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ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Roger L. Couch, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RANDALL DEAN MATHENY,

APPELLANT

APPELLATE CASE NO. 2013-001924

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA }
2 COUNTY OF SPARTANBURG } COURT OF GENERAL SESSIONS

3
4 STATE OF SOUTH CAROLINA,)
5 PLAINTIFF,)
6 vs.)
7 RANDALL DEAN MATHENY,) 2011-GS-42-5554 - 5556
8 DEFENDANT.)

TRANSCRIPT

OF

RECORD

9
10
11 August 27th - 29th, 2013
12 Spartanburg, South Carolina

13
14 B E F O R E:

15 THE HONORABLE ROGER L. COUCH, Judge, and a jury.

16
17 A P P E A R A N C E S:

18 SUSAN REESE and JENNIFER JORDAN
19 ASSISTANT SOLICITORS
Attorneys for the State

20 ROGER POOLE
21 Assistant Public Defender
Attorney for the Defendant

22
23
24 PAMELA E. GREEN
25 Circuit Court Reporter
Seventh Judicial Circuit

1 THE COURT: All right. Now, ladies and gentlemen, I
2 have told you that the burden of proof lies with the State
3 in this case. For that reason we let the State go first in
4 its argument to you followed by the defense. Then the State
5 goes first with the presentation of its evidence followed by
6 any evidence the defense chooses to put up. Then, at the
7 close of the trial, we'll have final arguments, then I'll
8 charge you on the law, and then the case will be turned over
9 to you for your deliberations.

10 So, again, we'll have opening statements, presentation
11 of evidence, closing statements, charge on the law, and then
12 your deliberations. So, that's the process that we'll go
13 through as the trial moves along.

14 So, we're gonna start with opening statements and the
15 State has the right to go first.

16 Ms. Reese, you may proceed.

17 SOLICITOR REESE: Thank you, Your Honor.

18 Good morning.

19 On May 26th, 2011, Kayla Blake called 9-1-1. She told
20 them that her son, Minor 2 seemed to be having a seizure.
21 The ambulance came. They took Kayla and her son, Minor 2 to
22 the hospital.

23 As doctors began to work on Minor 2 and evaluate him,
24 they immediately knew that something was not right. He had
25 bruises all over his body, and he actually was bleeding on

3
1 his brain. Doctors called law enforcement to let them know
2 they had a case of child abuse and officers responded to the
3 hospital.

4 They spoke to Kayla who told them that she really
5 didn't know how her son was injured. She said she had no
6 idea about any injuries. But she did tell the officer that
7 he might have been hurt playing with his twin sister who was
8 at the home with her boyfriend.

9 Officers immediately went to that home where they found
10 the defendant, Kayla's boyfriend, in a bedroom, locked in a
11 bedroom with Minor 1. Officers asked for a person
12 in the home, Ashley Directo, who was a roommate, to see if
13 she could knock on the door and go in and get Minor 1. She
14 went into the bedroom, retrieved Minor 1 and brought her
15 out to the officers. Officers then took Minor 1 to the
16 hospital to be evaluated.

17 At first doctors felt that Minor 1 injuries were very
18 similar to Minor 2. She had the same type of bruising over
19 her body, but a complete evaluation found something much
20 more disturbing. Minor 1 had vaginal tearing and
21 lacerations.

22 Officers immediately arrested Kayla Blake for failing
23 to protect her children. They placed her in jail, and began
24 investigating the case.

25 The next morning, Officer Nicki Cantrell, went to the

1 hospital -- went to the jail to talk to Kayla. After she
2 was assured that both of her children were in the hospital,
3 she began to tell Officer Cantrell, reluctantly, some of the
4 things that she had seen in the home. Kayla Blake is here
5 and she is going to talk to you about some of the things
6 that she saw in her home. She was charged with two counts
7 of unlawful neglect of her children.

8 Her children were removed from her care. They were
9 placed at the Department of Social Services. She has
10 completed a treatment plan over the past couple of years.
11 She has been monitored by the Department of Social Services
12 and, in October, she was given custody of her children back.

13 Kayla pled guilty to not protecting her children, and
14 she received a probationary sentence. She will testify.
15 I'm asking you to be patient with her. Kayla, Kayla may
16 have difficulty understanding some questions sometimes. She
17 may be slow to respond. She's not being evasive. She just
18 may, may need time to process the question or she may need a
19 question to be restated and we'll try to do that.

20 Usually -- as you know, my name is Susan Reese and I
21 prosecute cases of child abuse, child sexual abuse, and
22 child physical abuse for Spartanburg County. Usually, at
23 this point in the trial, I am before you to say the children
24 will be here. The child will be here to testify. Please be
25 patient with them. It's so hard for a child to testify.

1 I can not say that in this case because, at the time of
2 this sexual assault, [Minor 1] was 18-months old. She will
3 not be able to testify, and neither will her brother. So,
4 what you hear will be from the stand. It will be from
5 witness testimony involving the investigation of this case.

6 You will hear from witnesses who were actually in the
7 home. I'm not going to dress them up. They are both
8 serving time in the Department of Corrections. I'm not
9 gonna pretend they they're anybody other than what they are
10 and we bring them in in their orange jumpsuits. They have
11 information to share with you regarding what went on in the
12 home. You will also hear from investigators and people who
13 treated these children.

14 One of the hardest parts of my job is to start off by
15 convincing jurors that this, this really happens at all. I
16 think that it makes us feel safer, as a society, if we just
17 deny that this is possible.

18 I'm asking you to believe this, to accept it, that, for
19 whatever reason, men do really hurt children in this world,
20 accept that it happens, and then judge this case on its
21 facts.

22 I also need to tell you that -- the judge talked to you
23 a little bit about CSI. It's not CSI.

24 Unfortunately, there is an idea that anytime a child is
25 abused this way there's going to be DNA. There's going to

1 be fingerprints. There's going to something, and the truth
2 of the matter is that, in very few cases, in less than ten
3 percent of the cases, there is any medical evidence at all
4 in sexual abuse. Children can not report right away. They
5 can not be treated right away. And, so, their injuries
6 bleed. If they're cleaned, evidence is washed away. So,
7 what you will hear will be from the State.

8 The defendant has been charged with three separate
9 crimes. The first is criminal sexual conduct in the first
10 degree with a minor, and I'm gonna talk to you about the
11 elements about that a little bit so you'll just know what to
12 be looking for.

13 Criminal sexual conduct in the first degree requires
14 that the defendant commit a sexual battery upon the body of
15 a child under the age of 11. A sexual battery, according to
16 the statute, is intercourse, oral sex, anal intercourse, or
17 any intrusion, however slight, into the vaginal or anal
18 openings of this child be it by a body part or an object.
19 Any intrusion, however slight, is a sexual battery if it is
20 not done medically.

21 The defendant is also charged with two counts of
22 unlawful conduct toward a child. Another thing commonly
23 called neglect, and that's a little bit of a misnomer.
24 Unlawful conduct actually is -- in order to be found guilty
25 of unlawful conduct, a person has to have a charge or

1 custody of the child. It doesn't have to be the custodial
2 parent. Just has to be in charge of the child. He has to
3 place the child at unreasonable risk of harm affecting the
4 child's life or physical call or mental health or safety.

5 So, the State is alleging that the defendant sexually
6 assaulted Minor 1 and, in two counts of neglect, that he
7 placed both these children at unreasonable risk of harm for
8 their health, safety, and well being because of the
9 beatings.

10 The State has the burden of proof to show that the
11 defendant committed this, and the judge will tell you what
12 it means beyond a reasonable doubt. So, I'm not gonna go
13 ahead and define that for you now because the judge will
14 talk to you about that.

15 It's important to remember that nothing in this world
16 is beyond any doubt, and no questions ever get answered
17 completely in a trial. Beyond a reasonable doubt just
18 simply means that, in the end of this trial, you are firmly
19 convinced that the defendant committed these acts. You have
20 a responsibility to find him guilty.

21 As a child, my daughter -- my father was a basketball
22 coach. And, so, I heard every sports analogy growing up
23 possible. Everything was a sports analogy, and the one
24 thing that I remember him saying to me the most was Susan,
25 keep your eye on the ball. No matter what the situation,

1 keep your eye on the ball.

2 So, I'm gonna ask you to keep your eye on the ball.

3 Forget about the things that don't matter. Keep your eye on
4 the ball.

5 The second thing I'm gonna ask you to do is just be
6 fair. Be fair to the defense. Be fair to the prosecution.
7 Just listen and judge fairly.

8 And, finally, I'm gonna ask you to use your common
9 sense. It's gonna be really necessary, as you listen, to
10 just use your common sense about what happened and didn't
11 happen in this case, and the State believes that if you do
12 all three of those things, that, in the end, you'll return a
13 verdict that speaks the truth.

14 The word verdict actually means to speak the truth, and
15 we believe that a verdict that speaks the truth is that this
16 defendant is guilty of all three of these charges.

17 Thank you.

18 THE COURT: Mr. Poole, you may proceed for the defense.

19 MR. POOLE: May it please the Court?

20 THE COURT: Yes, sir.

21 MR. POOLE: Good morning.

22 I'm Roger Poole. I represent Randall Matheny.

23 He's charged with very very serious offenses, about as
24 serious as they get in this courtroom. He's charged, as you
25 know, with two charges of child neglect/abuse, and the

1 solicitor has indicated to you something about the elements
2 of those charges, and I don't know if it was mentioned or
3 not. But I'm sure it was mentioned because the judge read
4 the indictments to you, and it's alleged against Mr. Matheny
5 that these charges occurred during the greater part of May
6 of 2011.

7 At that time, Kayla and Mr. Matheny were living
8 together. He let her come live with him, and they were
9 trying to get along, as boyfriend/girlfriend, the best way
10 they could and with the help of others and friends.

11 The criminal sexual conduct charge with a minor is
12 alleged to have occurred during a time frame of about one
13 week from about May 20 to May 27 of 2011, and that is
14 probably the most serious charge that he is facing.

15 Now, there's no way that we can say that this is gonna
16 be a pleasant trial. Y'all are gonna hear a lot of stuff
17 that is going to be offensive, that's going to be repugnant.
18 It's going to fly in the face of what you've heard before
19 probably. But you were selected through the process where
20 you underwent, on Monday, day before yesterday,
21 qualifications as to whether you could sit in the great
22 pool, the large pool of jury from which you were drawn, and
23 then yesterday you were qualified once again. And when you
24 were picked, both the State and I had a fair opportunity to
25 know a little bit about each one of you, and look at your

1 juror information cards, and know about your educational
2 level, about what you do for a living.

3 You had the somewhat humiliating, maybe, I don't know,
4 humiliating experience of walking down the aisle and put on
5 display and then having to be selected. You were selected
6 because you wouldn't be sitting here. Some were rejected.

7 But you have the ability to make the best decisions in
8 this case, and regardless of what you hear, and regardless
9 of what you may see, and regardless of the status of a
10 particular witness, that be an expert witness or not, you're
11 qualified to judge this case.

12 Now, look at this courtroom.

13 Which side has the most people on it?

14 Mr. Matheny is over there sitting by himself. He's
15 facing the full weight of the State. He's in his
16 mid-twenties. He has told a story. He has told -- given
17 statements to law enforcement. They are contradictory. But
18 so are all the other witnesses or most of the other witness'
19 statements, the -- that is the State's witnesses.

20 Ms. Reese has told you about Kayla. Kayla was charged
21 with the same two charges that Mr. Matheny was charged with.
22 That is unlawful neglect/abuse of a child.

23 She pled guilty, guilty to those charges.

24 Guess what she got?

25 In exchange for her guilty plea she was given a

11
1 probationary sentence.

2 The judge will instruct you as to the type of weight
3 you can give to each witness. You can consider their
4 motivation, their inclination, why they're testifying and I
5 told you already that you'll be able to see their demeanor
6 because they're right here in front of you.

7 Take all of this into consideration, use your common
8 sense, and I'm sure that you will come to the decision that,
9 at the end of the day, whether it's today or tomorrow, when
10 this case is over, that you will issue a verdict that will
11 speak the truth and that is this young man is not guilty of
12 any of the charges that have been brought against him.

13 Thank you.

14 THE COURT: The State may call its first witness.

15 SOLICITOR REESE: Thank you, Your Honor.

16 The State calls Steve Wilson.

17 THE COURT: Come forward and be sworn please. Right
18 over here to my left please, sir.

19 STEVE WILSON, having been first duly
20 sworn, testified as follows:

21 THE COURT: Sir, once you're seated, state your name
22 please.

23 THE WITNESS: Steve Wilson.

24 THE COURT: Thank you.

25 Ms. Reese, it's your witness.

Steve Wilson - Direct examination
by Solicitor Reese

1 DIRECT EXAMINATION

2 BY SOLICITOR REESE:

3 Q Mr. Wilson, where are you employed?

4 A I'm, I'm sorry?

5 Q Where are you employed?

6 A I'm employed with the Spartanburg County Sheriff's
7 office.

8 Q And how long have you been employed there?

9 A Thirteen years.

10 Q And what are your duties as an employee of the
11 Sheriff's Department?

12 A Currently I'm a road patrol sergeant.

13 Q And were you working on May the 27th, 2011?

14 A I was.

15 Q And how -- did you have occasion to work a case
16 involving the defendant?

17 A I did.

18 Q And how did you become involved in that case?

19 A I responded to Spartanburg Regional. The cases come up
20 like this, they'll call us. I responded to the Pediatric
21 ICU and spoke to a doctor, or correction, a Nurse Coax who
22 explained to me that there was---

23 MR. POOLE: Objection to hearsay, Your Honor.

24 THE COURT: I'll instruct the witness not to quote what
25 other individuals may have told you. That would constitute

Steve Wilson - Direct examination
by Solicitor Reese

1 hearsay. So, I'll sustain the objection. Your lawyer will
2 ask appropriate questions that she thinks might fit in the
3 exceptions to that rule.

4 You may proceed, Ms. Reese.

5 Q At the time you -- you said you responded to the
6 Pediatric ICU.

7 Is that at Spartanburg Regional?

8 A Yes, ma'am.

9 Q And did you, in fact, find Minor 2 had been
10 admitted to the ICU there?

11 A Yes, I did.

12 Q And do you remember how old, about how old Minor 2 was
13 at the time?

14 A Eighteen months.

15 Q And did you speak with Doctor Sam Rishmawi?

16 A I did.

17 Q And did you actually see injuries to the child?

18 A I did.

19 Q And can you describe for the jury what you saw?

20 A The child had bruising, both sides of his forehead.
21 There was bruising to his hip and back. There was a rash in
22 the pelvic area, and had a laceration to his bottom that
23 looked infected.

24 Q And who was at the hospital with Minor 2
25 Do you remember?

Steve Wilson - Direct examination
by Solicitor Reese

- 1 A Ms. Black.
- 2 Q And did you speak to her?
- 3 A Yes, ma'am.
- 4 Q At the time, did she give you information as to the
5 cause of [Minor 2] injury?
- 6 A Yes, she did. At, at the time she stated she was
7 playing or [Minor 2] was playing with his twin sister, [Minor 1]
8 and another two year old that was in the home.
- 9 Q At that point, was that the first you understood there
10 was a twin?
- 11 A Yes, ma'am.
- 12 Q And what did you do?
- 13 Once you realized there was a twin in the home, what
14 did you do?
- 15 A I called for an investigator, which was Sergeant Bobo.
- 16 Q And why did you call Sergeant Bobo?
- 17 A For the pure sake that you had one child suspected of
18 child abuse. You had a second child who might of been in
19 the home, and it was -- it's easier to work that way and
20 it's more knowledgeable at the time.
- 21 Q Is he an investigator?
- 22 A Yes, ma'am.
- 23 Q Was he in charge of child crimes at that time?
- 24 A At the time, yes. Yes, ma'am, he was.
- 25 Q At that point, did you do anything with Investigator

Steve Wilson - Direct examination
by Solicitor Reese

1 Bobo to investigate the situation?

2 A Yes, after -- once we learned of Minor 1 we then went
3 to the residence where Minor 1 was staying.

4 Q Do you remember where that was?

5 A It was Skylyn Drive. The number, the number escapes
6 me. [REDACTED]

7 Q And is that in Spartanburg County?

8 A Yes, ma'am.

9 Q And who was at the residence when you arrived?

10 A Ms. Directo.

11 Q And do you know who Ms. Directo was in relation to the,
12 the home?

13 A She was -- she lived there. She was a family friend.

14 Q And did she give you -- you don't -- you can't tell me
15 what she said.

16 But did she give you any information about where
17 Minor 1 was at that moment?

18 A Yes.

19 Q And based on the statements that she gave you at the
20 time, was there a decision made regarding Minor 2 and

21 Minor 1

22 A From the information that was given to me, to us, we
23 thought, for the child's safety, that we take her into
24 custody, emergency protective custody, ECP, for her, for her
25 well being.

Steve Wilson - Direct examination
by Solicitor Reese

1 Q At the time you removed Minor 1 did you know that she
2 had any serious injuries?

3 A No. No, we did not.

4 Q And were you able to remove Minor 1 with the help of
5 Ashley Directo?

6 A Yes. Yes, we were.

7 Q Did you request, once you got Minor 1 in your
8 possession, that she be taken to the hospital for
9 evaluation?

10 A Yes, we did.

11 Q Did you actually go to the hospital yourself?

12 A Yes.

13 Q And what did you observe as they began to evaluate
14 Cassidy?

15 A She had bruising throughout her body similar to her
16 brothers. When they took off her dirty diaper, it was --
17 you noticed blood and in the diaper and then you saw the,
18 the vaginal tear.

19 Q Did you request, at that time, a forensic officer to
20 come and take pictures?

21 A I did. Deputy Quarter.

22 Q And did she respond?

23 A She did.

24 Q Is that the only involvement you had in the case, to
25 EPC the children and make sure that investigators were aware

Steve Wilson - Direct examination
by Solicitor Reese

1 of the situation?

2 A Yes, ma'am.

3 SOLICITOR REESE: Nothing further from this witness,
4 Your Honor.

5 THE COURT: Mr. Poole, your witness.

6 MR. POOLE: Thank you.

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. POOLE:

10 Q Deputy Wilson, you went to the residence where
11 everybody lived on Skylyn Drive---

12 A That is correct.

13 Q ---correct?

14 Where is that located in Spartanburg County?

15 A It's over by Houston Elementary School, which is Skylyn
16 Drive in Spartanburg County.

17 Q Okay. And Ms. Directo, was she the leaseholder of the
18 residence?

19 A I do not recall at this time. I do not recall. I
20 believe she was.

21 Q Did you talk to her?

22 A Yes, I did.

23 Q And who else lived there as far as you could tell?

24 A From what I understood, it was Ms. Black, the
25 defendant, her, and when we were there there was another

Steve Wilson - Cross-examination
by Mr. Poole

1 person, but it was her cousin. He didn't live there. And
2 then her children.

3 Q Her children too?

4 A Yes, sir.

5 Q Okay. How old were they?

6 A Alls I can recall is the two year old from, from -- I
7 didn't see any other children, but she said she had children
8 there.

9 Q Okay. When you say Ms. Black, are you meaning Ms.
10 Blake, Kayla Blake?

11 A Yes, I apologize. Yes, sir.

12 Q Okay. All right. Thank you.

13 THE COURT: Redirect, Ms. Reese?

14 SOLICITOR REESE: None, Your Honor.

15 THE COURT: Sir, you may step down. Thank you.

16 SOLICITOR REESE: May this witness---

17 THE COURT: You wish to excuse the witness?

18 SOLICITOR REESE: Please, Your Honor.

19 THE COURT: Any objection?

20 MR. POOLE: No, sir.

21 THE COURT: Sir, you're free to leave if you'd like.

22 Thank you very much---

23 THE WITNESS: Thank you, Your Honor.

24 THE COURT: ---for coming today.

25 You may call your next witness.

Sean Nix - Direct examination
by Solicitor Reese

1 SOLICITOR REESE: State calls Sean Nix.

2 THE COURT: Come forward, sir, and be sworn please.

3 SEAN NIX, having been first duly
4 sworn, testified as follows:

5 THE COURT: Once you're seated, sir, state your name
6 please.

7 THE WITNESS: Thank you, Your Honor.

8 Michael Sean Nix.

9 THE COURT: Thank you.

10 Ms. Reese, your witness.

11 SOLICITOR REESE: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY SOLICITOR REESE:

14 Q Where are you employed?

15 A I'm employed with the Spartanburg County Sheriff's
16 office.

17 Q And as an employee of that department, what are your
18 duties?

19 A I work in the forensics unit.

20 Q And were you working on May 27th, 2011?

21 A Yes, ma'am.

22 Q And did you have occasion to respond to Spartanburg
23 Regional Medical Center on a call regarding the defendant?

24 A Yes, ma'am.

25 Q And how did you become involved in the case?

Sean Nix - Direct examination
by Solicitor Reese

1 A I was requested to respond by Deputy Steve Wilson to
2 respond to Spartanburg Regional Medical in reference to a
3 child abuse case and that he needed photos of the victim.

4 Q And when you came, got to the hospital, were you
5 allowed to see Minor 2

6 A Yes, ma'am.

7 Q And what did you observe before taking any pictures?

8 A I observed that he had a -- bruises on his forehead,
9 buttock, and the lower back, and some type of cut or scratch
10 on the buttock, and some type of bumps on the lower abdomen
11 and pelvic region.

12 Q After you observed him, what did you do next?

13 A I photographed the injuries.

14 Q I'm gonna show you what's been marked for
15 identification. These can not be shown to the jury yet.

16 A Yes, ma'am.

17 Q Can you identify -- these are State's Exhibit 6.

18 A Uh-huh. (Affirmative).

19 Yes, ma'am.

20 Q Seven?

21 A Yes, ma'am.

22 Q Eight?

23 A Yes, ma'am.

24 Q Twelve?

25 A Yes, ma'am.

Sean Nix - Direct examination
by Solicitor Reese

1 Q And one?

2 A Yes, ma'am.

3 Q And are those pictures the pictures that you took of
4 Minor 2 that evening?

5 A Yes, ma'am.

6 Q And do those pictures fairly -- I understand that they
7 are not all the injuries, but do they fairly and accurately
8 depict the injuries shown in these pictures?

9 A Yes, ma'am.

10 Q You did not take pictures of Minor 1 is that
11 correct?

12 A No, ma'am.

13 Q She was not at the hospital yet when you were there?

14 A No, ma'am.

15 SOLICITOR REESE: Nothing further of this witness.

16 MR. POOLE: They're no questions.

17 THE COURT: All right, sir. You may step down.

18 Wish to excuse the witness?

19 SOLICITOR REESE: Yes, Your Honor.

20 THE COURT: Any objections?

21 MR. POOLE: No, sir.

22 THE COURT: Sir, you're free to go if you'd like.

23 THE WITNESS: Thank you, Your Honor.

24 THE COURT: Thank you very much.

25 SOLICITOR REESE: Your Honor, the State calls Jennifer

Jennifer Hutcherson - Direct examination
by Solicitor Reese

1 Hutcherson.

2 THE COURT: Come forward, please, and be sworn please.

3 JENNIFER HUTCHERSON, having been first
4 duly sworn, testified as follows:

5 THE COURT: Please, ma'am, have a seat. And once
6 you're seated, state your name.

7 THE WITNESS: Thank you, judge.

8 Jennifer Hutcherson.

9 THE COURT: Thank you.

10 Ms. Reese, your witness.

11 SOLICITOR REESE: Thank you, Your Honor.

12 THE COURT: Yes, ma'am.

13 DIRECT EXAMINATION

14 BY SOLICITOR REESE:

15 Q Where are you employed?

16 A Currently I'm employed at the Spartanburg Regional
17 Medical Center.

18 Q And where were you employed in May of 2011?

19 A Spartanburg County Sheriff's Office.

20 MR. POOLE: Excuse me. I don't mean to interrupt Ms.
21 Reese. But the authenticity of any photograph is not been,
22 is not at issue here, Your Honor.

23 THE COURT: I understand that, but that -- I'm not
24 gonna limit her from going through that if she'd like for
25 the benefit of the jury. So, I understand you're not

Jennifer Hutcherson - Direct examination
by Solicitor Reese

1 challenging the authenticity of them. Thank you, Mr. Poole.

2 MR. POOLE: Yes, sir.

3 THE COURT: You may proceed, Ms. Reese.

4 SOLICITOR REESE: Thank you, Your Honor.

5 Q So, in May -- I'm sorry.

6 May 27th, 2011, where were you employed?

7 A Spartanburg County Sheriff's Office.

8 Q And as an employee of that department, what were your
9 duties at that time?

10 A I worked in the forensics unit.

11 Q And as an employee, what were your duties in forensics?

12 A I investigated crime scenes and was called out to from
13 other deputies.

14 Q Did you have an occasion to be called out on May the
15 27th, 2011?

16 A Yes, ma'am.

17 Q And where did you respond?

18 A To Spartanburg Regional Medical Center.

19 Q And what was the purpose of your responding there?

20 A I was responding in reference to a child abuse case.
21 They needed pictures taken.

22 Q And was that from Deputy Wilson?

23 A Yes, ma'am.

24 Q And were you allowed to view the child?

25 A Yes, ma'am.

Jennifer Hutcherson - Direct examination
by Solicitor Reese

- 1 Q And was that child Minor 1
- 2 A Yes, ma'am.
- 3 Q And how old was she, if you remember, at the time?
- 4 A At the time she was 18 months.
- 5 Q And what did you observe when you saw her and looked at
- 6 her that evening?
- 7 A When I got to Spartanburg Regional Medical Center I
- 8 observed an 18-month old girl with multiple bruises about
- 9 her body and what appeared to be small cuts on the back of
- 10 her head. I also observed what appeared to be a vaginal cut
- 11 and dried feces in her diaper and she also had dried feces
- 12 in-between her fingers on the right-hand.
- 13 Q And did you, in fact, take pictures of some, not all of
- 14 her injuries?
- 15 A Yes, ma'am.
- 16 Q Again, I'm gonna show you these pictures. They have
- 17 not -- they're not ready to be published to the jury yet.
- 18 State's Exhibit 14.
- 19 A Yes, ma'am.
- 20 Q State's Exhibit 17.
- 21 A Yes, ma'am.
- 22 Q Eighteen?
- 23 A Yes, ma'am.
- 24 Q Twenty?
- 25 A Yes, ma'am.

Jennifer Hutcherson - Direct examination
by Solicitor Reese

1 Q And 22?

2 A Yes, ma'am.

3 Q Now, I understand these are not all the injuries.

4 A No, ma'am.

5 Q But do those pictures accurately and do, completely
6 depict the injuries that you witnessed in these pictures?

7 A Yes, ma'am.

8 SOLICITOR REESE: Nothing of this witness.

9 THE COURT: Any questions, Mr. Poole?

10 MR. POOLE: No, sir.

11 THE COURT: All right, ma'am. You may step down.

12 THE WITNESS: Thank you.

13 THE COURT: Any objection to this witness being
14 released?

15 MR. POOLE: None.

16 THE COURT: Ma'am, you're free to go if you'd like.
17 Thank you very much.

18 THE WITNESS: Thank you.

19 THE COURT: Ms. Reese, you may call your next witness.

20 SOLICITOR REESE: Thank you, Your Honor.

21 Your Honor, the State calls Stephanie Blake.

22 THE COURT: Come forward please to be sworn.

23 STEPHANIE BLAKE, having been first
24 duly sworn, testified as follows:

25 THE COURT: Ma'am, once you're seated, state your name

Stephanie Blake - Direct examination
by Solicitor Reese

1 please.

2 THE WITNESS: It's Kayla Blake.

3 THE COURT: Thank you.

4 Your witness, Ms. Reese.

5 DIRECT EXAMINATION

6 BY SOLICITOR REESE:

7 Q Kayla, how do you know Minor 1 and Minor 2

8 A They're my daughter and my son.

9 Q And how old were you when you had Minor 1

10 A I was, I was 18.

11 Q Were you married at the time?

12 A No, ma'am.

13 Q Before you met the defendant, where were you-all
14 living?

15 A With my mother.

16 Q Do you work?

17 A No, ma'am.

18 Q How did you meet the defendant?

19 A Through friends.

20 Q And do you remember about what, when you met him?

21 A I met him in April. No, March. March.

22 Q Would it be 2011?

23 A 2010 I think.

24 Q Okay. How long had you known him when you moved in
25 with him?

Stephanie Blake - Direct examination
by Solicitor Reese

- 1 A Not long. Maybe three, three weeks to four weeks.
- 2 Q Okay. So, if you were living together in a house in
- 3 2011, would it have been that you met him in 2011?
- 4 A Yes.
- 5 Q Okay. I know that you moved in with each other.
- 6 At some point did you guys separate?
- 7 A Yes.
- 8 Q Did you get back together?
- 9 A Yes, ma'am.
- 10 Q And where were you living in May of 2011?
- 11 A At -- with Ashley Directo.
- 12 Q Now, who's Ashley Directo?
- 13 A A friend.
- 14 Q Who knew her first, you or the defendant?
- 15 A I've known Ashley for years. I don't know about when.
- 16 Q Okay. And who was living in your home?
- 17 A It was Ashley, me, Randall, and Minor 1 and Minor 2 and
- 18 her daughter, Callie. She just come every once in a while.
- 19 Q Okay. So, who actually leased the house?
- 20 Who, who was the leaseholder?
- 21 Do you know what that means?
- 22 A Ashley.
- 23 Q Okay. And she -- she lived there before you and
- 24 Randall lived there?
- 25 A Yes, ma'am.

Stephanie Blake - Direct examination
by Solicitor Reese

1 Q Who moved in next?

2 A Randall.

3 Q Okay. And then you followed with, with your children?

4 A Yes, ma'am.

5 Q And you said Ashley had how many children?

6 A She had one and she was pregnant with the other.

7 Q And how old was her daughter?

8 A Two.

9 Q And did, did her daughter live there full-time?

10 A No.

11 Q During the time that you lived with the defendant, did
12 you work?

13 A No, ma'am.

14 Q Did he work?

15 A No.

16 Q When you first met him, what kind of relationship did
17 he have with your children?

18 A It was good.

19 THE COURT: I'm gonna ask the witness to speak up a
20 little louder so that everyone can hear you and maybe move a
21 little closer to this microphone. That chair will roll.
22 There we go. Thank you very much.

23 You may proceed.

24 Q At some point did that relationship with your children
25 start to change?

Stephanie Blake - Direct examination
by Solicitor Reese

- 1 A Yes, ma'am.
- 2 Q Did you ever witness the defendant spank your children?
- 3 A Yes, ma'am.
- 4 Q Do you remember where he would spank them?
- 5 A He would spank them on their legs, their, their bottom.
- 6 I've seen him pop them in the mouth.
- 7 Q How old were they at the time?
- 8 A Between 16 and 18-months.
- 9 Q Did you try to stop it?
- 10 A I, I told him he couldn't do that.
- 11 Q Would your children have bruises from these spankings?
- 12 A Yes, ma'am.
- 13 Q Did you ever ask him about the bruises or confront him
- 14 about the bruises?
- 15 A Yes, ma'am.
- 16 Q What did he tell you about the bruises?
- 17 A That they bruise too easy and they needed to take
- 18 vitamins.
- 19 Q Why didn't you leave him?
- 20 A I was scared and I didn't know what to do.
- 21 Q On the day of May 26th, 2011, do you remember the day
- 22 I'm talking about?
- 23 A Yes, ma'am.
- 24 Q What were you doing that day?
- 25 A I had got me, Minor 1 and Minor 2 ready and I walked to

Stephanie Blake - Direct examination
by Solicitor Reese

1 Walgreen's. I pushed them in the stroller. I was going to
2 Walgreen's to drop a prescription off for me and on --.

3 Q Let me, let me slow you down there.

4 All right. So, you had left the house that day and
5 Minor 1 and Minor 2 were with you?

6 A Yes, ma'am.

7 Q And you were on your way to Walgreen's?

8 A Yes, ma'am.

9 Q And how you -- how were you getting to Walgreen's?

10 A I walked.

11 Q And where were Minor 1 and Minor 2
12 were they---

13 A In the stroller.

14 Q And did you have one stroller for the two of them?

15 A Yes, ma'am, it was a twin stroller.

16 Q And, so, you walked to Walgreen's.

17 During that walk, on the way there or on the way back,
18 did you ever have an accident with the kids where you
19 flipped them out of their, their stroller onto the asphalt?

20 A No, ma'am.

21 Q That never happened?

22 A No, ma'am.

23 Q When you got back home, what had happened?

24 Tell me what, if there had -- did anything happen on
25 the walk to or from with the kids?

Stephanie Blake - Direct examination
by Solicitor Reese

- 1 A [Minor 2] had threw up twice.
- 2 Q And what did you do about that when you got home?
- 3 A I give him a bath and checked to see if they had a
- 4 fever and I laid him down for a nap.
- 5 Q What did you do next?
- 6 A I cooked supper later on and --.
- 7 Q Where was the defendant?
- 8 A He was in the living room.
- 9 Q Did the kids eat what you fixed?
- 10 A [Minor 1] did, but [Minor 2] didn't.
- 11 Q What happened when [Minor 2] didn't or couldn't eat?
- 12 A He gagged on it.
- 13 Q What was the next thing that happened?
- 14 A Randall suggested to take him into the bedroom and let
- 15 them play.
- 16 Q Did you take them into the bedroom or did he take them?
- 17 A He did.
- 18 Q What did you do?
- 19 A I was taking the dishes to the sink.
- 20 Q What was the next thing you remember happening?
- 21 A I heard a loud boom and Randall start laughing.
- 22 Q What did you do?
- 23 A I ran in there. I ran into the bedroom.
- 24 Q And what did you see?
- 25 A [Minor 2] wasn't -- [Minor 2] he was pale, stiff, wasn't

Stephanie Blake - Direct examination
by Solicitor Reese

1 responding.

2 Q Did the defendant say anything to you about what had
3 happened?

4 A No.

5 Q What did you do?

6 A I called 9-1-1.

7 Q When you were waiting for the ambulance to come, did
8 you and the defendant talk about your taking **Minor 2** to the
9 hospital?

10 A Just -- he told me to keep his name out of it and that
11 I couldn't take **Minor 1** so, he put her in another room.

12 Q So, what did you do?

13 A I had to stay on the phone with the ambulance. I was
14 trying to give her the address and I had to walk outside,
15 and when I walked back in Randall was saying that he had
16 give **Minor 2** CPR, and a few minutes later the ambulance have
17 arrived, had arrived and that's when Randall took **Minor 1**
18 and placed her in another room.

19 Q So, you said he told you to keep his name out of it at
20 the hospital?

21 A That -- he said that at the house.

22 Q All right. Did -- when you got to the hospital, to
23 keep his name out of it, is that right?

24 A Yeah.

25 Q At the time when you went to the ER, who went with you?

Stephanie Blake - Direct examination
by Solicitor Reese

1 A Just me and Minor 2

2 Q Were you aware that your children had bruises on them?

3 A Yes, ma'am.

4 Q Were you aware that your daughter had these vaginal
5 tears?

6 A No, ma'am.

7 Q Had you seen anything at all right before this?

8 A I had walked in on Randall changing Minor 1 diaper
9 and I seen blood on the baby wipe, and he told me that she
10 had pooped everywhere and he must of wiped her too hard.

11 Q Were you there when he did that?

12 A No, ma'am.

13 Q Were you standing there when he did what he did to your
14 daughter?

15 A No, ma'am.

16 Q When did you first find, find out about your daughter's
17 injuries?

18 A When I was being investigated. When I talked to the
19 investigators.

20 Q When the officers first asked you what was going on in
21 your house, did you tell them the truth?

22 A No, ma'am.

23 Q Why not?

24 A Because I was scared and I felt threatened and I didn't
25 know what to do.

Stephanie Blake - Direct examination
by Solicitor Reese

- 1 Q You were charged with unlawful conduct towards your
2 children, unlawful neglect, is that right?
- 3 A Yes, ma'am.
- 4 Q And you completed a treatment plan with the Department
5 of Social Services?
- 6 A Yes, ma'am.
- 7 Q How long were your children away from you?
- 8 A For about two years.
- 9 Q Did the Department of Social Services monitor you for a
10 while?
- 11 A Yes, ma'am.
- 12 Q Did you do everything that they asked you to do?
- 13 A Yes, ma'am.
- 14 Q Did you plead guilty in this Court?
- 15 A Yes, ma'am.
- 16 Q Have you had any contact with the defendant since you
17 found out about these injuries?
- 18 A No, ma'am.
- 19 Q Since your children have been back in your home, have
20 they had any unexplained bruises or injuries?
- 21 A No, ma'am.
- 22 Q Have they had any vaginal or genital injuries?
- 23 A No, ma'am.
- 24 Q Have they had any head injuries?
- 25 A No, ma'am.

Stephanie Blake - Cross-examination
by Mr. Poole

1 SOLICITOR REESE: Nothing further.

2 THE COURT: Mr. Poole, your witness.

3 MR. POOLE: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. POOLE:

6 Q Ms. Blake, I understand the difficulty of you being on
7 that witness stand, and I know that you are emotional right
8 now.

9 You know what I'm saying?

10 A Yes, sir.

11 Q Do you remember when you talked to Nicki Cantrell?

12 A Yes, sir.

13 Q This is the lady right over here --

14 A Yes, sir.

15 Q -- that's with the Sheriff's office.

16 You were not that tearful when you talked to her on
17 May, 27th, 2011---

18 A I was.

19 Q ---as you are today, are you?

20 A Yes, sir, I was.

21 Q You were?

22 A Yes.

23 Q And did you tell her the truth about what happened in
24 there?

25 A Yes, sir.

Stephanie Blake - Cross-examination
by Mr. Poole

- 1 Q You told her the truth?
- 2 A Yes, sir.
- 3 Q Do you remember telling her that, on yesterday
- 4 afternoon, which would of been the 26th, you walked into the
- 5 room and Randall was changing her diaper, you saw blood on
- 6 the wet wipe, and asked him what happened?
- 7 A Yes, sir.
- 8 Q He told her that it just started when he was trying to
- 9 clean her.
- 10 A Yes, sir.
- 11 Q Is that what you told her?
- 12 A Yes, sir.
- 13 Q Is that the truth?
- 14 A Yes, sir.
- 15 Q It is?
- 16 A Yes, sir.
- 17 Q So, you also gave a statement on the 27th?
- 18 A Yes, sir.
- 19 Q That was a written statement?
- 20 A Yes, sir.
- 21 Q And did you say basically the same thing, that you saw
- 22 blood on the wet wipe --
- 23 A Yes, sir.
- 24 Q -- after he was cleaning her?
- 25 A Yes, sir.

Stephanie Blake - Cross-examination
by Mr. Poole

1 Q Now, were you in the house when he was changing her
2 diaper and/or cleaning her?

3 A Yes, sir.

4 Q Where were you?

5 A I was in the living room.

6 Q Okay. And how far is the living room from where he was
7 changing her diaper?

8 A It's the room -- it's the next room.

9 Q Adjacent to it?

10 Right next to it?

11 A Yes, sir.

12 Q Okay. And, so, is it just as far from me to you?

13 A Yes, sir.

14 Q All right. Now, how -- when did you start noticing
15 bruising on your children?

16 A A few days before that.

17 Q Okay. A few days.

18 Now, who's living in this house?

19 A Ashley Directo, Randall, myself, and Minor 1 and

20 Minor 2

21 Q So, there are two -- your two children who are---

22 A Yes, sir.

23 Q ---then 18-months old?

24 A Yes, sir.

25 Q Ashley's child?

Stephanie Blake - Cross-examination
by Mr. Poole

- 1 A Yes, sir.
- 2 Q Who is two years old?
- 3 A Two.
- 4 Q Okay. And the mother, Ashley Directo?
- 5 A Yes, sir.
- 6 Q Would you sleep in the same bedroom with the children
- 7 and Randall?
- 8 A We slept in different rooms. [Minor 1] and [Minor 2] slept
- 9 in one room and me and Randall slept in the other.
- 10 Q Pardon me?
- 11 A [Minor 1] and [Minor 2] slept in one room and me and Randall
- 12 slept in the other.
- 13 Q Okay. And these are 18-month old children, right?
- 14 A Yes, sir.
- 15 Q Would they wake during the night?
- 16 A I didn't hear you.
- 17 Q Would they wake up during the night and need to be
- 18 taken care of?
- 19 A Yes, sir.
- 20 Q And if you started noticing bruising on your children a
- 21 few days before this happened, what do we mean by a few
- 22 days?
- 23 Are we talking about right after you moved in with him?
- 24 A No, sir.
- 25 Q So, you're saying that if these children suffered these

Stephanie Blake - Cross-examination
by Mr. Poole

1 bruises at the hands of Mr. Matheny, it just started just a
2 few days before this incident about you walking in with the
3 wet wipe and all that?

4 A Yes, sir.

5 Q Now, it was a few days.

6 Are you talking about two weeks?

7 A Possibly.

8 Q Well, ma'am, these are your children. Okay.

9 A I know. I understand that.

10 Q Okay. They're 18-months old.

11 A Yes, sir.

12 Q And you noticed bruising a period of time before you
13 saw Randall wiping the children, Minor 1 right?

14 A Yes, sir.

15 Q And you don't remember when you first saw the bruising?

16 A It was about two weeks, yes.

17 Q Now, I'm not trying to put words in your mouth. I
18 mean---

19 A I understand that.

20 Q Okay. Is that a fair statement then, it's about two
21 weeks?

22 A Yes, sir.

23 Q All right. So, for about 14 days before May 26th.
24 That would put it about May 12th---

25 A Yes, sir.

Stephanie Blake - Cross-examination
by Mr. Poole

- 1 Q ---2011 you started noticing bruising?
- 2 A Yes, sir.
- 3 Q What did you do about it?
- 4 A I told him he couldn't do that and I'd try to explain
- 5 to him why and he wouldn't listen. He would just keep doing
- 6 it.
- 7 Q Well, why didn't you move out or why didn't you call
- 8 law enforcement or why didn't you call D.S.S.?
- 9 A I was scared. I didn't know what to do.
- 10 Q You were scared of what?
- 11 A Him.
- 12 Q Well, you say you're scared of him?
- 13 A (Witness nods affirmatively.)
- 14 Q But in your statement you testified, you stated that
- 15 both of y'all would get into it with one another, wouldn't
- 16 you?
- 17 A Yes, sir.
- 18 Q So, you would engage in mutual combat with him whenever
- 19 you disagreed about something---
- 20 A Yes, sir.
- 21 Q ---sometimes, is that right?
- 22 A Yes, sir.
- 23 Q So, you were not afraid of him to the extent that you
- 24 would not defend yourself, right?
- 25 A Yes, sir.

Stephanie Blake - Cross-examination
by Mr. Poole

1 Q But you were afraid of him to the extent that if
2 something happened to your precious little children you
3 would not report it to law enforcement or D.S.S. during a,
4 an entire two week period?

5 A Yes, sir.

6 Q Is that what you're telling us?

7 Is that what you're telling us?

8 A I don't understand what you mean.

9 Q You weren't afraid of Mr. Matheny to the extent that
10 you didn't take up for your own self-defense when you got
11 into a fight, physical altercation with him.

12 A I did take up for myself.

13 Q You did?

14 A Yes.

15 Q Why didn't you take up for your children when you first
16 started seeing the bruising?

17 A I didn't take up for them.

18 Q Did you call law enforcement?

19 A No, sir.

20 Q Did you move out?

21 A No, sir.

22 Q Did you call D.S.S.?

23 A No, sir.

24 Q You were charged with this same offense on the 27th,
25 were you not?

Stephanie Blake - Cross-examination
by Mr. Poole

- 1 A Yes, sir.
- 2 Q That is unlawful neglect or abuse of children, is that
- 3 right?
- 4 A Yes, sir.
- 5 Q And you got a probationary sentence?
- 6 A Yes, sir.
- 7 Q And you had talked to law enforcement and you had
- 8 talked to the Solicitor's Office, and it was known by you
- 9 that if you gave testimony against Mr. Matheny that you were
- 10 going to receive a probationary sentence at the time, right?
- 11 A Yes, sir.
- 12 Q You knew that?
- 13 A Yes, sir.
- 14 Q So, you are testifying because you got probation?
- 15 A No, I was testifying for my kids too.
- 16 Q Okay. Well, why didn't you testify when you first
- 17 started seeing the bruising?
- 18 A Cause I was scared. I didn't know what to do.
- 19 Q Okay. Did you mention a while ago that Randall said to
- 20 keep his name out of all of this?
- 21 A Yes, sir.
- 22 Q Did you tell Ms. Cantrell this?
- 23 A Yes, sir.
- 24 Q Did you put it in your statement?
- 25 A I don't believe I did.

Stephanie Blake - Cross-examination
by Mr. Poole

1 Q Why not?

2 A Cause I was -- she was asking me questions and I wasn't
3 able to write it and a lot of things was going on at the
4 time, and I just -- I don't recall if I'd put it in there or
5 not.

6 Q You had known Randall since when?

7 A Since March.

8 Q Of 2011 or 2010?

9 A 2011.

10 Q 2011?

11 A Yes, sir.

12 Q Are you sure about that?

13 A Yes, sir.

14 Q How did you come to know him?

15 A We were friends.

16 Q Okay. And what kind of relationship developed between
17 you?

18 A It -- we were friends at first and then it become
19 serious.

20 Q Okay. And what do you mean by it became serious?
21 Romantically involved?

22 A Yes, sir.

23 Q Okay. And did you live with him at any other place
24 other than this address?

25 A Yes, sir.

Stephanie Blake - Cross-examination
by Mr. Poole

- 1 Q Oh, where was this?
- 2 A Oh, this was in Chesnee, Mayo.
- 3 Q Okay. Far from Skylyn Drive?
- 4 A Yes.
- 5 Q And how long did you live with him in Chesnee or Mayo
- 6 area?
- 7 A For about a month.
- 8 Q And with whom did you live there?
- 9 A Sierra, Shell, and Brad Robinson.
- 10 Q And who are these people?
- 11 A My friends.
- 12 Q Mutual friends?
- 13 A Yes.
- 14 Q Do they have children?
- 15 A Yes.
- 16 Q How old were the children there at that house?
- 17 A I think her little boy was six to seven months old. He
- 18 had a daughter that was three. That was -- that's it.
- 19 Q How long did you live at that, that address?
- 20 A For about a month.
- 21 Q Okay. And there were no problems there?
- 22 A No, he had whooped one of them with a belt, and me,
- 23 Sierra, and Brad was all in the living room, and we heard
- 24 them, and we told him that he couldn't do that.
- 25 Q After you -- then did y'all separate or did y'all move

Stephanie Blake - Cross-examination
by Mr. Poole

1 over to Skylyn Drive?

2 A No, we separated.

3 Q Okay. And then you got back together?

4 A Yes.

5 Q And you lived, moved into Skylyn Drive about May 1?

6 A Yes.

7 Q Is that about right?

8 A Yes.

9 MR. POOLE: Okay. Ask for the Court's indulgence for a
10 moment.

11 THE COURT: Yes, sir.

12 (Pause.)

13 MR. POOLE: That all I have.

14 THE COURT: Redirect?

15 SOLICITOR REESE: None, Your Honor.

16 THE COURT: All right, ma'am. You may step down.
17 Wish to excuse the witness?

18 SOLICITOR REESE: I think---

19 THE COURT: Any objection?

20 MR. POOLE: No, sir.

21 THE COURT: Ma'am, you're free to leave if you'd like.

22 Ladies and gentlemen of the jury, at this point in time
23 I'm gonna take a short break. I'll give you a chance to
24 stretch your legs, move around. The bailiffs will take care
25 of you. I don't know if there's any smokers in the crowd,

1 but that has to be done outside. The bailiffs will assist
2 you if that's necessary.

3 As always, when you leave the courtroom, I'm going to
4 instruct you not to begin any discussions about the case
5 until I've asked you to begin your deliberations.

6 You may retire to the jury room.

7 (WHEREUPON, the following takes place outside the
8 presence of the jury.)

9 THE COURT: All right. Court will be in recess for
10 about 10, 15 minutes.

11 (WHEREUPON, a short recess was taken at this time.)

12 THE COURT: State ready to proceed?

13 SOLICITOR REESE: We are, Your Honor.

14 THE COURT: Defense ready?

15 MR. POOLE: Yes, sir.

16 THE COURT: You may call your next witness, Ms. Reese.

17 SOLICITOR REESE: Ashley Directo.

18 THE COURT: Mr. Coggins needs to know.

19 BAILIFF: The jury?

20 THE COURT: Yeah, we need the jury.

21 Tell them to go get them.

22 Just hold her right there please.

23 (WHEREUPON, the following takes place within the
24 presence of the jury.)

25 THE COURT: The record will reflect the jury has

Ashley Directo - Direct examination
by Solicitor Reese

1 returned to the courtroom.

2 Ms. Reese, the next witness is?

3 SOLICITOR REESE: The next witness, Your Honor, is
4 Ashley Directo.

5 THE COURT: Come forward, ma'am, and be sworn please.

6 ASHLEY DIRECTO, having been first
7 duly sworn, testified as follows:

8 THE COURT: Have a seat in the witness stand please.

9 (Witness complies.)

10 THE COURT: State your name.

11 THE WITNESS: Ashley Directo.

12 THE COURT: Thank you.

13 Your witness, Ms. Reese.

14 DIRECT EXAMINATION

15 BY SOLICITOR REESE:

16 Q Ms. Directo, where do you currently reside?

17 A Leath Correctional Institution.

18 Q And what are you currently serving a sentence for?

19 A Manufacturing.

20 Q Manufacturing what?

21 A Meth.

22 Q And you have a criminal record, is that correct?

23 A Yes, ma'am.

24 Q You've been convicted of possession of meth?

25 A Yes.

Ashley Directo - Direct examination
by Solicitor Reese

- 1 Q In 2012, purse snatching?
- 2 A Yes.
- 3 Q And unlawful conduct towards your child because she was
- 4 born positive for meth, is that right?
- 5 A Yes, ma'am.
- 6 Q How do you know the defendant?
- 7 A Friends.
- 8 Q How long have you been friends with the defendant?
- 9 A All together probably about two and a half years.
- 10 Q How did you know Stephanie Kayla Blake?
- 11 A She was -- I mean I've known her off and on, but that
- 12 was his girlfriend.
- 13 Q And, so, in May of 2011, where were you living?
- 14 A Spartanburg County. Skylyn Drive.
- 15 Q And tell me about that.
- 16 Did you own a house, rent a house, how was that?
- 17 A I was renting. It was a duplex. It was two duplexes,
- 18 but both of them was mine. They had a wall that separated
- 19 the two duplexes.
- 20 Q So, it was an actual house, is that right?
- 21 A Yes, ma'am.
- 22 Q But they were two apartments within the house?
- 23 A Uh-huh. (Affirmative).
- 24 Q And you rented both of them?
- 25 A Yes, ma'am.

