stuff. Junior was there at the time, too.
9 He could actually attest to that if he was here.
10 Q Who's Junior?
11 A Junior that's inside the motion. I don't know his full
12 first name. But Junior was there, and I had knocked on the
13 window to try to get in, and I knocked too hard and I broke
14 the window. And I told him, I said, "I need to get my stuff
15 because I'm trying to leave. I'm not trying to deal with
16 this stuff. You're not going to keep putting your hands on
17 me and beating me like you do with your son."
18 Q What about you taking a bath in her apartment and her
19 catching you?
20 A She knew I was in the house because she had let me into
21 the house that day. We got into an argument that day
22 because she wanted to try to go on my phone and take my
23 phone. And I told her, I said, "Get off my phone. You're
24 not going to unlock my phone." Because she wanted to try to
25 see who I was texting, this or that. Some female she was

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1 mad over.

2 Q Not really good when you're -- for you to have other

3 girlfriends while you're living with another woman, is it?

4 A Well, when you're dealing with craziness from one and

5 you're trying to, you know, get out of that.

6 Q Trying to get out of it. Did you ever move to Georgia?

7 A Whenever I got out of the military, no, I didn't. I

8 lived in Georgia before I joined the military. I was living

9 in Winston-Salem after that time I got arrested. I came

10 back to handle my court case in Winston-Salem. I was living

11 with a young lady, that I had left her for at the time, by

12 the name of Morgan. And I was gone for two months. And at

13 that point in time I was not talking with Ms. McArdle,

14 wasn't dealing with Ms. McArdle or anything. Out of nowhere

15 I get a text message on a brand new phone. I don't know how

16 she got my phone number or where I worked but she did.

17 Q And since you brought up your military career so

18 extensively, how did your military career end?

19 A An other than honorable discharge.

20 Q An other than honorable discharge?

21 A I have two discharges. I have an honorable and other

22 than honorable. Yes, sir.

23 Q How do you get two discharges, one honorable and one

24 not honorable?

25 A Because whenever I finished my first tour in Iraq for

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1 my 15 month tour I re-enlisted. And then whenever I came

2 back I re-enlisted and I got in trouble.

3 Q So you are an Iraq veteran?

4 A Iraq, Afghanistan, and Kosovo.

5 Q Were you in combat?

6 A Yes, sir. I did patrols and whatnot. I did convoys as

7 well.

8 Q Did you ever talk sometimes about seeing children

9 killed?

10 A I did tell people about a lot of numerous things that I

11 saw over there, from losing friends, to seeing children get

12 stabbed, or an LT of mine as well, and killed an IS of mine.

13 Q Was that a traumatic thing to see?

14 A Yes, sir. Losing friends, seeing things like that,

15 that is a traumatic thing to see.

16 Q You were aware that Patrice McArdle was trying to get

17 Theia to leave you, weren't you?

18 A No, sir. I wasn't at the time. At one time she was

19 but then she dropped it whenever her daughter said she was

20 staying and whatnot. I wasn't --

21 Q Didn't Patrice at one time pick up Theia from your home

22 and pay herself for her to move into a motel even though you

23 had the hotel -- the mobile home in Spartanburg?

24 A The reason for that is because I called DSS and I

25 called the police on her for striking Minor , and also

1 called me racist terms. And I called USS in Spartanburg.
2 Actually, then I called DSS -- or Janice, which was the
3 person that Gabriel was in kinship with in North Carolina
4 from DSS stuff there. But I called her and told her to call
5 DSS if she got back to North Carolina because of her
6 striking Minor I.

7 Q That's right. You called DSS, didn't you?

8 A Yes, sir. I did.

9 Q Do you know why DSS hasn't made any kind of notes or
10 doesn't have any kind of record? Have you seen any notes or
11 records from DSS?

12 A No, sir. But my mom did let me know that DSS was
13 trying to get a hold of me from Georgia.

14 Q So you made a DSS call about an abused child, and DSS
15 said we'll get back to you about without actually ever
16 coming --

17 A They told me to call the police department. And the
18 sheriff's department did come out there that day.

19 Q So you actually didn't call DSS? You called the
20 sheriff's department?

21 A I called both that day. That's why the sheriff's
22 department came out. DSS said they don't -- said that they
23 didn't take children in this state. I need to contact the
24 police department. So that's why I called the sheriff's
25 department. And then the sheriff came out there and I

1 explained to them what happened. And they said, "Well, are
2 you the biological father?" I said, "No. My name's not on
3 the birth certificate." So they said, "So if she comes for
4 her child we can't stop her." I said, "I don't plan on
5 stopping her. But she did strike her son. You guys need to
6 do something about that."

7 Q So you called the sheriff's department in Spartanburg
8 County?

9 A Yes, sir. I did.

10 Q And said this lady has been beating her child?

11 A Yes. And then --

12 Q And the sheriff came out and said, "We can't do
13 anything about that. You have to call DSS."

14 A Yes. And she wasn't supposed to be at the address
15 anyways due to another incident that happened in Spartanburg
16 County.

17 Q Do you remember what deputy that was?

18 A No, I do not remember off the top of my head. It's
19 over a year.

20 Q Have you seen any paperwork on that call?

21 A No, sir. I did not.

22 Q Is it possible that sheriff came to your house on a
23 child abuse call and just forgot to make any kind of record
24 of it?

25 A I'm not sure. I asked them not to make a big deal over

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1 it because we weren't supposed to be living together because
2 of a no contact order.
3 Q It doesn't sound like good police work, does it?
4 A No, sir.
5 Q And then -- so the sheriff's department said don't call
6 us, call DSS?
7 A DSS said call the sheriff's department.
8 Q Oh, so you called the DSS agency --
9 A Yes, I called both.
10 Q -- and they said don't call us about child abuse, call
11 the sheriff's department?
12 A They said they don't take children in this state. Call
13 the police department. So that's what I did.
14 Q So apparently they don't even investigate claims of
15 abuse then?
16 A I'm guessing not.
17 Q That ain't really an efficient DSS office, is it? Do
18 you remember what the date was that you called DSS?
19 A Not off the top of my head, sir.
20 Q And the phone you would have called DSS on was the
21 phone that your girlfriend was actually paying for, wasn't
22 it?
23 A Actually for a phone that I had actually had paid for
24 with some of my calls. She had gave me the phone because it
25 was a phone she had owed to me for breaking my other phone

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1 and destroying some of my other stuff, property as well. So
2 she let me get that phone and I was actually paying my own
3 bill off of that whenever I had did my own calls. And I
4 actually had paid for a phone for her too as well, because
5 her son had broken her phone and she had spanked him for
6 that. So I had gotten her another phone from the very same
7 place that I was paying my phone from.
8 Q We seem to want to know where you were getting your
9 money to pay the phone bill from.
10 A From my calls that I had made.
11 Q But I thought you said you only did that for two weeks
12 and didn't like it?
13 A I still did some after a while. Remember I stopped
14 before I started at whatchamacallit. Lear. I figured that
15 I'd do it just to get a little bit of money. But it wasn't
16 that long. I wasn't doing it for like continuously like
17 that. I might do like one or two.
18 Q Male escorts make a whole lot less money than female
19 escorts, don't they?
20 A It depends on if you're taking every single call or
21 not.
22 Q What was the car -- the purple car that was left at the
23 mobile home in Spartanburg?
24 A That was her first car.
25 Q What kind of car are we talking?

1 A It was a Nissan Sentra.
2 Q A Nissan Sentra?
3 A Yes, sir.
4 Q What happened to that car?
5 A She had disconnected the go plugs and whatnot, and we
6 had argued at Moscerelli's house, because she was acting
7 drunk and being argumentative there. And me and James Dunn
8 decided to leave, and she had went outside and was fiddling
9 with the car and whatnot. And I told her, I said I wanted
10 to leave and whatnot because I didn't want to sit here and
11 look at her act crazy and be drunk. So whenever me and
12 James jumped in the car -- because James was drunk and he
13 was sick, so I had to take him back to the house. I didn't
14 --
15 Q What did you say that Theia disconnect?
16 A The go plugs. It was either the go plugs or something
17 on the car. I didn't know exactly what she did. It was
18 nighttime. Her and Dave were outside. All I know is
19 whenever I got out there to the car it wasn't acting right.
20 But I was still able to drive it back to the house.
21 Q Is this the same Dave that you said didn't see her
22 strike Theia -- strike Minor in his own house?
23 A Yes. The very same David that said in the motion that
24 he figured that there was some form of child abuse and had
25 let her know before to stop being so hard on Minor as

1 well, and stop yelling at him and stop being so mean to him.
2 Q The same David who apparently while he was in the same
3 home didn't hear the child the child beaten while she was --
4 crying while she was beating him in the home?
5 A She struck him one time. He cried. He's cried plenty
6 of times in that house.
7 Q Just unfortunately Mr. Dave was not in that room when
8 that happened.
9 A James was though for other instances.
10 Q Now, getting back to the purple car.
11 A Yes, sir.
12 Q You are at James' house?
13 A I'm at David's house.
14 Q David's house?
15 A Yes.
16 Q And David lives in Laurens?
17 A Yes, sir.
18 Q And Theia starts acting out.
19 A Drunk.
20 Q Drunk and acting out, and you say I'm leaving?
21 A I told her, I said, we need to leave because I'd rather
22 not be at David's house sleeping in his bed and whatnot.
23 I'd rather go home. And you've been drinking too much.
24 You need to chill out. Her and James both were drunk and
25 whatnot.

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1 Q Her buddy James as also acting out, too?

2 A No. James was inside the -- inside the room with me,

3 talking with me. She was in there with David yelling and

4 screaming and acting foolish and whatnot, swinging at David

5 and everything.

6 Q And she got so angry at you for not -- for telling you

7 not to leave that she went out and yanked the spark plugs?

8 A It was more than that. We got into an argument, her --

9 talking about how she beats up on all these people. And I

10 said, "You're jumping on -- beating up people that are

11 smaller than you." She was bragging about how she tossed

12 some woman and broken her hip and how she beat on this other

13 chick for saying something to her and whatever, so --

14 Q You were standing up for Minor then?

15 A Mc. I was standing up for other folks and told her to

16 chill out and stop acting crazy.

17 Q Now, Laurens is probably how far from Spartanburg?

18 A From Union Highway, his house?

19 Q Yes, sir.

20 A Like maybe like 30 minute drive.

21 Q So how long did it take you all to push that purple car

22 from Laurens back to the house without the spark plugs?

23 A We didn't push. David actually saw where she had

24 disconnected them and whatnot and helped me to get it put

25 back on and we drove out back there.

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1 Q So you got the car working again?

2 A Yes. But it wasn't working fully completely.

3 Q So why did Theia have to get a new car?

4 A Because whenever you start a car up once the spark

5 plugs are done, it messes like -- I think, I'm guessing the

6 fuel or something starts happening or something goes wrong

7 with it. I don't know off the top of my head or remember

8 off the top of my head. But you're not supposed to try to

9 crank a car without the spark plugs being started up.

10 Q Are you sure it's not because Theia and Minor were

11 leaving you and then you spanked (sic) the spark plugs while

12 the car was in Spartanburg so she couldn't leave?

13 A It was nothing of the sort like that.

14 Q You didn't do anything with the key?

15 A No, sir. I didn't.

16 Q What about now taking the carseat out of the car?

17 A I didn't take the carseat out of the car. The carseat

18 she took out of the car.

19 Q Well, why did she have to get another carseat for --

20 A Because the car was locked at that point in time. I

21 didn't take the car -- the car keys out. But there was a

22 person that was there that actually can attest to what

23 happened that night, but I'm guessing --

24 Q Who is that?

25 A James Dunn. I'm guessing you didn't subpoena him

1 though.

2 Q Where is James Dunn now?

3 A He lives in Asheville.

4 Q Ms. McArdle over there lives in Asheville, doesn't she?

5 A Yes, but she wasn't there for present.

6 Q Now, on December 29th, apparently for the first time

7 ever you're saying that Theia bit Minor?

8 A No. She's bitten him before.

9 Q He bit her, she got angry and bit him back?

10 A Yes, sir.

11 Q So you're saying that there should be some bite marks

12 on that child's body?

13 A She didn't bite him hard. I'm not saying she tried to

14 take like a chunk out of him. But she did bite him.

15 Q So she bite him but not hard enough to mark his body

16 up?

17 A Yes, sir.

18 Q Now, what did you all have for dinner the night of the

19 29th?

20 A Steak garlic bread, either mashed potatoes or corn.

21 Q Well, you told the prosecutors just two weeks ago or so

22 that you were sure you had mashed potatoes and not corn.

23 A I'm not sure which it was now honestly. I know we had

24 steak, garlic bread. I'm not sure if it was mashed potatoes

25 or corn. It could have been -- I think it was mashed

1 potatoes though.

2 Q They told you mashed potatoes couldn't be right because

3 you've told the cops you ate corn, is that right?

4 A And then I did let them know, I said it could have been

5 either/or. I don't remember off the top of my head.

6 Q Now, Minor threw up on the night of the 29th?

7 A Yes, sir. He did.

8 Q But the vomit we see in the toilet was yours?

9 A Yes, sir.

10 Q Did the toilet not flush? Why would you leave that in

11 there like that?

12 A Because I didn't think to flush it, and the toilet

13 didn't act right. You had to take the top off of it and go

14 inside and reach in and grab it and all that stuff, because

15 it wasn't functioning right.

16 Q So how long were you going to leave vomit in the toilet

17 like that?

18 A I was actually going to get that corrected once I

19 started filling it with water. We had to let our landlord

20 know that the toilet wasn't working.

21 Q You recall what kind of symptoms you had that night?

22 What illness you had on the night of the 29th?

23 A My stomach was hurting.

24 Q Did you ever have it diagnosed? Was it a flu? Was it

25 a stomach bug? What was it?

1 A No, I never got it diagnosed.
2 Q Is it possible Minor could have caught what you had?
3 A I don't know.
4 Q Well, you said he was throwing up just like you.
5 A Yes, sir.
6 Q Are you sure that Minor threw up in the master bed?
7 A Yes, sir. Some of this stuff off his bed was in there
8 with us, too, as well. He was sitting on one of his
9 pillows, I know that much, inside of our room.
10 Q So if the police had looked at the master bedroom they
11 should have found vomit on the master bed, right?
12 A Yes, sir.
13 Q How much did he throw up? Do you know?
14 A It wasn't a lot. It didn't look like a lot, at least.
15 Q But they did find vomit on his -- do you know why the
16 vomit is on his pillow, his cases, on the air bed?
17 A I just told you he had some of his pillows in our room.
18 Q And so, he was kind enough to put them on his own bed?
19 A I had cleaned it off and put it on his bed whenever I
20 laid him down. Or I tried to clean it up a little bit.
21 That's why there's vomit on some of the clothing and
22 everything.
23 Q Who put all those clothes in the hamper?
24 A I did, after I finished cleaning this stuff up in our
25 room.

1 Q That's right, because Theia wasn't there. She was on a
2 call, right?
3 A Theia was actually there. That's the only time.
4 Because I just explained, when I was talking to the
5 Solicitor earlier, she left after he had vomited and
6 everything, after he had already took his bath and
7 everything.
8 Q You were the one that cleaned the house?
9 A For the most part, yes.
10 Q Did you do the laundry?
11 A We both did the laundry. We took it to the laundry
12 mat.
13 Q But you were the one who put the clothes with the vomit
14 in the hamper that night?
15 A Yes, sir. After I cleaned up.
16 Q Including the -- now, was that your grey sweatshirt
17 that had vomit on it?
18 A Grey sweatshirt?
19 Q Did you have a grey hoodie?
20 A Yes, sir. I did.
21 Q Is it possible you may have thrown up while you were
22 wearing that?
23 A I what?
24 Q Were you wearing your grey hoodie that night?
25 A I don't remember off the top of my head, sir. I

1 believe I had on a black hoodie whenever I came to Newberry
2 at least.
3 Q Do you know why vomit -- your vomit is on the grey
4 hoodie in the hamper?
5 A Probably because I vomited on it. It's the only thing
6 I can think of.
7 Q Now, you said to the jury that when you ran out with
8 Minor to the hospital you said that Theia must have been
9 parking the car or doing whatever she does?
10 A Yes, sir.
11 Q And you said she was gone about 15 minutes?
12 A Ten to 15 minutes. Yes, sir.
13 Q Is it possible you're embellishing that time a little
14 bit to try to make Theia look bad?
15 A No, sir.
16 Q Could it have been as little as two, two and a half
17 minutes?
18 A No, sir.
19 Q You're sure it's closer to 10 to 15 minutes?
20 A That's what it seemed like, sir. Because I was in
21 there and actually had a full conversation with the nurse
22 about what was going on with him and everything.
23 Q When Minor was not responsive in the car you did
24 everything you could to save him?
25 A Yes, sir. CPR, was pinching his fingers, was trying to

1 wake him up to see what was going on with him.
2 Q Now, this isn't -- Minor was too small to be in like
3 a high seat. He had to be in one of the actual strap on
4 across his shoulder seats, right?
5 A Yes, sir.
6 Q The safety restraint system?
7 A I don't think he was small enough to be in one of
8 those, but that's the one she got for him.
9 Q And those things are buckled in to the metal parts of
10 the car, aren't they?
11 A No, that one wasn't buckled in all the way, securely at
12 least.
13 Q Don't those have like clips on either side of them and
14 then there are little hoops in the seat of the car that you
15 click them into?
16 A I'm not sure how that one was set up. But it wasn't
17 hooked inside the car correctly. It was just sat in there.
18 Q You were in one of the holding cells in the courthouse
19 earlier this week, weren't you?
20 A Yes, sir.
21 Q Is there a reason, or did you carve Minor's name with
22 his date of birth and date of death into one of those
23 holding cells?
24 A No, sir. I didn't.
25 Q Who was the first officer that you met on December

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1 30th?

2 A At the hospital or whenever we got to the police

3 station?

4 Q Well, who was -- at the hospital did you meet any --

5 did any of the police officers come and speak to you?

6 A There was a woman that came and said something briefly.

7 I didn't say -- we didn't speak too much. And there was a

8 heavyset white guy with a bald head that separated us and

9 just had us sit apart.

10 Q I apologize, Mr. Bowman. But I'm having a little bit

11 of trouble hearing you. You're going to have to speak up.

12 A I said it was a woman that came and talked to us, and

13 then there was a heavyset tall white officer with a bald

14 head that came and separated us.

15 Q Was the woman who spoke to you a police officer or a

16 highway -- I mean, a hospital employee?

17 A There was a hospital person that came and talked to us.

18 But it was also an officer that came and talked to us.

19 Q And you told -- do you remember meeting Chief -- now

20 Chief McClurken?

21 A I met him whenever we got to the police station, yes.

22 Q Where is Chief McClurken? Do you recognize --

23 A He's behind Mr. Stumbo.

24 Q With the green top? Kind of the aqua blue and teal

25 tie?

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1 A And teal tie, yes.

2 Q At that time he was an investigator; is that right?

3 A Yes, sir.

4 Q Did you tell him that Minor had been with you that

5 entire day?

6 A I said he was with me and his mother the whole day.

7 Q And have you had access to all of the State's evidence

8 in this case? You've had a chance to go over all the

9 reports?

10 A I've went over most of them. The jail doesn't let me h

11andle all my motion and discovery. I just have bits and

12 pieces of my motion and discovery.

13 Q Just bits and pieces?

14 A Yes, sir.

15 Q You haven't gone over with either or both of your

16 attorneys the evidence in this case?

17 A I went over it with Mr. Brown once when I was in

18 Laurens County. But the majority -- the bulk of it is

19 inside of my property in Newberry County.

20 Q You hadn't had access to read every single report in

21 this file?

22 A I've read the majority of them. But as I said, I don't

23 have access to all of my full motion and discovery.

24 Q Now, you told Chief McClurken that Minor pooped in

25 his Pull-Up earlier and that you, quote/unquote, "popped him

1 in the butt with your hand," right?

2 A That was whenever he defecated on himself inside the

3 bathtub.

4 Q I'm just asking you whether you told that to

5 Investigator McClurken.

6 A That was my initial report. Yes, sir.

7 Q And that when you hit Minor Minor fell head first

8 into the bathtub, but Minor was okay.

9 A Yes, sir. That was my initial report.

10 Q In fact, Minor was fine, you added?

11 A Yes, sir.

12 Q And then you and Minor went to watch TV?

13 A Yes, sir.

14 Q And then you left Minor in the bathtub by himself?

15 A Yes, sir.

16 Q Did you help bathe Minor?

17 A Not that night.

18 Q Did you ever take showers with Minor?

19 A A few times. Not every time. I didn't really feel

20 comfortable with him being in the bathtub with me or in the

21 shower with me.

22 Q Is it fair to say that you've told some -- at some

23 times you've told investigators or police that you've only

24 had one or two showers with him, and at other times you've

25 testified that you've had a shower every time with him?

1 A Yes.

2 Q Well, which is it?

3 A But it was --

4 Q One time or every time?

5 A It wasn't every time.

6 Q And you had a relationship with Minor since March of

7 2013, right?

8 A When?

9 Q When you first moved in with --

10 A No, because Minor -- well, actually, the first time I

11 met him he was there at the house. I never bathed him or

12 anything. I didn't really know Minor at the time.

13 Q Just what -- what time was that? What year was that?

14 A That was 2013. He was with her for about like two

15 weeks before he was taken.

16 Q That's right. He was taken by whom?

17 A You want me to elaborate on that?

18 Q If you want to, sir, I'm opening the door for you.

19 A By DSS.

20 Q Why wouldn't DSS return him to her?

21 A Because of her smacking him in the face for breaking

22 cigarettes.

23 Q It wasn't because they found you violent?

24 A They also didn't want me in the house because me and

25 her had violent interactions. We got in the fight. The one

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1 fight. It wasn't due to me. They didn't want her having
 2 him because she wasn't taking her medications like she was
 3 supposed to. She wasn't doing her classes like she was
 4 supposed to as well. And she wasn't -- she really kind of
 5 blew off the whole trying to get her son back. But that
 6 wasn't the first DSS case as well.

7 Q We'll get to that.

8 A But there's other people that have given testimony,
 9 too, know all about that. Enherica (PHONETIC) Butler, Justin
 10 Madore, Megan Cody.

11 Q You testified now that on December 29th that -- well,
 12 when Minor pooped in his Pull-Up what room was he in then?

13 A He didn't poop in his Pull-Up that night. I just
 14 clarified that and cleared that up. That initial report, as
 15 I've already explained was out of me trying to protect and
 16 look out for her so she can't get in trouble for anything.

17 Q So it's not true that Minor pooped in his pants?

18 A No, sir.

19 Q And it's not true that you hit him with your hand and
 20 he fell into the bathtub?

21 A I already explained that he had pooped in the bathtub
 22 and that's why I popped his butt.

23 Q I'm just asking you. Well, why would you pop his butt
 24 if he didn't poop?

25 A I just said he pooped in the bathtub.

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1 Q And you just told the jury the only reason you did it
 2 was because Theia told you to hit him?

3 A Yes, because he had pooped in the bathtub.

4 Q But you've been telling Theia for years don't spank
 5 that boy, don't hit that boy, right?

6 A Yes, sir.

7 Q But she says hit him and, well, okay. Is that all it
 8 takes to hit him? But you left him in the bathtub alone?

9 A Yes, sir.

10 Q Did you see any bruises on him?

11 A I saw bruises on his testicle area.

12 Q Did you tell that to --

13 A Yes, I did.

14 Q Investigator McClurken?

15 A Oh, no. I didn't. I told that to his mother that
 16 night.

17 Q You told it to Patrice McHardie?

18 A To his mother.

19 Q To whose?

20 A Minor's mother.

21 Q Oh, you told it to Theia --

22 A His mother. Yes.

23 Q -- that you saw bruises on the testicles. But after
 24 the -- after Minor's dead and you're talking to a police
 25 officer you don't mention seeing any bruises on him?

1 A No, I didn't. I did explain to him that I did see a
2 bruise on his stomach. From whenever her and Minor had
3 went to Spartanburg that day and I asked her what the bruise
4 was, she said that he fell into the -- into the bed.
5 Q She fell into the what --
6 A That he fell into the bed.
7 Q Fell into the bed?
8 A Yes. At the hotel that they were staying in in
9 Spartanburg.
10 Q Why were they staying in that hotel in Spartanburg?
11 A Because she wasn't supposed to be at the house with me,
12 and I told her that I was tired of her hitting on Minor
13 and calling him racist terms. Like calling him a baboon.
14 Q So you threw her out of the house --
15 A Yes.
16 Q -- that she was paying for?
17 A Yes. We had a no contact order. We weren't supposed
18 to be living together due to the fact of the Spartanburg
19 incident that happened.
20 Q Well, that was nice of you to set her up in that hotel
21 instead of the room she's paying for, right? She took
22 Minor with her, right?
23 A Yes, sir.
24 Q And then at some point Theia came back from her call.
25 Do you know the man that she had seen in Spartanburg? The

1 customer, the client, the John?
2 A I just know him as Papi. That's what she calls him.
3 Q Papi Chulo; is that right?
4 A I'm guessing. I just know him as Papi. I don't know
5 the Chulo part.
6 Q And that's kind of a person she had been seeing for a
7 while, right?
8 A For about a month.
9 Q You didn't have any kind of foreknowledge that they
10 were planning on moving in together?
11 A No, I didn't.
12 Q Is that news to you today?
13 A Yes, sir. It is.
14 Q You told Investigator McClurken a day after -- shortly
15 after Minor died that you were the one who woke Minor up
16 and put him in the car --
17 A Yes, sir.
18 Q -- before the trip to Newberry?
19 A Yes, sir.
20 Q Is that true?
21 A No, sir. I've already explained my full story about
22 what happened.
23 Q So you were thinking about it so far in advance that
24 you figured that if they knew you were the one who woke the
25 child up and put the child in the seat that that would be

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- 1 incriminating against her?
- 2 A Yes, sir. Not necessary incriminating, but --
- 3 Q But you did tell Investigator McClurken at the very
- 4 beginning that you were the one who woke up Theia while she
- 5 got cleaned up and you put him in the car? You put Minor
- 6 in the back of the car?
- 7 A Yes, sir.
- 8 Q And the car seat in the Chevy is directly behind the
- 9 driver?
- 10 A Yes, sir.
- 11 Q Who drove?
- 12 A She drove.
- 13 Q Theia?
- 14 A Yes, sir.
- 15 Q Well, I mean, it's kind of hard to hit kids when
- 16 they're directly behind you in the driver's seat, isn't it?
- 17 A Not necessarily, if you don't have on a seatbelt and
- 18 you're not driving.
- 19 Q So you can -- she was flexible enough that she could at
- 20 times reach back there and hit him?
- 21 A Yes.
- 22 Q Well, where were you sitting during the ride down to
- 23 Newberry?
- 24 A In the passenger seat.
- 25 Q Front passenger seat?

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- 1 A Yes, sir.
- 2 Q Were you all -- did you sleep on the ride over there,
- 3 or were you all talking or listening to music or what?
- 4 A We were bickering back and forth.
- 5 Q You were fighting with her?
- 6 A Yes, sir. Going over some stuff that she was still
- 7 upset about or mad about.
- 8 Q In fact, you told Investigator McClurken you were
- 9 trying to use that ride down there to talk her out of quit
- 10 prostituting herself, right?
- 11 A Yes, sir.
- 12 Q That that was a bad lifestyle, unwholesome?
- 13 A Yes, sir.
- 14 Q Now, you told Investigator McClurken that she didn't
- 15 park at the house in Beldenbaugh. That she parked down the
- 16 street.
- 17 A No. I said that she parked inside the parking -- or
- 18 the driveway.
- 19 Q You didn't say that she parked up the street from the
- 20 house?
- 21 A No. I said she parked in the driveway.
- 22 Q So that the man couldn't see -- the man in the house
- 23 wouldn't be able to see the car?
- 24 A No.
- 25 Q You didn't tell Investigator McClurken?

1 A I said that she parked in the driveway.
2 Q When Theia went in the house you said that you and
3 Minor were in the car?
4 A Yes, sir.
5 Q You noticed Minor stopped breathing a couple of times
6 while Theia was in the home?
7 A Only once.
8 Q The actual answer is only once?
9 A Yes, sir.
10 Q But you told Investigator McClurken right after the
11 death that he had stopped breathing several times; is that
12 correct?
13 A Yes, sir.
14 Q And you said you woke him and the boy said
15 everything's fine?
16 A Yes, sir. He said uh-huh.
17 Q But even though he said that you started honking the
18 horn several times to get Theia to come out of the home?
19 A I had honked it.
20 Q Well, just out of curiosity, were you in the backseat
21 or the front seat?
22 A I was in the front seat.
23 Q So when you were checking on Minor you were just kind
24 of leaning through the gap between the seats?
25 A Yes, sir.

1 Q You said Theia never came out from the house once she
2 went in?
3 A No, sir. Not until she got done with her call.
4 Q So at that point you went to sleep?
5 A Yes, sir.
6 Q If a child stops sleeping several times why do you go
7 to sleep?
8 A He only stopped once.
9 Q Only he stopped --
10 A Yes.
11 Q -- breathing one time --
12 A Yes.
13 Q -- so you could go to sleep then?
14 A Yes, sir.
15 Q Okay. Well, that's a safer situation for him. At some
16 point Theia came outside with the guy and they were talking.
17 Is that true?
18 A Yes, sir.
19 Q Do you know how long they were talking?
20 A I don't recollect.
21 Q Was your car in the driveway or was it down the street?
22 A It was in the driveway.
23 Q Was it parked next to like a camper?
24 A Yes.
25 Q Then you told Investigator, now Chief McClurken, that

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1 as you all were driving away -- who drove away, you or
2 Theia?
3 A She drove away.
4 Q The -- and you were in the passenger seat with the
5 black jacket to kind of cover yourself?
6 A Yes, sir. When we got out of the driveway I took the
7 jacket off.
8 Q Why didn't you tell Theia right away that the child was
9 not breathing?
10 A I did.
11 Q Did Theia bring you something called like a Strawberry
12 Rita, or some kind of drink from inside?
13 A No. No, sir.
14 Q Do you know why there's a bag of drinks on the front
15 seat?
16 A No, sir. I don't.
17 Q Were you sitting on them?
18 A No, sir. I just didn't know they were in the car. I
19 seen all those pictures. A lot of the stuff that's that in
20 the car I didn't even know was in the car. From the
21 Strawberry Ritas, to the pistol, to the knife. I didn't
22 know that stuff was even in the car. That's all news to me.
23 I don't even drink like that. She's the one that actually
24 likes the Strawberry Ritas and all that stuff. Not me.
25 Q But you didn't -- you didn't see her with a bag of

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1 drinks that she brought back in then, at least, and put in
2 the seat you were sitting in?
3 A She didn't put anything in my seat. I'm thinking that
4 that might have been from when she came from the gas station
5 or whatever, because there was nothing -- no alcoholic
6 beverage that I saw in the car at least when we was going
7 down to Newberry and when we left from Newberry -- trying to
8 leave from Newberry.
9 Q So the Strawberry Ritas, you all had stopped at a gas
10 station and she had bought some Strawberry --
11 A No. She stopped at a gas station when she got the car.
12 Q When she got what?
13 A The car.
14 Q A car?
15 A Yeah.
16 Q I mean, when you all were driving down from Newberry
17 where did she get the Strawberry -- were they at the home
18 and you all brought them down?
19 A I just said I think she brought those with her. They
20 were already in the car when she came back from Spartanburg.
21 Q So she had gotten those in Spartanburg?
22 A I'm guessing. I'm not sure. I had never seen them.
23 Q Was she drinking those while you all were going down
24 the road talking to her?
25 A She didn't drink anything while we were driving down

1 there. I don't know what she did on the way coming back
2 from Spartanburg.
3 Q The first thing you said that you told Theia was does
4 this child have sleep apnea?
5 A I asked her about does he have sleep apnea or anything
6 of the sort, because I explained to her about him having
7 stopped breathing and what not. I told her, I said, "I have
8 sleep apnea myself. I stop breathing in my sleep." So I
9 asked.
10 Q But you hadn't been with that child long enough to know
11 whether that child had sleeping issues or not?
12 A No. I'd never been to the hospital or the doctor's
13 office with him.
14 Q And you said Theia said, "Oh, shit. He doesn't have
15 that problem," and asked you to check on Minor Is that what
16 you told the investigator?
17 A No. What she said, no, she doesn't think he has that.
18 And then I started -- she told me to pinch his fingers and
19 whatnot.
20 Q Well, initially you said -- whether it's true or not,
21 initially you told Investigator McClurken she asked you to
22 see if he was awake and okay --
23 A Yes.
24 Q -- and that's what you went back to do?
25 A And she told me to wake him up.

1 Q You said you started shaking Minor 's feet.
2 extensively.
3 A Yes. I shake his feet. I pinched his fingers.
4 Q The child did not respond?
5 A No, sir.
6 Q And you told that to Minor , that the child was not
7 breathing?
8 A You mean Theia?
9 Q Uh-huh.
10 A Yes.
11 Q And you then told Investigator McClurken Theia said,
12 "Calm down. Keep trying."
13 A Yes.
14 Q And you continued to pinch his fingers, push his chest,
15 tickle his feet, smack his cheeks --
16 A Yes, sir.
17 Q -- and shaking him profusely?
18 A Yes, sir. It wasn't like I was beating on him. I was
19 just lightly tapping his cheek trying to get him to respond.
20 She was still in the process of trying to ride back to the
21 house, or towards Laurens County Hospital.
22 Q Do you know how that child's safety seat got on the
23 floor of the backseat?
24 A No. Only thing I can think of, as I already explained
25 to you. The seat -- that carseat has never been put in the

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1 carseat correctly. It's never -- it's never been hooked up
 2 correctly. It's just been sat in the car.
 3 Q So it just fell on the floor when you were initially
 4 taking Minor to the hospital room?
 5 A Yes, or maybe when I picked him up out of the carseat.
 6 That's the only thing I can think of.
 7 Q You told Theia you know how to do CPR. You told
 8 Investigator McClurken you told Theia that you knew how to
 9 do CPR. And you didn't know --
 10 A Yes, sir.
 11 Q -- if you should do it?
 12 A Yes, sir.
 13 Q Or you might hurt him?
 14 A Yes, sir.
 15 Q You started pushing on Minor's chest and brown stuff
 16 then started coming out of his mouth and nose.
 17 A I pushed on his chest and I had held his nose, and I
 18 did the whole full CPR.
 19 Q You said at that point Theia then turned on the dome
 20 light inside the car, turned around and looked at Minor
 21 and she saw the brown stuff coming out and said, "We've got
 22 to get to the hospital".
 23 A She said, "Oh, shit. We need to get to a hospital."
 24 Q So that part is true, or that's just what you told
 25 Investigator McClurken?

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1 A That's true.
 2 Q And then you told Investigator McClurken you all went
 3 -- got to the hospital and you took Minor inside while
 4 Theia parked the car?
 5 A Yes, sir.
 6 Q And at that point the ER staff took Minor from you?
 7 A Yes, sir.
 8 Q At some point they came back and told you there was
 9 nothing more they could do for Minor that he was dead?
 10 A They couldn't bring him back, yes.
 11 Q And then you told Investigator McClurken that both you
 12 and Theia started to cry?
 13 A Yes, sir.
 14 Q Investigator McClurken asked you what about all the
 15 bruises that Minor had on his body; is that correct?
 16 A Yes, sir.
 17 Q And where they came from?
 18 A Yes, sir.
 19 Q You told Investigator McClurken, immediately after
 20 Minor's death, that you only saw one bruise on Minor's
 21 side,
 22 A Yes, sir.
 23 Q And that you has asked Theia about that?
 24 A Yes, sir.
 25 Q And then you told Investigator McClurken that Theia

1 probably did it to Minor?

2 A Yes, sir. That was the very same bruise that I just

3 explained that I saw whenever they were staying at the hotel

4 in Spartanburg and I asked her about it and she said that he

5 fell into the bed.

6 Q And then you told Investigator McClurken that you've

7 seen spank the child in the past?

8 A Yes, sir.

9 Q Well, how is that protecting Theia, if you're interest

10 in being dishonest there was to protect Theia, how is saying

11 that she was spanking the child protecting Theia?

12 A Spanking is a whole lot different than beating.

13 Q But your thinking was a whole lot different then.

14 Investigator McClurken asked you about the severe injury to

15 the child's stomach and head and he asked you how these

16 occurred; is that correct?

17 A Yes, sir.

18 Q You said Theia's very strong and that she's given you a

19 black eye in the past?

20 A Yes, sir.

21 Q The -- how big were you back in the -- well, let me

22 finish what I was asking you and then I'll ask you that.

23 How big were you back in December of 2014?

24 A I think I was like 205.

25 Q 205 pounds?

1 A Yes, sir.

2 Q Is it possible maybe you said you were 209 pounds at

3 that time?

4 A Between 205 and 209. Yes, sir.

5 Q And, in fact, you told the officers at some point that

6 you usually cooked yourself two meals a day; is that

7 correct?

8 A Say that one more time?

9 Q You don't remember telling them that sometimes you had

10 two lunches a day to keep yourself big?

11 A No, I never said I ate two lunches a day to keep myself

12 big. I said I might make a snack or something like make a

13 sandwich, but I didn't make two lunches a day to keep myself

14 big.

15 Q Do you cook sandwiches?

16 A Yes, sir. I put them on the -- not Louis Armstrong,

17 but that guy with the grill.

18 Q Is that a fair and accurate depiction of what you

19 looked like in September of 2014?

20 A Yes, sir.

21 Q That's you standing next to Theia?

22 A Yes, sir.

23 Q And you're a little bit bigger than she is, aren't you?

24 A No, not bigger than her. She was at 250 before we got

25 arrested.

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1 Q You weren't a strong enough guy to keep a woman from
2 beating you up?
3 A I really don't try to hit women like that. I really
4 try not to.
5 Q Just have the misfortune of being arrested six or seven
6 times for fight with -- because you were the victim each
7 time?
8 A Say that one more time?
9 Q Every time you were arrested it was Theia's fault? She
10 was the instigator of the fights?
11 A Yes, sir.
12 Q And you are a combat vet, 210 pound former soldier.
13 A Not 210. 209 and 205.
14 Q 209, sorry.
15 A Yeah.
16 Q Investigator McClurken told you how serious the injuries
17 were to Minor, but you told him you didn't have any
18 explanation for any injuries?
19 A No, sir.
20 Q You said that Minor was fine and awake at the
21 residence before you put him in the back of the car to put
22 him in Newberry, didn't you?
23 A Yes, sir.
24 Q And then you told Investigator McClurken that Theia had
25 left earlier that day to go to the store, right?

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1 A Yes, sir. The gas station. That's when she brought
2 back the cat.
3 Q But actually that was a euphemism for her going to see
4 a customer?
5 A No. No. She actually did go to the store, which was
6 the gas station, and she brought that cat. The very same
7 cat that's inside the motion discovery the Solicitor just
8 showed me.
9 Q Now, Investigator McClurken asked you why you took the
10 child's shirt off, right?
11 A Yes, sir.
12 Q Do you remember what you told him?
13 A No, I don't remember.
14 Q Did you tell him that you wanted to clean Minor up
15 before you took him inside the hospital?
16 A Yes, sir.
17 Q Why?
18 A To get the stuff off him while I was giving him CPR.
19 Q Because that would offend the hospital staff to see
20 throw up on the child?
21 A No. There was still throw up on him when I was trying
22 to give him CPR still.
23 Q And you told Investigator McClurken you just didn't
24 want all that shit on him, right?
25 A No, sir.

1 Q And you said you're 100 percent sure that you did not
2 cause any injuries to Gabriel?
3 A Yes, sir.
4 Q In fact, the only injury you were even aware of was the
5 injury to Minor's side?
6 A Yes, sir.
7 Q The Investigator McClurken asked you about whether you
8 had taken Minor's clothes off so he could bathe himself
9 earlier that night, right?
10 A Yes, sir.
11 Q And Investigator McClurken asked you if you had seen
12 the injuries to the groin, penis, crotch area?
13 A Yes, sir.
14 Q You said, "I don't look at Minor's naked body."
15 A Yes, sir.
16 Q Is that true or is that not true?
17 A Do I look at his naked body? Is that what you asked
18 me?
19 Q Yes.
20 A No, I don't. Not like that.
21 Q But you just told the jury you looked at his naked body
22 in the bathtub today and saw the penis?
23 A I said I saw his genitals, and I don't sit there and
24 look at him.
25 Q That's not looking at his naked body?

1 A Okay. How can I define looking at his naked body so
2 that it's clear to the jury.
3 Q Well, any way you want to.
4 A I don't look at it like that. But whenever I did go in
5 and check on him, yes, I did see his genitals and whatnot
6 and I saw the bruising on him. Like if you walked into a
7 room and saw somebody standing there naked. You wouldn't
8 see them.
9 Q You said you don't look at his naked body because --
10 you don't look at people like that because you had been
11 abused as a child yourself?
12 A Yes, sir.
13 Q By your father and your sister?
14 A I didn't say my father.
15 Q You didn't say your father?
16 A No.
17 Q You said, "I don't want to be labeled a pedophile?"
18 A Yes, sir.
19 Q Now, I don't know the answer to this question. But how
20 can you be an escort if you don't look at peoples' naked
21 bodies? I'll assume there's some degree of nudity involved
22 in being a prostitute or an escort.
23 A Yes, sir. There is.
24 Q Do you not look at the customers' naked bodies?
25 A There's a difference between a 40 some odd year old man

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1 and a two-year-old boy. I'm hoping you'll understand that.

2 Q I do understand that.

3 A Okay.

4 Q Investigator McClurken asked you about the manner that

5 Minor had struck his head when you had spanked him

6 earlier, right?

7 A Yes, sir.

8 Q He was following up on that?

9 A Yes, sir.

10 Q And then that's when the agent brought you a doll to

11 show -- kind of recreate --

12 A Yes, sir.

13 Q You said that Minor had only fallen down two or three

14 seconds and he got up fine?

15 A Yes, sir.

16 Q And then you performed a demonstration for them about

17 what you had done in the car?

18 A Yes, sir.

19 Q And this was videotaped?

20 A Yes, sir. I believe it was. I'm not sure.

21 Q And again, you told him that you had spanked him

22 because Minor had soiled himself?

23 A Yes, sir.

24 Q And at that time that you spanked him when he defected

25 in the tub you still had not seen any injury to the penis

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1 area?

2 A I did see injury to the penis area. I stated that

3 earlier when the Solicitor asked me a question.

4 Q Well, today for the first time you're saying that you

5 did actually look at his penis area and see the bruises?

6 A Yes, sir.

7 Q And you said that you had Gabriel pull his Pull-Ups

8 down after he soiled himself?

9 A Yes, sir.

10 Q And then you spanked him?

11 A Yes, sir.

12 Q And then you made Minor pull his soiled Pull-Ups back

13 on himself?

14 A That's what I said.

15 Q Is that true?

16 A No, sir. I already explained he didn't have on the

17 Pull-Ups. He was in the bathtub. I'm not sure if you were

18 listening to the testimony earlier when I was talking to the

19 Solicitor or not.

20 Q I just want to make sure it's clear. Did you get

21 defense when you were with the Investigator?

22 A When he responded or referred to Ms. McCardle as in

23 whoring around, and another statement she said, yes, I did

24 get kind of a little offended.