Ashley Directo - Direct examination
by Solicitor Reese

1 Q And who -- before the defendant moved in, who was
2 living there with you?

3 A You talking about when I rented the house?

4 Q Yes.

5 A My husband -- me and my husband rented it.

6 Q Okay. And then, at some point, your husband moved out,
7 is that correct?

8 A Yes, ma'am.

9 Q And did you -- which section of the home did you live
10 in?

11 A I lived in the bigger side.

12 Q Okay. And was the other side empty?

13 A Yes, at the time.

14 Q All right. In May of 2011, did, did the defendant move
15 in with you?

16 A Uh-huh. (Affirmative).

17 Yes, ma'am.

18 Q At that time, when he moved in with you, did he bring
19 Kayla?

20 A Not at that time.

21 Q And, so, he stayed with you for a little while?

22 A Uh-huh. (Affirmative).

23 Q At some point did he approach you about letting Kayla
24 and her children move in?

25 A Yes, ma'am.

Ashley Directo - Direct examination
by Solicitor Reese

- 1 Q And did you agree to that?
- 2 A Yes, ma'am.
- 3 Q Did you know Kayla well?
- 4 A I mean not too well. I knew her, but not --.
- 5 Q What were the living arrangements?
- 6 where did you stay and where did they stay?
- 7 A I stayed on one side and they stayed on the other side.
- 8 Q And how are these apartments divided?
- 9 A It had a wall and a door that separated both of them.
- 10 Q And did you share any common area?
- 11 A No, it was my side and they had their side.
- 12 Q Was the door between the two apartments sometimes
- 13 opened?
- 14 A Yes, ma'am.
- 15 Q So, did you go to see them and did they come to see
- 16 you?
- 17 A Sometimes.
- 18 Q After they moved in, and prior to the 26th, into the
- 19 27th of May, during the month of May, had you seen anything
- 20 of the defendant that concerned you regarding the children?
- 21 A I seen him pop the little boy. I told him that he --
- 22 the babies were too young for him to be whooping them like
- 23 that.
- 24 Q So, when say pop, will you describe pop?
- 25 A On the leg and on the butt. I mean it was more than a

Ashley Directo - Direct examination
by Solicitor Reese

1 pop. It was like a whooping. There's --.

2 Q And did you hear anything?

3 Those are what you saw.

4 Did you hear anything else that concerned you?

5 A Yeah, I would hear loud bangs on the floor and then I
6 would hear the babies cry out.

7 Q On the side of that house, was there any carpeting?

8 A No.

9 Q And did you ever confront him about the bangs on the
10 floor and what you had seen him do with the little boy?

11 A Just about telling him they was too small for him to
12 whoop them like that.

13 Q Do you remember what he said to you?

14 A I don't exactly remember what he said.

15 Q Did Kayla ever do anything about this that you saw?

16 Did she leave?

17 Did she call the police?

18 Did she ever do anything---

19 A No.

20 Q ---to protect them?

21 Did you ever see Kayla hit or strike her children?

22 A No.

23 Q On the evening of May 26th, were you -- had you been
24 home that day?

25 A No.

Ashley Directo - Direct examination
by Solicitor Reese

1 Q How long had it been since you'd been back in the
2 house?

3 A Maybe an hour or two.

4 Q And on May 26th, had you been staying at the house the
5 days prior?

6 A No.

7 Q So, what time -- you said you'd been home about an hour
8 or two when all this started.

9 What time had you gotten home if you remember?

10 A I know it was dark. I'm not sure what time.

11 Q And when you arrived at the house, what was going on?

12 A When I pulled in the driveway it was real dark and I
13 could see somebody peeking through the blinds and---

14 Q So, you could see somebody peeking through the blinds.
15 When you went in, what did you see?

16 A When I went in it was real dark and Randall and the
17 little girl was laying on the couch.

18 Q And what did you do after you saw that?

19 A After I saw that I got a phone call from Kayla.

20 Q All right. You can't tell me what Kayla said.

21 But did Kayla -- was Kayla at the hospital at the time?

22 A Yes, ma'am.

23 Q And based on that conversation, did you talk to your
24 uncle---

25 A Uh-huh. (Affirmative).

Ashley Directo - Direct examination
by Solicitor Reese

1 Q ---and tell him what had happened?

2 A Yes, ma'am.

3 Q Did the police arrive at your home after that?

4 A Yes, ma'am.

5 Q And did you tell them what you had observed in the
6 weeks before?

7 A Yes, ma'am.

8 Q And did you agree to let them search your home?

9 A Yes, ma'am.

10 Q And your home was located in Spartanburg County --

11 A Yes, ma'am.

12 Q -- is that right?

13 And that's all you know about this?

14 A Yes, ma'am.

15 Q When the police came, where -- did they ask you to do
16 anything in relation to Minor 1

17 Where was she when the police came?

18 A She was in the bed with Randall. They asked me to go
19 get her and bring the, bring her to them.

20 Q Did you agree to do that?

21 A Yes, ma'am.

22 Q And did you get her out of there?

23 A Yes, ma'am.

24 Q And did you take her to the police?

25 A Yes, ma'am.

Ashley Directo - Cross-examination
by Mr. Poole

1 SOLICITOR REESE: Nothing further of this witness.

2 THE COURT: You may cross-examine, Mr. Poole.

3 MR. POOLE: Thank you.

4 CROSS-EXAMINATION

5 BY MR. POOLE:

6 Q Ms. Directo, you're currently at Leath Correctional
7 Institution?

8 A Yes, sir.

9 Q And how long will you be in the Department of
10 Corrections?

11 A 2015.

12 Q Okay. And what is your current charge that you're---

13 A Manufacturing. Violation---

14 Q Manufacturing --?

15 A Meth and violation of probation.

16 Q What were you on probation for?

17 A For the purse snatching and the child neglect.

18 Q Is this child your own child?

19 A Yes, sir.

20 Q Did this charge arise out of incidences that occurred
21 on Skylyn Drive?

22 A I'm sorry?

23 Q Did this charge of unlawful neglect of your child occur
24 on Skylyn Drive?

25 A No.

Ashley Directo - Cross-examination
by Mr. Poole.

1 Q Where?

2 A She was born positive of meth.

3 Q Okay. So you are a meth user?

4 A I was, yes, sir.

5 Q Okay. How old is that child now?

6 A She's two.

7 Q When did you inquire, acquire the purse snatching
8 charge?

9 A January of 2012 I think. I'm not sure. I know it was
10 in January.

11 Q Were you on probation at that time?

12 A No, sir.

13 Q Did you get probation for it?

14 A Yes, sir.

15 Q And then was the unlawful neglect of a child a
16 violation of probation?

17 A It was. I got that and the child neglect on all
18 probation for the same thing. Both charges.

19 Q In January of 2012?

20 A I think, yes, sir.

21 Q Then you subsequently got a possession of meth charge
22 or was that another charge?

23 A It's another, another charge.

24 Q Okay. Is manufacturing meth and possession of
25 methamphetamines then a violation of your probation?

Ashley Directo - Cross-examination
by Mr. Poole

1 A Yes, sir.

2 Q So, in January of 2012, purse snatching and unlawful
3 neglect and then possession of meth, manufacturing of
4 meth---

5 A Yes, sir.

6 Q ---which constituted a violation of your probation, and
7 you're currently doing a sentence for manufacturing meth?

8 A Yes, sir.

9 Q How long have you known Randall Matheny?

10 A All together, about two and a half years.

11 Q And how long have you known Kaylee -- Kayla Blake?

12 A About the same time.

13 Q It's fair to state, say that all of them stayed pretty
14 much to themselves in their part of the house on Skylyn
15 Drive?

16 A Sometimes.

17 Q Okay. When you say that you heard a bang on the floor
18 and then the children cry, you don't know what was going on,
19 do you?

20 A I never seen it. But I heard it.

21 Q You heard it?

22 A Yes, sir.

23 Q So, you just don't know what happened, do you?

24 A I heard loud banging on the floor and then I heard the
25 kids cry out.

Ashley Directo - Cross-examination
by Mr. Poole

1 Q Okay. But you don't know what happened, do you?

2 A No, sir.

3 Q Cause you didn't see it?

4 A No, sir.

5 Q Thank you.

6 THE COURT: Do you---

7 SOLICITOR REESE: Just one follow-up---

8 THE COURT: Ma'am?

9 SOLICITOR REESE: ---question. I just have one
10 follow-up.

11 THE COURT: Okay. You may proceed.

12 REDIRECT EXAMINATION

13 BY SOLICITOR REESE:

14 Q In -- Mr. Poole when into a lot of your charges and
15 sentences and that kind of thing.

16 Had you -- but by -- at the time that you had been
17 sentenced on this charge, had you ever even talked to me or
18 seen me?

19 A No, ma'am.

20 Q Have you ever -- have we ever made any kind of deals or
21 promises or anything for your testimony?

22 A Nope.

23 Q You understand that you are not receiving any
24 consideration for your testimony?

25 A Yes, I do.

Ashley Directo - Redirect examination
by Solicitor Reese

1 SOLICITOR REESE: Nothing.

2 MR. POOLE: Nothing.

3 THE COURT: All right. Ma'am, you may step down.

4 You may call your next witness.

5 SOLICITOR REESE: The next witness, Your Honor, is Eric

6 Lazurick.

7 THE COURT: All right.

8 Come forward, sir, to the front and be sworn to my left
9 please.

10 ERIC LAZURICK, having been first duly
11 sworn, testified as follows:

12 THE COURT: Have a seat in the witness stand, and once
13 you're seated, state your name please.

14 THE WITNESS: My name's Eric Lazurick.

15 THE COURT: Thank you.

16 Your witness, Ms. Reese.

17 DIRECT EXAMINATION

18 BY SOLICITOR REESE:

19 Q Mr. Lazurick, has -- where do you currently reside?

20 A At Livesay Correctional.

21 Q And how long have you been there?

22 A A little over three weeks.

23 Q And what are you currently incarcerated for?

24 A Violation of probation.

25 Q And you are -- how do you know Ashley Directo?

Eric Lazurick - Direct examination
by Solicitor Reese

- 1 A She's my niece.
- 2 Q And you guys spend a lot of time together?
- 3 A Yes, ma'am.
- 4 Q Close to your niece?
- 5 A Yes, ma'am.
- 6 Q You have been convicted of shoplifting?
- 7 A Yes, ma'am.
- 8 Q That's in 2011, right?
- 9 A Yes, ma'am.
- 10 Q Possession of methamphetamine?
- 11 A Yes, ma'am.
- 12 Q And receiving -- and the receiving stolen goods that
- 13 you were on probation, probation for, is that correct?
- 14 A That's what I have probation when I get out for.
- 15 Q Okay. And those are your only convictions?
- 16 A Yes, ma'am.
- 17 Q How do you know the defendant?
- 18 A He's a good friend of mine for the past 12 or 13 years.
- 19 Q He's been -- did you say he's a good friend of yours?
- 20 A Yes, ma'am.
- 21 Q For how long?
- 22 A About 12 or 13 years.
- 23 Q Do you all, over the years, done things together?
- 24 A Yes, ma'am.
- 25 Q Spent time together?

Eric Lazurick - Direct examination
by Solicitor Reese

- 1 A Yes, ma'am.
- 2 Q How about Kayla Blake, how do you know her?
- 3 A Randall introduced me to her.
- 4 Q And when did he introduce you to her, to her?
- 5 A About two months before the incident happened.
- 6 Q Okay. So, you -- at the time of -- in May of 2011 you
- 7 had known the defendant for 12 or 13 years?
- 8 A Correct. Probably about eleven years then cause it's
- 9 been about two years since.
- 10 Q And you were his friend?
- 11 A Yes, ma'am.
- 12 Q But you did not know her very well?
- 13 A No, ma'am.
- 14 Q At the time in May, during May, did you spend some time
- 15 over at your niece's home?
- 16 A Yes, ma'am.
- 17 Q And from time to time would you see the defendant?
- 18 A Yes, ma'am.
- 19 Q Would you see Kayla Blake?
- 20 A Yes, ma'am.
- 21 Q And would you see her two children, Minor 1 and Minor 2
- 22 A Yes, ma'am.
- 23 Q Do you remember a particular incident in May where you
- 24 were over at the house, the first incident?
- 25 A Yes, ma'am.

Eric Lazurick - Direct examination
by Solicitor Reese

1 Q And what were you doing in the house?

2 A I was just there just leaning against the kitchen sink.

3 Q Okay. And who else was there?

4 Was Ashley there at the time?

5 A No, ma'am.

6 Q Did you know anybody else was at the house, in the
7 house at the time?

8 A Yes, ma'am.

9 Q Who did you believe was in the house?

10 A Randall.

11 Q At that time, what -- did you hear or see anything that
12 made you think that something was wrong?

13 A Right, I heard a loud thud and then a couple of slaps
14 and then---

15 Q Describe a loud thud.

16 Describe---

17 A Well, I heard it through two rooms, and then when I
18 heard the slapping and I heard crying, I started toward the
19 door that it was coming from. So---

20 Q So, you said you heard a thud and some slaps?

21 A (Witness nods affirmatively.)

22 Q And then crying?

23 A Yes, ma'am.

24 Q And when you heard that, what did you do?

25 A I went toward the door it was coming from to see what

Eric Lazurick - Direct examination
by Solicitor Reese

1 it was.

2 Q Okay. So, where did you have to go to find the source
3 of this sound?

4 A I went through the dining room and through the living
5 room into another separate part of the house or where it's
6 got a door in it to block it off from the other side of the
7 house.

8 Q Was that door open or closed?

9 A It was closed.

10 Q So, you went through the living room, the dining room,
11 and to a closed door?

12 A Yes, ma'am.

13 Q Did you open that door?

14 A Yes, ma'am.

15 Q When you opened that door, what did you see?

16 A When I come in I seen Randall whooping the child I mean
17 excessively, excessively hard.

18 Q All right. Where was the child?

19 A It was on Randall's knee.

20 Q And what was Randall doing?

21 A He was raring back getting ready to hit him again.

22 Q How many times -- between the time that you heard the
23 first and heard, and actually got into the room, how many
24 times -- what did you -- how many slaps or thuds did you
25 hear?

Eric Lazurick - Direct examination
by Solicitor Reese

- 1 A Probably about five to six maybe.
- 2 Q When you got into the room, what happened?
- 3 A He stopped.
- 4 Q Did you have a -- did you say something to him?
- 5 A Yes, ma'am.
- 6 Q What did you say?
- 7 A I told him he was gonna stop that.
- 8 Q What did he say to you?
- 9 A He said it's not my child.
- 10 Q What did you tell him?
- 11 A If it was my child you'd be dead right now.
- 12 Q And did he say anything back?
- 13 A Yes, ma'am. He said he's 18-months old, he should know
- 14 better, and I told him that no child should be hit like
- 15 that.
- 16 Q After that happened -- did he stop when you confronted
- 17 him?
- 18 A Yes, ma'am.
- 19 Q Did you and he almost have a confrontation?
- 20 A It was close to it.
- 21 Q What did you do then?
- 22 A I just made sure that he wasn't gonna touch that child
- 23 again.
- 24 Q And then what did you do?
- 25 A Eventually I left.

Eric Lazurick - Direct examination
by Solicitor Reese

- 1 Q Did you go back to the house for the next---
- 2 A It---
- 3 Q ---few days?
- 4 A No, ma'am, it had been probably a couple weeks.
- 5 Q And why did you make the decision not to go back?
- 6 A Cause I kept thinking about that.
- 7 Q Did that upset you?
- 8 A Yes, ma'am.
- 9 Q In the early morning hours of May 27th, 2013, where
- 10 were you?
- 11 A I was at the Motel 6.
- 12 Q Did you receive a call from your niece?
- 13 A Yes, ma'am.
- 14 Q Did she tell you that Minor 2 was in the hospital?
- 15 A Yes, ma'am.
- 16 Q What did you do?
- 17 A I took off walking toward the house.
- 18 Q Why did you walk toward the house?
- 19 A I just had a feeling something bad had done happened.
- 20 Q What were you looking to do at the house?
- 21 A Get Randall.
- 22 Q How far did you walk?
- 23 A A good six or seven miles.
- 24 Q What time of day was this?
- 25 A This was after midnight.

Eric Lazurick - Direct examination
by Solicitor Reese

- 1 Q When you got to the house, you had said -- it's after
2 midnight?
- 3 A Yes, ma'am.
- 4 Q Did you enter the house?
- 5 A Yes, ma'am.
- 6 Q And did you find Randall?
- 7 A He was inside in the bedroom with the door locked.
- 8 Q Did you try to get in the door?
- 9 A Yes, ma'am.
- 10 Q Were you able to?
- 11 A No, ma'am, Ashley asked me to stop cause she was
12 already in enough trouble with the landlord.
- 13 Q So then what did you do?
- 14 A I just sit on the couch and waited.
- 15 Q What were you waiting for?
- 16 A For Randall.
- 17 Q At some point did the police come?
- 18 A Yes, ma'am.
- 19 Q So, you never, you never -- were you aware, while you
20 were waiting outside that door, that the defendant was in
21 the room with Minor 1
- 22 A Well, I mean I didn't know that he was in there with
23 the kid.
- 24 Q So, at, at some point though the police arrived?
- 25 A Yes, ma'am.

Eric Lazurick - Direct examination
by Solicitor Reese

1 Q Before you got to talk to him?

2 A Yes, ma'am.

3 Q Did you approach the police to tell them what you had
4 seen?

5 A Yes, ma'am.

6 Q Did you give them a statement?

7 A Yes, ma'am.

8 Q Did you agree to testify?

9 A Yes, ma'am.

10 Q Have you and I ever talked about any consideration for
11 your testimony?

12 A No, ma'am.

13 Q You understand that you are receiving no consideration
14 for this testimony?

15 A Yes, ma'am.

16 Q Why are you here to testify?

17 A Cause no kid should be hurt.

18 SOLICITOR REESE: Nothing further.

19 THE COURT: Mr. Poole, your witness.

20 MR. POOLE: Bear with me just a moment, Your Honor.

21 THE COURT: Yes, sir.

22 CROSS-EXAMINATION

23 BY MR. POOLE:

24 Q How you doing this afternoon?

25 A I doing good, sir.

Eric Lazurick - Cross-examination
by Mr. Poole

- 1 Q This morning.
- 2 A I'm good.
- 3 How about you?
- 4 Q Fine. Thank you.
- 5 You're at Livesay?
- 6 A Yes, sir.
- 7 Q All right. You gonna be getting out pretty soon?
- 8 A Yes, sir, end of next year.
- 9 Q You have a record for shoplifting?
- 10 A Yes, sir.
- 11 Q Possession of methamphetamine?
- 12 A Yes, sir.
- 13 Q Receiving stolen goods?
- 14 A Yes, sir.
- 15 Q And you violated your probation?
- 16 A Yes, sir.
- 17 Q What were you on probation for?
- 18 A Possession of meth.
- 19 Q Possession of meth?
- 20 A Yes, sir.
- 21 Q And then how was your probation violated?
- 22 A I just quit going and then I had the receiving stolen
- 23 goods and I wasn't able to pay the money.
- 24 Q So, you violated your probation because you did not
- 25 report, didn't pay funds, and received a new charge?

Eric Lazurick - Cross-examination
by Mr. Poole

1 A Yes, sir.

2 Q And that was receiving stolen goods?

3 A Yes, sir.

4 Q Okay. You were not at the house on May 26th, were you?

5 A Not till -- not till after midnight. That would be May
6 27th.

7 Q That would be May 27th?

8 A Yes, sir.

9 Q So, you were not there on May 26th?

10 A No, sir.

11 Q Is that correct?

12 A Yes, sir.

13 MR. POOLE: That's all the questions I have, Your
14 Honor.

15 THE COURT: Redirect?

16 SOLICITOR REESE: Nothing on redirect.

17 THE COURT: You may step down, sir.

18 State may call its next witness.

19 SOLICITOR REESE: State calls Investigator Nicki
20 Cantrell.

21 THE COURT: Come forward, ma'am, to be sworn to my
22 left.

23 NICKI CANTRELL, having been first duly
24 sworn, testified as follows:

25 THE COURT: Once you're seated, state your name please,

Nicki Cantrell - Direct examination
by Solicitor Reese

1 ma'am.

2 THE WITNESS: Nicki Cantrell.

3 THE COURT: Thank you.

4 Ms. Reese, your witness.

5 SOLICITOR REESE: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY SOLICITOR REESE:

8 Q Where are you employed?

9 A Spartanburg County Sheriff's Office.

10 Q And what are your duties as an employee of the
11 Sheriff's Department?

12 A I'm a detective. I investigate all crimes that are
13 sexually motivated and all crimes against children.

14 Q And were you working on May the 27th, 2011?

15 A I was.

16 Q And did you have occasion to respond to Spartanburg
17 Regional Medical Center in relation to a case involving the
18 defendant?

19 A Yes, ma'am.

20 Q And what time did you respond?

21 A I went to the hospital, to Spartanburg Regional at 8:30
22 in the morning.

23 Q And how did you become involved in this case?

24 A My sergeant, Sergeant Kevin Bobo, requested that I
25 begin this investigation. He had gone -- he had been

Nicki Cantrell - Direct examination
by Solicitor Reese

1 involved in it the prior evening, and had handed it off to
2 me to finish up.

3 Q And what was the first thing you did when you arrived
4 at the hospital?

5 A I met with Nurse Kelli Clune.

6 Q And who is Kelli Clune?

7 A She's a nurse at Spartanburg Regional who performs
8 forensic examinations. She's a nurse that will do any rape
9 kits. She also is a forensic pediatrician or pediatric
10 nurse. So, she's usually called in on any case where it's
11 suspected child abuse.

12 Q And have you worked with her before?

13 A Yes, ma'am.

14 Q And you spoke with her?

15 A I did.

16 Q And based on your conversation -- well, tell me first
17 what was she was doing when you first arrived.

18 A She was performing a sexual assault kit on Minor 1

19 Q And were you present during part of that examination?

20 A I was.

21 Q And did you -- what injuries did you observe on

22 Minor 1

23 A Minor 1 had bruising on her face, head, legs, buttock,
24 inner thighs, and vaginal area, and I also observed bleeding
25 coming from her vaginal area.

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Nicki Cantrell - Direct examination
by Solicitor Reese

1 Q After you observed Minor 1 and were present during the
2 sexual assault examination, what was -- what did you next
3 do?

4 A I, I had to leave the hospital. I actually had to come
5 to the courthouse on an unrelated case short, for a short
6 period of time, and then at 10:00AM I went to the
7 Spartanburg County Detention Center.

8 Q At that, at that detention center, did you meet with
9 Stephanie Blake?

10 A I did.

11 Q And what did you tell her?

12 A Well, I brought her to the Sheriff's Office so that I
13 could interview her, and I spoke to her in an interview
14 room. And before I asked her any questions I read her a
15 pre-interrogation waiver form, which she also read and
16 understood and signed, and I explained to her that -- I
17 thought that she hadn't told Sergeant Bobo the entire truth
18 about what had happened to her children, and it was very
19 important that I find out the truth of what all had
20 occurred.

21 Q Did she talk to you?

22 A She did.

23 Q And based on the information that she gave you, what
24 did you next do?

25 A I, I took a statement from her, based on that

Nicki Cantrell - Direct examination
by Solicitor Reese

1 information, which she signed and then after I was done
2 speaking with her I spoke with Randall.

3 Q And Randall is the defendant?

4 A Correct.

5 Q Where was the defendant when you spoke with him?

6 A He was in a different interview room at the Sheriff's
7 office at that point.

8 Q And before speaking to him, did you read him or advise
9 him of his Constitutional rights?

10 A I did.

11 Q And I'm gonna show you what's been marked as State's
12 Exhibit 1 for identification.

13 MR. POOLE: Your Honor, I renew my objection pretrial.

14 THE COURT: Your pretrial -- your objections are
15 renewed. The Court would make the same ruling at this time.

16 You may proceed.

17 Q Do you recognize State's Exhibit 1 for identification?

18 A I do.

19 Q And what is that?

20 A It's a pre-interrogation waiver form that Randall
21 Matheny signed.

22 Q And did you -- well, tell me, first of all, how you
23 approached a defendant in this situation?

24 Does he just -- you just hand it to him?

25 How did you go about explaining his rights so that you

Nicki Cantrell - Direct examination
by Solicitor Reese

1 knew he understood them?

2 A I turn the form around so -- cause we were sitting
3 across the table from one another. So, I turn the form
4 around so he can read it. I pretty much have the form
5 memorized.

6 I -- he provides me the information that I fill in the
7 top blanks with. He was able to provide his name, address,
8 age, the date -- I'm sorry. So, he provides me with that
9 information, and then I read him the rights. So, I go
10 through each one individually.

11 Do you want me to just do it like I would?

12 Q Yeah, just demonstrate for the jury exactly how you did
13 it.

14 A On the form it actually says you have the right to
15 remain silent, but I read it to him. So, I say you have the
16 right to remain silent. Anything you say can and will be
17 used against you in a Court of law. You have the right to
18 talk to a lawyer and have him present with you while you're
19 being questioned. If you can not afford to hire a lawyer,
20 one will be appointed to represent you before any
21 questioning if you wish, and you have the right to stop
22 answering questions at any point in the questioning.

23 The above rights have been read to you by me, Detective
24 Cantrell. You have read the same and understand your rights
25 fully, and then we go through each one. I draw a line next

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by Solicitor Reese

1 to each numbered right, and ask him if he understood that
2 right, and if he has any questions. And, if not, he
3 initials those lines, which he did, and then he signs his
4 name right here indicating that he understood all those
5 rights and doesn't have any questions about those rights.

6 And then we go on to the next section, which says you
7 waive or give up your rights as explained above, agree to
8 talk to me, Officer Cantrell, in reference to [Minor 2] and
9 [Minor 1] and any statement you make is of your own
10 free will without fear, threat, promise, favor, or reward of
11 any kind.

12 You can read and write the English language and
13 finished 12 years in school, and he finished 12 years of
14 school at Broome. So, I go ahead and put that in there.
15 He's the one that supplied me with how many years of school
16 he finished.

17 He agreed -- he was willing to waive his rights. He
18 was willing to talk to me. He agreed I had not threatened
19 him, forced him, promised him anything. He was doing it
20 voluntarily, and he signed right there.

21 Q So, not only did you read them to him yourself, but you
22 also had him initial each right to indicate that he
23 understood?

24 A Correct.

25 Q He signed initially to say that he understood the

Nicki Cantrell - Direct examination
by Solicitor Reese

1 rights, and then had him sign again down at the bottom to,
2 for him to say that he, he agrees to speak to you?

3 A Correct.

4 Q And waived them?

5 A Correct.

6 Q And during that time, he provided all the information
7 for you that was on the form?

8 A He did.

9 Q Is this the same form that he signed?

10 A Yes, ma'am.

11 Q And did you actually witness his signature?

12 A I did.

13 Q And is this form in the same condition substantially,
14 other than the sticker, as when you actually executed the
15 form?

16 A It is.

17 SOLICITOR REESE: Your Honor, at this time I would move
18 to admit, as State's Exhibit 1, the rights form.

19 THE COURT: Subject to your prior objections?

20 MR. POOLE: Subject to prior objections.

21 THE COURT: All right. It will be admitted.

22 (WHEREUPON, State's Exhibit No. 1 was received into
23 evidence at this time.)

24 Q At that point---

25 THE COURT: Just one second and let her get that

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by Solicitor Reese

1 marked.

2 Is it okay?

3 COURT REPORTER: Yes, sir.

4 THE COURT: All right. Now you may proceed.

5 Q Have you ever dealt with people -- well, tell me, first
6 of all, what was the defendant's physical appearance that
7 day?

8 A I mean he -- physically he appeared fine.

9 Q Did he -- have you ever dealt with people in your work
10 who are under the influence of alcohol or drugs?

11 A Yes, ma'am.

12 Q And did he appear to be under the influence of alcohol
13 or drugs?

14 A No, ma'am.

15 Q Did he respond to your questions appropriately?

16 A Yes, ma'am.

17 Q Did he appear to understand your questions?

18 A He did.

19 Q Was his speech coherent?

20 A It was.

21 Q Did he appear to be suffering from any mental health
22 issue?

23 A No, ma'am.

24 Q Did he respond when you asked him if he wanted to, if
25 he'd rather have an attorney in your, in your---

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by Solicitor Reese

- 1 A Yes.
- 2 Q ---rights form?
- 3 A Yes, he responded to that question.
- 4 Q And he indicated that he did not?
- 5 A Correct.
- 6 Q Did he ever ask to remain silent or not speak anymore?
- 7 A No, ma'am.
- 8 Q Did he agree to answer your questions?
- 9 A He did.
- 10 Q Did he ever stop the interview?
- 11 A No, ma'am.
- 12 Q Did you coerce him in anyway?
- 13 A No, ma'am.
- 14 Q Did you threaten him in anyway?
- 15 A No, ma'am.
- 16 Q Did you promise him anything?
- 17 A No.
- 18 Q To the best of your knowledge, did he give you the
- 19 statement freely and voluntarily?
- 20 A Yes, ma'am.
- 21 Q Now, initially did you talk to him and obtain a verbal
- 22 statement?
- 23 A I did.
- 24 Q And what is the reason, as an investigator, that you
- 25 just don't hand a person a form and say write it?

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by Solicitor Reese

1 A Typically when we hand people forms they don't put
2 hardly any detail in. It's very short. Most people don't
3 like writing pages and pages of information. It's much
4 easier for them to speak and tell us what happened, and also
5 that way, if we have any questions about it, we can stop in
6 the middle asking any questions we may have about what
7 they're stating. He just gave a lot more information
8 talking to somebody than you do writing to somebody.

9 Q So, initially did you begin a conversation with him at
10 this point?

11 A I did.

12 Q And to start the conversation, did you, did you ask him
13 any questions?

14 A I did.

15 Q What did you ask him?

16 A I asked him if he understood why I wanted to speak with
17 him.

18 Q And what did he say?

19 A He, he indicated that he did, and that it was because
20 of what had occurred to **Minor 2** He also informed me that
21 someone came and got **Minor 1** in the middle of the night as
22 well.

23 Q Did he tell you whether or not, initially, he had
24 noticed whether either of these children had bruises?

25 A Yes, I asked him if he had ever observed any bruises or

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1 injuries on the children, and he said that Minor 2 had a
2 bruise on his head, and he saw a bruise on Minor 1 head as
3 well. And I asked him if there were any other injuries he
4 had observed on the children. He said that was all he could
5 think of.

6 So then I began to ask him about his responsibilities
7 for the children, if he bathes them, if he changes their
8 diapers, and what all his caretaker responsibilities are
9 with the children. He indicated that he does all of that,
10 that he changes their diapers, and he bathes them, and he
11 does care for them.

12 And, so, at that point I pulled out pictures of the
13 children because him stating that he saw the bruises on the
14 head, and that was it, wouldn't be consistent, since the
15 children have bruises over their buttock and legs and other
16 injuries in areas that would be covered by clothing, it
17 wasn't consistent with him, if he's changing their diapers
18 and bathing them, he would of observed these injuries as
19 well.

20 So, I was questioning him about those injuries that he
21 had not mentioned in the first part of the interview.

22 Q After he saw those pictures, did he tell you -- did
23 he -- did he make an attempt to explain any other injury
24 that might be on the child, children?

25 A Yes, ma'am.

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by Solicitor Reese

1 Q what did he say?

2 A He said that Minor 1 fell off the couch one day and
3 maybe that could of caused one of the marks. He also said
4 that Minor 1 and Minor 2 were flipped face first on the
5 pavement while Kayla was pushing them in the stroller
6 earlier that week. I discussed with him that still did not
7 account for all the bruising on their buttock, thighs,
8 backs, and Minor 1 vaginal area being torn.

9 Q Did he give you any information, at that point,
10 regarding how the tear might have occurred or what he, or if
11 he knew anything about the tear?

12 A He told me that he was changing Minor 1 diaper the
13 previous day and he was wiping her because she had -- do you
14 want me to use his words?

15 Q Use his words please.

16 A Because she had shit everywhere. He said that she was
17 bleeding. He didn't know what happened or how that
18 occurred. So, he went and got Kayla and showed her.

19 Q Did he tell you anything about Kayla?

20 A Yes, he indicated to me that Kayla gets angry with the
21 children and loses it. However, when I asked him if he's
22 ever seen Kayla hit or hurt the children he said no.

23 Q Did he tell you at that point -- did you ask him if he
24 ever spansks or hits the children?

25 A I did.

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by Solicitor Reese

1 Q And what was his answer at that -- initially?

2 A Initially he said yes, he does, but he only hits them
3 on the hand.

4 Q Did he change that story later in the course of your
5 conversation?

6 A He did.

7 Q And what did he tell you the second time?

8 A He later said that he hits them on their bottoms with
9 his hand on top of the diaper.

10 Q Did he tell you how many times he had hit them with his
11 hand on top of the diaper?

12 A He said he'd only done that once or twice.

13 Q Did he give you anybody else that keeps or takes care
14 of the children?

15 A He did.

16 Q What did he say?

17 A He stated that Kayla's mom keeps the children some.
18 So, I asked him if he thought she was abusing the children,
19 if she could of caused any of these marks, and he said no,
20 that's not what he was meaning when he said that. He was
21 just letting me know that, who all keeps the children.

22 Q Did you then confront him about the nature of these
23 bruises?

24 A I did.

25 Q And what did he say?

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by Solicitor Reese

1 A Well, I just explained to him that I just didn't
2 understand how he could be around the children all the time
3 and do all these caretaker responsibilities and not notice
4 these injuries or remember how they occurred. He said that
5 he works a lot. I asked him about that. He informed me he
6 works for American Remodeling, and that he works when
7 they're, when there's been -- when there's jobs available
8 for that company.

9 I asked him if had worked the day, the previous day on
10 the 26th. He said that he had worked a total of a week in
11 the last two weeks. Like he would work a day, be off a day.
12 He couldn't -- he could not tell me the exact days he
13 worked. He just knew he worked about a week in the last two
14 weeks. He gave his boss' phone number.

15 Q Did he indicate, at that point, that he missed the
16 bruises because he was working?

17 A Yes.

18 Q And I think you said before that he had told you at
19 first that he only knew of one bruise --

20 A Correct.

21 Q -- and then you showed him the picture?

22 Did he later admit to you that he had not only seen the
23 bruises, but he had had a conversation with Kayla about the
24 bruises?

25 A Yes, ma'am.

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by Solicitor Reese

1 Q what did he tell you?

2 A He told me that he, that he told Kayla she can't take
3 the children to the doctor because, if she does, and they
4 see all the bruises on the children, D.S.S. will come and
5 take her children away.

6 Q Did he ever change that or back off of that?

7 A He said that he told her to take Minor 1 to the doctor,
8 but he agreed that they would be taken -- him and Kayla had
9 a conversation about taking Minor 1 to the doctor, and he
10 agreed that they would be taken and he told her that she
11 was, that she was right.

12 Q So, at first he told you he had told her you can't take
13 them to the doctor because the kids will be taken?

14 A Uh-huh. (Affirmative).

15 Q And then he later said well, what I said was if you
16 take them to the doctor they'll be taken?

17 A Correct.

18 Q Did he tell you how he felt about the children?

19 A Yes. well, he told me a couple of different things.

20 Q What did he tell you?

21 A Make sure I state it correctly.

22 And are you asking about what he said about the
23 children prior to him giving his statement or after his
24 statement?

25 Q At this point did he, did he indicate to you that it

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by Solicitor Reese

1 had been a problem for him to handle the twins?

2 A No, at, at this point, prior to him giving his
3 statement, he indicated to me that he loves the twins and he
4 would never hurt them.

5 Q Okay. And did he ever tell you whether or not he and
6 Kayla had separated?

7 A Yes.

8 Q And did he tell you the reason for that separation?

9 A Yes, they -- he said they got into a fight and the
10 fight was about the twins, and then he indicated to me that
11 he left Kayla because he couldn't handle the twins.

12 Q And did he tell you how they got back together?

13 A He said he had moved in with Ashley Directo, and then
14 he found out that Kayla and the twins were gonna be put out
15 of the house that they all had been staying in previously
16 before he moved out. And he -- so, when he found out they
17 had no where to go, he wanted Ashley and the twins to move
18 in or Kayla and the twins to move in with him and Ashley.

19 Q Did he indicate to you where the twins normally slept?

20 A Yes, he said that they sleep in the living room while
21 him and Kayla sleep in the bedroom.

22 Q After you got this verbal information from him, at that
23 point did you ask him to write a written statement?

24 A I did.

25 Q And did he agree to do that?

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by Solicitor Reese

1 A He did.

2 Q And how was that written statement generated?

3 A For this situation, because -- based on everything he
4 had given me in his verbal statement, there was some things
5 I wanted to check on. So, I handed him a voluntary
6 statement form and asked him to write down all that we had
7 been talking about, about his involvement with the children,
8 the injuries he had seen, how he thought they may of
9 occurred, and that sort of thing.

10 Q And did he agree to do that?

11 A He did.

12 Q Did you wait with him to do that?

13 A No, I handed him the form and I left the room so that I
14 could check on some of the statements, the verbal statements
15 he had given me to see if they were accurate or not.

16 Q Now, while he was making this statement to you, you
17 were documenting what he was saying, is that correct?

18 A That's correct.

19 Q And you -- that's documented in a report?

20 A Correct.

21 Q How long -- do you know how long you left him in that
22 room to write his statement?

23 A It -- I mean it wasn't very long. I made, I made a
24 phone call and that -- I mean maybe less than 20 minutes,
25 maybe 20 minutes at most.

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by Solicitor Reese

1 Q When you went back into the room, had he completed his
2 statement?

3 A He had.

4 Q And at that point did you talk to him some more about
5 some things that you had learned?

6 A I did.

7 Q What did you confront him about specifically?

8 A I confronted him about the information he had given me
9 about work because he had stated that that's why he didn't
10 notice injuries and indicated to me that he works a lot.
11 So, I called his boss, and -- or who he said was his boss,
12 and his boss had indicated that---

13 MR. POOLE: Objection to the hearsay, Your Honor.

14 THE COURT: I have not heard her quoting what the boss
15 said at this point in time. I note your objection. You
16 can, can renew it if she gets into what was said.

17 Q Can we -- let me rephrase the question.

18 Were you able to determine whether or not he was, in
19 fact, employed at American Remodeling?

20 A He had been---

21 MR. POOLE: Your Honor, that's based on hearsay. That
22 information is based on clear hearsay.

23 SOLICITOR REESE: It's part of her investigation as an
24 officer. I believe there's a case that---

25 THE COURT: I can -- I -- she can testify as to what

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by Solicitor Reese

1 she, what her knowledge was after she completed an
2 investigation. I'll allow her to do that.

3 Q Were you able to determine, through your investigation,
4 whether or not he was, in fact, employed at American
5 Remodeling?

6 A Yes, ma'am, he had been employed previously, but had
7 not -- he was fired and had not worked there for two to
8 three months.

9 Q When you confronted him with that information, what did
10 he tell you?

11 A He informed me that his boss was a drunk and did not
12 know what he was talking about.

13 Q Did you continue to challenge him on some of the
14 statements that he had given to you verbally?

15 A I did. When I talked to him more about his job, then
16 he started stating that he was certain that he had worked
17 four days the prior week, and his job was mowing grass. It
18 was outdoor activity, landscaping. And he -- again, when I
19 talked to him previously, he -- all he knew was he worked
20 about a week in a two week period. Now he was certain he
21 worked these certain four days, and, however, two of the
22 days he insisted that he worked it rained all day.

23 Q Did he finally give you a statement about the kids and
24 the injuries?

25 What was his final statement to you about --?

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by Solicitor Reese

- 1 A He indicated to me that -- he said that he did not do
2 anything, and that they weren't even his kids. So, it
3 wasn't his responsibility to worry about where the injuries
4 came from.
- 5 Q At that point did you ask him if he would speak to
6 another investigator?
- 7 A I did.
- 8 Q A male investigator by the name of Jason Bryant?
- 9 A Yes, ma'am.
- 10 Q And did he present you with a statement that he had
11 prepared to all the questions you had asked him?
- 12 A Yes, ma'am.
- 13 Q I show you what's been marked as State's Exhibit 2.
14 Do you recognize that?
- 15 A I do.
- 16 Q And what is that?
- 17 A That's the statement Randall Matheny wrote on, when I
18 had left him in the interview room.
- 19 Q Did you witness him sign that?
- 20 A I did.
- 21 Q And did he give that one to you?
- 22 A He did.
- 23 Q Does it, does it give the information you asked for in
24 the statement?
- 25 A Absolutely not.

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by Solicitor Reese

1 Q And is this the statement that he gave to you though
2 that afternoon --

3 A Yes.

4 Q -- before he talked to Investigator Bryant?

5 A Yes, ma'am.

6 Q And has that been -- other than this stamp, has that
7 been altered or tampered with in anyway?

8 A No, ma'am.

9 SOLICITOR REESE: Your Honor, I would move to admit
10 State's Exhibit 2.

11 MR. POOLE: Subject to prior objections.

12 THE COURT: Sir?

13 MR. POOLE: Subject to my prior objection.

14 THE COURT: They're noted. The Court will make the
15 same ruling. They'll be admitted as marked.

16 (WHEREUPON, State's Exhibit No. 2 was received into
17 evidence at this time.)

18 Q Will you please read for the jury exactly what he
19 wrote?

20 A I help with the kids by feeding them and fixing them
21 drinks. I have only gave them a bath one time. I've never
22 hit or hurt them in anyway. I have never seen Kayla hurt
23 them in anyway. The only drugs I have done with Kayla or my
24 roommate is weed. Yesterday I was changing Cassie's diaper
25 and she was bleeding and I went and got Kayla and told her

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1 as soon as I seen it.

2 Q And is that the entirety of the statement that he
3 wrote?

4 A It is.

5 Q When, when the defendant -- at some point did the
6 defendant actually go to speak to Investigator Bryant?

7 A He did.

8 Q And you finished your statement with him at what time?

9 A It's on the bottom of the statement form. I finished
10 with him at 12:10PM on May 27th.

11 Q So, between the time at 12:00 and a couple hours later
12 when Investigator Bryant spoke with him, was he -- did he --
13 was he allowed to take a break?

14 A Yes, ma'am.

15 Q So, there wasn't an interrogation going on in those two
16 hours?

17 A No, ma'am.

18 Q What did you do after you received this statement and
19 you asked Investigator Bryant to interview him?

20 What did you do next?

21 A I went to the incident location, the address on Skylyn
22 Drive. I went there to continue the investigation.

23 Q While you were there, what was the first thing you --
24 well, tell me first who was there.

25 When you arrived at the location that morning, who was

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by Solicitor Reese

1 there?

2 A Ashley Directo and Eric Lazurick.

3 Q And at that point did you take pictures of the
4 residence?

5 A I did.

6 Q Now, first of all, were you able to obtain a consent to
7 search from Ashley Directo?

8 A I was.

9 Q And did your office also contain, obtain a consent to
10 search from Kayla Blake?

11 A We did.

12 Q And why did you do both?

13 A Because the residence, when you pull up, it looks like
14 a normal single story ranch residence. But then when you
15 get to the inside, it basically split -- there's only one
16 front door. There's one back-door. So, there's one common
17 entrance for this residence.

18 But then when you get inside, there's -- I mean there's
19 a kitchen, there's a living room. But then there's a wall
20 that has a door which can be locked that goes into two other
21 rooms, and in those other rooms is where Kayla and Randall
22 and the children were living.

23 So, they stated, you know, that was their own private
24 residence separate of Ashley even though they all shared
25 like a common kitchen.

Nicki Cantrell - Direct examination
by Solicitor Reese

1 Q So, you got a consent to search from the, from the---

2 A The entire building.

3 Q ---both?

4 A The entire building.

5 Q Okay. And what did you do, as you entered the
6 residence -- and you described the layouts and what.

7 Is this -- how big a residence is this?

8 A If I had to guess -- I mean it's a fairly good size
9 residence.

10 Q And they're, they're two divided apartments.

11 Is that a fair statement?

12 A Correct.

13 Q Can you describe the, the, the area where you searched
14 or where you looked?

15 What, what exactly did you find there that might be of
16 relevance in this case?

17 A The, the part where Kayla and Randall were staying,
18 there was evidence of drug usage in plain view. They --
19 we -- so we just went ahead and took photographs of all the
20 rooms, and then we began to search the residence more
21 thoroughly. Underneath a mattress on Kayla and Randall
22 Matheny's side we found drug paraphernalia to include
23 needles.

24 Q Did you, did you -- in relation to this case---

25 A Uh-huh. (Affirmative).

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by Solicitor Reese

1 Q ---and I know that we've already had testimony that
2 Ashley Directo and Eric Lazurick has meth convictions. And,
3 so, there are -- there's evidence of meth within the
4 residence. We know that.

5 But in, in terms of this case, what did you find in
6 relation to the children?

7 A There was a bloody diaper and two bloody wipes in the
8 trash can in the living room portion where Ashley, where
9 Kayla and Randall were staying, staying, and it was on the
10 top of the trash can.

11 Q I'm gonna show you what's been marked as State's
12 Exhibit 24.

13 Can you identify that?

14 A Yes, this is the residence if I've -- 1510 Skylyn
15 Drive.

16 Q And is that the living room?

17 A It is.

18 Q With the loveseat?

19 A It is and the children -- those were the loveseats the
20 children slept on.

21 Q And Exhibit 25.

22 A That's the coffee table in the living room and it has
23 multiple knives on it.

24 Q And that's where the children were sleeping?

25 A Correct.

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by Solicitor Reese

1 Q This is Exhibit 26.

2 what, what did you find there?

3 A That's the trash can in the living room with a bloody
4 wipe and the bloody diaper.

5 Q Exhibit---

6 A That's a close-up -- a closer view of the trash can.

7 Q And that's Exhibit 27 for identification.

8 And State's Exhibit 28 for identification.

9 A That's the diaper opened up.

10 Q And State's Exhibit 29 for identification.

11 A And those are the wipes.

12 Q And these are all items that are in or accurate and
13 complete depictions of the evidence as you found them?

14 A Yes, ma'am.

15 MR. POOLE: No objection.

16 THE COURT: Without objection they'll be received into
17 evidence as marked.

18 (WHEREUPON, State's Exhibit Nos. 24 through 29 were
19 received into evidence at this time.)

20 SOLICITOR REESE: Your Honor, these are State's
21 Exhibits 25, I'm sorry, 24, 25, 26, 27, 28, and 29.

22 THE COURT: Thank you.

23 Do you wish to publish those?

24 SOLICITOR REESE: Yes, Your Honor.

25 THE COURT: All right. You may do so.

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by Solicitor Reese

1 By publishing them, that means we allow them to be
2 shown to the jury.

3 Q Now, while we're waiting I just want to clarify
4 something for the jury.

5 while there was some kind of paraphernalia and things
6 in the house, there was never any drug charges or possession
7 filed against the defendant, right?

8 A No, ma'am.

9 Q And that's not a matter for us here, is that --?

10 A Correct.

11 Q Okay. And for the jury, Investigator Cantrell, can you
12 indicate what that is a picture of?

13 A That's the living room on the side of the house that
14 Kayla, Randall, and the children were living on, and that --
15 the bottom center of the picture is a portion of the
16 loveseat that the children had to sleep on.

17 Q And is that -- I think you said that was a picture of,
18 No. 25, of the end table?

19 A Yes.

20 Q And that is 26.

21 What is that?

22 A The green object in the bottom center with the white
23 and the red, that's the trash can with the bloody wipes and
24 the bloody diaper that were visible in plain view when we
25 came in the room.

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- 1 Q And did you take possession of those?
- 2 A We did.
- 3 Q And that is 27.
- 4 what is that?
- 5 A Those -- that's a closer view of what we found in the
- 6 trash can.
- 7 Q That's 28.
- 8 A That's the diaper when we opened it up to see what was
- 9 inside.
- 10 Q And 29.
- 11 A Those are the wipes.
- 12 Q And after you finished looking around the residence --
- 13 and we -- we're going to put the pictures in and not the
- 14 diapers, right?
- 15 A Correct.
- 16 Q Okay. But after you finished looking at the residence,
- 17 what next did you do in your investigation?
- 18 A I interviewed Ashley Directo and another detective that
- 19 was with me interviewed Eric Lazurick.
- 20 Q Were they both -- did they both volunteer to give
- 21 statements regarding what they'd seen?
- 22 A They did.
- 23 Q In your conversations with them, did -- at anytime were
- 24 either of these people promised anything regarding any
- 25 pending charges or any issues with their drug situation?

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by Solicitor Reese

1 A No, ma'am.

2 Q After leaving the residence, what did you do?

3 A After leaving the residence we returned to the
4 Sheriff's Office.

5 Q And did you speak with Detective Bryant about his
6 discussions with the defendant?

7 A I did.

8 Q After that, did you, in fact, go to the hospital?

9 A I did.

10 Q And other than being here today, is that the extent of
11 the work you've done on the case?

12 A Yes, ma'am.

13 Q Did you, in fact, at some point arrest the defendant?

14 A I did.

15 Q And that was based on the information that you had
16 found and after your discussion with Detective Bryant, is
17 that correct?

18 A Correct.

19 SOLICITOR REESE: Nothing further of this witness.

20 THE COURT: Your witness, Mr. Poole.

21 MR. POOLE: Thank you, Your Honor.

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. POOLE:

25 Q Detective Cantrell, you have given a lot of information

Nicki Cantrell - Cross-examination
by Mr. Poole

1 about these statements, and on the pre-interrogation waiver
2 form, the date and time is 11:37AM on May 25.

3 Is that -- that's about right?

4 A I would have to see it.

5 (Mr. Poole hands a document to the witness.)

6 A Yes.

7 Q And the testimony that you have given today, is that a
8 result of information that you received from Mr. Matheny
9 after 11:37AM?

10 A Yes.

11 Q So, you did not have any prior conversation other than
12 just to go over his rights---

13 A Correct.

14 Q ---and time is at 11:37AM?

15 A Correct.

16 Q Then you got all of this information from him and then
17 you left?

18 A Correct.

19 Q And you gave him a form to fill out, which is dated
20 12:10 on the same date?

21 A Yes.

22 Q And the majority of your testimony includes what he
23 told you verbally between 11:37 and 12:10PM?

24 A Correct.

25 Q Okay. And then you gave him a blank form which he

Nicki Cantrell - Cross-examination
by Mr. Poole

1 completed and has been admitted as State's Exhibit No. 2?

2 A Yes, sir.

3 Q But you left the room?

4 A Yes.

5 Q And you told him to write it down?

6 A Correct.

7 Q And you're saying that what he wrote down is different
8 from what he told you?

9 A Yes.

10 Q Well, is it not more common practice to stay in the
11 room with a defendant as he or she writes the statement out?

12 A No, every case is different on how we do it. When he
13 provided me with the information about his boss, something
14 that I would be able to corroborate, to determine if he was
15 being truthful or not, that's when I made the determination
16 to just let him go ahead and write his, the, his first
17 original story down. Typically when people come in to talk
18 to the police they don't tell the truth at first and it's,
19 it's a process.

20 Q Okay. But often times the law enforcement interrogator
21 will write the statement out for the defendant, right?

22 A Yes, sometimes we do that as well.

23 Q And the majority of the time law enforcement is present
24 when the defendant either dictates to the law enforcement
25 interrogator or writes, in his or her own words, most of the

Nicki Cantrell - Cross-examination
by Mr. Poole

1 time an investigator is present when this voluntary
2 statement is given?

3 A No, not, not most of the time.

4 Q Not most of the time?

5 A It depends on if it's the final statement or the
6 beginning of the investigation. This was the beginning of
7 the investigation.

8 Q Uh-huh. (Affirmative).

9 So, what, what you're doing is trying to -- you're
10 suspecting of a mistruth and then setting him up for another
11 mistruth, is that right?

12 A I didn't know at that point if he, if he was being
13 truthful or not. That's why I stepped out the room to call
14 his boss to see if he was --

15 Q Okay.

16 A -- being truthful.

17 Q Okay. And as you have -- you came back and started
18 talking to him after 12:10 with new information, whatever it
19 may be that you gathered from your investigation, and this
20 was not a, just like you and me sitting, standing here
21 talking?

22 This is a pretty charged environment, isn't it?

23 A No, it's not actually.

24 Q Uh-huh. (Affirmative).

25 I mean---

Nicki Cantrell - Cross-examination
by Mr. Poole

1 A It's---

2 Q ---you didn't become hostile toward him?

3 A No, I talked to him just like I talked, I'm talking to
4 you now. We, at that point, it's the beginning of our
5 investigation. If I start yelling and screaming and getting
6 hostile, he's probably not gonna want to talk to me anymore.

7 Q Okay. So, at no point did it become hostile?

8 A No.

9 Q And was -- so, how long after 12:10PM did you -- how
10 long was it that you talked to him?

11 A It wasn't incredibly long. It was before Sergeant
12 Bryant talked to him and I can -- hold on. I can give you a
13 closer time because I can tell you the time I arrived at
14 Ashley Directo's and his house.

15 (Pause.)

16 A I arrived at Ashley Directo's house and Randall Matheny
17 and Kayla Blake's residence on Skylyn Drive at 2:03PM, and
18 that's when Ashley Directo signed the permission to search
19 form.

20 Q Did you ever tell him or threaten, threaten him that in
21 the fashion that he was gonna go to prison if he didn't tell
22 you the truth?

23 A No, sir.

24 Q Did you ever tell him that if he was lying to you that
25 it would make things worse on him?

Nicki Cantrell - Cross-examination
by Mr. Poole

- 1 A No, sir.
- 2 Q Could you look at your report under here on Page 5?
- 3 A Yes. Page -- my pages must be different than yours.
- 4 That was a forensic report. Let me --.
- 5 Q Deputy's supplemental report.
- 6 A Yeah, let me get to that.
- 7 Q 6/9/11. The fifth sentence from the---
- 8 A Yes.
- 9 Q ---top paragraph.
- 10 A I didn't mention anything about prison. I just told
- 11 him that if he was lying to me about the children it could
- 12 just make things worse on him, and I told him that I wanted
- 13 to know and understand what happened to the children. And
- 14 that's when he said he did not do anything, and that they're
- 15 not even his kids. So, it's not his responsibility to worry
- 16 about where the injuries came from.
- 17 Q Well, what does it mean when you say it just makes
- 18 things worse on him?
- 19 A Because if there's an explanation to how the injury
- 20 occurred, I was giving him the opportunity to explain that
- 21 to me. If he's -- a vagina tear doesn't just happen on its
- 22 own. So, if he had an explanation to how that occurred---
- 23 Q And that's---
- 24 A ---it was important for him to give it.
- 25 Q And that's not an indication of going to prison or

Nicki Cantrell - Cross-examination
by Mr. Poole

1 being punished or anything like that, is it---

2 A No.

3 Q ---of course, is that right?

4 A Hu huh. (Negative).

5 MR. POOLE: That's all the questions I've got.

6 THE COURT: Redirect?

7 SOLICITOR REESE: None -- nothing on redirect, Your
8 Honor.

9 THE COURT: All right, ma'am. You may step down.
10 Thank you very much.

11 THE WITNESS: Thank you.

12 SOLICITOR REESE: Could we approach for scheduling?

13 THE COURT: All right. Ladies and gentlemen of the
14 jury, at this point in time we're gonna break for lunch.
15 So, I'll allow you to leave the courthouse while you do
16 that. I'll give you the same instructions I gave you when
17 you left earlier. That is not to try to gather information
18 about this case on your own. Don't listen to, watch, or
19 read media reports concerning this case. Don't discuss the
20 case with anyone. Don't allow anyone to discuss the case
21 with you.

22 I'll ask you to be back in the jury room at 1:30. We
23 should be in a position to start fairly soon thereafter.

24 Hope you have a good lunch. You're free to go.

25 Thank you.

1 (WHEREUPON, the following takes place outside the
2 presence of the jury.)

3 THE COURT: All right. You indicated you might want to
4 approach. Just want to discuss the---

5 SOLICITOR REESE: I was just gonna ask if you wanted me
6 to call my next witness or wait. So, I'm good.

7 THE COURT: Okay. I took care of that then.

8 All right. We'll be in recess then until 1:30. Thank
9 you very much.

10 (WHEREUPON, Court was in recess for the lunch break.)

11 THE COURT: Is the State ready?

12 SOLICITOR REESE: Your Honor, we did do that, that bit
13 of alteration at lunch on the statement, and we've -- I've
14 shown it to, to Mr. Poole. I think that that---

15 THE COURT: I think you were redacting the word
16 examiner---

17 SOLICITOR REESE: Right.

18 THE COURT: ---from the bottom of the document?

19 Is that what I understood?

20 SOLICITOR REESE: If you'd like to see what I did?

21 THE COURT: Do you agree with it as it now exists?

22 MR. POOLE: That's correct.

23 THE COURT: All right. Then mark it and it will be --
24 I assume you're not objecting to it or your other objection
25 stands. But no further objections.

1 MR. POOLE: What Your Honor said is correct.

2 THE COURT: That's right.

3 Okay. Then I'll admit it to be marked.

4 SOLICITOR REESE: Do you want it marked as a substitute
5 or a different number?

6 I just---

7 THE COURT: Why don't we mark that as the number and
8 then put a letter A after it?

9 SOLICITOR REESE: Okay.

10 THE COURT: And that's the one that will go to the
11 jury.

12 Is that -- what number is it?

13 SOLICITOR JORDAN: Three or four.

14 SOLICITOR REESE: It's three.

15 (WHEREUPON, the document was marked as State's Exhibit
16 No. 3-A for identification purposes only at this time.)

17 THE COURT: Okay. Anything else, Ms. Reese, before we
18 bring the jury back?

19 SOLICITOR REESE: That's all, Your Honor.

20 THE COURT: Anything from the defense?

21 MR. POOLE: Nothing here.

22 THE COURT: All right. Are you ready to call your next
23 witness then, Ms. Reese?

24 SOLICITOR REESE: I am, Your Honor.

25 THE COURT: All right. Let's bring the jury in.

1 (WHEREUPON, the following takes place within the
2 presence of the jury.)

3 THE COURT: All right. The record will reflect the
4 jury has returned to the courtroom.

5 If any juror had any difficulty in complying with my
6 instructions during your absence from the courthouse, please
7 stand.

8 (No response.)

9 THE COURT: It appears that all jurors have been able
10 to comply with my instructions.

11 Now, when we stopped, the State was in the process of
12 calling its witnesses.

13 Ms. Reese, you may call your next witness.

14 SOLICITOR REESE: Thank you, Your Honor.

15 The State calls Investigator Jason Bryant.

16 THE COURT: Sir, come forward and be sworn please.

17 JASON BRYANT, being first duly
18 sworn, testified as follows:

19 THE COURT: Have a seat. Once you're seated, state
20 your name for me please.

21 THE WITNESS: Yes, sir.

22 THE COURT: All right.

23 THE WITNESS: My name's Jason Bryant and I'm with the
24 Spartanburg County Sheriff's Office.

25 THE COURT: All right. Thank you.

Jason Bryant - Direct examination
by Solicitor Reese

1 Ms. Reese, your witness.

2 DIRECT EXAMINATION

3 BY SOLICITOR REESE:

4 Q Investigator Bryant, are your duties at the Sheriff's
5 Department to investigate and to speak with persons in
6 regard to criminal---

7 A I'm sorry, ma'am. I didn't --.

8 Q I'm sorry. I forgot.

9 A I'm sorry.

10 Q As, as a, as an employee of the department, are your
11 duties to both investigate cases and to speak with persons
12 in regard to cases?

13 A Yes, ma'am, absolutely.

14 Q And did you have an occasion to speak to the defendant
15 regarding this particular case?

16 A I did.

17 Q Were you an investigator on the case itself?

18 A No, ma'am.

19 Q Were you called in simply to interview the defendant?

20 A That's correct.

21 Q Where did you speak with the defendant?

22 A I spoke with him at the Sheriff's Office.

23 Q And where was he when you first got the assignment to
24 go speak with him?

25 A If I remember correctly, he was in an interview room

Jason Bryant - Direct examination
by Solicitor Reese

1 with, that Investigator Cantrell had had him in earlier.

2 Q And at some point during the day did you have the
3 opportunity to actually talk to him about the case?

4 A I did.

5 Q Before you spoke with him, did you talk to him about
6 his constitutional rights?

7 A I did.

8 Q And did you use anything to assist you?

9 A I read off of a rights form that we have at the
10 Sheriff's Office that's available to us.

11 Q I'm gonna show you what's been marked as State's
12 Exhibit 3-A, and ask you if you identify, if you can
13 identify that.

14 A Yes, ma'am, that's the rights form.

15 Q And in the course -- can you -- well, just describe for
16 the jury exactly how you administered the rights form and
17 how, how that went between you and him.

18 A Basically when I do this, what I do is, first of all, I
19 introduce myself. I'm Jason Bryant with the Spartanburg
20 County Sheriff's Office, and then, at that time, this is the
21 actual first form that I go over with him. At that time I
22 read that form to them word for word. I advise them your
23 rights, and then today's date, which on that date was the,
24 May 27th, 2011, and it was at 2:18PM, and then I, I read
25 word for word the form to him.

Jason Bryant - Direct examination
by Solicitor Reese

1 Q Can you demonstrate for the jury how you did that for
2 him?

3 A Absolutely. Before we ask him any questions you must
4 understand your rights. You have the right to remain
5 silent. Anything you say can and will be used against you
6 in a Court of law. You have the right to talk to a lawyer
7 and have him present with you while you're being questioned.
8 If you can not afford to hire a lawyer one will be appointed
9 to represent you before any questioning begins if you so
10 wish.

11 You have the right to stop answering questions at any
12 point in the questioning, and I have read this statement of
13 my rights and I understand what they are. And then I ask
14 them if you understand your rights, please sign here where
15 it says sign, and I put an X. And then, at that time, he
16 did sign the form.

17 And then what I did next was I went over the waiver of
18 rights with him. And, at that time, I read for him. I am
19 willing to make a statement and answer questions. I do not
20 want a lawyer at this time. I understand and know what I am
21 doing. No threats or promises have been made to me, no
22 pressure or coercion of any kind has been used against me.
23 And I said if you agree with that, sign right there for me,
24 and he did sign.

25 MR. POOLE: Your Honor, I'd like for the record to

Jason Bryant - Direct examination
by Solicitor Reese

1 reflect my prior pretrial objection to this statement.

2 THE COURT: And are you renewing it at this time?

3 MR. POOLE: Yes, sir.

4 THE COURT: All right. The record shall so reflect.

5 My ruling would be the same.

6 You may proceed.

7 SOLICITOR REESE: Thank you, Your Honor.

8 Q So, is this the actual rights form you used?

9 A That is.

10 Q And I believe this is a photocopy?

11 A It is.

12 Q And the other is in records, is that correct?

13 A That's correct.

14 Q And did you -- this -- in this first section you said
15 he signed about his rights?

16 A That's correct.

17 Q And then signed as to a waiver of rights?

18 A That's correct.

19 Q And has this form been altered or changed in anyway
20 except for the sticker?

21 A No, ma'am.

22 SOLICITOR REESE: Your Honor, at this time I would move
23 to admit State's Exhibit 3-A.

24 THE COURT: subject to your prior objections?

25 MR. POOLE: That's correct, Your Honor.

Jason Bryant - Direct examination
by Solicitor Reese

1 THE COURT: All right. I'll admit it subject to the
2 prior objections raised by the defense.

3 (WHEREUPON, State's Exhibit No. 3-A was received into
4 evidence at this time.)

5 THE COURT: You may proceed.

6 Q Now, after you talked to him about his rights, I want
7 to just ask you a little bit about how he seemed to you in
8 the interview.

9 Did -- what was his appearance?

10 A That day he was, he was alert, aware, coherent. Didn't
11 appear to be under any type of drugs or alcohol or anything
12 such as that.

13 Q And have you, in fact, dealt with people in the past?

14 A Oh, yes.

15 Q And -- who, who were under the influence?

16 A Absolutely.

17 Q And he did not appear to you to be under the influence?

18 A Not at all.

19 Q Did he appear to you to be suffering from any kind of
20 mental health issue or something that led him not to quite
21 understand what you were talking about?

22 A No, ma'am, not at all.

23 Q Did he discuss freely with you?

24 A He did.

25 Q Did he respond to questions appropriately?

Jason Bryant - Direct examination
by Solicitor Reese

- 1 A He did.
- 2 Q Was his speech coherent?
- 3 A Yes, it was.
- 4 Q At anytime did he ask for an attorney?
- 5 A No, not at all.
- 6 Q Did he ask to remain silent?
- 7 A Not at all.
- 8 Q Did he refuse to answer any of your questions?
- 9 A No, ma'am.
- 10 Q Did you promise him anything in return for him talking
- 11 to you?
- 12 A No, ma'am.
- 13 Q Did you coerce him or threaten him?
- 14 A Not at all.
- 15 Q And what was his overall demeanor?
- 16 A His overall demeanor at that time, like I say, he was
- 17 alert, aware, coherent, willing to speak with me, cooperated
- 18 with those aspects of the interview.
- 19 Q And did that demeanor change somewhat during the course
- 20 of the interview?
- 21 A His cooperation level never changed as far as that
- 22 goes.
- 23 Q And starting off with your interview, as you began your
- 24 interview, did you speak to him initially about these
- 25 allegations and specifically about the vaginal tears that

Jason Bryant - Direct examination
by Solicitor Reese

1 they had found in Minor 1

2 A I did.

3 Q And did he tell you or not -- did he tell you whether
4 or not he had anything at all to do with this or knowledge
5 of it?

6 A What he had advised me at that time was he hadn't had
7 anything to do with it at all.

8 Q Did he tell you that he had observed any blood?

9 A Not at that time, no, ma'am.

10 Q Did he discuss with you anything initially about
11 whether or not he had been cleaning her?

12 A No, not at all.

13 Q Did that position change at some point?

14 A It did.

15 Q I'm gonna ask you to think about the second version or
16 story that he told you about.

17 what did he tell you the second time you began to go
18 through the scenario with him?

19 A At that time he had advised me that he had changed the
20 diaper of Minor 1 had had diarrhea, and that
21 basically that she had had feces up in her. And that -- if
22 I can refer to my notes?

23 I apologize.

24 He advised that Kayla was standing right there with
25 him, and that he had wiped her, but he had went too far to

Jason Bryant - Direct examination
by Solicitor Reese

1 get it out, and at that time Kayla had taken over, and he
2 said that he didn't do anything sexually to the little girl,
3 but that he had loved her to death.

4 Q Now, did you question him about that version of facts?

5 A I did.

6 Q And what did you tell him about his version of facts?

7 A That it didn't add up as far as with the information
8 that the investigators had during the course of the
9 investigation.

10 Q Did you tell him, at that time, that wiping a child
11 would not have caused an injury?

12 A I did.

13 Q And, at some point during his second story, did he, in
14 fact, tell you that or admit to you that there were times
15 when he had whipped these children too hard?

16 A That -- he did.

17 Q Did he begin to tell you at that point or talk to you
18 about the stress he was facing?

19 A During that version he, he also had stated that he was
20 under a lot of stress, and, and, in his words, he had stated
21 that he was pissed off, on the edge, that they were having
22 some money issues, his stress level had begin to get higher.
23 The children were not his, and that he thought he could
24 handle those children, but he couldn't.

25 They were losing weight, that they couldn't feed them,

Jason Bryant - Direct examination
by Solicitor Reese

1 and actually had -- did discuss that Kayla was present when
2 the diaper was changed and that, that things had gotten out
3 of hand, and that he didn't mean to hurt her like that.

4 Q So, as he begins to tell you this kind of third
5 version, in that version did he talk to you again about
6 Minor 1 "having shit in her diaper?"

7 A That's correct.

8 Q And did he tell you he was upset?

9 A Yes.

10 Q Did he tell you, at this point, did he change the story
11 from I was just wiping her and he started bleeding to
12 something else?

13 A That's when he said that he had gotten out of -- it had
14 gotten out of hand, and if I could refer to my notes just
15 a -- that he had gotten pissed off at that time.

16 Q And did he tell you, at that point, whether or not he
17 had penetrated her with his finger?

18 A That was actually in the next version---

19 Q Okay.

20 A ---of the story that he had provided.

21 Q Okay. So, in the -- in this third version, he tells
22 you that he is still wiping her?

23 A Correct.

24 Q And she just started bleeding because he wiped her
25 maybe too hard?

Jason Bryant - Direct examination
by Solicitor Reese

1 A Right.

2 Q But he did admit to you that, that he had hit the
3 children---

4 A That's correct.

5 Q ---and struck the children?

6 Now, did you continue to discuss with him that wiping
7 would not cause internal vaginal tearing?

8 A I did.

9 Q And did he give you another version about what had
10 happened?

11 A He did, at that time, that was when he had stated that
12 he had inserted his middle finger into the child's vagina.

13 Q And how far -- if, if he indicated, how far did he
14 indicate that he had stuck his finger inside her?

15 A He had said, at that time, that it was up to the second
16 knuckle area.

17 Q Did he tell you whether or not he was upset?

18 A He had said that he had, things had gotten out of hand,
19 he had gotten upset, that he had gotten pissed off.

20 Q Did he tell you whether or not that when he stuck his
21 finger inside the child she began to bleed?

22 A That's correct.

23 Q Did you continue to discuss with him the likelihood of
24 even that causing an internal vaginal tear?

25 A That's correct.

Jason Bryant - Direct examination
by Solicitor Reese

1 Q And did his story again change?

2 A It did.

3 Q And what did he tell you then?

4 A On, on that particular incident or version that you're
5 talking about, we had went through again and he, he said
6 that he was changing the diaper, and that, that he had
7 had -- shit had -- feces or shit, in his words, up in her.
8 Stated that he was ill, that he had worked all day, he was
9 upset with Kayla when it had happened, and that Kayla didn't
10 want to help do anything as far as that goes, that he was
11 mad when he was changing the child, and that Kayla wouldn't
12 get up to do it herself.

13 He said that she was too lazy, and that -- as a matter
14 of fact, I think he had advised me that she was too busy
15 watching the Simpsons on television, and he went on to say
16 that Kayla doesn't work, that they were about to lose their
17 second house as far as that goes, and that he was pissed
18 off.

19 He stated that, that it had gotten out of hand, and
20 that he had hurt her. He stated that -- at that time he had
21 advised me that he had stuck his finger in the child's
22 vagina up to the third knuckle at that time is what he had
23 indicated, and that, that he might have blacked out, and he
24 doesn't remember hurting her like that.

25 Q Did he continue to admit to you that he had whipped

Jason Bryant - Direct examination
by Solicitor Reese

1 both of these children?

2 A He had, he had said that he had whipped the children.

3 That's correct.

4 Q Did he tell you that things just got out of hand?

5 A That's correct.

6 Q Did he, did he ever say to you shit got out of hand
7 and, and I hurt her?

8 A Yes, that's correct.

9 Q How -- about how long, from start to finish, was your
10 interview with him?

11 A Give or take, around a couple of hours.

12 Q Did you, at that point, do a written statement with
13 him?

14 A I did not do a written statement at that time. I had
15 had other commitments that were going on in regards to some
16 other matters that were happening in the county, and I had
17 came out and got Sergeant Bobo and advised him what he had
18 said to me or summarized what he had said to me, and then,
19 at that time, Sergeant Bobo had taken the written statement
20 from him.

21 Q During the course of all of these versions of this
22 story, did, did whether or not Kayla was present change
23 during his version of the facts?

24 A It did.

25 Q So, at some time she told you she was standing with him

Jason Bryant - Direct examination
by Solicitor Reese

1 when it happened?

2 A That's correct.

3 Q And then he changed that to she wasn't?

4 A Correct.

5 Q During the entire course of your talk with him, did he,
6 at any point, tell you that he had placed a wipe on his
7 finger and cleaned her out?

8 A No, ma'am.

9 Q And, at that point, you handed him over to Detective
10 Bobo, Bobo for a written statement?

11 A That's correct.

12 Q And you documented what he said to you, is that
13 correct?

14 A That's correct.

15 Q And that is also in a report?

16 A That's correct.

17 SOLICITOR REESE: Nothing further from this witness.

18 THE COURT: Mr. Poole, your witness.

19 MR. POOLE: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. POOLE:

22 Q This interview lasted about two hours, did it not?

23 A From start to finish, that's correct.

24 Q And during the course of that two hours, he was very
25 emotional?

Jason Bryant - Cross-examination
by Mr. Poole

1 In fact, he was crying, wasn't he?

2 A At points -- at times that he did.

3 Q Okay. He was upset and visibly distraught and you saw
4 him crying, didn't you?

5 A He was crying, yes, sir.

6 Q And he told you that he did not use his genitals,
7 didn't he?

8 A He did.

9 Q And you asked him certain questions -- during the
10 course of this interrogation, you told him I don't think
11 you're evil or a child molester, didn't you?

12 A I did. During the course of an interview or anything
13 such as this, there's certain things that an individual who
14 interviews people will do to establish a rapport or in an
15 attempt to build a relationship with someone you're trying
16 to solicit information from, that's correct.

17 Q Thank you for that unsolicited testimony. I was
18 getting ready to ask you about that.

19 So, when you told him I don't think you're a child
20 molester or evil, you weren't telling him the truth, were
21 you?

22 A Not at all.

23 Q And when you told him I want to believe you -- you told
24 him that, didn't you?

25 A I did.

Jason Bryant - Cross-examination
by Mr. Poole

1 Q Okay. And you told him, you said you need to let your
2 story of, your side of the story be known?

3 A That's correct.

4 Q You're putting pressure on him pretty good, aren't you?

5 A Well, it wasn't pressure. I wanted to hear his side of
6 the story and his version. I wanted to hear the truth from
7 him.

8 Q Oh, come on, investigator. This is -- it's, it's
9 pressure to get, extract information?

10 A No, sir.

11 Q Isn't it?

12 THE COURT: Is that a question?

13 Q Isn't it?

14 THE COURT: Thank you.

15 A I tried to solicit as much information as I could
16 during the course of the interview.

17 Q And then you go on to say well, anybody can make a one
18 mistake. So, it's important for us to know your side of the
19 story.

20 You asked him that, didn't you?

21 A I did.

22 Q And you kept on going.

23 You said you got to admit to the truth---

24 A I did---

25 Q ---is that right?

Jason Bryant - Cross-examination
by Mr. Poole

- 1 A I did want him to admit to the truth, that's correct.
- 2 Q And, so -- and during this entire time he was crying
- 3 and he was upset?
- 4 A Not during the entire time, no.
- 5 Q Okay. He said, at one point, that it was an accident,
- 6 it got out of hand?
- 7 A He had stated---
- 8 Q Is that true?
- 9 A ---that it had gotten out of hand. I don't recall --
- 10 to the best of my recollection, I don't recall the word
- 11 accident.
- 12 Q Okay. Well, in, in the final analysis, we're talking
- 13 about him being mad at Kayla, right?
- 14 A He was upset with Kayla.
- 15 Q He was upset with Kayla because she wouldn't change the
- 16 diapers?
- 17 A Correct.
- 18 Q Right?
- 19 She was watching the Simpsons or something?
- 20 A Uh-huh. (Affirmative).
- 21 Q And he was trying to clean, I'm gonna say fecal
- 22 matter---
- 23 A Okay.
- 24 Q ---out of, out of her genitalia or thereabouts, is that
- 25 right?

Jason Bryant - Cross-examination
by Mr. Poole

- 1 A That's what he had said.
- 2 Q That's what he said.
- 3 And he did not use his genitals?
- 4 A Correct.
- 5 Q Is that right?
- 6 A That's correct. He told me he did not use his genitals
- 7 to insert inside---
- 8 Q And then---
- 9 A ---her vagina. I'm sorry.
- 10 Q And I think, I think he said, as far as the whipping
- 11 the children, he said -- his words were not I maybe whooped
- 12 them a little too hard---
- 13 A He stated---
- 14 Q ---is that right?
- 15 A He stated he whipped them a little too hard. I believe
- 16 that, at times, they could get out of control or out of
- 17 hand.
- 18 Q Uh-huh. (Affirmative).
- 19 At one time he said he didn't mean to hurt her, that
- 20 being Minor 1 the little girl?
- 21 A Correct. He did say that.
- 22 Q That's right.
- 23 But this was in the context of when he's mad at Kayla,
- 24 right?
- 25 I mean we're about the final, the final analysis of, in

Jason Bryant - Cross-examination
by Mr. Poole

1 your opinion, at the very end, he's mad at Kayla, is that
2 right?

3 A He was upset with Kayla, that's correct.

4 Q That the child had diarrhea, is that right?

5 A Correct.

6 Q That the child -- he was changing the child's diaper,
7 is that right?

8 A Correct.

9 Q That he used his finger to clean it, right?

10 A Up to the third knuckle.

11 Q And that he was mad when he was doing this?

12 A He was upset that when he was doing that and that it
13 had gotten out of hand and that he was pissed off.

14 Q Okay.

15 A And that he hurt her.

16 MR. POOLE: Okay. That's all I've got, Your Honor.

17 THE COURT: Redirect.

18 SOLICITOR REESE: Just a couple questions.

19 THE COURT: Yes, ma'am.

20 REDIRECT EXAMINATION

21 BY SOLICITOR REESE:

22 Q And, and just to and -- investigator, just to clarify,
23 from the start to the finish of your two hour interview, the
24 defendant gave some four or five different versions of this,
25 is that correct?

Jason Bryant - Redirect examination
by Solicitor Reese

1 A That's correct.

2 Q And in the last version, did he finally tell you well,
3 I hurt her, I don't remember hurting her like that, I may of
4 blacked out?

5 A Correct.

6 SOLICITOR REESE: Nothing further.

7 THE COURT: Mr. Poole.

8 MR. POOLE: Nothing, Your Honor.

9 THE COURT: You may step down.
10 Wish to have the witness excused?

11 SOLICITOR REESE: Yes, sir.

12 THE COURT: Any objection to the witness being excused
13 if you'd like?

14 MR. POOLE: No objection.

15 THE COURT: All right, sir. You can -- you're excused
16 if you'd like to leave, sir. You may stay also.

17 You may call your next witness.

18 SOLICITOR REESE: State calls Investigator Kevin Bobo.

19 THE COURT: Come forward and be sworn, please.

20 KEVIN BOBO, being first duly
21 sworn, testified as follows:

22 THE COURT: Once you're seated, state your name please.

23 THE WITNESS: Kevin Bobo.

24 THE COURT: Your witness, Ms. Reese.

25 SOLICITOR REESE: Thank you, Your Honor.

Kevin Bobo - Direct examination
by Solicitor Reese

1 DIRECT EXAMINATION

2 BY SOLICITOR REESE:

3 Q Where are you employed?

4 A Spartanburg County Sheriff's Office.

5 Q And what are your duties today?

6 A I'm the neighborhood watch, crime prevention, Crime
7 Stoppers officer.

8 Q And in May of 2011 what were your duties?

9 A I was the sergeant over the special victims unit in
10 investigations.

11 Q And did you have occasion to investigate a case
12 involving the defendant?

13 A I did.

14 Q And how did you first become involved?

15 A I think it was on May the 26th. I don't remember who
16 was on call from my unit, but somebody was sick or had a
17 conflict with a child. So, I was covering a call and Deputy
18 Steve Wilson called me from the emergency, or I'm sorry,
19 Pediatric Intensive Care Unit at Spartanburg Regional.

20 Q And did you, after speaking to investigator, or sorry,
21 Deputy Wilson, did you respond to the Intensive Care Unit at
22 Spartanburg Regional?

23 A I did.

24 Q Did you speak with anyone at the hospital?

25 A I spoke with a nurse to find out about the male child's

Kevin Bobo - Direct examination
by Solicitor Reese

1 injuries.

2 Q At the time that you first responded, there was only
3 one child in the hospital, is that correct?

4 A Correct.

5 Q And at the time you responded, were you aware of
6 another child?

7 A No, ma'am, I didn't learn that until after I
8 interviewed the mother.

9 Q When you arrived and spoke to a nurse, did you
10 actually -- were you able to look at Minor 2 see Minor 2

11 A Yes.

12 Q And what did you observe?

13 I know you didn't do a full inspection, but what did
14 you observe on Minor 2

15 A Very visible bruising from pretty much head to toe.

16 Q Do you have any idea how much he weighed at the time?

17 A What I remember is he weighed as much -- he weighed the
18 same age he was, which was like 18, 19-pounds.

19 Q Did you speak with the mother, Stephanie Blake?

20 A I did.

21 Q And was the defendant present at the hospital with her
22 while Minor 2 was in ICU?

23 A No, ma'am.

24 Q When you first met with Stephanie Blake, would say that
25 she was forthcoming with you with information?

Kevin Bobo - Direct examination
by Solicitor Reese

1 A To a degree, but it appeared she was not being entirely
2 truthful.

3 Q At the time of the interview, did she give you an
4 explanation of possible reasons for the injury?

5 A She said something along the lines of she had walked
6 from their residence on Skylyn Drive pushing both twins in a
7 stroller I think to get a prescription for herself. It was
8 hot that day.

9 Q Well, I'm, I'm sorry. I'm not asking you to tell---

10 A Oh, okay.

11 Q ---what she said.

12 A I'm sorry.

13 Q Just did she give you a possible explanation for what
14 could of caused the injury?

15 Did she ever, did she ever talk to you about a twin
16 sister at that point?

17 A No.

18 Q Okay. At some point in your -- I know that she told
19 you this story about what she had been doing this day, and
20 she -- did she tell you, at that time, that as far as she
21 knew it was a seizure?

22 A Correct.

23 Q Did you ever -- did she ever tell you that the twins
24 fell out of a stroller?

25 A No.

Kevin Bobo - Direct examination
by Solicitor Reese

1 Q At the time -- did you press her about these injuries
2 and the fact that you felt like she wasn't telling you
3 everything she knew?

4 A I'm paraphrasing, but I told her something along the
5 lines of, from my experience in these type cases, you know,
6 the children didn't do it to themselves. An older child
7 didn't do this extent of injuries. Somebody within that --
8 that lived under that same roof with that child was likely
9 the most responsible person.

10 Q Did she finally talk to you about a twin sister?

11 A Yes.

12 Q And, at that point -- where, where did you find out
13 that the twin sister was?

14 A Back at the incident location.

15 Q When you realized that there was a twin sister, what
16 did you do?

17 A Well, initially, you know, officers didn't respond to
18 the incident location. The only, the only people that
19 responded to the incident location that originally was EMS.
20 So, the Sheriff's office didn't get involved until the child
21 had been at the hospital for a while. Once, from
22 interviewing her, I learned there was a twin, I went -- I
23 stepped out and talked to Deputy Wilson and we made the
24 decision to go back to the house to check on the welfare of
25 this female child.

Kevin Bobo - Direct examination
by Solicitor Reese

1 Q So, it was your intent, at the time, to go back and
2 make sure she was okay?

3 A Correct.

4 Q Do you have any idea about what time you arrived at
5 that home?

6 A I know it was after midnight.

7 Q And did you, in fact, locate the defendant?

8 A I never saw the defendant. The only person I spoke
9 with was Ashley Directo.

10 Q At that point, did you have, get information regarding
11 what, the presence, where the defendant was and where the
12 child, Minor 1 was?

13 A Yes, ma'am, it was kind of like an apartment inside a
14 house the way it was set up. Ashley told us that he was in
15 the right section of the house, which was theirs, and that
16 him and Minor 1 were asleep in that portion of the house.

17 Q At that point -- now, this house was located in
18 Spartanburg County, is that right?

19 A Yes, ma'am, it's on Skylyn Drive just right up -- it's
20 on the left on the same side of Mary Black Hospital after
21 you pass Houston Elementary on the right.

22 Q Did you, based on the information that he was in the
23 bedroom with the child, did you ask Ashley Directo to do
24 anything for you?

25 A I stepped outside at first once we confirmed that the

Kevin Bobo - Direct examination
by Solicitor Reese

1 female child was there. I, I don't think I used the radio
2 or the phone, I don't remember. But I asked 9-1-1 to send
3 me an ambulance, no lights and sirens, and then I asked
4 Ashley, once the ambulance got there, to, if she could, to
5 bring the female child out to us.

6 Q Did she -- was she able to get him to open the door for
7 her?

8 A How she accomplished bringing the child out to us I
9 don't know.

10 Q But you got the child?

11 She brought you the child?

12 A Correct.

13 Q Did you see him?

14 Did he come out?

15 A Never saw him at the house.

16 Q What did you---

17 A Never tried.

18 Q When you got the child in your care---

19 A Correct.

20 Q ---what did you do next?

21 A The first thing -- you know, by this time it's dark.
22 It's the middle of the night. We could see Minor 1 better
23 with the interior lights of the ambulance than we could
24 outside, and some of the same bruising that I saw on her
25 brother I saw on her.

Kevin Bobo - Direct examination
by Solicitor Reese

1 Q And were these bruises in similar locations they had
2 been on the---

3 A Correct.

4 Q ---on the brother?

5 Did you, at that point, make a decision that she needed
6 to be transported to the hospital?

7 A Yes, ma'am.

8 Q And in the process of transporting her, did EMS do
9 anything else to help her?

10 A Before we left the scene and this was just ironic or
11 coincidental, the same two -- of course, we didn't learn
12 this until they responded the second time. The same two
13 female EMS workers who had transported **Minor 2** earlier were
14 the same two female EMS workers who came back to transport
15 **Minor 1** It just kind of worked out that way.

16 Q At some point did you go back to the hospital to check
17 on **Minor 1**

18 A Yes, ma'am, but can I finish your first question first?

19 Q Oh sure.

20 A I'm sorry.

21 **Minor 1** was in bad need of a diaper change before we
22 left the house. So, we asked Ashley to go back in and try
23 to locate a clean diaper. Ashley came back out with a
24 diaper. I remember -- I don't remember their names
25 unfortunately, but it was a black female and a white female

Kevin Bobo - Direct examination
by Solicitor Reese

1 EMS worker. I want to say it was the white female EMS, EMS
2 worker who took the old diaper off and started -- it looked
3 like the diaper had been on her several days, and started
4 trying to clean her up---

5 MR. POOLE: Objection, Your Honor, to hearsay. This
6 is---

7 THE COURT: He said it looked like. I didn't hear him
8 quote anybody. He didn't, he didn't say that someone said
9 that.

10 MR. POOLE: I may of misheard.

11 THE COURT: Yeah, he said it looked like, which would
12 lead me to believe he's stating his observations. So, I'm
13 gonna overrule the objection at this point in time.

14 Q Investigator, were you present when the diaper was
15 changed?

16 A Yes, ma'am, I was standing at the back of the
17 ambulance.

18 Q So, you're testifying to things you saw?

19 A Yes, ma'am.

20 Q Okay. Was anything noticed at that time regarding any
21 injury to Minor 1 other than the bruising?

22 A No.

23 Q At that point was she transported?

24 A Yes, ma'am.

25 Q Once you got to the hospital, were other injuries,

Kevin Bobo - Direct examination
by Solicitor Reese

1 other than the bruises, found on Minor 1

2 A Once we got her -- once she was gotten out of the
3 ambulance and put into a room in the emergency room,
4 hospital personnel, nurses, started cleaning her up and the
5 more they cleaned her up then fresh red blood start flowing
6 from her vagina.

7 Q At that point was a sexual assault examination done?

8 A I know they called Nurse Kelli Clune to come to the
9 hospital. I think, you know, some time elapsed before that
10 exam was actually performed.

11 Q So, you were not present when the exam was performed?

12 A No, ma'am.

13 Q Did you make a decision, at that point, regarding Kayla
14 Blake?

15 A I made two decisions. I decided to place both children
16 into emergency protective custody, and after conferring with
17 a magistrate, I also made a decision to arrest her for
18 unlawful neglect.

19 Q The following day, did you have occasion to, again,
20 become involved in the investigation?

21 A Yes, ma'am, we stayed out on it pretty much all night
22 long. Detective Cantrell got there the next morning. I
23 briefed her on where we were to that point, and then she
24 took it from there.

25 Q Now, some time later that afternoon were you contacted

Kevin Bobo - Direct examination
by Solicitor Reese

1 by Investigator Jason Bryant?

2 A Yes, ma'am.

3 Q And had he, in fact, interviewed the defendant?

4 A Yes, ma'am.

5 Q And what, if anything, did he ask you to do?

6 A I don't remember what was going on. But Sergeant
7 Bryant needed to leave the office in kind of a hurry. So,
8 he talked to me in very general terms that the defendant had
9 confessed to him and asked me, since I was familiar with the
10 case, if I would get that confession on tape.

11 Q Did you know any of the specifics, at that point, of
12 what he had told Investigator Bryant?

13 A No, ma'am, we did not have a lengthy conversation
14 because he was in a hurry to leave the office. I had
15 been -- Detective Cantrell and I had updated each other
16 throughout the day on the progress of the investigation,
17 but, no, Sergeant Bryant brought Randall Matheny to me. The
18 specific content of their conversation was unknown to me.

19 Q Where did you find the defendant when you went to talk
20 to him?

21 A I believe, if I remember correctly, Sergeant Bryant
22 brought him from his office to my office.

23 Q And did you attempt to get him to write down or to get
24 the information in writing that he had told Investigator
25 Bryant?

Kevin Bobo - Direct examination
by Solicitor Reese

1 A I gave him the choice that he could write it or I'd
2 write it for him and he chose for me to write it for him.

3 Q And did -- how did the statement work?

4 How did it come about?

5 A I set him down in my office and he dictated his
6 statement to me as I typed it.

7 Q And it was your understanding that he was giving you
8 the same information that he had given Investigator Bryant?

9 A Yes, ma'am, that's all I knew.

10 Q Now, when you met with the defendant, did he seem to be
11 coherent?

12 A Yes, ma'am.

13 Q Did he have any problems giving you this statement?

14 A No, ma'am.

15 Q Did he agree to talk to you?

16 A Yes, ma'am.

17 Q He never asked not to talk or not to give the
18 statement?

19 A No, ma'am.

20 Q To your -- to the best of your knowledge, was this
21 statement freely and voluntarily given?

22 A Yes, ma'am.

23 Q I'm gonna show you what's been marked as State's
24 Exhibit 5 for identification.

25 Do you recognize that?

Kevin Bobo - Direct examination
by Solicitor Reese

1 MR. POOLE: Subject to my prior objection, Your Honor.

2 THE COURT: Your prior objected is noted.

3 You may proceed.

4 A We had---

5 THE COURT: The ruling would be the same.

6 A Yes, ma'am, this is the statement I prepared for Mr.
7 Matheny.

8 Q And this was the statement that verbally gave you---

9 A Correct.

10 Q Under the auspice of what he had told Investigator
11 Bryant?

12 A Correct.

13 Q And you recorded that?

14 A Yes, ma'am.

15 Q And he signed it?

16 A Yes, ma'am.

17 Q And is that his signature?

18 A Yes, ma'am.

19 Q And other than the stamp, is there -- does there appear
20 to be any alterations to this statement?

21 A No, ma'am.

22 SOLICITOR REESE: Your Honor, at this time I'd move to
23 admit State's Exhibit 5.

24 THE COURT: Again, subject to your prior objections it
25 will be admitted.

Kevin Bobo - Direct examination
by Solicitor Reese

1 (WHEREUPON, State's Exhibit No. 5 was received into
2 evidence at this time.)

3 Q Investigator Bobo, will you, will you read the
4 statement that he gave you?

5 A Yes, ma'am.

6 Word for word?

7 Q Word for word.

8 A Me, Kayla Blake, and her twins had been together for a
9 month and a half. Since we had been together we had had to
10 move twice because of money problems. We moved into our
11 current residence about three weeks ago with Ashley Directo
12 and her little girl, Callie. I felt sorry for Kayla cause
13 she didn't have anywhere to stay, and I was afraid her and
14 the kids would be living on the streets.

15 I moved in with Ashley first, and once I told her about
16 Kayla's situation she agreed to let her and the kids move in
17 too. Kayla advised -- Kayla and I have had our ups and
18 downs due to money problems and drug use. Me, Kayla, and
19 Ashley all have a problem with meth, and Ashley is five
20 months pregnant. When Kayla and I would argue I would leave
21 for a cooling off period for a couple of days, but she would
22 call and beg me to come back home.

23 Kayla would get frustrated with the kids and take them
24 to another room and shut the door. I would hear her stay
25 stuff. I wrote stay stuff. I think I meant say stuff like

Kevin Bobo - Direct examination
by Solicitor Reese

1 you get on my nerves so bad and both of them cry a lot. I
2 wasn't in the room with her. So, I can't say she put any
3 bruises on them. But occasionally I have seen Kayla grab
4 the kids up out of anger and frustration.

5 I have disciplined both kids by popping them on the
6 hand and popping them on the diaper or making them sit on
7 the couch for a while.

8 I can't explain how **Minor 2** got his head injury. He had
9 a seizure while he was eating supper and Kayla called 9-1-1
10 while I did CPR last night.

11 Four to five days ago I was changing **Minor 1** diaper
12 and she had pooped everywhere. I was trying to wipe her
13 clean, and Kayla's mouth got on my nerves. She's always
14 complaining about how we never have any money and I always
15 tells her it takes two. She calls me a piece of shit when
16 she gets angry or frustrated.

17 I was already ill while I was trying to change her
18 diaper, and her, and her poop was green and it was all the
19 way up to her bellybutton. The poop was all in her monkey
20 and by that I mean her vagina and I put my finger inside her
21 covered with a baby wipe trying to get all of it out. Kayla
22 was standing right beside me while I was doing this.

23 The next day Kayla was changing her diaper, and she
24 called me in there to show me that **Minor 1** was bleeding from
25 her monkey. Both of us freaked out because I was afraid I

Kevin Bobo - Direct examination
by Solicitor Reese

1 had seriously hurt her. I have never touched either one of
2 the kids in a sexual way, but we were afraid to go to the
3 doctor because all the bruises on both of them because we
4 knew D.S.S. would take the kids.

5 This was just an accident that happened in the heat of
6 the moment, and I am very sorry all this happened. In a way
7 I wish I had never met Kayla because it has been trouble
8 since day one. I have asked Sergeant Kevin Bobo to prepare
9 this statement for me and I swear it is true to the best of
10 my knowledge.

11 Q Were you made aware later that this statement was not
12 consistent with what he told Investigator Bryant?

13 A Yes, ma'am.

14 Q And is that the extent of the part that you had in this
15 investigation?

16 A Yes, ma'am.

17 SOLICITOR REESE: Nothing further.

18 THE COURT: Mr. Poole, your witness.

19 MR. POOLE: No questions of this witness.

20 THE COURT: You may step down, sir.

21 Any objection to his being excused, Mr. Poole?

22 MR. POOLE: No, sir.

23 THE COURT: If you'd like to be excused, Mr. Bobo, you
24 may be.

25 THE WITNESS: Thank you, sir.

1 THE COURT: Thank you.

2 SOLICITOR REESE: Your Honor, may we approach?

3 THE COURT: Please.

4 Mr. Poole, if you'd step up.

5 (WHEREUPON, a bench conference was held out of the
6 hearing of the jury at this time.)

7 THE COURT: All right. Ladies and gentlemen of the
8 jury, we'll -- we have another witness who's coming, but he
9 was scheduled to be here at 2:30, and that's about ten more
10 minutes. So, maybe he'll come in in just a moment. So,
11 we've got a little break.

12 I'll let you step back to the jury room and stretch
13 your legs. As always, when you leave the courtroom, I'm
14 going to ask you not to discuss anything about this case
15 until I ask you to do so.

16 You may retire to the jury room.

17 Thank you.

18 (WHEREUPON, the following takes place outside the
19 presence of the jury.)

20 THE COURT: Court will be in recess briefly. I'll stay
21 on the bench.

22 (WHEREUPON, a short recess was taken at this time.)

23 THE COURT: You ready?

24 SOLICITOR REESE: Yes, sir.

25 THE COURT: Mr. Poole, you ready?

1 MR. POOLE: Yes, sir.

2 THE COURT: Bring them in.

3 (WHEREUPON, the following takes place within the
4 presence of the jury.)

5 THE COURT: All right. The record will reflect the
6 jury has returned to the courtroom.

7 The State may call its next witness.

8 SOLICITOR REESE: Thank you, Your Honor.

9 We call Doctor Sam Rishmawi.

10 THE COURT: Come forward and be sworn please. Over
11 here to my left please, sir. Thank you.

12 DOCTOR SAM RISHMAWI, being first
13 duly sworn, testified as follows:

14 THE COURT: Have a seat please, and once you're seated,
15 state your name.

16 WITNESS: My name is Sam Rishmawi.

17 THE COURT: Thank you.

18 Your witness, Ms. Reese.

19 DIRECT EXAMINATION

20 BY SOLICITOR REESE:

21 Q Where are you employed?

22 A I'm employed at Spartanburg Regional Healthcare System.

23 Q And what do you do there?

24 A I'm a physician, a pediatric critical care physician.

25 Q And were you employed there in May of 2011?

Sam Rishmawi - Direct examination
by Solicitor Reese

1 A Yes, I am.

2 Q Can you briefly tell the jury the education that you
3 have that trains you for your job that you do today?

4 A Of course medical school. After that, residency
5 program in, in pediatrics. Then fellowship in the pediatric
6 critical care.

7 Q How long have you been doing this work?

8 A Since 2009.

9 Q And what is your on-the-job experience, your training
10 that allows you to do what you do?

11 A What do you mean by that?

12 We got exposed to every kind of trauma, all kind of
13 diseases. We -- our job is to stabilize patients in,
14 critical ill patients actually in, related to kids.

15 Q When you -- do you have extra training, other than your
16 degrees, your medical degree and any fellowship that you've
17 done, do you, do you have other training or certifications?

18 A No.

19 Q Do you have, do you have certifications?

20 A From my training?

21 Q Yes.

22 A Yes, I do.

23 Q Okay. And what are those?

24 A I'm a pediatric -- American Board of Pediatrics
25 certified, board eligible for pediatric critical care

Sam Rishmawi - Direct examination
by Solicitor Reese

1 medicine.

2 Q And tell me exactly -- and what happens -- what are
3 your -- what is your job at Spartanburg Regional in regard
4 to children?

5 A Any critical case comes to Spartanburg Regional, I'm
6 the one first to be called on that case.

7 SOLICITOR REESE: Your Honor, at this time I would move
8 that he be recognized as an expert in the field of
9 pediatrics.

10 THE COURT: Any objection?

11 MR. POOLE: No, sir.

12 THE COURT: All right. Ladies and gentlemen, let me
13 explain to you what we're doing at this point in time so
14 you'll have a little better understanding of what we're
15 doing.

16 Generally, under the rules of evidence, lay witnesses,
17 regular witnesses, are required to testify concerning things
18 that is with, that's within their knowledge. Things they
19 observed, experienced, things of that nature. They are not
20 allowed -- generally lay witnesses are not allowed to offer
21 opinions concerning matters.

22 Now, an exception to that general rule is made for a
23 witness whose been declared to be an expert within some
24 field or science or profession. For witnesses that are
25 declared to be experts within that field, or science, or

Sam Rishmawi - Direct examination
by Solicitor Reese

1 profession, those witnesses are allowed to state their
2 opinions concerning matters within the field of their
3 expertise and also state the reasons why they hold those
4 opinions.

5 This witness is been offered as an expert witness in
6 the field of pediatrics. The defense is not objecting to
7 that designation. So, I'll designate him as an expert
8 witness within that field.

9 Later on, when I charge you concerning the law, I'll
10 give you some additional information concerning how you can
11 take or treat testimony given by experts, but at this point
12 in time I will declare him to be an expert within that
13 field.

14 You may proceed.

15 SOLICITOR REESE: Thank you.

16 Q Did you have occasion to treat Minor 2 in May of
17 2011?

18 A Yes, I did.

19 Q And can you briefly describe Minor 2 condition when
20 you first saw him?

21 A The first call I got when, when Minor 2 came to the
22 emergency department by colleague I think Doctor Richard
23 Byrd. At that time he was in the ER, and I got called
24 because of a case. I think it was four years old. Change
25 in mental status, vomiting, and not explained by the

Sam Rishmawi - Direct examination
by Solicitor Reese

1 history.

2 So, I approached the patient and, and I -- actually mom
3 was in the room. I start asking questions, what happened to
4 Minor 2 and she told me that he fell off of his bed two days
5 ago on a wood floor, and since then he did have some
6 vomiting, but increase in his change of mental status. That
7 means he's not active as before. That what she telling me
8 to the point that he's not eating or drinking for the last
9 probably 24 hours.

10 That's the only history I can get from her, and digging
11 back in the social history, where she lives and with whom
12 she lives, and obviously she's a, a mom with -- I think she
13 told me she lives with her boyfriend at that time, and
14 regardless of that, I went with my examination.

15 And the first impression was there is bruises on the,
16 on this child. That's led me to think and probably there's
17 something more in this, in the story, what she's, what she's
18 telling me.

19 So, I spoke with emergency department physician and
20 told him my, my concerns and he said yeah, let's, let's
21 proceed, let's do some CT Scan of the head and see where we
22 at. Unfortunately, when we did the CT Scan, we found what
23 we call a subdural hematoma, and that's actually -- it's a,
24 it's a brain, bleed inside the brain, and that put him at
25 risk of, of, of severe injury.

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1 At that time we made a decision to admit this patient
2 to the PICU and consult neurosurgeons at that time. Of
3 course, neurosurgeons, they take a look on the patient and
4 that, the x-rays and they said that, at this time we don't
5 offer any surgical intervention. We have to watch the bleed
6 and see what happened depending on his clinical picture.

7 Q Now, I believe you said -- could, could **Minor 2** have
8 been 18-months old at the time when you saw him?

9 A Probably, yes. I -- it's been a while. I -- let me
10 check my paper. Yes, he, he's 18-months when I saw him.

11 Q And did you -- do you have there a record of what the
12 mother told you in your notes?

13 A Yeah, that's the one I stated before, yes.

14 Q Okay. And is, is that the same case?

15 A Yes.

16 Q Okay. I'm going to show you what's been marked as
17 State's Exhibit 6, 7, 8, 12, and 13. Those have not --
18 those can not be published to the jury yet.

19 I'm just asking if those are accurate depictions of
20 **Minor 2** after he was brought in?

21 A Yes.

22 Q Do these pictures and the injuries -- and I understand
23 that these aren't all the injuries, but do these pictures
24 have significance to you in making your diagnosis?

25 A Well, given the fact that is how we, we think about

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1 child abuse in general. Okay. This is the science I'm, I'm
2 talking behind it.