25 Q You said that they were trying to make you laugh,

1 didn't you?
2 A I don't remember saying that.
3 Q You told Investigator McClurken he was trying to make
4 you laugh. Is that true or not?
5 A I don't remember making any statement.
6 Q You deny that you ever caused any injuries to Minor
7 and that you never saw any bruises on Gabriel except for the
8 one on his side?
9 A Yes, sir.
10 Q And that occurred in the past when she was at the motel
11 in Spartanburg?
12 A Yes, sir.
13 Q At that time he put you under arrest. Is that fair to
14 say?
15 A Yes, sir.
16 Q And you've been in jail ever since on --
17 A Yes, sir.
18 Q -- on this homicide charge?
19 A Yes, sir.
20 Q You actually got a murder charge on you, too, don't you
21 for this same incident?
22 A Murder charge?
23 Q Has that one been dismissed or are you still --
24 A What murder charge?
25 Q Were you indicated for murder?

1 A No.
2 Q Just homicide by child abuse?
3 A Yeah. Were do you get this murder from?
4 Q I might be wrong. I might be wrong.
5 A Yeah.
6 Q You're not aware of any other charges other than
7 homicide by child abuse?
8 A No.
9 Q That's not a really good charge to have on you though,
10 is it?
11 A No, sir. It's not.
12 Q In fact, you were ever helpful enough to write a
13 statement for the police, weren't you?
14 A I didn't write a statement. I gave a verbal statement.
15 Q You gave an oral statement?
16 A Yes, sir.
17 Q You also, in addition to Investigator, now Chief,
18 McClurken, you were also interviewed by Nikki Cantrell with
19 SLED?
20 A Yes, sir.
21 Q And that was the date that Minor died?
22 A Yes, sir.
23 Q Was that conducted at the same time you were with --
24 A Yes, sir.
25 Q -- Investigator McClurken? You told the SLED Agent

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1 that you had been with Theia and her son Minor since March
2 2013?
3 A Yes, sir.
4 Q First met her in Asheville?
5 A Yes, sir.
6 Q You've been with her since you moved to Spartanburg in
7 August of 2014?
8 A Yes, sir.
9 Q Was this -- was Agent Cantrell with you while
10 Investigator McClurken was with you?
11 A Yes, sir. They were both --
12 Q So the two of them were asking you questions?
13 A Yes, sir. They were both present.
14 Q Where were you when you spoke to the -- at the hospital
15 or in the police station?
16 A At the police station.
17 Q And they asked you about the evening of December -- or
18 the day of December 29th?
19 A Yes, sir.
20 Q And you said that you woke up around 9:00 and fed the
21 child breakfast?
22 A Yes, sir.
23 Q At some point Theia went to the Valero gas station and
24 Walmart in Laurens County. Is that true?
25 A No. She went to a Valero gas station in Spartanburg

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1 County.
2 Q Did you tell the investigator that she went to the
3 Walmart in Laurens County?
4 A That was the day prior, yes.
5 Q Well, they were asking you about December 29th, weren't
6 they?
7 A Yes, sir. But I was also telling them about the day
8 prior to the 12th.
9 Q You told the agent, the SLED agent, that you gave
10 Minor a bath about 10:30 at night because the child had a
11 bowel movement on himself?
12 A Yes, sir.
13 Q You agree that that's what you told the agent?
14 A Yes, sir.
15 Q You gave the child a bath, and then you put the child
16 to bed?
17 A Yes, sir.
18 Q And then after that bath is when Theia came home with
19 the cat that she had found at Valero?
20 A Yes. That's what I told the agent.
21 Q Is that true that she had found the cat at the gas
22 station and brought it home?
23 A Yes, sir.
24 Q So that portion of your statement is true?
25 A Yes, sir.

1 Q And not too much incrimination about bringing a cat
2 home?
3 A No, sir.
4 Q And then when she came home, that's when she told you
5 that she had a call to go to Newberry, right?
6 A No. She told me that after she left again with the
7 cat. Or she dropped the cat off and then she left again.
8 Q And then when she came back from that call is when she
9 told you --
10 A Yes, sir.
11 Q -- she had to go to Newberry? She asked you to go
12 because --
13 A She felt uneasy about it. She'd never been to Newberry
14 before, and she felt as if it might have been a setup with
15 the police or something.
16 Q And you actually said that Minor slept the whole way
17 in the backseat, right?
18 A Yes, sir.
19 Q And that you sat in the front passenger seat and Theia
20 drove?
21 A Yes, sir.
22 Q When you got to the location a man came outside and
23 spoke to both of you?
24 A No. He spoke to her.
25 Q So if you said them, either the agent misheard you or

1 you misspoke?
2 A I'm not sure. I said he spoke to her, not me. I don't
3 even know the guy.
4 Q You told the agent that when the child was having
5 trouble breathing you started honking the horn for Theia to
6 come out of the home?
7 A Yes, sir.
8 Q Now, did the car horn work on that vehicle?
9 A Yes, sir. It did.
10 Q It's an old used car, right?
11 A Hmm?
12 Q It was a fairly used cheap car, right?
13 A No. It was a 2005 Malibu.
14 Q Okay. The -- how loud did that horn peep?
15 A Just like any car horn.
16 Q Is it -- I mean, some are like little beepers and some
17 are big heavy horns. Which one is that?
18 A It's like a regular car horn. A big heavy beep would
19 be like a truck or, you know, a semi.
20 Q So did you honk it horn or did you just do like quick
21 hits on it?
22 A I did quick hits on it like two, three times.
23 Q Do you feel like you pressed that horn loud enough for
24 Theia to have heard you and come out?
25 A Yes.

RICHARD BOWMAN: CROSS EXAMINATION

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- 1 Q There's no point in pressing the horn unless it's loud
2 enough for somebody to hear you, right?
3 A I guess. I don't know what was going on inside.
4 Q Neither Theia nor the man with her came out of the
5 home?
6 A No, sir.
7 Q Now, did you all leave the headlights on the car while
8 Theia was in the driveway or would you all have turned those
9 off?
10 A Those were off.
11 Q And then you told the agent, after Minor was
12 unresponsive, that you started pressing his stomach and
13 pinching his toes; is that right?
14 A Yes, sir.
15 Q You said the only injuries you saw on him that you had
16 seen was a bruise on the right side and a scratch on his
17 neck that had been given to him by the cat?
18 A Yes, sir.
19 Q Now, was there a scratch on Minor's neck?
20 A Yes, sir.
21 Q Was that a cat scratch? Is that a true statement or
22 are you covering for Theia?
23 A That's a cat scratch.
24 Q So the scratch on Minor would have been by one of the
25 cats?

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- 1 A Yes, sir.
2 Q Did the cats have names?
3 A Yes, they did. I don't remember them off the top of my
4 head. I think the long-haired one was like Metalia or some
5 -- some craziness. I don't remember.
6 Q You were unable to give the agent any timeframes that
7 night, weren't you?
8 A Yes, sir.
9 Q And you told her that your phone was broken?
10 A Yes, sir, it is. Or -- yeah, it still is.
11 Q But you did come clean and tell the agent that you and
12 Theia were both escorts. Is that fair?
13 A Yes, sir.
14 Q Are you sure -- while Theia is in the home with the man
15 in Newberry were you sitting in the front passenger seat or
16 sitting in the back seat?
17 A In the front seat. I moved to the backseat when I
18 started to try to get him to respond.
19 Q Were you listening to music or just doing what?
20 A I was sleeping. I didn't have a phone to listen to
21 music. She took her phone inside.
22 Q Did the car have a car radio?
23 A Yes, but I didn't have the keys at the time.
24 Q Oh, she took the keys?
25 A Yeah.

1 Q But you told Agent Cantrell that you -- before you
2 pulled into the driveway that you crawled between the seats
3 to get in the backseat so the man wouldn't see you in the
4 car and get scared, right?
5 A Yes, I did.
6 Q But that's untrue?
7 A Yes, sir.
8 Q Why is your jacket in the backseat?
9 A Because when I crawled back there to give CPR and
10 everything and check on Minor I did take off my jacket.
11 Actually, I didn't even have on a jacket that night,
12 honestly. I had on my hoodie. The very same one that's in
13 evidence.
14 Q You didn't have on that big black puffy jacket?
15 A That's her jacket. That's a woman's jacket. That's
16 the very same jacket I just verified was hers in that
17 picture an hour ago when the Solicitor was talking to me.
18 Q Now, you didn't tell the agent -- you did tell the
19 agent, but it's false, that you stayed in the backseat the
20 whole time that she was with --
21 A Yes, sir.
22 Q But you could still hear the child behind you having
23 breathing problems?
24 A I woke up due to a noise outside. And I'm not deaf.
25 So yes, I can hear.

1 Q So it wasn't Minor -- a sound Minor made? It was a
2 sound in the neighborhood?
3 A Yes, sir.
4 Q And that's what made you check on the child?
5 A That what made me wake up. And then I noticed I didn't
6 hear him snoring back there, so I checked on him.
7 Q And you had mentioned earlier that Theia had gone to
8 Spartanburg to meet a Hispanic man for services, right?
9 A I'm guessing that.
10 Q And you told -- you admitted to the agent that you had
11 smacked Minor 's butt hard with your hand causing the child
12 to fall forward on his head in the tub, right?
13 A Yes, sir.
14 Q I'm not 100 percent sure. Is that -- are you saying
15 that that is true now or are you saying that's not true to
16 protect Theia?
17 A The very same smack that I said that I did earlier,
18 whenever his head hit the bathtub. You were in here when I
19 told the Solicitor that.
20 Q Well, you've got it down kind of to just a little push,
21 don't you?
22 A No. I said I patted his butt.
23 Q You patted his butt. You -- when you told the agent,
24 the SLED agent, that if Minor had a bruise on his butt
25 or head it was probably from you hitting him?

RICHARD BOWMAN: CROSS EXAMINATION

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- 1 A Yes, sir.
- 2 Q Was that true?
- 3 A No, sir.
- 4 Q That was said just to protect Theia?
- 5 A Yes, sir. The SLED even admitted that his head hitting
- 6 the bathtub wouldn't have been hard enough to cause any
- 7 damage to his head.
- 8 Q And then you told the agent, "I never saw a bruise,
- 9 even though I was filling the tub with water, and I told
- 10 Minor to take the bath and then go to bed."
- 11 A Yes, sir.
- 12 Q You told the agent, Minor 's not retarded. He's
- 13 grown. He can bathe himself. Is that fair?
- 14 A Yes, sir. Because the agent asked why I wasn't bathing
- 15 him and why his mother didn't bathe him. We actually taught
- 16 him to bathe himself.
- 17 Q You told the agent you normally shower with Minor
- 18 every morning.
- 19 A Yes, sir. That's not true though.
- 20 Q That would be an untrue statement that you gave him?
- 21 A Yes, sir.
- 22 Q And later on I think you'll say that you only had one
- 23 or two showers with that child in your life, right?
- 24 A I stated that like earlier when you asked me that
- 25 question.

RICHARD BOWMAN: CROSS EXAMINATION

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- 1 Q Then the -- at that point the officer showed you
- 2 pictures of Minor 's body.
- 3 A Yes, sir.
- 4 Q And you said you've never seen those bruises?
- 5 A Besides the one --
- 6 Q That they were new to you?
- 7 A Besides the one on his side, yes.
- 8 Q And you, again, told him because you had been abused
- 9 physically and sexually at a child that you don't even look
- 10 at Minor in that area?
- 11 A Yes, sir.
- 12 Q Is that true or is that another lie?
- 13 A I really don't like that. But when I saw him get in
- 14 the bathtub, yes, I did notice that.
- 15 Q And that you've never even washed him in that area as
- 16 well?
- 17 A No, I don't wash him in that area. He washes himself.
- 18 Q If you don't look at it, you can't wash him in that
- 19 area, right?
- 20 A He bathes himself.
- 21 Q And then you said several weeks ago that you saw Theia
- 22 strike Minor on the butt with her hand and he hit his head
- 23 on a coffee table?
- 24 A I said on the back of his head. Not his butt.
- 25 Q Where was that?

1 A That was inside the house.
2 Q Is that a true a statement or is that another --
3 A That's a true statement.
4 Q So the one about Theia hitting him several weeks on the
5 butt is a true statement?
6 A Yes, sir.
7 Q And you're saying that the child hit his head on the
8 coffee table?
9 A Yes, sir.
10 Q Now, this coffee table that we're talking about, that
11 was the coffee table that was in the master bedroom?
12 A Yes, sir. We had just gotten a new TV like after Black
13 Friday. That coffee table hasn't always been in there.
14 Q Is that the coffee table that --
15 A Yes.
16 Q So that's what caused the -- that's what you said the
17 child fell into, or was knocked into?
18 A Yes, sir.
19 Q Did it knock that 50 inch TV off the stand?
20 A I did just state we didn't always have that 50 inch as
21 well, sir. We just got it at the Black Friday. You can
22 actually verify that.
23 Q I will.
24 A Make sure.
25 Q How did you get that TV? I'm curious now. How did --

1 A She had put it on layaway.
2 Q So she paid for it on layaway?
3 A Yes, sir.
4 Q Is there anything wrong about that?
5 A What do you mean by is there anything wrong about that?
6 Q I mean, why -- I don't know. I mean, you said it like
7 that's suspicious. But is there anything wrong with her
8 putting the TV on layaway?
9 A I didn't say anything about it being suspicious. You
10 said how did she pay for it. I said she bought it on
11 layaway.
12 Q Okay. And, in fact, all three of you watched that TV
13 in the house, didn't you? You watched -- you played movies
14 for the child and you watched it and she watched right,
15 right?
16 A Yes, sir.
17 Q That was the only TV set in the house, right?
18 A Yes, sir.
19 Q And then you also did a recreation -- or a recreation
20 of the events of that day. And you did a recreation for
21 SLED of what you did which was videotaped?
22 A Yes, sir.
23 Q So no more statements to law enforcement between
24 December 30th and then a little over two weeks ago?
25 A Yes, sir. They can't talk to you if you don't have a

RICHARD BOWMAN: CROSS EXAMINATION

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- 1 lawyer once you request a lawyer, correct?
- 2 Q That is the law. You've got that precisely.
- 3 A That's good.
- 4 Q So you didn't reach out to talk to them until -- were
- 5 you aware that you were on trial notice this week?
- 6 A I was told that there was a trial for this week and the
- 7 Solicitor asked me if I wanted to testify. That's about it.
- 8 Q And you, at this point, just wanted to get the truth
- 9 out?
- 10 A Yes, sir.
- 11 Q Not about getting Richard out?
- 12 A Yes, sir. As I've already said, if I'm still charged
- 13 after this, I'll take the charge, sir.
- 14 Q You're willing to take a child abuse --
- 15 A If I'm still charged with --
- 16 Q -- homicide by child abuse charge?
- 17 A If I'm still charged after this, which whatever the
- 18 outcome of this is, I'll take the charge, sir.
- 19 Q So you're willing to take a homicide by charge abuse
- 20 charge even if Theia is found guilty just on the principal
- 21 of it, because you're saying you never hurt that child,
- 22 right?
- 23 A Yes, sir.
- 24 Q Why would you in the world want to plead guilty to
- 25 homicide by child abuse if you never touched the child?

RICHARD BOWMAN: CROSS EXAMINATION

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- 1 A What I'm saying to you, sir, if I'm still charged with
- 2 a charge --
- 3 Q That's right.
- 4 A -- whatever the charge may be, whether it's homicide by
- 5 child abuse, whether it's whatever, I will still take the
- 6 charge, sir.
- 7 Q So you're willing to plead guilty to homicide by child
- 8 abuse?
- 9 A If that's the case. If people find me guilty for not
- 10 informing OSS, whatever the case may be, yes, I will.
- 11 Q If people find me guilty of it.
- 12 A Yes, sir.
- 13 Q So if the next jury finds you guilty of it you're
- 14 willing to take --
- 15 A Yes.
- 16 Q -- the consequences of it?
- 17 A Yes, sir.
- 18 Q You don't think it might help you out a smidgen if
- 19 Theia is the one who's found guilty? You don't think that
- 20 you all will introduced that as evidence at your next trial?
- 21 A I don't know, sir. I'm not an attorney. All I know is
- 22 that I just stated I'll take the charge if it's deemed fit
- 23 that I take the charge.
- 24 Q But you've had two attorneys. They didn't recommend to
- 25 you that maybe that might be a good strategy for you?

1 A No. In fact, I had Mr. Pierre for like, I guess, three
2 or four months and I fired him because he wasn't coming and
3 talking to me enough about anything.
4 Q He wasn't working hard enough for you so you got a new
5 one, right?
6 A He wasn't talking to me. Informing me what was going
7 on.
8 Q You gave a audio recorded interview with the law
9 enforcement, with some members of the Solicitors and
10 prosecutors staff a little over -- I mid March, right?
11 Sometime in the last two or three weeks you spoke to the
12 prosecution? Some members of their office, at least?
13 A March 10th, yes.
14 Q Was that here in Newberry or was that -- where was that
15 located?
16 A That was here in Newberry.
17 Q Was it here in the courthouse or was it at the jail or
18 --
19 A It was here at the courthouse.
20 Q And your lawyer was present?
21 A Yes, sir. He was.
22 Q I have a taken the liberty of transcribing the audio.
23 So can I ask you a few questions about that interview?
24 A Yes, sir.
25 Q Now, you had kind of a meeting with several prosecutors

1 and investigators. Is that fair to say?
2 A Just two.
3 Q And it was you and your attorney were present?
4 A Yes, sir.
5 Q About halfway down the page where it says DS, the
6 prosecutor, or the person you spoke to said, "So that would
7 have been on the 27th."
8 A I see where you're talking about.
9 Q I'm going to ask the question that they asked you, and
10 can you -- RB would be your initials?
11 A Yes, sir.
12 Q Would you be kind enough to read your reply?
13 A I will.
14 Q "So that would have been on the 27th?"
15 A "Yes, sir."
16 Q "You saw her do it?"
17 A "Yes, sir. She slapped his head into the coffee
18 table."
19 Q Now, what date incident are we talking that you said
20 you saw Theia slap the child and he hit the coffee table?
21 A The 27th.
22 Q The 27th?
23 A Yes, sir.
24 Q Now, that's very similar to your story about hitting
25 the child and falling into the bathtub. Is that a true

RICHARD BOWMAN: CROSS EXAMINATION

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1 statement or were you trying to protect her, or implicate
2 her?
3 A What are you talking about? Whenever his head hit the
4 coffee table?
5 Q You're saying that's a true statement?
6 A Which one? This one or the one that I got about --
7 Q That the child hit his head on the coffee table.
8 A It's a true statement.
9 Q Did that actually happen?
10 A Yes, sir.
11 Q Were there bruises from that?
12 A I believe there was a light bruise right there. But
13 we've always speculated because he always had a mark
14 underneath his eye. There's a prior thing in North Carolina
15 with them questioning about the bruise under his eye.
16 Q You're aware, from living with the child since
17 Asheville, that the child has what are called Mongolian
18 spots? Are you familiar with that term?
19 A No. And I wasn't told about that. They said that with
20 DSS or whatever up there when he was taken.
21 Q But is that just stuff you learned from reading all of
22 the reports and evidence in this case?
23 A Mongolian spots. What do you -- what do you mean by we
24 learning --
25 Q My question is were you -- are you aware of whether the

RICHARD BOWMAN: CROSS EXAMINATION

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1 child had a condition called Mongolian spots?
2 A No. She had told me about that from whenever she dealt
3 with DSS in North Carolina.
4 Q So you are aware? It's an easy question. Were you
5 aware or were you not aware that the child had a skin
6 condition called Mongolian spots?
7 A Yes, but I'm unsure of what that is exactly.
8 Q So that could be some kind of disease to anything? You
9 have no idea what that actually is?
10 A I'm not sure what it is.
11 Q But the name has stuck with you, that you've been aware
12 of it for a while but just haven't bothered to find out what
13 that was, right?
14 A Yes, sir.
15 Q Then your last statement on that page three, RB, it
16 says, "We had got into an argument." Read that statement.
17 A "We had got into an argument. Instead of her taking
18 her anger out on me she got mad at Minor because she
19 wasn't putting on his shoes correctly, and ended up hitting
20 him."
21 Q Is that the incident on the 27th we're talking about?
22 A Yes, sir.
23 Q And on the top of the next page, read your statement.
24 A "She slapped him like grown -- she slapped as in like
25 as grown woman would slap a grown man inappropriately

1 touching her."
2 Q Could that be like a grown ass woman?
3 A No.
4 Q You haven't heard that phrase before?
5 A Yes, I've heard of grown ass woman, but I didn't say
6 grown ass woman.
7 Q And down to the prosecutor -- or the investigator
8 asking, "In the back of the head?" And what's your answer?
9 A Yes, sir.
10 Q Then three lines down from that, "Then what did -- did
11 the baby start crying?"
12 A Yes, sir.
13 Q And that would have been two days before?
14 A Yes, sir.
15 Q Go on.
16 A "But that day we'd already been in an argument two days
17 prior. We were still bickering over small stuff. I woke up
18 that morning. I started cleaning the house up and
19 everything."
20 Q So your -- what time did you wake up on -- are you
21 talking about the 27th or the 29th?
22 A The 27th.
23 Q So it was your job to clean the home?
24 A It wasn't my job. I just did it, because I don't live
25 in filth, or I try not to at least.

1 Q So you kept the home tidy while she worked
2 prostituting?
3 A For the most part.
4 Q Was the house in good condition?
5 A On the day that everything happened?
6 Q Okay. The --
7 A I was asking were you asking about on the day that
8 everything happened.
9 Q Well, yes, sir.
10 A Not necessarily. We still had clothes we had to get
11 washed and we had trash we still needed to take out.
12 Q What time did you wake up?
13 A I woke up probably around 7:30. If I remember, around
14 7:30 or 8:00. I started cleaning house.
15 Q So that's what you do at 7:30 in the morning? You just
16 immediately wake up and start cleaning up?
17 A I clean dishes and I pick up stuff in the house. I
18 change the cat litter. I feed the cats. Take a bath myself.
19 I'll either use her phone to check my Facebook and text
20 people on Facebook or sit in the bathtub and watch --
21 Q Well, under that the investigator says, "You didn't
22 clean very much." Your answer?
23 A I said, "Well."
24 Q "I've seen the inside of that house."
25 A Yes, sir.

RICHARD BOWMAN: CROSS EXAMINATION

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- 1 Q So you were cleaning that morning?
- 2 A Yes, sir. I was cleaning dishes at least.
- 3 Q Okay.
- 4 A "And so, from there I started making breakfast and
- 5 everything for myself and Minor. Me and Minor were
- 6 playing with some of his toys."
- 7 Q So after you cleaned up the house then you get Minor
- 8 up and you start feeding breakfast for him and you?
- 9 A He normally wakes up on his own. But yes, I'll fix
- 10 breakfast for him and myself.
- 11 Q Okay. And he asked you, "What did you make for
- 12 breakfast?"
- 13 A "I got him some yogurt and I started cooking eggs and
- 14 stuff, making some cereal for him and myself."
- 15 Q So he ate yogurt and cereal?
- 16 A Yes, sir.
- 17 Q Okay. Go on.
- 18 A "And then me and him was playing with his toys and
- 19 whatnot. He went in there with his pellet gun and shot at
- 20 his mom while she was asleep. She woke up and struck him."
- 21 Q A pellet gun?
- 22 A Yes. It was a pellet gun like a cap gun.
- 23 Q Was it the little gun that was found in the car?
- 24 A Yes, sir.
- 25 Q I thought you told us you've never seen that gun in

RICHARD BOWMAN: CROSS EXAMINATION

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- 1 your life? Not -- less than an hour ago you said --
- 2 A You said the pistol that was in her car.
- 3 Q Right.
- 4 A If you -- she has a -- or that's not a -- that's a
- 5 pistol.
- 6 Q Yeah, but it's --
- 7 A The little toy gun is a red gun. That's not the same
- 8 gun. And that gun is inside the car. It's a real gun. Why
- 9 would you let a two-year-old play with a real gun.
- 10 Q But I asked you was that the gun in the car and you
- 11 said yes. That's incorrect?
- 12 A Yes, that's incorrect. I thought you were saying the
- 13 gun -- the little toy gun was found in the car.
- 14 Q So that's another little red gun --
- 15 A Yeah. It's a little pellet cap gun that's inside the
- 16 house, or it should still be in the house.
- 17 Q Have you seen all the photographs that SLED took of the
- 18 home?
- 19 A Not every single one of them.
- 20 Q Have you seen any photographs of any red guns in that
- 21 home?
- 22 A If I hadn't seen the pictures, I can't really say.
- 23 Q And the investigator says, "Go on. Okay, go on."
- 24 A "It didn't shoot BBs. It just made a really loud
- 25 noise. It was like pow, pow, pow."

1 Q Okay. Now, you were making kitchen -- breakfast in the kitchen?

2 Yes, sir.

3 Now, the kitchen's not connected -- there is a door into the master bedroom, right?

4 Yes, sir.

5 You can't see the bed from the kitchen, can you?

6 No, sir.

7 How would you see the slap the boy or hit the boy if you were in the kitchen?

8 Because I went in there.

9 Why did you go into the bedroom?

10 Because it was funny. He shot the gun and it was funny for her to get scared. Because when she initially thought the gun she didn't know it made noise like that. So when you open it on Christmas he actually shot it off. It scared her. And she was like, "I made a mistake on getting this for him."

11 So you both snuck in together, is what you meant to say, to scare her awake?

12 Yes, sir.

13 Did you tell anybody that prior to day?

14 No, sir. That's --

15 That's fresh news for everybody today, right?

16 That's inside of here.

1 Q Well, you didn't say that you snuck in the room with her to scare her, too, did you?

2 I didn't scare her. He shot the gun at her.

3 The investigator says, "Oh."

4 "I guess it's just a cap gun, I guess. But she got mad at him for waking her up so she struck him that morning."

5 "Where did he hit her?" Where did she hit him?

6 "She hit him in the stomach."

7 "Show me how she did that?"

8 Do you want me to show you?

9 I want you to read the answer that you gave the investigator.

10 "She woke up like swinging her fist lazy like, I guess, a punch and hit him in the stomach that morning."

11 What did you mean, "Her fist lazy like, I guess, a punch?"

12 When she woke up she just did this (indicating). One of those numbers.

13 Well, you told us earlier that she hit him hard enough to knock him on the ground and he was crying. Is that not true?

14 Yes.

15 Which one's true?

16 Both statements are true. You can still wake up and --

17 She hit him lazy like or she hit him hard like you said

RICHARD BOWMAN: CROSS EXAMINATION

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1 earlier?

2 A This is a two-year-old child we're talking about. Not

3 a grown man.

4 Q I'm well aware he's a dead three-year-old boy. Just me

5 on that.

6 A Well, I'm just trying to clear this up for you so you

7 understand the age.

8 Q The prosecutor -- or the investigator says, "You saw

9 this happen?"

10 A "Yes, sir. I had told her to just chill out and go

11 back to sleep. It wasn't that big of a deal. And I went

12 back to finish cleaning the dishes."

13 Q I thought you said this was -- you were making

14 breakfast? You were cleaning the dishes after breakfast?

15 A Yes.

16 Q On the next page a little slightly more down -- halfway

17 down the investigator says, "Okay." Do you see that?

18 A Yes, sir.

19 Q All right. It says, "Around that time."

20 A Okay. "You told her to just go back to sleep and you

21 continued cooking." Which --

22 Q No. The investigator says, "Okay" and you said,

23 "Around that time."

24 A I see. "Around that time we were still cleaning dishes

25 when she finally woke up around like 11:00, I guess, I

RICHARD BOWMAN: CROSS EXAMINATION

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1 believe. We went back in there and was watching TV and

2 everything. I had took a shower that morning myself."

3 Q What was the baby doing during this time?

4 A During that time we went to the bathroom and needed to

5 get ready to start taking a shower. I finished taking my

6 shower. I got out of the shower. He took off his clothes

7 and he jumped in the shower while I was in the shower."

8 Q But I thought you said that you don't -- that you only

9 showered once or twice in your life with the child?

10 A I got out of the shower as my statement stated. When

11 you shower with a person you stay in there with him.

12 Q "He jumped in the shower while I was in the shower."

13 Is that not what you told the investigator just two and a

14 half weeks ago?

15 A Yes. And it also states, "I got out of the shower. He

16 took off his clothes and jumped in the shower while I was in

17 the shower."

18 Q In fact, he said, "Okay. But you would take showers

19 with him in the morning times?"

20 A "Not always. I did it like once or twice."

21 Q But this morning you took a shower with him is what

22 your statement says.

23 A Yeah, I didn't mean to say that. I didn't actually

24 take a shower with him that morning. I was actually taking

25 my clothes off. I was already in the shower. He was coming

1 in to get in the shower with me. I got out of the shower.
2 Q About four lines down from that the investigator says,
3 "Now you're backing off of that statement and you're telling
4 me that he went in the shower, watched you take a shower,
5 waited for you to get out and then he took his clothes off
6 and got in." Your answer?
7 A "No, he didn't wait for me to get out of the shower.
8 He had already took off his clothes and was coming in the
9 shower while I was in the shower."
10 Q How long do your showers take?
11 A I normally sit in the shower or take a bath for like
12 two or three hours. That's just me. Because I normally --
13 Q You take a shower for two or three hours?
14 A Yeah. I sit in the bathtub and watch movies on the
15 computer that was in the house.
16 Q Were you taking a bath or you were taking a shower?
17 A I was taking a shower that morning.
18 Q And this mobile home's got a -- basically that's how
19 you eat up the morning is sitting in the bathtub or in the
20 shower for two or three hours? Is that true?
21 A Sometimes.
22 Q And, in fact, I think when you all got in that fight
23 back in Asheville you were taking a long bath, too, right?
24 A I actually had just gotten off of work that day.
25 Q This morning, how long was your shower?

1 A Like 20, 30 minutes before he came in there.
2 Q And the baby is sitting in the bathroom the whole time?
3 A No. He came into the bathroom when I was actually
4 getting ready to finish up. He started taking off his
5 clothes to get in the shower with me. I took with me -- I
6 took and I got out of the shower while he was naked. He got
7 in the shower while I was starting to -- getting -- in the
8 shower and I started getting on my clothes and everything.
9 Q "What did you notice about him when he took his clothes
10 off?"
11 A "I had already -- I just know the same bruise that I'd
12 seen on him before. Like the bruise that I saw whenever I
13 came to the hotel room which was -- I forget which day.
14 Long story short, we'd gotten into an argument a week or
15 two, I guess, before she disappeared with him. Went to a
16 hotel in Spartanburg County. It's off New Cut Road. I
17 forget the name of it off the top of my head. She went
18 there. When I finally got there I noticed the bruise on him
19 whenever he was in the bathroom. I was like where did this
20 come from? She was like, oh, he fell into -- into the bed
21 on the bed while he was in -- was at the hotel."
22 Q Okay. I'm asking you this question. Was that the
23 hotel that she had let -- that her mother had paid for her
24 when she moved out from you?
25 A Whenever she left, yes.

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- 1 Q And you went there and got her back, right?
- 2 A I didn't go there. She came back to the house with a
- 3 client to come pick me up because she called me like the
- 4 very same day saying she missed me and wanted me to come
- 5 back -- or come to the hotel with her and whatnot. She
- 6 didn't want to argue about stuff. So --
- 7 Q So she voluntarily came back to the house?
- 8 A Yes, she did actually. She came with -- I forget the
- 9 name of the black individual that she came back to the house
- 10 in his car. He brought her to the house. And I got in the
- 11 car with him, while ^{Minor} was in the backseat, and then I went
- 12 back to the hotel.
- 13 Q When she went to the motel did she take her Malibu --
- 14 the red Malibu with her?
- 15 A She didn't have the Malibu at the time. She had a
- 16 Nissan Sentra.
- 17 Q And that's not the car that somebody had disabled by
- 18 pulling out the spark plugs?
- 19 A That was the car that she disabled.
- 20 Q She disabled --
- 21 A Yes.
- 22 Q -- and had somehow locked -- somehow lost the keys
- 23 where it kept it locked up?
- 24 A The keys were inside the house that I showed her when
- 25 she came back to the house. I said, "The keys are right

RICHARD BOWMAN: CROSS EXAMINATION

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- 1 here by the bed."
- 2 Q And it's not really clear to me again. I'm going to go
- 3 back. How did you all get that car back from Laurens to
- 4 Spartanburg?
- 5 A It was still there to be driven.
- 6 Q But then it was driven back and then somebody re-pulled
- 7 the plugs out of them? It was good enough to get from
- 8 Laurens to Spartanburg, but then died there and never came
- 9 back on?
- 10 A The car wasn't -- because the spark plugs were hooked
- 11 back up. I'm trying to remember exactly what was wrong with
- 12 it. I know we had took it to -- we had took it to -- well,
- 13 there was a guy that actually came to look at the car. I
- 14 forget off the top of my head what he said was wrong with
- 15 it. Something about something. Either the timing was off
- 16 or something because of the spark plugs being yanked off or
- 17 whatnot. And when the timing gets off it's not going to
- 18 start and crank right. I don't know if you know anything
- 19 about cars and whatnot.
- 20 Q Just out of curiosity, what was your MOS in the
- 21 military?
- 22 A I was a mechanic.
- 23 Q A mechanic?
- 24 A Yes, sir. I worked on diesel vehicles.
- 25 Q And this was a car?

1 A Yes, sir. I've never worked on a civilian car before.

2 I've worked on military vehicles.

3 Q But the military vehicles are substantially different
4 engines and models than the civilian cars?

5 A Actually they are.

6 Q I guess like the Humvee? Are you talking about the
7 Humvee?

8 A Yeah, Humvee, forklift. The bigger -- the bigger
9 vehicles. I've never worked on a regular vehicle.

10 Q So if I joined the Army and became a mechanic I would
11 have no job skills as a car mechanic in the civilian world?

12 A As a mechanic out of the military I still have to go to
13 a regular school to get my certification to become a regular
14 mechanic.

15 Q But it wasn't good enough to figure out how to get the
16 spark plugs back in?

17 A She put the spark plugs back in.

18 Q And you couldn't put spark plugs back in?

19 A I don't know. If I haven't looked at the specs on that
20 car I wouldn't know how to.

21 Q So how long had that car been dead at the side of the
22 mobile home?

23 A That car had been dead for like two or three days. It
24 was actually --

25 Q Are you sure it wasn't longer?

1 A Yes, I'm quite sure.

2 Q So you all only gave it two or three days to try to fix
3 it before her mother had to buy her a new car?

4 A Her mother didn't buy her that new car.

5 Q Where did she get it?

6 A She actually ended up doing that herself at
7 Spartanburg. She sold herself and got the money for it.

8 Q Okay. On the very first line of that page the
9 investigator says, "All right. That was the only thing you
10 noticed about him when he took his clothes off?" And he's
11 referring to the bruise on his hip that you said you saw
12 from two days before at the hotel?

13 A Yes. That's the only bruise I noticed. But I wasn't
14 really paying attention like that.

15 Q And the investigator says, "Left side --" a little bit
16 further down there. He asked you, "Left side?"

17 A "If I remember correctly, it was over here. If I
18 remember correctly."

19 Q And about halfway down the investigator says, "And he,
20 Minor, was taking a shower by himself. Did you have to
21 help him?" Your answer? "I didn't normally --"

22 A "I didn't normally help him. I explained to her, I
23 said that I really didn't feel comfortable giving him or
24 helping him take a bath like that, because there is too many
25 cases in Asheville with people being hit with child

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1 molestation charges and whatnot, and that's not my thing."
2 Q So you didn't want to help Minor take a bath because
3 too many people in Asheville get hit with child molestation
4 charges?
5 A Yes, sir.
6 Q Is that true, or is that your belief, or was that just
7 --
8 A That's actually true. Quite of her friends up there
9 have child molestation charges. There's a guy named ET -- I
10 think his name is like Richard something and has child
11 molestation charges. My baby mother's brother has child
12 molestation charges.
13 Q So the safe practice is not to give kids baths?
14 A I don't want any confusion.
15 Q That's fine. The investigator says, "But didn't you
16 say in the interviews that you helped him with baths before?
17 You did a lot of -- I mean, you helped?"
18 A "Yeah, I helped whenever I helped him teach to take --
19 yeah, I helped whenever I helped teach him to take a bath.
20 After that I didn't do it anymore. She was in there with
21 him at that time. I never did it after that. I showed him
22 how to take it while she was in there helping me, and after
23 that I never helped him take a shower or bath again. He
24 normally sat in there and took his own bath by himself."
25 Q All right. Go on.

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1 A "He got in the bath or in the shower. I got out."
2 Q Was it -- which was it, a bath or a shower?
3 A "Shower. I got out. Went about my business still
4 trying to clean up, feeding the cats, putting for -- food
5 out for the cats. Taking out the kitty litter and all that
6 stuff. And I finally decided to get her up and wake her
7 up."
8 Q So you had gotten up at 7:30?
9 A Yes, sir.
10 Q And again, are we still on the 27th?
11 A Yes, sir.
12 Q And you had cleaned the -- you had started -- woke up,
13 started cleaning?
14 A Yes, sir.
15 Q Then when Minor got up you fed him?
16 A Yes, sir.
17 Q Then you took to your duties of feeding the cats?
18 A Yes, sir.
19 Q Had the cats, by the way, been sleeping in that room
20 that night or were they --
21 A They had been sleeping in that room at night, yes.
22 Q So it's not just when you all leave you put the cats in
23 that room, it's all the time, or it's just --
24 A She wanted them in there while we slept so they didn't
25 run around and jump on our face.

1 Q And then the investigator says -- it's his second
2 statement down there, "And then she finally got out of bed
3 about what time?"
4 A That I cannot recall off the top of my head.
5 Q "But you said she got up at 11:00, then the shower
6 happened."
7 A Yeah.
8 Q Okay. So you could remember what time. Is it true
9 that she woke up at 11:00 on the 27th?
10 A Around 11:00. Yes, sir.
11 Q But you couldn't remember that two weeks ago?
12 A No, sir.
13 Q Okay. The -- go down to where the investigator says,
14 "All right. Then what?" "After that."
15 A "After that we still continued to bicker and argue over
16 just piddley dumb stuff. Trying to remember what we did
17 throughout that day. We sat up and watched movies for most
18 of the day off the computer. I do remember that much. I
19 ended up making lunch, cooking for myself, her and Minor.."
20 Q What did you all eat?
21 A That I don't remember off the top of my head. I think
22 it was some type of soup or something and grilled cheese, I
23 think.
24 Q Go on.
25 A "After that I was cleaning up and I heard him start

1 crying again. I didn't really ask what was going on. I
2 didn't know what happened. Didn't ask what happened. I
3 just heard him crying."
4 Q Well, I thought you just told us that you saw her hit
5 him again? Is this true or is that --
6 A This is true.
7 Q And the investigator asked you again where.
8 A "Inside the room with his mom."
9 Q "The bedroom. The one that you and Theia use?"
10 A "Yes."
11 Q "What time was that?"
12 A "Could be around like 2:00 or 3:00, I believe." After
13 that I said, "I stayed in there still cleaning up trying to
14 fix up the house. As you said, it was a complete mess."
15 Q Man, you're doing a lot of cleaning for very little
16 results.
17 A I do the cleaning. She messes up.
18 Q Go down to where you said "He had slept." You're
19 talking about Minor had slept in his room.
20 A "Minor slept in the livingroom."
21 Q Go ahead.
22 A I just read the --
23 Q "He actually had a room at one point."
24 A "Minor slept in the livingroom." That's what you're
25 talking about, right?

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- 1 Q Go a line in the middle of the page.
- 2 A Oh, my bad.
- 3 Q "He had slept in his room."
- 4 A "He slept in his room. He actually had a room at one
5 point where the cats were. Then she moved him out of there
6 to sleep in the livingroom."
- 7 Q So he was sleeping in the room with cats at one point?
- 8 A No. The cats weren't in there at that point. The cats
9 were running around in everything. She got upset with the
10 cats running in there in our room and whatnot and messing
11 around when she went to sleep. So she put them Minor's
12 room and moved him out into the livingroom.
- 13 Q "About 2:00 or 3:00 you hear him crying. What do you
14 do after that?"
- 15 A "I minded my business. I didn't get into it. I left
16 it alone."
- 17 Q I thought you told us that you had been telling her to
18 leave -- you never -- you're testifying that you never stood
19 up for him or investigated when he was crying?
- 20 A Yes, I did stand up for him. I would tell her that she
21 needed to try other methods by not hitting him. But at that
22 point in time I did not get into it.
- 23 Q But then you told the prosecutor, "As I said, I
24 continued to clean, cook and whatnot."
- 25 A Yes, sir.

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- 1 Q And the investigator says, "You're cooking again?"
- 2 A "Yeah, cleaning and cooking pretty much. I ate a lot."
- 3 Q You're cooking at 2:00 to 3:00?
- 4 A I was making something for myself to eat.
- 5 Q You had already eaten eggs and everything for
6 breakfast, then you had a grilled cheese sandwich for lunch
7 and you're eating again at 2:00?
- 8 A Yeah. I ate a lot before I came into jail. I was like
9 209.
- 10 Q And what were you eating then?
- 11 A Another sandwich.
- 12 Q Is that true that you had cooked yourself, I guess,
13 what the Hobbits call a second lunch?
- 14 A It was a sandwich. I wouldn't define that as a second
15 lunch.
- 16 Q You said you were cooking it?
- 17 A Yeah, I put it on the George Foreman.
- 18 Q All right. And then the investigator says, "All right.
19 Then what?"
- 20 A "After that I think around 4:00 or 5:00 she said she
21 had to go out to Spartanburg to do that whole ordeal and I
22 told her I wasn't going because I really didn't want to be
23 around her because I was kind of irritated with her. Didn't
24 really want to be dealing with her and whatnot."
- 25 Q When you say "Go do that whole deal"?

1 A Her --
2 Q Prostitution?
3 A Yeah.
4 Q So you stay at home with Minor?
5 A Yes, sir. Yeah. Around -- she made dinner around 5:00
6 or 6:00, I believe, that day.
7 Q I thought you said she -- so it was between 4:00 and
8 5:00 or it was between 4:00 and 5:00 that she was gone?
9 A She didn't leave until like 7:00 or 8:00 that night.
10 Q You said four or five minutes ago -- you said 4:00 to
11 5:00 a minute ago?
12 A I said she got her call at 5:00 -- 4:00 or 5:00.
13 Q Got a call?
14 A She didn't leave until like 8:00.
15 Q And then third line from the bottom, "Okay. And what
16 was for supper that night?"
17 A "She made steak, mashed potatoes and bread."
18 Q Now, I thought you told us earlier that you were the
19 one who cooked dinner that night for Minor?
20 A No, she did.
21 Q And the investigator says, "All right. Wait a minute.
22 Let's see where his statement -- what does he say in his
23 statement where she went to Spartanburg." The -- and then
24 on the next page where it says, "RB. At night, yes." Go
25 ahead and start right there.