3 First of all, the most important thing is the story we
4 get from the family. If that does not go with that trauma
5 itself, then we have to think something differently.

6 Okay. **Minor 2** came with those bruises on his head, on
7 his legs and his back, and later on also I found there's
8 abscess in his bottom, which I'm required to insert it and
9 drain it. Okay. Plus the most important finding was, is
10 that what we call the subdural hematoma. That's a bleeding
11 in the head. Given those facts together, okay, that's
12 giving me an idea, probably this is child abuse, which I
13 have to, to think this way. Okay.

14 SOLICITOR REESE: Your Honor, at this time I would like
15 to address these particular injuries with him---

16 THE COURT: Yes.

17 SOLICITOR REESE: ---and these pictures.

18 THE COURT: All right.

19 SOLICITOR REESE: At this time, Your Honor, I would
20 move to admit State's 6, 7, 8, 12, and 13.

21 THE COURT: Can I see those please?

22 Mr. Poole, would you like to look at those again at
23 this time?

24 MR. POOLE: Yes, sir.

25 SOLICITOR REESE: Your Honor, there are additional

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1 pictures that I've chosen not to---

2 THE COURT: That's what I was checking on.

3 MR. POOLE: Your Honor, these are the subject pictures
4 which I have an objection to.

5 THE COURT: Yes, sir, you have a standing objection to
6 that.

7 MR. POOLE: You, sir.

8 THE COURT: Are you renewing that objection at this
9 time?

10 MR. POOLE: Yes, sir, I am renewing it.

11 THE COURT: All right. My ruling would be that the
12 probative value of those, based on the testimony of this
13 doctor, and that he -- those injuries were the basis for his
14 diagnosis in this case. It will be my finding that the
15 probative value outweighs the prejudicial effect as to those
16 photographs. I do not find them to be duplicitous or to be
17 cumulative in nature as I previously stated to the State.
18 Therefore, I'm going to admit those on that basis. They're
19 admitted into evidence over the objection.

20 (WHEREUPON, State's Exhibit Nos. 6, 7, 8, 12, and 13
21 were received into evidence at this time.)

22 THE COURT: You may publish them if you'd like.

23 SOLICITOR REESE: Thank you, Your Honor.

24 Q Now, Doctor Rishmawi, is this a picture of Minor 2 as
25 he's brought to you?

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1 A Yes.

2 Q And can you tell the jury what the first injury was
3 that you saw -- the -- you were -- the focal point of your
4 initial examination and why you were concerned?

5 A The head injury, the, the bruises on his front and side
6 of the head.

7 Q And that's this injury---

8 A Yes.

9 Q ---denoted here?

10 It's a little hard to see on the, on the -- closer
11 version of that picture.

12 What, in looking at this injury, what do you see from a
13 medical standpoint?

14 A This is what we call an ecchymosis. That means a
15 bleeding under the skin, and mostly, most likely those are a
16 result of trauma.

17 Q Now, this injury here, is this where you found the
18 bleed?

19 Is this the location of the bleed or is it---

20 A No.

21 Q Okay. So, this is a separate injury from the actual
22 bleed injury?

23 A Well, you can not tie them together. They are
24 separate, yes.

25 Q So, I will show you now -- that's State's Exhibit 7. I

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1 show you now State's Exhibit 8. Again, understanding that
2 these are not all the injuries.

3 Does that injury have significance to you?

4 What does that injury tell you, and as you look at it,
5 what do you see?

6 A Again, this ecchymosis. This is bleeding under the
7 skin. This is due to trauma.

8 Q And would that be a trauma that would be related to the
9 initial head trauma?

10 A You can not tell because that -- I'm contact -- I'm
11 gonna tell you why is not because the head trauma is due to
12 shaking forces of the brain vessel. Okay. What we call a
13 shaking baby syndrome. When you shake a baby, those vessels
14 so fragile that they, sometimes they burst and they bleed,
15 and this is, this is not related to what I see in the brain,
16 but---

17 Q So, this is a separate injury?

18 A Yes.

19 Q Show you what's been marked as State's Exhibit 12 on
20 the back, and what would you -- how would you identify that?

21 What is that?

22 A That's the same thing. It's ecchymosis, bleeding
23 under, under the skin.

24 Q And is it your opinion that this would be a separate
25 injury from what would of caused the head trauma?

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1 A Yes.

2 Q And, finally, this is State's Exhibit 13.

3 what -- where is that on this child's body?

4 A I believe this is from the -- it might help if I move
5 it.

6 A I think this is from the, from the button, from the
7 buttock of his, of the child. And lately -- after like two
8 days they been an abscess, which is good enough to open that
9 abscess, which is drain a lot of pus, and we treat it with
10 antibiotic at that time.

11 Q How was the head injury in this case treated?

12 A It's -- it was a conservative treatment. That means we
13 watch the kid at least 72-hours in the PICU for any
14 deterioration of his clinical signs. Neurosurgeons, as I
15 said, they were involved in the case and the risk of going
16 in and clean that bleed is way high than, that is just wait
17 and see what happens here.

18 Q Okay. Do you have an opinion -- tell -- can you
19 explain to the jury what kind -- when a child has a subdural
20 hematoma, is that an injury that requires a great deal of
21 force?

22 A Of course. That's, as I said, this is a shaking
23 forces. You need to stress that vessels to the point that
24 they are burst and when they burst they gonna bleed.

25 Q Now, taking these bruises that you saw, in conjunction

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1 with the subdural hematoma, do you have an opinion, to a
2 reasonable degree of medical certainty, whether this trauma
3 was an accident or non-accidental?

4 A That's what I try to mention is we, we have to look at
5 the whole situation starting with the, with the clinical
6 history, physical examination, and our findings. The, the
7 clinical history does not match the extent of the injury
8 itself. The bruises, it's all different places in this
9 child. Does not match that trauma that mother explained to
10 me that he fell on his head. Plus, the finding with the
11 subdural hematoma, that needs a good bit of force to, to
12 initiate this kind of hemorrhage. That's not explained by
13 history at all.

14 Q Do you have an opinion about whether or not these
15 bruises could be caused by a person spanking a child one
16 time on the bottom over a diaper?

17 A It's possible.

18 Q How about the bruise to the head, would that be caused
19 by spanking to the diaper?

20 A It's not spanking to the diaper. It could be spanking
21 on his head.

22 Q So, is this an injury that you would normally see in a,
23 a discipline situation?

24 A Yes.

25 Q All right. Is this an injury that's more akin to

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1 abuse?

2 A I think it's more -- I would lean toward more abuse.

3 Q And that's for the bottom?

4 A For the bottom and for, for, for the rest of the
5 bruises everywhere.

6 Q And to the head?

7 A And to the head.

8 SOLICITOR REESE: Nothing further of this witness, Your
9 Honor.

10 THE COURT: Mr. Poole, your witness.

11 MR. POOLE: No questions of this witness.

12 THE COURT: All right, sir. You may step down.
13 Do you wish to have the witness released?

14 SOLICITOR REESE: Yes, Your Honor.

15 THE COURT: Any objections?

16 MR. POOLE: No, sir.

17 THE COURT: Sir, you're free to go. Thank you for
18 coming today.

19 State may call its next witness.

20 SOLICITOR REESE: Your Honor, I believe Mr. Poole had a
21 matter he wanted to take up before the next witness
22 testifies.

23 THE COURT: All right. Ladies and gentlemen of the
24 jury, at this point in time I'm gonna ask you to step back
25 to the jury room again, and, as always, I'm gonna ask you

1 SOLICITOR REESE: Thank you, Your Honor.

2 The State calls Kelli Clune.

3 THE COURT: Come forward, ma'am.

4 KELLI CLUNE, being first duly
5 sworn, testified as follows:

6 THE COURT: Have a seat please, ma'am. Once you're
7 seated, state your name.

8 WITNESS: Kelli Clune.

9 THE COURT: Your witness.

10 SOLICITOR REESE: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY SOLICITOR REESE:

13 Q Where are you employed?

14 A Spartanburg Regional Healthcare System.

15 Q And what are your duties there?

16 A I'm the forensic coordinator for Spartanburg Regional
17 Healthcare System.

18 Q And as -- well, let's start by telling the jury what
19 your education is that brought you to the job that you have
20 now.

21 A I graduated from Eastern New Mexico University in 1992.
22 And I just finished my BSN in 2003. I've also been trained
23 as a sexual assault nurse examiner in 2007. This included
24 40, 40-hours of diabolic or classroom with a year on-the-job
25 training which included 20 pelvic exams of normal exams. I

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1 had to do five sexual assault kits. I had to do interviews
2 with all the elements that were involved in the
3 investigation of sexual assault including the Rape Crisis,
4 Safe Homes, Solicitor's Office, law enforcement.

5 Also, I, in 2009, completed my training in pediatric
6 forensic nurse examiners. That was also a 40-hour diabolic
7 class that I took at Chapel Hill, North Carolina. I did
8 40-hours of on-the-job training with Doctor Amyia and Doctor
9 Abel in Charleston, South Carolina, who are pediatric
10 forensic doctors.

11 Also I did 20 hours training with Doctor Nancy
12 Henderson in Greenville County who is a pediatric forensic
13 doctor. She is still my mentor. If I have any questions I
14 go to her.

15 Part of my training for that, I had to complete a
16 hundred exams of normal children. Twenty of those had to be
17 for the complaint of child abuse or sexual abuse. I also
18 had to observe forensic interviewers at the Child Advocacy
19 Center. Also had to do exams at the Child Advocacy Center.
20 And in addition to this I've had a 183ish continuing
21 education hours in the field of forensics.

22 Q What is your -- tell me, are you certified in any, any
23 areas?

24 A Yes, ma'am, get my list here. I am a board certified
25 emergency room nurse. I'm certified in trauma nurse core

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1 curriculum, emergency nurse pediatric care. I'm also in --
2 forensic nurse examiner, pediatric forensic nurse examiner.
3 I'm also an instructor for advanced cardiac life support and
4 I have been an instructor for pediatric advanced life
5 support in the past.

6 Q And were you, in 2010, named one of the Top 100 Nurses
7 in South Carolina?

8 A Yes, ma'am, I was a Palmetto Gold recipient.

9 Q And in addition to doing these exams, and all of this
10 education, how long have you been working in the field?

11 A I've been an emergency room nurse for 22 years now.

12 Q And other than just the duties that you've described,
13 do you have other duties which include, include teaching
14 duties?

15 A Yes, ma'am, as forensic coordinator, I, along with
16 performing forensic exams, I'm responsible for the
17 management and training of the forensic nurses at
18 Spartanburg Regional Healthcare System, which includes all
19 three hospitals, Restorative Care, and The Village at
20 Pelham, and Spartanburg Regional.

21 I am in the process of creating a forensic program so
22 they will have 24-hours care seven days a week, and we
23 ultimately though becoming the go to center for inner
24 personal violence. We want to be a Center of Excellence. I
25 review all the charts and photographs of all the forensic

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1 nurses that I manage, the exams they perform. I also am in
2 charge of the training and education of the forensic nurses.
3 I also do education for various agencies around Spartanburg
4 including multiple disciplinary educational conferences,
5 nurses personnel, Rape Crisis, Safe Homes, police
6 departments, correctional institutes.

7 Also, at the Solicitor's Office, also do educational
8 classes at college level. I have given lectures at the
9 VCOM, the School of Osteopathic Medicine for the doctors
10 here. I've given lectures at Upstate, and I'm starting to
11 lecture at Clemson next month.

12 SOLICITOR REESE: And, Your Honor, at this time I would
13 move that she be recognized as an expert in the field of
14 forensic nursing.

15 MR. POOLE: Your Honor, I renew, renew my previous
16 objection to this witness being qualified as an expert and
17 rendering an opinion in this case.

18 THE COURT: All right. That objection is noted. My
19 ruling would be that she is qualified and will be allowed to
20 testify within the area of her expertise.

21 You may proceed.

22 SOLICITOR REESE: Thank you, Your Honor.

23 Q In -- at Spartanburg Regional, what exactly -- as a --
24 if a child -- take Doctor Rishmawi, for instance, if he sees
25 a child that he suspects may have an issue with abuse, what

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1 does he do in terms of trying to assess that?

2 A He usually calls me.

3 Q And is that the way that you got involved in the
4 present case?

5 A Yes, ma'am, they called me at home.

6 Q And on May 27th, you were at home?

7 A Yes, ma'am.

8 Q And how did you get the call that you needed to come in
9 to the hospital?

10 A They called me on my cell phone.

11 Q Okay. And when you arrived, did you have occasion to
12 assess and treat Minor 1

13 A Yes, ma'am.

14 Q And how old was she when you saw her?

15 A Eighteen months.

16 Q And when you were -- arrived, what was the first thing
17 that you did in an effort to examine or assess her?

18 A The first thing I always do with the children is I will
19 establish a rapport with them.

20 Q And how did you do that with Minor 1

21 A Usually it involves playing games. I make my
22 examination more on a playful note. Like, for example, when
23 I look into the ears, I will tell them I'm looking for bunny
24 rabbits. We'll usually play some simple games to build up a
25 rapport between the child.

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1 Q And after you had attempted to build a certain rapport
2 with Minor 1 what was the next step in your evaluation?

3 A I do a head to toe assessment.

4 Q Okay. And when you do a head to toe assessment, what
5 does that include?

6 A I'll examine all parts of the body. I make drawings
7 and measurements of any marks that I find. Not just
8 suspicious mark, but any marking on the body. I also will
9 do ultraviolet light for any kind of body fluids on the
10 child, and take photographs as necessary.

11 Q Now, in the course of your investigation or in your
12 examination, let's separate the areas that you did as
13 head/face, body, and then the vaginal exam.

14 A Yes, ma'am.

15 Q And in the course of that evaluation, do you, in fact,
16 in some way, document the injuries that you find on the
17 child?

18 A I draw them on a diagram.

19 Q And do you do that while in the process of your
20 examination?

21 A Yes, ma'am.

22 Q And I'm going to show you what's been marked as State's
23 Exhibit 31 for identification.

24 Can you identify that diagram?

25 A Yes, ma'am.

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1 Q And what is it?

2 A It's the diagram that I made of the injuries to
3 Minor 1 head.

4 Q So this is the initial diagram that you did regarding
5 her face and head?

6 A Yes, ma'am.

7 Q And do those marks accurately depict the bruises or
8 marks that you saw on her head and face?

9 A Yes, ma'am.

10 Q Has that been altered or tampered with in anyway, I
11 know it's a copy, other than the stamp we put on it?

12 A No, ma'am.

13 SOLICITOR REESE: Your Honor, at this time I would move
14 to admit this as State's Exhibit 31.

15 THE COURT: Subject to prior objections?

16 MR. POOLE: Subject to prior objections.

17 THE COURT: Subject to those objections it will be
18 admitted as marked.

19 (WHEREUPON, State's Exhibit No. 31 was received into
20 evidence at this time.)

21 THE COURT: You may publish.

22 Q And as you began to look at Minor 1 head and face---

23 A Yes, ma'am.

24 Q ---can you take us first to the Diagram A and describe
25 what you found there?

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1 A I found three bruises on Minor 1 forehead.
2 One was 2-centimeter by 1-centimeter bruise on her right
3 lateral forehead. There was another 1-centimeter by
4 1.5-centimeter blue bruise in the middle of her forehead.
5 There was a 3-centimeter by 3-centimeter yellow bruise on
6 the left side of her forehead, and an abrasion across the
7 bridge of her nose that was approximately 1.5-millimeter.

8 Q All right. I'm gonna show you what's been marked as
9 State's Exhibit 20 for ID.

10 Is that a picture, and I know it's not as clear, but is
11 that a picture of the injuries that you're describing?

12 A Yes, ma'am.

13 Q And does that accurately depict what you saw when you
14 first looked at her?

15 A Yes, ma'am.

16 SOLICITOR REESE: Now, Your Honor, at this time I would
17 move to admit State's Exhibit 20.

18 THE COURT: Subject to prior objections?

19 MR. POOLE: That's correct, Your Honor.

20 THE COURT: It will be admitted.

21 (WHEREUPON, State's Exhibit No. 20 was received into
22 evidence at this time.)

23 THE COURT: You may publish.

24 Q Now, the bruising that you were talking about, as a
25 forensic nurse examiner -- it seems a light darker.

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1 As a forensic nurse examiner, what do the areas and
2 location of those injuries indicate to you?

3 A As a forensic nurse, what it indicates to me, the
4 forehead is not a flat surface. It is accurately curved,
5 concave. So, a single blow would not cause bruising on both
6 sides of the forehead in the middle.

7 Q So, in your opinion, this is inconsistent with a fall?

8 A Yes, ma'am.

9 Q Okay. As we go back to the second part of the diagram
10 here, Section B --

11 A Yes, ma'am.

12 Q -- what do these notations indicate here?

13 A The first is beside the right eyebrow, eye area, and it
14 is a 1-centimeter curved bruise. The second is a
15 2-centimeter curved bruise by the corner of the mouth. Also
16 on the right side.

17 Q And are these pictures -- are the location of these
18 injuries significant to you in some way?

19 A Yes, ma'am, children usually do not bruise as easily on
20 the face cause their natural instinct is to protect the face
21 whenever there is a fall.

22 Q I'm gonna show you what's been marked as State's
23 Exhibit 18 for identification.

24 Is this the visual of the bruise that you're indicating
25 to the lower face area?

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by Solicitor Reese

1 A Yes, ma'am.

2 Q And does it accurately depict what you saw?

3 A Yes, ma'am.

4 SOLICITOR REESE: Your Honor, at this time I would move
5 to admit State's Exhibit 18.

6 THE COURT: Noting previous objections --

7 MR. POOLE: That's correct.

8 THE COURT: -- it will be admitted as marked.

9 (WHEREUPON, State's Exhibit No. 18 was received into
10 evidence at this time.)

11 Q Is this the bruising to the face that you're talking
12 about here?

13 A Yes, ma'am.

14 Q And, in your opinion, this is not an injury from a
15 fall?

16 A Yes, ma'am.

17 Q As to Section -- I believe that's here G here --

18 A Yes.

19 Q -- what does that diagram indicate?

20 A In pediatric forensic nursing, there are certain
21 injuries that we automatically suspect child abuse till
22 proven otherwise and we'll automatically call the police to
23 launch an investigation. One of the injuries is to the
24 upper part of the cartilage of the ear. This is called the
25 pinna of the ear. That's because it takes a great deal of

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1 force to bruise that because of the low vascularity. It is
2 usually what they consider the boxing injury when a child's
3 ear is boxed.

4 Q And the picture that we just showed of State's Exhibit
5 18, does that---

6 A Yes, ma'am.

7 Q ---also give you a, somewhat of a view of that injury?

8 A Yes, ma'am. You can see it at the upper ear.

9 Q Now, as to this next area, G --

10 A Yes, ma'am.

11 Q -- you have a number of notations here.

12 Can you describe the injuries that you located on

13 Minor 1

14 A Yes, ma'am, up by her temple was a 1-centimeter
15 reddened area. Below that there was four linear bruises
16 with spaces in-between. The way bruises are made, the other
17 bruise was a -- I can't see in the dark here. There was an
18 abrasion on her lower chin, two of them, and then there was
19 a circular bruise on her cheek.

20 Q And I'm gonna show you what's been marked as State's
21 Exhibit 17.

22 Is this a visual of the bruise that you're looking at
23 picture wise?

24 A Yes, ma'am.

25 Q And does this accurately depict, I understand it's a

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1 little darker, but does it accurately depict what you saw?

2 A Yes, ma'am.

3 SOLICITOR REESE: At this time I would ask to admit
4 State's Exhibit 17.

5 THE COURT: Subject to your previous objections it will
6 be admitted as marked.

7 (WHEREUPON, State's Exhibit No. 17 was received into
8 evidence at this time.)

9 Q Now, Ms. Clune, can you come down and show the jury why
10 this bruise is significant to you?

11 A (Witness comes down from the stand.)

12 The significance of this bruise is part of our training
13 is we learn the different forces and speeds needed to make
14 certain type bruises. A high velocity bruise will actually
15 do the outline of the striking object and not the object
16 itself. Such a thing would be your cord injuries, a slap,
17 or a switch, or a twig that they got off the thing. This is
18 a classic pattern where you have four linear bruises
19 indicates that it could be a slap mark because of the spaces
20 in-between is where the actual fingers were and the bruising
21 is where the space is between the fingers.

22 Q And if you actually place your hand on that, can you,
23 in fact, show what you're talking about?

24 A Yes, ma'am.

25 Q Thank you.

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1 A (Witness returns to the stand.)

2 Q Now, after you completed your assessment of her head
3 and neck, did you then go on to look at what injuries you
4 would indicate were on her body?

5 A Yes, ma'am.

6 Q And I show you what's been marked as State's Exhibit 32
7 for identification.

8 Did you do a similar diagram in, in looking at her body
9 as you did on her head and face?

10 A Yes, ma'am.

11 Q And is that the diagram that you did as you, as you did
12 your evaluations?

13 A Yes, it is.

14 Q And is that an accurate depiction and notation of the
15 wounds or bruises that you saw on her?

16 A Yes, it is.

17 Q And is it been altered or tampered with in anyway other
18 than the evidence stamp?

19 A No, ma'am.

20 SOLICITOR REESE: Your Honor, at this time I'd move to
21 admit State's Exhibit 32.

22 THE COURT: Subject to the defense's prior objections,
23 it will be admitted as it's been marked.

24 (WHEREUPON, State's Exhibit No. 32 was received into
25 evidence at this time.)

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1 Q Now, let's start on Minor 1 shoulder here.

2 A Yes, ma'am.

3 Q What is that and what does it indicate to you?

4 A That is a 3-centimeter by 3-centimeter -- it was a
5 circular bruise with a clear middle and a tail which goes to
6 the neck. The fact that it was outlined with clear metal --
7 middle indicated to me that it was some type of pattern
8 injury. The fact that the tail went up into the neck area
9 indicates to me it was not a solid object. Usually if
10 there's an impact injury or a solid injury you would get a
11 bruise on this surface of the shoulder. The fact that it
12 went up over the shoulder indicates that it was an impact
13 here and here.

14 Q And moving down the right side of her body --

15 A Yes, ma'am.

16 Q -- what is this?

17 A That is a 3 by 2-centimeter reddish bruise to the hip
18 area.

19 Q And this?

20 A That is a 3.5-centimeter by 2-centimeter bruise to the
21 hip area.

22 Q I'm gonna show you what's been marked as, as State's
23 Exhibit 22 for identification.

24 Is that a view of the bruising you indicated?

25 A Yes, ma'am.

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1 Q And does that bruise stay on the back or does it come
2 around?

3 A It comes around into the -- I think it went around to
4 the posterior side.

5 Q Now, I'm gonna go down and talk a little bit about
6 these bruises or abrasions that you see.

7 A Yes, ma'am.

8 Q Do those have any necessary significance to you?

9 A No, ma'am, I document everything that I see.

10 Q And this bruise here?

11 A No, ma'am, that would be consistent with normal play on
12 a child.

13 Q Okay. This bruise here?

14 A That was a 1-centimeter linear bruise. The thighs are
15 less likely to be normal play. Usually it's the shins that
16 are more consistent with normal play of a child.

17 Q Now, how about this bruise here, what does that
18 indicate to you?

19 A That was a 4-centimeter by 3-centimeter bruise. That
20 would of had to have been something with a large amount of
21 force or a large object to bruise up just by the size of it.

22 Q Now, these bruises here, what do they -- how are they
23 significant?

24 A These bruises, one of them measured 2-centimeters by
25 1-centimeter. The other one measured 2-centimeter by

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1 1.5-centimeter bruising. The fact that they are linear and
2 are located in the inner thighs suggest that they were made
3 in the same reference to each other. You would look and
4 kind of be suspicious of the actual holding down and then it
5 may be like a fingertip type injury with holding a child.

6 Q And those were located where?

7 A On her inner thighs.

8 Q Now, are there different types of bruising in -- how --
9 when you look at the bruises that you saw, can you describe
10 for them what that bruising was and why it was significant?

11 A Yes, ma'am, as I mentioned earlier, when you have a
12 high velocity impact, the type of bruise it leaves -- the
13 bruising is caused by the capillaries that break under the
14 skin. When it's a high velocity impact, it actually breaks
15 the capillaries around the object it's striking. So, you
16 get an outline of the object, but the inside the object is
17 clear.

18 If it is high velocity and high force, you'll still
19 have the capillaries around the object break, but you also
20 will get bruising of the object itself. So, you will have
21 an outline, darker outline and then like a darkness or a
22 bruising actually of the skin itself.

23 A slower type bruising, like when you fall, a fall is a
24 slow speed. When I'm talking about high velocity it's more
25 rapid than that. When you fall or when someone grabs you

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1 too hard or something like that, it's slower pressure. So,
2 it actually breaks the capillaries and all just under the
3 actual object itself. So you won't have the outline, but
4 you would have what we consider the regular bruising you're
5 use to seeing.

6 Q So, in, in, in this situation, these two bruises on the
7 inner thighs --

8 A Yes.

9 Q -- what, what kind of pressure bruise is that?

10 A It would be in a slower consistent pressure type
11 bruise.

12 Q So, it's slow pressure that caused that bruise?

13 A Yes, ma'am.

14 Q I'm gonna show you what's been marked as State's
15 Exhibit 14.

16 Can you -- is this is a picture of those two linear
17 bruises on the inside of her thighs?

18 A Yes, ma'am.

19 Q And is that accurate?

20 A Yes, ma'am.

21 SOLICITOR REESE: Your Honor, at this time I would move
22 to admit State's Exhibit 14.

23 THE COURT: Subject to previous objections by the
24 defense it will be admitted as marked.

25 (WHEREUPON, State's Exhibit No. 14 was received into

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by Solicitor Reese

1 evidence at this time.)

2 Q And are those bruises found here and here---

3 A Yes, ma'am.

4 Q ---in this picture?

5 Looking at this bruise --

6 A Yes, ma'am.

7 Q -- what is that and how is it significant?

8 A That was a 2-centimeter by 2.5-centimeter triangular
9 shaped bruise with a reddened center. That signifies a
10 pattern injury. The outline is there and that was done with
11 greater force because it was reddened in the middle.

12 Q So, did you say this was a triangular bruise?

13 A Yes, ma'am.

14 Q So, what does that indicate to you?

15 A That it was some type of object that was triangular in
16 shape at one point.

17 Q How about this bruise here?

18 A That was a 1-centimeter by 3-centimeter abraded area.

19 Q And what does that indicate to you?

20 A That was where the actual skin was torn. So, it was
21 more like a scratch, but it also had speckle type bruising
22 with it too.

23 Q Did I miss this one here?

24 A Yes, ma'am.

25 Q Okay. What is that and how is that significant?

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1 A That is also a 1-centimeter by 0.5-centimeter abraded
2 triangular area.

3 Q And abraded triangular area, how did -- what does that
4 indicate to you?

5 A That, that was also caused by high velocity.

6 Q And is, is that consistent with a fall or is that an
7 object?

8 A They would be more consistent with an object unless she
9 was falling from a great height.

10 Q And this bruise here?

11 A That was a 2-centimeter L-shaped type abrasion which
12 may also be a pattern injury.

13 Q The bruise here?

14 A That was a 2.5-centimeter curved bruise.

15 Q And is that the continuation of the bruise on this
16 side?

17 A Yes, ma'am.

18 Q And how about here?

19 A That was a 1-centimeter circular bruise with an
20 abrasion.

21 Q And this one?

22 A That was a curved bruise that was 2-centimeters.

23 Q And this?

24 A That was actually a 5-centimeter by 8-centimeter red
25 and blue bruised area that followed, tracked down her spinal

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1 cord.

2 Q And does that have any significance to you?

3 A That's either an impact with a spinal cord exposed like
4 curved or pressed from being held up against something that
5 would impact the spinal cord.

6 Q And this one?

7 A This actually is bruising to the bilateral buttock.
8 Another thing that we look for when force is applied to the
9 buttock at high speeds, such as like your whippings with
10 objects or hands, and enough force, it's called gluteal
11 sparing. The sides of the buttock will actually compress
12 together so that the cleft is spared from bruising. So what
13 you wind up with is two separate bruising areas on the
14 buttock with a clear in the middle, and that usually
15 indicates some high speed and high force type bruising.

16 Q And this would have been -- occurred at the same time?

17 A I would think so.

18 Q Now, after you completed your evaluation of her body --

19 A Yes, ma'am.

20 Q -- did you then -- well, first let me show you this.

21 I'm gonna show you what's State's Exhibit 22 for
22 identification.

23 Is that a pattern -- I mean is that a picture of both
24 the buttock that you're talking about and the bruising to
25 the thigh?

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1 A Yes, it is.

2 SOLICITOR REESE: Okay. At this time, Your Honor, I'd
3 ask to admit State's Exhibit 22.

4 THE COURT: Subject to previous objections by the
5 defense, it will be admitted.

6 (WHEREUPON, State's Exhibit No. 22 was received into
7 evidence at this time.)

8 THE COURT: You may proceed.

9 Q And this shows the bruising here and the thigh bruising
10 that you indicated?

11 A Yes, ma'am.

12 Q Now, once you got to the point where you were done with
13 the external evaluation of Minor 1 what did you -- what's
14 the next thing you do for the vaginal gynecological?

15 A I will use ultraviolet light and fluoresce the body to
16 see if I find any body fluids.

17 Q Now, in your experience, did you, in fact, see any body
18 fluids at that time?

19 A No, ma'am.

20 Q And did you do a swab?

21 A Yes, ma'am.

22 Q And was that swab internal or external?

23 A It was external.

24 Q And why do you do -- do you not do an internal swab of
25 a child?

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1 A Not at 18-months old, no, ma'am.

2 Q And what is the reason for that?

3 Is that, is that medically recognized as the procedure
4 that you're suppose to do?

5 A Yes, ma'am, a child -- females under the age of --
6 before they hit puberty that we call prepubescent, their
7 hymen is not estrogenized yet. So, what it is is it's
8 thought, it's thin, and it's highly painful to touch. Even
9 though my swabs are done with cotton swabs, just the mere
10 touch of a cotton swab to the hymen area would cause a great
11 deal of pain.

12 Q So, based on the pain that it causes in a child this
13 age, internal swabs are not done?

14 A Yes, ma'am.

15 Q In your experience, do you regularly look for body
16 fluids in cases of abuse?

17 A If I suspect sexual assault, yes, ma'am.

18 Q Okay. And in your experience and training, in an
19 injury like this one, when you, when you viewed Minor 1
20 vaginal area, was it still bleeding?

21 A Yes, ma'am.

22 Q How long did it bleed?

23 A Throughout my exam it was bleeding off and on.

24 Q And how long would it have bled?

25 A Given to lots of variables of whether it was disturbed

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1 again or not, but at least 24 to 48-hours.

2 Q And you don't know how far before this that this injury
3 had occurred, do you?

4 A No, ma'am.

5 Q So, in your experience, would you have expected to see
6 any kind of DNA evidence in an injury such as this that was
7 bleeding and draining where the child had been cleaned both
8 by EMS and by others?

9 Would you have expected to find DNA evidence?

10 A No, ma'am.

11 Q And you were not able to find any, is that correct?

12 A No, ma'am.

13 Q Now, when you start your examination of this little
14 girl, do you do what we call a speculum exam on a child?

15 A No, I do not.

16 Q And what is a speculum exam?

17 A A speculum exam is where we insert an instrument that
18 looks like a duck bill and you insert it in and open it up
19 so you can visualize the internal structures of the vagina.

20 Q And why do you not do that?

21 A It's very painful for the child, number one, and
22 psychologically it can affect the child. We only do
23 speculum exams on the prepubescent child only if it's
24 totally necessary and then it's usually under sedation.

25 Q When you begun Minor 1 exam, what position did she

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by Solicitor Reese

1 have to be in for you to be able to conduct your
2 examination?

3 A You put them in the frog leg position.

4 Q And what is that?

5 A It's where the child -- I'll usually have them sit
6 either in their mother's lap or, in this case, since the
7 mother wasn't there, she sat in an emergency room tech's
8 lap. She would put her legs into a V-shape bilaterally
9 opened up like this like a frog.

10 Q And is that position normally painful for children?

11 A No, it's not.

12 Q In Minor 1 situation, did she have discomfort and
13 pain in even trying to get in that position?

14 A Yes, it was very discomforting for her.

15 Q Were you able, able finally to get her in the position?

16 A Yes, ma'am, it took a little time, but we were able to
17 ease her into the position.

18 Q Did you, in fact, do your evaluation of Minor 1

19 A Yes, I did.

20 Q And did you prepare -- I tell you what, first, before I
21 do that, I want you to come down. I'm gonna show you, for
22 illustrative purposes, a diagram that you have prepared just
23 to get the jury familiar with what you're looking at and
24 what the areas are in relation to a, a pediatric exam.

25 A (Witness comes down from the stand.)

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1 Okay. This is a diagram of the vaginal area. In a
2 pediatric patient, the structures are basically about the
3 same. You have the mons pubis, which is the front part of
4 the vagina or the lower part of the stomach that is kind of
5 bumps there. Below that, this area in here is what we call
6 the introitus. Inside the introitus you actually have the
7 opening into the internal vaginal canal.

8 This here is the hymenal area where the hymen is. More
9 in the -- this is an adult drawing. In the pediatric
10 patient this is usually more of a straight across membrane.

11 Below this is what's called the fossa navicularis.
12 It's actually a space. It sits kind of like a shelf that
13 comes out. Right at the edge of that shelf is what we call
14 the posterior fourchette, and back behind there is your
15 perineal area or the peri-anal area, and this is where your
16 anus is.

17 Outside these structures are protected by a labia
18 minora, which is the thin rims here, and then you have the
19 thicker rims here, which is the labia majora or, for better
20 words, lips on the outside.

21 Q You were actually looking into that middle area to look
22 for any kind of injury?

23 A Right. I look in here. What I do not do is stick
24 anything into this opening.

25 Q Thank you.

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by Solicitor Reese

1 A (Witness returns to the stand.)

2 Q Now, in your evaluation of Minor 1 did you, in fact,
3 do a diagram like you have done for the other areas?

4 A Yes, ma'am, I did.

5 Q And there were some pictures of this vaginal area, is
6 that right?

7 A Yes, there were.

8 Q And we have chosen not to admit them, and instead the
9 diagram due to the nature of them, is that correct?

10 A Yes, ma'am.

11 Q I'm gonna show you what's been marked as State's
12 Exhibit 33.

13 Do you recognize that?

14 A Yes, ma'am.

15 Q And what is it?

16 A It is my drawing to the injuries to Minor 1 vaginal
17 area.

18 Q Is that accurate?

19 A Yes, it is.

20 Q And other than the mark that we've made here for the
21 exhibit, has that been changed or altered?

22 A No, it has not.

23 SOLICITOR REESE: I move to admit as State's Exhibit
24 33.

25 THE COURT: Subject to prior objections by the defense,

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1 it will be admitted as marked.

2 (WHEREUPON, State's Exhibit No. 33 was received into
3 evidence at this time.)

4 Q I'm gonna start -- now, first of all, I see that you've
5 got a notation down here that this -- I think it's called a
6 prone position I guess, is that right?

7 A The prone is what I did. The one below is called the
8 knee/chest position.

9 Q All right. And it says it's not performed?

10 A Right.

11 Q Okay. Can you explain to the jury why this was not
12 performed?

13 A The little girl's hymen, like I said, at eight or nine
14 years old will be estrogenized. When it does it actually
15 becomes kind of flimsy and boggy and a little thicker. When
16 you have them laying on their back in this position in the
17 frog leg, it -- what I look at is I evaluate the actual
18 edges of the hymen. Because it is floppy it will kind of
19 flop down and sometimes you can not see the edges of the
20 hymen.

21 So, we'll actually do kind of the knee chest position
22 where we turn them over on their stomach and put the knees
23 to the chest with their back side up in the air, and what
24 will happen is the hymen will actually fall like a curtain
25 so that we can see the edges. I did not, need to do this in

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by Solicitor Reese

- 1 Minor 1 instance because I could see what I needed to in
2 the other position.
- 3 Q So, this is the evaluation that you do if you can not
4 get a good view here?
- 5 A Yes, ma'am.
- 6 Q Okay. So, it wasn't necessary here?
- 7 A No, ma'am.
- 8 Q Okay. Now, what is this area that you've noted here
9 and where does it go?
- 10 A That was to the labia minora and majora and the lower
11 two-thirds of it was edema, which means swelling.
- 12 Q So, she was swollen in that area?
- 13 A Yes, on both sides.
- 14 Q And she had swelling both here and here?
- 15 A Right, yes, ma'am.
- 16 Q And that's what you're noting?
- 17 A Yes, ma'am.
- 18 Q Okay. Now, tell the jury what this is cause I can't
19 pronounce it and exactly what it means.
- 20 A That's erythema, which means redness, which is some
21 type of irritation.
- 22 Q And the erythema, the erythema is where, located here
23 in this area?
- 24 A Yes, ma'am, extending down into like her perineum and
25 past the posterior fourchette and into the --.

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by Solicitor Reese

1 Q So, it's all the area that you've scribbled here?

2 A Right, it's the scribbling that I've done there.

3 Q Okay. Now, this area here you've got marked as an
4 abrasion or abraded.

5 A Yes, ma'am.

6 Q What does that mean?

7 A Abrasion is where the top layer kind of, of the skin is
8 taken off and it's not quite as deep as a tear or a
9 laceration, but it is injured to the skin tissue.

10 Q And apparently you found bruising on both sides, is
11 that correct?

12 A Yes, ma'am.

13 Q And the bruising was located where?

14 A The bruising was on the lower part of the labia majora
15 and extended into the thighs.

16 Q So, all the way from here into the thighs?

17 A Yes, ma'am.

18 Q And what does that kind of bruising indicate to you?

19 A This kind of bruising, with it extending into the
20 thighs and the mons pubis and the top half of the labia
21 majora or the outer part of the vagina was not bruised at
22 all with all the bruising being at least midway down and
23 into the thighs, told me that the force, instead of
24 coming -- like if a person is standing up coming and hitting
25 this way or this way, they would of had to be laying and it

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by Solicitor Reese

1 hit this way, that it was perpendicular to that area.

2 Q Now, here you have marked that this is another abraded
3 area, is that correct?

4 A Yes, ma'am.

5 Q And then you have here denote tears?

6 A Yes, ma'am, the darkened areas that I have darkened in
7 were the tears I was able to visualize.

8 Q So, these were the tears---

9 A Yes, ma'am.

10 Q ---that she had?

11 A Yes, ma'am.

12 Q Now, can you explain the location of these tears and
13 the significance to you?

14 A Yes, ma'am, the most significant tears were at six
15 o'clock and twelve o'clock. The tear at twelve o'clock is
16 not as significant. In forensics we are trained that
17 tears -- we look at the vaginal opening and the hymen area,
18 and the way we document is as the face of a clock with
19 twelve o'clock being here and six o'clock being here.

20 The type of tears that are more consistent with
21 nonconsensual sexual activity or sexual assault is between
22 the three o'clock and the nine o'clock. Anything in that
23 lower rim, just because of the direction of the force that
24 it is. Also the tearing of the posterior fourchette, which
25 is swollen in Minor 1 case, is very significant cause that

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1 also deals with the force and angle of penetration signifies
2 to us possible sexual abuse.

3 Also these tears went past the posterior fourchette and
4 went almost into the perineal area, which also would
5 require, require a great deal of force to do that.

6 Q So, in this, in this area, this tear here, you said
7 other than the fact it is a tear---

8 A That is not as significant. The fact -- the one that
9 went from twelve o'clock to six o'clock also to me because
10 they actual lined up I felt was significant too.

11 Q Okay.

12 A Cause if you look at the other side, it's more than
13 abraded minor tear if you would. The major tear is where
14 twelve and six, and if you look it goes almost a straight
15 line down, which I think is also---

16 Q Can you show the jury what you're talking about because
17 I'm getting confused?

18 A Yeah, I'm sorry.

19 Q Okay.

20 A (Witness comes down from the stand.)

21 I don't have a pen. Right here would be the opening to
22 her vagina, to pass the hymen and the opening actually into
23 the internal vagina. This area here, this was like some
24 abrasion and tear. It wasn't through and through what you'd
25 think going from the outside all the way in because there's

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by Solicitor Reese

1 structures that back up this area.

2 This area here actually has space behind it. This area
3 was torn and this area was torn. The tear at the twelve
4 o'clock position, if you go a straight-line, goes straight
5 into the six o'clock position which goes and extends into
6 the area so that it was actually like a straight up and down
7 instead of being like a cut over here and then a cut over
8 there type of thing, which shows that it may of been made by
9 one object at one time. And the only reason it wouldn't
10 have been a continuous cut is because there was space
11 in-between cause this is an open area in-between the two
12 positions.

13 Q Now, when -- you're talking about the tear going
14 through.

15 Show us the significant tear you're talking about or
16 the more significant tear you're talking about.

17 A This lower one is the one that is more suspicious. It
18 goes through -- this is the hymen. It goes through the
19 hymen. This is that fossa, that space, the little shelf,
20 the fossa navicularis, and this is the posterior fourchette,
21 which is the, for lack of a better word, the actual rim
22 that -- and it actually like is in a three dimensional. It
23 would be -- this would be like your hymen and in a three
24 dimensional blown up. They would be a little shelf that
25 sticks out like this and then this is ripped also, and then

Kelli Clune - Direct examination
by Solicitor Reese

1 it extends a little past that into what would be, what would
2 be -- I can show you better in here. Starting into this
3 area here.

4 Y'all can't see that?

5 Starting into this area here.

6 Q So, that second tear went through the hymen?

7 A Uh-huh. (Affirmative).

8 Q Went through the outer area you're talking about here?

9 A Uh-huh. (Affirmative).

10 Q And into the posterior fourchette?

11 A Right.

12 Q Into almost where the perineal area is?

13 A Yes, ma'am.

14 Q Okay. Thank you.

15 A (Witness returns to the stand.)

16 Q Now, due to the angle you're talking about, and the
17 area that this tear covered, do you have an opinion as to
18 whether or not this tear was caused by a finger?

19 A I would say it had to be larger than a finger.

20 Q In your evaluation -- well, in your experience, you
21 talked about this hymen area being sensitive to the touch---

22 A Yes, ma'am.

23 Q ---in an 18-month old.

24 That hymen area was actually torn through in this case?

25 A Yes, ma'am.

Kelli Clune - Direct examination
by Solicitor Reese

1 Q As were these other outer layers?

2 A Yes, ma'am.

3 Q So, if a person had been doing this to a child, would
4 it have been unclear to them that the child was hurting?

5 A No, ma'am, they would of known.

6 Q And what would a child's reaction to this kind of, of
7 injury be?

8 A They'd be crying and trying to get away more than
9 likely.

10 Q Now, in your experience, 20 some odd years as an ER
11 nurse, have you ever had occasion to find fecal matter in
12 the vagina?

13 A Of a child?

14 Q Yes.

15 A No, ma'am.

16 Q And why not?

17 A Number one, the area that we are talking about, the
18 opening into the vaginal vault area where the hymen is is
19 about 5-millimeters at this age, which is about the size of
20 a pinkey to open up. The second thing is, it's like I said,
21 the labia actually serves as a protection because when they
22 are standing up and seated, unless their legs are spread, it
23 actually closes over and protects the vaginal opening.
24 Also, the way the vagina itself is more of a downward angle
25 so that in the anus itself is a good deal away and it's on

Kelli Clune - Direct examination
by Solicitor Reese

1 like another plane because it actually curves just a little
2 bit right there from the anus to the vagina. So, it would
3 be really hard for fecal matter to get into there.

4 Q Has there ever been an occasion, in all the years that
5 you have done this, that you have found the need to place
6 your finger in a child's vagina in an attempt to look for
7 fecal matter?

8 A No, ma'am.

9 Q Is that a medically recognized thing to do?

10 A No, ma'am.

11 Q Would it, in fact, be painful?

12 A Yes, it would be.

13 Q Can you say whether or not the injury that caused or
14 the mechanism that caused this injury or these injuries was
15 a penetrating injury?

16 A Yes, ma'am, I would say it would be penetrating.

17 Q And in addition to these injuries and these tears that
18 you have noted here, was there an additional tear that you
19 can't see on this diagram?

20 A Yes, ma'am, the next day the pediatric attending
21 physician actually put Minor 1 asleep to evaluate the
22 lacerations and he had documented that there was a posterior
23 vaginal wall tear.

24 Q And, so, that is even farther internal, right?

25 A Yes, ma'am, it's internal.

Kelli Clune - Direct examination
by Solicitor Reese

1 Q And why was it necessary to put her to sleep?

2 A Due to the -- it would of been painful not to and
3 traumatic mentally to her.

4 Q That, that -- those are all the questions I have for
5 her at this time.

6 THE COURT: You can bring the lights up.

7 Mr. Poole, your witness.

8 MR. POOLE: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. POOLE:

11 Q Ms. Clune, what's your highest academic degree?

12 A Bachelor in Science in Nursing.

13 Q And where did you get that degree?

14 A USC-Upstate.

15 Q And when did you get that degree?

16 A August.

17 Q Pardon me?

18 A August of this year.

19 Q August of this year?

20 A Yes, sir.

21 Q You mean this month?

22 A Yes, sir.

23 Q Okay. And then -- but you have experience as an ER
24 nurse, is that right?

25 A Yes, sir.

Kelli Clune - Cross-examination
by Mr. Poole

1 Q And have you ever testified in Court before?

2 A No, sir.

3 Q You have been conducting sexual assault exams on
4 children, is that fair to say, for four years?

5 A I've been conducting exams longer than that. I have
6 been certified to, to do them for four years.

7 Q And who are you certified by?

8 A The International Association of Forensic Nursing and
9 that we are also recognized by the American National
10 Association of Nurses.

11 Q Okay. And, so, you got your certification in this area
12 when?

13 A In -- let me look. 2009 for pediatrics.

14 Q 2009?

15 A Uh-huh. (Affirmative).

16 Q I've asked you some of these questions before.

17 A Yes, sir.

18 Q Can it medically be considered that the hymen is the
19 boundary between the interior and exterior of children?

20 A In medical, yes, sir.

21 Q Okay. Can it not be also said that the injury done to
22 the hymen, and I believe you may of testified to this
23 before, you said it could not -- you can not say it was
24 larger than a finger?

25 A If you take just the hymen by itself.

Kelli Clune - Cross-examination
by Mr. Poole

1 Q I understand.

2 A Yes.

3 Q But didn't you testify a moment ago that you could not
4 say it was larger than a finger?

5 A To the hymen itself, yes, sir.

6 Q I understand.

7 And you can not say what object may of caused these
8 injuries, can you?

9 A No, sir.

10 Q And did you not also testify a moment ago that the
11 interior lacerations could of been done with a finger in a
12 ripping motion?

13 A Yes, sir, if it was a downward pressure and ripping
14 like this.

15 Q Okay.

16 A A lot of force, yes, sir.

17 Q All right. That's all I have.

18 THE COURT: Redirect.

19 SOLICITOR REESE: Just a few questions.

20 THE COURT: Yes, ma'am.

21 REDIRECT EXAMINATION

22 BY SOLICITOR REESE:

23 Q He asked you when you got your highest degree and that
24 was in 2013, right?

25 A Yes, sir.

Kelli Clune - Redirect examination
by Solicitor Reese

1 Q But you have been an RN for how many years?

2 A Twenty-two years.

3 Q So, your first degree was?

4 A In 1992.

5 Q Okay. Now, he asked you about a finger --

6 A Yes, ma'am.

7 Q -- and whether or not if it could of been a finger in
8 terms of the injury to the hymen, and you said it would of
9 had to have been a ripping motion?

10 A To include the posterior fourchette, yes, ma'am.

11 Q Okay. And how would, how would that have happened?

12 A They would of had to actually insert inside the hymen
13 and probably curved in a downward push and rip this way. I
14 can't say that with a hundred percent accuracy, but trying
15 to think of the angle and force that I can't see it just
16 being like this. It would actually have had to have been --
17 they would of had to have been some pressure down to the
18 bottom of the floor of the vaginal wall.

19 Q Now, do you have an opinion about whether that could of
20 been accomplished with a person who is cleaning a child and
21 had a wipe covering their finger?

22 A It would of been a lot a lot of force in order to do
23 that.

24 Q And when we talk about the internal injury --

25 A Yes, ma'am.

Kelli Clune - Redirect examination
by Solicitor Reese

1 Q -- is that separate from this injury?

2 A It's probably a continuation. I did not do that exam
3 myself. But with him seeing the posterior vaginal wall, he
4 did not document where it was located. So, I honestly can
5 not say to which if it was a continuation of these actual
6 lacerations or if it was a separate injury.

7 Q Tell the jury a little bit about -- when he talks about
8 the gripping motion, can you explain to the jury what this
9 tissue is made of?

10 A The hymen and all the vaginal tissue down there, the
11 reason we do not find many findings in children or in any
12 sexual assaults is because the tissue down there is made of
13 epithelia cells and it's kind of like it's the same cells
14 that make your cheeks. Your cheeks are very flexible. If
15 you put your tongue in they actually move and stretch. They
16 also heal rapidly. A cut to your cheek will heal up in like
17 24-hours.

18 The same with the vaginal tissue. There was actually a
19 study done by Doctor Nancy Kellogg in which there were 36
20 pregnant teenagers that were the victim of sexual abuse.
21 only two of those teenagers showed any kind of any sexual
22 trauma or any sexual activity in there. So, my cut off for
23 sexual abuse findings is actually 5-percent. If I see more
24 than 5-percent of what we call positive findings in
25 children, then I'm looking too hard, and I'm doing something

Kelli Clune - Redirect examination
by Solicitor Reese

1 wrong, and I need to look at my approach.

2 Q Given the nature of the tissue that you're looking at
3 here, what is the force required to impact it such a way, in
4 such a way to create all of these injuries?

5 A It would of had---

6 MR. POOLE: Your Honor, that's been asked and answered
7 I do believe.

8 THE COURT: I'm not sure it's in response to your
9 cross-examination. I'll sustain the objection.

10 Q Mr. Poole asked you about the hymen and whether or not
11 it, it was larger than a finger, and you said he stated just
12 the hymen.

13 A Yes, ma'am.

14 Q So, is it your testimony that this is -- the injury
15 itself does not just encompass the hymen, it encompassed a
16 larger area?

17 A It encompasses a larger area, yes, ma'am.

18 Q So, if he asked you just an injury to the hymen, you
19 answered yes, that could be caused by a finger, but did
20 you -- is it your testimony that the nature of this injury
21 indicates to you that it was most probably larger than a
22 finger?

23 MR. POOLE: Your Honor, leading.

24 THE COURT: Overrule.

25 A Yes, ma'am, that, that was what I was trying to

Kelli Clune - Redirect examination
by Solicitor Reese

1 clarify. The nature of them being in line with each other,
2 being in the top of the area, and even just the bottom
3 injury itself, the way it extends down, would more than
4 likely be larger than a finger.

5 SOLICITOR REESE: Thank you. I have nothing further.

6 THE COURT: Recross?

7 MR. POOLE: No recross.

8 THE COURT: Ma'am, you may step down. Thank you very
9 much.

10 Any objection to the witness being excused, Mr. Poole?

11 MR. POOLE: No, sir.

12 THE COURT: Ma'am, you're free to go if you'd like.
13 Thank you very much.

14 All right. Ladies and gentlemen of the jury, I note
15 that we're a few minutes after five o'clock. Not every far.
16 So, we're gonna break for the evening.

17 Same instructions I give, have given you when you left
18 this courthouse before. Don't attempt to gather any
19 information on your own. Don't listen to, watch, or read
20 media reports about this case. Don't discuss the case with
21 anyone, and don't allow anyone to discuss the case with you.
22 If that were to happen, somebody tried to contact you about
23 your service on the jury, please report that upon your
24 return.

25 We'll start again in the morning at nine o'clock. Be

1 Thursday, August 28th, 2013

2
3 THE COURT: All right. We're on the record in the case
4 of the State versus Randall Matheny.

5 When we broke yesterday the State had indicated it had
6 called its last witness, but not yet rested.

7 Does the State, at this time, rest?

8 SOLICITOR REESE: Yes, Your Honor.

9 THE COURT: All right. State is rested.

10 I believe then, Mr. Poole, if you wish to make any
11 motions at this time you may do so.

12 MR. POOLE: Yes, sir, I do have some motions to make.

13 At this time I would renew my pretrial and trial
14 motions that have already been placed into the record. And,
15 so, I do that once again.

16 THE COURT: All right. Those, those motions are noted.
17 The Court would not change its rulings. The rulings will
18 remain the same.

19 MR. POOLE: Thank you.

20 Mr. Matheny is charged with three indictments. Two of
21 them are child neglect/abuse of a child under Section
22 63-5-70 in relation to the little boy and the little girl.
23 I would argue that the Court should direct a verdict of not
24 guilty because there is no evidence that the abuse/neglect
25 occurred at the hands of the defendant in either case. That

1 is my motion with regard to those indictments.

2 THE COURT: All right. Let me hear from the State on
3 that point.

4 SOLICITOR REESE: Your Honor, I believe there is ample
5 evidence that the defendant did create this abuse. Of
6 course, you have the actual pictures themselves. Eric
7 Lazurick testified that he actually, actually witnessed such
8 abuse as did Ashley Directo as did Kayla Blake. The
9 defendant also gave several statements about having hit the
10 children or hit them too hard.

11 THE COURT: All right. I, I do find that there is
12 sufficient evidence in the record to justify the case being
13 sent to the jury on those two indictments. Therefore, the
14 motion's denied.

15 MR. POOLE: The third indictment that Mr. Matheny is
16 charged with is criminal sexual conduct with a minor in the
17 first degree pursuant to Section 16-3-655 sub 1 of the Code
18 of laws of South Carolina. I move for a directed verdict on
19 that indictment in that I -- this is not a sexual battery.
20 I would ask the Court to consult the language of 16-3-651
21 subsection H.

22 THE COURT: Just one second. I'll go to that location.
23 You said 651?

24 MR. POOLE: Yes, sir, 16-3-651 sub H.

25 THE COURT: I am there.

1 MR. POOLE: That is the definition of sexual battery.
2 If I may read it, sexual battery means sexual intercourse,
3 cunnilingus, fellatio, or anal intercourse, or any
4 intrusion, however slight, of any part of a person's body or
5 of any object into the genital or anal openings of another
6 person's body. Then it has one last clause.

7 The language of sexual intercourse, cunnilingus,
8 fellatio, anal intercourse, or any intrusion, however
9 slight, relates to a sexual battery. That is an actual
10 sexual battery in that it's done for a sexual purpose such
11 as the perpetrator's gratification, the satisfaction of
12 lust, sexual desire.

13 In this case, we don't have any evidence of that being
14 the case. What we do have evidence of is Mr. Matheny's
15 placing his finger into the vagina area in a context where
16 he was trying to clean the baby's area and wipe with a
17 diaper wipe, and was doing so while he was angry at the
18 situation he found himself in. He was angry at Kayla, he
19 was angry with the situation, and he was angry with the
20 totality of the entire context that he found himself in.

21 There's nothing sexual about this. At worst, it is an
22 assault and battery of a high and aggravated nature under
23 the new law. And, so, that's the motion that this is not a
24 sexual battery.

25 THE COURT: All right. I'll hear from the State.

1 SOLICITOR REESE: Your Honor, the statute itself
2 specifically says that any intrusion, however slight, into
3 the anal or genital openings except---

4 THE COURT: Just one second.

5 (Pause.)

6 THE COURT: Excuse me.

7 SOLICITOR REESE: Your Honor, the statute or the
8 definition of sexual battery defines sexual battery as an --
9 I will restrict it just to the parts that we're interested
10 in here. Any part of -- any intrusion, however slight, of
11 any part of a person's body or object into the genital
12 openings of another person's body except where such
13 intrusion is accomplished for medically recognized treatment
14 for diagnostic purposes. Therefore, what the statute says
15 is any intrusion, however slight, unless it's for a medical
16 reason.

17 We had testimony from Kelli Clune that sticking a, your
18 finger into a child's vagina is not medically recognized as
19 a treatment or diagnosis for a child in the medical field.

20 Also, I would refer to the Court to the lewd act
21 statute that specifically requires a sexual intent and
22 purpose. If the Legislature had intended that to be an
23 element in this case, they had -- they've done it in a lewd
24 act. I believe they would of done it here.

25 And, finally, I would argue, you know, that rape is

1 often accomplished for different purposes. Whether it be
2 torture, power, whatever it is. We can't get in the mind of
3 this person. We certainly can't get into a situation where
4 we have to argue what he was thinking about while he was
5 doing the act.

6 So, it would be our argument that we have met the
7 burden and that the actual sexual intent, the specific
8 sexual intent, is not an element of this offense.

9 THE COURT: Anything further, Mr. Poole?

10 MR. POOLE: No, sir, not on this point. It's just
11 that---

12 THE COURT: All right. Yes, sir.

13 MR. POOLE: ---our position it's got to be sexual in
14 nature.

15 THE COURT: Oh, I understand, I understand what you're
16 saying, but I'm -- I would agree with the State's position
17 in that regard that in the case of lewd act that talks in
18 terms of the perpetrator's state of mind or purpose is
19 committing the act.

20 In this case, the statutes do not talk in terms of the
21 state of mind. In fact, I didn't find any specific intent
22 required. I looked for that to see what the statute said,
23 and it just talks about any intrusion into the genital or
24 anal openings of a person, however slight, by objects put in
25 motion by the defendant. And, so, I don't find that it

1 requires a sexual intent on the part of the perpetrator in
2 order for the statute to be triggered.

3 I'll deny the motion on that basis.

4 MR. POOLE: Your Honor, I thank you. I understand. In
5 the interest of time, could we be -- could I be briefly
6 heard on what may go toward a jury charge at this point?

7 THE COURT: Yes, sir, we can talk about jury charges at
8 the time.

9 MR. POOLE: Okay. I would ask the Court to instruct
10 assault and battery of a high and aggravated nature and
11 assault and battery in the first degree to the jury.

12 THE COURT: You want to -- you're asking the Court to
13 offer that as a lesser included offense?

14 MR. POOLE: Your Honor, the case of State versus
15 Mathis, now this is an old case under the old law.
16 287 SC 589, 380 S.E.2d 538.

17 THE COURT: Give me a minute.

18 (Pause.)

19 THE COURT: M-A-T-H-I-S?

20 MR. POOLE: Yes, sir.

21 THE COURT: Give me that number again.

22 MR. POOLE: You want both numbers or the S.E.2d?

23 THE COURT: Just give me the South Carolina cite.

24 MR. POOLE: 287 589.

25 THE COURT: Thank you.

1 All right. Yes, sir, I have the case.

2 MR. POOLE: Judge Paul Moore.

3 THE COURT: Yes, sir, that is. It is.

4 MR. POOLE: Uh-huh. (Affirmative).

5 That case expressly holds, under the old law, that,
6 that assault and battery of a high and aggravated nature is
7 a lesser included offense of criminal sexual conduct with a
8 minor in the first degree. I know that is under the old
9 law, but that case still stands, as far as I can tell. It
10 is not been overruled or overturned.

11 Furthermore, I submit that my request is---

12 THE COURT: Now, there are -- and I believe he's
13 referring -- that case was referred also to common law
14 assault and battery of a high and aggravated nature.

15 MR. POOLE: Yes, sir.

16 THE COURT: Okay. And that's -- are you referring to
17 the statutory assault and battery of a high and aggravated
18 nature at this time?

19 MR. POOLE: I'm getting ready to move into that area.

20 THE COURT: Okay. Let's move into that area then.

21 MR. POOLE: Okay.

22 THE COURT: That's, that's changed as well since this
23 case.

24 MR. POOLE: Yes, sir, I know. I was involved in this
25 case.

1 THE COURT: Okay.

2 MR. POOLE: So, I---

3 THE COURT: Well, the real test is whether or not they
4 have the same elements or not.

5 MR. POOLE: Yes, sir, but I think that the Court could
6 find that the evidence that's been presented in this case
7 fits the definition of ABHAN and assault and battery in the
8 first degree under those sections, and, therefore, even if
9 it's not a lesser included offense, I'm asking the Court to
10 instruct those charges because, if the jury were to choose
11 to believe Mr. Matheny's rendition of the facts, that it was
12 not sexual in nature, then it could be one of assault and
13 batteries. And if the jury were to believe that, then they
14 could find him guilty of one of those charges.

15 I think the---

16 MR. POOLE: Well, the argument though could be made,
17 Mr. Poole, that if, that if the State has not proven the
18 elements of CSC with a minor first, then he's entitled to a
19 not guilty verdict.

20 MR. POOLE: Yes, sir.

21 THE COURT: And the only time the Court is suppose to
22 charge a lesser included offense is if it has the same
23 elements of a higher offense, usually lacking one particular
24 element.

25 MR. POOLE: Right.

1 THE COURT: And in this case I'm not sure that's the
2 case.

3 MR. POOLE: Yes, sir. And if the Court feels that that
4 is not the case---

5 THE COURT: Well, I'm gonna look -- I need to look --
6 I'm gonna hear from the State on the elements of both
7 crimes. But I'm thinking there's probably some differences
8 since they've changed. This refers to a different
9 represented statute and a common law offense, which now we
10 no longer have that situation. The statute is changed and
11 it's no longer a common law offense. There's a statutory
12 offense. So, anyway.

13 But I, I understand what you're saying. However, if,
14 if it's not -- the Court generally is dealing with the
15 indictment that's before the Court, whatever that is. And
16 if the facts fit a, the fact pattern fits a lesser included
17 offense possibly; the Court is required to charge and offer
18 that as an alternative verdict. But it has to be a lesser
19 included offense.

20 MR. POOLE: Yes, sir.

21 THE COURT: You know, if you start allowing charges and
22 verdicts on things that aren't charged and aren't before the
23 Court, then I don't think you'd want me to do that the other
24 way and allow the State to have additional charges that
25 haven't been indicted and haven't been presented before the

1 Court.

2 Do you follow what I'm saying?

3 MR. POOLE: Yes, sir. Yes, sir.

4 THE COURT: I think that's where we might be.

5 MR. POOLE: And I think you understand what I'm trying
6 to get across. I'm -- even if the Court finds it's not a
7 lesser included, I'm asking you to charge it anyway.

8 THE COURT: I understand that, but I think that would
9 be a dangerous precedent set because obviously the
10 prosecution could then say well, our indictment was
11 improperly brought, it wasn't the proper charge, but we want
12 you to charge the one we didn't prove. I don't think the
13 defense would be happy with that type of a situation. But
14 anyway.

15 Let's talk about the elements of the two crimes. I
16 want to be sure it's not a lesser included offense. I
17 haven't looked up the elements of the charge, but I have my
18 doubts that it would fit.

19 SOLICITOR REESE: Your Honor, we do not believe that it
20 would fit. Under the new codified law, I believe we would
21 have to prove or one of the elements I think is bodily
22 injury, either moderate or great. That is not an element of
23 CSC, and, therefore, the elements are not the same.

24 I would also argue that in the statute, the new statute
25 itself, it specifically states what it is a lesser included

1 of and it does not include criminal sexual conduct.

2 THE COURT: Okay. I'm gonna deny, deny the motion, Mr.
3 Poole. I understand your position. However, I don't think
4 the Court should go there.

5 MR. POOLE: Yes, sir.

6 THE COURT: Any other motions?

7 MR. POOLE: No, sir, not at this time.

8 THE COURT: All right. Now, Mr. Matheny, I'm going to
9 remind you that you are under oath still from our discussion
10 yesterday.

11 Do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And do you acknowledge that that's true?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right, sir. Yesterday I explained to
16 you your rights under the Constitution. Specifically your
17 rights under the Fifth Amendment to the United States
18 Constitution. That amendment gives you the right to remain
19 silent if you choose to do so. And if you do, I will
20 instruct the jury that your silence can not be used against
21 you in any manner whatsoever. I do advise you you have, you
22 have the right to testify if you choose to do that.

23 Now, have you had an opportunity to consult with your
24 attorney and anyone else that you chose to consult with?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you need to consult with them any
2 further?

3 THE DEFENDANT: No, sir.

4 THE COURT: Have you made a decision as to whether you
5 intend to testify in the case?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And do you intend to testify in this case?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. Anything further from the State
10 before we bring the jury?

11 SOLICITOR REESE: Nothing further, Your Honor.

12 THE COURT: Anything further from the defense?

13 MR. POOLE: No, sir.

14 THE COURT: All right. You can be seated, Mr. Matheny.
15 Thank you.

16 THE DEFENDANT: Thank you.

17 THE COURT: Check and see if we everyone.

18 (Pause.)

19 THE COURT: We're missing one juror who has called in
20 and said they're running late. So --.

21 BAILIFF: That one still has not arrived.

22 THE COURT: All right. We'll be in recess until that
23 one has arrived. They said they're on, in route. So, we'll
24 see when they get here.

25 Court will be in recess. I'm gonna stay on the bench,

1 but we'll be in recess at this time.

2 (WHEREUPON, a short recess was taken at this time.)

3 THE COURT: While we're waiting on the juror, there's
4 one other issue we probably ought to talk about since the
5 defendant has indicated he does intend to testify.

6 Mr. Poole, do you wish to be heard on whether or not
7 the convictions that have been indicated by the State that
8 they may intend to use to attack his credibility, whether
9 that would be proper or not?

10 MR. POOLE: I think it's proper, Your Honor. In 19 --
11 in 2010, in May, he received a conviction for possession of
12 less than 1-gram of meth or cocaine base first offense. He
13 was sentenced to 90 days and 12-months probation. I think
14 that charge carries three years.

15 THE COURT: It does.

16 MR. POOLE: And, so -- so, it's greater than one year.

17 THE COURT: All right.

18 (Pause.)

19 THE COURT: I'm gonna ask the attorneys to approach
20 please briefly.

21 (WHEREUPON, a bench conference was held at this time.)

22 BAILIFF: Yes, sir, he's here.

23 THE COURT: All right. State ready?

24 SOLICITOR REESE: State's ready, Your Honor.

25 THE COURT: Defense ready?

1 MR. POOLE: Yes, sir.

2 THE COURT: I will call on you first and allow you to
3 rest in front of the jury. Then I'll call on you, Mr.
4 Poole.

5 Bring the jury in.

6 (WHEREUPON, the following takes place within the
7 presence of the jury.)

8 THE COURT: All right. The record will reflect the
9 jury is now in the courtroom.

10 If any of you had any difficulty in complying with my
11 instructions during your absence from the courthouse, please
12 stand.

13 (No response.)

14 THE COURT: It appears that all jurors have been able
15 to comply with my instructions.

16 When we stopped yesterday the State was in the process
17 of calling its witnesses.

18 The State may call its next witness.

19 SOLICITOR REESE: Your Honor, at this time the State
20 rests.

21 THE COURT: All right. The State now has rested. That
22 means that completes the presentation of evidence by the
23 State. At this time the defense has the right to present
24 evidence.

25 Mr. Poole.

Randall Matheny - Direct examination
by Mr. Poole

1 MR. POOLE: Thank you, Your Honor.

2 We call Mr. Randall Matheny to the witness stand.

3 THE COURT: Come forward, sir, to my left to be sworn
4 please, sir.

5 RANDALL MATHENY, being first duly
6 sworn, testified as follows:

7 THE COURT: Have a seat in the witness stand, and once
8 you're seated, I'd ask you to state your name please.

9 WITNESS: Randall Matheny.

10 THE COURT: Thank you.

11 Mr. Poole, your witness.

12 DIRECT EXAMINATION

13 BY MR. POOLE:

14 Q Mr. Matheny, are you the defendant in this case?

15 A Yes, sir.

16 Q Are you the one that's charged with two counts of child
17 neglect and criminal sexual conduct with a minor?

18 A Yes, sir.

19 Q How old are you?

20 A I'm 27 years old.

21 Q And where are you from?

22 A Boiling Springs, Spartanburg, South Carolina.

23 Q And have you lived in Spartanburg County all your life?

24 A Yes, sir.

25 Q Where did you go to high school?

Randall Matheny - Direct examination
by Mr. Poole

- 1 A Broome.
- 2 Q Do you have any family?
- 3 A Yes, sir.
- 4 Q Where are they?
- 5 A Boiling Springs.
- 6 Q Who are they?
- 7 A My sister and my grandmother.
- 8 Q Okay. Why aren't they here today?
- 9 A Well, my grandma's sickly and my sister has three kids
- 10 and a newborn. She works a lot of hours. She just really
- 11 can't---
- 12 Q Okay.
- 13 A ---afford not to miss work.
- 14 Q So, you're by yourself?
- 15 A Yes, sir.
- 16 Q What kind of work have you done in the past?
- 17 A I've worked for MGR, which is Mike Risinger's Rising
- 18 Games. I've done a lot of landscaping. I've done a lot of
- 19 American Remodeling. Just things of that nature.
- 20 Q Okay. Like labor work?
- 21 A Yes, sir.
- 22 Q And have you always worked as much as you could?
- 23 A Yes, sir.
- 24 Q You ever been married?
- 25 A No, sir.

Randall Matheny - Direct examination
by Mr. Poole

- 1 Q Do you have any children?
- 2 A No, sir.
- 3 Q Were you ever married to Kayla?
- 4 A No, sir.
- 5 Q Did you ever have a relationship with her?
- 6 A Yes, sir.
- 7 Q When did you meet her?
- 8 A Probably January of 2011.
- 9 Q In 2011?
- 10 A Yes, sir.
- 11 Q And how did you meet her?
- 12 A Through mutual friends.
- 13 Q And who were they?
- 14 A Sierra Shell and Brad Robinson.
- 15 Q Okay. And did that friendship evolve into a romantic
- 16 relationship?
- 17 A Yes, sir.
- 18 Q Did y'all live together?
- 19 A Yes, sir.
- 20 Q And tell the jury where you first lived together?
- 21 A We -- it was on Double Bridge Road in Mayo if you're
- 22 familiar with that off 221 towards Chesnee.
- 23 Q Okay. And how long -- when did you move in with her?
- 24 A She moved in with me rather.
- 25 Q Okay.

Randall Matheny - Direct examination
by Mr. Poole

1 A Second -- about the same time I met her. About --
2 maybe about two weeks later.

3 Q why did you allow her to move in with you?

4 A I liked her. She was real good friends with my
5 friends. They knew her and that's how I ended up meeting
6 her was through them. Seemed like a good person.

7 Q Did she have children at the time?

8 A Yes, sir.

9 Q How long did y'all live at that Mayo address?

10 A Probably about a month and a half.

11 Q Okay. Did y'all move somewhere else or did y'all
12 separate or what?

13 A The reason we separated was -- and then I moved out.

14 Q Okay.

15 A I left her.

16 Q From where you had been primarily living?

17 A Yes, sir.

18 Q So, you lived at the Mayo address before she moved in?

19 A Yes, sir.

20 Q And why did you move out?

21 A A lot of stress, a lot of money issues. I was really
22 the only one working. Like I said, I don't have any kids or
23 anything like that. It's a, it's a whole new responsibility
24 for me to take on something like that. The rent was pretty
25 high. There was a lot of people there staying there, and I

Randall Matheny - Direct examination
by Mr. Poole

1 was the only one really working, like I said, and then Kayla
2 and her children, and we were just having a lot of arguments
3 and stuff. So, I decided to leave.

4 Q Then did you subsequently resume cohabitation at Skylyn
5 Drive?

6 A Yes, sir.

7 Q All right. And who was living there?

8 A Just Ashley Directo, Ashley Good Directo.

9 Q And when did you move in there?

10 A Probably around March. Somewhere around in that area
11 after that.

12 Q When did Kayla move in?

13 A I had done been staying there for two or three weeks.
14 She kept calling me wanting me to come get her cause she
15 was, didn't have no where to stay. She wasn't working. She
16 has twins. She has no way of help paying the bills. Brad
17 Robinson, his old lady is not gonna allow her to stay there
18 for free. Her mama wasn't having anything to do with her
19 because her step-daddy felt the same way that I did. She's
20 pretty much mooching off of them, you know. He has bills to
21 pay as well. She was gonna be on the street. I felt sorry
22 her. I let her move in with me at Skylyn Drive.

23 Q And, of course, she had the children with her?

24 A Yes, sir.

25 Q When did you become aware that there was some

Randall Matheny - Direct examination
by Mr. Poole

1 allegations -- well, let me ask you this.

2 Do you remember being questioned by Nicki Cantrell?

3 A Yes, sir.

4 Q Okay. And where did that occur, Spartanburg County
5 Sheriff's Department?

6 A Sheriff's Department on Howard Street.

7 Q Okay. Did you talk to her?

8 A Yes, sir.

9 Q Did you tell her what you knew about this case?

10 A Yes.

11 Q Did you tell her about your involvement?

12 A Yes, sir.

13 Q Okay. Did she leave -- did she leave at some point in,
14 in time and give you something to write a statement with?

15 A Yes.

16 Q And did you give a statement?

17 A Yes, sir.

18 Q Okay. Did you tell the truth in that statement?

19 A Absolutely.

20 Q Okay. And you gave several statements, did you not?

21 A Yes, sir.

22 Q And was Nicki Cantrell, was she hostile to you?

23 A Absolutely.

24 Q Tell us the way that occurred.

25 A Well, she, she brought me in that day and she asked me

Randall Matheny - Direct examination
by Mr. Poole

1 about what, some of the type of things that was going on at
2 the house, you know, and then she asked me how, what the,
3 the incident with Cassie Hembree had, what happened with
4 her. So, I proceeded to tell her what happened with that,
5 and she started getting very angry. Told me I was gonna die
6 in prison if I did not work with her.

7 I asked her why would she say something like that. She
8 said I was pretty much a child molester, things of that
9 nature even though I don't have any type of background of
10 that at all in my history with my life. I help raised my
11 sister's kids. It's just not in me to be that way.

12 Q Did you subsequently have an interview with Jason
13 Bryant?

14 A Yes, sir.

15 Q Did that occur at the Spartanburg County Sheriff's
16 Department?

17 A Yes, sir.

18 Q Tell us about the nature of that interrogation---

19 A Well---

20 Q ---when he started asking you questions about the
21 incident.

22 A Yes, sir. Basically like Ms. Cantrell did, ask me some
23 of the some type of things that was going on at household.
24 He was asking me what happened to Cassie, things of that
25 nature, and I told him. He kept trying to lead me on

Randall Matheny - Direct examination
by Mr. Poole

1 saying, you know, become friends like he stated yesterday.
2 Tried to get me to admit things that I didn't do really.
3 This is a, a stressful situation if you will. These are
4 very serious charges---

5 Q Did Mr.---

6 A ---and---

7 Q Excuse me for interrupting, but did Sergeant Bryant get
8 up in your face?

9 A I wouldn't say particularly get up in my face, but he,
10 he wasn't, he was, he was friendly. He tried to, to be
11 friends with me and tried to get me to tell him on myself
12 and say things that, that just wasn't the truth.

13 Q Did you tell him the truth?

14 A Absolutely.

15 Q Were you crying?

16 Were you emotionally upset?

17 A Yes, sir.

18 Q Okay. How -- and did not that interview last about two
19 hours?

20 A Oh, it was very lengthy, yes.

21 Q Okay. And then do you remember giving a written
22 statement to Kevin Bobo?

23 A Yes, sir.

24 Q And is it fair to say that this was several hours that
25 you were being interrogated at the Sheriff's Department?

Randall Matheny - Direct examination
by Mr. Poole

1 About how long do you think, from beginning to end,
2 this lasted?

3 A All day. All day. I was, I was picked up around
4 10:30 in the morning, maybe a little earlier than that.

5 Q Uh-huh. (Affirmative).

6 A And I -- they brought me to the Spartanburg County
7 Detention Facility probably closer to 5:00. It was, it was
8 all day long.

9 Q Okay. All right. Did Kevin Bobo take your statement
10 down?

11 A Yes, sir.

12 Q Is that your signature on State's Exhibit No. 5---

13 A Yes, sir.

14 Q ---your statement?

15 A Yes, sir.

16 Q Would you read it to the jury please, sir?

17 A Me and Kayla Blake and her twins have been together for
18 a month and a half. Since we have been together---

19 Q Slow down. Mr. Matheny, slow down a little bit and
20 speak up a little more.

21 A Absolutely. Me, Kayla Blake, and her twins have been
22 together for a month and a half. Since we have been
23 together we have had to move twice because of money
24 problems. We moved in our current residence about three
25 weeks ago with Ashley Directo and her little girl, Kylee.

Randall Matheny - Direct examination
by Mr. Poole

1 She calls her Kylee. I call her Callie.

2 I felt sorry for Kayla because she didn't have anywhere
3 to stay, and I was afraid her and the kids would be living
4 on the streets. I moved in with Ashley first, and once I
5 told her about Kayla she agreed to let her and the kids move
6 in too.

7 Kayla and I and have had our ups and downs due to money
8 problems and drug use. Me, Kayla, and Ashley all have had a
9 problem with meth, and Ashley's five months pregnant. When
10 Kayla and I would argue I would leave for a cooling off
11 period for a couple of days, but she would call me and beg
12 me to come back home.

13 Kayla would get frustrated with the kids and take them
14 to another room and shut the door. I'll hear her say stuff
15 like you get on my nerves so bad and both of them would cry
16 a lot. I wasn't in the room with her so I can't say that
17 she put any bruises on them.

18 Occasionally I have seen Kayla grab the kids up out of
19 angry and frustration. I have disciplined, disciplined both
20 kids on, by popping them on the hand, by popping them on
21 their diapers, and making them sit on the couch for a little
22 while.

23 I can't explain how **Minor 2** got his head injury. I had
24 a seizure -- he had -- excuse me. He had a seizure while he
25 was eating supper and Kayla called 9-1-1 while I did CPR.

Randall Matheny - Direct examination
by Mr. Poole

1 Four or five days ago I was changing Minor 1 diaper and
2 she had poop everywhere. I was trying to wipe her clean and
3 Kayla's mouth got on my nerves. She's always complaining
4 about how we have, never have any money, and I always tell
5 her it takes two. She calls me a piece of shit when she
6 gets angry or frustrated.

7 I was already ill when I was trying to change Minor 1
8 diaper, and the poop was green and it was all the way up to
9 her bellybutton that day. It was all over her. The poop
10 was all in her, her monkey, her vagina. By that I mean her
11 vagina and I put my finger inside of her while it was
12 covered with a baby wipe trying to clean it out of her.
13 Kayla was standing right there beside me while I was doing
14 this.

15 The next day Kayla was changing the diaper and she
16 called, called me in there to show me that Minor 1 was
17 bleeding from her monkey. Both of us freaked out because I
18 was afraid I had seriously hurt her.

19 I have never touched either one of the kids in a sexual
20 way at all, but we were afraid to go to the doctor because
21 all the bruises on both of them and we knew that D.S.S.
22 would take them.

23 This was just an accident that happened in the heat of
24 the moment, and I'm very sorry for, that all this has
25 happened. In the way I wish I had never met Kayla because

Randall Matheny - Direct examination
by Mr. Poole

1 it had been trouble since day one. I have asked Sergeant
2 Kevin Bobo to prepare this statement for me and I swear it
3 is true to the best of my knowledge.

4 Q Now, Mr. Matheny, did you inflict bruises upon the
5 little boy?

6 A Negative.

7 Q Is that a -- that means no?

8 A No, sir.

9 Q Do you know how they came to be?

10 A Can't really say. Kayla was with them, with me there
11 the whole time too when I wasn't working.

12 Q Did you inflict the bruises on the little girl,

13 Minor 1

14 A No, sir.

15 Q Okay. Do you know how they came to be?

16 A It had to be someone in the household. But no, I
17 don't.

18 Q All right. Well, let's get to the most, to what is a
19 very serious matter. I want you to tell this, tell this
20 jury exactly what you did by way of trying to clean the poop
21 out and what you did with your finger.

22 A Okay.

23 Q Tell me. Look right straight at them and tell them.

24 A Yes. Cassie needed a diaper change as you know. You
25 can smell them most of the time. I checked her. She, she,

Randall Matheny - Direct examination
by Mr. Poole

1 she had a dirty diaper. So, I was changing her. Took her
2 diaper off, was going to change her, and it was really bad.
3 Kayla liked to feed her oatmeal a lot. Oatmeal tore her
4 stomach up. It gave her diarrhea real bad. But it's a
5 pretty cheap item to buy at the grocery store. So, you can
6 buy lots of it to help feed the kids. So, that's what I
7 figured gave her diarrhea.

8 So, as I was changing her diaper, as I said before, it
9 was all over her. I had a baby wipe on my hand. Nothing at
10 all sexual about this, this, that I'm molested -- charged
11 with right now. So, I was wiping her out.

12 I don't have any kids. I had just learned how to start
13 changing diapers. I'm 27 years old, be 28 in September.
14 Don't have no children. So, I'm not the best guy in the
15 world to be doing this. You know, I hadn't had a lot of
16 practice at it, and it was pretty bad. She had it
17 everywhere.

18 I'm sure a lot of y'all have kids, have children, and
19 you -- regardless of what the examiner said yesterday, you
20 know as well as I do that it -- feces can get inside their
21 monkey and you do have to wipe it out. If you don't, it
22 will cause an infection, and that's what I tried to do. And
23 when I seen that I caused a tear on her I called her mother
24 and told her. We both freaked out.

25 There was nothing sexual about what I done to this

Randall Matheny - Direct examination
by Mr. Poole

1 little girl. I'm very sorry that I did hurt her the way I
2 did.

3 If I'm such an animal, then why was the mother
4 continuing to come back home to me?

5 SOLICITOR REESE: Your Honor, is there a question
6 because --?

7 THE COURT: I'm gonna ask that the witness be
8 responsive to the questions of Mr. Poole.

9 Q Let me ask you this question, Mr. Matheny.

10 You do admit that you, you did wipe her too hard and
11 you penetrated it, right?

12 A Yes, sir.

13 Q Right?

14 A Absolutely.

15 Q Okay. Were you, were you angry at the moment?
16 Were you angry at Kayla---

17 A Yeah.

18 Q ---at the situation?

19 A Yeah, at the situation, yeah. I mean it was a lot of
20 tension in that, in the atmosphere.

21 Q So --

22 A A little animosity between us.

23 Q Do you admit that you, you probably did this thing too
24 hard, don't you?

25 A There's a, there's a chance of that, yes.

Randall Matheny - Direct examination
by Mr. Poole

1 Q Okay. Because the blood was produced, right?

2 A Exactly.

3 Q Okay. But was it sexual in nature?

4 A Absolutely not.

5 Q Okay. In doing this, Mr. Matheny, that is the wiping,
6 did you do it for a sexual purpose?

7 A No, sir.

8 Q Did you do it for sexual gratification on your part?

9 A Absolutely not.

10 Q Did you do it for a satisfaction of sexual lust on your
11 part?

12 A Absolutely not.

13 Q Did you do it for any type of sexual desire?

14 A No, sir.

15 Q Okay. Answer any questions the State may have for you.

16 A Yes, sir.

17 THE COURT: Ms. Reese, your witness.

18 SOLICITOR REESE: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY SOLICITOR REESE:

21 Q You said you moved in with Kayla a couple weeks after
22 you met her?

23 A No, she moved with, in with me.

24 Q Okay. She moved in with you?

25 A Yes, ma'am.

Randall Matheny - Cross-examination
by Solicitor Reese

1 Q Let's -- let me ask you, first of all.

2 You told the jury, when Mr. Poole asked you where
3 you're from, did you tell him that you lived in Spartanburg
4 County all your life?

5 A Yes.

6 Q That's not true, is it?

7 A Sure.

8 Q Did you live in Myrtle Beach?

9 A About three months. I don't technically say it would
10 be living there.

11 Q Did you live in Kings Mountain?

12 A For about a month. I wouldn't say that it was living
13 there.

14 Q You go to school in other places other than
15 Spartanburg?

16 A Yes.

17 Q So, that's not exactly true, right?

18 A It's not exactly false either.

19 Q Did you live in Spartanburg County all your life?

20 A Yes, ma'am.

21 Q You've never lived in Myrtle Beach?

22 A About, about a month or so. I mean my grandma was
23 sick. She had cancer.

24 Q Yes or no, did you live in Myrtle Beach?

25 A Yes, ma'am.

Randall Matheny - Cross-examination
by Solicitor Reese

1 Q When you met Kayla you said she moved in with you.
2 where were you living?

3 A At -- I think the name of the road was Valley Falls
4 Road in Mayo.

5 Q And who was living at that address?

6 A Brad Robinson, Sierra Shell, and the landlord. He was
7 staying in a camper type deal in the backyard.

8 Q Who was the leaseholder at that home?

9 A I think his last name is Roach. Randy Roach, that's
10 his name.

11 Q So, Kayla and you moved in with them, right?

12 A Negative. I had been staying there.

13 Q Who was the leaseholder?

14 A Mr. Roach.

15 Q So, you moved in with Mr. Roach?

16 A And Brad and them. Like I said, he was in a camper and
17 he wasn't living in the house itself. He has a pretty nice
18 camper that's in the back yard. That's where he stays at.

19 Q So, who else is living in this home?

20 A You -- my sister, she was there, and her, her
21 boyfriend.

22 Q Okay.

23 A Brad and Sierra.

24 Q Okay.

25 A And myself.

Randall Matheny - Cross-examination
by Solicitor Reese

- 1 Q What's the name of your sister?
- 2 A Nicki Matheny.
- 3 Q And her boyfriend?
- 4 A Jerry Walden.
- 5 Q And did they stay there the whole time?
- 6 A No.
- 7 Q When did they move out?
- 8 A I'm not exactly sure on the date.
- 9 Q Were there any children in that, in -- with them?
- 10 A With my sister and them?
- 11 Q Uh-huh. (Affirmative).
- 12 A No, ma'am.
- 13 Q Is this the same sister whose children you've raised?
- 14 A No, ma'am.
- 15 Q And who else did you say lived in the home?
- 16 A Brad Robinson and Sierra Shell.
- 17 Q And who are they to you?
- 18 A I've known Brad from high school. Known him for a long
- 19 time.
- 20 Q So, they were friend of yours?
- 21 A Yes, ma'am. Well, friends with everyone. My sister's
- 22 as well.
- 23 Q And did they have any children?
- 24 A Yes.
- 25 Q And what, what were those -- how old were they?

Randall Matheny - Cross-examination
by Solicitor Reese

1 A I think Moriah. I'm not totally sure. She might of
2 been four or five, three, four, or five, and then he had a,
3 a newborn son, Brad Junior.

4 Q So, you and Kayla lived in the house with these people?

5 A Yes, ma'am.

6 Q Now, I believe you said that you left the home at some
7 point?

8 A Yes, ma'am.

9 Q Did you have to leave the home?

10 A No.

11 Q Were you asked to leave the home?

12 A No.

13 Q Was there a situation in the house that you were
14 confronted by Michelle and Mr. Robinson?

15 Did they confront you about your behavior in the home?

16 A Could you be more specific?

17 What kind of behavior?

18 Q Well, were you having altercations with Kayla and were
19 you hitting the children with a belt?

20 A I was having altercations with Kayla from time to time.

21 Q And did they tell you that that wasn't gonna happen in
22 their home?

23 A I don't recall that, no.

24 Q They never told you to get out, that they weren't gonna
25 put up with that in your home?

Randall Matheny - Cross-examination
by Solicitor Reese

- 1 A No, I was paying most of the bills.
2 why would they tell me to leave?
3 Q Then why did you leave?
4 A Because I couldn't handle the stress with Kayla
5 anymore.
6 Q But I thought she moved in with you?
7 A She did.
8 Q Then why did---
9 A She's friends with them as well.
10 Q Your house. You made a big deal about that. It's your
11 house. You're paying all the bills.
12 why would you be the one to leave?
13 A I mean she don't have anywhere else to go as I stated.
14 Q well, how is she gonna pay the bills?
15 A I mean I wasn't -- it wasn't like that I was gonna kick
16 her out, you know.
17 Q How was she gonna pay the bills?
18 A She had Brad and them with her too, but she wasn't.
19 only thing she could do was help sell her food stamps.
20 Q So, this was your friend from high school?
21 A Yes, ma'am.
22 Q You were living there first before Kayla?
23 A Yes, sir.
24 Q There was a problem in the home and you were the one
25 that left, but nobody asked you to leave?

Randall Matheny - Cross-examination
by Solicitor Reese

- 1 A No.
- 2 Q When you left, where did you go?
- 3 A Went to stay with a friend.
- 4 Q And who's the friend?
- 5 A Miss Tiffany Teal.
- 6 Q And who is Tiffany Teal to you?
- 7 A Known her as well from high school. Long time friend.
- 8 Q Does she have any children?
- 9 A Negative. No, ma'am.
- 10 Q How long did you stay with Tiffany?
- 11 A A couple weeks.
- 12 Q And after you left, why did you leave Tiffany's?
- 13 A Because Kayla wanted me to come back.
- 14 Q Come back where?
- 15 A To the residence in question.
- 16 Q Well, if she wanted to come back and you hadn't been
- 17 asked to leave, why not come back?
- 18 A I did.
- 19 Q You didn't come back to the residence, did you?
- 20 A Yes, I did. I went back.
- 21 Q You went back to that residence?
- 22 A For about a day and got my stuff.
- 23 Q But you had to go somewhere else?
- 24 A Yes.
- 25 Q So, you leave there.

Randall Matheny - Cross-examination
by Solicitor Reese

1 where do you go now?

2 where are you working at this time?

3 A I'm doing a lot of odd jobs. Roofing.

4 Q For who?

5 A Jackson Roofing and I'm also working with my cousin.

6 My first cousin owns American Remodeling. I'm working with
7 him as well when there's jobs available.

8 Q So, now you say you were working at Jackson Roofing?

9 A Yes, ma'am.

10 Q Now, was that something -- when Detective Bryant asked
11 you where you were working, did you mention Jackson Roofing
12 to him?

13 A I'm not sure if I did or not. I was -- a lot of
14 pressure.

15 Q But you did mention American Remodeling?

16 A Yes, I believe so.

17 Q And is that where you were working to pay all the bills
18 in this first house?

19 A No, ma'am.

20 Q So, where were you working to pay those bills?

21 A I was working at Jackson Roofing doing odd jobs for
22 them and American Remodeling when jobs were available.

23 Q So, after you leave this house, and you go to Tiffany's
24 for a while, where do you go then?

25 A That's when I talked -- I was talking to Ashley. I

Randall Matheny - Cross-examination
by Solicitor Reese

1 been having talking to her for a while. You know, she was
2 wanting a roommate, and I just happened to call her that day
3 cause she was, she was living there by herself. It's a
4 pretty nice house. She asked me if I wanted to go stay with
5 her.

6 Q How long have you known Ashley?

7 A I've known Ashley for a while. I've known her uncle
8 for a very long time. So, about three years or so.

9 Q So, you've known Ashley for three years.

10 You've known her uncle, and that's Eric Lazurick, for
11 about 13, right?

12 A Or more.

13 Q Do you consider Ashley and Eric your friends?

14 A I would say so.

15 Q Have they known you longer than they've known Kayla?

16 A Yes.

17 Q So, Ashley agrees for you to stay with her, is that
18 right?

19 A She was with it, yes, ma'am.

20 Q And did you pay rent?

21 A Oh, yeah. We split it. It was -- it's a duplex type
22 deal. She paid for half. I paid for mine.

23 Q And, and you were working?

24 A Yes.

25 Q It's your testimony that when you were living with

Randall Matheny - Cross-examination
by Solicitor Reese

- 1 Ashley Directo, despite her testimony yesterday, it's your
2 testimony that you were working?
3 A (Witness nods affirmatively.)
4 Q Okay. When Mr. Poole asked you initially who was
5 living with you when you moved in with Ashley, you said just
6 Ashley. Your exact words were just her.
7 But in your statement to Kevin Bobo you mentioned that
8 she has a daughter that's living there?
9 A Yes, ma'am.
10 Q So, which one is it?
11 Was there a daughter there or not?
12 A Yes.
13 Q And how old was she?
14 A Four years, about four years old. No, younger than
15 that. She was a big kid though. She looked four years old.
16 Q Could she have been two?
17 A Yes. She was a big girl.
18 Q Now, the house that you were living in with Ashley, is,
19 you said, two apartments?
20 A Yes, ma'am.
21 Q Okay. Are they divided completely?
22 Can you close off one from the other?
23 A Through a door, yes.
24 Q Did that door stay closed a lot?
25 A No, not really. We, we mainly stayed on her side.

Randall Matheny - Cross-examination
by Solicitor Reese

1 Q You stayed on her side with her?

2 A That's where all the TV's and the Internet and the
3 computer was and all that.

4 Q So, where did the children sleep?

5 A On my side.

6 Q Where?

7 A There's -- you had a couch and one wall and another one
8 on the other side. She didn't have beds or anything.
9 Kayla, when I say she. They were getting pretty much too
10 big for a crib if you will. So, they was sleeping on the
11 couches.

12 Q So, they were sleeping on the couches in the living
13 room?

14 A My living room on this side of the duplex.

15 Q And where did you and Kayla sleep?

16 A Okay. Now, when you go through that door that
17 separates them, you got this big room. Behind that room is
18 this very very small kitchen, and you go through another
19 door and it's a bedroom with a bathroom. That's where me
20 and her stayed at and slept.

21 Q So, at night, when everyone went to sleep, you and
22 Kayla went to the bedroom and the children stayed on the
23 loveseat and a couch in the living room?

24 A Right.

25 Q Now, did you tell Investigator Bryant that one of your

Randall Matheny - Cross-examination
by Solicitor Reese

1 hobbies is sharpening knives?

2 A Yes, ma'am.

3 Q And that's what you really liked to do?

4 A Pretty good at it.

5 Q Did you have a lot of knives in the house?

6 MR. POOLE: I object to the relevance of this line of
7 questioning, Your Honor.

8 THE COURT: The relevance?

9 SOLICITOR REESE: Well, the picture's in. I just want
10 him to establish these were his knives and these were the
11 loveseats where the children were sleeping.

12 MR. POOLE: It doesn't go to any point in issue.

13 THE COURT: I'll sustain the objection.

14 Q Take me through a normal day.

15 what is the first thing -- in the morning, when you
16 would wake up, you're living in this house with Ashley,
17 what's the first thing you guys would do?

18 A Me, Ashley, and Kayla was there as well---

19 Q Uh-huh. (Affirmative).

20 A ---or before Kayla moved cause I was there---

21 Q After Kayla moves in.

22 A Okay.

23 Q Okay.

24 A Well, if I had to work that day I would get up and go
25 to work. Other than that, it'd just be us just watching TV,

Randall Matheny - Cross-examination
by Solicitor Reese

1 hanging out, a lot of friends in and out of the house, you
2 know, cause we're all rather young. You know how that is.

3 Q All right. Let me---

4 A You know, just taking care of the kids.

5 Q Let me, let me stop and ask you.

6 You just said before you lived with Ashley -- you lived
7 with Ashley before Kayla moved back?

8 A Yes, before she moved in at all.

9 Q And, so, when you said a while ago that you went back
10 to Kayla at the other house --

11 A Right.

12 Q -- that wasn't true?

13 A At the other house?

14 These are two separate locations.

15 Q You told me just a minute ago that you went back -- you
16 said Kayla asked you back.

17 A Right.

18 Q And, so, I went back, and I said but you didn't go back
19 to the house that you had left and you said yes, I did, and
20 then you qualified and said well, for a day just to get my
21 stuff.

22 A Right.

23 Q So, you went to get your stuff and then you moved in
24 with Ashley by yourself?

25 A Right.

Randall Matheny - Cross-examination
by Solicitor Reese

1 Q So, you didn't go back to Kayla in the other residence?

2 You were just allowed to come back and get your stuff?

3 A I just -- I decided to leave because there was a lot of
4 other things that hadn't been mentioned that's also going on
5 with Brad and the other parties at this house. They're not
6 wanting to help pay bills.

7 why do I want to keep all these people up?

8 I don't have any kids. Keep these kids, keep her up,
9 keep his kids up, keep him and his girlfriend up. This
10 is -- they're all very capable people.

11 Q So, you were basically a victim in that house?

12 They were sponging off you?

13 A I wouldn't say a victim, but I was being used.

14 Q You were---

15 A I will agree to that, yes.

16 Q You were the only one working?

17 A Brad would work sometimes, you know. He would -- every
18 now and then when he gets -- he has a -- I don't know if I'm
19 really at liberty to say this about him cause he's not here
20 to back himself up. But if you was to ask him he would tell
21 you, he has a Lortab problem as well. We all had drug
22 problems. That's all been mentioned.

23 Q So---

24 A It's---

25 Q ---you were the only one working at that home, is that

Randall Matheny - Cross-examination
by Solicitor Reese

1 right?

2 A From time to time. I wasn't even working full-time.

3 Q And when you come move in with Ashley Directo, who was
4 working in that home?

5 A She, she wasn't even working. She was selling drugs---

6 Q So, were you---

7 A -- to, to sustain living.

8 Q So -- and you knew that?

9 A Absolutely.

10 Q What were you doing?

11 Were you working?

12 A When I could.

13 Q Did you tell Detective Cantrell that you worked a lot?

14 A I may have. I worked when I could, you know. You have
15 to have money to survive.

16 Q How long had you known these children before you
17 started spanking them?

18 A Three or four months or so.

19 Q And how did that come about?

20 How did you decide, these are my girlfriend's children,
21 I think it's a good time to start spanking them and
22 disciplining them?

23 How, how -- tell me about the first time that happened.

24 A The first time that it happened -- this was a while
25 back. I can't really recall what one of them done. I'm

Randall Matheny - Cross-examination
by Solicitor Reese

1 sure they've done something though.

2 Q well, how were they behaved?

3 I mean what was the behavior of these children in the
4 home?

5 A well, they don't have any father figure period. He
6 won't have anything to do with them. They were pretty good
7 kids. They're twins. Kind of rambunctious if you will.
8 But for their age, they were pretty good kids.

9 Q So, what would be the infraction that required them to
10 be spanked?

11 A Just like, you know, they would, they would, they
12 would -- at -- when they're that age they're real handsey.
13 You know, they -- you got to child proof everything. So,
14 they would always want to snatch stuff off the tables and
15 knock things over and pull them down, you know.

16 Q Like your knives?

17 A No, there was -- my knives was never in reach of those
18 children.

19 SOLICITOR REESE: Your Honor, may I show him the
20 photograph now?

21 THE COURT: Yes.

22 Q Ask you to look at State's Exhibit 25.

23 Is that a coffee table near the loveseat?

24 A This is on the other side. This is not where the kids
25 were sleeping at.

Randall Matheny - Cross-examination
by Solicitor Reese

1 Q So, whose knife is that?

2 A That's mine.

3 Q On the other side of the house?

4 A Right.

5 Q But this isn't the, the coffee table in front of the
6 loveseat?

7 A You got to remember there's two living rooms.

8 Q You -- is this your knife?

9 A This is my knife.

10 Q But it's your testimony that it's just in the other
11 living room and not where the children are?

12 A Right.

13 Q Do the children come to this living room?

14 A From time to time, but not unassisted at all.

15 Q Unassisted?

16 A Or by themselves.

17 Q Were they allowed to be in this living room?

18 A Yes.

19 Q And this knife is on the coffee table?

20 A Yes, at the time of the picture.

21 Q So, it wasn't in reach of the children?

22 A At the time that picture was taken.

23 MR. POOLE: I, again, object on the grounds of
24 relevance, Your Honor.

25 THE COURT: Well, he made a -- I think his testimony

Randall Matheny - Cross-examination
by Solicitor Reese

1 previously had been as to the location that he stored his
2 knives. This goes to credibility perhaps. So, it's a
3 different issue. I'll overrule the objection at this time.

4 Q How many times would you say you spanked the children?

5 A It wasn't an every day thing.

6 Q How often a week?

7 A I couldn't answer that.

8 Q One time, five times, ten times?

9 A One to five would sound right.

10 Q Where would you spank them?

11 A Their hands. Their bottom.

12 Q Ever hit them in the leg?

13 A No.

14 Q Never touched their, their thighs or their legs?

15 A No.

16 Q Ever hit them in the face?

17 A Absolutely not.

18 Q Ever hit them in the head?

19 A No.

20 Q When you would hit them would they fall?

21 A No.

22 Q Did you tell Investigator Bryant that sometimes you had
23 to hit them because they would get out of hand?

24 A Right.

25 Q And that, you say, the infractions were they were

Randall Matheny - Cross-examination
by Solicitor Reese

1 handsey.

2 Is there anything else they did to get out of hand?

3 A Sometimes they could be mean. I mean they're children.

4 Q They could be mean?

5 A Yeah, they're -- like I said, they're children.

6 Q What would they do to be mean?

7 A You know kids can be mean sometimes.

8 How you say it?

9 Q For example, hitting, would that be mean?

10 A Each other, yeah. Yeah, absolutely. Also with
11 Ashley's daughter in the house too, that would go -- she
12 would -- like I said, she was a pretty big kid. She was a
13 whole lot bigger than they were, and they didn't want to
14 share toys sometimes, things like that. You know, I would
15 have to get on Ashley sometimes about how her child was with
16 her, with Kayla's kids. You know, Kayla wasn't really --
17 she's not really a strong woman. So, she looks for support
18 a lot.

19 Q So, you said they would hit each other?

20 A Like most kids do.

21 Q And when they would hit each other, you would
22 discipline them?

23 A It depends on how -- what the actions was. It depends
24 on them.

25 Q So, you would teach them not to hit by hitting them?

Randall Matheny - Cross-examination
by Solicitor Reese

1 A If you put it like that, no. It was -- it's called
2 discipline. They're getting at the age now where they need
3 to start learning discipline or they will be bad kids, you
4 know. They will be in school. They're starting -- they
5 will be going to school before long. They can't go around
6 hitting each other. It can't be allowed.