1 A "At night she asked -- cause I remember she came back
2 before she went there. She went to the Valero, I think.
3 Was off and brought another cat home, the one that had one
4 eye, saying that she saw it outside the gas station. She
5 had brought it back to the house."
6 Q So we're talking about the night of the 29th?
7 A Yes, sir.
8 Q And you're telling the investigators then that she had
9 gone to the Valero. That's a gas station?
10 A Yes, sir.
11 Q And how far would the Valero be from your home?
12 A I'm guessing it's like one or two miles away from our
13 house.
14 Q Not too far away?
15 A Not too far away.
16 Q Go down five lines from that and the investigator says,
17 "All right. Here we go. You said they ate -- you all ate
18 dinner. And what was the dinner again you all ate?"
19 A "Steak, mashed potatoes and bread. That's what we had
20 that day."
21 Q "Steak, bread and corn is what you said before."
22 A "It's mashed potatoes. I remember mashed potatoes."
23 Q The bottom line, the investigator says, "She said you
24 all ate steak, bread and corn in your first interview and
25 you said bread and corn." Your line's on the next page.

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1 A "We didn't have corn. I don't remember corn. I
 2 remember mashed potatoes that night because I know she knows
 3 how to make her mashed potatoes."
 4 Q Did you help clean up the vomit from Minor that
 5 night?
 6 A Yes, sir.
 7 Q You don't remember seeing pieces of corn on any of the
 8 articles of clothing or blankets?
 9 A It's been over a year. I don't remember really what
 10 was inside the vomit, sir.
 11 Q And the investigators say, "She wrote down the part
 12 about the corn. I think he says it, too, though." Your
 13 answer?
 14 A "We might have had corn, but I really don't remember.
 15 But I think I remember mashed potatoes as much at that."
 16 Q Six lines down the investigator says, "Tell me what --
 17 what you all -- after you all ate and before she went." "He
 18 ended up," about halfway in the middle of the page.
 19 A "He ended up throwing up and pooping on himself before
 20 she left."
 21 Q "How was he eating that night?"
 22 A "What do you mean by how was he eating?"
 23 Q "I mean, was he -- how was he acting before dinner or
 24 during dinner?"
 25 A "I remember at one point he said something about owe

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1 about his wiener or something, and I'm like, hey, you talk
 2 to your mom about that. I didn't want to ask him anything
 3 else about that."
 4 Q So now for the first time you're saying that the child
 5 was complaining about pain in his wiener?
 6 A I stated that earlier when --
 7 Q Who had you told that earlier to?
 8 A The Solicitor when he questioned me earlier I mentioned
 9 that.
 10 Q Did you tell law enforcement prior to --
 11 A No, sir. I didn't.
 12 Q So that was the first time that you brought up the
 13 child saying he had pain in his wiener?
 14 A Yes, sir.
 15 Q And that's after you had a chance to go over the case
 16 entirely with your lawyer. In fact, you all were -- you
 17 were given trial notice, weren't you?
 18 A I was told that we had trial -- I was given two trial
 19 notices. One for March and another one for April.
 20 Q So you've been on trial -- you've had trial notices for
 21 a while, right?
 22 A Not for a while. Just two other ones.
 23 Q And you're aware that this child had major injuries in
 24 his groin, penis area?
 25 A I didn't see any of the pictures until like I got Mr.

1 Brown. Mr. Pierre didn't even show me the pictures. And I
2 didn't see the pictures until we came here that day for --
3 Q But when you saw those pictures you decided that you'd
4 better address those injuries, right?
5 A The very same day?
6 Q They were a lot more serious looking than you were
7 thinking, right?
8 A I didn't even know about the injuries to that severity,
9 no, honestly.
10 Q So this boy comes to you and he says, "Owe, my wiener,"
11 --
12 A Yes.
13 Q -- "and you say, hey, talk to your mom about that." Is
14 that -- I mean, I didn't really ask him anything about that.
15 Is that really what happened?
16 A Yes, sir.
17 Q And you cared for Minor?
18 A Yes, I did. But at the same time let me ask you a
19 question. I'll just rephrase it. If you had a child
20 yourself would you want some other girl or man looking at
21 your child's penis?
22 Q If my child was in pain, probably. But let's go on.
23 I'll try to be fair to you. But, I mean, I understand that
24 they charge people in Asheville for child molestation, so I
25 don't want to get you in trouble. The third line from the

1 bottom. "Okay. So did he have a good appetite to your
2 recollection that night?" And your last line on that page,
3 "I do remember."
4 A "I do remember he ended up throwing up because he was
5 trying to hold stuff down."
6 Q "After he ate?"
7 A "Yeah, after he ate."
8 Q "Where did he throw up?"
9 A "He threw up in our bed."
10 Q Now, my question to you is, how much throw up? Was it
11 like a cereal bowl full, a small cup full, just a little
12 bit?
13 A I didn't really measure it at the time.
14 Q Well, I mean, was it a lot of like would fill a cereal
15 bowl or was it just a little bit of like backing type throw
16 up, or was it continuous throw up?
17 A It wasn't continuous like him just sitting there dry
18 heaving.
19 Q Were the sheets or bedspreads stained on the bed? Did
20 it leave stains on the bed?
21 A I don't remember. I cleaned up. Wiped the stuff up.
22 That's why there's stuff on the clothes and everything.
23 Q So you did wipe up where he threw up?
24 A Yes, sir.
25 Q And the investigators says, "What was he doing in your

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1 all's bed?"

2 A "He was eating in there with us watching a movie."

3 Q "So you all eat in the bed?"

4 A "Yeah."

5 Q "So he ate and then he began throwing up?"

6 A "He puked up a little bit."

7 Q Two lines down from that. "So doing dinner is when

8 he's throwing up and pooping. Tell us about what he said

9 about his groin."

10 A "He said owe."

11 Q "What made him say that?"

12 A I don't know."

13 Q "He was just eating and he was saying owe?"

14 A "He didn't say it while we were eating. He said that

15 earlier throughout the day while we were watching our movie.

16 He didn't mention it."

17 Q So he was complaining about his groin while you were

18 watching a movie after he -- after dinner?

19 A No. It was before. Earlier, before.

20 Q Did you watch the movie before dinner or after movie --

21 after --

22 A We watched a movie before dinner and we wanted one

23 while we were eating dinner. He had complained about it

24 before we had ate dinner that night.

25 Q And the investigator says, "What time was that." And

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1 your answer was, "We were watching --"

2 A "We were watching -- and he probably -- after I had

3 made my sandwich and all."

4 Q Which sandwich?

5 A The second one that I made myself.

6 Q So again you had grilled yourself two sandwiches that

7 day?

8 A I had one for at lunchtime and one other one

9 afterwards.

10 Q And the investigator says, "So around 2:00?"

11 A "Yeah. I remember him mention it. He was like owe and

12 he grabbed himself, and I was like, hey, you need to go talk

13 to your mom about that. I don't know anything about that."

14 Q Okay. Well, I'm asking you now. He -- Minor --

15 according to your story, is complaining about pain to his

16 penis --

17 A Yes, sir.

18 Q -- at 2:00 in the afternoon?

19 A Yes, sir.

20 Q Did he have any head injuries that you saw at that

21 time? Any bruises on his face or head?

22 A Besides the one that was there on his eye.

23 Q Under his eye he had something, but nothing else that

24 you saw?

25 A Yeah. He had a scratch on his neck.

1 Q And this is -- this is just me asking. What was
2 Minor wearing at that time?
3 A I don't remember off the top of my head, sir.
4 Q Was it warm in the home or was it cold in the home?
5 A I don't even remember that off the top of my head, sir.
6 Q What did -- what would Minor normally wear during the
7 day? Was he in preschool at this point?
8 A She didn't even have him in school at this point.
9 Q Well, he was two-years-old. Just about to turn -- he
10 died the day he turned three, right?
11 A Yes, sir.
12 Q So he wasn't yet in preschool or kindergarten. I'm
13 just curious what a child that age wears during the day.
14 A Whatever he was put on. And --
15 Q Did you dress him?
16 A I didn't always dress him or help dress him. His
17 mother picked out stuff for him to wear at the time.
18 Q Could he have been wearing a shirt that said Coogi,
19 C-o-o-g-i?
20 A I don't know, sir.
21 Q Could he have been wearing a shirt that said Puma?
22 A He was wearing a Puma shirt when we came to Newberry
23 that night.
24 Q Was that a shirt that he had slept in or was that a
25 shirt that you had changed him into?

1 A No. It was a shirt that I changed him into whenever we
2 came to Newberry.
3 Q That was the shirt that you had changed him into?
4 A Yes, sir.
5 Q Did he have a coat or anything over that shirt?
6 A I don't remember that night, sir.
7 Q When he sleeps what does Minor wear? Does he wear
8 overnight diapers or diapers when he sleeps at night?
9 A He wears diapers, yes.
10 Q Does he wear pajama bottoms underneath those diapers or
11 --
12 A No. He normally wears the clothes that he was wearing
13 that day when he goes to sleep.
14 Q Start from your -- the investigator says, "So around
15 2:00?" Your answer is the last two lines.
16 A "Yes. I informed him that he needed to go talk to --"
17 Q No. It says, "Yeah, I remember mentioning that." "I
18 remember him mentioning that." It's the last two lines on
19 that page, right where the investigator says, "So around
20 2:00."
21 A So around 2:00. Hold on.
22 Q I think it's the line you just read before. "He was
23 like owe and he grabbed himself, and I was like, hey, you
24 need to go talk to your mom about that. I don't know
25 nothing about that -- or I don't know anything about that."

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- 1 A "Yeah. I remember him mentioning that. He was like
 2 owe and he grabbed himself. And I was like, hey, you need
 3 to go talk to your mom about that. I don't know anything
 4 about that."
 5 Q And on the next page the investigator asked you, "How
 6 long you had known Minor " and he says -- about halfway
 7 down that page, "Four or five months I guess you had known
 8 him?"
 9 A "Yes, sir."
 10 Q And then the investigator says, "That's kind of what I
 11 thought about you, too. Why, when he was complaining about
 12 his crotch you didn't kind of ask him what's going on?"
 13 Your answer?
 14 A "Well, I didn't feel comfortable doing that, I mean."
 15 Q "Why?"
 16 A "I molested as a kid and hopefully that's not going to
 17 be coming out in court. But when I went through my own
 18 stuff as a child, that's the reason why certain stuff I
 19 didn't do. I was molested by my sister as a child. So, I
 20 mean, certain things I won't get into like that."
 21 Q And is that the reason why you didn't look at naked
 22 children?
 23 A Yes, sir.
 24 Q Even when you were bathing with them?
 25 A Yes, sir.

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- 1 Q Bottom line. "Okay. So you all are eating and he's
 2 just kind of vomiting and pooping on himself?"
 3 A Yeah.
 4 Q "And what happens then?"
 5 A "I tell him to get up and we go get him changed. While
 6 I go get him changed and whatnot and help him -- or clean up
 7 and whatnot, she spanked him because he pooped on himself.
 8 He'd thrown up and whatnot. I'm like chill out. Just wash
 9 the sheets. It's not like we don't have clothes to wash him
 10 with. So she's still -- and everything and that led into
 11 the argument of, well, you're still talking to Heather.
 12 You're still doing this, you're still doing that, and I'm
 13 like this has nothing to do with anything. Why are we
 14 arguing over something that's stupid right now."
 15 Q So it was the sheets that had been stained?
 16 A I'm guessing so, sir.
 17 Q You're saying you told Theria that it was -- that we can
 18 just wash out the sheets?
 19 A I was saying that we could just wash the vomit or
 20 whatever that was on the sheets. It's not that big of a
 21 deal.
 22 Q Are we talking about a garment or are we talking about
 23 sheets?
 24 A Sheets.
 25 Q And then two lines down from that the investigator

1 says, "But how was he acting though? He sounds pretty ill
2 if you lose control and all that." Your answer?
3 A "He started to try to eat food again. I was like,
4 Minor let's clean up and whatnot. His mom put it to him
5 like he needs to actually finish his food and whatnot. But
6 during the process of us still bickering I'm cleaning up
7 from where he puked up everything, trying to take his plate
8 from him and whatnot. And I was going to set it aside for
9 him if he was hungry later on."
10 Q Is that true, that you and Theia had been arguing that
11 day?
12 A We'd been arguing several days.
13 Q Part of it was about you were talking to at least a
14 woman named Heather?
15 A A friend of mine named Heather. And it was also along
16 other things as well.
17 Q And this was about a week since the time that she had
18 moved out and moved to the hotel?
19 A It had been going on since before then.
20 Q Okay. Then the investigator, in the middle of the
21 page, says, "Okay. And then you take him to the bathroom?"
22 And your answer was, "Yeah, and we clean up."
23 A "Yeah, and we clean up and whatnot. I did -- I myself
24 did actually get sick that night, too. I actually threw up
25 in the toilet." That's supposed to be toilet.

1 Q Well, read your answer and then you can --
2 A Threw up in the bathtub. Not the bathtub, but the
3 toilet myself.
4 Q And you testified that the vomit -- the photograph of
5 the vomit in the toilet is actually yours?
6 A Yes, sir.
7 Q And that is the bathroom that you were cleaning Minor
8 -- which bathroom did you clean Minor up in?
9 A The very same one that had the vomit in it. He was
10 cleaned up in the bathtub.
11 Q I'm kind of curious now because the master bedroom has
12 a bathroom in it, doesn't it?
13 A Yes, sir. It does.
14 Q The -- you have to walk all the way across the other
15 side of the house to get to the other bathroom?
16 A Yes, sir.
17 Q Why would you use that bathroom?
18 A She wanted us using the other bathroom because she
19 wanted the big bathroom that had the big tub in it to
20 herself.
21 Q The child has -- I assume he had thrown up on himself,
22 too?
23 A Yes, sir.
24 Q Where was he stained?
25 A What do you mean about where was he stained?

1 Q Well, you said you cleaned him up. Did you just have
 2 to wipe off his clothes or did you take the shirt off and
 3 wipe off his chest?
 4 A No. He just had a little bit on his shirt.
 5 Q So that's all? You didn't take any clothes off? You
 6 just wiped off his shirt?
 7 A Yes, sir.
 8 Q Now, was there a cold going on around, or do you know
 9 what caused you to get sick? Was it food sickness or do you
 10 think like you caught the flu or a stomach bug?
 11 A I'm not sure. I'm not sure. I didn't have a fever or
 12 anything or get a flu bug either, fever and diarrhea and
 13 everything.
 14 Q I'm just curious what made you throw up like that.
 15 A I'm not sure.
 16 Q Had you been sick the day before?
 17 A No.
 18 Q So this was just something that snuck up on you that
 19 same day?
 20 A I'm guessing.
 21 Q The investigator's last paragraph on that page he says,
 22 "Here's the thing that's confusing. I understand you had
 23 some issues happen when you were a child, but you've
 24 showered with this child before and you've helped him bathe
 25 before. In fact, you were just about to tell me about

1 bathing the poop off of him. So how come sometimes you're
 2 comfortable with him and other times you're not?"
 3 A "I get him into the bathtub. I don't -- I don't never
 4 actually sit there watching him. I'll come in there and
 5 check on him and be like, Minor are you in there. Are
 6 you done. He'll say okay. And I'll say I'm about to come
 7 in and check and see. I'll look in there and see if he's
 8 got everything on. If you look like you still got some on
 9 you, make sure you get that off. There's only like -- been
 10 like one or two times I've actually sat and bathed with
 11 him."
 12 Q "Tell me about this time. Whenever you went in there
 13 to wash the poop off of him."
 14 A I told him that he's got poop on him and he got the
 15 rest of the poop off, and popped his butt and his head
 16 banged off the toilet, or whatever."
 17 Q I thought you just told us today he didn't actually
 18 poop on himself?
 19 A He did poop on himself in the bathtub.
 20 Q In the -- was this while you're cleaning him up from
 21 the --
 22 A No. While he was taking a bath. I said that earlier,
 23 too. He pooped in the bathtub.
 24 Q So before dinner or -- because you said he threw up at
 25 dinnertime, right?

1 A Yes, sir.
2 Q So before dinner you had given him a bath?
3 A No, after dinner.
4 Q So the child --
5 A When he threw up. I took him in there to take a bath.
6 Q The child throws up during dinner?
7 A Yes, sir.
8 Q You take him to the bathroom, clean him up?
9 A Yes, sir.
10 Q And then later that night is when you give him the
11 bath?
12 A No. The very same time while cleaning him up he takes
13 a bath.
14 Q Well, you just told us you just wiped his shirt off.
15 A Yeah, I wiped his shirt off to clean him up. You said
16 did he throw up on himself at all. I said no, I cleaned off
17 his shirt. I took him in there to take both though still.
18 Q Well, did you help him take his shirt off?
19 A Whenever he got to the bathroom?
20 Q Have you ever seen a two-year-old, three-year-old boy
21 take his own shirt off before?
22 A Yes. He's actually taken his own shirt off before.
23 Q So he's proficient at that?
24 A Yes.
25 Q He gets it over his head and everything without having

1 to have a parent help him?
2 A Yes, sir. He has--
3 Q So you do strip him down naked, or he strips himself
4 down naked?
5 A I help him strip himself down naked while he's in
6 there.
7 Q Okay. So you should have been able to see the injuries
8 to his groin, right?
9 A Yes, sir.
10 Q And now today you're saying that you did see them?
11 A Yes, sir.
12 Q Have you ever told anybody that before?
13 A Before today?
14 Q Yes, sir.
15 A The lieutenants that was there.
16 Q The investigator says, "He was sick, wasn't he, and you
17 were sick, too?"
18 A Yeah, but the tub or toilet was right there. But it
19 wasn't really hard. It wasn't nothing that was like --
20 cause our bathtub is made out of plastic and his head like
21 mainly from right here to the bathtub."
22 Q So at this point your admission -- your initial
23 admission to Chief McClurken where you had given him a hard
24 hit on the butt is now just a blow that's not detrimental to
25 his health?

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1 A A hard pat and still hitting a plastic tub would still
 2 not be detrimental to your health.
 3 Q "And what did you notice about his naked body then?"
 4 A "I did notice that he had like a discoloration on his
 5 butt, but --"
 6 Q "Tell me about his groin."
 7 A "I didn't look at his groin."
 8 Q But you're saying that's untrue?
 9 A I did say he had discoloration on his testicles.
 10 Q Is that not -- am I missing something? Is that not the
 11 groin?
 12 A Yes, sir. It is.
 13 Q The testicles aren't the groin?
 14 A Yes, they are.
 15 Q Are you saying it is -- when you told the investigator
 16 just two weeks ago or so, I didn't look at his groin, is
 17 that true or not true?
 18 A It is true. And I did inform the investigator as well
 19 that I did see the discoloration on his testicles and his
 20 penis, if you've actually read all this.
 21 Q So in your mind groin and penis are two different --
 22 and testicles are different things?
 23 A No, they're not different things.
 24 Q Well, the investigator says, "That makes no sense to
 25 me. I mean, I've tried to. I want you to explain this to

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1 me. You're not doing a good job."
 2 A "I'm telling you I saw discoloration on his butt and I
 3 saw something in that area but didn't actually sit there and
 4 just like try to look at his stuff like that, because after
 5 he got back up he got into the bathtub and I went back -- I
 6 went back there to the livingroom and whatnot because she
 7 was getting ready to leave and she was talking to me and
 8 whatnot."
 9 Q So your testimony is when you took him back into the
 10 bathtub that is when Theia was leaving?
 11 A At that point in time, yes.
 12 Q And the boy is still able to bathe himself at that
 13 point?
 14 A Yes, sir.
 15 Q He's not in pain when he's in the bathtub?
 16 A I didn't notice at that point in time he was in pain.
 17 He didn't look like he was in pain when I left him.
 18 Q So he's got these injuries, you're saying, to his groin
 19 at that point and he doesn't wince or complain when he sits
 20 down in that hot water in that bathtub?
 21 A It wasn't hot hot. It was like lukewarm. And he
 22 didn't wince or anything from what I saw.
 23 Q Was Minor a pretty tough boy or did he kind of
 24 complain at kind of small injuries?
 25 A It depends, I guess, at times.

1 Q And the investigator says, "Where are those pictures
2 we've got? Do we have them printed out?"
3 A "I seen those pictures. Me and him have been over the
4 pictures."
5 Q By me and him who are you talking about?
6 A Me and my attorney.
7 Q So you had seen all these photographs that the
8 prosecutors are --
9 A Yes. A few days before we came over here.
10 Q Well, this is obviously back in March. March 10th.
11 A Yes, sir.
12 Q The investigator says, "How did you miss that?"
13 A I said, "I seen some of the bruises on him but a lot of
14 them looked old, so I didn't really pay any attention to
15 them. I talked to her then -- talked to her then how this
16 happened or how did that happen. Because I pointed out the
17 stuff on his ear one time and she was like, well, I popped
18 him on the ear one time. And I'm like, so why are you
19 hitting him. I said I seen this when I saw the
20 discoloration on his rear end and I guess -- I saw, I guess,
21 you would call it taint or his gootch -- I saw, I guess, you
22 would call it taint or gootch, or whatever it is. The spot
23 between the testicles."
24 Q So -- well one, you're saying that when you saw some
25 bruises on his ears in the past you did stand up to Thela at

1 that time and say why did you hit him?
2 A I asked her what happened there.
3 Q But at other times you wouldn't ask her about that?
4 A I did stand up for him on occasions, but not every
5 time, yes.
6 Q But you're saying when he was in the bathtub -- I'm not
7 real smart about this. But I guess the taint or the gootch
8 would be that area of skin between your testicles and your
9 anus?
10 A Yes, sir.
11 Q And that's where you're saying you saw the
12 discoloration?
13 A Yes, I saw some discoloration there.
14 Q Well, I mean, isn't that attached to his scrotum?
15 A Yes, sir. It is.
16 Q And you didn't notice that they were dark blue at that
17 time, or purple?
18 A Yes.
19 Q You're not telling that to the prosecutors are you?
20 A I did explain that to him. As I said, if you keep
21 reading through it, it's in there.
22 Q All right. Well, we're going to, trust me. The
23 investigator said, "How are you seeing that part without
24 seeing his crotch?"
25 A Because he was bent over.

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1 Q So when Minor -- why is Minor bending over?
 2 A When I patted his butt.
 3 Q That's after he pooped and you -- did you tell him to
 4 bend over so I can spank you?
 5 A I told him to just bend and he bent and I popped his
 6 butt.
 7 Q Which propelled him into the bathtub?
 8 A Yes, sir.
 9 Q At the moment that you hit him like that, that's when
 10 you noticed the discoloration and the skin area between the
 11 anus and the testicles?
 12 A I hadn't noticed it before.
 13 Q First time you saw it?
 14 A Yes, sir.
 15 Q The investigators says, "I feel like you're trying to,"
 16 Your answer?
 17 A "I'm not trying to cover her. I'm telling you
 18 everything I saw. He was bent over."
 19 Q And that's true. You're not trying to cover for Theia,
 20 are you?
 21 A I wasn't.
 22 Q You're trying to cover for you?
 23 A No, I'm not trying to cover for me. I'm telling you
 24 everything that happened.
 25 Q The investigator says, "It's impossible to have missed

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1 that -- his crotch. I mean, I've never seen anything like
 2 that."
 3 A "He was bent over at the time."
 4 Q "And he's not complained about that?"
 5 A "He didn't complain at that time. He did complain
 6 earlier at like 2:00 or 3:00 whenever he said ouch. But I
 7 never took the time to actually stop and look at his groin.
 8 I can show you on here the ones that I've seen. I can show
 9 you the ones I believe are from where his head hit off the
 10 coffee table, too."
 11 Q So at this time you've got these photographs of
 12 Minor's body that you're pointing out bruises that you're
 13 saying I did see and didn't see?
 14 A Yes, sir. They asked me about the ones --
 15 Q The investigator says, "What about the bathtub?"
 16 A "He didn't have anything on his head from the bathtub.
 17 Our bathtub is made out of plastic in the trailer."
 18 Q So you're telling the investigator at the time you hit
 19 him he didn't have any bruises?
 20 A No, sir.
 21 Q If he had any bruises, it had to be somebody else.
 22 Investigator says, "Okzy. So tell me about the bathtub
 23 though. What happens after he gets washed off?"
 24 A "He gets out of the bathtub and puts on a diaper. Puts
 25 on his clothes. He comes out there and I'm like, Minor do

1 you want to watch a movie. He said no, he was tired. I
2 said, do you want to watch a movie or you want to go lay
3 down. He said lay down. He went to go lay down. He was
4 laying down by the time she came and whatnot. She came back
5 with the cat first off and I was like why would you bring
6 another cat. We've got enough cats. Like why are you
7 bringing more animals when we can barely take care of the
8 stuff we have to deal with anyways right now. Well, she
9 left -- but she left that in the house. She ended up going
10 back to Spartanburg County. She well went to go back
11 towards -- heading towards Spartanburg. She was gone, I
12 remember -- I think we left to come to Newberry around 11:00
13 or 12:00, I think, if I remember correctly."
14 Q Well, here you're saying that at the time the child was
15 in the bathtub Theia had already gone to the gas station.
16 A Uh-huh.
17 Q So while you're alone with the boy and he's taking a
18 bath Theia has already gone?
19 A He'd gotten out of the bathtub at that point in time.
20 Q Does Minor wear Pull-Ups or diapers?
21 A He wears diapers.
22 Q And diapers have like the two Velcro strips that you
23 can do on the sides to secure?
24 A Yes, sir.
25 Q And this two-year-old boy could put on his own diapers?

1 A He could -- well, you said -- the diaper, the ones with
2 the things on the side, they were Pull-Ups I guess you would
3 call them.
4 Q Well, I'm asking the question. Are they Pull-Ups or
5 diapers?
6 A I'm guessing the ones that you just pull right up are
7 Pull-Ups. Those are Pull-Ups. Yes, he wore Pull-Ups.
8 Q And does Minor just happen to know where they're
9 stored in the house, or how does he get them?
10 A Yes, he knows where they are stored in the house. We
11 actually showed him where we put those diapers in the house.
12 They're underneath the sink in his bathroom.
13 Q So he opens up the sink in his bathroom --
14 A Yes, under the --
15 Q -- pulls his Pull-Up out of the box?
16 A Yes, sir. He learned how to do that, so.
17 Q He's just a fairly self -- all right. End of that
18 page. The investigator says, "Okay. What time do you think
19 she, Theia, got back?"
20 A "I remember she left around 7:00 or 7:00 to go towards
21 the gas station. I guess she went to go get gas, but she
22 was supposed to be heading for Spartanburg. She stopped at
23 the gas station. She brought the cat back. She left again
24 like a couple of minutes after she brought the cat back. So
25 it wasn't that long she was at the house after bringing the

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1 cat back she left to go.
2 Q So Theia went to the gas station. She came back for
3 just a few minutes to give you the cat and then she left
4 immediately or shortly thereafter?
5 A Yes, sir.
6 Q So she's gone from 7:00 or 8:00 in the evening until
7 she comes back around 11:00 or 12:00 when you all head to
8 Newberry?
9 A Yes, sir.
10 Q Who's with Minor from 7:00 in the evening until 11:00
11 -- until she comes back at 11:00 or so?
12 A Myself.
13 Q Just you?
14 A Yes, sir.
15 Q So it's from 8:00 to 12:00, that's four hours. Or from
16 8:00 to 11:00 would be three hours that you were with the
17 child alone?
18 A Yes, sir.
19 Q Any visitors come by?
20 A No, sir.
21 Q Any strange -- nobody strange? No family members? Did
22 you take the child anywhere?
23 A No, sir.
24 Q Well, you couldn't do that because the car was broken,
25 right?

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1 A The car -- the other car she had.
2 Q When did she get back from the call?
3 A She got back from the call around 11:00 or 12:00
4 because that's when we sat down. She was like I don't know
5 if I want to go out to Spartanburg or to Newberry. I said I
6 don't know where Newberry is. I've never been out there.
7 She was like, do you think I should go. I'm like I don't
8 know. I was telling her I really don't care what you do.
9 That's your stuff. Because we had been into a big argument
10 over this whole -- her doing.
11 Q Well, I thought you told earlier that you had been
12 trying to get her out of prostitution?
13 A Yeah, I did.
14 Q But at this night you were saying you do what you got
15 to do?
16 A. I told her I don't care what she does. That's on her.
17 I've told her before if she decided to continue to do that,
18 that's on her.
19 Q But she asked your advice on whether she should go or
20 not?
21 A Yes, sir. I told her, I said, if you don't feel
22 comfortable with doing it, don't go. But I don't care what
23 you do.
24 Q And the -- had you ever been to Newberry before?
25 A No, I hadn't.

1 Q Do you know if Theia had ever been to Newberry before?
2 A I don't know.
3 Q What time did you put Minor to bed? Because we know
4 that Theia leaves between 7:00 and 8:00.
5 A Yes, sir.
6 Q What time -- does Minor have a bedtime? Does he put
7 himself to sleep?
8 A Normally?
9 Q Yes, sir.
10 A No. Normally he stays up with us most times. He'll
11 stay up until like 8:00 or 9:00 most times.
12 Q So he's got a general bedtime but not a --
13 A Not a general one.
14 Q Well, I mean, it's just generally between 8:00 and
15 9:00? It's not like at 8:00 you have to go to bed, or 9:00
16 you have to go to bed?
17 A There's no set time.
18 Q And that's when Theia is with you and that's when
19 you're on your own?
20 A Yes, sir.
21 Q Is it just the child just starts getting drowsy and
22 puts himself to bed or did somebody actually take him to
23 bed?
24 A I told him to lay down and he went to go lay down.
25 Q And you rely on a two-year-old just doing that?

1 A I mean, it's not like he had to climb into a bed or
2 anything with the mattress on the floor.
3 Q And then you watch TV in the master bedroom?
4 A And dozed off. Yes, sir.
5 Q Now, when you all sleep does the master bedroom door
6 get closed or do you sleep with the door open?
7 A It gets closed. There's a few times that it stays
8 open, but most of the time it's closed.
9 Q That doesn't get a little bit cold since the heater is
10 in the livingroom and if you close the door it kind of gets
11 cold in the bedroom, particularly on December 30th, doesn't
12 it?
13 A Yes, sir. But I normally have the AC on anyways.
14 Q You didn't run the heat during the winter?
15 A Not really. I leave the AC running.
16 Q In winter?
17 A Yes, sir.
18 Q Okay. And the investigator said, "So how long has she
19 been home before you all go down to Newberry?" And then I
20 think about seven to 10 lines own it starts off -- your
21 answer was --
22 A "How long was she doing that?"
23 Q Your answer was, "We were probably home for like 15 to
24 20 minutes." Do you see that?
25 A "We were probably home for like 15 to 20 minutes trying

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1 to debate to come out to Newberry, and the whole time I told
2 her I really don't -- I don't really care what you do. Like
3 it's on you. I've told her -- I've told you from the start
4 I'd like -- I really don't feel comfortable with you doing
5 this. I'd rather you not do this. I don't really want a
6 part in it."

7 Q And then on the -- your first line on the next page.

8 A "I know I had woke him up. He was crying --"

9 Q Stop right there. You just told this jury less than
10 two hours ago she woke up Minor. She dressed him. She
11 put him in the car. Your statement two and a half weeks ago
12 is that you woke him up.

13 A Yes, sir.

14 Q And your statement to Investigator McClurken was that
15 you put him in the car and dressed him?

16 A Yes, sir.

17 Q Which is the true answer?

18 A She woke him up whenever she came into the house. She
19 was already loud when she came into the house.

20 Q So your answer two and a half weeks ago to their
21 investigator was "I know I had woke him up" is another
22 incorrect or untruthful statement?

23 A What I meant by that is when I came in to get him out
24 of the bed I had actually woke him up. He was already kind
25 of awake when she came into the house making noise coming

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1 back from Spartanburg.

2 Q Keep reading.

3 A "He was crying and complaining, upset and whatnot. I
4 was trying to help him get in the carseat and everything.
5 We get him in the carseat. She's telling him to shut up
6 because she's in a bad mood. Still I'm like chill out.
7 Like don't -- like don't take it out on him."

8 Q "I was trying to help him get in the carseat." So
9 you're saying now that that's not actually correct? That's
10 was the one putting him in the carseat?

11 A He was in the carseat. I sat him in the carseat. He
12 didn't buckle up. She had turned around and popped him for
13 not buckling up correctly.

14 Q Well, when did you tell us that? I mean, you didn't
15 tell the jury that just within the last two hours.

16 A I had told them --

17 Q It just came to your head a second ago?

18 A No. I did tell the jury that she struck him whenever
19 he didn't buckle up correctly.

20 Q Then the investigator says, "Back up, because you were
21 -- you didn't want to go to Spartanburg earlier and you
22 stayed home. But on this time you said you just go ahead
23 and do whatever you need to do. How do you get from there
24 to riding down with her and bringing Minor?"

25 A "She wanted me to come with her because she didn't feel

1 comfortable coming to -- or coming to Spartanburg -- or not
2 Spartanburg but Newberry. She'd been to that call in
3 Spartanburg before. It was some dude she called Papi, or
4 Papi Chula or some craziness. She'd been -- she'd been
5 seeing him before, so she didn't really feel the need for me
6 to go out there, and I didn't want to go out there."
7 Q And Papi was a guy that she'd been seeing for a while,
8 right?
9 A For like a month, I guess. Yeah.
10 Q And the investigator says, "All right. How did she
11 talk you into coming down here?"
12 A "She said she didn't feel comfortable. She said that
13 she'd like for me to come with her. I tried to stay at home
14 and she was like, well, I've never been to there before. I
15 don't feel comfortable. Something in me. I feel weird
16 about something. If I go down there something might happen.
17 I'm like fine, screw it, I'll go. I really don't want to.
18 But you're going to keep bugging me about it and you're
19 going to keep arguing -- arguing with me about this. So if
20 you want to go, let's get up and let's go. I'd rather stay
21 home and go to sleep. But the only reason why I ever went
22 on any of her calls with her was due to the fact she felt, I
23 guess, scared to go or if it was new for her or whatever the
24 case may be.
25 Q So you agree that you had been on other calls with her

1 before?
2 A A few ones, yes. If it was new for her and she'd never
3 been out there before.
4 Q And that's why you all keep a knife in the car, incase
5 she gets attacked?
6 A I don't know. It's not my knife.
7 Q Well, how do you protect her? How do you propose to
8 protect her if she gets attacked? Just with your fist?
9 A I never really considered that in all honesty.
10 Q So you're going with a prostitute to meet a stranger at
11 night and she asks you to ride with her for safety --
12 A Yes, sir.
13 Q -- and you never considered what you were going to do
14 incase she got jumped?
15 A I never really took it into consideration in all
16 honesty.
17 Q So that's not why the knife was in the car?
18 A It wasn't my knife. My knife got taken back in
19 Spartanburg during an incident that happened there. So
20 that's the only knife that I had.
21 Q You knew how to use that knife then, didn't you?
22 A It never got used.
23 Q You didn't cut up a guy named Michael Brown?
24 A I didn't cut a guy named Michael Brown with a knife.
25 That happened in Asheville, and that was a cup that I

RICHARD BOWMAN: CROSS EXAMINATION

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- 1 already told you earlier.
- 2 Q What about the -- the pepper spray in your car wasn't
- 3 for defense?
- 4 A That was her friend's Tiffany's that she left for her.
- 5 Q And the gun under the front seat wasn't for scaring --
- 6 A I don't know.
- 7 Q -- at least scare people away?
- 8 A I don't know. I didn't even know she had a gun.
- 9 Q Okay. Then the investigator says, "Did you or Theia
- 10 express any concerns about Minor being sick for dinner --
- 11 from dinner?"
- 12 A "I did ask her, like you got a feeling why he's
- 13 throwing up and whatnot. She was like he's thrown up
- 14 before. And I'm like, okay, I mean, he's your son. I
- 15 really can't make you do anything for him. But that's kind
- 16 of weird he threw up and pooped on himself. But we had been
- 17 trying to potty train him for a while, so he has pooped on
- 18 himself before. So it wasn't really too strange that he had
- 19 pooped on himself."
- 20 Q Now, I thought you just told us that when the child
- 21 threw up on himself in the bedroom --
- 22 A Yes, sir.
- 23 Q -- and you took him, you wiped off the clothes --
- 24 A Yes, sir.
- 25 Q -- and then you ran the bath for him?

RICHARD BOWMAN: CROSS EXAMINATION

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- 1 A Yes, sir.
- 2 Q And while that was happening Theia went to the gas
- 3 station?
- 4 A Yes, sir.
- 5 Q Well, how are you having this discussion about him
- 6 pooping on himself --
- 7 A That was --
- 8 Q -- if you took the child to the bathroom to wash him
- 9 off?
- 10 A That was on the way down here to Newberry. This
- 11 conversation. It said that in there.
- 12 Q So when the investigator asked if you expressed any
- 13 concerns about being sick, that wasn't until after you were
- 14 in the drive -- after you had agreed to go to Newberry?
- 15 A Yes.
- 16 THE COURT: I apologize for interrupting. Solicitor,
- 17 Mr. Verner, would y'all approach briefly, please?
- 18 (Whereupon, a sidebar was held outside of the presence
- 19 of the jury.)
- 20 THE COURT: Ladies and gentlemen of the jury, it is
- 21 approximately 7:25. I will tell you that I've been trying
- 22 cases for about 23 years now and you guys are some very good
- 23 sports and some hardworking individuals. If you ever need a
- 24 reference from an employer about how dedicated you are, I'll
- 25 be more than happy to provide my card to you and you can

1 offer it at your convenience. What we're going to do is
2 take a break for the evening because we still have some more
3 work to do with regard to this witness. If I am fading and
4 I do this professionally then y'all may be fading as well.
5 Obviously, it's important to pay as close attention as
6 possible to the witnesses who testify. I'm going to ask
7 that you be back in the jury room in the morning at 9:00.
8 Counsel will be out here and everybody will be out here and
9 we will start promptly at 9:00. I'm not seeing anybody
10 object to that so we're going to go with that. See you at 9
11 in the morning. Same rules apply. Don't talk about the
12 case. Have a great evening. You've earned it. See you in
13 the morning. Thank you.

14 (Whereupon, the jury exited the courtroom at 7:25 p.m.)

15 THE COURT: Sir, no discussing your testimony with
16 anyone over the evening.

17 MR. BOWMAN: Understood.

18 THE COURT: If I could see the attorneys in chambers and
19 Mr. Brown, join us too. We'll be at ease.

20 Trial Day 4

21 THE COURT: One housekeeping matter. The Clerk of Court
22 called me this morning explaining that juror number 179, Ms.
23 Miller, had basically woken up with a rather extreme case of
24 vertigo and that she was unable to sit up. The Clerk then
25 called her back after speaking to me and asked her to make

1 all reasonable efforts to get here. I told the Clerk to
2 instruct her that if it was not possible and she was not
3 able to function or sit up erect then we would be inclined
4 to use the alternate. Ms. Miller called back subsequently
5 and explained that she was not in any position to serve any
6 longer and she very much wanted to address this. Obviously
7 she was invested or she felt very invested in this case. If
8 I'm not mistaken, Ms. Miller is the white female who has
9 been sitting on the back row with the black hair and
10 somewhat slender build. So we're going to be substituting
11 Mr. Lominick who is the alternate. We will be substituting
12 him for Ms. Miller. I will explain that when they come out.
13 Nothing further before the jury comes out? Let's have the
14 jury, please.

15 (Whereupon, the jury entered the courtroom at 9:05
16 a.m.)

17 THE COURT: Ladies and gentlemen of the jury. Welcome
18 back. Good morning. We had a few problems this morning.
19 One of which was Ms. Miller, Juror 179. Unfortunately, she
20 suffers from vertigo. As someone who actually had to try
21 and hold court with vertigo myself I sympathize with her.
22 She is simply unable to continue to serve. She can't even
23 sit up, is what she related to us. I've excused her from
24 further responsibility concerning this case, which means Mr.
25 Lominick, you'll be the -- you will substitute for her. We

RICHARD BOWMAN: CROSS EXAMINATION

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1 have to have at least 12 jurors, so you will be now a full
 2 member of the jury. This happens about half the time, Mr.
 3 Lominick. Consider yourself now a full member of the jury
 4 and you will participate in deliberations once we get this
 5 case to you. We are still involved in the cross-examination
 6 of the last witness. Again, thank you for being here this
 7 morning. We also had a logistical issue with transport from
 8 SCDC which I had to resolve, but that's now been resolved.
 9 We are now going to continue with the cross-examination of
 10 this witness. Sir, I'll remind you that you're still under
 11 oath. Mr. Verner, you are recognized, sir.

12 MR. VERNER: May it please the Court.

13 RESUME CROSS-EXAMINATION

14 BY MR. VERNER:

15 Q Good morning, Mr. Bowman.

16 A Good morning, sir.

17 Q I think let's just get to where we both know the
 18 questions are going.

19 A All right.

20 Q You told Investigator McClurker, Chief McClurken, and
 21 the SLED investigator that on the evening — on the date
 22 that Minor was dead and you saw the two investigators,
 23 that when you started hitting or beating the child that
 24 Theia was not in the home; is that true?

25 A Yes, sir. And I didn't tell I was hitting or beating.

RICHARD BOWMAN: CROSS EXAMINATION

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1 I spanked him.

2 Q You're going to have to speak up. I cannot hear you.

3 A I said I did not say I was beating him. I just spanked
 4 him.

5 Q You testified when he made you angry because of the
 6 poop in the tub and the throw up and you hit him, that Theia
 7 was not at the home; is that true?

8 A Did I tell that to the SLED agent, you asked me?

9 Q Yes, sir. And the investigator.

10 A Yes, that night. Yes. And it wasn't under anger.

11 Q At times you had Theia have had a violent relationship?
 12 Physically violent?

13 A Yes, sir.

14 Q At times you have been a controlling boyfriend?

15 A No, sir.

16 Q You didn't disable the car so she couldn't leave the
 17 home?

18 A No, sir. That was not me.

19 Q You've been in lockup, in custody, for over a year
 20 facing this charge; is that correct?

21 A Yes, sir. We both have.

22 Q You've had access to all of the State's case for a
 23 substantial period of that time?

24 A Yes, sir.

25 Q You've seen the evidence?

1 A Yes, sir.
2 Q You read the autopsy reports?
3 A I didn't read the autopsy reports, but I've seen
4 everything else. Yes, sir.
5 Q Well, you told the prosecutors just a month and a half
6 ago you read the autopsy reports, didn't you?
7 A No. But I still -- I don't understand the stuff in it.
8 Q You browsed through it but you didn't understand them?
9 A Yes.
10 Q But you understand Minor 's dead and he got beaten to
11 death, don't you?
12 A I understand that there was two different things inside
13 the autopsy report. The doctor said he had vomit in his
14 lungs and the autopsy report says something different.
15 Q Now, you understand you're in jail charged in some way
16 for the killing of Minor, don't you?
17 A Yes, sir.
18 Q And you've had the benefit of two lawyers during this
19 time, haven't you?
20 A Yes, sir. One that I fired prior because he wouldn't
21 see me.
22 Q I don't care. I'm not getting in your business. But
23 you've had legal advice over that period of that last year,
24 right?
25 A Yes, sir.

1 Q You were aware you were going to trial this month,
2 right?
3 A Yes, sir.
4 Q At some point somebody must have told you, or you
5 figured it out yourself, that you're in a bad position.
6 That your stories just don't work and that you better change
7 your strategy. Is that fair to say?
8 A No, sir. It was no change in strategy. They asked me
9 -- I was asked to come forth with what happened that day.
10 Q The -- and, in fact, it would be fair to say that
11 you've given just so many different side tails and stories
12 that it's just almost impossible to figure out what you're
13 even talking about?
14 A Only two stories. Yes, sir.
15 Q You had a meeting with members of the prosecution about
16 two and a half weeks ago, right?
17 A Yes, sir.
18 Q You admit the stories -- you admit giving confessions
19 or statements to the police on December 30th of 2014, but
20 you're now saying that I lied at that time?
21 A Yes, sir.
22 Q In fact, the stories you gave the prosecutors just two
23 and a half months ago were so unbelievable they walked out
24 of the room on you, didn't they?
25 A Two -- you said two and a half months ago?