7 Q But it's okay for you to hit them?

8 A That's not how I was raised.

9 Q It's okay for you to hit them, but they can't hit each
10 other?

11 A Well, you made it sound like hit like I'm beating these
12 children, you know. But it's, it's called discipline.

13 Q I'm gonna show you what's marked State's Exhibit 8.

14 Is that discipline?

15 A I didn't do that.

16 Q Is it discipline?

17 A No, absolutely not.

18 Q Is that abuse?

19 A Yes.

20 Q How about the injury to their head in State's Exhibit
21 7, is that discipline?

22 A That, from my knowledge, is due to that stroller
23 incident that everyone is denying.

24 Q The stroller incident on three areas of his head?

25 A That looks like one to me.

Randall Matheny - Cross-examination
by Solicitor Reese

1 Q You heard the examiner talk yesterday about how many
2 areas?

3 A Oh, I heard, yes, ma'am.

4 Q Did anyone ever confront you about the way you were
5 spanking these children?

6 A Me and Eric had a little disagreement one time.

7 Q Is that the disagreement that he described for the jury
8 yesterday?

9 A Yes, ma'am.

10 Q And he told you no kid should be hit that hard.
11 Do you remember him saying that?

12 A Right.

13 Q After that incident Eric didn't come back to the house
14 for a while, did he?

15 A That's the way Eric is. He comes and goes.

16 Q It so upset him -- did he actually, when he was
17 confronting you, did he actually get emotional about the way
18 he saw you hit these children?

19 A No.

20 Q And for the next two weeks he did not come back to the
21 house?

22 A I'm not sure if he did or not. I was in and out a lot
23 myself. So, when I'm not there I can't say what's going on.

24 Q Where were you when you weren't at the house?

25 A I could be at the store. Could be with friends. I

Randall Matheny - Cross-examination
by Solicitor Reese

1 could be getting gas, could be getting groceries. I could
2 be at work. Just a lot of things happened in a two week
3 time period.

4 Q So, you were working during that time period?

5 A Absolutely.

6 Q Did Ashley Directo confront you about the way you were
7 hitting the children?

8 A She confronted both of us. I'm not the only one that
9 was living there.

10 Q Did she confront you about the way you were hitting the
11 children?

12 A Per se, I guess. I guess so.

13 Q Tell me about the night when Minor 2 went to the
14 hospital.

15 what were you doing that day?

16 A I had come home. They had hamburgers for supper -- I
17 mean Hamburger Helper for supper that night, Cheeseburger
18 Mac. I remember that. Just watched TV. That was the day
19 that Ashley and Kayla and the three of them, they -- well,
20 the three children rather decided they was going to go walk
21 to Wal-Mart and get a few things.

22 Q Where did you -- what -- where were you when they went
23 to Wal-Mart?

24 A Oh, I got a text message on my phone. I was with my
25 friend, Josh Tesnear, riding down the road when I got a text

Randall Matheny - Cross-examination
by Solicitor Reese

- 1 message saying that they was going to go to the Wal-Mart and
2 get some diapers and something else, some few groceries.
- 3 Q When you got home, what -- who was at the house?
- 4 A No one.
- 5 Q At some point did Kayla and the kids come in?
- 6 A Yes, ma'am.
- 7 Q Was **Minor 2** sick?
- 8 A Yes.
- 9 Q And what happened when they came in?
- 10 A She had told me that she had to -- they had tried to
11 put all three of them in a two seater stroller.
- 12 Q Wait. Please do not tell us what anybody said.
13 What happened when they came in?
- 14 A When they came in. Ashley went to take a shower, and
15 Kayla laid the kids down for a nap.
- 16 Q And did you eat Hamburger Helper that night?
- 17 A Yes, ma'am.
- 18 Q Did **Minor 1**
- 19 A Yes, ma'am.
- 20 Q Did **Minor 2**
- 21 A He tried to.
- 22 Q And what happened?
- 23 A He started gagging on it. Started act like he was
24 gonna get sick again.
- 25 Q At that---

Randall Matheny - Cross-examination
by Solicitor Reese

- 1 A So, I---
- 2 Q ---point what did you do?
- 3 A I picked him up and went, laid him down.
- 4 Q Went -- you picked him up and you took him where?
- 5 A To my side. Laid him down on his couch. That's how we
- 6 had deemed it, his couch and her couch.
- 7 Q And, so, what happened next?
- 8 A I went to go finish my meal, go help Dayla, excuse me,
- 9 Kayla with the dishes. Come back in and was checking on the
- 10 kids and Minor 2 looked really pale. He didn't look good at
- 11 all. So, I picked him up to see how he was feeling, see if
- 12 maybe he wanted to try to finish eating, something like
- 13 that.
- 14 That's when he, at that time, locked up. I don't know
- 15 if any of y'all have ever witnessed a seizure in person, but
- 16 it's not, it's not nice especially when they're that age.
- 17 But he had locked up on me and kind of started going into a
- 18 seizure.
- 19 Q So, when Minor 2 went into a seizure -- so, you take him
- 20 to, you take him to the living room and you leave him there
- 21 for how long?
- 22 A Maybe ten, fifteen minutes.
- 23 Q And you---
- 24 A Just long enough to do the dishes.
- 25 Q Then you -- you did the dishes?

Randall Matheny - Cross-examination
by Solicitor Reese

1 A Kayla did the dishes.

2 Q Okay. And then you went back into the living room.

3 Did you check on him?

4 A Back in my side, my side. See, the kitchen -- my
5 kitchen wasn't really usable. It was so small it had a lot
6 of stuff in there, boxed stuff. Was on Ashley's side of the
7 house washing dishes on that, on that side. Where Kayla was
8 I was in there talking to her. So, we walked out through
9 the living room back to my side.

10 Q And you went back in to check on him?

11 A Uh-huh. (Affirmative).

12 We both did.

13 Q Now, just now you said it was you that found Minor 2

14 Was it you or you and Kayla?

15 A I'm the one that picked him up off the couch to check
16 on him, but Kayla was -- we was together a lot, everything
17 we did. 24/7 that's all we did.

18 Q So, it's your testimony now that you and she both were
19 with him when he had the seizure?

20 A Yes, she's the one that called 9-1-1. She seen it too
21 just like me.

22 Q So, when you just told the story before, you said you
23 went back in to check on him, and he locked up on you. But
24 now you say Kayla was with you.

25 A Right.

Randall Matheny - Cross-examination
by Solicitor Reese

1 Q And did you, at that point, tell Kayla if you take him
2 to the doctor D.S.S. is gonna take him?

3 A I may have. I don't remember. It was a really
4 stressful moment I mean because of him.

5 Q Well, it's stressful because he's having a seizure?

6 A Right.

7 Q And in that moment where the child could be dying
8 having a seizure, the thing you think about to tell her is
9 D.S.S. is gonna take them if you take them to the doctor?

10 A No, I was administering CPR at this time cause he
11 actually stopped breathing one time.

12 Q So, when exactly did you tell her if you call 9-1-1, if
13 you take them to the doctor, they're gonna take them from
14 you?

15 A It was some time between then and before the ambulance
16 came.

17 Q But that's what you were thinking about?

18 A Right, I was worried about him.

19 Q And why did you think that D.S.S. was gonna take them?

20 A Because of the weight loss. For them to be of their
21 age, 19, almost 20-months, they was pretty small, and the,
22 the bruises and things on the, on the kids. They seen them.
23 They would definitely take them like they did.

24 Q Did you tell Kayla, when she insisted on calling 9-1-1,
25 did you tell her, at the hospital, my name stays out of

Randall Matheny - Cross-examination
by Solicitor Reese

1 this?

2 A Yes.

3 Q Did you tell her I have Minor 1

4 A She's the one that suggested that she stay.

5 Q Did you take Minor 1

6 A I let her stay with me, yes.

7 Q Did you take her back into another room so that EMS
8 didn't see her?

9 A I took her -- no. She's in the other living room
10 watching cartoons cause she's in clear sight.

11 Q So, did you go out and greet EMS?

12 A No, they came in the house. I was still with him while
13 she was getting pretty hysterical on the phone.

14 Q So, EMS saw you there?

15 A Absolutely.

16 Q Did you go to the hospital?

17 A No.

18 Q Why not?

19 A There wasn't no need to bring both of them to the
20 hospital. Let her go and just -- I mean Kayla -- I mean
21 Minor 1 stayed at the house.

22 Q So, when you stayed at the house with Minor 1 what
23 happened next?

24 where did you and---

25 A I kept getting phone calls. I let Kayla take my phone.

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by Solicitor Reese

1 she kept calling me on the house phone. She never -- they
2 had him in the back, you know. She kept asking me when
3 Ashley was gonna come home, things of that nature.

4 Q Okay.

5 A I told her I didn't know. I couldn't get a hold of
6 her.

7 Q Ashley had not been home for a few days either, had
8 she?

9 A No.

10 Q At some point did you turn out all the lights in the
11 house and start looking out the blinds?

12 A Well, as -- at this point in time -- okay. When Minor 2
13 had this seizure it was already late. It was after six
14 o'clock I would say. I'm not really sure. But at this
15 point it's done gotten really dark, you know. We about to
16 go to bed. So, yes, I turn out all the lights. But when
17 you hear a car pull up like any one of you would suggest
18 would go look out the window and see who's at your house,
19 and that's what I did.

20 Q And where were you in the house when Ashley came in?

21 A Me and Minor 1 was laying on the couch in the living
22 room on her side watching television.

23 Q And -- but now Minor 2 didn't get to the hospital until
24 after 10:00.

25 So, is it your testimony that some time later, a good

Randall Matheny - Cross-examination
by Solicitor Reese

1 deal later, that you are, still have [Minor 1] up with you
2 watching television on the couch?

3 A We wasn't up. We was asleep by the time Ashley --
4 Ashley got there really late. It was really late, but I
5 remember---

6 Q So, you weren't watching television?

7 A We had went to sleep watching television, yes, ma'am.
8 She woke me up when she pulled up. She had -- the person
9 she was with had a really loud sound system and the bass
10 woke me up.

11 Q At some point did you take [Minor 1] into your bedroom?

12 A Yes.

13 Q Did you lock the door?

14 A No.

15 Q You did not lock the door?

16 A No, ma'am.

17 Q So, Eric Lazurick was trying to get in and he just
18 wasn't able to turn the knob?

19 A He never tried.

20 If that was the case, then how did the ambulance or the
21 police come in and get [Minor 1] while I was asleep if this
22 door was locked?

23 Q Did -- the ambulance didn't get [Minor 1] The police
24 didn't get [Minor 1] Ashley got [Minor 1]

25 A Oh, see, I don't know. They never even woke me up. I

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by Solicitor Reese

1 was asleep. I woke up the next morning freaking out because
2 Minor 1 wasn't with me anymore.

3 Q Do you remember Ashley knocking on the door and asking
4 you to let her in and you getting up and letting her in and
5 her coming in and taking the baby?

6 A No, ma'am, that didn't happen like that at all.

7 Q When you freaked out, what did you do when you don't
8 know where Minor 1 is?

9 A I went straight to Ashley's room. I remember clearly.
10 I went straight to Ashley's room and asked her. That's when
11 I was coming through the living room and seen Mr. Lazurick
12 asleep on the couch. I didn't even know he was there.

13 Q Did you know the police had been there?

14 A Not at that time. I hadn't made it -- I'm going
15 through her side of the living room passing the couch and
16 there's Eric laying there and I'm going on around to get to
17 Ashley's bedroom.

18 Q So, what did you do?

19 You find out that Minor 1 has been taken?

20 A I was hoping -- no, I didn't know she had been taken.
21 I thought maybe she had been in there with Ashley. Maybe
22 she had gotten up while I was asleep.

23 Q At some point did you find out that Minor 1 was at the
24 hospital?

25 A Yes, eventually Ashley told me that Kayla had done been

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1 arrested for neglect and they picked her up from the
2 hospital for that, and had she gone -- she continued to tell
3 me that the ambulance or the police, I'm not sure really
4 which one, had came back and asked her to come and grab
5 Kayla, I mean Minor 1 Excuse me.

6 Q So, you do know that Ashley was the one that got her?

7 A I do now. At that time I didn't.

8 Q But when you said just a few minutes ago on the stand
9 you said the police came in and got her?

10 A I thought that's what it was. But the police, the
11 police came to the house to get the child. They got Ashley
12 to do it. Pretty much it's the same thing though because
13 the police did get the little girl in the end.

14 Q You remember talking to Investigator Cantrell?

15 A Yes, ma'am.

16 Q You said she was intimidating?

17 A Absolutely.

18 Q Hostile?

19 A Yes.

20 Q But you still told her the absolute truth?

21 A Yes, ma'am.

22 Q Did you tell her that you only noticed one bruise on
23 each child?

24 A I don't remember that. It was a long time ago.

25 Q So maybe you did?

Randall Matheny - Cross-examination
by Solicitor Reese

- 1 A It's a possibility.
- 2 Q But that would not have been true?
- 3 A I'm not sure, no. Yes, it may of been true.
- 4 Q The night before when Minor 2 was on his way to the
5 hospital, did you or did you not tell Kayla if you take
6 those kids to the hospital, if you take him to the hospital,
7 that D.S.S. will take them because of the bruises?
- 8 A Right.
- 9 Q So, the next day, when Nicki Cantrell asked you if you
10 noticed any bruises on these children, and you said one of
11 them I think had one on the head and the other had one on
12 the head, that would of been a lie?
- 13 A Well, I know clearly that they would of noticed the one
14 on Minor 2 head because it was pretty bad.
- 15 Q If you told her you only knew of one bruise on each
16 child, would that be a lie.
- 17 A No.
- 18 Q When she showed you the pictures, did you change your
19 story and tell her well, the kids were flipped over in a
20 stroller and that's what caused the bruises?
- 21 A She had asked me how Minor 2 had blood on his brain.
22 There was a lot going on at that time. I never changed my
23 story at all about that. I was the one that told her what
24 Kayla told me had happened that day about the strollers.
- 25 Q Did you tell her, at the time, at the -- at first, that

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by Solicitor Reese

1 she was changing [Minor 1] diaper the day before and you saw
2 a little blood on the wipe?

3 A Right.

4 Q Did you tell her that you didn't know what had happened
5 or how she had started bleeding?

6 A No.

7 Q You never told her that?

8 A No, I told her from the start the only way she could
9 have had blood in her diaper.

10 Q You never told her there was shit everywhere and I saw
11 blood on the wipe, but I don't know what happened?

12 A I told her how it happened. I want -- she tried to get
13 me to clear my name. That's, that's the whole reason why I
14 signed all those waivers, why I didn't want to plead the
15 Fifth or not have a lawyer present or anything like that.
16 She wanted me to clear my name and tell her exactly what
17 happened with these kids.

18 Q She wanted you to tell the truth?

19 A And I was absolutely, yes, ma'am.

20 Q You're telling the truth now?

21 A Yes.

22 Q Did you tell her that, when you saw the blood, you ran
23 to get Kayla to show her?

24 A That is at the time that I was cleaning [Minor 1] yes,
25 ma'am.

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by Solicitor Reese

- 1 Q So, that was true?
- 2 A Yes, ma'am.
- 3 Q Did you tell her that you had never seen Kayla hit or
- 4 hurt her children?
- 5 A Not to the extent of her bruises, the bruises---
- 6 Q Did you tell her---
- 7 A ---that they was getting.
- 8 Q ---that?
- 9 A Yes, ma'am.
- 10 Q Did you tell her, at first, that you only popped the
- 11 children on their hands?
- 12 A No, I told her the diapers as well.
- 13 Q You never told her I only chop -- I only pop the
- 14 children on their hands?
- 15 You never told her that?
- 16 A Yeah, I told her that and I also told her the diapers
- 17 as well. They had, they have a diaper on.
- 18 Q Did you at first tell her that you only popped them on
- 19 the hands and then did you change your story, when she
- 20 showed them the bruises, to say well, I also hit them or
- 21 spank them on the diaper?
- 22 A No, it was, it was the same the first time. I told her
- 23 everything at once. Everything she wanted to know.
- 24 Q Did you tell her you didn't notice any injuries on
- 25 these kids because you were working all the time?

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by Solicitor Reese

1 A Right. I did say that.

2 Q And that was not true because you had mentioned the
3 injuries to Kayla the night before?

4 A Right.

5 Q Did you tell her you were working at American
6 Remodeling?

7 A Yes, ma'am.

8 Q But when she called your boss, and he said you had been
9 fired three months before, you told her he was just a drunk?

10 MR. POOLE: Objection, Your Honor, to the hearsay
11 evidence. That testimony is not before the, from, from the
12 employer, before the Court.

13 THE COURT: Ladies and gentlemen of the jury, I'm gonna
14 ask you to step back to the jury room. Don't begin any
15 discussions about the case until I ask you to do so.

16 (WHEREUPON, the following takes place outside the
17 presence of the jury.)

18 THE COURT: Mr. Poole, I believe I recall testimony
19 concerning him saying it's in some statement at some point
20 in time that was his former employer didn't know what he was
21 talking about and that he was a drunk.

22 Didn't I hear that testimony?

23 SOLICITOR REESE: Yes, Your Honor. Ms. Cantrell
24 testified that she made a phone call, that she investigated
25 his work record, and that she confronted him, in a

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1 conference room, that he had been fired previously, about
2 three months I think she said before, and the defendant told
3 her that man didn't know what he was talking about, he was
4 just a drunk.

5 THE COURT: Well, I think that's where the questioning
6 is going. I don't know.

7 Is that where the questioning is going?

8 SOLICITOR REESE: Yes, sir, that's exactly what I asked
9 him.

10 THE COURT: Okay.

11 MR. POOLE: But the question -- actually the question
12 she asked is it not the case that the employer said X, and
13 the employer is never testified and that is hearsay.

14 SOLICITOR REESE: Your Honor, if you'd like I can
15 rephrase the question and you---

16 THE COURT: Well, you -- maybe you should rephrase the
17 question. I mean I -- I thought you were talking about the
18 subject matter of the testimony, the, the---

19 MR. POOLE: Any -- I thought the question was did, is
20 it not the case that the employer said X, and that's my
21 objection.

22 SOLICITOR REESE: I think -- the question that I was
23 asking was, and then when you were confronted with the
24 information that you had been fired three months previously,
25 you indicated that that man was just a drunk.

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1 MR. POOLE: Well, see, that's, that's---

2 THE COURT: Maybe that's not the way you phrased it,
3 but I would allow that question.

4 SOLICITOR REESE: Okay.

5 THE COURT: All right. Let's bring the jury back.

6 (WHEREUPON, the following takes place within the
7 presence of the jury.)

8 THE COURT: All right. The record will reflect the
9 jury has returned to the courtroom, and the solicitor has
10 agreed to rephrase the question.

11 You may proceed.

12 CONTINUED CROSS-EXAMINATION

13 BY SOLICITOR REESE:

14 Q Did you tell Nicki Cantrell that you did not see the
15 bruises because you had been working all the time?

16 A Yes, ma'am.

17 Q When she confronted you that you had been fired three
18 months previously, did you tell her that your employer at
19 American Remodeling was just a drunk and didn't know what he
20 was talking about?

21 A Yes, ma'am.

22 Q Did you tell her that you only used marijuana, but no
23 other illegal drug?

24 A I don't believe so.

25 Q You never told her that?

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by Solicitor Reese

- 1 A I told her that it was a lot of drug use in the house.
2 I was never---
- 3 Q You never told her that you did not smoke meth or any
4 other drug?
- 5 A I never did smoke, smoke meth. So, yes, ma'am.
- 6 Q So, you did tell her that---
- 7 A No, I did say---
- 8 Q ---or you didn't say that?
- 9 A I did say that.
- 10 Q Did you ever say to her these aren't my kids, so it's
11 not my responsibility to know what happened to them?
- 12 A Yes, ma'am.
- 13 Q And you told her the truth?
- 14 A Yes, ma'am.
- 15 Q When you went and talk to Investigator Bryant, did you
16 initially tell him you have no idea how Minor 1 got vaginal
17 tears?
- 18 A No.
- 19 Q You never told him "I had nothing to do with it?"
- 20 A No.
- 21 Q Never told him that?
- 22 A I told him from the start what happened as well, how it
23 could of happened, the only way.
- 24 Q You didn't have anything to do with those vaginal
25 tears, did you, no, sir, didn't happen. Didn't happen.

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by Solicitor Reese

1 That's your testimony?

2 A (Witness nods affirmatively.)

3 Q He questioned you for a while on whether you knew how
4 these injuries happened, didn't he?

5 A Yes, ma'am.

6 Q And at that point did you tell him she had shit tucked
7 all the way up in here?

8 A Yes, ma'am.

9 Q Her mama was standing right beside me?

10 A Uh-huh. (Affirmative).

11 Q I wiped her.

12 A Uh-huh. (Affirmative).

13 Q She started to bleed. That's when Kayla took over.

14 A Right.

15 Q Did Investigator Bryant tell you that you were not
16 gonna create this kind of vaginal tear with a wipe with just
17 wiping?

18 A No, even Sergeant Bobo stated himself that he could see
19 how it would happen, how that could happen.

20 Q He did?

21 A Absolutely.

22 Q He could see how wiping a child would cause vaginal
23 tearing?

24 A Right.

25 Q After -- did Jason, did Jason Bryant ever say to you

Randall Matheny - Cross-examination
by Solicitor Reese

1 wiping a child is not gonna cause vaginal tearing?

2 A No, he was just trying to get me to tell him what
3 happened.

4 Q Did you tell him I whooped him a couple of times, they
5 get out of hand?

6 A Yes.

7 Q Did you tell him I wiped it too hard and she started
8 bleeding. So, I told Kayla. I went and got Kayla and told
9 her.

10 The third story you gave was that Kayla was not with
11 you when this happened?

12 A She was there.

13 Q But did you tell him that she wasn't?

14 A No.

15 Q So, that didn't happen?

16 A Right. He kept trying to lead me, if you will. This
17 goes on for almost two hours, and these guys, when something
18 like this happens, they try to get into your head and get
19 you, to trick you really, to try to get you to say things or
20 to go over things again.

21 Q Or to tell the truth?

22 A If I -- if I didn't want to tell the truth, then all's
23 I would have to say is I don't want to know what happened
24 and I want my lawyer. But I wanted to be helpful.

25 Q What you wanted---

Randall Matheny - Cross-examination
by Solicitor Reese

- 1 A I know them---
- 2 Q ---was for them to believe that you---
- 3 A Absolutely.
- 4 Q ---didn't mean to cause this injury?
- 5 A Absolutely.
- 6 Q Even though you did?
- 7 A Right, I caused the injury. I've never denied that,
- 8 but it was never nothing sexual like you, you're trying to
- 9 accuse me of right now.
- 10 Q Did you put your finger inside this child's vagina?
- 11 A Yes, ma'am.
- 12 Q And did you hear testimony yesterday that there is no
- 13 medical reason to do that?
- 14 A Right, it was said.
- 15 Q Did he continue to say to you you need to stop saying
- 16 that you just wiped her, doctors can prove better?
- 17 Do you remember him saying that?
- 18 A Yeah, I believe so.
- 19 Q And then did you change your story to say she had
- 20 diarrhea and I wiped her, I went too far up in to get it
- 21 out, I put my finger in no more than the middle knuckle?
- 22 A That's false. I told him no more than this finger every
- 23 single time. No more than that with a baby wipe on my hand
- 24 to wipe her out.
- 25 Q You -- did you tell him that there was a baby wipe on

Randall Matheny - Cross-examination
by Solicitor Reese

1 your hand?

2 Did you ever tell him a baby wipe?

3 A Absolutely, from the start---

4 Q And you---

5 A Then he tried to keep coercing me and leading me on
6 saying oh, there's no way that's happened. It's -- why
7 don't you just tell us what happened.

8 Q So, it---

9 A I'm sitting here telling you I'm very emotional at this
10 time.

11 Q It is your testimony that when you talked to Jason
12 Bryant you told him that there was a baby wipe on your
13 finger?

14 A Yes, ma'am.

15 Q Did you tell him that shit was tucked all the way up in
16 her, so you had to put your finger up there?

17 A Somewhere to those lines, language, yes.

18 Q He asked you to tell him one more time. Explain to me
19 how this happened. I need to understand how it happened,
20 and then did you tell him that I did it with my hand,
21 finger. I was ill that day. I worked all day. I was
22 upset. Kayla won't even change a diaper. That's when I
23 stuck my finger in her. Yeah, I guess shit got out of hand
24 and I hurt her, and then you showed him how far, up to the
25 third knuckle.

Randall Matheny - Cross-examination
by Solicitor Reese

1 Did that happen?

2 A No, it didn't -- I never -- that's just crazy.

3 Q You never said that?

4 A That's, that's just crazy.

5 Q And never---

6 A There's no way I ever in my life would tell a
7 Spartanburg County Sheriff's Department officer that I stuck
8 my finger up to my hand. Absolutely not.

9 Q That never happened?

10 A No, ma'am. I continue -- this part right here cause it
11 never -- it didn't take no more than that.

12 Q Did you ever tell him you must have blacked out?

13 A I may have. I don't know. It was -- like I said, it
14 was a very lengthy conversation. He kept having me getting
15 upset, stressing me out even more. It's a very stressful
16 environment when you got someone grilling over and over and
17 over and over and over and over and over for over, almost
18 two hours, and you keep telling them the same thing over and
19 over and over again, and then he tries to get in your head
20 to tell you to say something else to try to tell on
21 yourself.

22 Q To try to tell on yourself?

23 A Right. Try to get you to say something that you know
24 wasn't the truth or that actually happened. In other words,
25 it's not a fact.

Randall Matheny - Cross-examination
by Solicitor Reese

1 Q Did you speak to Investigator Bobo?

2 A I did briefly.

3 Q And you read the statement that you gave to
4 Investigator Bobo?

5 A Right, he wrote it for me and typed it out.

6 Q Did you tell him that you'd seen Kayla grab those kids
7 up in frustration and anger?

8 A I may have. I don't really remember us talking to in
9 detail. He -- his whole role in this thing was my statement
10 to be written out.

11 Q Isn't that what your statement says?

12 A Yeah, but I don't remember calling and -- I mean we
13 didn't really have an interrogation type deal going on. He
14 was just typing out what I said. They try to, they try to
15 help you along, ask you to go and try to put words in your
16 mouth if you will.

17 Q Tell me about the day this happened with Kayla. I want
18 to know -- describe for me exactly -- you've shown the jury
19 a little bit. This, this 18-month old, how -- where are you
20 that day?

21 what, what's going on?

22 A I'm at the residence.

23 Q Okay. Where do you -- when do you realize -- how do
24 you realize that she's got a bad diaper?

25 A I think she was -- I was laying down on the couch. She

Randall Matheny - Cross-examination
by Solicitor Reese

1 was, she was running by and I could smell it. That's what
2 really brought it to my attention in the beginning.

3 Q So, where's Kayla?

4 A Exactly in the house -- I believe she might of been
5 laying -- I'm laying this way. My feet that way. She's
6 laying on the other end with her feet like this, you know.

7 Q So, you got up off the couch to change Minor 1
8 diaper?

9 A And a few other things, yes. Do a few other things as
10 I was going to do that.

11 Q All right. So, you got up off the couch to change
12 Minor 1 diaper.

13 where did you take her?

14 A There's the -- I might of took her into our side of the
15 house, and put it on the loveseat and changed her there.

16 Q So, you take her into the loveseat, and do you take the
17 diaper off and tell me what it looks like?

18 A It was diarrhea. It looks like crap and it was.

19 Q And, so---

20 A It was green in color and it was bad. I felt bad for
21 her.

22 Q So, how did you notice that the diarrhea was up inside
23 her vaginal canal?

24 A When you grab a child's legs, and hold them back to
25 wipe their butt, you can see -- it's, it's there. It's all

Randall Matheny - Cross-examination
by Solicitor Reese

- 1 the way up her, her whole torso cause the diaper -- I'm not
2 asking about her torso. I'm asking you---
- 3 A You're asking me---
- 4 Q ---how you saw it up inside her vagina.
- 5 A I'm trying to explain it to you.
- 6 Q Okay.
- 7 A When you bring the kids legs back, it kinds of opens up
8 a little bit. You can see it's all over the place. I mean
9 it's all over her. So, I'm wiping it out to make sure that
10 I got it all. You can't technically see inside of it like
11 you're stating that I could. But I'm gonna clean that area
12 too just to be thorough.
- 13 Q So, you, you didn't see it up there?
14 You were just being thorough?
- 15 A Right.
- 16 Q Because you want her to be clean?
- 17 A Absolutely.
18 who wouldn't?
- 19 Q And, so, you pull her legs back cause you, when you
20 pull a child's legs back, you can see it open up like that?
- 21 A Well, it gives you access to everything that you need
22 to clean, yes.
- 23 Q So, you decide that you're gonna clean her and how do
24 you go about cleaning her?
25 Tell me about the process of cleaning her.

Randall Matheny - Cross-examination
by Solicitor Reese

1 A Well, Kayla's really the one that showed me how, how to
2 do it. Like I said, I help raise my sister's kids. But by
3 the time that I really started helping them they was already
4 on the toilets. So, there were no more diapers or anything
5 like that. Kayla's the one that showed me how to change
6 smaller children, if you will.

7 Q So, how did you do it that day?

8 A I took her -- I laid her down. You lay them down, you
9 pull their diaper off with the little velcro strips. You
10 pull it off. You pull her legs back like I'm sure you've
11 done. Take the diaper, wipe what you can off with it, roll
12 it up, lay her back down on it, especially when she's got
13 diarrhea the way she does. You don't want to get it all
14 over the couch. You grab a couple baby wipes, and continue
15 to clean the child until she's cleaned up, snatch another
16 diaper out of the bag, and put it on her, and send her on
17 her way.

18 Q But you're leaving out the part where your finger was
19 in her vagina.

20 So how did that happen?

21 A Okay. Now this baby wipe is over my hand. Okay. So,
22 now I'm cleaning the -- Minor 1 I don't want to say the
23 child. I want to say her name. Cleaning the child and made
24 sure that you don't leave nothing inside of her, like I
25 said. So, I stuck my finger in her and cleaned her out

Randall Matheny - Cross-examination
by Solicitor Reese

1 using a twisting motion like that because the diarrhea was
2 that bad. I mean it really was. So, that's what I did. I
3 just, I just twisted out and cleaned her out like that.

4 Q What was her reaction to being---

5 A She didn't like it.

6 Q She didn't like it?

7 A No.

8 Q So, how do you know she didn't like it?

9 A Well, because she fidgeted.

10 Q She fidgeted?

11 A A little bit.

12 Q So, it's your testimony---

13 A Started crying some.

14 Q It's your testimony---

15 A It was uncomfortable I'm sure.

16 Q ---that while she was being torn she fidgeted?

17 A Started -- like I said, she started crying. She was
18 uncomfortable, didn't like it. See when I done that time,
19 I'm continuing to wipe her. So, there's still a lot of
20 feces around her. So, I'm continuing to clean her.

21 You see what I'm saying?

22 I'm using -- it ain't just the size of my finger. You
23 got to remember that I have a baby wipe that's over, folded
24 over my finger as well. So, that makes it a little bit
25 bigger.

Randall Matheny - Cross-examination
by Solicitor Reese

1 Q Did you -- how, how soon after you started doing this
2 did you see that she was bleeding?

3 A When I came back down that way she started to become
4 pretty clear. You could see, you could see the tear at the
5 bottom, towards the bottom right there.

6 Q So, you could actually see it?

7 A Yeah, you could see it a little bit and that's when I
8 was oh, no, I didn't --.

9 Q So, you called the doctor and you took her to the
10 hospital immediately?

11 A I called her mother.

12 Q Who wasn't there?

13 A Oh, she was there. Absolutely.

14 Q She wasn't standing with you because you called her,
15 right?

16 A She, she was -- you have to remember we're in, in the
17 house together. She's coming to me. She's walking off.
18 She was there. I mean she wasn't---

19 Q You testified---

20 A ---far way. She wasn't like she was ten miles down the
21 road. She's---

22 Q You testified just a few minutes ago that she was
23 standing right there the whole time. You just said now that
24 when you saw the blood you went to get her.

25 A No, I never said I went to get her anywhere. I said

Randall Matheny - Cross-examination
by Solicitor Reese

1 that I called Kayla to come here cause she may have walked
2 off. This was over 27-months ago.

3 Q How much -- how long did she bleed before somebody
4 found her?

5 A What do you mean before somebody found her?

6 Q Before somebody realized what she was suffering, how
7 many days, how many hours, how many diapers did you change
8 with that child bleeding?

9 A It not -- it happened -- it didn't happen too long
10 before what happened to Minor 2

11 Q How long before?

12 A I'm not -- I can't give you a timeframe on that. I'm
13 really not sure.

14 Q Did you ever give a time frame?

15 A I'm not sure about that either.

16 Q Did you ever say four or five days?

17 A If I did I don't remember saying four or five days.

18 Q Do you think it was four or five days?

19 A I don't think it was that long.

20 Q In your statement, State's Exhibit 5---

21 A There's no way.

22 Q ---that's your statement, right?

23 A Right.

24 Q Maybe I'm misreading it.

25 A Oh, it's there. I see it.

Randall Matheny - Cross-examination
by Solicitor Reese

1 Q Four or five days ago.

2 A Right. But I could of been wrong. People make
3 mistakes. It's just a piece of paper with words on it.

4 Q And---

5 A Like I said, I have to stress again. It was a
6 stressful environment when I was writing this statement.

7 Q When you changed her diaper---

8 A They made it sound like I was gonna die in prison.

9 Q ---after this happened---

10 A Twenty-five years to life for something that's not---

11 Q After this happened and you were changing her
12 diapers---

13 A It's not like that.

14 Q ---how many diapers did you change?

15 A I can't give you a number to how many diapers it was.
16 Like I said, she was sick.

17 Q Well, how, how -- where -- what was her reaction when
18 you would wipe her, when you would clean her, how did she
19 react?

20 A She was -- I mean she was -- like I said, she was
21 already sick. She was uncomfortable. She's a small child.

22 Q And you continued to do it?

23 A Kayla also helped me.

24 Q Is this the only time you have ever stuck at least your
25 finger inside her?

Randall Matheny - Cross-examination
by Solicitor Reese

1 A Yes, ma'am.

2 Q It's the only time?

3 A Yes.

4 Q And you're as truthful about that as you've been about
5 everything else?

6 A Yes, ma'am.

7 SOLICITOR REESE: Nothing further.

8 THE COURT: Redirect?

9 MR. POOLE: No, sir.

10 THE COURT: You may step down.

11 Defense may call its next witness, next witness.

12 MR. POOLE: There's no other evidence from the defense
13 in this case.

14 THE COURT: Does the State wish to call witnesses in
15 reply?

16 SOLICITOR REESE: No, Your Honor.

17 THE COURT: Ladies and gentlemen of the jury, that will
18 complete the testimony that's being, being presented in the
19 case. I have some matters I need to discuss with the
20 attorneys before we move into the next phase of the trial,
21 which will be the closing arguments made by counsel. I'll
22 allow you to step back to the jury room at this time.

23 As always, don't begin discussions about this case
24 until such time as I've asked you to begin your
25 deliberations.

1 You may retire to the jury room.

2 (WHEREUPON, the following takes place outside the
3 presence of the jury.)

4 THE COURT: All right. Mr. Poole, I assume you would
5 renew your motions at this time?

6 MR. POOLE: Yes, sir, renew any and all motions made
7 pretrial, jury trial.

8 THE COURT: I understand and they're noted. The Court
9 will make the same rulings.

10 As far as you have presented evidence. So I assume you
11 will be going first?

12 MR. POOLE: I must.

13 THE COURT: Followed by the State.

14 I'll give you a few minutes to think about your closing
15 arguments. I will work on a couple things I need to work
16 on. I'll stay on the bench.

17 Court will be in recess for about five to ten minutes.

18 (WHEREUPON, a short recess was taken at this time.)

19 THE COURT: All right. State ready to proceed with
20 final arguments?

21 MR. POOLE: We are, Your Honor.

22 THE COURT: Defense ready to proceed?

23 MR. POOLE: Yes, sir.

24 THE COURT: All right. Bring the jury in.

25 (WHEREUPON, the following takes place within the

1 presence of the jury.)

2 THE COURT: All right. The record will reflect the
3 jury has returned to the courtroom.

4 At this time we'll proceed with the final or closing
5 arguments by attorneys.

6 At this time, Mr. Poole, you may proceed for the
7 defense.

8 MR. POOLE: Thank you, Your Honor.

9 THE COURT: Yes, sir.

10 MR. POOLE: Good afternoon.

11 I've been watching y'all and I appreciate the attention
12 that you have given to this entire case. I -- when we
13 started, what, Monday afternoon, Tuesday afternoon, and here
14 we are Thursday morning and we're ready to wrap up.
15 Wrapping up consists of me being able to talk to y'all in
16 what's called a closing argument stage.

17 I'm here to advocate for Mr. Matheny. I'm here to
18 represent him, and I do the best I can. Ms. Reese will then
19 give her advocacy closing argument on behalf of the State,
20 and then the judge will charge you, and that means he will
21 charge you up with giving you the law, but you know what
22 type law is going to be applicable.

23 What's important is that the defendant is charged with
24 two counts of child neglect/abuse. One relating to the
25 little boy and one relating to Minor 1 and also criminal

1 sexual conduct with a minor in the first degree.

2 These are some of the most serious charges that a
3 person can face in any Court. I can't think of anything not
4 much worse than maybe murder or some seriously injuring
5 someone while intoxicated under alcohol or something like
6 that, driving a car.

7 So, this is serious business, and thank you for
8 listening to everything. It's not been pleasant at all.
9 Nobody's really enjoyed this case. It's the type of case
10 where you have to sit for long periods of time and listen
11 over and over and over again to things that deal with the
12 most intimate parts of the body and certainly little
13 children. So, thank you for being patient. Thank you for
14 being open minded. I'm sure every one of you are.

15 I'm a father. I'm a husband. I went through child
16 rearing several years ago, and now they're at the age in
17 their teens where they know everything. So, I hope I've
18 done the right job.

19 Sometimes we have people come into this Court that are
20 immature or incapable of doing the right thing by children,
21 and that's just the way it is. It's an imperfect flaw in
22 the fragmented world that we live in, and it's in this
23 courtroom, General Sessions, that we see the most fragmented
24 flawed of an imperfect people come in.

25 I want -- I'm not going to even begin to go over all of

1 the evidence because I think that would probably maybe bore
2 you to tears. And, secondly, you're the ones that are to
3 decide the facts. You're the ones to decide what happened
4 and who should bear responsibility.

5 The evidence is in. There were statements given and
6 Mr. Matheny was interrogated for a period of several hours
7 on May 27th, 2011. He was interrogated by at least four
8 interrogators by my count. Let me see if I can remember.
9 Nicki Cantrell. Then it was Joseph Bryant. Then it was
10 Investigator Bobo. And there has been a lot made of the
11 defendant's, Mr. Matheny's statements, to this effect on one
12 occasion, statements to the other effect on another
13 occasion.

14 And, so, the State is going to get up here and probably
15 nitpick that and to the point where I don't know how far
16 that will go. But there are inconsistencies. There are
17 maybe misstatements. But as Mr. Matheny stated to you, he's
18 never been through anything like this before. He was
19 confused. He was scared. He was worried. And, so, those
20 are perfectly good reasons, in my opinion, for
21 inconsistencies to exist.

22 So -- and he did not have to take the witness stand.
23 He got up here and he testified and you got to see him and I
24 believe he testified truthfully. And in a few minutes I'll
25 get to the ultimate issue and what I feel like his

1 responsibility should be held accountable, what
2 responsibility he should be held accountable for in his
3 actions.

4 But you've got to consider the case as a whole. The
5 judge is gonna give you a lot of instructions. Not just on
6 the law. But on what to make of witnesses.

7 We've had several types of witnesses in this case.
8 We've had lay witnesses, people like you and me. We've had
9 witnesses that have come in in jail guard dressed in orange
10 that are serving time. We have witnesses that have come in
11 with prior records.

12 And, so, the judge is gonna give you instructions on
13 what the role of these witnesses are and how you can judge
14 credibility, and there's one instruction for an expert
15 witness. There's other instructions for the testimony of
16 witnesses who have prior records, how to weigh their
17 credibility. So, you've got -- and he'll give you
18 instructions on what freely and voluntary, the free and
19 voluntariness of giving a statement means.

20 So, there's gonna be a lot of law that you'll have to
21 go take back to the jury room when you do go to retire. But
22 right now Mr. Matheny is absolutely innocent of every
23 charge. Only when you find that he is been convicted and
24 that the State is carried their burden of proof by showing
25 that he's guilty of all of these charges, and the elements

1 of every one of them, beyond a reasonable doubt, and that
2 is, as has been said to you before and will be elaborated
3 upon by Judge Couch, a reasonable doubt is a doubt upon
4 which anyone would hesitate to act. So, there you are.

5 Now, I want to talk about, a little about the
6 progression of the witnesses as they were presented to you
7 beginning on yesterday morning, and I have to look at my
8 notes.

9 Kayla Blake. Ms. Blake and Mr. Matheny have had some
10 sort of ongoing, sometimes good, sometimes bad,
11 relationship. Never married. Beginning in 2011 they lived
12 together at one place, maybe two places, maybe three places
13 together, on and off. They tried to make a relationship
14 work and ultimately, of course, that relationship did not
15 work out, and she was the first witness. She was a lay
16 witness. She came in and she testified tearfully along some
17 points, about some points and she testified that, that she
18 was able to take up for herself when in a confrontation with
19 Mr. Matheny, but she would not take up for her children
20 while this alleged abuse was going on. And that she
21 testified further that, for about two weeks or more, that
22 she knew that this was going on, and that Mr. Matheny was
23 doing everything, and he had the full responsibility and he
24 was the culpable one, and, you know, there was no mention of
25 her mistreating the children at all.

1 But guess what happened to her case?

2 she pled guilty. She got probation. You know what
3 probation is. That is your feet are still on the street.
4 You're not in the Department of Corrections, and you got to
5 report and, to your agent. You're, you're still out there,
6 and you don't go to jail. You don't go to prison. She pled
7 guilty and that was a recommendation by the State in
8 exchange for her testimony.

9 The judge is gonna instruct you -- you can consider
10 whether or not someone has anything to benefit or gain by
11 their testimony. So, she's fulfilling a plea bargain when
12 she took this witness stand. So, we're not getting that
13 whole entire story in this case from her.

14 Then we have the next witnesses -- well, and she also
15 said she didn't call D.S.S., law enforcement, or anything.
16 Just state -- stayed where she was. No culpability. No
17 responsibility. But she did admit to unlawful neglect and
18 got the desired outcome. She never did testify that she saw
19 Mr. Matheny, Matheny bruise these children.

20 Ashley Directo. Manufacturing methamphetamine,
21 possession of methamphetamine, purse snatching, violation of
22 probation, unlawful neglect of a child. No one saw, not
23 through her testimony, Mr. Matheny do any bruising.

24 Mr. Lazurick, violation of probation, shoplifting,
25 possession of meth, receiving stolen goods.

1 We don't have anybody testifying they saw Mr. Matheny
2 doing any bruising whatsoever or being neglectful or abusive
3 to these children.

4 Now then we come to the, another phase of this case,
5 which is the law enforcement involvement. There's basically
6 three phases in this case. That's the lay witnesses, law
7 enforcement involvement, and the doctor and the nurse. All
8 right. That's the forensic medicine part.

9 All right. Law enforcement involvement. I'm not --
10 again, I'm not gonna go over everything, inconsistencies of
11 the statement. But just as Mr. Matheny told you, he was
12 scared. He'd never been through anything like that before.
13 They're gonna be inconsistencies. You know, they're always
14 inconsistencies in statements. They're differences in
15 statements. Even when we talk to one another in normal
16 day-to-day conversation, we change our statements. But most
17 of the time we try to mean the same thing if we're telling
18 the truth.

19 Then we come to -- well, one aspect I'd like to
20 emphasize that in the statement, the two hour interrogation
21 of Investigator Bryant, he testified that Mr. Matheny was
22 crying. He testified that he gave differing statements. He
23 testified that -- eventually he said that he did wipe the
24 little girl, Minor 1 He inserted his finger and he did it
25 too hard.

1 Okay. Now, let me tell you this. That's what
2 happened. Mr. Matheny is admitting that he did wrong in
3 that regard. He is admitting that. What that means though,
4 I submit to you, I'm gonna get that probably for the last
5 part of what I have to say to you, but he's not trying to
6 avoid any responsibility in that regard.

7 Okay. So, he even testified, when he was on the
8 witness stand, that I caused the injury, but it was not
9 sexual. I caused the injury, but it was not sexual, and
10 there's no evidence that it was sexual. This was like
11 something in the nature of an aggravated assault. It was
12 not done for sexual purposes.

13 Then we heard the doctor's testimony. I didn't ask him
14 any questions of the doctor because I've been doing this
15 long enough to know if you try to cross-examine a doctor,
16 the worse it gets every question you ask because they always
17 know more than me or any other lawyer unless that lawyer
18 happens to be a trained doctor. So, you heard all that.

19 Then the final witness was the nurse. Now, this is
20 what I've got to say about her. She testified over and on
21 and on all afternoon as to all of these bruises, and I'm
22 sure the State is gonna show you, show them to you again,
23 whether these children -- she testified as to her opinion on
24 how they may have been inflicted, on how, in her opinion,
25 they occurred or angles or blows or fast velocity, slow

1 velocity, all this other stuff.

2 And -- but I want you to bear in mind that she did say,
3 as far as the hymen was concerned, that she can not say it
4 was larger than a finger, the damage to it. I know there's
5 no more damage -- I know there's more damage and she did
6 testify that the interior lacerations could have been done
7 with a finger with a ripping motion.

8 Okay. Let's accept that as maybe being true. That
9 still is not a sexual battery.

10 Bear in mind also that the lady, her highest degree was
11 obtained -- she's got all these courses that you take to get
12 certifications and get qualified and all that. Any type --
13 if you're, if you're in any type of -- it doesn't matter if
14 you're, you know, a commercial truck driver or if you're an
15 accountant or if you're a lawyer or if you're a doctor, a
16 nurse, you can get credit, accreditation by attending so
17 many hours, doing the exams, get hands-on experience, being
18 monitored by a mentor, and all of that. That's all well and
19 good. And you can still be that accountant or whatever
20 other those, other vocations or jobs are and get all these
21 accreditations.

22 At the same time, you can put -- line your whole wall
23 up with them. It just takes time. And this lady's been
24 around for a little while. She got her Associates Degree in
25 the early 90's. But her highest degree that she obtained

1 was a Bachelor of Science in Nursing in August of this year.
2 I mean the ink is not dry on her diploma. She's never
3 testified in Court before, and she has been doing sexual
4 assault exams on children for a period of one, two, three,
5 four years.

6 Now, I know that Ms. Reese is gonna get up here and
7 start really coming down hard on this point. Well, look at
8 this, look at this, look at this. Y'all are the final
9 judges. She's not. She is not the jury in this case. I
10 don't mean Ms. Reese. I mean Nurse Clune. Kelli Clune I
11 think was her name.

12 So, use your common sense. Use your life experiences
13 and what you know when you go back to the jury room. That's
14 all we can ask you to do.

15 Now, the judge is going to instruct you as to what a
16 sexual battery is, and I'm gonna read to you what a sexual
17 battery is out of the book. You're gonna hear it again.
18 And, of course, criminal sexual conduct in the first degree
19 with a minor means that a sexual battery has to occur.

20 Sexual battery means sexual intercourse, cunnilingus,
21 fellation, anal intercourse, or any intrusion, however
22 slight, of any, any part of a person's body or of an object
23 into the genital or anal openings of another person's body
24 except when such intrusion is accomplished for medically
25 recognized treatment or diagnostic purposes. The definition

1 of a sexual battery is followed by words such as sexual
2 intercourse, cunnilingus, fellatio, anal intercourse, or any
3 intrusion, however slight, of any part of a person's body.

4 Now, those words relate to sexual gratification, the
5 fulfillment of one's sexual lust or some sort of
6 gratification or sexual purpose. My argument to you is
7 this. It is our position that the record is completely
8 devoid and absent of this injury occurring because Mr.
9 Matheny was attempting to gratify himself sexually. It's
10 not just battery. It's sexual battery. He's not guilty of
11 this charge because the facts don't fit.

12 That's all I got to say. I don't -- you know, there's
13 no need for me to repeat it again. But that is the most
14 important thing, in my opinion, my humble opinion, that
15 y'all need to consider when y'all start your deliberations.
16 Then you use your own judgment as far as other charges are
17 concerned.

18 I'm sure that you will do your duty. But please take
19 what I say back with you and consider it when you do your
20 deliberations and I know that y'all will do the right thing
21 and thank you very much.

22 THE COURT: Ms. Reese, you may proceed for the State.

23 SOLICITOR REESE: Thank you, Your Honor.

24 In 2008 my husband and I flew to Moscow, Russia to
25 adopt our son. We met him in Astrakhan. His name is

1 Grigoriy, and we didn't know much about him. When we got
2 there to meet him he had a big scar on his head that nobody
3 really could tell us why. We knew he had been abandoned.
4 We knew he was biracial and that was an issue for him. We
5 knew that he was very, very, very, very malnourished, but we
6 didn't know a lot about it.

7 It didn't matter to us because he was 18-months old.
8 He wasn't gonna remember any of this. We were going to be
9 able to take care of him and love him and we were gonna get
10 on a plane and we were gonna ride off into the sunset, and
11 that's what we did. And he is seven now. And the truth is
12 he is the joy of our life. He's not our first child. We
13 have four others. But he's the first adopted child.

14 Interesting things happened over the years. You see,
15 he doesn't know he was malnourished, but when he gets hungry
16 he panics. He gets very upset and we can't console him.
17 We've never told him he was abandoned, but when my husband
18 and I go away from the weekend he can't stand it. We've
19 never told him that he was injured. But he can not -- he
20 has such a hard time forming attachments to anyone, and
21 gravitates toward men who think he -- who he thinks will
22 protect him.

23 You see, he was 18-months old and he can't tell me the
24 story of what happened to him. He probably doesn't
25 remember, but he lives it every day in ways that I will

1 never understand, and I think that is why this case has
2 mattered to me so much. Because it's not just the two
3 18-year old, 18-month old children who are never gonna be
4 affected. They will live it everyday.

5 when I was a child my father was a basketball coach. I
6 told you that before. So, he was never home. But he knew I
7 loved to do puzzles and he would, I think, kind of out of
8 guilt, bring puzzles home to me. And as I got better at
9 them he would put them in a plastic bag so I couldn't see
10 the picture, and it was my job to put them together before
11 he came back.

12 And as I got older and started looking at being a
13 lawyer, and then I've been prosecuting child abuse cases now
14 for about 18-years, I started realizing that those cases are
15 a lot like puzzles because, you see, in child abuse cases,
16 there are no witnesses. People don't sell tickets. They
17 don't tell other people what they do. They don't tell the
18 truth when they're questioned about it. And, so, the child
19 themselves, especially young children, can not tell us.

20 So, what are we suppose to do as a society?

21 Do we just wash our hands of it?

22 Oh, well, nobody can tell us what really happened. We
23 don't -- we've got to know the whole story or do we look at
24 the pieces of that puzzle and do we put them each together
25 so that we get a picture in the end of what happened?

1 So, that's what -- that's how I want to approach this
2 case. It's just looking at the different pieces of this
3 puzzle.

4 First of all we have Deputy Wilson, and the one thing
5 that I think he brings to the, the forefront is that he gets
6 to this hospital and he's got this mother here and he knows
7 she's not telling him everything.

8 But what does she tell him?

9 Maybe he got the injuries from my daughter, his twin
10 sister, who is at the house with my boyfriend. He gets the
11 message, and he calls his detective and investigator.

12 You will see pictures. We have talked about pictures
13 the whole time. You will have these pictures back here.
14 The two officers came in and they took -- and these are not
15 all the bruises. You've seen kind of a graph of at least
16 one of the children, child's bruises. You're not gonna have
17 pictures of all the bruises, but the ones that the doctor
18 honed in on, we knew that we couldn't put in pictures of
19 everybody, every bruise, but you will see what these
20 officers saw. You will see -- and, and this is where that
21 common sense that I talked to you about comes in.

22 Is this abuse?

23 I don't -- we had a doctor, but I don't think we needed
24 one because I think just about anybody that looks at this
25 says this is abuse. This is abuse. Children don't bounce.

1 They don't fall and then bounce, bounce, and bounce so they
2 have 11 bruises on them. This is abuse.

3 You did hear from Kayla Blake, and Kayla -- look,
4 there's no excuses. There is just no excuse. I understand
5 that she's very limited. You could tell that. She has
6 trouble with dates. She has trouble with all kinds of
7 things. So, she has some limitations. But there are no
8 excuses for not protecting her children. There just aren't
9 any.

10 But you have to look at her and her personality so that
11 you know more about this defendant and understand what's
12 really going on here. You notice her demeanor is very
13 timid.

14 From the stand today he said Kayla's not a strong
15 person. Very pliable, easy to manipulate. She's young.
16 Eighteen years old and already has twins. By herself. No
17 job. And she moves in with the defendant, and remember this
18 is within two weeks of meeting him.

19 For the -- the one thing that comes to my mind, one
20 thing that I can say about her is that when someone shows
21 you who they are, I believe them. And throughout this case
22 this defendant has shown us who he is.

23 So, he moves in with this person. He claims they're
24 moving in with him. In actuality, he's moving in with some
25 other friends who also have children, and they're -- what we

1 know from the cross-examination by the defense is there's an
2 altercation in that home. Kayla tells us that he's hitting
3 her children with belts, and that these two people, the
4 people that are the landlords of this house or the renters
5 of this house, confront him and he leaves. We know that
6 there's a physical altercation apparently with Kayla and the
7 defense made a big deal about that. Well, you defended
8 yourself, but you couldn't defend your children.

9 You know what?

10 She didn't defend herself either. She didn't call the
11 police. She didn't leave him. She stayed. It doesn't make
12 sense. Domestic violence never makes sense. Abuse never
13 makes sense. But it's also consistent with who we know she
14 is.

15 She said she has seen him hit her children in the
16 mouth. She has seen him hit her children on the bottom and
17 on the legs. And if you will look at these pictures you
18 will see bruises exactly where she indicates that he would
19 hit these children, and she says, when she asked him about
20 it, he says you need to give your children vitamins. They
21 just bruise easily.

22 When a person shows you who he is believe them cause
23 that's who he is. This isn't my fault. Their bruise,
24 that's not my fault. That's your fault. You're a bad
25 mother. That's your fault. They need vitamins.

1 She states her son, the night this happened, Minor 2
2 gagging at the table, and he won't eat, he's gagging, and
3 that the defendant takes him into another room. But a few
4 minutes later she hears a boom and the defendant laugh. She
5 runs in and finds her son. She says he didn't even look
6 like mine. He didn't even look like my son, and at that
7 moment, when the chips are down, in all her bad decisions,
8 and for all the facts she can't be excused for anything
9 else, in that moment she calls 9-1-1 and she asked for an
10 ambulance. And while she is calling 9-1-1 he says now, if
11 you take that baby to the hospital they're gonna take him
12 from you. D.S.S. is gonna come get him. He even admits to
13 this.

14 In that moment when this child is seizing and nobody
15 knows what's going on and he could live or die, he was
16 thinking of him. Don't take that child to the hospital.
17 And she chooses right for probably the first time with these
18 children. She, she makes sure that that baby goes to the
19 hospital.

20 And what does he say?

21 well, now, oh, my gosh, that's not, that's normal.
22 It's not normal. Wait a minute. She's doing something that
23 she's not suppose to do.

24 How do I handle this?

25 And, so, he decides to say I've got Minor 1 She's

1 with me. I stay out of this at the hospital. Whatever you
2 have to suffer, you go down that spine, but I've got your
3 daughter. She's with me.

4 And so she goes and she does what she's suppose to do
5 until the police get there.

6 And what does she tell Steve Wilson?

7 well, the injuries could of happened by my 18-month old
8 daughter who's at the house. When Kevin Bobo gets to the
9 hospital she tells him the same thing, and they go out and
10 they get her daughter.

11 Her story is consistent with what the police found.
12 When they get there, he's got this child with him despite
13 the fact that we know from the testimony that this child was
14 suppose to be sleeping in the living room on the couch.

15 where is she?

16 She is locked in a room with him in his bedroom.

17 Kayla says she had seen blood a couple days before.
18 When she walked in and he had just finished changing the
19 diaper, she saw a small amount of blood on the wipe, and she
20 asked him what happened. I wiped her too hard and she bled.
21 So, it's a story he has used before and it's worked. He
22 used it on Kayla and it works. She didn't ask any questions
23 because that's who she is.

24 She has no idea about the injuries her daughter had
25 because what does he say?

1 He was the diaper changer. He kind of had taken over
2 changing diapers.

3 Now, does that make sense?

4 Common sense.

5 This is a man who has a girlfriend. These aren't his
6 children. He's known her a couple months. But he's taken
7 over diaper changing.

8 My husband is 6 feet 4-inches tall. He is an ER
9 doctor. And when one of my children have a bad diaper I can
10 not find him anywhere. He's missing.

11 How likely is it that a 25 or 26-year old man is going
12 to decide that he is the diaper changer for two children he
13 has no relationship to?

14 It makes sense if what he needs is access, and that he
15 needs to cover up what he's done.

16 Now, a lots been said about Kayla getting probation.
17 She absolutely did. Remember though he said she testified
18 this way because she got a deal. She gave a statement the
19 next day. The very next day, when she realizes both
20 children are out of the home, she tells Detective Cantrell
21 what happened. So, that statement was not because she
22 testified for us and agreed to say a certain thing. She had
23 told, the very next day, what was going on.

24 She does her treatment plan. She works with the
25 Department of Social Services. They monitor. They give her

1 back the children.

2 As a prosecutor, I just don't feel it's reasonable then
3 to send her to jail. She's finally got those kids back.
4 Those kids are finally stable.

5 Guess what?

6 Not one injury. Not one injury. Not one issue in
7 almost two years. And either those two children have gotten
8 a lot less clumsy or they got rid of what was hurting them.

9 You heard from Ashley Directo. She has convictions. I
10 told you I wasn't dressing those people up. I didn't change
11 their clothes. I let you know who they are. He, the
12 defendant, moves in with her. They're friends. They been
13 friends for about three years, and she says she sees him
14 hitting the child, the little boy, on the thigh hard. She
15 confronts him about that. Consistent with what she said is
16 happened.

17 She can't remember what he says to her. She says that
18 although it's a private residence and although the door's
19 often closed or sometimes closed, she hears sounds. She
20 hears boom or thuds, something hitting hard on the floor in
21 that living room, and the children crying.

22 That is consistent with what Kayla said, and the two of
23 them have nothing to do with each other. They both talk
24 about a boom or a thud that they're hearing in the next room
25 and the child crying.

1 She says, when she comes home after Minor 2 at the
2 hospital, the house is dark, and he's peeking out of the
3 blinds. He knows that child's at the ER and he knows
4 they're gonna find out at least part of what he's done.

5 Minor 1 is sitting at, in the dark, in the middle of
6 the night, this 18-month old, on a couch with him in the
7 living part. And then when Ashley gets home, he moves her
8 into a locked bedroom because the best evidence of who he
9 is, is Minor 1 and he's got to keep her close.

10 Ashley Directo talked to law enforcement the very next
11 day. She is no friend of law enforcement. She has not had
12 a good record. Yet, she was willing to tell them what she's
13 been seeing in this house and not -- for no reason.

14 what does she have to gain?

15 There's been no, no deals with her. She went to
16 prison. She gets nothing for doing this.

17 Eric Lazurick. Eric Lazurick has one of the most
18 important facts I think in this case is Eric Lazurick was
19 his friend for 13 years. He didn't know Kayla. That was
20 the relationship. And he tells you that he's there one day
21 and he hears, again consistent, a boom or a thud. He has to
22 run through the kitchen, through a living room, through a
23 dining room, through a back hall, into a closed door. He
24 has heard these sounds all the way into a second apartment.
25 He has to open that closed door, and when he walks in, he

1 sees that Minor 2 is in the lap of the defendant, and he sees
2 the defendant hitting him. Four or five times before he
3 could get there.

4 Not the kind of boom or thud that happens in your house
5 where you go what was that. This was a boom or a thud that
6 sent this man running from one apartment into the next, and
7 it wasn't even his daughter. He talks about the
8 confrontation, and he got a little bit teary eyed on the
9 stand. He talks about it. Stop it. Not your kid. If he
10 were my kid you'd be dead right now. Stop it.

11 He's 18-months old. He knows what he's doing, and
12 somebody shows you who they are, believe them.

13 He is so upset that he leaves. He doesn't come back
14 until two weeks later when his niece calls him, in the
15 middle of the night, to say Minor 2 is in the hospital. He's
16 got some kind of head injury. And this man, this man who is
17 at the Motel 6, who has no connection to these children,
18 walks seven miles to this house to get the defendant. He is
19 so upset by what he saw -- and remember this isn't a man
20 who's had a sheltered life. He's in the Department of
21 Corrections now.

22 He walked seven miles back to that house, and when he
23 gets to the house, he can not get in the locked door. He
24 doesn't know Minor 1 there. He comes through the house.
25 He tries to get in that locked door. He can not get in that

1 locked door. He says that Ashley wouldn't let him break it
2 down because she already had some issue with the landlord.

3 So, he says to you so I sat on the couch.

4 why did you sit on the couch?

5 Cause he had to come out eventually.

6 This is the reaction of a man who has no connection to
7 these children based on what he saw in that home. He has
8 nothing to gain. Nothing to gain by being here. This
9 doesn't make him popular in the Department of Corrections to
10 testify against somebody, and yet he comes and he says I
11 want to tell you what happened because no kid should be hit
12 like that.

13 Detective Cantrell, I'm really not gonna spend a lot of
14 time on the statements cause frankly I can't get my mind
15 around them there's so many of them. He never told the
16 story the same way twice. He never told the story the same
17 way twice. It was -- it didn't make -- it varied. It
18 varied. Kayla's there. She's not there. This happened,
19 that happened.

20 You saw him on the stand today. He can not tell the
21 story.

22 You know why?

23 Cause the truth doesn't help him.

24 The truth doesn't help him. So, he has to change the
25 story depending on what he needs to say at that moment, and

1 he, he looks at all of us like oh, well, we didn't just hear
2 what he said three minutes ago. Like it's gonna be
3 perfectly reasonable to change it now.

4 He goes to an interview with Nicki Cantrell because he
5 believes that he can convince her. He's a showman. He
6 comes in. He performs and he's gonna come in and talk to
7 this lady and she's gonna believe everything he says, and he
8 goes in and he narrates a story just like he did to you
9 today. He narrates. And then when she starts questioning
10 him, the story completely falls apart cause he can't
11 maintain it. He's never been questioned. People don't
12 question him. Kayla doesn't question him. Falls apart.

13 So then what does he do?

14 All right. He's in twenty minutes with her, and he's
15 in shambles compared to what his first story was.

16 So, what does he do?

17 He's got to write it down. He retreats. Six lines and
18 he says exactly something different, exactly the opposite.
19 He pulls everything back.

20 One bath. He never hit them. I was changing diapers
21 and saw blood one day, but I don't know what happened.
22 That's what he said in writing. He didn't know what
23 happened. Never said I hurt her with my finger. Not his
24 job to worry about these kids, and I think the truest
25 statement -- the only real statement I think is, is

1 really -- all of them are crazy. All of them are, are, are
2 just unbelievable.

3 But when you look at the one statement about his
4 employer, I was working so much I didn't see the bruises.
5 You were fired three months ago. Oh, that guy's just a
6 drunk. He doesn't know. My employer doesn't know what he's
7 talking about cause he's a drunk. He will look her in the
8 eye and tell her that knowing that she has all the
9 information already cause people don't question him. You're
10 suppose to just believe him.

11 Kevin Bobo goes -- he removes these children from the
12 home. He goes and gets this child. Has Ashley Director go
13 into this bedroom and get this child cause law enforcement
14 doesn't -- what are they gonna do?

15 Bust down the door?

16 Well, the child's in there. They got to try to figure
17 out a way to get her out of there safely. So, he says no
18 lights and sirens. He brings the ambulance and then he gets
19 Ashley to go in and get this child, and she's able to get
20 this child, and he says they put her in the ambulance and
21 immediately take her diaper off and he's says it looked like
22 to me she hadn't been changed in three days.

23 Remember, this man's testimony is that he's in charge
24 of diaper changing, and he's so meticulous about her being
25 clean that he needs to clean out inside of her. And yet she

1 has a diaper on, when they find her, that immediately EMS
2 changes because it's so bad.

3 So, apparently she's only meticulously cleaned when?

4 He tells Jason Bryant a lot of stuff. He starts off by
5 saying I don't know, I don't know how this happened. I got
6 no idea. No idea at all. And it changes to I was wiping
7 her. I saw the blood. I saw the blood, and I went and got
8 Kayla. Oh, well, I was wiping her, and I went and got Kayla
9 cause it started bleeding. Maybe I wiped her too hard.

10 But you know what?

11 A wipe's not gonna cause an internal vaginal tear.

12 Okay. Well, maybe then, let's see, maybe I just was trying
13 to get the poop out of her vagina and then I may of torn her
14 a little bit, but Kayla was standing right there. I only
15 put it up to my second knuckle. The next time, I only put
16 it up to my third knuckle. I was just trying to clean her.
17 So, I went and got Kayla.

18 And then, finally, when people are looking at him like
19 really, I may have blacked out. I may of blacked out. I
20 don't remember hurting her.

21 Again, he goes in and talks to Investigator Bryant,
22 who's very personable, and he's gonna give him a narrative.
23 He's gonna give him a story because he knows he's gonna be
24 believed and if he's not believed he retreats. And when it
25 comes time to do the written statement, he retreats again.

1 This time he's got a wipe. It's a nice touch. The
2 wipe is a nice little addition because he sits in that room
3 and he thinks until Kevin Bobo gets there, and then he
4 thinks hum, how do I make that sound better than it just
5 did. So, he adds the wipe. When he's questioned, he adds
6 the wipe.

7 Doctor Rishmawi was a little bit confused when he first
8 got here about which child we were talking about. He
9 thought he had the four year old with the other, the other
10 mother. But, in the end, what you will see are the pictures
11 of the child that he treated. The pictures of [Minor 2] and
12 what they find out is not just is [Minor 2] been beaten. But
13 he has a subdural hematoma. He's bleeding on his brain.

14 This is what it was like to live in this house with
15 this defendant, and it's not what it's like to be [Minor 2]
16 there. There's one difference, one change that's been made.
17 Not by his mom. One change that's been made in [Minor 2]
18 life is the defendant is no longer a part of it.

19 Surgeons had to be called. He says, you know, when one
20 injury happens like that, you can't really diagnose on one
21 injury because things happen accidentally. So you look at
22 the whole picture, and what we see is bruising here,
23 bruising here, and bruising here, and I said could this be
24 discipline, and I think he was a little bit sarcastic. He
25 said, yeah, if you're gonna discipline on the head, and on

1 the back, and on, you know, this.

2 This is abuse. It is more consistent with abuse is
3 what he said. And, again, if you look at these injuries,
4 and you listen to the testimony of Eric Lazurick and Ashley
5 Directo, it's exactly the areas they say were being hit when
6 they saw him. And if you take these pictures and you
7 compare them to each other, these two children have the same
8 injuries in the same areas. The forehead. The thigh. The
9 back. Everything is the same. It's the same locations.

10 And then we talk about Kelli Clune. She's not a
11 doctor. She's not a doctor. The way it works is when a
12 doctor suspects that he has a sexual assault on a child,
13 calls her to come do the exam because it doesn't mean that
14 she's got more education. It doesn't mean she's smarter.
15 It just means that she's got a lot of training in this area.
16 A lot of training in this area. So, they call her to come
17 do it, and you heard her credentials.

18 Do you even try to make her out to be somebody that
19 just graduated?

20 You heard her credentials. She teaches. She's
21 certified. I was impressed. I was very impressed.

22 And what does she tell about the injuries she sees?

23 First of all, you get to see these diagrams, and I
24 think that's what you need to know about the physical abuse
25 about the two counts of neglect. You can not throw a dart

1 at one of these pictures and not hit an injury. Eighteen
2 months old. And she talks about not only can she say that
3 these children were injured, but that many of these were
4 pattern injuries, which were significant to her.

5 The bruising to the ear. She showed you the handprint
6 on the face.

7 An injury that I think is significant in this case, an
8 injury that she noted, and then photographed is in State's
9 Exhibit 14. Two thumbprints on the inside of this little
10 girl's legs. Linear. Pressure bruises she says. Slow
11 pressure bruises in the inner part of this little girls
12 legs.

13 where is your hand and your wipe if you've got your
14 hands on her thighs pulling them apart?

15 where's the hand?

16 She says that there's an area of spinal bruising here
17 where pressure's being applied. She's -- she -- it's
18 possible pressure is being applied cause here that's what's
19 causing the bruising. Two significant tears. Two
20 significant tears. One at the top and the bottom, but she
21 talks about the one at the bottom going through all of those
22 layers. She talks about from the bottom to the top, how
23 significant that was. And, in her opinion, larger than a
24 finger.

25 She also says when they do an evaluation the next day

1 there's an internal injury in the vaginal -- tear in the
2 vaginal wall or vault I believe she said. It could be a
3 continuation of the same injury. This could just be --
4 that, that could be a continuation of the same injury, and
5 then we got into well, but if it was just the hymen, if it's
6 just that part, could it just be the finger, and she said
7 yeah, if it's just the hymen it could be a finger. But it's
8 not. It's one tear all the way through.

9 She says that, in her training, what she sees is that,
10 in confirmed cases of sexual abuse, you only see about five
11 percent have medical findings. So, if she sees, in all of
12 her things, if she finds, even in cases of confirmed sexual
13 abuse, she said that study had been done with pregnant
14 teenagers, only five of them actually showed physical signs
15 that they ever had been molested or hurt. So, she knows
16 that if her numbers are better than five percent she must be
17 looking too hard. So, she tries to make sure that she's
18 never looking too hard for something, and then she talks
19 about the reason is that you don't have injuries in this
20 area. It's because the skin inside this area is like the
21 skin inside your cheek. It's pliable. It stretches further
22 than you think it would.

23 How significant are these injuries?

24 She talks about what she calls the hymen in a child
25 being estrogenized, and she says, as they get older,

1 prepuberty, it begins to be estrogenized. But before that,
2 especially at this age, to touch it is excruciating. So
3 much so that the standard for her, when doing exams, is that
4 she doesn't touch the hymen with a Q-tip because it causes
5 such pain and discomfort. That's why they don't do an
6 internal DNA swab, they do an external, cause the pain is so
7 bad.

8 This child's hymen was torn through. The other areas
9 she's talking about were torn through. This is not a child
10 who's having this done to her who's fidgeting. It would be
11 obvious. Obvious what you're doing to her as you do it.
12 She would be in terrible awful pain and you would know that
13 as you were performing these acts on her.

14 what he tells you from the stand is well, she didn't
15 like it. She was fidgeting.

16 He asked -- Mr. Poole asked her yesterday, well, but if
17 it was just one finger it could be like -- it could cause
18 that internal injury too in the hymen and she says, you know
19 the only way I think it could happen is if you put your
20 finger in and you went to the back and you ripped. Nobody's
21 cleaning a child like that.

22 The best piece of the puzzle for me actually I think in
23 this case might of been the defendant cause when a person
24 shows you who he is you believe it, and you got to see it
25 from the stand. You actually got to see it from the stand.

1 Could not tell -- could not even tell the truth about
2 where he lived.

3 The first question, have you lived in Spartanburg
4 County?

5 All my life. Lived here all my life.

6 And then I asked him, well, wait a minute. Didn't you
7 go to school in Myrtle Beach?

8 For a month.

9 Didn't you go to school in this place?

10 For a month.

11 well, did you live other places?

12 well no. well yes. well no.

13 He could not tell the truth about where he lived. It
14 was important for him to get up here and I'm, I'm from
15 Spartanburg, and it went from there. No matter what I asked
16 him he could not tell the same story the same way.

17 What did he say about Detective Cantrell that I think
18 is telling?

19 She, she wanted me to tell on myself. She wanted me to
20 tell on myself.

21 The biggest moment for me though is when he shows you
22 what he's doing to this little girl and he tells you that,
23 you know, when you pull a child's legs back, you can get --
24 you have access to everything you need. When you pull a
25 child's legs back, you have access to everything you need.

1 I couldn't actually see up in there. I was just being
2 thorough.

3 So, the prior stories about oh, she had all of this
4 stuff up in here, the doctor says no, not at this age. Oh,
5 well, I couldn't actually see. I was just being thorough.

6 He's got to have an explanation. The injury is there.
7 He knows it's there cause it's been bleeding. He's got to
8 have an explanation. This is what he comes up with. This
9 is it. This is what he's got.

10 The problem is it doesn't match what we know the
11 medical evidence is. So, he says look, I'm, I'm, I'm using
12 a wipe to clean her. I submit to you the more reasonable
13 explanation is he assaulted her and then he may have used,
14 may have used a wipe to clean her up.

15 The defense in this case is well, everybody's lying but
16 me. Everybody's lying. Kayla's lying about me. Ashley's
17 lying about me. Eric Lazurick, my friend of 13 years, is
18 lying about me. Officer Nick Cantrell's a liar. I didn't,
19 I didn't say all that. That's not true. The stuff that
20 Jason Bryant said I said I didn't say that. Everybody lies
21 but him. Everybody.

22 The problem is each of these witnesses is corroborated
23 by evidence that you see. It reminds me, as a child, my
24 sister's favorite movie was Wizard of Oz and we use to watch
25 that. But there's a scene in the Wizard of Oz where they

1 come in and the guy's behind the curtain and the dog moves
2 the curtain and he's talking as Oz into this microphone, and
3 he turns around and, and he sees everybody's watching and he
4 says pay no attention to that man behind the curtain. They
5 can see him. Pay no attention to that man behind the
6 curtain.

7 what he tells you is his biggest offense is this was
8 not for a sexual purpose.

9 Guess what?

10 It doesn't matter.

11 I think that we've proven that. It does not matter.
12 The statute doesn't require that we show what his intent
13 was. That doesn't make any sense. People rape for all kind
14 of reasons. They rape for power. They rape for control.
15 They rape for sexual torture. We should not -- if a man
16 rapes someone in front of witnesses, the defense should not
17 be well, woo, woo, wait a minute, I know you saw it, but
18 that's not what I was thinking. I wasn't even thinking
19 about sex. Let's think about something else.

20 It does not matter. The statute says sexual battery is
21 intercourse, cunnilingus, fellatio, anal intercourse, or any
22 intrusion, however slight, into the vaginal or anal openings
23 of a child by a person's body or other object unless for a
24 medically recognized diagnosis or treatment. It's not a
25 diagnosis. It's not a treatment. We've established that.

1 Any intrusion, however slight, of any part of a person's
2 body or object into the genital opening.

3 We don't have to show what it is. He admits it's a
4 finger. That's enough. Any intrusion, however slight. We
5 don't have to show a sexual purpose. You will not hear --
6 the judge is going to tell you what the law is, and you will
7 not hear him say an element of this crime is that we have to
8 prove a sexual purpose. We don't have to prove that.

9 Criminal intent means that you intend to do an act.
10 You intend the act. You don't necessarily have to intend
11 the result. You can not get into a car as drunk as you can
12 be and drive down the road and hit somebody and kill
13 somebody and say well, woo, woo, wait, I'm not guilty
14 because I didn't intend to kill anybody. You intended to
15 drink. You intended to drive. You can not mix, split hairs
16 about oh, well, but you don't know what I was thinking.

17 You can never prove what somebody's thinking in the
18 brain. You can do it by extrinsic evidence. I think we
19 have proved what happened to him. We don't need it. It's
20 not required under the statute.

21 I told you in the beginning keep your eye on the ball.
22 This is, this is the issue that I think is the smoking
23 mirrors. The problem that the defense has is we can prove
24 the intrusion, however slight. We can prove that it
25 happened into the vaginal opening of this child. We can

1 prove that she's 18-months old. This is the smoking mirror.

2 The second defense is oh, I was just doing this to
3 clean the child. That's not reasonable. Common sense tells
4 you that's not reasonable. It does not make sense. I'm not
5 even gonna insult your intelligence by going into why it
6 doesn't make sense.

7 Kayla's charged with the same crime. That's -- we
8 heard that a lot. The neglect statute, unlawful conduct
9 statute, encompasses everything from a failure to protect
10 all the way up to beatings. She's charged under the same
11 statute. She's not charged with the same conduct. It's
12 just the way the law is made. It's immaterial. It doesn't
13 matter what happened in Kayla's case.

14 The question about this case, what happened here, have
15 we proven the elements that we need here, did this
16 defendant -- and that's what has to be for unlawful conduct,
17 which is also abuse.

18 By the defendant's actions, did he place the children
19 at an unreasonable risk of harm affecting their life,
20 physical or mental help, or safety?

21 In what he did, in hitting these children, did he
22 create an unreasonable risk of harm to their safety or to
23 their mental health?

24 We can't tell you the exact dates. When you see these
25 indictments you're gonna see that it gives you a time frame.

1 These children don't have calendars and they don't mark down
2 when they're hurt. So, we can't tell you exact dates. We
3 don't have to tell you that. We've given you a time frame
4 because we know about the reasonable time frame within which
5 this happened. Otherwise we'd never be able to prosecute
6 anybody for any crime against a child.

7 The best evidence -- the judge will talk to you about
8 criminal intent. We're not talking about specific intent.
9 That's not necessary in this case. He'll talk to you about
10 criminal intent and there's got to be a criminal intent
11 here.

12 The best evidence of that criminal intent is the pain
13 involved, the pain that he inflicted on this child while
14 doing it. It tells you that this was not for any other
15 reason than inflicting that pain for satisfying himself. If
16 she's bleeding, he says four or five days in his statement,
17 and he continues to despite the fact she's screaming,
18 despite the fact this continues, this is violent and it is
19 criminal. It isn't naptime.

20 You know the true picture in this case, and I say this
21 is that this defendant surrounds himself with people. It's
22 what he does. He surrounds himself with people who are
23 weak. He finds Kayla. He says himself she's not a strong
24 person. She has two children. He moves in with Ashley
25 Directo. Obviously drug addicted. Obviously had all kinds

1 of problems with meth who also has a daughter. He initially
2 hits kids with a belt and he moves in at the first place and
3 was asked to leave and he leaves. He had moved in with them
4 a few months before.

5 Guess what?

6 They have two children.

7 For a man who can't handle children he sure seems to
8 find homes to live in where there are children.

9 He hits them on their -- the face. He hits them on
10 their legs. He hits them on the bottom. He hits them in
11 the head. The beatings continue and Kayla doesn't do
12 anything. She does nothing. Eric Lazurick stands up for
13 them. He stands up to him, but he doesn't live in that
14 home. Kayla lives under the constant threat. Look at those
15 bruises.

16 If you take them to the doctor D.S.S. is gonna take
17 your children. Don't take them to the doctor. You know
18 what's gonna happen. She sees the blood and he tells her
19 he's just wiping her hard.

20 One person knows what is really going on in that house
21 and it's the defendant. One person in that moment knows
22 exactly what's going on. He starts taking over the diaper
23 changes. He knows extent and nature. Look at those
24 thumbprints on the back on these thighs.

25 And then on May 26th he goes too far and Kayla

1 decides to call 9-1-1 and that's where things went wrong.
2 If that call hadn't been made we still may not know what was
3 going on in that house. In the moment where her child may
4 be dying, he takes the time to say if you call, your
5 children will be taken. I have Minor 1 My name stays out
6 of it. The best evidence is he keeps Minor 1 cause he knows
7 if that child goes to the hospital, it's not just bruising.

8 When we went to Russia I had different things that I
9 brought home to my other children. For my girls I brought
10 the little nesting dolls, the Russian nesting dolls. I
11 don't know if you've seen those. But you open a big one and
12 the little one comes out and another one comes out, and as
13 the defendant started talking today, I thought, you know,
14 now I really do understand it. He's the gift that just
15 keeps on giving.

16 Every time you talk to him, every time you talk to him
17 it was a new story. It doesn't matter. It doesn't matter
18 whether this was a finger. It doesn't matter whether it was
19 a penis. It doesn't matter what object it was. We may
20 never know for sure.

21 As human beings we want to know. We want to know what
22 happened. It's important to us because somehow we think if
23 we just knew, if we really knew we'd understand it and we
24 would feel better about it or we could do something about
25 it. It's a desire for us to know.

1 I pretend that if I knew, if I really knew what had
2 happened to my son before I met him I'd know. I could go
3 back and I could help him change whatever it was or deal
4 with it so that he wouldn't have the feelings that he had.
5 But, you know, I've thought about it.

6 what if I did know?

7 what if I knew everything there was to know about what
8 was done to him over there?

9 It wouldn't matter again because I wouldn't understand
10 it. It wouldn't be good enough. It wouldn't make sense.
11 So, I have to live with the fact that I just won't know. He
12 was in the hands of people for the first couple years of his
13 life, and I will never know what that was like for him. I
14 can't do anything about it. I can love him now.

15 [Minor 1] and [Minor 2] for several months, were in the
16 hands of the defendant. It's tragic. It's horrible and
17 their lives will be different because of it, and you can't
18 do anything about that. You can't change it. But you can
19 do something now. Because today, they're in your hands.

20 THE COURT: All right. Ladies and gentlemen of the
21 jury, that concludes the closing arguments by the attorneys.
22 Before I begin my charge on the law I'm gonna give you a
23 short break back in the jury room.

24 So, at this point in time I'll ask you to step back
25 there. As always, my instructions are not to begin any

1 discussions about this case until I've asked you to begin
2 your deliberations.

3 You may retire to the jury room.

4 (WHEREUPON, the following takes place outside the
5 presence of the jury.)

6 THE COURT: Ms. Reese, during your closing arguments
7 you gave an analogy concerning the child that you had
8 adopted in Russia.

9 SOLICITOR REESE: Yes, sir.

10 THE COURT: And, and I allowed it to go on because I
11 thought it was gonna be tied into some evidence that was
12 placed into the trial of the case. However, I never heard
13 that connection made. I wanted to let you know that I'm
14 gonna instruct the jury to disregard those, those remarks.
15 I find that they were not on any evidence that was placed
16 into the trial of the case, and, therefore, should not be
17 considered by them in reaching a verdict in this case. So,
18 I'll give that ruling from the bench before I begin the
19 instruction.

20 SOLICITOR REESE: Yes, sir, I only intended for
21 illustration about the---

22 THE COURT: Oh, I understand it was well meant.
23 However, we are confined to what's in the record of the case
24 and subsequent affects on the children or a child at a later
25 date or later in life is not an issue to be decided in this

1 case. It's really whether the defendant is guilty of the
2 crimes charged under the indictments before the Court, and
3 there was no evidence placed of any permanent or long
4 lasting effect on these children into the record.

5 So, I'm gonna strike that from the record and instruct
6 the jury to disregard that. I thought I'd let you know that
7 before I do the charge.

8 THE COURT: All right. We'll take a short break. I'm
9 gonna stay on the bench. So, it won't be long. Five
10 minutes. If you want to step out you can.

11 (WHEREUPON, a short recess was taken at this time.)

12 THE COURT: All right. Is the State ready to proceed
13 at this time?

14 SOLICITOR REESE: Yes, Your Honor.

15 THE COURT: Defense ready?

16 MR. POOLE: Yes, sir.

17 THE COURT: Bring the jury in.

18 (WHEREUPON, the following takes place within the
19 presence of the jury.)

20 THE COURT: All right. The record will reflect that
21 the jury has returned to the courtroom.

22 Ladies and gentlemen, I need to make you aware of one
23 ruling that the Court is making. During closing arguments,
24 attorneys are required to confine their statements to
25 matters that are within the record of the case. In other

1 words, evidence that's been placed into the record of the
2 case, and any inferences that can be drawn from that
3 evidence.

4 I have made a ruling that the, the story or analogy
5 given by the solicitor to begin her argument concerning a
6 child adopted from Russia was not based on evidence that was
7 placed into the record of this case. Therefore, I have
8 stricken that analogy from the record.

9 When I strike a matter from the record that means that
10 it can not be considered by you in any manner whatever in
11 reaching your verdict. It should not even be discussed by
12 you during any deliberations that you might have in this
13 case. So, I'll make you aware that I've made that ruling.
14 The remainder of her argument is been allowed to stand. So,
15 I'll just -- that, that matter has been taken from the
16 record.

17 And if there was anything during the trial that I
18 overruled or ruled out of order or ruled not to go into the
19 record, you should not consider any of those matters either
20 in reaching a verdict in this case. You should only
21 consider the evidence that is properly before you and, of
22 course, that would be the testimony in the case as well as
23 the exhibits that have been entered during the trial.

24 Now, at the beginning of the trial I went over with you
25 the indictments in this case. I'm going to do that again.

1 The indictments will be given to you to take back into the
2 jury room for your review.

3 As I explained at the beginning of the trial, the
4 indictments are the documents -- it's the formal document
5 that brings the case before this Court. It informs us of
6 the charges to be tried. It informs the defendant of the
7 charges lodged against the defendant.

8 The indictments, however, do not constitute evidence in
9 this case, and can't be used by you in any manner in
10 determining guilt or innocence other than it is your
11 obligation to determine whether or not the State has proven
12 the allegations contained in those indictments by proof
13 beyond a reasonable doubt. I'm going over them with you so
14 that you'll understand the charges that you are to consider
15 in reaching a verdict in this case.

16 The first case I will talk about is Case Number
17 11-GS-42-5554. That indictment is for criminal sexual
18 conduct with a minor in the first degree.

19 The indictment alleges or states that Randall Dean
20 Matheny did, in Spartanburg County, between May the
21 20th of 2011 and May the 27th of 2011, commit the crime
22 of criminal sexual conduct with a minor in that the
23 defendant did commit a sexual battery upon the minor victim,
24 Minor 1 who was under eleven years of age at the
25 time of said incident. Said incident occurred in

1 Spartanburg County in violation of Section 16-3-655(1) of
2 the Code of Laws of South Carolina, 1976 as amended, against
3 the peace and dignity of the State and contrary to the
4 statute in such case made and provided.

5 That's the first indictment I'll discuss with you.

6 The next indictment I'll discuss with you is Case
7 Number 11-GS-42-5555. That indictment is for neglect of a
8 child. The indictment states that Randall Dean Matheny did,
9 in Spartanburg County, between the dates of May 1, 2011, and
10 May 26th of 2011, willfully and unlawfully, having charge
11 or custody of Minor 2 a minor child, place
12 the child at unreasonable risk of harm affecting the child's
13 life, physical or mental health, or safety in violation of
14 Code Section 63-5-70 of the Code of Laws of South Carolina,
15 1976 as amended, against the peace and dignity of the State
16 and contrary to the statute in such case made and provided.

17 The final indictment in this case is Case Number
18 11-GS-42-5556. I won't read the body of it again. It reads
19 exactly like the one I just read to you. It's for the
20 offense of neglect of a child. In this case the alleged
21 victim is Minor 1 In the previous case the alleged
22 victim was Minor 2

23 Now, I'm gonna remind you the fact that a defendant is
24 been arrested, charged, and indicted in a case is not
25 evidence in the case, and it can't be considered by you as

1 evidence of guilt in the case nor does the fact that these
2 documents were issued or have been presented to the Court
3 create any presumption or inference of guilt. The documents
4 are simply the formal written charges or instrument that
5 contains the charges made against the defendant. It's the
6 formal document by which the case has been brought into this
7 Court.

8 Now, when there's multiple charges such as this case
9 where there's three different indictments that have been
10 issued, each indictment charges a separate and distinct
11 offense. That means you, the jury, must decide each
12 indictment separately on its own based on the evidence and
13 law applicable to that indictment uninfluenced by any
14 decision you might make, make as to other indictments. In
15 other words, each indictment has to be decided on its own.

16 The defendant can be either convicted or acquitted on
17 any or all of the charges that are before you, and you're
18 going to be asked to write a separate verdict as to each
19 indictment that's presented to you for your consideration.

20 I informed you earlier that the defendant has pled not
21 guilty to those indictments. By that plea, the burden has
22 been placed upon the State to prove the defendant guilty. A
23 person charged with committing a criminal offense in South
24 Carolina, no matter what the seriousness of the crime might
25 be, is never required to prove himself innocent. I charge

1 you that it's an important rule of law that a defendant, in
2 a criminal trial, again, no matter how serious the charge
3 might be, is always presumed to be innocent of the crime for
4 which the indictment has been issued unless guilt has been
5 proven to you, the jury, by evidence that satisfies you of
6 that guilt beyond a reasonable doubt.

7 The presumption of innocence doesn't end when you begin
8 your deliberations. It accompanies the defendant throughout
9 the trial. It accompanies the defendant into your
10 deliberations. Some people describe the presumption of
11 innocence that a defendant has somewhat like the, the robe
12 that I wear into the courtroom. In other words, that
13 presumption of innocence is about his shoulders at the
14 beginning of the trial. It continues to remain about the
15 defendant's shoulder throughout the trial. It accompanies
16 him into your deliberations, and it remains about his
17 shoulders until such time as it is been stripped from the
18 defendant by evidence that satisfies you, the jury, of the
19 defendant's guilt beyond a reasonable doubt.

20 So, the presumption of innocence is not just a legal
21 theory. It's not just a legal phrase. It's a substantial
22 right that every defendant is entitled to until and unless
23 you, the jury, are satisfied, from the evidence presented
24 during this trial, of the defendant's guilt beyond a
25 reasonable doubt.

1 Now, you've heard me talk about this proof beyond a
2 reasonable doubt about three or four times already, and it's
3 an important concept under our law as to that someone is
4 entitled to the presumption of innocence and they're not
5 guilty until proof is shown to you of guilt beyond a
6 reasonable doubt. So, you may be asking yourself well, just
7 what does it mean, what is a reasonable doubt, and I'll tell
8 you that, under the law, a reasonable doubt has been defined
9 as that kind of doubt that would cause a reasonable person
10 to hesitate to act, and the State has the burden of proving
11 the defendant guilty beyond a reasonable doubt.

12 Now, if any of you have ever been involved in civil
13 matters, and civil matters are where someone is seeking
14 monetary damages for, from someone else, and that can be
15 because of such things as a failure to pay a debt, an
16 injury, someone claims an injury. It can be because someone
17 breached a contract that they had. But that could be a case
18 where someone seeks monetary damages for the wrong that was
19 done to him. Those are civil cases. The standard of proof
20 in civil cases is proof be, by the greater weight of the
21 evidence. Sometimes called the preponderance of the
22 evidence.

23 What that means, in a civil case, is that the scales of
24 justice tilt ever so slightly either in favor of the
25 plaintiff or the defendant, and whichever way those scales

1 tilt, that person is entitled to a verdict. And, so, that's
2 the standard of proof in a civil case. That's not the
3 standard of proof in a criminal case such as this one. The
4 standard of proof in this case is more powerful than the
5 proof in a civil case.

6 I'll tell you that proof beyond a reasonable doubt is
7 that kind of proof that would leave you firmly convinced of
8 the defendant's guilt. I'm gonna tell you there's very few
9 things that go on in this world that anyone can prove beyond
10 any doubt whatsoever, and the State's not put to that level
11 of proof. They're not required to present proof that
12 overcomes every possible doubt.

13 What I'll tell you is, if based on your consideration
14 of the evidence, if you are firmly convinced of the
15 defendant's guilt beyond a reasonable doubt, you must find
16 the defendant guilty. However, on the other hand, if you
17 think there's a real possibility that the defendant is not
18 guilty, then you must give the defendant the benefit of that
19 doubt and find the defendant not guilty.

20 Now, during the trial, you and I have had certain
21 duties to perform. I explained those at the beginning of
22 the trial, and it's been my job to preside over the trial of
23 the case, and I've had my, the duty of ruling on certain
24 matters and deciding the admissibility of some things and
25 the appropriateness of questions that might have been asked.

1 And, again, I'm going to tell you, if there's anything that
2 I ordered to be excluded from the record or to be stricken
3 from the record, you should disregard those matters in their
4 entirety. You're only to consider the evidence that is in
5 the record of this case, and, and, again, that's the
6 testimony of the witnesses that you've heard that's been
7 allowed to go in along with any evidence that was allowed
8 into the record as well. You are to consider only that
9 testimony which is been presented from the stand and those
10 exhibits and any stipulations made by counsel in this
11 matter.

12 Now, I have the additional duty of charging you
13 concerning the law that you're to apply in this case, and I
14 explained to you, at the beginning of the trial, I'm the
15 sole judge of the law in this case. It's your obligation,
16 under your oath, to take the law as I give it to you, and
17 then apply that to the facts as you determine the facts to
18 be in this matter.

19 Again, you should not consider any idea that you might
20 have as to what the law is or what the law ought to be.
21 Leave those notions outside of the jury room. Take the law
22 as I give it to you, and then apply it to the facts as you
23 determine them to be in the case.

24 In every case tried before a jury, the jury in, is the
25 sole and exclusive judge of the facts. I can't indicate, in

1 any manner, that I have an opinion one way or the other as
2 to how you determine the facts in this case because the law
3 doesn't allow me such an opinion. I will tell you, don't
4 take from anything that I say or do during the trial of the
5 case or even during my charge on the law to, somehow to
6 indicate to you that I have a preference one way or the
7 other as to how you determine the facts in case. Again, I'm
8 not allowed such an opinion. I do not have such an opinion
9 in this case.

10 The questions of fact are solely for you, the jury, to
11 determine. It's your duty to determine the effect, the
12 value, the weight, and the truth of the evidence that's been
13 presented to you during the trial. In doing so, you have
14 the right to consider two types of evidence, and let me
15 explain to you what I mean by two types of evidence.

16 The law looks at evidence as, as falling within one of
17 two categories. The first category is direct evidence.

18 Direct evidence is testimony from a witness who claims
19 to have actual knowledge of the facts about which the
20 witness testifies. Someone who experienced the event about
21 which they're testifying. The things they're speaking about
22 they claim to have direct knowledge that it, that it, in
23 fact, did or didn't happen. That's what we mean by direct
24 evidence.

25 The other type of evidence that you, a jury, have the

1 right to consider is what's called circumstantial evidence.
2 Now, circumstantial evidence is not based on direct
3 observation. It's, it's been described as proof of a chain
4 of facts or circumstances that indicate the existence of
5 another fact. It's also been described as proof of
6 collateral facts from which a main fact could be reasonably
7 inferred.

8 Now, that's some fancy language and I use a very simple
9 example to try to explain to you what me mean by proof of a
10 fact by circumstantial evidence. Let's say last night,
11 before you went to bed, you walked to the window of your
12 bedroom and you looked outside. The stars might of been
13 shining. It may of been a beautiful night out. You went to
14 bed and you slept well all night. Didn't wake up at all.
15 The next morning you got up, you walked to the very same
16 window. You looked outside again.

17 Now, the sun might of been shining, but as you looked
18 outside you noticed there's water dripping from all the
19 trees, puddles in the driveway, the road in front of the
20 house is soaking wet. Now, you didn't see it rain. You
21 didn't hear it rain. You were asleep all night.

22 But from the facts you know to be true, there's water
23 dripping off trees, the grass is wet, puddles in the
24 driveway, you know, in fact, at some point during the night,
25 you can infer that it did, in fact, rain. So, that's what

1 we mean when we use that fancy language. Proof of
2 collateral facts from which a main fact could be reasonably
3 inferred.

4 So, again, circumstantial evidence is not based on
5 direct observation. It's based on inference.

6 Now, the law doesn't make a distinction between the
7 weight or the value that you, as jurors, can give to either
8 direct evidence or circumstantial evidence. Nor is there a
9 greater degree of certainty required of circumstantial
10 evidence than direct. I'll tell you, as a jury, you should
11 weigh all of the evidence in this case. You give it the
12 weight you think it deserves.

13 I'll tell you if, after weighing all of the evidence in
14 this case, if you're not convinced of the defendant's guilt
15 beyond a reasonable doubt, you must find the defendant not
16 guilty. On the other hand, if you are firmly convinced of
17 the defendant's guilt beyond a reasonable doubt, you must
18 find the defendant guilty.

19 Now, in doing your job as the fact finder, I told you,
20 at the beginning of the trial, you're going to have to
21 determine the credibility and the believability of the
22 testimony that you heard in this case, and that's what
23 credibility means. It means believability.

24 It's your duty, as jurors, to analyze the evidence,
25 evaluate the evidence, determine what evidence convinces you

1 of its truth. In determining the believability of witnesses
2 who testify in this case, you have the right to believe one
3 witness against every other witness. You have the right to
4 believe all witnesses against one. You have the right to
5 believe all of, part of, or none of what any particular
6 witness may have testified to.

7 You have the right to consider whether a witness is
8 exhibited any bias or prejudice or has a stake in the
9 outcome of this case or exhibited some other motive in
10 testifying. You also have the right to consider the
11 appearance and manner of the witnesses while they were on
12 the stand. Use your good common sense and make a
13 determination as to the credibility and believability of
14 what you've heard from the witness stand during this trial.

15 Now, I stopped at one point in the trial and when we
16 had our first expert witness testify, as I qualified that
17 witness, that witness, I told you that I would talk a little
18 more about expert witnesses during my charge on the law, and
19 I explained at that time the rules of evidence do not
20 ordinarily allow a witness to testify as to opinions or
21 conclusions they might have, and an exception to that
22 general rule of evidence exists for witnesses that are
23 qualified or called expert witnesses.

24 Now, an expert witness is a witness, who because of
25 their education or experience, has become an expert within

1 some art, field, science, profession, and as to those
2 witnesses that are qualified as experts, the rules allow
3 that, those witnesses to state opinions that are within
4 their field of expertise that are relevant or material to a
5 matter that's in controversy before the Court. They also
6 have the right to state the reasons that they have those
7 opinions.

8 I'll tell you, as jurors, you, as jurors, you should
9 consider the testimony of the witnesses, including experts
10 received in the case, like any other evidence. You give it
11 the weight you think it deserves. If you were to decide
12 that the opinion of an expert is, is not based on sufficient
13 education or experience or if you conclude that the reasons
14 the expert gave for having those opinions are not sound or
15 if you find that the opinions are outweighed by other
16 evidence, you may disregard the opinion of an expert in its
17 entirety. Again, you have the right to believe all of, part
18 of, or none of what any witness has told you.

19 An expert witness' testimony is not to be given greater
20 weight by you just because it's an expert that gave the
21 opinion, and you're not required to accept an expert's
22 opinion even though it's not contradicted. In other words,
23 you're the sole judges of the facts, and, therefore, you're
24 the sole judge of the effect, the value, and weight of all
25 testimony, all evidence including that of an expert witness.

1 Also, during the trial, it became evident that a person
2 who has a past criminal record testified in the case, and
3 I'll tell you that a person who has a past criminal record
4 is competent to testify during a trial. A past record does
5 not affect the ability of the witness to testify. A past
6 criminal record can be considered by you, if at all, in
7 determining the believability of the testimony that you
8 hear. Remember, you're the sole judges of the facts in this
9 case, and that makes you the sole judges of the
10 believability of any and all witnesses who testify during
11 the case.

12 Now, during the trial of this case, statements alleged
13 to have been made by the defendant have been admitted into
14 evidence, and while this Court has determined that the
15 statements were admissible, I will instruct you that you
16 make the ultimate decision as to whether or not the
17 defendant made the statement. If the defendant did make the
18 statement, you must determine whether the statement was made
19 by the defendant voluntarily and of his own free will. This
20 means that the statement was not caused by pressure, force,
21 fear, threats, coercion, or intimidation, or by any hope or
22 promise of leniency or reward of any kind.

23 In determining whether the statement was voluntarily
24 made, you should consider the characteristics of the
25 defendant, the details of the questioning. Some factors

1 that you can consider in making that determination would
2 include such things as the age of the defendant, the
3 defendant's education or lack thereof, the defendant's
4 mental ability or capacities, the defendant's intelligence,
5 the defendant's background or environment, the place and the
6 length of the detention, the nature of the questioning, and
7 the advice or lack thereof to the defendant of his or her
8 Constitutional rights including, but not limited to, the
9 right to remain silent, that a statement could be used
10 against him in a Court of law, the right to have a lawyer
11 present, that if he or she could not afford an attorney, an
12 attorney could be appointed to represent him without any
13 cost, and that he could stop making a statement at anytime.

14 You must carefully consider all of the surrounding
15 circumstances before you give any weight to an alleged
16 statement. The State has the burden of proving, beyond a
17 reasonable doubt, that the alleged statement was voluntarily
18 made, and if you determine that it was voluntarily made, you
19 may give the statement, statement any further consideration
20 you deem proper. You must decide what weight, if any,
21 should be given to the alleged statement. If you determine
22 that the alleged statement was not freely and voluntarily
23 the statement of the defendant, then you should not consider
24 the statement at all.

25 Now, in this case, there are two different crimes that

1 have been charged in this case, and I'm going to go over the
2 alleged crime of first degree criminal sexual conduct with a
3 minor. The defendant has been charged with first degree
4 criminal sexual conduct with a minor, and, in that case, the
5 State must prove, beyond a reasonable doubt, that the
6 defendant engaged in a sexual battery with the victim.

7 Now, a battery is the unlawful touching of another
8 person by the accused. A sexual battery is defined as
9 sexual intercourse, cunnilingus, fellatio, anal, anal
10 intercourse, or any intrusion, however slight, of any part
11 of a person's body or any object into the genital or anal
12 openings of another person's body except when the intrusion
13 is accomplished for medically recognized treatment or
14 diagnostic purposes. The State must also prove in this
15 charge that, beyond a reasonable doubt, that the victim was
16 less than 11-years old at the time of the sexual battery.

17 Now, the other charge in this case is unlawful conduct
18 towards a child, and that's embodied in Code Section 63-5-70
19 of the South Carolina Code of Laws, and in this particular
20 case the State has the burden of proving, beyond a
21 reasonable doubt, that the defendant was a person who had
22 charge or custody of a child, or who was responsible for the
23 welfare of a child, and that the defendant placed that child
24 at unreasonable risk of harm affecting the child's life,
25 physical or mental health or safety, or that the defendant

1 did, or caused to be done, unlawfully or maliciously, any
2 bodily harm to the child so that the life or health of the
3 child is endangered or likely to be endangered.