RICHARD BOWMAN: CROSS EXAMINATION

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- 1 Q On March 10th.
 2 A Okay.
 3 Q The stories were so unbelievable they left you and your
 4 attorney alone; is that correct?
 5 A We were going over the story about what happened that
 6 night, yes.
 7 Q And then you all -- you met with your attorney and you
 8 called him back and changed your story and agreed to testify
 9 today?
 10 A I didn't change my story, but just gave him the full
 11 story.
 12 Q So you initially just gave them part of the story, but
 13 they walked out on you, and then you said, okay, I'll give
 14 you the rest of what you want, and they came back. Is that
 15 --
 16 A They asked me about what happened on the 29th. I had
 17 to explain the 27th and 28th as well.
 18 Q And you spoke to them for about three hours, or 72
 19 pages, which I'm just too tired to go over anymore with you
 20 line by line. Is that fair to say?
 21 A I'm not sure how long the time was, but --
 22 Q You've seen the case file?
 23 A Yes, sir.
 24 Q You're aware that a lot -- in fact, all the evidence
 25 points at you, right?

RICHARD BOWMAN: CROSS EXAMINATION

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- 1 A No, actually it doesn't, sir. I've seen the full case
 2 file and the other parts that weren't brought up in this
 3 trial, I guess.
 4 Q Gabriel would have been dead at least 15 minutes, up to
 5 two hours, before you even took him to the emergency room
 6 with Theia; is that correct?
 7 MR. DANIEL: Objection, Your Honor. That would be
 8 speculation.
 9 THE COURT: Sustained.
 10 Q How long was Minor dead before you took him to the
 11 emergency room?
 12 A I figured out he wasn't responding when she got in the
 13 car.
 14 Q How long was that before he's not responding, how long
 15 before you took him to the emergency room?
 16 A We took him immediately to the emergency room. We were
 17 trying to drive towards it. She wanted to go to Laurens and
 18 I said we need to find a hospital right then and there.
 19 Q So how long did it take you to go from the man's house
 20 in Newberry to the hospital?
 21 A I honestly couldn't say, sir. I didn't have a watch on
 22 and I wasn't timing it.
 23 Q It's a panic situation and time just moves at different
 24 speeds in that type of situation, right?
 25 A Yes, sir.

1 Q Is it possible it took you 15 minutes to get to the
2 hospital?
3 A I'm not sure, sir.
4 Q How long had Minor been unresponsive before you took
5 him to the hospital?
6 A We took him immediately once he was non-responsive, as
7 I just stated, sir.
8 Q How long was he non-responsive in the car? Because you
9 told Theia something concerning. You said he's -- he had
10 stopped waking up in the car. How long had that been?
11 A He had stopped breathing, but I woke him up and he was
12 breathing again, and I went to sleep myself.
13 Q And then you said I panicked and I started honking --
14 well, you didn't say panic, but you said I started honking
15 the horn.
16 A And honked the horn, yes.
17 Q How long -- I assume, if you're honking the horn while
18 she's entertaining a gentleman, that you think it's an
19 emergency situation enough to get her out of that house?
20 A Yes, sir.
21 Q But not enough of an emergency to actually knock on the
22 door or call 911 yourself, right?
23 A I didn't have a phone at the time. Her phone was
24 inside with her. And it would be kind of strange for me to
25 just go in some random guy's house that he didn't even know

1 I was outside the house.
2 Q You understand -- you've seen the autopsy report. I
3 understand you said you don't completely understand it. But
4 you've been over it, haven't you?
5 A Bits and pieces of it. Yes, sir.
6 Q But you understand that Minor died within minutes of
7 that head wound? Do you not understand that?
8 A I didn't understand that.
9 MR. DANIEL: Objection, Your Honor. That would be
10 assuming something that's not in evidence.
11 THE COURT: Overruled.
12 MR. VERNER: I believe the doctor --
13 THE COURT: I'll let the question stand.
14 Q Do you know that there's blood -- is there blood in
15 that car?
16 A I'm not sure, sir.
17 Q Well, let's get this straight. We know that Theia
18 arrived at that man's house about 12:22 from that phone
19 call. Is that about -- you all made a phone call from
20 outside that home?
21 A I didn't make a phone call. She did.
22 Q And you left Laurens -- or Spartanburg for Newberry
23 about what time?
24 A I'm guessing around 11:30, or maybe 10:00-ish. I'm not
25 sure, sir.

RICHARD BOWMAN: CROSS EXAMINATION

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1 Q Maybe even closer to 12:00?

2 A I'm not sure, sir.

3 Q You testified that you -- well, you've given statements

4 that you're the one who woke up Minor dressed him and put

5 him in the car to go to Newberry.

6 A Yes, sir. That's the statement I gave.

7 Q Prior to that time Theia had been gone on a call for --

8 since about 7:00 or 8:00 with only one time quickly to come

9 back and bring that kitten that she found?

10 A The cat back. Yes, sir.

11 Q So that leaves Richard Bowman alone with Minor

12 McArdle from somewhere between 7:00 and 8:00 p.m. until you

13 reach the hospital? That child is in your continuous

14 presence from somewhere between 7:00, 8:00, 9:00, 10:00,

15 11:00, 12:00, 1:00, 1:35 at the hospital. What, about seven

16 hours is that?

17 A Yes, sir.

18 Q Continuously that child was in your presence?

19 A Yes, sir.

20 Q And the question I want to know is, either that child

21 did something that made you so angry in Sparanburg while

22 Theia was gone that you got too angry and lost control and

23 hit the child and he went to bed, or you put him in bed.

24 You know the vomit is in the child's bed, not in your bed,

25 right?

RICHARD BOWMAN: CROSS EXAMINATION

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1 A Yes, sir. And I already explained to you about that

2 yesterday, sir.

3 Q Well, explain it to me again.

4 A Some of his stuff was in our room when he was eating

5 and his vomit did go on his stuff as well. I had wiped the

6 vomit off his stuff that was on it, put it in his bed -- and

7 I put it on his bed when he went to go to sleep. And I

8 wiped off the stuff in our room as well. And no, to answer

9 your question. I didn't get mad at him at all.

10 Q When you beat him like that, did it make you physically

11 unwell that you threw up?

12 A No, sir. I threw up before that, sir.

13 Q You told the investigators that when you first hit him,

14 you're saying the only time, but Theia had already gone to

15 the store. So your story to the jury yesterday that Theia

16 was with you and she's the one who told you to hit him would

17 not be true, right?

18 A That is true.

19 Q Either Minor --, because he defecated in the toilet or

20 threw up, made you so angry that you hit him so hard --

21 A He didn't throw up in the --

22 Q -- or beat him and then put him to bed that he did not

23 recover the rest of the night?

24 A We established yesterday the vomit in the toilet, that

25 was my vomit.

1 Q We established that yesterday --
2 A Yeah, you asked --
3 Q -- or you said that yesterday?
4 A You asked me that. We established that yesterday. And
5 the reason why he got popped on the butt was just the fact
6 that he defecated in the bathtub. That was stated yesterday
7 as well, sir.
8 Q Theia had left at 7:00 or 8:00 and when she came home
9 it's almost 11:00, because you all only spent a few minutes
10 before you decided to go to Newberry, right?
11 A We spent a couple of minutes trying to decide whether
12 she wanted to go or not. And I really wasn't trying to go
13 because I was tired.
14 Q Minor would have been, for all intents and purposes,
15 long asleep ordinarily by the time Theia came home at 11:00
16 to 12:00 at night?
17 A He had actually woken up from her coming inside being
18 loud.
19 Q And that if you put the child in the car, she wouldn't
20 have seen the condition of that child at that time. She
21 would have assumed he's sleeping, right?
22 A He was actually awake whenever he got in the car. He
23 was wining and whatnot. I stated yesterday when I told the
24 Solicitor when he asked me about that.
25 Q Well, let's go to that theory. That Minor 's still

1 conscious when you put him in the car.
2 A Yes, sir.
3 Q You've had no testimony that Theia punched that child
4 in the head or -- other than you're saying that at times you
5 put the child in the carseat and then at times you're saying
6 she got frustrated and putting him in the carseat and hit
7 him in the stomach.
8 A Yes, sir.
9 Q But when she drove with the child directly behind her
10 from Spartanburg to Newberry --
11 A Yes, sir.
12 Q -- that child's not hitable if you're driving down the
13 road.
14 A She wasn't driving at the time, as I stated yesterday.
15 We were still in our parking -- our driveway. She wasn't
16 driving.
17 Q You were driving?
18 A No, she was driving.
19 Q Right.
20 A Mean, we were still parked. He was trying to put on
21 his seatbelt -- or his buckle. We weren't driving at that
22 time. So it's kind of easy to turn around if you're in the
23 driver's seat.
24 Q And then you said that she hit him in the stomach?
25 A Yes, sir.

RICHARD BOWMAN: CROSS EXAMINATION

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1 Q And you've also told us before that you were at some
 2 guy named David's house and she hit him or -- hit him in the
 3 crotch because he grabbed his crotch --
 4 A Yes, sir.
 5 Q -- conveniently that nobody saw even though it was at
 6 somebody's house?
 7 A Yes, sir. David was inside the kitchen making dinner
 8 and cooking.
 9 Q He was inside the kitchen, but you told the prosecutors
 10 in March 10th that it might have happened in the car and
 11 that's the reason. When they asked you why he didn't see it
 12 you said, well, maybe it happened in the car.
 13 A I didn't say it happened in the car. I said it
 14 happened in his house. That might have been a typo. Or not
 15 a typo. Not a typo. But it might not have been. But it
 16 happened inside the house.
 17 Q So if you told the prosecutors two weeks ago that the
 18 reason David didn't see it was maybe it happened in the car
 19 at this house, that would be a mistake on your part or an
 20 untruthfulness?
 21 A It was a mistake being said on my part, yes. We were
 22 inside his house at the time when that happened.
 23 Q And then you also told the prosecutors that -- well,
 24 there was an incident the day beforehand, or something about
 25 going to McDonald's and --

RICHARD BOWMAN: CROSS EXAMINATION

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1 A Yes, sir.
 2 Q -- and Minor had punched or hit a child and Theia had
 3 slapped him in the back of the head?
 4 A Yes, sir.
 5 Q Again, that was in a day or two of Minor dying?
 6 A The 28th. Yes, sir.
 7 Q And it didn't occur to you to tell the police the day
 8 that Minor died, did it?
 9 A No, sir.
 10 Q And your testimony then was only that she slapped him
 11 in the back of the head, right?
 12 A Yes, sir.
 13 Q And again, there's nobody to corroborate what your
 14 story is, right?
 15 A The investigators asked me that day when he talked to
 16 me about what happened that day, not two days prior.
 17 Q So you wouldn't have had any reason to tell him what
 18 happened the day before --
 19 A When I did try to establish --
 20 Q -- if it's significant?
 21 A When I did try to go off and explain they said what
 22 happened within 24 hours, because they said all the stuff
 23 that happened to him happened within 24 hours.
 24 Q And you also told the prosecutors that you actually had
 25 gone to Laurens to the cell phone, because Theia had broken

1 your phone or done something with it because you were
2 talking to a woman. And then you went to a cell phone store
3 in Laurens to get it replaced.
4 A It's not in Laurens. It's in Spartanburg County.
5 Q The Cellular One place, or what's the place called
6 again?
7 A I'm not sure the name of the place. It's like Cellular
8 One or something, I believe.
9 Q Cellular One. And again, you're saying that he --
10 Minor aggravated her and so she hit Minor at the cell
11 phone store, right?
12 A I didn't say the cell phone place. I said the laundry
13 mat.
14 Q At the laundry mat? Well, you did say the cell phone
15 place because they asked you did the store clerk see it, and
16 you said, well, he must have been busy stocking phones or
17 something. Is that correct?
18 A That was a completely different incident. We didn't go
19 to a cell phone place that day. We went on the 27th. Not
20 the 28th.
21 Q So the cell phone place happened two days beforehand?
22 A Yes, sir.
23 Q And that was where?
24 A In Spartanburg County at the Cellular One place.
25 Q And then you also said on the 27th that you had gone

1 with Theia to court to Asheville on the 27th, right?
2 A Yeah. That was my initial --
3 Q Because you had court there?
4 A Yes, sir. That was my initial report. Yes, sir.
5 Q And then they asked you about what kind of court opens
6 up on a Saturday and you said, well, I remember we did court
7 but I can't really -- your details fell away again, right?
8 A I didn't even remember exactly which day we went up
9 there for court, but we had been up there at court -- or to
10 court between one of those days. The day prior, whichever.
11 I'm not sure. We had to go to Henderson County as well as
12 Asheville.
13 Q So you've got -- what you've decided to say is that
14 Theia must have hit the child in the past or spanked him too
15 hard that killed him on the 29th? Just that these were
16 lingering wounds that just finally got to this child over
17 time?
18 A Is that what I'm saying? I don't know.
19 Q I don't know what you're saying.
20 A I don't know medically anything about how that works,
21 so I couldn't really tell you if it was over the time or
22 what.
23 Q Well, let's go back to your story that Minor was
24 still conscious or alive when you put him in the carseat and
25 you all took him to Newberry.

RICHARD BOWMAN: CROSS EXAMINATION

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- 1 A Yes, sir.
- 2 Q Because you've also indicated at times he was talking
- 3 to you during that ride down there. You said he was whiny
- 4 and cranky at times.
- 5 A He was cranky throughout the time we was going down
- 6 there. I wasn't talking to him. I was talking to her.
- 7 Q At times you said he started snoring?
- 8 A Yes. He had started snoring once we hit the Clinton
- 9 exit. He fell asleep at that point.
- 10 Q Snoring so loud that you thought he might have sleep
- 11 apnea like you have?
- 12 A Yes, sir.
- 13 Q Okay. And then at times you said when he stopped
- 14 breathing that you asked him if he was okay and he said
- 15 uh-huh?
- 16 A We were in the parking lot -- or the driveway of the
- 17 gentleman's house. Yes, sir.
- 18 Q So that makes that boy conscious and thinking and alive
- 19 while we know Theia had been gone. That theory means that
- 20 that child threw up or did something in the car, or you got
- 21 impatient or angry at Theia and took it out on the child and
- 22 hit him in the car.
- 23 A No, sir.
- 24 Q Well, I mean, it's either somebody beats him in
- 25 Spartanburg and puts him to bed or somebody beats him in

RICHARD BOWMAN: CROSS EXAMINATION

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- 1 Newberry.
- 2 A No, sir.
- 3 Q It's one or the other, isn't it?
- 4 A No, sir.
- 5 Q What's the third option?
- 6 A I'm not sure, sir. But I didn't put my hands on him
- 7 inside the car. I was actually asleep in the car. I told
- 8 that to the investigators when they asked me, too. They
- 9 said what time was it. I said I wasn't paying attention.
- 10 The clock in the car wasn't working. I didn't have my
- 11 phone. I didn't have a watch, and I was asleep.
- 12 Q But you've said you had gone on the 27th to get your
- 13 phone replaced.
- 14 A It was still broken, sir. I didn't have a phone. I
- 15 said that yesterday like twice.
- 16 Q Then what's the point of going to the phone store on
- 17 the 27th?
- 18 A We went to a cell phone place to see if he can repair
- 19 it, but he wasn't able to repair it.
- 20 Q Were there any other phones found in your home?
- 21 A I'm not sure. I think one was a T-Mobile that belonged
- 22 to her, but it wasn't mine. That was Minor's play phone.
- 23 Q Do you know if it was blood in the backseat of that
- 24 car?
- 25 A Somewhere. But I cleaned up his face and gave him CPR.

1 There was the stuff that came out of his nose. I'm not sure
2 if it was blood or vomit.
3 Q Do you know at times that -- your initial story was I
4 was in the backseat the whole time with Minor when we were
5 in Newberry. But that was kind of bad because that puts you
6 next to that child, doesn't it?
7 A Yes, sir.
8 Q So your story today is I was actually in the front seat
9 the whole time, because that puts you a little bit further
10 away from that child, right?
11 A I was in the passenger seat for the drive down. And
12 remember I got to the backseat because I was trying to
13 resuscitate him with CPR.
14 Q You were in the front seat sitting on those Strawberry
15 beer cans.
16 A They were underneath the seat, if I saw the pictures
17 correctly from what my attorney showed me.
18 Q You understand the injuries to that child are more
19 serious than just punching him in the groin several days
20 beforehand?
21 A If I was looking at the autopsy report correctly and it
22 was explained to me. Yes, sir.
23 Q The reason you said you didn't see bruises in
24 Spartanburg while -- from the -- when the prosecutors and
25 many investigators asked you for days did you see any

1 bruises on the child and you said no. And at times you
2 said, well, I'm squeamish. I don't like looking at naked
3 bodies.
4 A Days? It was only the very first day that the
5 investigator ever talked to me. And I did inform him that I
6 saw a bruise on him from whenever her and her son were at
7 the hotel alone. And whenever she came to get me with the
8 client to bring me out there, due to had repaired the
9 argument that we had gotten into, and I saw a bruise on his
10 stomach. It was me as well as a young lady named Tiffany
11 that saw the same bruise and I asked her what happened. She
12 said he had fell into the bed. And I stated that yesterday
13 as well, sir.
14 Q So that was the bed that he fell on when she had left
15 you to leave her mobile home and move into a hotel in
16 Spartanburg?
17 A Yes, sir.
18 Q And a car that she or her mother had gotten because you
19 wouldn't fix --
20 A Her mother --
21 Q -- and locked off the other car?
22 A Her mother -- I didn't lock off that car, first off.
23 She locked it. Her mother took her to that hotel, and then
24 she bought herself another car while doing whatever she was
25 doing with her son while he was in the room.

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1 Q The reason that you give a child a bath and you don't
 2 see bruises on him on the 29th is because at that point the
 3 child didn't have those bruises on him?
 4 A He did have bruises on him on the 29th.
 5 Q Well, how do you give a bath without seeing bruises
 6 like that on him?
 7 A And I didn't bathe him. I had already explained
 8 yesterday as well, sir.
 9 Q How do you put a naked child -- or how do you have a
 10 naked child sit in the bathroom with you, run the bathtub
 11 for him, wash him off, watch him run through the house and
 12 not see profound bruises? There's only one of two options.
 13 I lied because I'm covering for somebody, or at that time
 14 there were no bruises on Minor.
 15 A Sir, my initial statement I did lie to cover for her.
 16 But I just gave my statement yesterday and stated he was in
 17 there by himself and gave himself a bath. He took off his
 18 own clothes, his own pull up and get in the bath. I stated
 19 that yesterday when you asked me this question.
 20 Q Well, I'm curious because you never seemed to have lied
 21 to cover up for her before.
 22 A Actually I did from the initial whenever I was
 23 questioned by the investigators and everything, sir.
 24 Q Well, just -- you've already made an agreement that the
 25 prosecutor is going to try to help you if you testify today,

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1 correct?
 2 MR. DANIEL: Objection, Your Honor.
 3 A No. I did not say anything -- sorry. Go ahead.
 4 THE COURT: Go ahead. Go ahead. Answer.
 5 A No, that was not said by me whatsoever. I believe
 6 you're putting words in my mouth. The prosecution asked me
 7 yesterday was I promised anything and I stated no. You
 8 asked me the same question. So you're putting words into my
 9 mouth.
 10 Q Okay. Well, I'm going to let you argue. Under any
 11 hope that perhaps your testimony and cooperation with the
 12 prosecution will help you in our dire situation today?
 13 A No, sir. None what --
 14 Q You don't think that possibly a conviction, getting
 15 these charges put over on Minor's mother, will help out
 16 Richard Bowman in a big way?
 17 A I don't even know, sir.
 18 Q You don't even know that?
 19 A No, I don't.
 20 Q You're going to let the next jury decide that? And
 21 you're not going to try to point fingers? You're just going
 22 to let the chips fall where they may?
 23 A Yes, sir. If it comes down to that, yes, sir. I will.
 24 Q That's right. I'm sure you will. And I suggest this.
 25 That you've got a much better chance, don't you, of -- at

1 the next trial showing that that baby was killed in
2 Spartanburg and not Newberry, because then they won't have
3 jurisdiction of you, right?
4 A You're the lawyer. I wouldn't know that.
5 Q Nobody's told you that?
6 A No, sir.
7 Q That they got to prove it happened here in Newberry?
8 A No, sir. As I said, you're the lawyer.
9 Q Well, just tell me which is it. Minor died in
10 Spartanburg or Minor died in Newberry?
11 A Whenever he was non-responsive he was in Newberry.
12 Whenever he was non-responsive we were inside the man's
13 driveway.
14 Q So your testimony is that Minor was still alive and
15 talking, responsive here in Newberry?
16 A Yes, sir.
17 Q Well, then you're in some legal trouble, aren't you?
18 A I'm guessing so.
19 Q And at that time that boy had not been out of your
20 custody for seven or so hours?
21 A On the 29th?
22 Q That's right.
23 A He was in both of our care throughout that day. He was
24 solely in my care towards 7:00 and 8:00 whenever she went to
25 her first call. And then when she came back he was in our

1 care -- both of our care yet again. Then when she went to
2 the man's house at 12:00, as she kindly said, that's when he
3 was in my care. So he was in both of our care throughout
4 the day.
5 Q That's right. And since 7:00 or 8:00 that night the
6 only time Theia had been around him was once when you she --
7 you said she briefly dropped off a stay cat she found and
8 then she left again.
9 A No, throughout the morning. There's more than 7:00 to
10 8:00 to 12:00 at night. There's 9:00 in the morning all the
11 way to that time as well, sir.
12 Q So your testimony now is that this child was in that
13 physical condition since the morning?
14 A I wasn't saying he was in that physical condition since
15 the morning. What I am saying and stating is that he was in
16 our care throughout that whole day.
17 Q That's right.
18 A You're trying to say that he was solely in my care. He
19 was around me for 24 hours. That was not the case. He was
20 around me and his mother.
21 Q That's right. But he was exclusively with you from
22 about 7:00 to 8:00 on?
23 A Yes, sir. Until the time --
24 Q And during that time we know that Theia had been out of
25 the home on at least the gas station, visiting a customer in

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1 Spartanburg, you said she came back just a few minutes
 2 before you all decided to go to Newberry, she drove, she
 3 immediately went into the house, and then you all
 4 immediately took that child back to the doctor. So for
 5 seven hours that doesn't give Theia any time alone or any
 6 time -- extended time at all with the child, right?
 7 A Yes, sir.
 8 Q So you understand I'm suggesting that you got angry
 9 either in Spartanburg or in Newberry because the child had
 10 been driving you crazy and messing on himself, throwing up,
 11 and you lost your temper for whatever reason. I'm not
 12 suggesting in intentionally killed that child. I'm
 13 suggesting that you lost your temper either in Spartanburg,
 14 or you lost your temper, you'd been arguing with Theia on
 15 the ride over to Newberry, you're sitting in that car for
 16 about an hour with that child who's cranky --
 17 MR. DANIEL: Your Honor, he's testifying. He needs to
 18 do it in the form of a question.
 19 THE COURT: We need a question.
 20 Q Did you kill Minor?
 21 A I've already answered this question before. No, I
 22 didn't.
 23 Q So all your statements before are wrong?
 24 A The ones that I gave previously to the investigators on
 25 December 30th, yes, they are.

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1 Q And any medical reports that might suggest that you're
 2 suspect are just incorrect?
 3 A I'm not sure what medical statements are but -- or what
 4 the medical statements are saying. But okay.
 5 Q I'm sure we'll see them soon.
 6 A Yes, sir.
 7 Q And as Theia points out, even by your own story out of
 8 your own words, you're saying Theia didn't even wake up
 9 until 11:00 or 12:00.
 10 A Yes, that day.
 11 Q So even for that better part of that morning she would
 12 have been -- the child would have been in your custody and
 13 care, not Theia's?
 14 A From 8:00 to 10:00, yes. But if I'm going to point
 15 this out, like you can point out things. If there was
 16 anything done to that child his mother would have woken up,
 17 I'm pretty sure, to crying and/or screaming of a child.
 18 Q If she was there. Thank you.
 19 A She was there.
 20 THE COURT: Redirect?
 21 REDIRECT EXAMINATION
 22 BY MR. DANIEL:
 23 Q Mr. Bowman, I'll try to be as concise as I can with my
 24 redirect, but I'm going to cover some ground Mr. Verner
 25 asked you on cross-examination and I'm going to clarify some

1 points. Mr. Verner, I think initially yesterday on his
2 examination, showed you some stuff off your Facebook
3 account, correct?
4 A Yes, sir.
5 Q And it was, what?
6 A A zombie baby from a toy maker that makes toys online
7 or --
8 Q This picture right here?
9 A Yeah, that's one of them. That one.
10 Q Defense No. 4.
11 A Yeah. It's a Voldemort baby from Harry Potter, if
12 anybody knows who Harry Potter is.
13 Q This is from Harry Potter?
14 A Yes, sir.
15 Q It's a doll?
16 A Yes, sir.
17 Q Do you have a morbid obsession with death?
18 A No. No, sir.
19 Q Do you have a proclivity to seeing dead babies?
20 A No, sir.
21 Q What's Defense No. 3?
22 A That's supposed to be like a zombie apocalypse baby
23 that they made, as I said, the toy maker online. A friend
24 of mine from Ohio was sharing that stuff and she showed it
25 to me.

1 Q Zombie babies?
2 A Yes, sir.
3 Q Is Walking Dead a popular zombie show?
4 A Yes, sir. It is.
5 Q Is Harry Potter popular?
6 A Yes, sir. It is.
7 Q Does watching Twilight make you a vampire?
8 A No, sir.
9 Q Going back to your Facebook account again.
10 A Yes, sir.
11 Q I'm going to show you a printout from your Facebook
12 account. Do you recognize this posting? This highlighted
13 area?
14 A Yes, sir. I do.
15 Q Tell us the posting. What's it about? And what are
16 you referring to in that posting?
17 A Would you like me to read it off?
18 Q Sure.
19 A "I swear some folk be --"
20 Q Speak up. I can't hear you.
21 A "I swear some folks be fake as hell these days. Talk
22 about folks and when they see them they like, oh, hey, baby
23 momma, or blah blah. Be fake just all around. It's sad
24 they think that folks don't see through their bull-ish and
25 then expect to keep friends and people in line. Shake my

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1 head. Wake up. We know and see through it. You're still
 2 the same bad person and parent that you were when they first
 3 took him away. You'd think you'd learn a lesson and foster
 4 it, but some folks are just stuck on dumb and being a kid.
 5 All I did -- all I can do is sit back and shake my head and
 6 smile because you think you fool people. You're as
 7 transparent as plastic wrap. Grow up and get over it. TND.
 8 You got him back so act right." And then --
 9 Q What day is that posting?
 10 A That's December 19th, 2014.
 11 Q And did you post that?
 12 A Yes, sir. I did.
 13 Q And that's your Facebook account?
 14 A Yes, sir. It is.
 15 Q What are you referring to there?
 16 A I'm referring to the fact of the incidents of where
 17 Minor 's been taken from the numerous times back in North
 18 Carolina from December 30th, 2011 -- or December 31st, 2011,
 19 my bad, all the way till whenever she just recently got him
 20 back June -- August of 2014.
 21 Q Let me stop you. You said December 31st, 2011. He
 22 would have been one day old, correct?
 23 A Yes, sir. The hospital reported her for that.
 24 Q Let's back up. Let me go back to another point Mr.
 25 Verner brought up in his cross-exam. He was talking about

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1 -- Mr. Verner asked you about domestic incidents --
 2 A Yes, sir.
 3 Q -- between you and Ms. McArdle, correct?
 4 A Yes, sir.
 5 Q And you've described some of them?
 6 A Yes, sir.
 7 Q I believe you mentioned a October 2014 incident at a
 8 motel in Spartanburg County, correct?
 9 A Yes, sir.
 10 Q Tell us about that incident.
 11 A The incident happened where we initially got into an
 12 argument and she left with a young woman named Brie and a
 13 gentleman -- I forget what his name is off the top of my
 14 head. She left. And I had a friend of mine that was in
 15 Spartanburg County at the time. She came by and was talking
 16 to me. She -- we were talking.
 17 Q Let me stop you. Let me just get to the point, because
 18 you're a little long-winded.
 19 A Oh, I'm sorry.
 20 Q Spartanburg Sheriff's Office --
 21 A Yes. They --
 22 Q -- came out to the hotel on October 5th, 2014, correct?
 23 A Yes, sir. They came because she pulled a knife on me
 24 and tried to cut me with my own knife, because I told her to
 25 leave because I wasn't going to sit and argue with her while

1 she was being drunk and trying to start an argument and
2 fight with me. I told her to stop.
3 Q Let me stop you. And you told deputies that you were
4 trying to get Theia out of the hotel room because she was
5 bringing clients there, correct?
6 A Yes, sir. She had left a condom on the bed from one of
7 her clients. The very same bed that her son slept on. And
8 I had got on to her about that.
9 Q So you were upset that she was bringing clients to the
10 room where you and Minor
11 A Yes, sir. There was an incident where there was a
12 client that came there while Minor was sleeping and she gave
13 him a service while Minor was still in bed.
14 Q And then, so you were moving Theia's stuff out of the
15 hotel room. You were kicking her out essentially?
16 A Yes, sir.
17 Q And she attacked you in some way?
18 A Yes, sir.
19 Q What did she do?
20 A She pulled my knife and she cut me with my knife. And
21 I did defend myself that day.
22 Q And you and Theia were both arrested by the deputy,
23 correct?
24 A Yes, sir.
25 Q And you all were both charged --

1 A Yes, sir.
2 Q -- with criminal domestic violence, correct?
3 A Yes, sir. They had to take me to the hospital to get
4 my hand cleaned up and whatnot from where I was cut.
5 Q So, in other words, the officer couldn't determine who
6 the primary aggressor was, correct?
7 A Yes, sir.
8 Q So they charged you both?
9 A Yes, sir.
10 Q And those charges are still pending against you and
11 Theia in Spartanburg County, correct?
12 A Yes, sir.
13 Q Let's go through your criminal history. Is it accurate
14 to say nearly all of your arrests have no dispositions,
15 meaning those charges have been dropped, dismissed?
16 A Yes, sir. They all have.
17 Q And most of them are from Buncombe County, which is
18 Asheville area North Carolina, correct?
19 A Yes, sir. During the course of time I've lived with
20 Ms. McArdle.
21 Q And they all relate pretty much to domestic violent
22 incidents between you and Ms. McArdle, correct?
23 A Yes, sir.
24 Q Or you were trying to get back to the apartment and she
25 had you on trespass notice, correct?

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1 A Yes, sir. No, the housing had me on trespassing
 2 notice. I was trying to get my stuff to get out of the
 3 apartment. She wouldn't allow me to get my stuff. She
 4 either sold my stuff, or trashed my stuff, or got rid of my
 5 stuff somewhere somehow.
 6 Q But Ms. McArdle didn't want to prosecute you for that?
 7 A No, sir.
 8 Q She told the police up there she wanted to drop the
 9 charges.
 10 A She just didn't show up for court. And she knew that
 11 there was court. They did subpoena her a lot of times to
 12 try and get her to come and she refused to come to court.
 13 Q And she was charged as well several times, too,
 14 correct?
 15 A Yes, sir. For assault, larcenies, child abuse in North
 16 Carolina.
 17 Q Well, let's stop you there. We'll get to that in a
 18 second.
 19 A All right.
 20 Q And you said -- I believe the testimony yesterday was
 21 she blacked your eye one time?
 22 A Yes, sir. That was the very first incident that we had
 23 gotten to. She punched me in my eye, that I explained to
 24 Mr. Verner. It was she broke my phone, so I took her phone
 25 and broke hers and she ended up punching me in the eye.

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1 Q All right. Let me stop you. I don't care about that.
 2 So she hit you hard enough to black your eye, correct?
 3 A Yes, sir.
 4 Q And was it visible the mark, obviously?
 5 A Yes, sir. The police actually took a picture of it.
 6 It was on the mug shot. My eye was swollen.
 7 Q So you've got to hit somebody with a lot of force to
 8 black their eye, correct?
 9 A Yes, sir.
 10 Q Would she hit Minor as hard as she hit you?
 11 A Yes, sir.
 12 Q And you witnessed her hit Minor with the same amount of
 13 force as you, correct?
 14 A Yes, sir.
 15 Q Mr. Verner -- it was long yesterday obviously. He was
 16 going through this so called transcript when you and I met
 17 March 10th.
 18 A Yes, sir.
 19 Q So we didn't even meet a month ago?
 20 A Yes, sir.
 21 Q We sat right here, correct? This table?
 22 A Yes, sir. We did.
 23 Q Myself, Deputy Solicitor Dale Scott --
 24 A Yes, sir.
 25 Q -- who's the other prosecutor here in Newberry?

1 A Yes, sir.
2 Q He's my supervisor.
3 A Yes, sir.
4 Q Your attorney Russell Brown was here at that interview?
5 A Yes, sir.
6 Q We had his permission to talk to you?
7 A Yes, sir.
8 Q Investigator Bentley, who's behind the TV, was there?
9 A Yes, sir.
10 Q And Investigator Moore was there. Chief McClurken was
11 there?
12 A Yes, sir. And the county -- or the courthouse officers
13 as well.
14 Q Okay. And it was a lengthy interview, correct?
15 A Yes, sir. I believe it was.
16 Q And we did record it?
17 A Yes, sir.
18 Q For note taking purposes?
19 A Yes, sir.
20 Q And then we provided that recording to Mr. Verner?
21 A Yes, sir.
22 Q And then Mr. Verner made a transcript of it?
23 A Yes, sir.
24 Q And he was showing you that yesterday, going through it
25 line by line essentially?

1 A Yes, sir.
2 Q But there's two parts to that interview, correct?
3 A Yes, sir. There are two parts to that interview.
4 Q And he was showing you part one yesterday?
5 A Yes, sir. And skipping over a lot of it as well.
6 Q Okay. And I think just now today Mr. Verner said that
7 the prosecutors got upset with you and walked out?
8 A Yes, sir.
9 Q Is that fairly accurate?
10 A That was during the first part of the questioning.
11 Q Why did we get put out with you?
12 A Because Mr. Dale Scott said it sounded like I was
13 reciting to him from the motion of discovery.
14 Q He said you're telling us what's already in the file?
15 A Yes, sir.
16 Q And the reason we had the interview was because we were
17 under the impression you were going to tell us stuff that we
18 didn't know that led up to the death, correct?
19 A Yes, sir.
20 Q Specifically things that happened before you all got to
21 Newberry?
22 A Yes, sir. And my lawyer also explained to you guys
23 that I needed to talk to you and let you know what happened
24 days prior that led up to the 29th as well.
25 Q So specifically December 27th, 28th and December 29th

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1 is what we cared about?

2 A Yes, sir.

3 Q And you'll admit that when you were interviewed by

4 Chief McClurken that you only told him part of the truth?

5 A Yes, sir. About what happened that day.

6 Q And you didn't tell him about December 27th and the

7 December 28th stuff?

8 A No, sir.

9 Q And you didn't tell Chief McClurken about Theia hitting

10 on Minor --

11 A No, sir.

12 Q -- that 72 hours leading up to Minor's death, correct?

13 A No, sir. I did not.

14 Q So you withheld that?

15 A Yes, sir. I did.

16 Q Because you're in love with this woman?

17 A Yes, sir.

18 Q In fact, she wrote you a note from the jail not too

19 long ago.

20 A Yes, sir.

21 Q She still has feelings for you?

22 A Yes, sir.

23 Q And you were trying to protect her?

24 A Actually, she wrote that to me while I was in Laurens

25 County, when I was out there back in August.

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1 Q And so, you really obstructed this investigation,

2 didn't you?

3 A Yes, sir. I did.

4 Q That's a crime. Do you realize that?

5 A Yes, sir.

6 Q Well, let's go to this transcript and I'll be very

7 brief. I promise you. This is part two when we decided to

8 come back, correct? Part two.

9 A Yes, sir.

10 Q And that's when you told us about the days leading up

11 to Minor's death?

12 A Yes, sir.

13 Q And that's what Mr. Verner didn't share with the jury

14 yesterday, correct?

15 A Yes, sir. Like I said, some other stuff in part one

16 that he didn't mention as well.

17 Q Okay. Let me get to my place in the transcript I want

18 to show you. If you could, read out the highlighted portion

19 of page four on part two of that interview we had a few

20 weeks ago.

21 A (Reading transcript)

22 Q That's why you were afraid to stand up to Theia,

23 correct?

24 A I have a history of being arrested because of stuff of

25 standing up and dealing with Theia and trying to tell her

1 not to do stuff with her child.
2 Q So that's why you were too weak to stop her from
3 hitting on Minor right?
4 A Yes, sir.
5 Q Let's go to page eight of the transcript. And when I
6 asked you questions on direct yesterday --
7 A Yes, sir.
8 Q You didn't tell me everything that you told me a few
9 weeks ago on part two of that interview?
10 A I didn't.
11 Q Let me show you page eight, the highlighted portions.
12 A Yes, sir.
13 Q See if you recall that. And read it out loud, please.
14 A (Reading transcript) Do you want me to read the next
15 one?
16 Q Go to. All right. That's all that's on page eight
17 that's highlighted?
18 A No, there's two more.
19 Q On page eight?
20 A Yes, sir.
21 Q Continue to read that.
22 A (Reading transcript)
23 Q So again, you left that out when I was questioning you
24 yesterday, correct?
25 A Yes, sir. It wasn't intentionally.

1 Q So right there you're describing multiple blows to the
2 stomach around lunchtime on December 29th.
3 A Yes, sir.
4 Q Read off page nine, please, what's highlighted.
5 A (Reading transcript) Do you want me to read from 10?
6 Q Please. No, excuse me. That's all on page nine that's
7 highlighted?
8 A Yes, sir.
9 Q Go to page 18 and read out what's highlighted.
10 A (Reading transcript)
11 Q That's all that's highlighted?
12 A Yes, sir.
13 Q I'll take that from you. Why didn't you tell me that
14 yesterday on direct when I asked you about all the times you
15 witnessed her hitting him on December 29th?
16 A It wasn't intentional, sir.
17 Q Really?
18 A It was nervousness, sir. I've never had to deal with
19 this stuff before.
20 Q You seem pretty calm up there. Is that accurate? I
21 mean, you seem calm. Are you calm on the inside?
22 A No, not really.
23 Q Are you still protecting Theia McArdle?
24 A No, sir. I'm not.
25 Q So was it relevant to talk about you hearing a

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- 1 commotion around lunchtime and you walk in and she's
- 2 striking her son repeatedly in the stomach with a fist?
- 3 A Yes, sir. That's relevant.
- 4 Q Hitting him so hard he falls to the ground and hits his
- 5 head?
- 6 A Yes, sir. That's relevant.
- 7 Q Well, why didn't you tell me that when I asked you?
- 8 A As I said, it wasn't intentional, sir. I was nervous.
- 9 Q But you're talking about specific details from spark
- 10 plugs with Mr. Verner but you don't tell us that?
- 11 A He accused me of messing with a car that I didn't mess
- 12 with.
- 13 Q Moving on to -- Mr. Verner asked you a lot of questions
- 14 about the vomit in the house on December 29th and Minor being
- 15 sick from right after supper, correct?
- 16 A Yes, sir.
- 17 Q He didn't finish his food, did he?
- 18 A He didn't finish his food.
- 19 Q Because he started throwing up?
- 20 A Yes, sir.
- 21 Q And there was throw up throughout that house, correct?
- 22 A Yes, sir. There was some on our room -- in our room,
- 23 some that was on the stuff that he had in our room in his
- 24 bed as well.
- 25 Q And Theia is at home while Minor is throwing up?

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- 1 A Yes, sir.
- 2 Q Because she made supper?
- 3 A Yes, sir. And it was still some time before she went
- 4 to her call as well.
- 5 Q So Theia is aware that her son is ill?
- 6 A Yes, sir.
- 7 Q Very ill?
- 8 A Yes, sir.
- 9 Q And Theia knows where the Laurens County Hospital is?
- 10 A Yes, sir. She had actually been there to get a staff
- 11 removed off her stomach.
- 12 Q She'd been there?
- 13 A Yes, sir. And to take a friend of hers. So she's been
- 14 there twice.
- 15 Q In fact, we saw a receipt from Laurens County Hospital
- 16 in the car that had Theia's name on it?
- 17 A Yes, sir.
- 18 Q And Laurens County Hospital is about 11 miles away from
- 19 Enoree.
- 20 A Yes, sir. It's not that far.
- 21 Q Newberry Hospital is over 30 miles away?
- 22 A Yes, sir.
- 23 Q But you all load Minor up in the care for a prostitution
- 24 care?
- 25 A Yes, sir.

1 Q When he's puking his brains out?
2 A Yes, sir.
3 Q You're aware that's aiding and abetting, correct?
4 A Yes, sir.
5 Q What you're doing?
6 A Yes, sir.
7 Q What you did? So you're here today admitting to a
8 crime?
9 A Yes, sir.
10 Q We didn't offer you immunity to testify? You know we
11 can use that against you in your trial?
12 A Yes, sir.
13 Q But you're doing it anyway?
14 A Yes, sir.
15 Q Let's go through some of these pictures. If you could,
16 just look on the TV, Mr. Bowman. What's that?
17 A That's the laundry --
18 Q Speak in the microphone, please.
19 A That's the laundry hamper and the kitchen area with
20 there.
21 Q Okay. A bunch of clothes with throw up was found in
22 that hamper, correct?
23 A Yes, sir.
24 Q Okay. That's a toilet bowl that's full of vomit,
25 correct?

1 A Yes, sir.
2 Q And you're saying that's your vomit?
3 A Yes, sir. I threw up that night as well.
4 Q Was there a stomach bug going around Erroree?
5 A I don't know. I didn't -- I don't think there was a
6 stomach bug.
7 Q So you and Minor just simultaneously throwing up?
8 A Yes, sir.
9 Q Is that strange?
10 A Yes, sir.
11 Q Minor's air mattress, correct?
12 A Yes, sir.
13 Q And you said he got sick on some of the linens,
14 correct?
15 A Yes, sir. That was in our room.
16 Q And that's Minor's pillow case?
17 A Yes, sir.
18 Q Are you aware there's vomit on that?
19 A Yes, sir. That was a pillow that was in our room he
20 was sitting on when he was sitting on our bed eating.
21 Q So you brought that -- that pillow was in y'all's
22 bedroom when he got sick?
23 A Yes, sir.
24 Q But then somehow he goes back to bed, correct, later
25 that night?

RICHARD BOWMAN: REDIRECT EXAMINATION

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- 1 A I put it on the bed that night. I had tried to get
2 some of the vomit off of it.
3 Q So you take that same pillow that was on y'all's bed
4 that he got sick on in your bedroom?
5 A Yes, sir.
6 Q And you bring it back to the air mattress, correct?
7 A Yes, sir.
8 Q And he goes to sleep on it?
9 A Yes, sir.
10 Q So that's why they didn't find any vomit in y'all's
11 bedroom?
12 A Yes, sir.
13 Q Because you brought that same pillow case to the air
14 mattress?
15 A Yes, sir.
16 Q That's got vomit on it, too. That's a grey hoodie,
17 correct?
18 A Yes, sir.
19 Q That's an adult male's hoodie?
20 A Yes, sir.
21 Q That's your hoodie?
22 A Yes, sir.
23 Q That's your -- you seem unsure about it. Does Minor
24 wear an adult male hoodie?
25 A No. But she has hoodies of herself as well. But that

RICHARD BOWMAN: REDIRECT EXAMINATION

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- 1 -- I believe that is one of my hoodies.
2 Q So Theia does wear your hoodie from time to time?
3 A Yes, sir. She does.
4 Q Did Theia get sick that night?
5 A No, sir.
6 Q So you didn't have enough time to make it to the toilet
7 where you threw up on your own hoodie?
8 A Yes, sir. Some of it had got onto my hoodie as well.
9 But as I said, I used some of the clothes that was in the
10 hamper to clean up some of the throw up.
11 Q I thought you made it to the toilet to throw up?
12 A I did throw up in the toilet, but some of it still got
13 on me -- got on me, sir.
14 Q Isn't vomit projectile? It's not necessarily runny.
15 A Not necessarily for me, sir.
16 Q Okay. Coogi. What's Coogi. Coogi.
17 A Coogi is a name -- a brand -- label brand of clothing,
18 I guess.
19 Q Is that Minor's tee shirt?
20 A Yes, sir. It is.
21 Q And you're well -- you see that discoloration around
22 the collar?
23 A Yes, sir.
24 Q Is that vomit?
25 A I believe so. It is, sir. As I said, I used some of

1 the clothes to clean up the vomit in the room.
2 Q Was he wearing that tee shirt that night when he got
3 sick, or did you just use to clean up the vomit? Which one?
4 A I'm not sure. I do know that he -- we did put the Puma
5 shirt on him. That was the one that was in the car. That
6 might have been the one he was wearing. I'm not sure off
7 the top of my head, sir.
8 Q You don't use paper towels or something to clean up
9 vomit, or a mop or something? You use articles of clothing
10 to clean up vomit?
11 A We didn't have a mop in the house and we didn't have
12 paper towels.
13 Q Did you all have a washing machine in the house?
14 A No, sir. We didn't. We took our clothes to the
15 laundry mat.
16 Q So you're going to use clothes -- and it's not
17 necessarily easy for you to wash them without leaving your
18 house. You're going to use that to clean up vomit?
19 A Yeah, because we were going to -- plan on cleaning the
20 clothes the next day.
21 Q What's that? A towel with stains, correct?
22 A Yes, sir.
23 Q Did you use that to clean up vomit?
24 A Yes, sir.
25 Q Why didn't you just use that to clean up the vomit?

1 It's still got unsaturated parts on there. Why would you
2 use clothes if you've got a towel?
3 A I just grabbed a bunch of stuff to clean stuff up.
4 Q It must have been a lot of throw up --
5 A Yes, sir.
6 Q -- from Minor?
7 A Yes, sir. And I had some in the bathroom on the floor,
8 and I cleaned up in there too, and on the toilet seat as
9 well.
10 Q That's a 28 pound baby throwing up a lot.
11 A Yes, sir.
12 Q That didn't concern you and Theia?
13 A It did concern me. I'm not sure if it concerned her.
14 I didn't think to call the police or -- not necessarily the
15 police, but the ambulance or anything.
16 Q But Theia was there at the time he's throwing up?
17 A Yes.
18 Q She's aware he's sick, correct?
19 A Yes, sir.
20 Q And after supper she leaves to go on that Spartanburg
21 John call?
22 A Yes, sir.
23 Q Didn't discuss seeking medical treatment at that time,
24 did you, before she left Spartanburg?
25 A No, sir.

RICHARD BOWMAN: REDIRECT EXAMINATION

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- 1 Q That's a white tee shirt. That appears to be an adult
 2 size.
 3 A Yes, sir. That's my shirt.
 4 Q Those are stains all over that.
 5 A Yes, sir.
 6 Q Was that vomit stains?
 7 A Yes, sir. I believe that they are.
 8 Q Why are there vomit on so many articles of clothing?
 9 How many layers did you have on?
 10 A That was something I actually used out of the dirty
 11 hamper. I didn't have it on.
 12 Q Why didn't you use the rest of that towel to wipe down?
 13 Why do you keep going through clothes to get more vomit on?
 14 A I was picking this stuff up, the vomit, trying to clean
 15 up off the floor and off the bed and off this -- or not
 16 mattress but pillow.
 17 Q Theia wears your clothes sometimes, correct?
 18 A Yes, sir. She does.
 19 Q And I'm not trying to be disrespectful to Theia, but
 20 she is a larger size woman, correct?
 21 A Yes, sir.
 22 Q And she can wear adult male clothes, broader shoulders?
 23 It would fit her, correct?
 24 A Yes, sir.
 25 Q So Minor 's throwing up all over you and Theia though,

RICHARD BOWMAN: REDIRECT EXAMINATION

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- 1 correct? He's puking everywhere?
 2 A Yes, sir.
 3 Q Really? Okay. And again, what time is he throwing up?
 4 That's around supper time. He didn't finish his meal as you
 5 testified to, correct?
 6 A Yes, sir. That was around 5:00 to 7:00, I believe.
 7 Somewhere in that --
 8 Q Somewhere in that range?
 9 A Yes, sir.
 10 Q All right. What's that again? I know you identified
 11 it once. Discussed it.
 12 A That's the hoodie, I believe.
 13 Q No, no, no. The yellow.
 14 A Oh, it's a towel.
 15 Q That's the backseat of Theia's Chevy Malibu?
 16 A Yes, sir.
 17 Q And that's got stains on it?
 18 A Yes, sir.
 19 Q Did you use that to wipe -- wipe anything up with?
 20 A That was inside. Whenever we were in the back of the
 21 car when I was trying to give him CPR and I cleaned the
 22 stuff off his mouth to try to do the CPR and whatnot.
 23 Q And that's after -- that's after Theia's back in the
 24 car from the Newberry service call?
 25 A Yes, sir.

1 Q And so, there's vomit -- or you said brown ooze
2 substance coming from his nose and mouth area?
3 A Yes, sir. That was while we were trying to drive to
4 get back home and I told her we needed to get to a hospital.
5 And she was intent on trying to go to the Laurens County
6 Hospital instead of the one in Newberry. And I told her, I
7 said, there has to be a hospital that's closer instead of
8 going all the way to Laurens. I said your son's not
9 responsive. There's stuff coming out of his nose. We need
10 to get to a hospital.
11 Q All right. Stop. I don't want to know that yet. And
12 you all took I-26 down to Newberry? That's the quickest way
13 from Enoree to get to Newberry? I-26 east?
14 A I'm guessing, sir.
15 Q But you were on I-26? You were on the interstate?
16 A Yes.
17 Q You told me that earlier?
18 A Yes, sir. I-26.
19 Q Are you aware that the first Newberry exit says
20 Hospital?
21 A No, sir.
22 Q In big bold letters, blue. And then when you get off
23 that exit there continues to be H all down Highway 121.
24 A I didn't know that, sir.
25 Q But Theia doesn't know there's a hospital in Newberry,

1 correct? She seemed unaware of that at first?
2 A Yes, sir. She was trying to get back towards Laurens
3 County because she said it was closer to home.
4 Q But when you all initially get off on exit 72, which is
5 the first exit for Newberry, she hadn't been to the John's
6 house yet at that point?
7 A No, sir.
8 Q So it was more important to go to the service call to
9 make \$120 first before taking Gabriel to the hospital?
10 A Yes, sir.
11 Q Because he was still responsive then, wasn't he?
12 A Yes, sir. He was.
13 Q Right.
14 A She didn't even mention to the nurse at that time that
15 he was responsive before -- like 10 minutes prior to getting
16 to the hospital. She said that to the nurse.
17 Q She's aware he's puking his guts out in Enoree around
18 supper. He's 28 pounds and he's throwing up everywhere.
19 Throw up on multiple articles of clothing. Towels, bed, and
20 it's more important to go to the service call first before
21 seeking medical treatment; is that correct?
22 A Yes, sir.
23 Q Again, is that a child sized tee shirt?
24 A Yes, sir. That's the shirt that he had on inside the
25 car at that time?

RICHARD BOWMAN: REDIRECT EXAMINATION

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- 1 Q And you were in the backseat performing CPR at this
 2 point?
 3 A Yes, sir. While we were trying to get to the hospital.
 4 Q And you removed his tee shirt?
 5 A Yes, sir. To get the stuff off of us his face so I
 6 could properly get to his mouth and try to do CPR and
 7 whatnot.
 8 Q Doing chest compressions and all that?
 9 A Yes, sir.
 10 Q Do you know that from the military as part of your
 11 first aid training?
 12 A COS. Yes, sir.
 13 Q And I'm going back here. I need to cover this. What's
 14 significant about the TV on this cover table here and the
 15 laptop computer?
 16 A That's the very same coffee table when it was in the
 17 bedroom that she had hit him and his head hit off of that.
 18 And also, he head had hit it as well before when he was in
 19 the room due to her.
 20 Q Is that when you heard commotion around lunchtime on
 21 December 29th?
 22 A Yes, sir.
 23 Q Is that because Minor had knocked that laptop off
 24 that coffee table?
 25 A Yes, sir. He had messed with the laptop and had messed

RICHARD BOWMAN: REDIRECT EXAMINATION

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- 1 it up. She had got it set over there. She never wanted him
 2 to touch the laptop.
 3 Q And that was the reason you walked in and she was
 4 hitting him in the stomach?
 5 A Yes, sir.
 6 Q Knocked him on the ground she hit him so hard?
 7 A Yes, sir. And she also claimed that he bit her as
 8 well.
 9 Q And caused him to bump his head when he hit?
 10 A Yes, sir.
 11 Q And why didn't you share that with me yesterday when
 12 I'm asking you? Again, you skipped over that entire part.
 13 But you told us that a few weeks ago, correct?
 14 A Correct.
 15 Q I'm not going to ask you any conversations you've had
 16 with your attorney. I mean, I appreciate the sanctity of
 17 attorney/client privilege. But are you aware — have you
 18 read the statute your charged under? The Law?
 19 A Yes, sir. My first attorney gave me the statute for it.
 20 Q So you know kind of the elements of that offense? What
 21 kind of conduct or acts or omissions constitute that crime,
 22 right?
 23 A Yes, sir.
 24 Q And you realize everything you just testified to, that
 25 would constitute guilt?

1 A Yes, sir.
2 Q By your own admission?
3 A Yes, sir.
4 Q And you haven't been offered anything in exchange to
5 testify. You reached out to us and said you wanted to tell
6 us some things, correct?
7 A Yes, sir.
8 Q And we told you we weren't offering you anything.
9 A Yes, sir.
10 Q So just to recap. December 27th you saw Theia hitting
11 on him?
12 A Yes, sir.
13 Q I think you said she slapped him on the head and hit
14 the coffee table on December 27th?
15 A Yes, sir.
16 Q Did you see her punch him in the stomach on December
17 27th?
18 A Yes, sir. I did.
19 Q Multiple times?
20 A Yes, sir.
21 Q A lot of force?
22 A Yes, sir.
23 Q As hard as she would hit you sometimes?
24 A Yes, sir. As hard as I've seen her hit other people as
25 well.

1 Q And did you tell us she hits as hard as a man?
2 A Yes, sir. She does.
3 Q And she would hit Minor as if he were a grown man?
4 A Yes, sir. That was -- that was in reference to an
5 incident that I had saw that happened in North Carolina.
6 Q December 28th you told us about the groin punch.
7 A Yes, sir.
8 Q After Minor mimicked something you did?
9 A Yes, sir.
10 Q And then she punched him with a closed fist in the
11 groin?
12 A Yes, sir.
13 Q Did she hit him as hard in the groin as she hit you
14 when she blacked your eye?
15 A It seemed like she did, sir. Yes, sir.
16 Q And he winched and cried in pain?
17 A Yes, sir. He said owe.
18 Q And he was crying?
19 A Yes, sir.
20 Q December 28th?
21 A Yes, sir.
22 Q About what time on December 28th?
23 A That was around, I'm guessing, 5:00. It was in the
24 afternoon. Like late afternoon, evening. Because we were
25 at David's. He was cooking dinner and whatnot.

RICHARD BOWMAN: REDIRECT EXAMINATION

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- 1 Q So that -- that injury had at least 24 hours or so to
 2 set in --
 3 A Yes, sir.
 4 Q -- by the time he's at the hospital?
 5 A Yes, sir.
 6 Q And a bruise gets darker?
 7 A Yes, sir.
 8 Q Because initially when you get hit it's red, right, a
 9 lot of times?
 10 A Yes, sir.
 11 Q And then eventually the next day it might be dark
 12 purple?
 13 A Yes, sir.
 14 Q And then a few days later a bruise turns like yellow
 15 maybe. Is that your experience?
 16 A Yes, sir.
 17 Q December 29th you see first thing in the morning,
 18 December 29th, she wakes Minor -- or Minor wakes her up and
 19 she punches him in the stomach, right?
 20 A Yes, sir.
 21 Q And then around lunch you have your earphones on
 22 cleaning up and you hear commotion in the bedroom, correct?
 23 A Yes, sir.
 24 Q You walk in there and you find Theia punching him in
 25 the stomach repeatedly?

RICHARD BOWMAN: REDIRECT EXAMINATION

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- 1 A Yes, sir.
 2 Q And then you see her knock him to the ground on
 3 December 29th?
 4 A Yes, sir.
 5 Q Around lunchtime?
 6 A Yes, sir.
 7 Q And he bumps his head when he hits the ground, too?
 8 A Yes, sir.
 9 Q And you all have an argument over that?
 10 A Yes, sir.
 11 Q But you don't do anything about it, do you?
 12 A No, sir.
 13 Q Lastly Mr. Verner said he opened the door to talk about
 14 something in North Carolina.
 15 A Yes, sir.
 16 Q I think first you testified to -- about when Minor was
 17 taking from Theia. What are you talking about?
 18 A The one incident that I know of that he was taken was
 19 whenever I first initially met her. I hadn't known Minor
 20 that long at that point in time. May have been like maybe
 21 two weeks whenever I first initially met Minor. But
 22 during that course --
 23 Q Don't -- don't go into all that. Just tell us what
 24 happened to cause Minor to be taken.
 25 A She smacked him for breaking four cigarettes of her --

1 four Newport cigarettes of hers. She slapped him across the
2 face with an open hand, and then continued to smack him on
3 his behind and his back while he was screaming and crying.
4 I wasn't the only one who witnessed this. Makayla also
5 witnessed this as well. And --
6 Q And did Justin Madore witness this?
7 A Justin Madore was informed about this and he called
8 DSS, as well as Megan Cody. And --
9 Q Megan Cody witnessed that?
10 A Megan Cody was also -- she didn't witness this, but she
11 was informed of what happened as well. But she's been a
12 witness to other incidents that have happened with Minor
13 and --
14 Q And when was this incident, smacking Minor in the
15 face for breaking cigarettes? When was this?
16 A This was back in 2013. I do not remember the exact
17 date.
18 Q Does April 23rd, 2013 sound about right?
19 A It sounds about right. Yes, sir.
20 Q And how old would Minor have been?
21 A Minor would have been around one. Less -- well, not
22 even around one at that time, in all honesty, I don't think.
23 Q He would have been a little over one-years-old?
24 One-year-old?
25 A Yes, sir.

1 Q Barely able to walk and talk?
2 A He wasn't walking or talking at that time really.
3 Q Right.
4 A Yes, sir.
5 Q Or not even, right, you say?
6 A Yes, sir.
7 Q Not even or barely is fair to say at that age? Not
8 even?
9 A Yes, sir.
10 Q And so, that was the incident that opened up the DSS --
11 North Carolina DSS investigation?
12 A Yes, it is. DSS was called because of that. And also
13 they reported it about the bed. The child waking up eating
14 his own feces. Her beating on him. Him being in the room
15 with two adults while they were having sex and a gun being
16 underneath the mattress.
17 Q Okay. And eventually was Ms. McArdle arrested by the
18 Asheville Police Department?
19 A Yes, sir. Arrested twice. One time she was on the run
20 and they finally caught her. And another time they came to
21 a hotel where we were at and --
22 Q Just be -- you don't have to elaborate. Just answer
23 the question directly. Was she arrested for that incident?
24 A Yes, sir. She was.
25 Q She was child with misdemeanor child abuse in North

RICHARD BOWMAN: REDIRECT EXAMINATION

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- 1 Carolina?
- 2 A Yes, sir.
- 3 Q She was convicted of that?
- 4 A Yes, sir.
- 5 Q And that was the reason North Carolina DSS took her
- 6 child away from her?
- 7 A Yes, sir. And put him in kinship.
- 8 Q But she eventually regained custody of him, correct?
- 9 A Yes, sir. Under stipulations, as least.
- 10 Q And that's why you all left North Carolina, right?
- 11 Once she got him back?
- 12 A She wanted to leave because a young individually that
- 13 she met named Ms. Brie -- or I don't know what her full name
- 14 is. It's Brie, convinced her to go to Spartanburg because
- 15 she could make more money selling herself. And she wanted
- 16 to leave North Carolina due to those incidents that happened
- 17 as well.
- 18 Q She didn't tell you she wanted to escape North Carolina
- 19 because of all the drama?
- 20 A Yeah. She said she wanted to get away from all the
- 21 drama because she has a record and she can't get a job and
- 22 she can't work. She just had people calling DSS on her and
- 23 calling her a bad parent, and her --
- 24 Q She's running from North Carolina DSS?
- 25 A Yes, sir.

RICHARD BOWMAN: RECROSS-EXAMINATION

679

- 1 Q She wanted a fresh start?
- 2 A Yes, sir.
- 3 Q So she regains custody of Minor about when?
- 4 A Only in August, I believe. Around June, August. And
- 5 then we immediately ended up moving down to Spartanburg.
- 6 But it was under stipulations that she --
- 7 Q Stop. Just --
- 8 A I'm sorry.
- 9 Q Just answer the questions.
- 10 A Sorry.
- 11 Q When did she get -- just tell me approximately when she
- 12 regained custody. The day and the year.
- 13 A It was 2014, August or June timeframe. One of those
- 14 two days -- months.
- 15 Q And she initially loses custody of him in spring of
- 16 2013?
- 17 A Yes, sir.
- 18 Q And then she regains custody of them in the summer of
- 19 2014?
- 20 A Yes, sir.
- 21 Q A few months later he's dead?
- 22 A Yes, sir.
- 23 MR. CAMEL: I don't have further questions, Your
- 24 Honor.

RECROSS-EXAMINATION

1 BY MR. VERNER:
2 Q You've had access to all the CSS files in North
3 Carolina, haven't you?
4 A Yes, sir.
5 Q There was an incident while you were with Theia in
6 April of 2013 where she slapped Minor for breaking
7 cigarettes?
8 A Yes, sir.
9 Q You were with her at the time?
10 A Yes, sir.
11 Q CSS investigated. She went through a treatment plan,
12 and they returned the child to Theia. But then you moved in
13 and CSS took the child again?
14 A I was already moved in at the time. And they did not
15 return Minor. What they did do is they told her that she
16 would be under watching terms, and the person that they had
17 her being watched by did not want to watch her because she
18 said by herself that she needed -- Ms. McArdle did not
19 deserve to have her child due to the things she was doing to
20 her child.
21 Q And the fact that they considered you violent and
22 wouldn't give her the child back and you all were living
23 together didn't play a part in that?
24 A The reason why they considered me violent was due to
25 the fact of a previous incident that happened. The whole --

1 when she punched me in the eye and the strangulation. That
2 was one incident.
3 Q And the reason she didn't hit Gabe like she hit you,
4 because Minor wasn't threatening her with a knife or choking
5 her out? You were?
6 A She did hit Minor like she hit me. He had a mark on
7 his face. I have the picture right here. I'm pretty sure
8 it's inside your motion as well, from the mark that he took.
9 Q I'm sure the prosecution can introduce anything that
10 they think is relevant. Let's go to this -- the Solicitor
11 had you read your Facebook quote on December 19th?
12 A Yes, sir.
13 Q It says, you got him, so act right.
14 A Yes.
15 Q That's basically, you left. You took him. You got
16 him. And that's when she left you. Her mother took them
17 away from you. And you wrote an angry post on your Facebook
18 saying, well, you got him. Now act right.
19 A No.
20 Q That's what that means, doesn't it?
21 A No. What I was saying is, you had him returned back to
22 you. Stop beating on him and act right. Stop being a
23 prostitute and everything else if you're so concerned for
24 your child.
25 Q So you got him doesn't mean you took him away?

RICHARD BOWMAN: RECROSS-EXAMINATION

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- 1 A No.
- 2 Q Okay. May 2014 is actually when Minor came back.
- 3 Would you dispute that the records show that May of 2014 was
- 4 when the child was returned?
- 5 A I thought it was between August and June timeframe.
- 6 I'm really not sure when he officially came back. I know
- 7 whenever she officially, officially got him back and I saw
- 8 him we were living in hotels and we did eventually move down
- 9 to North Carolina. He was still in Janice's care around May
- 10 time because she did not want to deal with him, because she
- 11 was doing the whole prostitution ordeal, and doing drugs as
- 12 well at that time as well.
- 13 Q Now, you told the prosecutor just a few minutes ago
- 14 that you saw her him on the 27th, right?
- 15 A Yes, sir.
- 16 Q But that's when you all went to Asheville to visit her
- 17 mother, right?
- 18 A Yes, sir.
- 19 Q But then you had mistakenly thought that that was the
- 20 court date, right?
- 21 A Yes, sir.
- 22 Q And then the 28th is when you said she hit him in the
- 23 groin at David Maroodhi, or whatever his name's house is,
- 24 right?
- 25 A Moscerelli, yes, sir.

RICHARD BOWMAN: RECROSS-EXAMINATION

683

- 1 Q Who was conveniently in the kitchen and didn't see it
- 2 and wouldn't have heard, or you wouldn't have been able to
- 3 tell him about that?
- 4 A He heard crying.
- 5 Q You think if he had seen that he'd be here? You think
- 6 from Laurens County they would not have had him in here to
- 7 court?
- 8 A Well, there's a lot of people that weren't subpoenaed
- 9 in the motion of discovery, so I'm not sure.
- 10 Q That's right. There are amazingly a lot of people who
- 11 weren't subpoenaed to corroborate what you're saying. You
- 12 told the prosecutor just a second ago that Gabriel started
- 13 vomiting about 5:00 that day?
- 14 A Yes, sir.
- 15 Q Just about a couple of minutes ago?
- 16 A Yes, sir.
- 17 Q But you also told us earlier this week that you
- 18 normally eat dinner -- that you estimated you ate dinner
- 19 with Minor between 6:00 and 8:00?
- 20 A And she started cooking dinner around 5:00 or whatnot.
- 21 And he ended up vomiting while we were eating. He didn't
- 22 finish everything.
- 23 Q So he vomited before Theia even made dinner?
- 24 A No. She was cooking at the time and he had ate. While
- 25 we were eating dinner.

1 Q And the Solicitor said that you seemed to have
2 forgotten about when she hit him in the stomach because you
3 didn't testify to that yesterday, right?

4 A Yes, sir. And I explained to the Solicitor it wasn't a
5 matter of trying to protect anybody. I was honestly
6 nervous. I still am nervous. I've not done this before.

7 Q Is it possible that you had forgotten about that
8 because you have given so many stories you forgot that you
9 -- that's one of the stories you had said?

10 A No, sir.

11 Q And then you also forgot about this incident to testify
12 yesterday about this incident involving the computer
13 because, again, that is just one of the many pages of
14 stories that you've given that didn't happen and you forgot
15 to mention it. And he reminded you, well, didn't you
16 mention that?

17 A No, sir. It wasn't due to many pages of stories I
18 said. I'm actually nervous.

19 Q I understand that. And you've just given so many
20 stories that you can't remember which ones you've given
21 before and which ones you've retracted, right?

22 A Yes, sir.

23 Q I believe you testified, or you told the Solicitors you
24 don't like DSS; is that right?

25 A I said I didn't like them trying to take her child and

1 everything instead of trying to help her.

2 Q I think you told the Solicitor that DSS has a bad habit
3 of blaming you for things. If I could, page 73. Read for
4 me what you told the Solicitor about whether you like DSS.

5 A (Reading transcript)

6 Q And that's one of the times that you said I just don't
7 trust DSS because they tend to blame me?

8 A What I did state is DSS -- as it says right here, DSS
9 tried to get on me, too, for that situation and I had
10 nothing to do with it. I didn't strike the child or do
11 anything. DSS was getting onto me because I didn't place a
12 call to them reporting what happened. It says that right
13 there, too.

14 Q And you also told the prosecutor when you met with them
15 that you couldn't hear her hurting Minor because you were
16 wearing your earphones listening to music?

17 A I said I heard a noise and I ended up taking my
18 earphone out. I didn't have it in all the way. I didn't
19 hear everything that happened. I only heard a bit piece of
20 it. I heard a quick like yell or loud noise and I went to
21 go see what happened.

22 Q You couldn't hear anything until you took your earphone
23 out and then you heard it?

24 A Yes, sir.

25 Q Do you remember what music you were listening to?

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1 A Yes, sir.

2 Q You do? Tell me.

3 A It was a song I've actually sang while I've been in
4 jail this whole time. It's by I See Stars. It's called
5 Airplane.

6 MR. VERNER: Thank you.

7 THE COURT: All right, sir. You may step down.

8 (Whereupon, the witness stepped down from the witness
9 stand.)

10 THE COURT: Ladies and gentlemen, this is a good point
11 for a break. If you want to step outside, feel free to do
12 so. So discuss the case. I want to talk briefly with the
13 attorneys about where we stand. I think your next witness
14 should be here?

15 MR. STUMBO: Yes, sir.

16 THE COURT: It's the one we were discussing, the doctor
17 or --

18 MR. STUMBO: Actually we have a shorter lay-witness,
19 which will be the mother, first and then I think we can get
20 done with that one fairly quickly.

21 THE COURT: Very good. Take a break. Don't talk about
22 it. See you back in a few moments. Thank.

23 (Whereupon, the jury exited the courtroom at 10:41
24 a.m.)

25 THE COURT: Did you all work out a stipulation with

THEIA MCARDLE: DIRECT EXAMINATION

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1 THE COURT: None from the State. Doctor, thank you for
2 coming. You are free to go. Pleasure to meet you.

3 All right. Ladies and gentlemen, we're going to take a
4 brief -- well, 10 minute break. If you want to step
5 outside, that's fine. Just be back in here, if you would,
6 at 12:00 and we'll resume at that particular point in time.

7 Don't talk about the case yet. Thank you.

8 (Whereupon, the jury exited the courtroom at 11:48
9 a.m.)

10 THE COURT: I'm assuming, Mr. Verner, that your client
11 is still intending to testify at this point?

12 MR. VERNER: Yes, sir. But I was going to take a last
13 five minute break, or two minute break, to find out --

14 THE COURT: No, that's fine. I just wanted to -- let
15 me know what you all decide when I come back then.

16 MR. VERNER: Your Honor, if I can, I'm going to take
17 her back to --

18 THE COURT: Certainly.

19 MR. VERNER: -- my office.

20 (Whereupon, a recess was held from 11:48 a.m. to 12:05
21 p.m.)

22 THE COURT: We'll go back on the record then. Mr.
23 Verner just informed the Court that he does intend to call
24 the Defendant as a witness. You understand the
25 ramifications of this, Ms. McArdle, correct?

1 THE DEFENDANT: Yes, sir.
2 THE COURT: Let's have the jury, please.
3 (Whereupon, the jury entered the courtroom at 12:05
4 p.m.)
5 THE COURT: The jury is back and seated. At this
6 point, Mr. Verner, call your next witness, please.
7 MR. VERNER: Your Honor, I call Theia McArdle.
8 THE COURT: Come forward, please, ma'am.
9 THEIA MCARDLE, having been first
10 duly sworn, testified as follows:
11 DIRECT EXAMINATION
12 BY MR. VERNER:
13 Q Theia, I'm going to ask you questions from here to make
14 sure that everybody can hear you. Okay?
15 A Okay.
16 Q How old are you, Theia?
17 A Twenty-two now.
18 Q Where are you from?
19 A Asheville, North Carolina.
20 Q You're the mother of the child Minor ?
21 A Yes.
22 Q How old were you when Minor was born?
23 A Eighteen. I just turned 18, I think.
24 Q So I assume you were pregnant when you were 17 then?
25 A Yes.

1 Q Is Richard Bowman the father of your child?
2 A No.
3 Q When did you and -- so Minor was born when again?
4 A [REDACTED] of 2011.
5 Q Where did you live when Minor was born?
6 A The day he was born I was living with my mother off of
7 -- I think it was Aiken Road was a place. Less than a month
8 after that I got my own apartment which my mother moved into
9 with me in --
10 Q In Asheville?
11 A Yes. In public subsidized housing.
12 Q I'm going to move forward a little bit. When did you
13 move to South Carolina?
14 A August or September of 2014.
15 Q Where did you move to in South Carolina?
16 A Originally it was Spartanburg. I was -- the first
17 hotel I stayed at was a pay by the week place by the name of
18 Royal Inn & Suites off of Boiling Springs Road in
19 Spartanburg, South Carolina.
20 Q Who came with you to South Carolina?
21 A My son, Minor , and my co-defendant Richard
22 Bowman.
23 Q He would be your boyfriend at the time?
24 A Pimp.
25 Q Did you also have a relationship with him?

THEIA MCARDLE: DIRECT EXAMINATION

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- 1 A If you could call it that, but yes.
- 2 Q Well, how did you support yourself?
- 3 A I was a prostitute.
- 4 Q How did you come into being a -- what lead you to that
- 5 life?
- 6 A I had lost my apartment in Asheville, North Carolina
- 7 due to so many police incidents with Richard Bowman and his
- 8 destruction of property inside of my apartment. And at that
- 9 point I had no way to go. And I didn't have enough money
- 10 just with my disability income by itself so sustain an
- 11 apartment. Cost of living in Asheville, North Carolina is
- 12 pretty high. And a friend of mine by the name of Jurissa
- 13 Waits, whose also a friend of Bri Warborough introduced me
- 14 to Back Page.
- 15 Q A friend of yours introduced you to --
- 16 A Back page.
- 17 Q And what is Back Page?
- 18 A It's a website that can advertise adult entertainment
- 19 services. Anything from escort strippers, massage
- 20 therapists, erotic massages, et cetera.
- 21 Q Well, I mean, do you start meeting guys first, or just
- 22 you start advertising to see guys? You start Back Page
- 23 first?
- 24 A You advertise, and people contact you from that
- 25 advertisement.

THEIA MCARDLE: DIRECT EXAMINATION

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- 1 Q And then you started doing that?
- 2 A Yes.
- 3 Q And then how old were you when you started doing that?
- 4 A I think I was 20 then.
- 5 Q Now, do you -- is this before or after you got into a
- 6 relationship with Richard Bowman?
- 7 A This is in the midst of the relationship.
- 8 Q So you had started doing that even prior to Richard or
- 9 after you had started --
- 10 A When I first met him I was not -- I didn't have to
- 11 escort. But it was in the middle of the relationship when I
- 12 was about to be homeless with a child.
- 13 Q How long after you started seeing Richard did you two
- 14 move in together?
- 15 A It would have been very long. It would have been maybe
- 16 two weeks.
- 17 Q Did he move in with you or did you move in with him?
- 18 A He moved in with me. The apartment was solely in my
- 19 name.
- 20 Q Well, you obviously let him move in, didn't you?
- 21 A Yes.
- 22 Q And you had the child Minor with you?
- 23 A Yes, at that point.
- 24 Q What was Richard doing to support himself?
- 25 A Nothing.

THEIA MCARDLE: DIRECT EXAMINATION

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1 Q Well, we heard he was also on Back Page. Did he start
2 after the relationship, too, or was he doing it before?
3 A He started after I began, and he, you know, asked if
4 there male section, and I said, well, there is, but most of
5 the clientele was male.
6 Q But he started doing that, too?
7 A Yes.
8 Q Did he continue to do that through your relationship?
9 A No. He made approximately a total of seven calls, but
10 the amount of money which he made compared to the amount of
11 time that he had to spend, compared to the amount of money
12 and time that -- I could make much more than he could in a
13 very short period of time.
14 Q Women, make more money as escorts than men do?
15 A Immensely.
16 Q And the market for men is mostly other men?
17 A Yes.
18 Q Would he bring these guys back into your home or was it
19 going to meet them?
20 A He did business within the room that we stayed in,
21 which was a double bedroom at that point in time.
22 Q Are you talking about the hotel room?
23 A Yes.
24 Q Did you continue to be a Back Page escort throughout
25 the relationship?

THEIA MCARDLE: DIRECT EXAMINATION

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1 A Yes, I did.
2 Q So even as of the date of December 30th, 2014 you were
3 still an escort on Back Page?
4 A Yes, I was.
5 Q So you'd been doing that about, what, two or three
6 years?
7 A No.
8 Q Were you doing that prior to MINOR's birth?
9 A No. Again, until I was removed -- well, evicted from
10 my apartment in Asheville I didn't have to be an escort.
11 Q At some point why did you move to the mobile home in
12 Enoree?
13 A Because I actually wanted, you know, to establish a
14 home. When you're in a hotel room you really can't
15 decorate. You can't make it your home. I mean, you can buy
16 furnishings like bed covers, some decorations, but you
17 really can't make it an actual home. I wanted to cook. I
18 wanted to do things.
19 Q How did you find the home in Enoree?
20 A It was an ad off of Craigs List.
21 Q And Richard and the child moved in with you again?
22 A Yes.
23 Q Did you receive any clientele into the home in Enoree?
24 A Yes, I did.
25 Q At other times would you go and meet people?

THEIA MCARDLE: DIRECT EXAMINATION

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- 1 A Yes. Those are considered out calls.
- 2 Q How long have you -- prior to December 30th -- when do
- 3 you think you moved into the mobile home?
- 4 A I want to say it was at the beginning of November.
- 5 Q So you'd been in the home about a month or two months?
- 6 A Yes.
- 7 Q Is it fair to say you had -- other than just two
- 8 mattresses and various scant furniture it wasn't very
- 9 furnished?
- 10 A Yes. There was no place that delivered furniture and
- 11 you can't put a couch or a mattress or anything on top of a
- 12 Chevy Malibu.
- 13 Q Well, you had another car, didn't you, when you first
- 14 over, didn't you?
- 15 A Yes, but that one was immensely smaller. Yes.
- 16 Q Did you have another car?
- 17 A Yes, I did.
- 18 Q What was that?
- 19 A It was a '93 Nissan Sentra.
- 20 Q What happened to the Sentra?
- 21 A At a point Richard and I had argued and I told him he
- 22 was not taking off in my car, and he unplugged the
- 23 distributor cap which connects to the spark plug, I believe
- 24 is what it's signal or electricity into the engine itself.
- 25 And when he did that and proceeded to start the car, I guess

THEIA MCARDLE: DIRECT EXAMINATION

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- 1 he forgot he unplugged it or something, the pistons smashed
- 2 in the engine which disabled it.
- 3 Q That was Richard who did that, not you?
- 4 A Yes.
- 5 Q Have you ever seen Richard beat the child prior -- had
- 6 you ever seen Richard beat the child, Minor?
- 7 A I had not seen him beat him, per se, but I had seen him
- 8 be very harsh in words with him.
- 9 Q And you had an incident in April of 2013 when you
- 10 slapped him across the face, didn't you?
- 11 A Yes, I did.
- 12 Q And DSS intervened --
- 13 A Yes.
- 14 Q -- in North Carolina?
- 15 A Yes.
- 16 Q Was Richard with you at that time?
- 17 A Yes, he was.
- 18 Q And for some period of time the child was removed from
- 19 your custody?
- 20 A Yes.
- 21 Q And when did Minor come back to your custody?
- 22 A May of 2014.
- 23 Q And he'd been in your custody ever since?
- 24 A Yes.
- 25 Q Again, I'm not sure you answered my question. Had you

THEIA MCARDLE: DIRECT EXAMINATION

1003

- 1 seen Richard strike or physically harm the child?
- 2 A No.
- 3 Q If you had seen that what would you have done?
- 4 A I probably would have struck him.
- 5 Q Tell me about the day December 29th, 2014.
- 6 A December 29th --
- 7 Q You still have a memory of that -- the night Minor
- 8 died? A pretty clear memory?
- 9 A Unfortunately, yes. I don't think I will ever forget
- 10 that.
- 11 Q You've had a lot of time to think about it?
- 12 A Not just that, but I lost the only good thing I was
- 13 able to do in my life.
- 14 Q How did the day December 29th -- do you remember what
- 15 day of the week that was?
- 16 A Monday, I think.
- 17 Q Tell me what --
- 18 A We had started off the morning -- I had woke up
- 19 approximately 9:00-ish and I had -- I had made a call -- a
- 20 couple calls to a couple different Internet providers trying
- 21 to sustain Internet service for the trailer, because one of
- 22 the main things we did, because it's in rural -- very rural
- 23 area was watch movies, which I downloaded illegally off of a
- 24 website called Utorrent. So my intent was that day to try
- 25 to establish some sort of Internet to be installed into the

THEIA MCARDLE: DIRECT EXAMINATION

1004

- 1 trailer. I was the one who got up and made breakfast for
- 2 Minor. Not Richard. Richard was, I think --
- 3 Q Let me stop you. You and Richard had your own bedroom?
- 4 A Yes.
- 5 Q Was it a posted bed or was it a mattress on the floor?
- 6 A It was just a mattress on the floor. We didn't even
- 7 have a box spring.
- 8 Q What else is in the master bedroom?
- 9 A A coffee table which supports a pretty large flat
- 10 screen TV, a laptop computer and various clutter.
- 11 Q What's in the livingroom?
- 12 A Minor's air mattress and a lamp, and a vacuum.
- 13 Q What's in the fax room, what we've heard as the cats'
- 14 room?
- 15 A There's -- a lot of his toys were stored in the closet
- 16 itself just to be kind of out of the way so that, you know,
- 17 like -- I mean, he could always take them out and play with
- 18 them. It wasn't like to keep them away from him. It was
- 19 just to keep them kind of like from being strung all over
- 20 the place.
- 21 Q The toys were in the closet?
- 22 A Yes.
- 23 Q What else was stored in that room?
- 24 A Just the litter box, because it emits a smell, clearly,
- 25 and that was to keep it out of the main part of the house.

THEIA MCARDLE: DIRECT EXAMINATION

1005

- 1 Q Did the cats sleep in that room?
- 2 A The cats slept wherever they wanted to, unless we were
- 3 going out of town.
- 4 Q If you were leaving out of town what did you do?
- 5 A We shut them in there because of two different reasons.
- 6 Number one, they were indoor cats. Number two, they kind of
- 7 like -- there were two instances which we came back and the
- 8 cats had tore up not only -- it had knocked off a big vase
- 9 full of colorful beads that I had as a decoration and they
- 10 were strung all over the place. And there was another time
- 11 we came back and my son's diapers were ripped all to shreds.
- 12 Q So when you left you kept the cats in that room?
- 13 A Yes.
- 14 Q Was there any other furniture in that room?
- 15 A Not to my knowledge.
- 16 Q How was the mobile home heated?
- 17 A There was one central air, slash, heat unit, and that
- 18 was a window unit and that was in the kitchen.
- 19 Q Did that heat the entire mobile home?
- 20 A Yes. Not well, but yes.
- 21 Q Why was Minor sleeping in the air mattress in the
- 22 livingroom?
- 23 A I couldn't hear him, number one, from the -- way on the
- 24 other side of the trailer, and that was disturbing to me
- 25 because I want to know, if he wakes up before me, if he's

THEIA MCARDLE: DIRECT EXAMINATION

1006

- 1 getting into something, what he's getting into, because the
- 2 trailer is not baby-proofed. And when it's that time of
- 3 year it's very cold. And even our bedroom, which was
- 4 slightly close to the window unit, with the door open was
- 5 not heated all the way. So it was easier for him to be
- 6 closer to the heat and on -- just on the other side of the
- 7 wall with the door open so that I could hear him.
- 8 Q So it was to put him in the room where the heat was?
- 9 A Yes.
- 10 Q And it was to put him close to your bedroom?
- 11 A Yes.
- 12 Q It wasn't -- how many cats did you have living in the
- 13 mobile home?
- 14 A At that time we had -- well, including -- minus the one
- 15 that I had brought later that night we had four. Two which
- 16 were kittens that you could fit in the palm of your hand.
- 17 They were not entirely potty trained.
- 18 Q Was the reason to give the cats their own room or was
- 19 -- that Minor slept in the livingroom, or was --
- 20 A No.
- 21 Q I think you indicated you woke up and you made Minor
- 22 breakfast --
- 23 A Yes.
- 24 Q -- on the 29th?
- 25 A Yes.

THEIA MCARDLE: DIRECT EXAMINATION

1007

- 1 Q What happens next?
- 2 A I mean, at one point -- at one point I had gone to
- 3 Dollar General to obtain a Green Dot card, which --
- 4 Q Can you just quickly tell us what a Green Dot card is?
- 5 A A Green Dot card is a prepaid Visa card which can be
- 6 used for online shopping, online bill pay, or just as a Visa
- 7 debit card. The reason --
- 8 Q So you -- where did you go to get the Green Dot card?
- 9 A I believe it was Family Dollar in Laurens.
- 10 Q At some point there was a receipt in your car?
- 11 A Right.
- 12 Q For what time did you go to --
- 13 A I can't give you an exact time. I know it was that
- 14 morning. I'm sorry.
- 15 Q And what store did you go to?
- 16 A Family Dollar, I believe.
- 17 Q Where's Family Dollar? How far away from the home was
- 18 that?
- 19 A I think it was about 13 miles. Thirteen, 14, something
- 20 like that.
- 21 Q In what town?
- 22 A Laurens.
- 23 Q Are you closer to Laurens than you are Spartanburg?
- 24 A Immensely.
- 25 Q Who goes with you to the Family Dollar?

THEIA MCARDLE: DIRECT EXAMINATION

1008

- 1 A Minor and Richard both.
- 2 Q Then what do you all do after that?
- 3 A From there we went back to the house. I was on the
- 4 phone with --
- 5 Q Let me ask you this. Did Richard have a phone? A cell
- 6 phone?
- 7 A No, not at that point.
- 8 Q Did you let him use your phone?
- 9 A No.
- 10 Q What happens after Family Dollar?
- 11 A We went back to the house. I had been on the phone
- 12 with, I think, Direct TV and -- because they said it would
- 13 be a \$21 charge, I think, via credit card to install -- have
- 14 services installed -- I think the day was the following
- 15 Wednesday. So that was what the Green Dot card was to
- 16 secure.
- 17 Q So you were trying to get Internet put in the house?
- 18 A Yes.
- 19 Q I assume you needed that for your business and maybe
- 20 for personal reasons, too?
- 21 A Among other things, yes. I mean, my phone had
- 22 Internet. So, I mean, it wasn't just sole purpose.
- 23 Q Did you do anything after that time up until about
- 24 lunchtime?
- 25 A I mean, mainly we were just watching movies. It was a

THEIA MCARDLE; DIRECT EXAMINATION

1009

- 1 very boring day.
- 2 Q And the only TV set in the house was the bedroom?
- 3 A Yes.
- 4 Q Where do you guys eat meals?
- 5 A Typically in the bedroom. We didn't have a table. We
- 6 didn't have chairs.
- 7 Q And, in fact, in one of the photographs of your mobile
- 8 home it appears that you're using like school trays to eat
- 9 on? Was that --
- 10 A It depends on like if I was in the mood to actually
- 11 wash dishes, or if we had something that needed to be cut
- 12 with a knife. Sometimes we would use Styrofoam trays
- 13 because it was more efficient just for time purposes and it
- 14 was less to clean up. But if we had something that you
- 15 actually had to cut up, like chicken or steak or something,
- 16 we had actual plates. That was more just for convenience
- 17 purposes.
- 18 Q Do you remember eating lunch that day?
- 19 A Vaguely. I'm pretty sure it was just sandwiches. We
- 20 had a lot of cold cuts. That was generally what -- it was
- 21 just an easy fix.
- 22 Q Did Richard cook the meals?
- 23 A Richard can burn water. I cooked.
- 24 Q So the answer is no?
- 25 A Yes. No.

THEIA MCARDLE; DIRECT EXAMINATION

1010

- 1 Q Did Richard clean the house as part of his living
- 2 there? Did Richard clean the house as part of his living
- 3 there?
- 4 A No.
- 5 Q What chores in the home did Richard do?
- 6 A The only thing that Richard really did was babysit.
- 7 God's honest truth.
- 8 Q Did Richard drink? By drink I mean, alcoholic drinks.
- 9 A No.
- 10 Q What would Richard do during the day while you were
- 11 with him?
- 12 A Typically if -- if I didn't have a call, he would watch
- 13 movies with us, take God knows how long frickin baths. Just
- 14 kind of dawdle around the house, you know. I mean, he
- 15 didn't really have a life, per se, I mean, outside of --
- 16 Q Were you sick that day?
- 17 A No.
- 18 Q Were you vomiting?
- 19 A No.
- 20 Q Do you remember Richard being sick that day?
- 21 A Richard is bulimic. He was sick every day.
- 22 Q What do you mean by that?
- 23 A Richard has -- I'm not sure why he didn't tell you
- 24 this. But he has an eating disorder known as bulimia where
- 25 he gorges --

THEIA MCARDLE: DIRECT EXAMINATION

1011

- 1 Q I know what bulimia is. Just answer what are the
2 symptoms of that, Theia?
3 A He gorges himself on food and makes himself vomit.
4 Q Why?
5 A Could be a mental thing. I'm not sure exactly why.
6 Q How long had he been doing that?
7 A Ever since I met him.
8 Q Was that to keep in shape or was that just for health
9 reasons?
10 A It could be. In the Army I know there are certain
11 standards that you have to have weight-wise. And I guess
12 the way he eats, you can't really eat like that and meet
13 those standards.
14 Q Well, I mean, which toilet would he go throw up -- I
15 assume he's throwing up in the toilet.
16 A Both boys, unless Minor was in the room with us
17 watching, you know, TV would use the bathroom down the hall
18 simply because men don't like to put the toilet seat back
19 down. Sorry guys. You don't.
20 Q So you'd use the one in the bedroom the most? You used
21 the bathroom?
22 A Yes.
23 Q What about to take baths that we've heard about and the
24 shower?
25 A To take baths they used -- both of them, again,

THEIA MCARDLE: DIRECT EXAMINATION

1012

- 1 typically Minor bathed with Richard and they used the one
2 down the hall, because the bathtub in the master bedroom is
3 -- it's not a garden tub, but it's like over two feet deep.
4 So if the tub is filled up even halfway it's almost over
5 Minor's head, and he can't get in and out of that tub by
6 himself.
7 Q Well, did Minor take showers or -- I mean, did
8 Richard take showers with the child or did they bathe
9 together?
10 A Typically it was baths. I don't think I've seen
11 Richard take a shower except for like maybe twice when we
12 were running late.
13 Q How long would Richard sit in the bathtub?
14 A It would be anywhere from 45 minutes to an hour and
15 some change.
16 Q Well, I mean, I'm sure -- is Minor sitting in there
17 with him the whole time?
18 A I honestly don't know. To be honest, that's probably
19 bad parenting, but I didn't pay attention.
20 Q Was that every day that the child would bath --
21 A Virtually, yes.
22 Q So part of Richard's home responsibilities were he'd
23 bathe Minor. Did Minor bathe in the morning or at
24 night?
25 A I can't -- I don't know. Just whenever -- whenever

THEIA MCARDLE: DIRECT EXAMINATION

1013

- 1 Richard decided to get in there with him.
- 2 Q Well, I mean, how often are you on calls? I mean, it's
- 3 not a 9:00 to 5:00 job, is it?
- 4 A No. But generally whenever I do have to respond to the
- 5 calls it's whenever they set the time. So it could be are
- 6 you available now, or are you available in 15 minutes, or
- 7 are you in -- and sometimes I would literally wake up, brush
- 8 my teeth and take a call.
- 9 Q So you would take -- I don't know. But the calls start
- 10 in the morning?
- 11 A Whenever I wake up and start answering them, yes.
- 12 Q I would think traditionally calls would be in the
- 13 evening, wouldn't they?
- 14 A Calls from Back Page run at any time of day because you
- 15 also have truckers which are at any given point in time
- 16 traveling down I-26, or 385 which is a few miles down the
- 17 road.
- 18 Q Did you have a client, or a patron named Papi Chulo?
- 19 A That was my nickname for him, yes. Papi Chulo which
- 20 means beautiful papi in Spanish.
- 21 Q How long had you been seeing him?
- 22 A Ever since I first moved to Spartanburg. He --
- 23 Q A couple of months?
- 24 A Yes. He was a very, very good -- he was very good to
- 25 me.

THEIA MCARDLE: DIRECT EXAMINATION

1014

- 1 Q In fact, had you all made plans to move in to his
- 2 place?
- 3 A We had definitely -- we were on the cusp of becoming
- 4 together. He talked to me the day before the 29th and said
- 5 why don't you let me take you away from this life. And I
- 6 said, well, I have a son, and he said I don't care, you
- 7 know. And I was like, well, what are we going to do about a
- 8 place. And he said I'll have to put it in your name, but as
- 9 long as it's \$1,000 a month, you know, I can pay the rent,
- 10 and you have a car and we get it legal, and I said okay. I
- 11 said, well, let me get my stuff together and take a way.
- 12 Q Well, I mean, it sounds to me like you're not really
- 13 romantically involved with Richard.
- 14 A No. The only reason at that point that I was still
- 15 with Richard was because I had to have someone to watch my
- 16 son while I made the calls to pay the bills.
- 17 Q Well, was Richard still attracted to you, or was he
- 18 pretty much self -- moved on, too?
- 19 A I'm not -- he claimed he cared. But if somebody bought
- 20 me anything I wanted, and paid for everything I asked for,
- 21 no matter how stupid it was, I'd probably say I cared about
- 22 them, too.
- 23 Q So you're saying basically he was just staying with you
- 24 because you were paying for everything?
- 25 A Yes. That was my belief.

- 1 Q What happened after lunch on December 29th?
- 2 A After lunch Richard and I were fighting. I had gone
- 3 the previous night and bought new clothes for myself and
- 4 Minor , and shoes, and other things I really hadn't had the
- 5 time or, you know, the expenses to do because -- Richard
- 6 said you already have clothes. And he was very controlling
- 7 about the finances.
- 8 Q What did you do after lunch, Theia?
- 9 A After lunch I was very much so arguing with Richard,
- 10 the greater part of the rest of the day up until Minor and
- 11 I made dinner. And the argument was -- and I had told him
- 12 several times I hate you. There is no love left for you.
- 13 I'm tired of your cheating. I'm tired of your lies. I'm
- 14 tired of your abuse. I'm tired of your verbal abuse, you
- 15 know. And I pretty much made it clear that there was no
- 16 love left for me. I didn't tell him that I was leaving,
- 17 because every time I brought up the issue of leaving some
- 18 thing, including myself, would get harmed in the process.
- 19 So --
- 20 Q So he would damage property sometimes?
- 21 A Damage property, damage me. He destroyed the car.
- 22 Destroyed, you know, various items of clothing, electronics.
- 23 There were holes all in my old apartment in Asheville.
- 24 Q Did you leave the house after lunch?
- 25 A If I did, I don't remember. I'm sorry.

- 1 Q Well, I mean, did you -- between lunch and dinner do
- 2 you remember whether you left?
- 3 A I'm sorry. I really -- I don't remember.
- 4 Q Do you remember making dinner the night of --
- 5 A Yes, because Minor and I cooked together.
- 6 Q What do you mean? He's only three, or not quite three.
- 7 So what do you mean you cooked together?
- 8 A He had a little stepping stool, which if you put -- if
- 9 you put it close enough to the counter he could be at eye
- 10 level, literally. But he could reach up over the counter
- 11 and sprinkle on the seasoning for the steak. And I
- 12 tenderized it, which was the process of taking the fork and
- 13 stabbing it repeatedly. And Minor put the seasoning on
- 14 while I, you know, tenderized the steak. And, you know, I
- 15 let him, you know, stick it a couple of times with the fork
- 16 because he was like I want to do it, I want to do it, and,
- 17 you know, I let him. And the corn was on the back burner
- 18 boiling, so he had absolutely nothing to do with that.
- 19 Besides, I wouldn't let him near the stove anyway. And as
- 20 far as just the bread, I was like, here, open this. And he
- 21 was standing on the ground at that point. And he knew how
- 22 to open like bags of chips. And the bread itself was a
- 23 Pepperidge Farm loaf, which is just in a plastic container
- 24 that you can just open very easily. So that was -- I mean
- 25 it --

THEIA MCARDLE: DIRECT EXAMINATION

1017

- 1 Q Let me back up, Theia. It appears that you made a call
2 at 1:54 from a -- that hit a cell tower that was no longer
3 at your home. Do you know where you went around 2:00? And,
4 in fact, you made another call around 2:25, or someone using
5 your phone? Did anybody else use your phone that day other
6 than you?
- 7 A Richard did not have my password to my phone.
- 8 Q Was that for a reason? I don't need the reason. Just
9 was that --
- 10 A Yes, it was.
- 11 Q It appears you made you a call at 1:54 and at 2:25 from
12 locations that were outside of the home. Do you remember
13 where you went slightly after lunch?
- 14 A To be honest with you, I don't know. If I could see
15 the contact numbers I could possibly tell you, but I don't
16 -- I don't know. I'm sorry. I really don't.
- 17 Q But it appears you had gotten home by at least 3:53
18 because there's a call at your home. And so, what time do
19 you all normally eat dinner?
- 20 A It can be between 6:00 and 8:00 generally is when
21 there's, you know, a slow period where I definitely don't
22 have calls, or if I do it's like in preparation for the next
23 hour or so, you know. So I had that time to actually make
24 dinner, or whatever it is we're going to do for dinner, even
25 if it's going out. So between 6:00 and 8:00.

THEIA MCARDLE: DIRECT EXAMINATION

1018

- 1 Q Between 6:00 and 8:00?
- 2 A Uh-huh.
- 3 Q Would you all have eaten as early as 5:00?
- 4 A No.
- 5 Q Did you see Minor throwing up?
- 6 A No.
- 7 Q Do you remember going the day beforehand to a guy named
8 David Moscerelli's house?
- 9 A David and I were not in --
- 10 Q It's just a yes or no question --
- 11 A No.
- 12 Q -- Theia.
- 13 A No.
- 14 Q You deny that you went to David's house the night
15 before?
- 16 A Yes.
- 17 Q Now you can tell me why.
- 18 A David and I have not spoken at all since the day that
19 the -- the Sentra was disabled, which was at his house. Do
20 you want the reason why?
- 21 Q How long was that prior to December --
- 22 A Huh?
- 23 Q How long had that been prior to December 29th?
- 24 A It would have been way -- two weeks at least, more.
25 Like it would have been before the 12th, that's for sure.

THEIA MCARDLE: DIRECT EXAMINATION

1019

- 1 Q So you would not have gone to David's house the day
2 beforehand?
3 A No.
4 Q But you did go to Asheville on the 27th?
5 A Yes.
6 Q Did you go to court?
7 A On a Saturday? No.
8 THE COURT: Hold on.
9 {Whereupon, a brief pause was held.}
10 Q So I asked you what time you normally ate dinner and
11 you said between 6:00 and 8:00.
12 A Yes.
13 Q That's every day?
14 A Virtually, yes.
15 Q Do you remember making dinner -- well, what's the
16 latest you all typically eat dinner?
17 A If a call could get in the way, or if travel could get
18 in the way, 9:30 at the latest.
19 Q But ordinarily 6:00 to 8:00?
20 A Yes.
21 Q Who made dinner?
22 A Me, or sometimes restaurants, but --
23 Q Or sometimes you'd go out to restaurants --
24 A Yes.
25 Q -- sometimes you'd make it. Were these cooked meals or

THEIA MCARDLE: DIRECT EXAMINATION

1020

- 1 were these also cold cuts?
2 A No. No, no, no. I typically cooked either breakfast
3 and dinner, or breakfast, lunch and dinner. It just depends
4 on the day.
5 Q Do you remember what time you had dinner on the evening
6 of December 29th?
7 A I want to say I started cooking at either 6:30 or 7:00.
8 With all total of every -- the preparation, the
9 tenderization, thawing out the steak, I think we got done at
10 like 7:00 --
11 Q By done you mean cooking dinner or eating?
12 A Yes. Cooking dinner and started to eat at about 7:30,
13 7:40.
14 Q Who ate dinner that night?
15 A All three of us, Minor, Richard and myself.
16 Q In the bedroom --
17 A Yes.
18 Q -- on the bed?
19 A Yes.
20 Q Did you all typically eat while you all watched TV
21 together?
22 A Yes.
23 Q Were there any marks apparent on Minor at that time?
24 A None.
25 Q Was he acting abnormal?

THEIA MCARDLE: DIRECT EXAMINATION

1021

- 1 A Nor at all.
- 2 Q At some point you had to leave, didn't you?
- 3 A I barely even finished my own food, and Minor was, I
- 4 think, still eating like the last couple of bites of his
- 5 food.
- 6 Q So Minor was eating dinner?
- 7 A Yeah. He had finished almost everything on his plate
- 8 by the time that I left.
- 9 Q What did you all have for dinner?
- 10 A Steak, corn, garlic bread.
- 11 Q Where did you go -- did you clean up the meal or --
- 12 A No. I left that to Richard because I had to go.
- 13 Q Were they still eating or had they finished their meal,
- 14 too?
- 15 A Minor was still eating. Richard and I were
- 16 bickering. I don't -- I don't know if he had finished his
- 17 food or not. He -- you know, the last thing that I had said
- 18 to him before I walked out of the trailer was I hate you.
- 19 Don't touch me, because he tried to grab me. And he was
- 20 like, but -- and I'm like no, don't touch me. I have a call
- 21 to go to. And I looked at my son and I was like I love you.
- 22 baby, mommy's got to go get this money. And those were the
- 23 last words that I spoke to my son, as he sat on the bed with
- 24 his plate still in front of him.
- 25 Q Where did you go?

THEIA MCARDLE: DIRECT EXAMINATION

1022

- 1 A I went -- well, I had to stop and get gas at the Valero
- 2 station which is exit 44, 41.
- 3 Q How far is that from your home?
- 4 A Two, three miles.
- 5 Q Do you remember what time you left? Could it have been
- 6 by 8:11 p.m.?
- 7 A It could have been.
- 8 Q Well, we know that --
- 9 A It was around 8:00. I do know that much.
- 10 Q We know there was a phone call made outside of the home
- 11 at 8:11.
- 12 A Right.
- 13 Q So is it possible that you had left by 8:11?
- 14 A It's very possible.
- 15 Q How long were you at the gas station?
- 16 A I was there -- I think I might have picked up a pack of
- 17 cigarettes, too. But when I came out there was a little cat
- 18 and it came up to me and started rubbing around my leg and I
- 19 was like, awe, you're so cute. And then it like -- it
- 20 rolled around on the ground and dropped down in like a
- 21 puddle of oil, and I was like, okay. So I asked the guy, I
- 22 was like who's cat is this outside. The clerk. And he was
- 23 like it's a stray. If you want to take it, take it. And
- 24 I'm like, well, do you have anything in can put it in. So
- 25 he gave me a cardboard box to put the cat in. And I ended

THEIA MCARDLE: DIRECT EXAMINATION

1023

1 up taking it back to the house.
 2 Q So you went straight back to the house?
 3 A Uh-huh. After getting gas, yes.
 4 Q And there appears to be a phone call from your house at
 5 about 8:35 p.m.
 6 A Sounds about right.
 7 Q Do you know who you were talking to?
 8 A Could have been Papi. I don't know.
 9 Q What was the purpose of going out and getting gas?
 10 Were you just getting it for the week or had you already had
 11 a call to go out?
 12 A No. But I wanted to make sure I had enough to get to
 13 Spartanburg and back.
 14 Q Had you had a preset arrangement to go to Spartanburg
 15 that day?
 16 A I had spoke to him like right before cooking dinner.
 17 Q Who is him?
 18 A Papi Chulo.
 19 Q Did you know this man's real name?
 20 A I can't remember it. I'm sorry.
 21 Q Where did you -- well, I mean, how did you -- you came
 22 back from the gas station with the cat in the box.
 23 A Well, when I came --
 24 Q Describe --
 25 A When I came back Richard swung open the back door. He

THEIA MCARDLE: DIRECT EXAMINATION

1024

1 was like, what are you doing. And I was like, here, take
 2 this inside. He was like, what the hell is this. I was
 3 like, it's a cat. And he was like, why did you bring back
 4 another cat. And I was like, because it was rolling in a
 5 puddle of oil and I felt bad for it, and we have enough food
 6 and liter, you know, so. And he was like, okay. And I was
 7 like I've got to go, you know, Papi's waiting. And I went
 8 back to the car and drove off.
 9 Q And where did you meet Papi Chulo?
 10 A I had to drive to the Royal Inn off of Boiling Springs
 11 Road which is, I think, exit 19 off of I-26.
 12 Q And how far is that from your home?
 13 A It's about almost 30 some odd minutes away.
 14 Q So it's about a 30 minute drive from your mobile home?
 15 A Give or take, depending on traffic.
 16 Q Well, we know there's a call from your phone at 9:52
 17 p.m. that's away from your home. Was that while you were
 18 with -- at 10:00 in the evening would you have been with
 19 Papi Chulo?
 20 A Yes.
 21 Q There's also a call at 11:00 p.m. that's also, as I
 22 think you heard the SLED agent, in the Spartanburg area.
 23 Was that the same?
 24 A I don't know if I was in the vicinity.
 25 Q How long did you stay with Papi Chulo that night?

THEIA MCARDLE: DIRECT EXAMINATION

1025

- 1 A I'd say for a good little minute. It was maybe an hour
2 or two, possibly two and a half. I'm not --
3 Q And this was a sexual encounter with Papi, or was --
4 A It was not.
5 Q -- it just to talk, or what was it?
6 A It was not. Like I said, he was very good to me. When
7 he paid for my time he would give me body massages and
8 everything, but it didn't always result in sexual
9 intercourse. He actually cared about me, which is very rare
10 for any prostitute to experience. I don't even experience
11 that in my home with my boyfriend, so...
12 Q How long did you stay with Papi Chulo, as best you
13 remember.
14 A It could have been an hour to two and a half. I don't
15 remember. It seemed like a while, but --
16 Q So at 10:00 -- how long would it take you to drive home
17 again? About 30 minutes?
18 A Give or take depending on traffic.
19 Q At 11:19 it appears you're home because that's when
20 your home cell tower pings again.
21 A Uh-huh.
22 Q So were you home by 11:19?
23 A Sounds about right, yes.
24 Q I assume that at 11:19 at night it's pretty dark by
25 then?

THEIA MCARDLE: DIRECT EXAMINATION

1026

- 1 A Very.
2 Q You all typically leave the lights on in the home in
3 any particular rooms?
4 A No. We sometimes leave an outside light on. And when
5 I came in that night the TV in the bedroom -- master bedroom
6 was on, but that was the only light.
7 Q There's no TV in the living room where the child slept,
8 was there?
9 A There's nothing in the livingroom besides a lamp that
10 wasn't on.
11 Q Does the lamp stay on when that child sleeps?
12 A No. No.
13 Q After it gets dark how is the master bedroom usually
14 lit?
15 A If we're still awake there's the TV and the laptop on.
16 Q The TV and the laptop are generally the lights?
17 A Yes.
18 Q Minor sleeps -- doesn't sleep with the lights on in
19 the house?
20 A No.
21 Q Do you remember coming home from the Spartanburg motel?
22 A I do.
23 Q Tell me -- had you received any other calls from
24 people?
25 A I had -- I had received a call. I had texted going

1 down the highway, but when I stopped to -- I stopped to get
2 something to drink and I stopped -- I got a Peace Tea and a
3 bag of lifesavers -- gummy lifesavers for Richard Bowman.
4 And I had received a call, which the guy was like, you know,
5 I live in Newberry. And I'm like, well, how are the police
6 because my car's not legal.
7 Q What time did he call you?
8 A I couldn't tell you.
9 Q We know he'd been texting. From the cell phone records
10 he had texted you as early 2:00 that day, hadn't he?
11 A Right. Honestly if I text somebody and they break --
12 they take a break in texting between like 20 and 30 minutes
13 and they haven't set an appointment I usually erase the text
14 messages because they a lot of times won't followup with an
15 appointment.
16 Q But it still shows up on your -- the phone company
17 does. It might not show up on your phone.
18 A Yeah, that's what I'm saying.
19 Q So you don't remember him texting you as early as 2:00?
20 A He could have is what I'm saying. Because I erased the
21 text messages doesn't mean I didn't text him. It means that
22 I probably had erased those messages because he had more
23 than 20 to 30 minute break in texting me.
24 Q Do you remember when the man from Newberry first called
25 you?

1 A The first time that I remember when I was actually
2 considering going up there -- up here would have been on the
3 way back from Spartanburg. Because I was like, well, I'm
4 free. I need the money for the move tomorrow.
5 Q Is it possible he had texted you as early as 12:53?
6 A Could be.
7 Q But when did you make arrangements or decide that you
8 were going to -- well, I guess back up. When did he contact
9 you by telephone that you remember?
10 A The first time that I spoke on the telephone with him
11 that I recall was when I was at the gas station. And I told
12 him, I was like, well I have GPS on my phone but I need to
13 make sure that I'm not going to get stopped because, again,
14 I have no license. Don't recall if I had insurance. And
15 the tags were stolen. They belonged to a Tahoe. A very
16 much different car than a Malibu.
17 Q So he called you while you were at the gas station?
18 That's at the Valero gas station?
19 A Yes.
20 Q And you all spoke?
21 A Yes.
22 Q I mean, what kind of conversation do you have when
23 somebody calls and asks for --
24 A He said are you available to come to Newberry and I
25 said, boy, where is that, you know, because I'd never of it.

THEIA MCARDLE: DIRECT EXAMINATION

1029

1 It sounded like Mayberry. And, you know, I asked what's
 2 your age, what's your age, you know, what -- what language
 3 do you speak. Clearly English. But, you know, just get a
 4 little bit of feel for who it is I'm going to meet. And the
 5 red flag when he popped up when he contacted me was she said
 6 I'm 26. Anybody who is under 30, by my standards, is
 7 dangerous, because they're young and reckless and they're
 8 male.
 9 Q So what does that mean? I mean, that he's younger?
 10 A That means that any time I feel that I might be in a
 11 predicament where I could either be robbed, beat, raped,
 12 something of the sort I will usually take Richard Bowman
 13 with me. I mean, he has no problems beating the crap out of
 14 me. He can beat the crap out of somebody else, too.
 15 Q I didn't ask you that. You would take Richard with
 16 you?
 17 A For protection, yes.
 18 Q That wasn't something he just did once or twice, was
 19 it?
 20 A No. That was quite often if I felt I was in danger.
 21 Q I'm assuming he doesn't go and introduce himself?
 22 A Typically he'll stay --
 23 Q Or does he?
 24 A No. Typically he'll stay with himself in the backseat
 25 so that the client can't see him, but he's within earshot

THEIA MCARDLE: DIRECT EXAMINATION

1030

1 should I meet him.
 2 Q Well, are there ever times when he kind of comes and
 3 meets the guy first just to let the other guy know --
 4 A No. God no.
 5 Q Why not? That would just kind of intimidate the other
 6 man, or what?
 7 A Yes, extremely.
 8 Q So Richard would provide protection?
 9 A Yes.
 10 Q You didn't pay him for this though, did you?
 11 A I paid all his bills.
 12 Q Not directly though?
 13 A No.
 14 Q But that was one of the things he did for you?
 15 A Uh-huh.
 16 Q What would you do about the child if you were going on
 17 a call like this after Carl and Richard was with you?
 18 A We would always take Minor with us when both of us
 19 had to leave. There was never a point in which I would
 20 leave my child by himself. He's three.
 21 Q And it appears the man from Newberry called you about
 22 8:04 p.m.?
 23 A Could have been. I'm not --
 24 Q If the phone records show that there was a call in from
 25 his number about 8:04 would you agree it's possible that's

1 when he called you?
2 A Yes.
3 Q How many times did you speak to him before you made an
4 agreement to come down to Newberry?
5 A That I remember, once.
6 Q So you -- it appears to be that there were several,
7 several text messages but only one real phone call that you
8 recall.
9 A But he could have -- that could have been when he
10 called and said will you be available later tonight, because
11 a lot of people will call and they'll say are you available
12 between such and such time and such and such time, and
13 they'll lay a base foundation for an appointment.
14 Q And it appears that you called him about 11:30 --
15 A Yes.
16 Q -- that night?
17 A Yes. That was then to let him know that I am, in fact,
18 underway. However, can you trail me, you know, once I reach
19 the Newberry exit so that, you know, I don't get pulled and
20 my tag doesn't get run by the police, to which he responded
21 I don't have a car.
22 Q So he wouldn't meet you and show you the way in?
23 A No.
24 Q And then what was the point -- you also called him at
25 12:22?

1 A At that point my GPS had started to go haywire and it
2 was -- it wouldn't say anything at all. And I couldn't see
3 the numbers on the houses because I'm supposed to wear
4 corrective lenses. And so, I called him and I was like, you
5 know, where is your house. And he was like are you on
6 Bedenbaugh, and I was like, I think so. And he's like, is
7 that you. You just went around a sharp curve. I'm like
8 yes. And he's like you just passed my house. I'm like,
9 crap. So I turned around and he was like right here. And
10 he was like -- I stopped when he said here, and I saw the
11 camper and I parked beside it.
12 Q So you apparently made a call from your house about
13 11:41 p.m.?
14 A Uh-huh.
15 Q No, I'm sorry. That was -- you made a call from your
16 house at about 11:41 p.m. to a number [REDACTED]-6269. But
17 then -- but your last call to this guy was about 11:30 in
18 the evening, and that was to say that you're coming?
19 A I think so, yeah.
20 Q And asked him if he could meet you?
21 A Yes.
22 Q And then you called him at 12:22 when you were in
23 Newberry to --
24 A Yes.
25 Q -- find the address? What happened when you

THEIA MCARDLE: DIRECT EXAMINATION

1033

1 approached?

2 A When I approached --

3 Q But we know you would have been home from 11:19 p.m. to

4 11:41 p.m.?

5 A Right.

6 Q Because there are two phone calls made from your house

7 --

8 A Right.

9 Q -- between 11:19 and 11:41. What were you doing in

10 your home?

11 A When I came in I walked by Minor ., Minor 's bed, and

12 straight into the master bedroom. And I flung the Peace Tea

13 and the lifcsavers on top of him and I was like, get up. I

14 need you to come with me.

15 Q Pasty?

16 A Peace Tea. It's Arizona brand.

17 Q Tea, okay. I'm sorry.

18 A And I slung them -- he was sleeping on his back, and I

19 slung them on top of him and I was like get up. I need you

20 to come with me. And -- because he was used to me just

21 being like, yo, get up. Come on. I was like I need you to

22 come with me. And he was like, why. Where are we going.

23 And I was like Newberry. And he was like, why. And I was

24 like, because the guy's young and I've never been there and

25 I don't know the lay of the land. Plus, you don't have a

THEIA MCARDLE: DIRECT EXAMINATION

1034

1 phone. You don't have a car. It's like 11:00 at night.

2 And, you know, should anything happen. So --

3 Q You had no way to call him because Richard didn't have

4 a phone?

5 A Exactly. So he said --

6 Q And he was a young clientele?

7 A Yes. And I was like, go ahead get Minor ready. Put

8 him in the carseat. I've got to go wash up, because I had

9 just come from another call.

10 Q Well, did you -- when you came home you didn't -- the

11 first thing wasn't how's Minor doing, or how was your

12 evening, like that?

13 A I mean, my son was asleep, so I assumed -- I assumed he

14 was asleep. I assumed he was fine.

15 Q I mean, it's not typically what you would come home and

16 say is how's everybody doing?

17 A No.

18 Q Did you all do any -- like I come home from work and

19 say, you know, did you all have any kind of -- what did you

20 all kids do. That's not how you greeted Richard?

21 A No.

22 Q Then what else did you do? You just basically said,

23 Richard, you're coming with me to Newberry?

24 A Right. I washed up. He -- he went to go and, I guess,

25 get Minor up and put him in the carseat. I washed up and

THELA MCARDLE: DIRECT EXAMINATION

1035

- 1 freshened up my makeup and proceeded out to the car.
2 Q I'm assuming that at times you can come to a client and
3 if you look grungy or bad that the client might not want to
4 use your services?
5 A The client will typically say something to the effect
6 of you don't look like your pictures. Thanks, but no
7 thanks.
8 Q So part of your job is you have to come across --
9 A To keep up appearances.
10 Q -- as attractive as you can?
11 A Yes.
12 Q So did you -- did you wear the same outfit that you had
13 worn with Papi Chulo? And that was that pink outfit that we
14 saw?
15 A Yes.
16 Q What were you doing -- I understand you wake Richard up
17 and say, come on. We're going to Newberry.
18 A Right.
19 Q But when you and Richard travel who drives?
20 A I do.
21 Q Does Richard ever volunteer to drive?
22 A He has before.
23 Q But typically when you get to a scene anyway he has to
24 sit in the backseat to avoid --
25 A Yes.

THELA MCARDLE: DIRECT EXAMINATION

1036

- 1 Q Does he ever sit in the front seat with kind of a dark
2 coat?
3 A No. Because my -- my side and back window are tinted
4 or the Malibu but the front is not, to my knowledge.
5 Q Did he -- what did you do when you came home? It would
6 have to be after 11:00 at night, because we know you're not
7 at home at 10:58.
8 A Uh-huh.
9 Q But we know you're home by 11:19.
10 A Uh-huh.
11 Q So between 11:19 and when you left at 11:41 what were
12 you doing?
13 A As I said, I was cleaning up, freshening up my makeup
14 in the master bath.
15 Q What do you mean master bath? You actually took a bath
16 or you just --
17 A No. At the -- in the master bathroom.
18 Q But just kind of --
19 A Washing up what I do, would be the best term to put it
20 without saying --
21 Q Putting on makeup and stuff like that.
22 A -- what I want to say.
23 Q I understand. Just kind of cleaning up and putting on
24 makeup?
25 A Yes.

THEIA MCARDLE: DIRECT EXAMINATION

1037

- 1 Q I think we understand. And I guess you were cleaning
2 up your private parts, too, to put it --
3 A Essentially, yeah. Don't really want to go there,
4 but...
5 Q How long does it take you to drive down from Enoree to
6 Newberry?
7 A I think the GPS said 38 minutes. But again, I had
8 trouble finding his house. So probably would have been
9 slightly more than that.
10 Q Who put -- did you wake up the baby --
11 A No.
12 Q -- or Minor?
13 A No.
14 Q How did Minor get in the car?
15 A Richard. I told him when I came in, I was like, get
16 up. Get Minor ready, you know. And he said, fine. You
17 know, that was his typical response.
18 Q And then you went to the master bathroom?
19 A Yes.
20 Q Was there a carseat in the home that you just -- I've
21 seen some of these seats that they've got little carry on
22 and you can take it and walk around with it and kind of flip
23 it in a seat.
24 A The carseat was already in the car.
25 Q So you had the -- so that's more for like a baby, isn't

THEIA MCARDLE: DIRECT EXAMINATION

1038

- 1 it, when you carry them around?
2 A Yeah, that's -- I think that's for like newborn through
3 nine months maybe.
4 Q So you didn't -- ordinarily Minor would get in the
5 car, or walk in, I would assume, if this was daytime?
6 A Typically, yes.
7 Q And then what kind of carseat -- well, we've all seen
8 the carseats.
9 A It was just a -- I would consider it a regular sitting
10 up restraint seat. I mean, it had the buckle right here and
11 the buckle in the crotch area.
12 Q There's a buckle in the crotch area and there's a
13 buckle across the chest?
14 A Yes.
15 Q It's not like a booster, is it?
16 A No. No it is not. He wasn't big enough for one of
17 those, I don't think.
18 Q Was your carseat buckled in?
19 A To my knowledge, the last time that he was riding in
20 it, it was. Now, that's not to say that it could have been
21 -- it couldn't have been unbuckled. You know, it could have
22 or couldn't have. I didn't honestly check. That would have
23 been Richard's job as he was the one putting him in there.
24 Q Well, I mean, when you go on a call do you unbuckle the
25 carseat so the client can't see it, or --

THEIA MCARDLE: DIRECT EXAMINATION

1039

- 1 A No. It doesn't matter if they see the carseat.
- 2 Q Did you go and make sure Minor was properly clothed,
- 3 or what did you do?
- 4 A No. I just sat in the car.
- 5 Q And how did you find the location?
- 6 A I had typed -- I copy and pasted the address from the
- 7 text message into my GPS, which you can do on ENU Studio,
- 8 and pulled it up by a -- I think it was --
- 9 Q Did you use your cell phone?
- 10 A Yes. It was the Google Maps application.
- 11 Q So you were driving while you were holding your cell
- 12 phone?
- 13 A No. I had the cell phone -- I think there was a center
- 14 console, if I'm not mistaken.
- 15 Q Well, what's the -- what are you all doing during the
- 16 car ride to Newberry?
- 17 A He was just still on the same subject as earlier, you
- 18 know. I care about you but, you know, you got to understand
- 19 I have friends and I have needs. And it was just --
- 20 Q So you all were having kind of a relationship talk down
- 21 this -- was it argumentative or unpleasant, or was it just
- 22 --
- 23 A I mean, I really just kept telling him I don't want to
- 24 hear this, you know. And at one point I tried to turn on
- 25 music to tune him out and he turned it back down. And I was

THEIA MCARDLE: DIRECT EXAMINATION

1040

- 1 just like, okay. So, I mean --
- 2 Q What was the baby doing during the car trip, Theia?
- 3 A I had heard him snoring, you know, or at least making
- 4 sleep sounds at that point, you know.
- 5 Q You heard noises coming from the --
- 6 A Yes.
- 7 Q Did you ever see any bruising on the baby?
- 8 A I didn't look.
- 9 Q Did you examine him when he was in the bed when he came
- 10 home?
- 11 A No. I walked right past him.
- 12 Q Was he clothed?
- 13 A To my knowledge, yes.
- 14 Q Did you turn on the lamp in the livingroom when you
- 15 came home?
- 16 A No. I did nothing. I walked literally through the
- 17 kitchen, through the livingroom, into the master bedroom
- 18 throwing the crap on top of Richard.
- 19 Q Was the light even on in the master bedroom? Was the
- 20 TV still running?
- 21 A The TV was on, but not the light.
- 22 Q Well, what happens when you get to the John's house?
- 23 A Once I finally figured out where it was I got out of
- 24 the car. I went to meet the John, who was standing just at
- 25 the very back of the camper itself. And I walked into the

THEIA MCARDLE: DIRECT EXAMINATION

1041

- 1 house with him. He -- I asked him for some water. And we
2 stood talking for a good amount of time, 15, 20 minutes.
- 3 Q Is that typical?
- 4 A Yes.
- 5 Q You don't just meet somebody and rush into the bedroom
6 and kind of --
- 7 A No. Part of what my services entail is not just being
8 a prostitute, which is why I say there's a difference
9 between an escort and a prostitute. But typically --
- 10 Q Nobody appreciates it. You talk to people before to
11 break the ice?
- 12 A Yes.
- 13 Q And I don't want to be rude. But, I mean, it's still
14 ultimately prostitution, but part of your services are to be
15 friendly and entertain the man?
- 16 A Yes.
- 17 Q We understand that, Theia. But you don't just go into
18 a back room with a man -- well, I guess some people might
19 get straight to business, wouldn't they?
- 20 A Some people. Not many.
- 21 Q Not usually?
- 22 A No.
- 23 Q But usually there's a little bit of getting to know
24 each other beforehand?
- 25 A There's conversation. What do you like. What do you

THEIA MCARDLE: DIRECT EXAMINATION

1042

- 1 not like. What do you do, you know. You know, just general
2 small talk, you know.
- 3 Q How long do you think you were with the man?
- 4 A I can't give you an exact timeframe.
- 5 Q There's no clock that gets set or anything like that?
- 6 A No. No.
- 7 Q Could it have been -- how long did he pay you to be
8 with him?
- 9 A The session for the sex itself was 30 minutes. It does
10 not include talking. This does not include cleanup. This
11 is not --
- 12 Q You charge for talking or anything like that?
- 13 A No, I do not.
- 14 Q So that -- he's not on the clock while you're just
15 getting to know him or having a drink?
- 16 A No.
- 17 Q But he paid for 30 minutes with him?
- 18 A Yes.
- 19 Q Did you all spend 30 minutes together?
- 20 A In actual sex or just with small talk?
- 21 Q In actual sex.
- 22 A I would have said it would have been close to it.
- 23 Q Maybe not 30 minutes but --
- 24 A Roughly 25. I mean, it wasn't off by far.
- 25 Q And how long do you think you spent talking with him?

- 1 A Before or after?
- 2 Q Before.
- 3 A Like I said, roughly 15, 20 minutes.
- 4 Q How long after?
- 5 A That's hard to estimate, because I did end up cleaning
- 6 up in his bathroom, as did he.
- 7 Q So after sex you go to his bathroom and kind of --
- 8 A Yes.
- 9 Q -- clean up?
- 10 A Yes. I also stayed in the kitchen, and I had noticed
- 11 he had some Straw-Ber-Ritas and I was like, can I buy some
- 12 of those off of you for when I get home, because I don't
- 13 drink and drive. And he was like, yeah, sure. And I was --
- 14 I told him, you know, these are my favorites, et cetera, and
- 15 we discussed, you know, what types of Ritas that they had,
- 16 and a few other things before I left.
- 17 Q Were you aware prior to arriving at the man's house
- 18 that Minor was hurt?
- 19 A No.
- 20 Q Were you aware at the time you arrived at the man's
- 21 house that Minor was hurt?
- 22 A No.
- 23 Q Did you ever hear Richard honking the horn out in the
- 24 driveway?
- 25 A No.

- 1 Q When is the first that you learned that Minor wasn't
- 2 right?
- 3 A The first time that I had learned that something was
- 4 not right with my son was when I got into the car and
- 5 Richard said, and I quote, "Does your son have sleep apnea?"
- 6 I said, no. Why would you ask that. Not that I'm aware of.
- 7 Q Where is Richard when -- where is Richard?
- 8 A In the backseat. And at that point I'm backing out of
- 9 the John's house and he -- you know, he's telling me, he's
- 10 like, because he stopped breathing in his sleep. And I do
- 11 that sometimes and I have sleep apnea. And I'm like, he's
- 12 never done that before. And, you know, he's like, well,
- 13 he's not breathing right now. And I'm like, okay, well try
- 14 to shake him, tickle him, get a response from him,
- 15 something. And meanwhile I'm trying to pull up on my phone
- 16 the address to what I presumed was the nearest hospital,
- 17 which would have been Laurens County, to my knowledge.
- 18 Q Why didn't you call 911?
- 19 A Honestly, I really didn't think about it. I didn't
- 20 think -- before I saw the vomit come out of his nose, which
- 21 would have been mid-drive, I didn't --
- 22 Q Well, you started looking for directions to a hospital
- 23 -- you started looking for the directions to a hospital
- 24 before you saw the vomit or --
- 25 A Yes. Yes, I did.

THEIA MCARDLE: DIRECT EXAMINATION

1045

- 1 Q Just when he said he'd been --
2 A He had stopped breathing, yes.
3 Q Was it raining this night, Theia, or was it just
4 overcast?
5 A I don't remember. Sorry.
6 Q Was there trouble getting a signal on your phone?
7 A Extremely.
8 Q Now, you heard the SLED agent say you didn't have like
9 a familiar model of phone. What kind of phone did you have?
10 A It was a BLU Studio 5.5. The electronic equivalent of
11 a Galaxy Note 4.
12 Q So it's a Smart Phone?
13 A Yes.
14 Q Do you pay a plan every month or do you have to kind of
15 prepay?
16 A Yes. It was T-Mobile prepared service.
17 Q It was prepared?
18 A Uh-huh.
19 Q So it's a prepaid qualify phone? It's not one of the
20 nicer end --
21 A I mean, it was a very nice phone. The service just
22 sucks because it's Newberry.
23 Q You're looking for the hospital on your phone.
24 A Yes.
25 Q Richard tells you the baby's not breathing?

THEIA MCARDLE: DIRECT EXAMINATION

1046

- 1 A At that point I do spot a hospital this way sign in
2 the middle of the road and I begin to follow the signs.
3 Richard then --
4 Q Had you ever been to Newberry before?
5 A No.
6 Q What time did you arrive to Newberry? This was after
7 midnight?
8 A Yes.
9 Q Do you know what time you left the man's house?
10 A I couldn't tell you.
11 Q Is there a clock -- digital clock or some --
12 A There's a clock in the car, but I didn't really see the
13 necessity to --
14 Q You don't remember seeing --
15 A -- note the time. At that point Richard, in his
16 responses with Minor when I keep telling him to try to
17 get a response from him, he's trying to get a response from
18 him. And he asked me, he's like, should I try CPR. And I
19 said, do you know how to do CPR. And he said no. And I
20 said no, because you can break his sternum or his ribs if
21 you don't know what you're doing.
22 Q And you're driving?
23 A Yes.
24 Q And the baby's directly behind you in the --
25 A Yes.

THEIA MCARDLE- DIRECT EXAMINATION

1047

1 Q Was that still where the baby was sitting at the time
2 --
3 A Yes.
4 Q Was he still in his carseat?
5 A Yes. Because I told Richard not to take him out of his
6 carseat. You can --
7 Q Was he wearing a shirt or --
8 A I think he was wearing a shirt at that time.
9 Q So you talked about CPR?
10 A Uh-huh.
11 Q And then you see the hospital sign and you start
12 following the signs?
13 A I had -- yes. I had already been following the signs
14 after I had first seen it, maybe --
15 Q But your plan was to go to the Laurens Hospital first?
16 A Yes.
17 Q And that's the hospital that you were familiar with?
18 A Yes.
19 Q Did you -- did you notice that Newberry had a hospital
20 sign when you came in on the interstate?
21 A I honestly wasn't looking for the sign. I was
22 following the GPS. Why would I look for a hospital if I
23 don't think that I need a hospital.
24 Q How long did it take you to -- how fast did you drive
25 to the hospital?

THEIA MCARDLE- DIRECT EXAMINATION

1048

1 A I broke a few laws. I actually ended up flipping a
2 left turn and running a red light, and thank God nobody hit
3 me when I reached -- I can't tell you exactly where it's at,
4 because again, I don't know about anything in Newberry. But
5 there was a point in which I had flipped a left turn running
6 a red light.
7 Q Were you handling this pretty calmly or how were you
8 handling this?
9 A I was trying. I didn't really start freaking, freaking
10 until Richard was like what is this brown shire, but he
11 didn't say shite, coming out of his nose. And being that I
12 was driving, I did just like this and glanced, all of one
13 second or two, and saw that there was coze coming out of his
14 nose. And at that point it registered in my brain --
15 Q Minor 's nose?
16 A Yes. At that point it registered in my brain something
17 is seriously wrong because his airway is blocked. At that
18 point I think I broke a couple of speeding laws.
19 THE COURT: Mr. Verner, let me interrupt. About how
20 much longer do you think you're going to be on direct?
21 Really it's going to be necessary that we take a break
22 before cross.
23 MR. VERNER: Judge, I thought I'd be through by now.
24 Just a few more minutes. We're at the hospital.
25

THEIA MCARDLE: DIRECT EXAMINATION

1049

- 1 Q You get to the hospital. Is there a decision made on
2 whether Richard should take him out, or how do you all make
3 the decision who --
4 A I had already told Richard go ahead -- as we were
5 pulling in. I was like, go ahead and take him in. I will
6 park the car. Because to my knowledge every hospital has a
7 sheriff on duty. Sheriff in North Carolina run license
8 plates for out of state cars. Hence why I parked away from
9 -- with stolen tag, no insurance, no license, away from the
10 entrance, backed in.
11 Q Did you know Minor was dying or dead at the time you
12 parked backwards in the lot?
13 A I did not. I knew that something was obstructing his
14 airway, but I didn't know that it was a life or death
15 situation. I knew it was a serious situation. Hence why we
16 were at the hospital.
17 Q When did you first learn it was a life-threatening?
18 A As soon as I walked in.
19 Q Did you cause any of those bruises on Gabriel?
20 A No, I did not.
21 Q Did you see Richard cause any of those bruises on
22 Minor's body?
23 A Honest to God, I did not. I did not even know he had
24 struck him back at the house.
25 Q If you had seen Richard cause those bruises, what would

THEIA MCARDLE: DIRECT EXAMINATION

1050

- 1 you have done?
2 A Hit him and probably got the tar beat out of me again.
3 Q Well, did you see Richard inflict those bruises and not
4 get involved because you didn't want to get beat up?
5 A No.
6 Q Did you see Richard in this condition and then just
7 decide to go out on a prostitution run knowing that Minor
8 -- I'm sorry. Did you see Minor hurt like this and decide
9 I'm just going to go prostitute while this baby was in this
10 condition?
11 A No, I did not.
12 Q Would you have gone on this call had you seen Minor
13 in this condition?
14 A I would have gone nowhere but the hospital had I seen
15 Minor in this condition. I wouldn't have gone anyway.
16 Actually then I would have called 911 had I seen Minor in
17 this condition.
18 Q If you were at home you would have called 911?
19 A Yes. Had I realized anything -- anything like what I
20 have seen in the last few days was wrong with him, I would
21 have called 911.
22 Q Did you see the child get hurt accidentally that might
23 have caused injuries like this?
24 A No. No. There is no accident that could cause
25 anything like this.

1052

THEIA MCARDLE: CROSS-EXAMINATION

1 this on Charles' -- Mr. Verner's desk as well. Mr. Scott
 2 did a little bit of legal research. We have a written memo
 3 on the lesser included. And regarding the application of
 4 unlawful conduct there's a lesser conduct of child abuse.
 5 It's actually a written memorandum of law that relates back
 6 to the notion -- or not the motion made earlier but --
 7 THE COURT: Let me review it actually -- this at lunch.
 8 I have given it more consideration I had a chance to talk
 9 with Judge Griffith. After our conversation, I'm sort of
 10 leaning away from changing unlawful conduct. But I'll look
 11 at the memorandum for some more consideration while Ms.
 12 Mcardle is testifying.
 13 MR. STUMBO: Thank you, Judge.
 14 THE COURT: And we'll see where we are after that.
 15 Ma'am, if you'll come on back up, please, and have a seat.
 16 And let's have the jury out, please.
 17 (Whereupon, the jury entered the courtroom at 2:25
 18 p.m.)
 19 THE COURT: The jury is back and seated, ladies and
 20 gentlemen. We're still in Ms. Mcardle's testimony. Ma'am,
 21 I'll remind you you're still under oath. Solicitor, your
 22 cross, sir.
 23 MR. STUMBO: Thank you, Your Honor.
 24 CROSS-EXAMINATION
 25 BY MR. STUMBO:

1051

THEIA MCARDLE: CROSS-EXAMINATION

1 Q You would agree that somebody beat Minor to death?
 2 A This is a homicide. There is no doubt in my mind that
 3 this is a homicide.
 4 Q Did you participate in any way in the beating of that
 5 child?
 6 A No, I did not.
 7 MR. VERNER: I'm sure the prosecutor is going to have
 8 questions for you.
 9 THE COURT: Ma'am, you can step down. Don't discuss
 10 your testimony with anyone. We're going to go ahead and
 11 take a lunch break. Sorry about lying to you about having
 12 this case to you by lunch. I was more optimistic perhaps
 13 that I should have been. Don't discuss the case. If you
 14 would, be back in an hour at 2:15 and we'll resume with Ms.
 15 Mcardle's testimony. Have a pleasant lunch. We'll see you
 16 in an hour. Thanks.
 17 (Whereupon, the jury exited the courtroom at 1:15 p.m.)
 18 THE COURT: The jury is out. We'll be at ease for an
 19 hour. See you all at 2:15.
 20 (Whereupon, a lunch recess was held from 1:15 p.m. to
 21 2:15 p.m.)
 22 THE COURT: We'll go back on the record. We were in
 23 the middle of the testimony of Ms. Mcardle. Is there
 24 something you need to bring up?
 25 MR. STUMBO: Just briefly, Judge. We put a copy of

THEIA MCARDLE: CROSS-EXAMINATION

1053

- 1 Q Now, Theia, you all talked several times about
- 2 Richard's phone being broken during this time period.
- 3 A Yes.
- 4 Q It's broken because you broke it, right?
- 5 A That is correct.
- 6 Q You broke it because you were furious at him and you
- 7 lost your temper, right?
- 8 A I was irritated. I didn't lose my temper.
- 9 Q You were just irritated and you broke his phone as a
- 10 result, is that what you're saying?
- 11 A I threw it in the toilet.
- 12 Q You broke it because you were mad?
- 13 A Yes.
- 14 Q Now, you indicated that you had already been
- 15 considering going on the cusp of having a relationship with
- 16 this Poppy Chula up in Spartanburg, right?
- 17 A Yes.
- 18 Q You were ready to go move in with him?
- 19 A Yes.
- 20 Q And you can't even remember his name today?
- 21 A He was not legal.
- 22 Q So, ma'am, you didn't even know his actual name and you
- 23 were ready to go move in with him and start a new life with
- 24 your son, Minor?
- 25 A Yes.

THEIA MCARDLE: CROSS-EXAMINATION

1054

- 1 Q So you hated Richard at the time, right? That's your
- 2 -- that's what you're telling this jury here today. You
- 3 said I hate you, I don't want anything to do with you?
- 4 A At that point in time, yes, I could -- I could compare
- 5 what I felt toward him as hate.
- 6 Q But since you -- since then -- since you've been
- 7 charged with this together you love him again, right?
- 8 A No.
- 9 Q Well, you wrote him a letter saying -- called him my
- 10 beloved, right?
- 11 A Staying in good graces with your co-defendant is
- 12 usually a good idea, especially when they're a notorious
- 13 liar.
- 14 Q So you just called him my beloved and wrote him a five
- 15 page letter to stay in his good graces --
- 16 A Yes.
- 17 Q -- is that what you're saying? That is your
- 18 handwriting, correct?
- 19 A Yes.
- 20 Q But in actuality, even though you said you loved him,
- 21 my beloved, you really hated him?
- 22 A Yes.
- 23 Q So you were lying to him?
- 24 A Absolutely.
- 25 Q You told him at the time you were tired of his cheating

THEIA MCARDLE: CROSS-EXAMINATION

1055

1 and manipulation, right? You said you screamed that at him
2 that day on the 29th?
3 A I don't think I said manipulation but I did say
4 cheating, yes.
5 Q Tired of his cheating. And you're about to split with
6 him to end up with Papi Chulo, right?
7 A Yes.
8 Q So you're cheating, too?
9 A Essentially, yes.
10 Q So hold on a second. Straighten this out of me. You
11 are mad at him for cheating on you --
12 A Yes.
13 Q -- but you're ready to leave him anyway?
14 A Yes.
15 Q Well, why did it matter that he was cheating on you?
16 A I cheated for money.
17 Q Not just money. You were going to live with Papi
18 Chulo, right, and take Minor with you?
19 A Yes.
20 Q That wasn't just for money. You were going to go live
21 with him permanently.
22 A It had occurred yet.
23 Q It would be fair to say your and Richard's -- your
24 relationship with Richard Bowman was extremely toxic,
25 correct?

THEIA MCARDLE: CROSS-EXAMINATION

1056

1 A I believe that's a fair statement.
2 Q You all had had incidents where you had mutual combat
3 with each other, right?
4 A Incident.
5 Q What's that?
6 A Incident, singular. Yes.
7 Q So one time. One in Spartanburg when you all were in
8 the hotel, right?
9 A No, sir. In Asheville. The one in Spartanburg was
10 completely fictitious.
11 Q So it's fictitious that the police came out and Richard
12 had had a cut on his hand?
13 A He had a cut on his hand but it wasn't me. I was
14 rendered unconscious at the time.
15 Q Where was Minor while all this was going on?
16 A When I woke up, when I came back to consciousness after
17 he had knocked me out, my son was cowering in the corner of
18 the hotel room.
19 Q He was in the hotel room?
20 A Yes.
21 Q So it wasn't true that he was outside --
22 A No.
23 Q -- and being observed by the hotel staff --
24 A No.
25 Q -- running around the parking lot?

THEIA MCARDLE: CROSS-EXAMINATION

1057

- 1 A At the point in time which I woke back up, no. He was
2 in the hotel room.
- 3 Q You testified earlier that Richard was harsh towards
4 Minor. You saw him be harsh towards him, right?
- 5 A Yes.
- 6 Q Well, that's not what you told the officers, Detective
7 Moore and Agent Williams? You didn't tell them that, did
8 you?
- 9 A I don't recall, honestly.
- 10 Q I believe you told them, when they asked you how did
11 Bowman treat Minor you said always kind. He treated him
12 no different than his own. Do you remember telling them
13 that?
- 14 A It's possible I could have said that.
- 15 Q So you're not disputing that you said that?
- 16 A I said it's possible I could have said that.
- 17 Q Why didn't you tell them that he had treated him harsh?
- 18 A Because it really didn't seem pertinent at the time. I
19 didn't know this was actually a homicide.
- 20 Q Didn't seem pertinent after Minor was dead?
- 21 A Again, I did not know the details. I did not know it
22 was a murder at that point.
- 23 Q But at that point you told them repeatedly that you had
24 never -- you had always -- you had seen him be kind of
25 Minor, correct?

THEIA MCARDLE: CROSS-EXAMINATION

1058

- 1 A If that's what the statement says.
- 2 Q And that you did not ever see him lay hands or hit him,
3 right?
- 4 A That is true.
- 5 Q Let's go back to the day of the 29th of -- say after
6 breakfast that morning you all end up going to Laurens to
7 Family Dollar, right?
- 8 A Yes.
- 9 Q And you said that was in the morning time, right?
- 10 A I'm fairly certain it was.
- 11 Q But, in fact, the receipt shows you all going there
12 about 1:00 in the afternoon, correct?
- 13 A Could be.
- 14 Q You wouldn't dispute you all went early afternoon and
15 not in the morning as you testified earlier?
- 16 A It seemed like morning time to me, because that's when
17 I was on the phone with the actual company that provided the
18 Wi-Fi. I think it was Direct -- or, God dammit. Direct TV,
19 excuse me.
- 20 Q And you went there to get Internet service; is that
21 right?
- 22 A To try and get Wi-Fi connected to the trailer, yes.
- 23 Q How much money was that going to cost?
- 24 A All I knew was a \$20 deposit. I believe that's what
25 they said. It might have been 20 and some change. I don't

- 1 remember exactly. I remember it was about \$20 for a deposit
2 for them to come and do the installation, I believe it was
3 the following Wednesday.
4 Q When did you buy that big flat screen TV?
5 A The actual purchase itself would have been made on
6 Black Friday. As to when it was picked up, that was a
7 different day.
8 Q Black Friday, meaning the day after Christmas?
9 A No. The day after Thanksgiving.
10 Q How much money did you spend on the flat screen?
11 A Two hundred without tax.
12 Q You decided that was a better purchase than maybe
13 buying a real bed for Minor?
14 MR. VERNER: Your Honor, objection, the point of
15 relevance.
16 MR. STUMBO: Judge, I think it's relevant as to how
17 this child was treated in the house. That's what this is
18 about.
19 MR. VERNER: If she's charged with child neglect, I
20 would agree. She's charged with killing the child.
21 THE COURT: Sustained.
22 MR. STUMBO: I can move on, Judge.
23 Q What did you spend the money on? How much did you
24 spend? You said \$200?
25 A Yes, sir.

- 1 Q How much did you spend on the laptop?
2 A That was actually a gift from Papi Chulo.
3 Q Throughout the day when you would go to Family Dollar
4 how's Minor acting at that point?
5 A He's actually very energetic.
6 Q He was normal?
7 A He's his normal chipper self.
8 Q What did he eat for lunch?
9 A I believe cold cuts.
10 Q When was that, before or after you left?
11 A I honestly can't remember.
12 Q You said he's energetic and happy and trying to help
13 you cook while you're cooking steak?
14 A Uh-huh.
15 Q Had no problem eating his dinner, and that was sometime
16 between 5:30 and 7:30 when you all were cooking and eating
17 dinner, right?
18 A I believe we would have finished cooking around 7:30,
19 7:45.
20 Q Now, you told the officers the day after this happened
21 that you went to your call in Spartanburg to Papi Chulo.
22 A Uh-huh.
23 Q Then you came back and cooked dinner for Minor
24 A That is not correct.
25 Q But you told the law officers that.

THEIA MCARDLE: CROSS-EXAMINATION

1061

- 1 A If that was said, it was probably mixed up. That was a
2 very traumatic day for me.
3 Q That you got back from the prostitution call and made
4 dinner.
5 A That's not right.
6 Q So it was earlier --
7 A Yes.
8 Q -- that you made dinner --
9 A Yes.
10 Q -- and then you went to Spartanburg later?
11 A Yes.
12 Q You also testified earlier that Minor never threw up?
13 A No.
14 Q Never got sick?
15 A No.
16 Q Never observed Minor sick whatsoever?
17 A No.
18 Q That's not what you told your mom when you called her
19 after Minor passed away in the hospital, right, that
20 night?
21 A I believe my exact words to her were that Minor was
22 sleeping and Richard went to check on him. I did not say
23 where we were. I did not say where he had to go to check on
24 him. But I also didn't want to elaborate on the fact that
25 while my child had stopped breathing I was having sex with a

THEIA MCARDLE: CROSS-EXAMINATION

1062

- 1 man for money while my child was in the car in the middle of
2 the night in a very strange town. It's not something you
3 want to admit to your parent.
4 Q But you told her that he had been throwing up and was
5 sick at the Enoree house, correct?
6 A No, that's not what I said. What I said was he had
7 stopped breathing -- he had suffocated on his vomit, which I
8 had learned at that point. I said that Richard had gone to
9 check on him. I did not say where we were. I did not say
10 where he had to go to check on him. That is what I said.
11 Q So what you told your mom was just stuff you learned
12 later on, right? And this was just shortly after the
13 doctors told you that he was deceased?
14 A I believe that is the timeframe. I am not entirely
15 sure. Again, that night was very traumatic.
16 Q But you're testifying here today you never witnessed
17 him sick at all? When you witness the house he's happy,
18 he's --
19 A The only time that I witnessed vomit coming out of him
20 was coming out of his nose when he was in the car. When
21 Richard said was is this brown shite coming out of his nose,
22 and I turned around for all of two seconds, just like that,
23 and witnessed him coming out of his nose and oozing down his
24 chin.
25 Q You didn't leave for Spartanburg until around closer to

THEIA MCARDLE: CROSS-EXAMINATION

1063

- 1 9:00, correct?
- 2 A That is very incorrect.
- 3 Q Well, tell me what is correct?
- 4 A I left shortly after 8:00.
- 5 Q What time exactly?
- 6 A I would venture 8:10, 8:15.
- 7 Q How is your phone pinging off the tower by your house
- 8 at 8:35 then?
- 9 A Because again I had to stop to go -- well, when I first
- 10 initially headed toward Spartanburg I stopped at the gas
- 11 station. Got gas. Picked up the cat. I had to coax the
- 12 cat into getting into the box. So that in itself was a
- 13 feat. Mind you, the gas station is only maybe two miles
- 14 from my house, which neither side has yet to prove whether
- 15 or not it could still be the same cell tower.
- 16 Q Well, hold on a second. But you don't dispute that you
- 17 were using the phone at your house at 8:35, correct?
- 18 A What I am letting you know is, once I had gotten the
- 19 gas and the cat, went back to the house to drop the cat off,
- 20 I believe I did call Papi Chulo at some point to let him
- 21 know I am now on my way. Sorry, I had to make a pit stop.
- 22 Q And that was after you brought the one-eyed cat back to
- 23 the house, right?
- 24 A Very certain that was.
- 25 Q You brought the cat into the house?

THEIA MCARDLE: CROSS-EXAMINATION

1064

- 1 A I did not bring the cat into the house. I brought the
- 2 cat to the house. Richard was the one who had swung open
- 3 the back door when he heard the cat come back up and he was
- 4 like, what are you doing. And I had got out and handed him
- 5 the box. And he said, what is this. And I'm like, it's a
- 6 cat, and I explained.
- 7 Q So what's Minor doing at that point? Is she still
- 8 fine?
- 9 A I have no idea. I didn't see Minor at that point. I
- 10 didn't even see Minor at that point. So I assumed he was
- 11 still in the bedroom.
- 12 Q So between 8:35, when the phone's hitting at the house,
- 13 and sometime before 9:00 you're on your way to Spartanburg?
- 14 A Yes.
- 15 Q You return. The phone's hitting off a tower very close
- 16 to your house in Spartanburg around 10:52 p.m., correct?
- 17 A If that's what the phone records show, yes.
- 18 Q So you get home there around 11:00, correct?
- 19 A Sounds fairly correct, yes.
- 20 Q And your testimony is that you come in the house. You
- 21 immediately throw this drink down on the bed at Richard
- 22 Bowman. And you say, come on. Get up. Let's go. Get
- 23 Minor up. We're going to Newberry. Is that how you did
- 24 it?
- 25 A I think what my words were is I need you to get up. I

THEIA MCARDLE: CROSS-EXAMINATION

1065

1 need you to come with me. And he's like, where are we going
 2 and why. And I said Newberry. I have a call there and the
 3 guy is young. I don't want to go by myself. I'm
 4 unfamiliar, and you don't have a phone or a car that works.
 5 Q This is a man you've described as being controlling and
 6 domineering towards you, right?
 7 A At times, yes.
 8 Q But here you are barging in the house telling him he's
 9 got to get up, get Minor up. We're going to Newberry
 10 right now. You're demanding it?
 11 A You see, when it came to making money he didn't put up
 12 too much of a fight.
 13 Q But you're telling him? You're not asking him? You're
 14 telling him you're going to Newberry with me?
 15 A Yes.
 16 Q Did he argue with you at all?
 17 A He grumped and grumbled just a little bit. But finally
 18 he was like fine. That was, you know, his response.
 19 Q So sometimes he was the controlling and domineering one
 20 and then sometimes you were?
 21 A Some of the rare instances I was adamant because I
 22 needed the money to get away.
 23 Q And you testified earlier — Mr. Verner asked if you
 24 need to go clean off your private parts when this call
 25 occurred.

THEIA MCARDLE: CROSS-EXAMINATION

1066

1 A Uh-huh.
 2 Q Didn't you say you didn't have sex with Papi Chulo?
 3 A It doesn't mean I didn't get fluids on them. It could
 4 be lotion. It could be oil. I did say that I do erratic
 5 massages. That does not qualify as sexual intercourse.
 6 Q So what did you all do? You and Papi Chulo?
 7 A An erratic massage is what he gave me.
 8 Q And that doesn't qualify as sexual activity to you?
 9 A No, because there is no penetration.
 10 Q But you still needed to clean up your private parts to
 11 go to your next call?
 12 A Yes.
 13 Q Because you had lotion down there?
 14 A Oil.
 15 Q Well, during this time you never once even look at
 16 Minor . or even check on him?
 17 A No.
 18 Q You just walk right by him?
 19 A He had been fine. You know, I didn't feel like there
 20 was a need for me to check on him. I didn't feel like an
 21 instance like this would ever arise in my or my child's
 22 life.
 23 Q So you had never seen him abused or struck
 24 traumatically?
 25 A No.

THEIA MCARDLE: CROSS-EXAMINATION

1067

- 1 Q Not even when you did it?
- 2 A It was not traumatically, but it was a strike.
- 3 Q Explain to me what you did to get arrested and
- 4 convicted for that?
- 5 A It was a slap.
- 6 Q Just a slap?
- 7 A Yes.
- 8 Q Didn't roll up a newspaper or a magazine and beat him?
- 9 A No.
- 10 Q And there were people that witnessed that, right?
- 11 A There were no people there besides Richard and one
- 12 other girl.
- 13 Q Justin Madore wasn't there?
- 14 A No.
- 15 Q Megan Cody didn't witness that?
- 16 A Megan Cody, who is Richard Bowman's ex-lover, was not
- 17 speaking to me at that point because he had left her for me.
- 18 Q So that's the only time you ever laid your hands on
- 19 Minor
- 20 A That is the only time since the DSS call itself that I
- 21 had used any type of punishment even similar to that. I
- 22 have -- I have popped him on his butt maybe once or twice
- 23 since then.
- 24 Q So what's your philosophy of corporal punishment then?
- 25 Tell us, Ms. McArdle?

THEIA MCARDLE: CROSS-EXAMINATION

1068

- 1 A I'm still not even sure -- I don't understand what
- 2 corporal punishment is. I've never heard this term before.
- 3 Q Discipline. Disciplining your child. How do you do
- 4 that?
- 5 A Stick him in a corner. Depending on where we're at.
- 6 You know, I mean, if we're in the car then there's not
- 7 really much I can do.
- 8 Q Stick him in a corner how? Describe that to me.
- 9 A Stick him in a corner.
- 10 Q Stick him in a corner. Is he facing the wall in the
- 11 corner --
- 12 A Yes, facing the corner. Facing the corner.
- 13 Q What else? You ever use your hands?
- 14 A There's only once or twice that I've actually had to
- 15 pop his butt since the USS case.
- 16 Q You were convicted of that, of abusing Minor, right?
- 17 A I pled guilty.
- 18 Q He was gone from you for how long? A year?
- 19 A A year, yes.
- 20 Q And Ms. Janice Holloway had him for that time, right?
- 21 A Yes.
- 22 Q When you get him back that's when you move to South
- 23 Carolina?
- 24 A It was a few months after that.
- 25 Q And you believe the best way to support him and your

THEIA MCARDLE: CROSS-EXAMINATION

1069

1 all's family was for you and Richard to be escorts on Back
 2 Page dot com?
 3 A I did not make Richard become an escort. I decided to
 4 become an escort because the money was exactly what I was
 5 able to do to support not only us, but the bills, the car,
 6 food, shelter, clothing. Everything that we needed. It was
 7 fast money. It was easy. And when you don't have any proof
 8 of identification of who you are, you don't really have to
 9 have that to do something illegal.
 10 Q And Minor was in the room with you at times? These
 11 hotel rooms as you were having sex with these men?
 12 A No. That is completely fictitious.
 13 Q You know you talked -- testified earlier, Ms. McArdle,
 14 Richard never did anything, is that right, at the house? He
 15 just sat around and hung out, right?
 16 A I mean, for the most part, yes.
 17 Q And then you proceeded to talk about how you left him
 18 to clean the dishes that night when you went to Spartanburg,
 19 correct?
 20 A That is correct.
 21 Q So he did do stuff around the house?
 22 A The dishes were still there the next day.
 23 Q And then you also described about how you didn't really
 24 know about Minor taking baths because Richard was always
 25 the one that he took a bath with?

THEIA MCARDLE: CROSS-EXAMINATION

1070

1 A But I did say his only job was to babysit Minor
 2 That, in my opinion, entails childcare.
 3 Q And that qualifies as nothing? Earlier you said he
 4 didn't do anything to help in the house? He just hung out?
 5 A Okay. Let me rephrase what I said.
 6 Q Sure, explain.
 7 A The only thing, generally, which he would do is help
 8 take care of Minor. Mainly when I was working. Sometimes
 9 just because.
 10 Q You talked about this letter you sent Richard earlier.
 11 You remember telling him that you're going to get back into
 12 the game and start stacking as much money as you can when
 13 you get out?
 14 A Yes, I do.
 15 Q I think throughout this letter you talk about sexual
 16 fantasies that you were having?
 17 A I don't honestly remember what all I put into that
 18 letter.
 19 MR. VERNER: Your Honor, one -- I object for one on
 20 relevance. Two, I don't think she was talking about sexual
 21 fantasies with Richard in the letter. Three, it's been
 22 asked and answered that she wrote him a letter. We don't
 23 know the date of the letter --
 24 MR. STUMBO: Judge, I'm about to wrap up on this point.
 25 Q Five pages of this letter, and not until the very end

1 you mention anything about your son who had been killed,
2 correct?
3 A Again, trying to stay in the good graces of the man who
4 could have possibly murdered him. At that point hadn't seen
5 the Rule 5. Didn't know what exactly the details of the
6 case was, was something that I was trying to do. Clearly he
7 still shows no remorse whatsoever for actually murdering
8 him.
9 Q You're pretty good at putting on acts, aren't you?
10 A Can I ask what you're referring to?
11 A Isn't that what you told the investigators, that you
12 could -- if you wanted to emotionally move them you could
13 put on act and put them on their f-ing feet, right?
14 A Meaning, if I wanted to lie, I could. Yet I had no
15 reason to. It could have been said better, admittedly.
16 Q And that's the same act that you're putting on for this
17 jury today, right?
18 A No, sir.
19 Q So today, unlike what you told the investigators,
20 you're not explaining these injuries by Minor falling down
21 on his skates in Asheville a couple days before, right?
22 A There is no way that these injuries could have been
23 created by anything accidental.
24 Q Nor Richard doing CPR on him in the car? Because that
25 was the only explanation to the investigators the day after

1 when it happened, correct?
2 A That is correct.
3 Q It's your theory today that you're still clueless and
4 absolutely have no knowledge of how these injuries occurred
5 to Minor?
6 A My theory today is that my statements to Richard of I
7 hate you was enough to drive him over the top and for some
8 reason he took it out on my child while I was gone.
9 Q But you're just speculating that, right?
10 A Absolutely.
11 Q You have no idea that that happened?
12 A No. But I wasn't there and my son didn't harm himself.
13 Q And for a man who had been living with you and Minor
14 for the last almost year, going back to May of 2014, or at
15 least multiple months, you had never seen him lay his hands
16 on this child, correct?
17 A Just because I had never seen him doesn't mean he never
18 did.
19 Q There was never any concern with you leaving your child
20 with him?
21 A No.
22 Q And then all of a sudden because you get mad with him
23 one night -- and he had already been talking with another
24 girl anyway, right, in Asheville?
25 A That was throughout the entire relationship.

THEIA MCARDLE: CROSS-EXAMINATION

1073

- 1 Q You were ready to leave at that point?
- 2 A Yes.
- 3 Q So you're telling me in that entire time you've never
- 4 seen Richard be violent whatsoever toward your son?
- 5 A Toward my son, no.
- 6 Q To the point where you had no problem leaving Minor
- 7 with him multiple times?
- 8 A That is correct.
- 9 Q And then all of a sudden one night, because you get mad
- 10 at him and tell him you hate him, he beats Minor
- 11 inexplicably to death?
- 12 A I can't tell you for sure that that is why he did it.
- 13 I can only speculate.
- 14 Q And the only time you ever laid your hands on him was
- 15 when you slapped him when he was a little baby, hardly
- 16 walking yet? One-year-old, right?
- 17 A He was walking.
- 18 Q He was walking. He was one year and what, three, four
- 19 months? April --
- 20 A He was walking.
- 21 Q Okay, walking. But he's a toddler. He's just starting
- 22 to walk, right?
- 23 A Uh-huh.
- 24 Q You slap him like a grown man as hard as you can across
- 25 his face, right?

THEIA MCARDLE: REDIRECT EXAMINATION

1074

- 1 A That is incorrect.
- 2 Q You didn't do that?
- 3 A The force which you are trying to describe is
- 4 incorrect. Was it a slap? Absolutely. Was it that hard of
- 5 a slap? No.
- 6 Q Well, explain to me just with your hand how hard you
- 7 hit him.
- 8 A (Demonstrating.)
- 9 Q That's it? For that you pled guilty to abusing your
- 10 child and had your child taken away from you for over a
- 11 year?
- 12 A Yes.
- 13 Q But now these injuries have nothing to do with you --
- 14 A That is correct.
- 15 Q -- today? That's what you're telling this jury?
- 16 A That is correct.
- 17 MR. STUMBO: No further questions, Your Honor.
- 18 THE COURT: Redirect?
- 19 MR. VERNER: Your Honor, if it may please the Court.
- 20 Just a few to clarify.
- 21 THE COURT: Certainly.
- 22 REDIRECT EXAMINATION
- 23 BY MR. VERNER:
- 24 Q What you -- this charge you were charged with at DSS,
- 25 or the North Carolina equivalent invested in April of 2013

1 for slapping Minor ?
2 A Yes.
3 Q You participated in their plan? Their family plan?
4 A Yes.
5 Q And you also pled guilty to a charge of child abuse?
6 A Yes.
7 Q Was that a court like this or was that like a traffic
8 court?
9 A It is the equivalent of driving without a license,
10 pretty much.
11 Q It wasn't a felony conviction. It was a traffic court
12 conviction?
13 A It was a misdemeanor, yes.
14 Q And that's the only time you've been in trouble with
15 Minor?
16 A Yes.
17 Q And was one of the reasons DSS wouldn't return the
18 child to you because they were worried that Richard was
19 living with you?
20 A Yes. Actually, that would have been the reason for
21 which Minor was actually put into kinship. Originally he
22 was only supposed to be supervised until the investigation
23 was over, at which point they would allow me to resume
24 parenting. When the woman who was supposed to be watching
25 us saw that Richard was coming back because he had nowhere

1 to go, that is when she left and called DSS and said I don't
2 feel comfortable while this man is here watching over her
3 and Minor .
4 Q And that is in the North Carolina DSS file?
5 A Yes.
6 Q Which you've had access to and the state provided to
7 you?
8 A Yes.
9 Q And when you say the term Rule 5, you're basically
10 talking about the evidence --
11 A The motion of discovery.
12 Q -- in the case?
13 A Yes.
14 Q My understanding is the only time you've spoken to the
15 police was not the day after Minor died, the day --
16 A Yes.
17 Q -- in fact within hours after Minor died?
18 A That is correct.
19 Q And the Solicitor indicated you made dinner after the
20 run with Papi Chuio, but didn't you actually say on the way
21 back I stopped by and got gas, picked up a stray cat and went
22 back home. There Minor helped McArdle cook supper which
23 consisted of steak, corn on the cob and garlic bread. So
24 that is, you're saying, after you got gas you cooked dinner.
25 A I honestly --

THELA MCARDLE: REDIRECT EXAMINATION

1077

1 Q I'll hand you your statement to the -- is that not what
2 you told the -- on the way. That's what you told Officer
3 Moore on the day Minor was killed.

4 A That is what it appears to say.

5 MR. VERNER: Your Honor, I would -- not in this form,
6 but I would offer that statement as a prior consistent
7 statement for the jury, in that redacted form.

8 MR. STUMBO: Judge, I would say instead of that form,
9 we -- he could go to the police -- in the transcript. We
10 have it on audio. We can go to that tape and just play it.
11 It's already in evidence, State's 1. The recording.

12 THE COURT: We have the entire statement on the record.
13 If you want to reference that particular part of the
14 statement --

15 MR. VERNER: I have no idea where it is in the audio.
16 I'll just leave it at the fact that --

17 Q Would you agree that her statement reflects that you
18 said you cooked dinner after you got back home from the gas
19 station, or do you remember? If you don't remember --

20 A I agree that it reflects that it was before the actual
21 call itself.

22 Q Now, the Solicitor says you made a call at 10:52 p.m.
23 but that -- the cell phone records would agree that you
24 weren't home until 11:19 p.m.? If the cell phones records
25 are accurate?

THELA MCARDLE: REDIRECT EXAMINATION

1078

1 A That sounds correct.

2 Q And if the records indicate that you were out of the
3 home between 8:11 to 8:35 where were you at that time?

4 A Could have been the gas station.

5 Q The run prior to going to see Papi was --

6 A Yes.

7 Q -- the gas station run?

8 A Yes.

9 Q And then you dropped the car back off and then you left
10 again to go see --

11 A Papi Chulo, yes.

12 Q -- Papi Chulo.

13 A Yes.

14 Q And then you got -- you came back home to clean up and
15 then went back to Newberry?

16 A Yes.

17 Q You agree you were the only one using that cell phone?

18 A Yes.

19 Q On December 30th were you aware, even after you had
20 gone to the hospital and taken the child off -- when the
21 child was delivered to the hospital Minor was still
22 clothed, wasn't he?

23 A I'm fairly certain he was, yes.

24 Q When did you first become aware that Minor had
25 suspicious bruises on him?

THEIA MCARDLE: REDIRECT EXAMINATION

1079

1 A I didn't know that he had any bruises at all until the
2 time when -- which Ms. Moore took me into the police station
3 and began to question me. A few hours later she said there
4 are some bruises. She did not say what. She did not say
5 where. She did not say to what extent. She never --
6 Q And you never had any pictures or anything?
7 A No. And she never actually said to what extent.
8 Q How long were you in jail before you actually got some
9 of the evidence that you could go over it yourself?
10 A I never got the -- I never seen the pictures until just
11 the other day. But as far as actual autopsy report,
12 findings, et cetera, that would have been September.
13 Q So you had been in jail for a couple of months?
14 A I had been in jail for a year.
15 Q And during that time you wrote Richard a letter before
16 you had seen anything?
17 A Yes.
18 Q By the way, has he been sending you letters, too?
19 A He has sent me a total of three, one of which I could
20 not find. Actually, he's passed me a few notes, too, that
21 --
22 Q I didn't ask you that.
23 MR. VERNER: I'll rest with that. Thank you.
24 MR. STUMBO: Just one, Your Honor.
25 THE COURT: Yes, sir.

THEIA MCARDLE: RECROSS-EXAMINATION

1080

1 RECROSS-EXAMINATION
2 BY MR. STUMBO:
3 Q Maybe I misheard this, Ms. McArdle, but did you just
4 compare slapping your child across the face with a traffic
5 ticket?
6 A The offense time that you can actually get for it, like
7 time you spend in jail, is comparable with a South Carolina
8 traffic ticket offense. Meaning 30 to 60 days.
9 MR. STUMBO: No further questions, Your Honor.
10 THE COURT: Ma'am, you may step down.
11 (Whereupon, the witness stepped down from the witness
12 stand.)
13 THE COURT: Mr. Verner, your next witness.
14 MR. VERNER: Your Honor, we'll rest the Defense's case.
15 THE COURT: Very good. Nothing in reply, Solicitor?
16 MR. STUMBO: Judge, can we approach?
17 THE COURT: Sure.
18 (Whereupon, a sidebar was held.)
19 THE COURT: Ladies and gentlemen of the jury, the State
20 rests at this point in time, correct?
21 MR. STUMBO: Yes, subject to the Court's ruling, Judge.
22 THE COURT: Subject to the Court's ruling. Very good.
23 All right. Ladies and gentlemen of the jury, here's where
24 we are. By law the State requires me to have a very brief
25 charge conference with the attorneys concerning the law that



MAC | VANCE ATTORNEYS, LLC

September 13, 2017

Elizabeth P. Folk
Newberry County Clerk of Court
Attn: PCRs
PO Drawer 10
Newberry, SC 29108

FILED
NEWBERRY COUNTY
2017 SEP 18 AM 10:46
ELIZABETH P. FOLK
CLERK OF COURT

Re: Richard FV Bowman, III, #369067 v. State of South Carolina
2016-CP-36-00576

Dear Ms. Folk:

Please find enclosed an Amended Post-Conviction Relief Application and Certificate of Service for the above-referenced matter. Kindly file this document.

Should you have any questions, I can be reached at the number listed below or at ashley@macvance.com

Best regards,

Ashley A. McMahan
Attorney at Law

AAM

cc: Richard FV Bowman, III
AAG Justin J. Hunter

State of South Carolina	)	
	)	Court of Common Pleas
County of Newberry	)	
	)	Post Conviction Relief
		2016-CP-36-00576
Richard Bowman	)	
vs.	)	Transcript of Record
	)	
	)	
State of South Carolina	)	
Defendant	)	

October 10, 2017
Laurens, South Carolina

B E F O R E:

Honorable R. Scott Sprouse, Judge

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

Justin Hunter, Assistant Attorney General
Attorney for the State

Ashley McMahan, Esq.
Attorney for the Applicant

Joy E. Holston
Official Court Reporter

I N D E X O F W I T N E S S E S

(IC) - Denotes In Camera
(DW) - Denotes Defense Witness
(AW) - Denotes State's Witness

(AW) Richard Bowman

Direct examination by Ms. McMahan: 4
Cross-examination by Mr. Hunter: 17
Redirect examination by Ms. McMahan: 20

(SW) Russell Brown

Direct examination by Mr. Hunter: 21
Cross-examination by Ms. McMahan: 28

Certificate of Reporter 35

EXHIBITS

(There were no exhibits introduced.)

1 MR. HUNTER: May it please the Court.

2 THE COURT: Yes, sir.

3 MR. HUNTER: The next case is Richard Bowman versus
4 the State of South Carolina, 2016-CP-36-576. Your Honor,
5 he was indicted May 2016 in Newberry County for aiding and
6 abetting homicide by child abuse, 2016-GS-36-305. He was
7 represented by Mr. Russell Brown and on January 5th of
8 2015 he plead guilty before Judge Addy and was sentenced
9 to 15 years. He did not file a direct appeal, he filed
10 this current action December 22nd 2016. He is present
11 today represented by Ms. Ashley McMahan.

12 THE COURT: Ms. McMahan.

13 MS. MCMAHAN: Your Honor, if it pleases the Court,
14 the Applicant calls Mr. Bowman to the stand.

15 RICHARD BOWMAN, being
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 By Ms. McMahan:

19 Q Mr. Bowman, did you file this application for post
20 conviction relief?

21 A I did.

22 Q And let's start going through because I think you
23 have got quite a few issues. And it was amended, is that
24 correct?

25 A Yes, it was.

1 Q So your first couple issues on your original
2 application was ineffective assistance of counsel and you
3 had some part B's. So the first one--

4 MS. MCMAHAN: Your Honor, 11a, we are going to strike
5 that since we don't have any witnesses to testify to that.

6 Q 11b, so you said your Fifth and Sixth Amendment
7 rights were violated because the defense team wasn't
8 allowed a doctor to look over the child's body. Can you
9 explain that?

10 A Whenever I was originally arrested I had Joe St.
11 Pierre as my attorney and I didn't get my motion until
12 three months after I had him as my attorney. And then I
13 asked him, he said that the coroner's office had wrote it
14 as blunt force trauma. When I was going through my motion
15 to discovery and I remember whenever I went to the
16 hospital the doctor said that he died from vomiting in his
17 lungs or something of the sort. So whenever I asked Joe
18 St. Pierre, I said, are we going to get a second opinion
19 on that because there is two different, there is
20 conflicting causes of death on there. And he said, well,
21 the body has already been cremated and we can't do
22 anything on that.

23 Q Had the body been cremated, do you know?

24 A I am not sure, that is what I was told by my
25 attorney. And I had a certificate in my motion that

1 actually said that the body was cremated. I believe we
2 got arrested December 29th, investigated to like the 30th
3 and then the body was cremated, I believe, like January
4 1st or January 2nd. That was before I even had my
5 attorney.

6 Q Okay, so that was before Mr. St. Pierre even started
7 representing you?

8 A Yes.

9 Q So you said he was your first attorney. How long did
10 Mr. St. Pierre, how long was he your attorney?

11 A He was my attorney until, I believe August of 2015 I
12 believe. And I wrote him a letter pretty much saying I
13 didn't want him as my attorney anymore. And he relieved
14 himself, he came to Laurens County Detention Center with a
15 letter saying for me to sign saying I wanted to relieve
16 him as my attorney.

17 Q And why were you at the Laurens Detention Center?

18 A Because I was being harassed and mistreated in
19 Newberry County.

20 Q So they traded you out, they sent you to Laurens?

21 A Yes, they did. .

22 Q And so then after Mr. St. Pierre was relieved, why
23 did you want him relieved?

24 A Because he had not seen me, he had been my attorney
25 for, I believe, roughly like six or five months. And he

1 came to Laurens County, first when I was in Newberry he
2 said that Newberry and Laurens County were too far apart
3 for him to come and see me as often so we could discuss my
4 case. And every time, he saw me like maybe twice or three
5 times at Newberry and he stayed all of like five minutes
6 for me to do anything. And it was roughly him just
7 talking. And then when I got moved to Laurens, he said,
8 well, you are a lot closer. He only saw me one time. And
9 he told me, well, they want to, well, I don't know what I
10 am going to do for you, I don't know how I am going to
11 defend you. They want to take you to trial in November
12 and I don't know what to do for you. And I looked at him,
13 like, so are we going to start getting prepared for this
14 supposed trial, they are going to take me to trial. And
15 he said pretty much he did not know what he was going to
16 do for a defense for me if I went to trial.

17 Q And that is when you asked for him to be relieved?

18 A Yes.

19 Q And then who got appointed after that?

20 A Russell Brown.

21 Q Did Mr. Brown come see you?

22 A He saw me, I believe, once at Laurens and then I got
23 switched over to Newberry County.

24 Q So you got sent back to Newberry after being in
25 Laurens?

1 A Yes.

2 Q Did he come see you in Newberry?

3 A He saw me a few times in Newberry. Yes, he did.

4 Q Okay. Did you and Mr. Brown ever talk about having
5 the child's medical records looked at to determine the
6 cause of death?

7 A I did state that, he said that the body was cremated.
8 And I pointed out, I said, how did they cremate the body
9 before, you know, a secondary opinion. He said, well, a
10 secondary opinion would come out of the pocket of the
11 person that's trying to get it. So, pretty much out of my
12 pocket.

13 Q Okay. So your next one is your lawyer failed to
14 inquire about your competency to stand trial. Why did you
15 think that you may or may not have been competent to stand
16 trial?

17 A Due to my military records.

18 Q And what are those military records?

19 A I have PTSD and some other things that are actually
20 on my military records.

21 Q And do you know if anybody tried to get those for
22 you, did you try to get them?

23 A I tried to through the VA when the VA came and my
24 mother did as well because I gave her power-of-attorney
25 while I was in Newberry County. And we are actually in

1 the process of trying to get those--

2 COURT REPORTER: I can't hear you. The air came on
3 and you have to speak louder.

4 A I am sorry. We are in the process of trying to get
5 those military records, trying to get them still for this
6 right now actually.

7 Q So you said the VA came to you?

8 A The VA, yes they did. Because they had sent a
9 representative, an advocate to Newberry County a couple of
10 times to talk to a bunch of like Veterans that were there.
11 And I inquired about Veterans Court and everything to see
12 if I was eligible to go to that and everything. Newberry
13 or the Eighth Judicial Court Circuit was doing the VA,
14 Veterans Court at that time.

15 Q Did you ask Mr. Brown about Veterans Court?

16 A Yes, he said that I was not able to go due to the
17 fact of my charge.

18 Q Okay. Did he ever talk about trying to get the
19 charge reduced, to see if the Solicitor would let you do
20 it?

21 A The only time there was talk of a charge being
22 reduced was after I testified on my codefendant. And when
23 we were talking at the Court House he showed me there were
24 two lessor included offenses. I asked him, I said, are
25 you going to inquire about those. And I actually wrote

1 letters to inquire about those are being inquired about
2 and everything. And I wrote the Solicitor myself while I
3 was in Newberry County to find out what was going on, like
4 when would I be offered a plea or when would they be
5 talking to me next after I testified against my
6 codefendant. It was like a month and a half, after her
7 trial and everything and she was found guilty and whatnot.
8 Then the Solicitors respond to me on the kiosk saying we
9 are only offering you aiding and abetting, homicide by
10 child abuse. And that is the same charge.

11 Q So the kiosk is within the jail?

12 A Yes.

13 Q And that is how you can communicate?

14 A Yes.

15 Q Okay. So then regarding those two issues, is there
16 anything else you want the Court to know about. The issue
17 about the child, the child's body and then the VA records.
18 Did Mr. Brown ever say he would get the VA records for
19 you?

20 A No, he never did say he would get the military
21 records.

22 Q Did Mr. St. Pierre ever tell you?

23 A No, he didn't. I in fact gave the VA advocate,
24 whenever he came to Newberry, my lawyer's number to be
25 able to contact him, to talk with him because they said

1 they come to court and, you know, be there on my behalf
2 for some type of support or whatnot. Even gave the woman
3 that was over the Veteran's Court advocacy, that thing, I
4 gave her the number to my attorney as well. She said when
5 they did call there was no response, they were given his
6 paralegal and the paralegal said that they would give the
7 number or let Mr. Brown know that he called, or that they
8 contacted him.

9 Q When they said to come to court for you, did you mean
10 like they could come and help mitigate any type of
11 sentencing on your behalf?

12 A Yes.

13 Q What, I know we don't have copies of your VA records
14 right now. What do you believe that they say in there?

15 A I have PTSD that is actually on there. I had to go
16 to combat stress mode in Afghanistan due to some issues
17 that I was having while I was deployed as well.

18 Q What was your deployment, what did you do?

19 A I have been to Iraq for eighteen months. I did a
20 two-year in Afghanistan, I did nine months in Kosovo.

21 Q So what was that timeframe in your life, like what
22 age range?

23 A Deployed first, my first time whenever I was 20, all
24 the way, my last deployment was whenever I was 25.

25 Q So you came back when you were 25?

1 A Yes.

2 Q Okay.

3 A But I came back in between those periods of times for
4 like, and then was redeployed again.

5 Q Okay. Where were you stationed when you were over
6 here?

7 A Fort Bragg, North Carolina.

8 Q The whole time you were in Fort Bragg?

9 A Yes.

10 Q Did you do your basic training there too?

11 A I did my basic training and my AIT here at Fort
12 Jackson.

13 Q Okay. And so, for your amended application, we are
14 talking about Mr. Brown again, you said he was ineffective
15 because he failed to basically get the Solicitor to say he
16 would help you if you testified in Theia McArdle's trial.
17 Tell the Court about that?

18 A He actually, whenever I talked to him March 6th, they
19 flat out told me in front of Brown, they said, we don't
20 have any evidence against you. We know you didn't do it,
21 we know your codefendant done it, we have nothing against
22 you. And they said, so we pretty much need you to testify
23 against your codefendant. They brought me there, they
24 tell them things that I did not tell them the first day,
25 whenever I got arrested. But I really wasn't questioned

1 whenever I was first arrested in Newberry anyways. But I
2 explained to them everything they said. First they was
3 like, they got upset and they left out due to the fact
4 that they thought I was just quoting the motion of
5 discovery. And then I went and I explained to them
6 everything. And they said then as well, they said, okay,
7 if you will be willing to testify we will actually try to
8 help you when it comes time for either your trial or your
9 plea. They also said that as well when I was at the Court
10 House the first day before I went to go out there to
11 testify on Theia McArdle. The head Solicitor, I forget
12 what his name is off the top of my head.

13 Q Mr. Scott?

14 A Yes, he was there as well as, I am not sure if it was
15 Taylor Daniel or the other one. I think it was the
16 younger looking one. He was there and they were talking
17 to me, they said, and I asked them, I said so, y'all
18 aren't going to take me to trial. And Russell Brown was
19 present. I said, y'all aren't taking me to trial. Y'all
20 are actually going to try to help me whenever it comes
21 time for me to, you know, take a plea. They said, well,
22 yes. But whenever you go out there we can't have anything
23 written down on paper because when you go out there we
24 want you to be pure, whenever you testify so it doesn't
25 look like we promised you anything, that you are just

1 testifying for the sake of testifying on your codefendant
2 because we promised you help.

3 Q And this is that transcript that's, the conversation
4 you had with the Solicitor is referred to as the
5 transcript in Ms. McArdle's trial, is it not?

6 A Yes, it is.

7 Q Do you recall if it was entered as an exhibit in that
8 trial?

9 A I believe it was because Charles Verner was
10 questioning me about it. And then the very next day the
11 Solicitor that was over her trial questioned me on it to,
12 I guess, go over any misconception that Mr. Brown, not Mr.
13 Brown but Mr. Verner was shedding on it.

14 Q And did you ever have a copy of what you said to the
15 Solicitor?

16 A No, I did not.

17 Q Do you know if Mr. Brown ever had a copy of what you
18 said to the Solicitor?

19 A I am not sure.

20 Q Did he ever tell you if he had a copy of it?

21 A He did not never tell me.

22 Q Okay. And so that was your reason why you desired to
23 testify against Theia was because of what they had said to
24 you in this conversation?

25 A Yes.

1 Q And this was the second interview that you had about
2 this case?

3 A The first interview because I didn't really have a
4 second interview. I got arrested, they talked to me and I
5 didn't talk to any Solicitor or anything until that day
6 whenever they took me, to take my codefendant to trial.

7 Q You had spoken briefly with Officer McClurkin, right?

8 A Whenever I was first arrested, yes.

9 Q And so this was much later?

10 A Yes.

11 Q Like two and a half years later?

12 A Yes.

13 Q And you sat down and you talked to Dale Scott and all
14 of them and that was at the Newberry Court House?

15 A Yes, it was.

16 Q And then they copied, they transcribed that
17 conversation?

18 A It was on tape, yes. And then they transcribed.

19 Q And we talked about the VA records earlier. So the
20 other one was, Counsel failed to move to have the charges
21 dismissed or appeal the guilty plea for lack of accomplice
22 liability. What was your, you remember we were discussing
23 that, tell the Court your issue with that one?

24 A My issue with that is, whenever I got my time and
25 went to prison I was at McCormick and I started going over

1 my case and looking over it. And whenever I was in the
2 law room or law library, I was on the computer and I was
3 looking up cases, numerous similar to mine. And actually
4 there was a case with the very same Judge in Laurens
5 County where a gentleman was found guilty on homicide by
6 child abuse but there is points in it where it is very
7 similar to mine like, there was some points in there like
8 just because he knew that his codefendant abused the child
9 or failed to stop the abuse, or whatever the case may be,
10 does not constitute guilt. And I never did anything to
11 actually, I actually did attempt to stop my codefendant.
12 I was only really given this charge because I failed to
13 call the police. That is literally what the Solicitor
14 told me after I took my plea. It was like, you didn't
15 call the police, that is why we are giving you the time.

16 Q So after you did your plea, the Solicitor says the
17 reason why we ask for this time was--

18 A Because you didn't call the police.

19 Q So what ultimately, how much time did you end up
20 getting?

21 A Fifteen years.

22 Q Okay. Is there anything else you want to tell the
23 Judge today or anybody about what happened with your case?

24 A Not off the top of my.

25 MS. MCMAHAN: Nothing further, Your Honor.

1 THE COURT: All right. Yes, sir.

2 CROSS-EXAMINATION

3 By Mr. Hunter:

4 Q Correct me if I am wrong, you testified earlier that
5 when you had Mr. St. Pierre as your attorney, he was the
6 one who told you that the body had already been cremated?

7 A Yes.

8 Q By the time Mr. Brown was representing you the body
9 had already been cremated?

10 A Yes.

11 Q Okay. And as far your competency issue, did you tell
12 Mr. Brown about your PTSD and combat stress?

13 A Yes, I did.

14 Q And did you ever tell him about the VA records that
15 would show all of that?

16 A Yes, I did.

17 Q And did he ever attempt to get those?

18 A He said it wouldn't really help because I speak,
19 because of the way I talk and everything, it would be
20 ruled as I am competent to stand trial.

21 Q Do you remember at the plea agreement, or the plea
22 hearing and the Judge asking you if you had any competency
23 issues?

24 A Yes.

25 Q Why didn't you say anything?

1 A Well, it was already on record. I mean my attorney
2 knew and he said due to the fact that I talk well and I
3 don't sound crazy or anything that it really wouldn't have
4 helped. That would have been ruled as competent because
5 then in a nutshell I don't speak like I am ignorant I
6 guess. I guess in a nutshell.

7 Q So you just didn't bring that to the Judge's
8 attention?

9 A No.

10 Q And as far as the plea agreement or promises. You
11 said those were made by the Solicitor to you before you
12 testified in Ms. McArdle's trial?

13 A Yes, I did.

14 Q Do you remember in Ms. McArdle's trial when Mr.
15 Verner asked you, are you testifying today on the hope
16 that you will get some help from the prosecutor's on
17 resolving your charges. And you said, no sir. Do you
18 remember that?

19 A And I also stated in the transcript as well that I
20 would accept any charges that were given to me, even if
21 they were not, even if I wasn't given any help as well.

22 Q Essentially told them that the State doesn't make any
23 promises, correct?

24 A The State didn't have anything written on paper. And
25 verbal promises, when I was explaining it, really don't

1 mean anything unless it is on paper.

2 Q Okay. So you were referring to verbal promises?

3 A Yes. I hadn't signed anything on paper, they hadn't
4 had anything on paper for me to sign for an agreement to
5 say that we will do this, that and this for you.

6 Q Did you ever ask them if anything was going to be on
7 paper?

8 A I did ask them. My attorney said that afterwards,
9 after you finish testifying and whatnot they will come at
10 you with a plea or a plea agreement.

11 Q Okay.

12 A I told them, I said, well, the charges that you had
13 told me about, ask if they would be willing to do that. I
14 don't know the negotiation process between him and the
15 Solicitor at that time because I was never present. I
16 don't know what happened. I just know that whenever I
17 wrote the Solicitor to ask, okay, I have been sitting here
18 for about a month and half after I have testified. Are
19 you guys going to offer me anything, like what is the plea
20 agreement. Am I going to trial, what is the case. They
21 came to me and they said, on the kiosk, we are offering
22 you homicide, aiding and abetting, homicide by child
23 abuse. That is it. After that I told Mr. Brown that, to
24 try to attempt to get me a bond reduction so I could bond
25 out because I was sitting there with \$150,000.00 dollar

1 bond just because my codefendant had a \$150,000.00 dollar
2 bond. And so, whenever I went for my bond reduction they
3 told my attorney, and my attorney tells me the very same
4 day, well, they said you have until the close of business
5 to accept this plea. If not we are going to make you go
6 to trial, for not only the aiding and abetting homicide by
7 child abuse but homicide by child abuse. They are going
8 to take me to trial for both of those.

9 Q Okay. That is all the questions that I have. Thank
10 you.

11 THE COURT: Any redirect?

12 MS. MCMAHAN: The Court's indulgence, Your Honor.

13 REDIRECT EXAMINATION

14 By Ms. McMahan:

15 Q So the verbal promises you were talking about were
16 the ones when you were being interviewed by Mr. Scott and
17 the other Solicitor?

18 A Yes. In the courtroom in Newberry County, yes.

19 Q Taylor Daniel?

20 A Yes.

21 Q Okay. And that is the ones that they recorded?

22 A Yes.

23 Q Nothing further, Your Honor.

24 THE COURT: Anything further for this witness?

25 MR. HUNTER: Nothing else.

1 THE COURT: Thank you, sir.

2 MS. MCMAHAN: Your Honor, the Applicant rest.

3 THE COURT: Okay.

4 MR. HUNTER: The State would call Mr. Russell Brown.

5 RUSSELL BROWN, being

6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 By Mr. Hunter:

9 Q Good morning, Mr. Brown.

10 A Good morning.

11 Q State your name for the record?

12 A Russell Odell Brown.

13 Q And where are you employed?

14 A I am self-employed, I have my own law firm in
15 Columbia, South Carolina.

16 Q And what is your primary area of practice?

17 A Criminal defense and family law.

18 Q Can you please explain how you became involved in
19 this case?

20 A I was appointed to represent Mr. Bowman on the charge
21 in Newberry County. I think initially Mr. St. Pierre was
22 appointed and then he was relieved and I was appointed.

23 Q And to just cover some matters. After you were
24 appointed did you get Mr. St. Pierre's file or talk to
25 him?

1 A I did, I drove up here and I actually got the file
2 from him. I met him at his office and I came back to
3 Columbia.

4 Q How many times did you meet with Mr. Bowman?

5 A Mr. Bowman, numerous times.

6 Q That would be in Laurens County and Newberry County?

7 A Laurens County, initially he was here and then I told
8 the Solicitor he needs to be in Newberry County. I think
9 they transported him. He had some problem, he posted
10 pictures of Theia McArdle, now this is what I was told.
11 That he posted pictures of Theia McArdle, his codefendant
12 in the dorm of the facility and some of those pictures
13 were simi-nude or nude. And that was a violation of the
14 Newberry County Detention Center rules so they transported
15 him up here. And I told him, he needs to come back to
16 Newberry.

17 Q And during y'all's meeting, can you just explain what
18 y'all talked about?

19 A We went over in discovery what I did have from Mr.
20 St. Pierre. Any additional discovery I gave him a copy.
21 Whenever I represent someone I always give them a copy of
22 the statute. I send a letter to a client or hand deliver
23 it to the client and say, here is the statute that you are
24 accused of violating. I also send them a letter that the
25 only person that I am going to deal with in this case is

1 you, I don't deal with family members of friends or
2 cousins or grandmothers. I am going to deal with you and
3 you only. And so I had those documents delivered to Mr.
4 Bowman. And we went over and I also gave him a copy of
5 the discovery they had, we went over the discovery. We
6 went over the video tape, we went over the photos, we went
7 over every piece of discovery in this file. I brought my
8 laptop to Newberry County and got a DVD and put it in
9 there and let him look at the pictures. Some of the
10 photos he did not want to see, they were kind of graphic
11 but they were there. I said you need to take a look at
12 this because this is the discovery that the State of South
13 Carolina will present to a jury and you need to see it
14 before they do, the jury.

15 Q And I guess in that discovery, were you given
16 records, I guess, from the coroner's office about the
17 cause of death?

18 A We received the autopsy. Yes, we did. He reviewed
19 that.

20 Q Please explain, I guess, what the cause of death was
21 or at least what it said?

22 A Yes, we did. It was in the report.

23 Q And what did it say?

24 A Bear with me. I have the Newberry Pathology
25 Associates report. Multiple blunt force injuries to the

1 head and abdomen for Gabriel McArdle.

2 Q And were you ever made aware of a second cause of
3 death or I believe his allegations is that there may have
4 been some other cause of death other than blunt force
5 trauma?

6 A This is all I had.

7 Q That is all you had?

8 A Yes.

9 Q Okay. Did he ever talk to you about, I guess,
10 looking back into the issue and getting another, a second
11 opinion?

12 A Well, the problem we had, unfortunately the body of
13 the baby had been cremated. So, no.

14 Q And the body had already been cremated by the time
15 you started representing him, correct?

16 A That is correct. The body had been cremated, I
17 guess, months prior to.

18 Q Did you explain that you wouldn't be able to get a
19 second opinion for Mr. Bowman?

20 A I told that to Mr. Bowman.

21 Q Okay. Now, about competency. Did you ever believe
22 there were any issues on his competency to stand trial?

23 A None.

24 Q Did he ever seem like he didn't understand your
25 discussions with him or anything like that?

1 A Not at all.

2 Q Did he ever discuss with you his VA records?

3 A He did mention that he served in the US Army and
4 that, I think he had gone to a VA facility.

5 Q Did he ask you to obtain those VA records for him?

6 A He did.

7 Q Were you able to do that?

8 A No, I was not.

9 Q Would the VA not let you obtain those?

10 A Well, we would have to do a HIPAA form. You know,
11 you just can't get somebody's medical records. You just
12 can't call down there and get them, a person's medical
13 records.

14 Q Did you believe he needed those records?

15 A No.

16 Q Why is that?

17 A I believed that Mr. Bowman was competent, clear
18 minded, I saw no manifestations of any sort of mental
19 deficiency or problems.

20 Q Can you discuss, I guess, your plea negotiations with
21 the Solicitor's office, how those begin?

22 A Well, initially Mr. Bowman was indicted on homicide
23 by child abuse. He spoke to law enforcement agents prior
24 to me coming on board as his attorney. And then with the
25 codefendant, we did have a meeting with the, I think the

1 Deputy Solicitor, Mr. Scott; Assistant Solicitor, Taylor
2 Daniels and I can't remember, maybe two of the law
3 enforcement agents. At that time, of course, they told
4 Mr. Bowman they cannot offer him a plea basically because
5 he testified and the defense attorney for Ms. McArdle
6 asked him did the State promise him anything and they had
7 not. And he realized that and he voluntarily and freely
8 gave a statement as to what occurred. And that was a few
9 weeks prior to the trial.

10 Q So were there any verbal promises made to him?

11 A No.

12 Q And certainly no written promises?

13 A None.

14 Q And did he ever ask you about getting a plea offer in
15 return for his testimony?

16 A No.

17 MR. HUNTER: I beg the Court's indulgence one second.

18 Q When he plead guilty that day did you give him any
19 estimate what time you thought he would get or any sort of
20 promise as to his imprisonment time?

21 A Well, actually I sent him a copy of the indictment
22 for the new charge which was aiding and abetting. I also
23 sent him a, the statute and, you know, the penalties that
24 are accrued upon a person pleading guilty to that
25 particular statute. I also sent him the statute, sent him

1 a letter on May 5th of 2016, enclosed is South Carolina
2 Code annotated 16-3-85, the State's plea offer, aiding and
3 abetting, homicide by child abuse. That letter was sent
4 to Mr. Bowman.

5 Q You said you believe he was aware there was a
6 straight-up plea?

7 A Yes, I do.

8 Q Did you ever having any concerns during the plea
9 hearing that he didn't understand what was going on?

10 A None whatsoever.

11 Q Do you think that he made that plea freely and
12 voluntarily?

13 A I do.

14 Q If you had of had some issues with his plea would you
15 have informed the Judge?

16 A I would have.

17 Q And let's talk about post-plea. Did he ever ask you
18 to file a notice of appeal?

19 A He did not.

20 Q And just to go back for a second. Did he ever ask
21 you to have the charge dismissed?

22 A I am not trying to be flippant. Most criminal
23 defendants always ask, can these charges be dismissed. I
24 told, highly unlikely, just wishful thinking at best. His
25 charges had already been indicted by the Grand Jury in

1 Newberry County so the chances of the State dismissing the
2 charges are slim to none.

3 Q And as far as the aiding and abetting goes, can you
4 just, if you can, briefly summarize the State's
5 allegations on how he aided and abetted this homicide?

6 A Well, I believe the State believed that Mr. Bowman
7 had a lot more involvement in the physical abuse of
8 Minor . In the meeting with Deputy Solicitor Scott,
9 Assistant Solicitor Taylor Daniels and I can't, again, I
10 can't remember the law enforcement agents that were there.
11 Mr. Bowman admitted that he struck Minor and Minor .'s
12 head hit the tub. And I believe that was actually on the
13 date of death that happened, a few hours prior to. I
14 guess that there were some statements from Ms. McArdle
15 that Mr. Bowman had some involvement on the physical abuse
16 of Minor .

17 Q So did you see any reason why you should have those
18 charges dismissed or file an appeal based on lack of
19 accomplice liability?

20 A None whatsoever.

21 Q That is all I have, thank you.

22 THE COURT: Ms. McMahan.

23 CROSS-EXAMINATION

24 By Ms. McMahan:

25 Q Mr. Brown, did he ever ask you to get the VA records

1 to use in maybe mitigation for sentencing or anything like
2 that?

3 A No, he did not. But he did ask me to get the
4 records.

5 Q Okay. The whole point of getting the records, I
6 guess, was the conversation revolving around competency
7 and not necessarily for mitigation, like PTSD?

8 A I would say maybe for mitigation but not necessarily
9 for competency, you know, at that time.

10 Q And did you ever get someone else to review the
11 coroner's records and the medical records related to
12 Minor ?

13 A No.

14 Q Why is that?

15 A I think the report stood on its own.

16 Q And did Dr. Holliday ever state anywhere that a
17 different reason for cause of death than the coroner?

18 A I would have to look. I don't recall.

19 Q Was there any issue about vomit in his lungs?

20 A In the report or?

21 Q From Dr. Holliday?

22 A I don't recall.

23 Q You don't recall. Did he ever tell you after, either
24 before the interview with the Solicitor or after that he
25 was counting on some sort of deal from the Solicitor in

1 that?

2 A Again I am not trying to be flippant. Most criminal
3 defendants ask that question. So he probably did, yes.

4 Q How did it come about that he ended up talking to Mr.
5 Scott and Mr. Daniel?

6 A Well, I think, whatever reason Mr. Bowman thought by
7 assisting the State that it would probably help him out.
8 I don't know what he is thinking, I am just trying to
9 piece it together.

10 Q Obviously you can't testify to what Mr. Bowman was
11 thinking?

12 A Thinking, yes.

13 Q What was the conversation like between you two when
14 you were discussing whether or not he was going to go talk
15 to Dale, I mean Mr. Scott or Mr. Daniel?

16 A The main thing I expressed to him is whatever you
17 tell them be truthful. Whatever you say just be truthful,
18 don't try to hide anything, you don't try to, just tell
19 the truth.

20 Q Was he sort of driving the bus in wanting to talk to
21 the Solicitors?

22 A I think so, yes.

23 Q Did you ever advise him it would be a bad idea to
24 talk to them, did you think it would be helpful to talk to
25 them?

1 A That it would be helpful?

2 Q Yes. Do you think it would help or hinder him to go
3 to talk--

4 A At that time I thought it would help.

5 Q Do you think it helped him in the long run?

6 A Yes, I do.

7 Q And why is that?

8 A Because I believe had Mr. Bowman gone to trial that
9 it was a great chance that he would have been found guilty
10 and he would have been looking at a sentence similar to
11 what his codefendant had.

12 Q So you believe he would have been found guilty on the
13 aiding and abetting and the homicide by child abuse?

14 A Yes.

15 Q Okay. On all the charges?

16 A Yes.

17 Q Do you recall a murder charge ever being brought
18 against him, a murder charge?

19 A I am not trying to give you a, again, I am not trying
20 to be a jerk. Homicide by child abuse, in a definition is
21 is a murder, I mean that--

22 Q Yes, but do you remember an actual indictment for
23 murder?

24 A I don't recall one. Homicide by child abuse is the
25 indictment.

1 Q There was one that said, murder, homicide by child
2 abuse but then there was another charge, he was charged
3 with was just murder. Do you ever recall seeing an
4 indictment?

5 A I don't recall.

6 Q Okay. Did you ever talk to him about possible lessor
7 included offenses that you could approach the Solicitor
8 with?

9 A Homicide by, well--

10 Q I am using lessor.

11 A I know what you mean. Potentially misprision of a
12 felony.

13 Q Did that ever come to fruition?

14 A Well, I broached it to the State but they-

15 Q They shot that down?

16 A Yes.

17 Q Did you ever talk to the coroner yourself?

18 A No.

19 Q And is that because you had the report, did you feel
20 like you didn't need to talk to the coroner?

21 A That's correct.

22 Q And did he ever write you a letter asking for an
23 appeal?

24 A I do not remember receiving a letter like that.

25 Q What happens when you file an appeal from a guilty

1 plea?

2 A Well, you file it with the Court of Appeals.
3 Actually you have to notice the current, by that time it
4 would have been the Eighth Circuit Solicitors Office.
5 That is what I do. Send a copy of the, state the reasons
6 and notice of appeal to Newberry County Clerk of Court and
7 file that with the Court of Appeals showing proof of
8 service to the Solicitor.

9 Q If you had filed an appeal what would your statement
10 of reasons have been?

11 A You got me under the gun. I am going off the top of,
12 I don't know. I mean, I don't know. I don't have any
13 answer right this second.

14 Q And did you ever talk to the Solicitor about him
15 going to Veterans Court?

16 A No.

17 Q Was that because of the charges?

18 A Well, I didn't know, I know Richland County has it
19 but I wasn't sure if Newberry County had.

20 Q Did you ever find out if they did or not?

21 A No.

22 Q Have you ever had a client in one circuit allowed to
23 do Veterans Court in another circuit?

24 A No.

25 MS. MCMAHAN: The Court's indulgence, Your Honor.

1 Q So when he went to go talk to Solicitor Scott and
2 Daniel, was that your suggestion that he should come up
3 there because it would help him?

4 A I believe it was, yes. We conferred together.

5 Q Okay. Nothing further.

6 THE COURT: Any redirect?

7 MR. HUNTER: Nothing else from the State, Your Honor.

8 THE COURT: Thank you, Mr. Brown. Any objection for
9 this witness being excused?

10 MS. MCMAHAN: No, Your Honor.

11 THE COURT: Mr. Brown, you are excused.

12 MR. HUNTER: That is all from the State, Your Honor.

13 MS. MCMAHAN: Your Honor, I have asked for the VA
14 records over a month ago. I was going to see if the Court
15 would indulge us for thirty days to see if I can get them
16 in and submit them.

17 THE COURT: Any objection from the State?

18 MR. HUNTER: No objection, Your Honor.

19 THE COURT: All right. We will hold the record open
20 for thirty days.

21 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

22

23

24

25

1 CERTIFICATE OF REPORTER

2
3
4 State of South Carolina)
5 County of Newberry)
6
7

8 I, Joy E. Holston, Official Court Reporter for the
9 Eighth Judicial Circuit of the State of South Carolina, do
10 hereby certify that the foregoing is a true, accurate and
11 complete transcript of record of the proceedings had and
12 evidence introduced in the trial of the captioned case,
13 relative to appeal, in the County of Newberry, South
14 Carolina on the 10th day of October, 2017.

15 I do further certify that I am neither of kin,
16 counsel nor interest to any party hereto.
17

18 March 28, 2018
19

20 *Joy Holston*
21

22 Joy E. Holston, Court Reporter

23 My Commission expires: May 2, 2026
24
25

STATE OF SOUTH CAROLINA)
COUNTY OF NEWBERRY)

IN THE COURT OF COMMON PLEAS
OF THE EIGHTH JUDICIAL CIRCUIT

2016-CP-36-576

Richard F. V. Bowman, III,
S.C.D.C. No. 369067,

Applicant,

v.

State of South Carolina,

Respondent.

ORDER OF DISMISSAL

FILED
NEWBERRY COUNTY
2017 DEC 29 AM 10:14
CLERK OF COURT

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed December 22, 2016. An evidentiary hearing into the matter was convened on Tuesday, October 10, 2017, at the Laurens County Courthouse in Laurens, South Carolina before the Honorable R. Scott Sprouse. Applicant was present at the hearing and represented by Ashley A. McMahan, Esquire. Assistant Attorney General Justin Hunter represented Respondent. At the hearing, Applicant testified on his own behalf. Russell Brown, Esquire, also testified. This Court also had before it a copy of Applicant's PCR application and amendment, Applicant's testimony from his codefendant's trial, the records of the Laurens County Clerk of Court regarding the subject convictions, Respondent's Return, and the plea transcript.

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Newberry County Clerk of Court. Applicant was indicted at the May 2016 term of the Newberry County Grand Jury for aiding and abetting homicide by child abuse (2016-GS-36-0305). Applicant was represented by Russell Brown, Esquire. On July 18, 2016, Applicant appeared before the Honorable Frank R. Addy, Jr., and pled guilty as indicted.

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Applicant was sentenced to imprisonment for fifteen years. Applicant did not file a direct appeal.

Allegations

In his current application for post-conviction relief, and the amendment filed thereto, Applicant alleges he is being held unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
2. Unconstitutional Guilty Plea
 - a. "I was denied key witnesses that could and would have shed the truth to the fact that I'm not guilty of this crime..."
 - b. "My 5th and 6th Amendment rights were violated because my defense team wasn't allowed a respectable doctor to look over the child's body and determine that the bruises and other marks on the child's body happened weeks or days prior. Or to correctly determine the child's cause of death."
 - c. "My lawyer failed to inquiry about my competency to stand trial or if I wanted to stand trial. That being stated I was not offered or sent to a competency to stand trial evaluation. I should have been offered that due to my history as a US Army War Veteran."

On September 13, 2017, Applicant submitted an amended application, adding the following grounds for relief:

1. Ineffective Assistance of Counsel as to Russell O. Brown, Esquire:
 - a. "Counsel was ineffective because Applicant detrimentally relied on a plea agreement from the Solicitor, wherein the Applicant would testify for the State relying on the Solicitor's statement that he 'would help him' if the Applicant testified. See attached, Excerpts of transcript of trial of State v. Theia McArdle, April 7, 2016. See also Custodio v. State, 373 SC 4, (2009). Plea counsel was ineffective in failing to have plea agreement between defendant and solicitor's office enforced based on detrimental reliance and memorialized into writing."
 - b. "Counsel failed to use Applicant's VA records as mitigation during sentencing."
 - d. "Counsel failed to move to have the charges dismissed and/or appeal the guilty plea arguing the charges should be dismissed for lack of accomplice liability. See State v. Lewis, 403 SC 345 (2013). 'Under accomplice liability theory, a person must personally commit the crime or be present at the scene of the crime and intentionally, or through a common design, aid, abet, or assist in the commission of the crime through some overt act.' Id. at 354."

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II. APPLICABLE LAW

In a post-conviction relief action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

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III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the plea transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief and amendment, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

Ineffective Assistance of Counsel

"I was denied key witnesses that could and would have shed the truth to the fact that I'm not guilty of this crime"

At the outset of the PCR hearing, Applicant informed the Court that he was striking this allegation for relief. As such, this allegation is dismissed.

"My 5th and 6th Amendment rights were violated because my defense team wasn't allowed a respectable doctor to look over the child's body and determine that the bruises and other marks on the child's body happened weeks or days prior. Or to correctly determine the child's cause of death."

Applicant alleged that Mr. Brown was ineffective for failing to get a respectable doctor to review the Minor's body to determine when the bruises occurred and the cause of death. Applicant alleged that there was evidence that the Minor could have died as the result of blunt force trauma or vomit in the lungs. He testified that he wanted to get a second opinion from another doctor but was told he could not do so because the Minor's body had already been cremated. Applicant testified that he was originally represented by Joseph St. Pierre, Esquire, but Applicant relieved him as counsel in August 2015. He testified that he told Mr. Brown about getting a second medical opinion, but the Minor's body was cremated.

Mr. Brown testified that he met with Applicant numerous times and went over the

discovery, including photos and videos. He testified that he viewed the autopsy report that explained the cause of death as blunt force trauma. Mr. Brown testified that it was impossible for him to get a second opinion because the Minor was cremated by the time he assumed representation.

This Court finds Applicant has failed to meet his burden of proving that Mr. Brown was deficient for failing to have a doctor look over the Minor's body to determine the origin of his bruises and the cause of death. "Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result." Porter v. State, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006) (citing Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)). This Court finds Applicant has failed to show that there is a reasonable likelihood a second opinion would provide a more favorable result than that of the autopsy. Most importantly, this Court finds that Mr. Brown's actions were not deficient given that the Minor's body had already been cremated by the time Mr. Brown assumed representation. As such, it was impossible for Mr. Brown to get a second opinion and he cannot be deficient for failing to do so.

This Court further finds Applicant has failed to meet his burden of proving he was prejudiced by Mr. Brown's actions. Applicant has failed to show that but for Mr. Brown's actions, Applicant would not have pled guilty but would have proceeded to trial. Accordingly, this allegation must be dismissed.

"My lawyer failed to inquire about my competency to stand trial or if I wanted to stand trial. That being stated I was not offered or sent to a competency to stand trial evaluation. I should have been offered that due to my history as a US Army War Veteran." "Counsel failed to use Applicant's VA records as mitigation during sentencing."

Applicant testified that Mr. Brown should have inquired into Applicant's competency to stand trial. He testified that his military records showed that he had post-traumatic stress disorder

and combat stress disorder. Applicant testified that Mr. Brown should have had him evaluated for competency to stand trial. He testified that his mother was trying to get his military records to give to Mr. Brown. Applicant testified that Mr. Brown told him that these records would not affect his case. He further testified that he did not bring any of his competency issues to the plea judge's attention.

Mr. Brown testified that he had no issues with Applicant's competency to stand trial and Applicant had no manifestations of competency issues. He testified that he could not get Applicant's VA medical records due to HIPAA restrictions. Mr. Brown further testified that he did not need Applicant's medical records for the guilty plea.

This Court finds Applicant has not met his burden of proving that Mr. Brown's actions were deficient for failing to inquire about Applicant's competency to stand trial or whether Applicant wanted to stand trial. This Court finds Mr. Brown provided persuasive testimony that he did not recognize any issues concerning Applicant's competency and did not notice any manifestations of competency issues in Applicant. Applicant has failed to show that he was not competent to stand trial or plead guilty. He has also failed to provide evidence that he wanted to stand trial on the charges, and this Court notes Applicant's testimony during the guilty plea shows that he wanted to plead guilty and gave up his right to a jury trial. Furthermore, this Court would note that the plea judge asked Applicant, "Have you ever been treated for any mental illness issues, problems understanding what's going on or were you in special education when you were in school?" and Applicant replied, "No, Your Honor." Guilty Plea transcript p. 4, ll. 14-18. This Court finds Applicant's current testimony contradicts his testimony before the plea judge. As such, this Court finds Mr. Brown's performance was not deficient for failing to inquire about Applicant's competency and desire to stand trial.

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This Court further finds Applicant has failed to meet his burden of proving that he was prejudiced by Mr. Brown's performance. This Court finds Applicant has failed to show that he was prejudiced by pleading guilty when he was not competent to do so, as Applicant has failed to show that he was incompetent or that his competency may have been called into question at the time of his guilty plea. Regarding Applicant's assertion that Mr. Brown failed to ask if Applicant wanted a trial, this Court finds Applicant has failed to show resulting prejudice as he has failed to provide evidence that he would not have pled guilty but would have proceeded to trial but for Mr. Brown's actions.

This Court finds Mr. Brown was not deficient for failing to provide Applicant's VA records in mitigation. This Court also finds Mr. Brown testified that he attempted to access Applicant's VA records but was unable to do so due to HIPAA restrictions. This Court finds that Mr. Brown's performance was not deficient in this regard. "Strickland does not require counsel investigate every conceivable line of mitigating evidence or require the submission of such evidence in every case." Wiggins v. Smith, 539 U.S. 510, 533 (2003). This Court finds Mr. Brown's actions were reasonable and that he was not deficient for failing to present Applicant's VA records in mitigation. This Court finds there is nothing in the record below from Applicant to indicate that he had competency issues and that the VA records would be necessary. This Court finds Applicant has failed to meet his burden of showing he was prejudiced by Mr. Brown's actions. Applicant has failed to produce his VA records to this Court and this Court will not speculate as to its contents and whether the records would have been beneficial. This Court finds Applicant has failed to show that the outcome of his plea and sentence would have been different had Mr. Brown utilized Applicant's VA records during sentencing.

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"Counsel was ineffective because Applicant detrimentally relied on a plea agreement from the Solicitor, wherein the Applicant would testify for the State relying on the Solicitor's statement that he 'would help him' if the Applicant testified. See attached, Excerpts of transcript of trial of State v. Theia McArdle, April 7, 2016. See also Custodio v. State, 373 SC 4, (2009). Plea counsel was ineffective in failing to have plea agreement between defendant and Solicitor's Office enforced based on detrimental reliance and memorialized into writing."

Applicant testified that Mr. Brown was ineffective for failing to have Applicant's plea agreement memorialized in writing. He testified that he detrimentally relied on a plea agreement where the Solicitor stated that he "would help" Applicant if Applicant testified against his codefendant, Theia McArdle. Applicant testified that the solicitor told him that he needed Applicant to testify against Ms. McArdle because he knew that Applicant did not commit the crime. Applicant testified that the solicitor told him that they could not put a plea agreement in writing. He further testified that he testified against his codefendant because of the assistant solicitor's promise to help him.

Mr. Brown testified that he met with Deputy Solicitor Dale Scott, Assistant Solicitor Taylor Daniel, and law enforcement to discuss plea deals. He testified that the State could not offer him a plea deal and the plea ultimately proceeded without an offer. Mr. Brown testified that Applicant testified against his codefendant but there were never any verbal or written promises made to Applicant by the State. Mr. Brown testified that he Applicant wanted to talk to the solicitors and he believed this helped Applicant, because if Applicant had proceeded to a jury trial on homicide by child abuse, he probably would have been sentenced to more time similar to his codefendant. He testified that he asked the solicitor to consider a lesser offense, such as misprision of a felony, but the State declined.

This Court finds Applicant has failed to meet his burden of proving Mr. Brown was deficient for failing to have Applicant's plea agreement with the solicitor memorialized in writing and enforced at the plea. This Court finds Mr. Brown testified there were never any

verbal or written promises or plea deals made to the State, despite Mr. Brown's meetings with law enforcement and the Solicitor's Office to negotiate a plea deal. This Court finds the guilty plea record reveals the plea was a "straight up" plea to aiding and abetting homicide by child abuse and Applicant acknowledged that no one had made any promises to get him to plead guilty other than reducing the charge of homicide by child abuse to aiding and abetting homicide by child abuse. Guilty Plea transcript p. 3, ll. 3-7; 13, ll. 8-13. Furthermore, this Court would note that Applicant's testimony at his codefendant's hearing also indicated that he was not promised anything from the State to testify against his codefendant:

Solicitor: You're testifying today as a witness one of the State's witnesses, correct?

Applicant: Yes, sir.

Solicitor: Have you been offered anything in exchange for your testimony today, such as a plea bargain?

Applicant: No, sir. None whatsoever.

Solicitor: No offers of leniency have been extended to you?

Applicant: No, sir.

Trial Transcript of *State v. Theia McCardle*, p. 421, ll. 13-20. Based on these facts, including Applicant's own testimony from the plea hearing and his codefendant's trial, this Court finds that Applicant has failed to show that a plea offer or promise from the solicitor did in fact exist and that he detrimentally relied on an offer or promise. As such, Applicant has failed to meet his burden of proving that Mr. Brown's conduct was deficient in this regard.

Furthermore, this Court finds that Applicant has failed to prove that he was prejudiced by Mr. Brown's actions. He has failed to show that a plea offer or promise from the State existed and has failed to show that he would have accepted this plea offer or that the outcome of his plea would have been different but for Mr. Brown's actions. Accordingly, this allegation must be dismissed.

"Counsel failed to move to have the charges dismissed and/or appeal the guilty plea arguing the charges should be dismissed for lack of accomplice liability. See State v. Lewis, 403 SC 345 (2013). 'Under accomplice liability theory, a person must personally commit the crime or be present at the scene of the crime and intentionally, or through a common design, aid, abet, or assist in the commission of the crime through some overt act.' Id. at 354."

Applicant alleged that Mr. Brown was ineffective for failing to have Applicant's charges dismissed and failing to file a notice of appeal on the grounds that the State failed to prove Applicant's guilt by accomplice liability. Applicant testified that he thinks the State prosecuted him because he did not call the police.

Mr. Brown testified that he did not move to have the charges dismissed and did not appeal Applicant's guilty plea. He testified that the State believed Applicant had more involvement in the Minor's physical abuse. Mr. Brown testified that Applicant admitted to striking the Minor and causing the Minor to hit his head on the bathtub. He also testified that Applicant's codefendant implicated him as well.

This Court finds that Applicant has failed to meet his burden of proving that Mr. Brown was deficient for failing to have the charges dismissed for lack of accomplice liability. Mr. Brown testified, and Applicant's testimony from his codefendant's trial would reveal, that the Applicant admitted to striking the Minor and causing the Minor to hit his head on the bathtub. See Trial Transcript of *State v. Theia McCardle*, p. 452. This Court would note that the plea judge recognized Applicant's liability when, having heard Applicant's testimony from his codefendant's trial, told Applicant:

"...from your testimony at [the codefendant's] trial, Mr. Bowman, based on how you testified, the jury easily could have found you guilty of homicide by child abuse had you moved forward just on your own testimony at trial which pretty much indicated that you were guilty of the principal offense involved in this."

Guilty Plea transcript, p. 17, l. 19 – p. 18, l. 2. This Court finds Mr. Brown's failure to file a motion to dismiss the charge was not unreasonable given Applicant's testimony and the evidence

against him. This Court further finds Applicant has failed to show that he was prejudiced by Mr. Brown's failure to file a motion to dismiss as Applicant has failed to show that such a motion would have been successful.

This Court finds Applicant has failed to meet his burden of proving that Mr. Brown was deficient for failing to file a notice of appeal on the grounds of lack of accomplice liability. "[C]ounsel has a constitutionally imposed duty to consult with the defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal), or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing." Roe v. Flores-Ortega, 528 U.S. 470, 480, 120 S. Ct. 1029, 1036, 145 L. Ed. 2d 985 (2000). Here, Applicant provided no testimony that he asked Mr. Brown to file an appeal following his guilty plea. This Court finds the guilty plea transcript shows that the meticulous colloquy between Applicant and the plea judge ensured Applicant was apprised of his rights and fully admitted his guilt. Applicant has provided no evidence that he expressed his desire to appeal and Mr. Brown disregarded his request. As such, Applicant has failed to meet his burden of proving Mr. Brown's testimony was deficient. This Court also finds Applicant failed to present any evidence showing how he may be prejudiced by this alleged deficiency.

IV. CONCLUSION

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate Mr. Brown's performance was unreasonable under prevailing professional norms. Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625; Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009). Therefore, this application for post-conviction relief must be

denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. The application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant will remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 21 day of December, 2017.



R. SCOTT SPROUSE
Presiding Judge
Eighth Judicial Circuit

Waltham, South Carolina