4 Now, during the trial of this case, statements may have
5 been made concerning possible punishments. And if you've
6 heard -- if you heard testimony concerning the possible
7 penalty a person can serve for the crimes alleged in the
8 indictment, I will tell you that in determining the guilt or
9 the innocence of a defendant, you can not consider any
10 possible penalty for any particular crime. The punishment
11 for a crime is a matter for me, the judge, to determine.
12 You should never be -- the amount of punishment or the
13 punishment involved should never be considered by you in
14 anyway whatsoever in arriving at an impartial verdict as to
15 the question of guilt or innocence of the defendant of the
16 crimes that are charged in this indictment.

17 I'm gonna ask Adam Berg to raise his hand.

18 (Juror complies.)

19 THE COURT: Sir, you're going to be the foreperson of
20 the jury. That means you're going to be the person who is
21 responsible to see that the jury, conduct the jury's
22 discussions.

23 Now, if, during the discussions of the jury concerning
24 this matter, deliberations, if the jury has a question you'd
25 like to pose back to the Court, I'll ask you to write that

1 question on a piece of paper, knock on the door, hand it to
2 the bailiff, the bailiff will submit it to me. I will
3 explain to the jury that I can't answer every question you
4 might have during your deliberations. As I've told you, I
5 can't get involved in your decisions as to the facts.

6 You're the sole judges of the facts.

7 But I'm not going to ask you to edit any question the
8 jury might have. Whatever question the jury has, just get
9 the jury to agree on the form of the question or questions,
10 submit those to me. I'll decide the appropriate answer to
11 the questions that the jury might pose.

12 Also, it will be your responsibility to fill out the
13 verdict form and I'll give that to you and explain it to you
14 in just a moment once the jury has reached a verdict as to
15 questions presented to you.

16 Now, your verdict on each question must be unanimous.
17 Each and every one of you must agree upon the verdict before
18 it is the verdict of the jury. So, there are -- it's not a
19 majority vote. It's unanimous vote as to each question
20 posed.

21 So, until the jury has reached a verdict, unanimous
22 verdict, there is no verdict in the case. Once that occurs,
23 however, you'll record that verdict on the form. Once all
24 questions have been asked, knock on the door, let the
25 bailiff know that you've completed the verdict in the case.

1 You'll be brought back into the courtroom for us to receive
2 that verdict.

3 I've gone over a lot of things with you in my charge.
4 I want to be sure I haven't misspoken. I'm gonna go over
5 that with the attorneys in just a moment. We also are going
6 to submit the evidence in the case to you, and we're going
7 to be sure that only the properly admitted evidence is back
8 in the jury room with you for your consideration.

9 So, there's a couple of housekeeping matters I need to
10 do. I'm gonna ask you to step back into the jury room one
11 more time.

12 Mr. Berg, do not allow any discussions until I bring
13 you back for final instructions. It shouldn't take long.
14 But if you would, step back again. Don't begin discussions
15 until you're brought back out.

16 (WHEREUPON, the following takes place outside the
17 presence of the jury.)

18 THE COURT: Any objections to the charge from the
19 State?

20 SOLICITOR REESE: No objections, Your Honor. I'm --

21 MR. POOLE: Your Honor, after conference with Ms.
22 Reese, and, you know, you gave a great charge, but was there
23 a criminal intent charge?

24 THE COURT: I did not charge criminal intent
25 specifically.

1 Are you asking for one?

2 MR. POOLE: Yes, sir.

3 THE COURT: All right. And which crime and what level
4 of intent is required?

5 MR. POOLE: Well, I -- what is the standard charge of
6 criminal intent just generally?

7 I mean is there---

8 THE COURT: It just says there are various levels of
9 intent that are required for the commission of crimes,
10 certain crimes, because there are crimes that don't require
11 intent. You know, you have possession of drugs, you're just
12 in possession of drugs. There's no intent there.

13 MR. POOLE: Right.

14 THE COURT: And, so, intent is not always an issue in
15 the case especially, in my opinion, especially when there
16 are crimes that don't have specific requirements of intent.
17 It can be recklessness. It can be, you know -- there's
18 different levels, different statutes such as, you know, a
19 reckless homicide would have a certain, different level of
20 intent.

21 MR. POOLE: Uh-huh. (Affirmative).

22 THE COURT: I didn't see, in either of these cases,
23 that there is any specific intent noted in the statutes.

24 MR. POOLE: Uh-huh. (Affirmative).

25 THE COURT: Now, generally there has to be intent to

1 commit a wrongdoing.

2 MR. POOLE: Uh-huh. (Affirmative).

3 THE COURT: But I don't see that in the statutes that
4 are involved in this case.

5 MR. POOLE: Well, I don't think there is in, in
6 reference to an intent in either of the statutes involved.
7 So, I'm not asking that the Court do so.

8 THE COURT: Well, I mean I just didn't see that. I'm
9 not, I'm not refusing. If you can tell me that, that it
10 should be -- there's a case that says it should be charged
11 in these cases I'll be glad to look at it.

12 SOLICITOR REESE: No, I, I had just -- I asked Roger
13 cause I know he was -- intent was an issue for him I think
14 on some level with this, and---

15 MR. POOLE: Are you talking about the CSC?

16 SOLICITOR REESE: Yeah, I mean I'm talking about the
17 general charge we, that I've heard in the past, you know,
18 you can't look into somebody's mind, that kind of thing.
19 But I just didn't -- I knew intent was an issue for you.
20 So, I wanted to---

21 THE COURT: Well, you know, the, the CSC statute just
22 says that you have to -- there has to be an intrusion and
23 sexual battery. I guess you'd have to have the intent to
24 commit a sexual battery. I don't know. It doesn't -- that
25 may be implied.

1 SOLICITOR REESE: To intrude evidence, yes.

2 THE COURT: That may be implied.

3 SOLICITOR REESE: Yes, sir.

4 THE COURT: But then it's legally defined as to what
5 that is. I don't mind going -- I'll give it.

6 MR. POOLE: I think you've done a good job, judge.

7 THE COURT: Well, I---

8 MR. POOLE: I was just thinking out loud after it was
9 brought to my attention.

10 THE COURT: Well, I understand. You know, there may be
11 a requirement implied that you have to intend to commit a
12 sexual battery. If you touch somebody accidentally, for
13 example.

14 MR. POOLE: Right.

15 THE COURT: Maybe that would not be a -- that may not
16 be a crime. So, I'll go back and add that in there. I
17 don't have a problem with that.

18 Get the -- go over the evidence if you would. Be sure
19 you agree on it and this is the verdict form. I'd like you
20 to take a look at that, and I do intend to send the
21 indictments back to the jury because there are different
22 names on them.

23 SOLICITOR REESE: Your Honor, are you going to charge
24 there is no specific intent?

25 THE COURT: Just the general intent statute.

1 SOLICITOR REESE: Just the general -- about---

2 THE COURT: The charge we're talking about.

3 SOLICITOR REESE: ---you can't look in somebody's mind
4 or something?

5 THE COURT: You can't look in their mind.

6 SOLICITOR REESE: Okay.

7 THE COURT: On the record, do we have an agreement as
8 to the evidence to be submitted from the State?

9 SOLICITOR REESE: We do, Your Honor.

10 THE COURT: And the defense?

11 MR. POOLE: Yes, sir.

12 THE COURT: Any objections to the jury form from the
13 State?

14 SOLICITOR REESE: None, Your Honor.

15 THE COURT: Any from the defense?

16 MR. POOLE: No, sir.

17 THE COURT: All right. Let's bring the jury in.

18 (WHEREUPON, the following takes place within the
19 presence of the jury.)

20 THE COURT: All right. The record will reflect the
21 jury's returned to the courtroom.

22 There's one other matter that I do need to discuss with
23 you.

24 In order to establish criminal liability, criminal
25 intent is required. That can be, for example, is the mental

1 state required to be proven by the State for a particular
2 crime, and that can be intent, knowledge, or purpose.

3 Criminal intent must be proven by the State by, beyond
4 a reasonable doubt. Criminal intent is always a matter to
5 be determined by the jury from the circumstances in the case
6 because -- that's because there's no way for us to establish
7 mathematically or scientifically what anybody intended to do
8 in any particular time. We can't open up someone's head and
9 look inside and see what they intended to do at any given
10 moment.

11 So, criminal intent is always proven from the facts and
12 circumstances that are shown to have existed at the time of
13 the event. It's not necessary to establish intent by direct
14 or positive evidence, but intent, again, can be establish by
15 inference the same way as any other fact taking into
16 consideration the acts of the parties and all the facts and
17 circumstances of the case. Criminal intent is a mental
18 state. It's a conscious wrongdoing, and it's up to you to
19 determine what a defendant intended to do based on the
20 circumstances that were shown to have existed at any given
21 time.

22 Now, the parties have agreed upon the evidence to be
23 submitted. That will be brought back to you.

24 This is the verdict form to be used.

25 Mr. Berg, at the top of the page you see it has the

1 state and county in which we are located. It has the
2 caption, The State against the defendant in this matter.

3 In the body of it there are three questions. One
4 question as to each indictment. Again, I'll be giving the
5 indictment to you so you can look at those, I'll pass those
6 over to you at this, as to -- in conjunction to those
7 charges.

8 Now, the choices on each question in each indictment
9 are either not guilty or guilty. Don't take from the fact
10 that I put those choices in any order on that form to
11 somehow indicate I have a preference. I can tell you I've
12 been doing this almost ten years, and every verdict form
13 I've ever done is got the choices in the same order as that
14 one does. I don't change it for any case. So, the fact
15 that one might be before the other one or above the other
16 one does not indicate a preference on my part.

17 Now, once the verdict has been reached on any
18 particular question, you'll either check or put an X on the
19 blank adjacent to the appropriate verdict. Once all
20 questions have been asked, and there's one for each
21 indictment, so three questions, once all questions have been
22 answered by unanimous verdicts, then you would sign the form
23 and let the bailiff know that a verdict has been reached.

24 Now, I understand your lunch is here. You can eat that
25 in your jury room while you're in deliberations. Now, the

1 clerk will be serving that to you and the bailiffs. If
2 there's anyone in the jury room who's not a member of the
3 jury, do not discuss the case at all until those people have
4 left the room. Only conduct your deliberations with the 12
5 of you present.

6 So, at this point in time I'm going to ask all of you
7 on the jury, with the exception of the alternate, sir, you
8 remain seated, I'll ask you to retire to the jury room to
9 begin your deliberations.

10 Thank you very much.

11 (WHEREUPON, the following takes place outside the
12 presence of the jury, and the alternate jury was dismissed
13 at this time.)

14 THE COURT: Any objections to my final instructions
15 from the State?

16 SOLICITOR REESE: None, Your Honor.

17 THE COURT: Any from the defense?

18 MR. POOLE: No, sir.

19 THE COURT: All right. We're in recess until such time
20 as we receive the verdict.

21 (WHEREUPON, the jury began deliberations at 1:30PM and
22 returned with a question at 2:24PM.)

23 THE COURT: All right. I received a question from the
24 jury. They're requesting a copy of the law on criminal
25 sexual conduct with a minor as the judge charged.

1 (WHEREUPON, the jury charge was marked as Court's
2 Exhibit No. 1 and received into evidence at this time.)

3 THE COURT: It's my practice, when the jury requests
4 written charges, that I provide them with the, the entire
5 charge. I have shown the printed charge to the attorneys in
6 chambers. It's been marked as Court's Exhibit No. 1.

7 Any objection to my responding in that fashion from the
8 State?

9 SOLICITOR REESE: None from the State.

10 THE COURT: Any from the defense?

11 MR. POOLE: No, sir.

12 THE COURT: Let's bring the jury in.

13 (WHEREUPON, the following takes place within the
14 presence of the jury.)

15 THE COURT: Mr. Berg, I've received your inquiry asking
16 for a copy of the law concerning criminal sexual conduct
17 with a minor. What I've done is I have printed out the
18 entire charge that I gave to the jury. I've made it a
19 Court's Exhibit. So, it now is a part of the evidence
20 that's in the jury room. I'm gonna give that to you. It
21 includes that charge in it. But I want to give you the
22 entire charge so you'll have the benefit of the reading and
23 the context of the entire charge.

24 So, that begin -- that is an exhibit that needs to be
25 kept with the exhibits that you've had submitted to you.

1 All right. You may retire and continue your
2 deliberations.

3 FOREMAN: Thank you.

4 (WHEREUPON, the following takes place outside the
5 presence of the jury.)

6 THE COURT: I'll have the inquiry made a Court's
7 Exhibit and part of the record.

8 (WHEREUPON, the note from the jury was marked as
9 Court's Exhibit No. 2 and received into evidence at this
10 time.)

11 THE COURT: Any objections to my response from the
12 State?

13 SOLICITOR REESE: None, Your Honor.

14 THE COURT: Any from the defense?

15 MR. POOLE: No, sir.

16 THE COURT: All right. We're in recess until a verdict
17 is reached.

18 Thank you.

19 (WHEREUPON, the jury began deliberations again at
20 2:25PM and returned with a verdict at 2:51PM.)

21 THE COURT: All right. I've been informed by the
22 bailiff that a verdict has been reached in the case.

23 Is the State ready to receive the verdict?

24 SOLICITOR REESE: We are, Your Honor.

25 THE COURT: Defense ready to receive the verdict?

1 MR. POOLE: Yes, sir.

2 THE COURT: Bring the jury in.

3 (WHEREUPON, the following takes place within the
4 presence of the jury.)

5 THE COURT: The record will reflect that the jury has
6 returned to the courtroom.

7 Mr. Foreman, I'm informed that a verdict has been
8 reached.

9 Is that true?

10 FOREMAN: That's true.

11 THE COURT: Pass the form to the bailiff please.

12 (The Foreman complies.)

13 THE COURT: Thank you, sir.

14 Madam Clerk, you may publish the verdicts.

15 THE CLERK: Yes, sir.

16 The State of South Carolina versus Randall Dean
17 Matheny, as to the indictment of criminal sexual conduct
18 with a minor in the first degree, Indictment Number
19 2011-GS-42-5554, the verdict is guilty.

20 As to the charge of neglect of child, as to the
21 Indictment of 2011-GS-42-5555, the verdict is guilty.

22 As to the charge of neglect of child, on the Indictment
23 Number 2011-GS-42-5556, the verdict is guilty.

24 Signed by the foreperson, dated August the 29th of
25 2013.

1 Ladies and gentlemen of the jury, is this your verdict
2 and still your verdict, if so, please raise your right
3 hands.

4 (WHEREUPON, all juror raise their hands at this time.)

5 THE CLERK: So say you-all.

6 THE COURT: Thank you.

7 Anything further from the State before I release the
8 jury?

9 SOLICITOR REESE: Nothing from the State.

10 THE COURT: Anything from the defense?

11 MR. POOLE: No, sir.

12 THE COURT: All right.

13 (WHEREUPON, the jury was released at this time.)

14 THE COURT: All right. Mr. Poole, if you and your
15 client would approach the bar please?

16 (WHEREUPON, the parties comply.)

17 MR. POOLE: Yes, sir.

18 May I be heard, for purposes of the record, on a couple
19 motions?

20 THE COURT: Yes, sir, before we begin sentencing I'll
21 be happy to hear from you.

22 MR. POOLE: Thank you.

23 Your Honor, at this point in time I would renew my
24 previous motions made pretrial and during the course of the
25 trial concerning all of the various matters that are in the

1 record to which Mr. Matheny is making objection to.

2 THE COURT: All right. Those, those objections are
3 noted and motions are noted. The Court would make the same
4 rulings at this time.

5 MR. POOLE: I would ask for a new trial. That is based
6 upon the motion for the directed verdict made at, at the end
7 of the State's case, and it's also based upon the Court's
8 denial to the charge, the requested charge of assault and
9 battery of a high and aggravated nature, and assault and
10 battery in the first degree.

11 THE COURT: Those motions are noted and denied.

12 All right. Now, any other motions?

13 MR. POOLE: No, sir.

14 THE COURT: All right. Mr. Matheny, having been found
15 guilty by a jury of your peers, at this point in time the
16 Court will consider sentencing in this matter. I'm going to
17 hear from your attorney. I will give you an opportunity to
18 speak freely after that, and then I'll be hearing from the
19 State concerning some matters.

20 Mr. Poole.

21 MR. POOLE: As far as I'm aware, Mr. Matheny has only
22 that minor drug conviction on his record. He's only
23 27-years old. He was 25-years old when these allegations
24 were made. He has been incarcerated since May 27th, 2011,
25 and, including today, that is 826 days.

1 During the course of his incarceration he's waited
2 patiently for his trial. He has been cooperative with me.
3 He's been respectful. He has been articulate. He's never
4 really caused me any problems whatsoever during all of the
5 communications I've had with him. In fact, he's been almost
6 deferential, and he's one of the, the better more pleasant
7 persons to deal with that I sometimes encounter during the
8 course of regular business.

9 I think he's got a lot of potential. I think that he
10 can be a good person and a contributing member of society at
11 the proper time. He does recognize and he does know what
12 the sentences on these charges carry, and he's aware of all
13 that.

14 I'm asking the Court consider, on his behalf,
15 concurrent sentencing on the three charges that he has been
16 found guilty of.

17 THE COURT: Thank you, sir.

18 Mr. Matheny, this is your opportunity to speak to the
19 Court.

20 THE DEFENDANT: Just want to say sorry for all the
21 parties involved I may of harmed on this. I really am. I'm
22 sorry about everything that's happened. It's just
23 misfortunate. Take that into consideration.

24 THE COURT: Thank you.

25 Prior record from the State?

1 SOLICITOR REESE: Your Honor, the record we discussed
2 yesterday is the extent of his prior record.

3 THE COURT: All right. Now, my understanding is that
4 the range of sentencing on this is 25-years to life?

5 SOLICITOR REESE: On the CSC first it is, Your Honor.

6 THE COURT: And the others are ten years each?

7 SOLICITOR REESE: Yes, Your Honor.

8 THE COURT: That's my understanding.

9 (Pause.)

10 THE COURT: Mr. Matheny, I must say that, having
11 reviewed the evidence in this case and being involved in the
12 trial, the level of abuse that was heaped upon the two
13 children involved in this case was shocking to this Court.
14 I guess the child is fortunate, the male child is fortunate
15 that he survived because the level of injury certainly could
16 of caused death in this situation, and we would of been
17 involved in a much different situation had that occurred.

18 This Court is somewhat concerned about the level of
19 responsibility that you've taken. Not during the trial, but
20 during this sentencing phase. You apologized for the
21 actions. But, again, the Court is shocked by what its
22 viewed in this case.

23 I have provided for several -- oh, there's one other
24 thing I want to say. If society can't protect its most
25 vulnerable individuals, then society is, is in trouble.

1 And, in this case, I can't think of anyone who was more
2 vulnerable than the two victims that I viewed in this case.

3 Now, I have required certain collateral matters in
4 connection with your sentencing. I am requiring that you
5 register as a sex offender and follow the appropriate
6 guidelines for that designation. I've ordered that you
7 register on the Child Abuse Registry. I've ordered that you
8 be required to wear active GPS monitoring for life. I have
9 ordered that you undergo, while you're incarcerated, and
10 complete batterers counseling.

11 On the two charges of neglect of a child, the sentences
12 is, on each of those, is ten years.

13 On the charge of criminal sexual conduct with a minor,
14 the charge (sic) is 25 years. I have run those
15 concurrently. I've given you credit for the time you have
16 served.

17 I hope that you take this period of incarceration as a
18 period in which to improve yourself. If you ever come back
19 into society, I hope you come back as a better person.

20 Good luck to you, sir.

21 SOLICITOR REESE: Thank you, Your Honor.

22

23

24 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

25

CASE# 2061 05/6/17

VOLUNTARY STATEMENT

PAGE | of |

STATEMENT OF: Randall Dean Matheny

AGE: 25

DATE: 05-27-11

ADDRESS: [REDACTED] Spartanburg, SC 29303

PHONE # [REDACTED]

DOB: [REDACTED]

SSN: [REDACTED]

I help with the kids, ~~only~~ by feeding them, and fixing them drinks.
 I have only gave them a bath 1 time. I have never hit or hurt them
 in any ways. I have never seen Kayla hurt them in any way.

The only drugs I have done with Kayla or my roommate is weed.

Yesterday I was changing Kassie's diaper and she was bleeding & I went
 and got Kayla and told her as soon as I seen it! EDS



I have read this statement consisting of 1 pages(s), and I swear that the statement that I have just given is the truth, the whole truth, and
 nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.

This statement was completed at 12:10 P M. on the 27th day of May 20 11.

WITNESS: [Signature]

[Signature]
 Signature of person giving voluntary statement

SWORN to before me this 27thday of May, 20 11.

[Signature]
 Notary Public of South Carolina

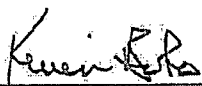
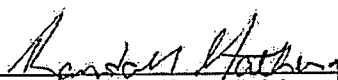
(Seal)

CASE # 11051617		VOLUNTARY STATEMENT		PAGE 1 of	
STATEMENT OF : Randall Dean Matheny II			AGE: 25	DATE: 052711	
ADDRESS: [REDACTED], Sptbg, SC, 29307					
PHONE # [REDACTED]		DOB: [REDACTED]		SSN: [REDACTED]	

Me, Kayla Blake, and her twins have been together for a month and half. Since we have been together, we have had to move twice because of money problems. We moved in to our current residence about 3 weeks ago with Ashley Directo, and her little girl, Kali. I felt sorry for Kayla because she didn't have anywhere to stay, and I was afraid her and the kids would be living on the streets. I moved in with Ashley first, and once I told her about Kayla's situation, she agreed to let her and the kids move in too. Kayla and I have had our ups and downs, due to the money problems and drug use. Me, Kayla, and Ashley all have a problem with meth, and Ashley is 5 months pregnant. When Kayla and I would argue, I would leave for a cooling off period for a couple of days, but she would call and beg me to come back home. Kayla would get frustrated with the kids, take them to another room, and shut the door. I would hear her stay stuff like you get on my nerves so bad, and both of them cry a lot. I wasn't in the room with her, so I can't say she put any bruises on them. Occasionally, I have seen Kayla grab the kids up out of anger or frustration. I have disciplined both kids by popping them on the hand, popping them on their diaper, or making them sit on the couch for awhile. I can't explain how **Minor 2** got his head injury. He had a seizure while he was eating supper, and Kayla called 911 while I did CPR last night. 4-5 days ago, I was changing **Minor 1** diaper, and she had poop everywhere. I was trying to wipe her clean, and Kayla's mouth got on my nerves. She is always complaining about how we never have any money, and I always tell her it takes 2. She calls me a piece of shit when she gets angry or frustrated. I was already ill while I was trying to change her diaper, and her poop was green and it was all the way up to her belly button. The poop was all in her monkey, by that I mean her vagina, and I put my finger inside her while it was covered with a baby wipe, trying to get all of it out. Kayla was standing right beside me while I was doing this. The next day, Kayla was changing her diaper, and she called me in there to show me that **Minor 1** was bleeding from her monkey. Both of us freaked out, because I was afraid I had seriously hurt her. I have never touched either one of the kids in a sexual way, but we were afraid to go to the doctor because of all the bruises on both of them because we knew DSS would take the kids. This was just an accident that happened in the heat of the moment, and I am very sorry that all of this has happened. In a way, I wish I had never met Kayla, because it has been trouble since day one. I have asked Sgt. Kevin Bobo to prepare this statement for me, and I swear it is true to the best of my knowledge.

I have read this statement consisting of 1 page(s), and I swear that the statement that I have just given is the truth, the whole truth and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement. This statement was completed at 1651 P.M. on the 27th day of May, 2011.

WITNESS:

Signature of person giving voluntary statement

SWORN to before me this

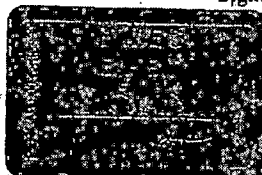
27

day of

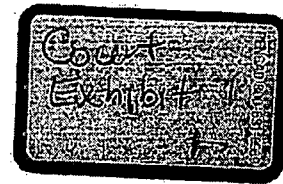
5, 20 11

Notary Public of South Carolina

(Seal)

My Commission expires: 10-9-17

ORIGINAL



CHAPTER FIVE - GENERAL CHARGE

CHARGE, ARREST, INDICTMENT NOT EVIDENCE

THE INDICTMENT(S) CHARGES THE DEFENDANT WITH _____ . I REMIND YOU THAT THE FACT THE DEFENDANT WAS ARRESTED, CHARGED AND INDICTED IN THIS CASE, IS NOT EVIDENCE IN THIS CASE AND CANNOT BE CONSIDERED BY YOU AS EVIDENCE OF GUILT IN THIS CASE, NOR DOES IT CREATE ANY PRESUMPTION OR INFERENCE OF GUILT. THIS DOCUMENT IS SIMPLY THE FORMAL WRITTEN INSTRUMENT WHICH CONTAINS THE CHARGE(S) MADE AGAINST THE DEFENDANT. IT IS THE FORMAL DOCUMENT BY WHICH THIS CASE IS BROUGHT INTO THIS COURT.

MULTIPLE CHARGES

THE INDICTMENTS IN THIS CASE ALLEGE SEVERAL DIFFERENT OFFENSES AGAINST THE DEFENDANT. THE CHARGES ARE:

INDICTMENT NO. 1: 11- 5555 Neglect of a Child

INDICTMENT NO. 2: 11- 5556 Neglect of a Child

INDICTMENT NO. 3: 11-5554 Criminal Sexual Conduct with a Minor, First Degree

EACH INDICTMENT CHARGES A SEPARATE AND DISTINCT OFFENSE. YOU MUST DECIDE EACH INDICTMENT SEPARATELY ON

THE EVIDENCE AND THE LAW APPLICABLE TO IT UNINFLUENCED BY YOUR DECISION AS TO ANY OTHER INDICTMENT. THE DEFENDANT MAY BE CONVICTED OR ACQUITTED ON ANY OR ALL OF THE OFFENSES CHARGED. YOU WILL BE ASKED TO WRITE A SEPARATE VERDICT OF GUILTY OR NOT GUILTY FOR EACH INDICTMENT.

PRESUMPTION OF INNOCENCE

THE DEFENDANT HAS PLED NOT GUILTY TO THIS INDICTMENT, AND THAT PLEA PUTS THE BURDEN ON THE STATE TO PROVE THE DEFENDANT GUILTY. A PERSON CHARGED WITH COMMITTING A CRIMINAL OFFENSE IN SOUTH CAROLINA IS NEVER REQUIRED TO PROVE HIMSELF INNOCENT.

I CHARGE YOU THAT IT IS AN IMPORTANT RULE OF THE LAW THAT THE DEFENDANT IN A CRIMINAL TRIAL, NO MATTER WHAT THE SERIOUSNESS OF THE CHARGE MAY BE, WILL ALWAYS BE PRESUMED TO BE INNOCENT OF THE CRIME FOR WHICH THE INDICTMENT WAS ISSUED UNLESS GUILT HAS BEEN PROVEN BY EVIDENCE SATISFYING YOU OF THAT GUILT BEYOND A REASONABLE DOUBT. THIS PRESUMPTION OF INNOCENCE DOES NOT END WHEN YOU BEGIN YOUR DELIBERATIONS, BUT IT ACCOMPANIES THE DEFENDANT THROUGHOUT THE TRIAL UNTIL YOU REACH A

VERDICT OF GUILT BASED ON EVIDENCE SATISFYING YOU OF THAT GUILT BEYOND A REASONABLE DOUBT.

THE PRESUMPTION OF INNOCENCE IS LIKE A ROBE OF RIGHTEOUSNESS PLACED ABOUT THE SHOULDERS OF THE DEFENDANT WHICH REMAINS WITH THE DEFENDANT UNTIL IT HAS BEEN STRIPPED FROM THE DEFENDANT BY EVIDENCE SATISFYING YOU OF THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.

THE PRESUMPTION OF INNOCENCE IS NOT MERE LEGAL THEORY. IT IS NOT JUST A LEGAL PHRASE. IT IS A SUBSTANTIAL RIGHT TO WHICH EVERY DEFENDANT IS ENTITLED UNLESS YOU, THE JURY, ARE SATISFIED FROM THE EVIDENCE OF THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.

REASONABLE DOUBT¹

WHAT IS A REASONABLE DOUBT IN THE LAW? A REASONABLE DOUBT IS THE KIND OF DOUBT THAT WOULD CAUSE A REASONABLE PERSON TO HESITATE TO ACT.

ALTERNATIVE REASONABLE DOUBT CHARGE

THE STATE HAS THE BURDEN OF PROVING THE DEFENDANT

¹ It is within the trial judge's discretion to refuse to define reasonable doubt at all. State v. Adams, 322 S.C. 114, 470 S.E.2d 366 (1996).

GUILTY BEYOND A REASONABLE DOUBT. SOME OF YOU MAY HAVE SERVED AS JURORS IN CIVIL CASES, WHERE YOU WERE TOLD THAT IT IS ONLY NECESSARY TO PROVE THAT A FACT IS MORE LIKELY TRUE THAN NOT TRUE, SUCH AS BY THE GREATER WEIGHT OR PREPONDERANCE OF THE EVIDENCE. IN CRIMINAL CASES, THE STATE'S PROOF MUST BE MORE POWERFUL THAN THAT. IT MUST BE BEYOND A REASONABLE DOUBT.

PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES YOU FIRMLY CONVINCED OF THE DEFENDANT'S GUILT. THERE ARE VERY FEW THINGS IN THIS WORLD THAT WE KNOW WITH ABSOLUTE CERTAINTY, AND IN CRIMINAL CASES THE LAW DOES NOT REQUIRE PROOF THAT OVERCOMES EVERY POSSIBLE DOUBT. IF, BASED ON YOUR CONSIDERATION OF THE EVIDENCE, YOU ARE FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY OF THE CRIME CHARGED, YOU MUST FIND THE DEFENDANT GUILTY. IF ON THE OTHER HAND, YOU THINK THERE IS A REAL POSSIBILITY THAT THE DEFENDANT IS NOT GUILTY, YOU MUST GIVE THE DEFENDANT THE BENEFIT OF THE DOUBT AND FIND HIM [HER] NOT GUILTY.²

² State v. McHoney, 344 S.C. 85, 544 S.E.2d 30 (2001); State v. Needs, 333 S.C. 134, 508 S.E.2d 857 (1998).

DUTIES OF JURY AND TRIAL JUDGE

I REMIND YOU THAT, DURING THIS TRIAL, YOU AND I HAVE CERTAIN DUTIES TO PERFORM. AS THE TRIAL JUDGE, IT IS MY RESPONSIBILITY TO PRESIDE OVER THE TRIAL OF THIS CASE, AND I ALSO HAVE THE DUTY TO RULE ON THE ADMISSIBILITY OF THE EVIDENCE OFFERED DURING THIS TRIAL. YOU ARE TO CONSIDER ONLY THE COMPETENT EVIDENCE BEFORE YOU. IF THERE WAS ANY TESTIMONY ORDERED STRICKEN FROM THE RECORD IN THIS CASE DURING THIS TRIAL, YOU MUST DISREGARD THAT TESTIMONY. YOU ARE TO CONSIDER ONLY THE TESTIMONY WHICH HAS BEEN PRESENTED FROM THIS WITNESS STAND, ANY EXHIBITS WHICH HAVE BEEN MADE A PART OF THE RECORD IN THIS CASE, AND ANY STIPULATIONS OF COUNSEL.

I HAVE THE ADDITIONAL DUTY TO CHARGE YOU THE LAW APPLICABLE TO THIS CASE. AS THE PRESIDING JUDGE, I AM THE SOLE JUDGE OF THE LAW OF THIS CASE, AND IT IS YOUR DUTY AS JURORS TO ACCEPT AND APPLY THE LAW AS I NOW STATE IT TO YOU. IF YOU ALREADY HAVE ANY IDEA AS TO WHAT THE LAW IS OR WHAT THE LAW OUGHT TO BE AND IT DOES NOT AGREE WITH WHAT I NOW TELL YOU THE LAW IS, YOU MUST ABANDON THIS IDEA BECAUSE YOU ARE SWORN TO ACCEPT THE LAW AND APPLY THE LAW

EXACTLY AS I STATE IT TO YOU.

IN EVERY CASE TRIED IN THIS COURT BEFORE A JURY, THE JURY BECOMES THE SOLE AND EXCLUSIVE JUDGE OF THE FACTS IN A CASE. A TRIAL JUDGE CANNOT INTIMATE, STATE, COMMENT ON, OR MAKE ANY STATEMENT TO A TRIAL JURY ABOUT THE FACTS IN A CASE. SINCE YOU, THE JURY, ARE THE SOLE JUDGE OF THE FACTS IN THIS CASE, YOU ARE NOT TO INFER FROM WHAT I HAVE SAID DURING THE PROGRESS OF THIS TRIAL IN RULING UPON THE ADMISSIBILITY OF EVIDENCE, OR OTHERWISE, OR ANYTHING THAT I SAY NOW DURING THE COURSE OF THIS INSTRUCTION TO YOU, THAT I HAVE ANY OPINION ABOUT THE FACTS IN THIS CASE. THE LAW DOES NOT ALLOW ME TO HAVE AN OPINION ABOUT THE FACTS IN THIS CASE. THIS IS A MATTER SOLELY FOR YOU, THE JURY, TO DETERMINE. AS JURORS, IT IS YOUR DUTY TO DETERMINE THE EFFECT, VALUE, WEIGHT, AND TRUTH OF THE EVIDENCE PRESENTED DURING THIS TRIAL.

DIRECT AND CIRCUMSTANTIAL EVIDENCE

THERE ARE TWO TYPES OF EVIDENCE WHICH ARE GENERALLY PRESENTED DURING A TRIAL - DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE.

DIRECT EVIDENCE IS THE TESTIMONY OF A PERSON WHO CLAIMS

TO HAVE ACTUAL KNOWLEDGE OF A FACT, SUCH AS AN EYEWITNESS. IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES THE MAIN FACT TO BE PROVED.³

CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A FACT. IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES COLLATERAL FACTS FROM WHICH THE MAIN FACT MAY BE INFERRED. CIRCUMSTANTIAL EVIDENCE IS BASED ON INFERENCE AND NOT ON PERSONAL KNOWLEDGE OR OBSERVATION.⁴

THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN THE WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR CIRCUMSTANTIAL EVIDENCE. NOR IS A GREATER DEGREE OF CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF DIRECT EVIDENCE. YOU SHOULD WEIGH ALL OF THE EVIDENCE IN THE CASE. AFTER WEIGHING ALL THE EVIDENCE, IF YOU ARE NOT CONVINCED OF THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT, YOU MUST FIND THE DEFENDANT NOT

³ State v. Salisbury, 343 S.C. 520, 541 S.E.2d 247 (2001).

⁴ State v. Salisbury, 343 S.C. 520, 541 S.E.2d 247 (2001).

GUILTY.⁵

CREDIBILITY OF WITNESSES

NECESSARILY, YOU MUST DETERMINE THE CREDIBILITY OF WITNESSES WHO HAVE TESTIFIED IN THIS CASE. CREDIBILITY SIMPLY MEANS BELIEVABILITY. IT BECOMES YOUR DUTY AS JURORS TO ANALYZE AND TO EVALUATE THE EVIDENCE AND DETERMINE WHICH EVIDENCE CONVINCES YOU OF ITS TRUTH.

IN DETERMINING THE BELIEVABILITY OF WITNESSES WHO HAVE TESTIFIED IN THIS CASE, YOU MAY BELIEVE ONE WITNESS OVER SEVERAL WITNESSES OR SEVERAL WITNESSES OVER ONE WITNESS. YOU MAY BELIEVE A PART OF THE TESTIMONY OF A WITNESS AND REJECT THE REMAINING PART OF THE TESTIMONY OF THAT SAME WITNESS. YOU MAY BELIEVE THE TESTIMONY OF A WITNESS IN ITS ENTIRETY OR REJECT THE TESTIMONY OF A WITNESS IN ITS ENTIRETY. YOU MAY CONSIDER WHETHER ANY WITNESS HAS EXHIBITED TO YOU ANY INTEREST, BIAS, PREJUDICE, OR OTHER MOTIVE IN THIS CASE. YOU MAY ALSO CONSIDER THE APPEARANCE AND MANNER OF A WITNESS WHILE ON THE WITNESS STAND.

⁵ State v. Grippon, 327 S.C. 79, 83-84, 489 S.E.2d 462, 464 (1997). NOTE: In State v. Cherry, 361 S.C. 588, 606 S.E.2d 475 (2004), the Supreme Court held that the charge approved in Grippon is the sole remaining charge to be used in instructing juries in cases relying, in whole or in part, on circumstantial evidence.

EXPERT WITNESSES

THE RULES OF EVIDENCE ORDINARILY DO NOT PERMIT WITNESSES TO TESTIFY TO OPINIONS OR CONCLUSIONS. AN EXCEPTION TO THIS RULE EXISTS FOR WITNESSES WE CALL "EXPERT WITNESSES". A WITNESS WHO, BY EDUCATION AND EXPERIENCE, HAS BECOME EXPERT IN SOME ART, SCIENCE, PROFESSION, OR CALLING MAY STATE AN OPINION AS TO RELEVANT AND MATERIAL MATTER, IN WHICH THE WITNESS CLAIMS TO BE AN EXPERT, AND MAY ALSO STATE THE REASONS FOR THE OPINION.

YOU SHOULD CONSIDER ANY EXPERT OPINION RECEIVED IN EVIDENCE IN THIS CASE AND, LIKE ANY OTHER EVIDENCE, GIVE IT THE WEIGHT YOU THINK IT DESERVES. IF YOU DECIDE THAT THE OPINION OF AN EXPERT WITNESS IS NOT BASED ON SUFFICIENT EDUCATION AND EXPERIENCE, OR IF YOU CONCLUDE THAT THE REASONS GIVEN IN SUPPORT OF THE OPINION ARE NOT SOUND, OR THAT THE OPINION IS OUTWEIGHED BY OTHER EVIDENCE, YOU MAY DISREGARD THE OPINION ENTIRELY.

AN EXPERT WITNESS' TESTIMONY IS TO BE GIVEN NO GREATER WEIGHT THAN THAT OF OTHER WITNESSES SIMPLY BECAUSE THE WITNESS IS AN EXPERT. FURTHER, YOU ARE NOT REQUIRED TO ACCEPT AN EXPERT'S OPINION, EVEN THOUGH IT IS NOT

CONTRADICTED.

PRIOR RECORD OF WITNESS

A PERSON WHO HAS A PAST CRIMINAL RECORD IS COMPETENT TO TESTIFY DURING A TRIAL. A PAST RECORD DOES NOT AFFECT THE ABILITY OF THAT WITNESS TO TESTIFY. THE PAST RECORD MAY ONLY BE CONSIDERED BY YOU, IF AT ALL, IN DETERMINING THE WITNESS' BELIEVABILITY.

REMEMBER, YOU ARE THE SOLE JUDGES OF THE FACTS IN THE CASE AND OF THE BELIEVABILITY OF ANY AND ALL OF THE WITNESSES.

STATEMENT OF DEFENDANT

A STATEMENT ALLEGED TO HAVE BEEN MADE BY THE DEFENDANT HAS BEEN ADMITTED INTO EVIDENCE IN THIS CASE. WHILE THE COURT HAS DETERMINED THAT THE STATEMENT IS ADMISSIBLE, I INSTRUCT YOU THAT YOU MAKE THE ULTIMATE DECISION OF WHETHER OR NOT THE DEFENDANT MADE THE STATEMENT. IF THE DEFENDANT DID MAKE THE STATEMENT, YOU

MUST DETERMINE WHETHER THE STATEMENT WAS MADE BY THE DEFENDANT VOLUNTARILY AND OF HIS OWN FREE WILL. THIS MEANS THAT THE STATEMENT WAS NOT CAUSED BY PRESSURE, FORCE, FEAR, THREATS, COERCION, OR INTIMIDATION, OR BY HOPE OR A PROMISE OF LENIENCY OR A REWARD OF ANY KIND. IN DETERMINING WHETHER THE STATEMENT WAS VOLUNTARY, YOU SHOULD CONSIDER BOTH THE CHARACTERISTICS OF THE DEFENDANT AND THE DETAILS OF THE QUESTIONING. SOME OF THE FACTORS THAT YOU MUST CONSIDER ARE: (1) THE AGE OF THE DEFENDANT; (2) THE DEFENDANT'S EDUCATION OR LACK OF EDUCATION; (3) THE DEFENDANT'S MENTAL ABILITY OR CAPACITY; (4) THE DEFENDANT'S I.Q. OR INTELLIGENCE; (5) THE DEFENDANT'S BACKGROUND AND ENVIRONMENT; (6) THE PLACE AND LENGTH OF DETENTION; (7) THE NATURE OF THE QUESTIONING; AND (8) THE ADVICE, OR LACK THEREOF, TO THE DEFENDANT OF HIS (HER) CONSTITUTIONAL RIGHTS INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO REMAIN SILENT; THAT ANY STATEMENT COULD BE USED AGAINST HIM (HER) IN A COURT OF LAW; THE RIGHT TO HAVE A LAWYER PRESENT; THAT IF HE (SHE) COULD NOT AFFORD A LAWYER, A LAWYER WOULD BE APPOINTED TO REPRESENT HIM

(HER) WITHOUT ANY COST; AND THAT HE COULD STOP MAKING A STATEMENT AT ANY TIME. YOU MUST CAREFULLY CONSIDER ALL OF THE SURROUNDING CIRCUMSTANCES BEFORE YOU GIVE ANY WEIGHT TO AN ALLEGED STATEMENT.

THE STATE HAS THE BURDEN OF PROVING BEYOND A REASONABLE DOUBT THAT THE ALLEGED STATEMENT WAS VOLUNTARY. IF YOU DETERMINE IT WAS, YOU MAY GIVE THE STATEMENT ANY FURTHER CONSIDERATION THAT YOU DEEM PROPER. YOU MUST DECIDE WHAT WEIGHT, IF ANY, SHOULD BE GIVEN TO THE ALLEGED STATEMENT. IF YOU DETERMINE THE ALLEGED STATEMENT WAS NOT THE FREE AND VOLUNTARY STATEMENT OF THE DEFENDANT, YOU SHOULD NOT CONSIDER THE STATEMENT AT ALL.⁶

INTENT

IN ORDER TO ESTABLISH CRIMINAL LIABILITY, CRIMINAL INTENT IS REQUIRED. FOR EXAMPLE, THE MENTAL STATE REQUIRED TO BE PROVEN BY THE STATE FOR A PARTICULAR CRIME MIGHT BE PURPOSE, INTENT, KNOWLEDGE, RECKLESSNESS, OR CRIMINAL NEGLIGENCE. CRIMINAL INTENT MUST BE PROVEN BY THE STATE

⁶ State v. Davis, 309 S.C. 326, 422 S.E.2d 133 (1992).

MATTER FOR ME TO DETERMINE AND SHOULD NEVER BE
CONSIDERED BY YOU IN ANY WAY WHATSOEVER IN ARRIVING AT
AN IMPARTIAL VERDICT AS TO THE GUILT OR INNOCENCE OF THE
DEFENDANT.

We the Jury request a copy of the Low Criminal Sexual
Conduct with a Minor as the Judge has charged.



WITNESSES

Spartanburg County Sheriff's Office

1. SENTENCE MADE ☒

2. REPORT ENTERED ☒

4. INDEXED ☒

5. CHECKED WARRANTS ☒

6. CHECKED SIGNATURE ☒

7. ASSESSMENT ☒

ARREST WARRANT NUMBER

8. TRAFFIC VIOLATION COPY ☒

M126729-Amended

ACTION OF GRAND JURY

AUG 22 2013

True Bill

Foreperson of Grand Jury
Date:

VERDICT

Guilty

Foreperson of Petit Jury
Date:

DOCKET NO. -

11-GS-42-5554
The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 26 2013

TERM

THE STATE

vs.

Randall Dean Matheny

Indictment for

CRIMINAL SEXUAL CONDUCT
W/MINOR, FIRST DEGREE

SC Code: 16-03-0655(1)

CDR Code:0385

Class FEL-C(V)

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

AUG 22 2013

At a Court of General Sessions, convened on _____ the

Grand Jurors of Spartanburg County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, FIRST DEGREE

That Randall Dean Matheny, did in Spartanburg County, between May 20, 2011
~~and May 27, 2011, commit the crime of Criminal Sexual Conduct with a minor, in that~~
the defendant did commit a sexual battery upon the minor victim, [REDACTED]
who was under eleven (11) years of age at the time of the said incident. Said incident
occurred in Spartanburg County, South Carolina, in violation of §16-03-655 (1), *CODE
OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

Compute

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.

Randall Dean Matheny

AKA:

Race: WHITE Sex: M Age: [REDACTED]

DOB: [REDACTED]

Address:

City, State, Zip:

DL#: [REDACTED] SID#: [REDACTED]

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

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

☒ CONVICTED OF or ☐ PLEADS

TO: Criminal sexual conduct with minor - victim under 11 yrs of age - First degree 25 years to life

in violation of § 16-03-0655(A) of the S.C. Code of Laws, bearing CDR Code # 0385

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☒ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The 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: Susan Reese 6712 Randall Matheny Boyer Poole 4499
REESE, SUSAN S 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 25 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: 8/29/13
☒ 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. 826 days
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

PTUP

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

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$5.00
3% to County (if paid in installments)		\$390
TOTAL		\$133.90

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: 1. Must register as a sex offender
2. Must register on the child abuse registry
3. Advise GPS monitoring if required for life
4. Batterer Counseling is required☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.Clerk of Court/ Deputy Clerk A. GreenCourt Reporter: P. Green

SCCA/217 (03/2011)

Presiding Judge [Signature]Judge Code: 213Sentence Date: 8/29/13

WITNESSES

Spartanburg County Sheriff's Office

SENTENCE MADE ☐2. RECORDED ☐

Spartanburg County Sheriff's Office

3. CARD PULLED ☐4. INDEXED ☐ARREST WARRANT NUMBER ☐6. CHECKED SIGNATURE ☐

M126730

7. ASSESSMENT ☐

FINE CARD MADE

8. TRAFFIC VIOLATION COPY ☐

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

SEP 15 2011

VERDICT

Foreperson of Petit Jury

Date:

8-29-13

DOCKET NO.

11-GS-42-5555

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

SEP 15 2011

TERM

THE STATE

VS.

Randall Dean Matheny

Indictment for

CHILDREN/NEGLECT OF CHILD

SC Code: 63-5-70

CDR Code: 2481

Class FEL-E

CLERK OF COURT
SPARTANBURG COUNTY
2011 SEP 16 PM 4:39
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

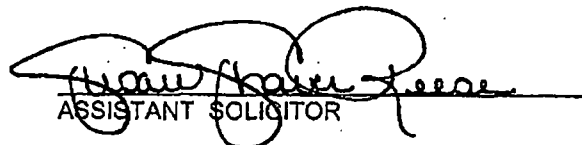
INDICTMENT

At a Court of General Sessions, convened on SEP 15 2011, the
Grand Jurors of Spartanburg County present upon their oath:

CHILDREN/NEGLECT OF CHILD

That Randall Dean Matheny, did in Spartanburg County between the dates of
~~May 1, 2011 and May 26, 2011, willfully and unlawfully, having charge or custody of~~
Minor 2 [REDACTED] a minor child, place the child at unreasonable risk of harm affecting
the child's life, physical or mental health, or safety, in violation of Section 63-5-70, *THE*
CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

Computer

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG

STATE

VS.

Randall Dean Matheny

AKA:

Race: WHITE

Sex: M

Age:

DOB:

Address:

City, State, Zip:

DL#:

SID#:

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

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

☒ CONVICTED OF or ☐ PLEADS

TO: Unlawful neglect of child 0-10 years and/or fine in the court's discretion

SENTENCE SHEET

INDICTMENT/CASE#: 2011GS4205555

A/W#: M126730

Date of Offense: 5/26/2011

S.C. Code §: 63-05-0070

CDR Code #: 2481

in violation of § 63-05-0070

of the S.C. Code of Laws, bearing CDR Code #

2481

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The 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:

REESE, SUSAN S

6772 SC Bar#

Defendant

Attorney for Defendant

4499 SC Bar#

WHEREFORE, the Defendant is committed to the

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

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

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

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 826 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

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

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

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

\$ paid to Public Defender Fund

Other:

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

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

WITNESSES

Spartanburg County Sheriff's Office

1. SENTENCE MADE ☐

2. REPORT MADE
Spartanburg County Sheriff's Office

3. CARD PULLED ☐

4. INDEXED ☐

5. CHECKED WARRANTS ☐

ARREST WARRANT NUMBER

6. CHECKED SIGNATURE ☐

7. ASSESSMENT
FINE CARD MADE

M126731

8. TRAFFIC VIOLATION COPY ☐

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

SEP 15 2011

VERDICT

Am. H. y.

Foreperson of Petit Jury

Date:

8-27-13

DOCKET NO.

11-GS-42-5556

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

SEP 15 2011

TERM

THE STATE

VS.

Randall Dean Matheny

Indictment for

CHILDREN/NEGLECT OF CHILD

SC Code: 63-5-70

CDR Code: 2481

Class FEL-E

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 SEP 16 PM 4:39
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

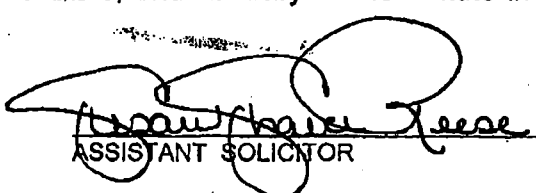
INDICTMENT

At a Court of General Sessions, convened on SEP 15 2011, the
Grand Jurors of Spartanburg County present upon their oath:

CHILDREN/NEGLECT OF CHILD

That Randall Dean Matheny, did in Spartanburg County between the dates of
~~May 1, 2011 and May 26, 2011, willfully and unlawfully, having charge or custody of~~
~~_____~~ a minor child, place the child at unreasonable risk of harm affecting
the child's life, physical or mental health, or safety, in violation of Section 63-5-70, *THE*
CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.

Randall Dean Matheny

AKA:

Race: WHITE Sex: M Age: [REDACTED]

DOB: [REDACTED]

Address:

City, State, Zip:

DL#: [REDACTED] SID#: [REDACTED]

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

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

TO: Unlawful neglect of child 0-10 years and/or fine in the court's discretion

in violation of § 63-05-0070

of the S.C. Code of Laws, bearing CDR Code # 2481

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The 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.

ATTORNEY:

REESE, SUSAN S

SC Bar# 6772

Defendant

Attorney for Defendant

SC Bar# 4499

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

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

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

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

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

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
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§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$133.90

Clerk of Court/ Deputy Clerk

Court Reporter: P. Green

SCCA/217 (03/2011)

INDICTMENT/CASE#: 2011GS4205556

A/W#: M126731

Date of Offense: 5/26/2011

S.C. Code § : 63-05-0070

CDR Code #: 2481

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

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

\$ _____ paid to Public Defender Fund

Other: _____

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

Presiding Judge

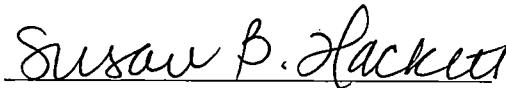
Judge Code: 2135

Sentence Date: 8/29/12

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

August 18th, 2014



Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT