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VOL III of IV

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

R. Knox McMahon, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ZINAH DAMARIS JENNINGS,

APPELLANT

APPELLATE CASE NO. 2012-212947

RECORD ON APPEAL

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

STATE’S EXHIBIT # 16 (RECORDING OF DEFENDANT’S INTERROGATION)

1 THE COURT: That was the only issue I had for
2 Agent Clayton.

3 MS. CAMPBELL: Do you want to get evidence
4 tape and have her seal it in the morning?

5 THE COURT: Y'all think about it. It's
6 y'all's case, you and Mr. Pride. Like I say, if anybody
7 ever wants to test it in the future -- well, I don't
8 know. I don't know how that will apply.

9 MR. PRIDE: Judge, certainly up until this
10 period of time, I don't think the integrity has been
11 compromised.

12 THE COURT: I agree with that. Anything
13 further from the defense, Mr. Pride?

14 MR. PRIDE: Nothing, Your Honor.

15 THE COURT: How are you feeling, Ms. Jennings?

16 THE DEFENDANT: I'm okay.

17 THE COURT: All right. I see you all in the
18 morning.

19 (Whereupon the proceedings are concluded for
20 August 30, 2012.)

21 (The following proceedings are reported on
22 August 31, 2012.)

23 THE COURT: Mr. Pride, would you have any
24 objections to me addressing the jury outside of the
25 presence of your client?

1 MR. PRIDE: No. In this instance, no. I
2 think it's necessary.

3 THE COURT: Thank you. Thank you very much.

4 MR. PRIDE: Judge, I do want to bring one
5 matter to your attention before we go forward.

6 THE COURT: Sure.

7 MR. PRIDE: Judge, I'm not able at this time
8 to do anything in terms of representing my client
9 because my client is not present. But if my client were
10 present and when my client does become present, I want
11 to make a motion for a mistrial in this case, and I will
12 state the basis at that time.

13 THE COURT: All right. Thank you. Thank you
14 very much. I think you are protected on the record in
15 that regard.

16 MR. PRIDE: Thank you.

17 THE COURT: Anything from the State before we
18 bring in our jury, Solicitor?

19 MS. CAMPBELL: No, sir.

20 THE COURT: Bring us our jury, please.

21 (The jury returns to the courtroom at
22 9:38 A.M.)

23 THE COURT: Madame Forelady, ladies and
24 gentlemen of the jury, good morning. I received your
25 note. The note indicates that you had unanimously

1 agreed not to serve on Saturday or Monday due to prior
2 work and personal commitments. I will certainly honor
3 that.

4 I do have another issue, however, I must
5 address with you. As you know, Ms. Jennings is not
6 present in the courtroom at this time. Ms. Jennings
7 delivered a child at 3:00 o'clock this morning at the
8 South Carolina Baptist Hospital.

9 Is that correct, Sheriff?

10 OFFICER: Richland.

11 THE COURT: Richland, I apologize, Palmetto
12 Richland Hospital. She will remain in the hospital
13 through Sunday. That means we will not have the need
14 for the jury today.

15 Upon her release from the hospital, I would
16 have her medically checked to assure that she would be
17 in proper physical condition for us to resume court and
18 testimony on Tuesday. So rather than a three-day
19 weekend, you will actually get a four-day weekend
20 because you will not have to work today.

21 I do want to emphasize certain issues with
22 you. I know you take your oath seriously. I know y'all
23 have worked very diligently and have been very patient
24 with the Court and were very attentive to all the
25 witnesses and to the parties in this case.

1 I will give you my general instructions
2 momentarily, but I can't impress upon you enough the
3 importance of not watching, listening to, or reading any
4 news accounts about the case during this somewhat
5 extended recess.

6 Further, do not discuss the case with anyone:
7 Your fellow jurors, family, friends or anyone else.
8 Please keep that in mind. Please remember that you are
9 under oath, sworn to try the case based on the evidence
10 presented in the courtroom and the law as I told you the
11 law is.

12 I believe the State has already presented -- I
13 thought it was 36 witnesses. Yes, 36 witnesses in the
14 case. There are a number of other State's witnesses.
15 Perhaps the defense will also present witnesses. They
16 do not have a responsibility to do so. The burden of
17 proof is on the State to prove its case beyond a
18 reasonable doubt. The defendant does not have to prove
19 himself or herself innocent.

20 Regardless of the seriousness of the charges,
21 they are always presumed to be innocent. But the
22 parties have put a lot of time, effort, energy, and
23 expense in the trial of this case so far and will
24 continue to do so.

25 Also, remember my instructions that you may

1 not use your computer, cellular phone, or other
2 electronic device with communication capabilities or any
3 other method to obtain or disclose information about the
4 case when you are not in court.

5 Information about the case includes but is not
6 limited to the following: Information about a party, a
7 witness, an attorney, or a court officer, news accounts
8 of the case, information collected through juror
9 research on any topics raised or testimony offered by
10 any witness, or information collected through juror
11 research on any other topics that the juror might think
12 would be helpful in deciding the case.

13 With that being said, we will start back
14 Tuesday morning promptly at 9:30. Of course, I'm sure
15 when y'all arrived on Monday, you did not anticipate
16 that you would be here, perhaps not even for five days,
17 and surely perhaps not going into the second week.

18 Given that fact, does any juror have any
19 issue, personal issue or otherwise, conflict in
20 schedule, as far as returning next Tuesday?

21 (Juror indicates by raising her hand.)

22 THE COURT: I will take that up separately.
23 Any others? One lady raised her hand -- that's two.
24 Tell me your juror number, ma'am.

25 PROSPECTIVE JUROR: Two-five-five.

1 THE COURT: Two-five-five. Tell me your
2 number, sir.

3 PROSPECTIVE JUROR: Three-seventy-six.

4 THE COURT: Two-five-five and 376. Any
5 others?

6 (Juror raises hand.)

7 THE COURT: Your number, please?

8 PROSPECTIVE JUROR: One-oh-eight.

9 THE COURT: Number 108. Any others?

10 (There is no response.)

11 THE COURT: With that being said, you
12 understand my instructions. You are released for the
13 day.

14 MR. PRIDE: Judge, excuse me. Could we
15 approach?

16 THE COURT: Yes, sir, certainly.

17 (Whereupon there was a bench conference off
18 the record in the presence of the jury but out of the
19 hearing of the jury.)

20 THE COURT: Throughout this recess, ladies and
21 gentlemen, as you go about your business, if someone
22 were to ask if you're serving on this particular jury, I
23 think your response should be, I'm on jury duty and I
24 can't talk about it.

25 I can't stop by some places in the morning and

1 get a cup of coffee without somebody wanting to ask me
2 about what case I'm trying that week. I just can't talk
3 about it. Y'all can talk about it. Y'all understand if
4 those issues come up.

5 As I say, there has been a lot of time,
6 effort, and expense in this case, both by the State and
7 by the defense. We have come a long way down the road.
8 We still have a ways to travel, and I would like to
9 continue on in that process.

10 I am going to release you from your jury
11 service for the remainder of the day, the remainder of
12 the three-day weekend, and ask you to report back
13 promptly at 9:30 Tuesday morning.

14 If juror numbers 255, 376, and 108 would
15 remain in your jury room. I will have you brought out
16 one at a time and address whatever specific issues you
17 may have. Thank you. Thank you very much. You are now
18 excused.

19 Keep those three jurors, please, Mr. Bailiff,
20 in the jury room for me.

21 (The jury is excused at 9:47 A.M.)

22 THE COURT: Mr. Bailiff, would you bring me
23 juror number 255.

24 BAILIFF: Yes, sir.

25 MR. PRIDE: Judge, could I ask you this?

1 Could we meet at the bench to discuss the juror rather
2 than do it publically?

3 THE COURT: I will do it right here, like I
4 did jury selection.

5 MR. PRIDE: All right. Thank you.

6 (The juror enters the courtroom).

7 THE COURT: Come around right here for me,
8 please.

9 (Whereupon the following bench conference with
10 the Court, counsel, and the juror is reported.)

11 THE COURT: Good morning.

12 JUROR: Good morning.

13 THE COURT: Tell me your juror number again.

14 JUROR: Two-five-five.

15 THE COURT: Tell me your situation.

16 JUROR: I'm an exercise instructor through
17 Wellness. We are under new management now, and I might
18 be losing my slot as far as the classes that I teach,
19 and that's a major source of my income right now.

20 THE COURT: Tell me what I can do to assist
21 you in not losing your slot. Can I call anyone? Can I
22 tell them you are here on civic jury duty?

23 JUROR: Well, they knew prior that I would be
24 coming in Monday for jury duty.

25 THE COURT: Yes, ma'am.

1 JUROR: And Monday evening when I got in, I
2 called one of the managers and let them know that it
3 seemed like it would be a prolonged thing. They are
4 revamping the program there now.

5 You know, if you are not there, then you could
6 be counted out. So that's my concern at this point. If
7 you could call someone with parks and recreation because
8 basically I am contracted with them.

9 THE COURT: Tell me --

10 JUROR: They have another instructor covering
11 my classes now.

12 THE COURT: Tell me who I need to call. Tell
13 me who that would be.

14 JUROR: Brian... Actually you would have to
15 call the manager for parks and recreation. I'm not
16 sure.

17 THE COURT: Is that for the City or County?

18 JUROR: City.

19 THE COURT: City of Columbia?

20 JUROR: City of Columbia Parks And Recreation.

21 THE COURT: Maybe I could call Mayor Benjamin.
22 He might know something about that. But it's the
23 manager for the City of Columbia --

24 JUROR: -- Parks and Recreation. I am
25 employed at Drew Wellness Center.

1 THE COURT: When I call them up and I say, I'm
2 talking about juror number 255.

3 JUROR: Beverly Moss Clark.

4 THE COURT: Okay.

5 JUROR: And the class is strengthening and
6 toning.

7 THE COURT: We could start with the jury
8 early, and you could have a class with the jurors.

9 JUROR: That would be great.

10 THE COURT: Write down here a number, a number
11 for you.

12 JUROR: My number?

13 THE COURT: So we can call you back. If you
14 would write that down for me.

15 JUROR: (Complies.)

16 THE COURT: If I can clear it -- you are
17 concerned about losing your slot?

18 JUROR: Yes.

19 THE COURT: If I can clear it --

20 JUROR: -- then I have no problem.

21 THE COURT: -- you are good. As of right now,
22 I want you to report back Tuesday morning at 9:30.
23 Thank you. Thank you very much. You have a good
24 weekend.

25 (The juror leaves the bench conference, and

1 the following is reported.)

2 MR. PRIDE: Judge, you can walk down the hall
3 to Ms. Benjamin.

4 THE COURT: That's even better. I need to go
5 to the one with the real power.

6 MR. PRIDE: That's right. We have got it
7 made.

8 THE COURT: Juror 376.

9 (The juror enters the courtroom).

10 THE COURT: Good morning. Step right here.

11 (Whereupon the following bench conference with
12 the Court, counsel, and the juror is reported.)

13 THE COURT: Juror number 376?

14 JUROR: That's correct.

15 THE COURT: You are an alternate; right?

16 JUROR: Yes, sir.

17 THE COURT: Tell me your situation.

18 JUROR: I don't have a situation with Tuesday,
19 but next Friday -- just in case it runs into Friday -- I
20 have a Hall of Fame induction ceremony for South
21 Carolina State. That's the only thing I --

22 THE COURT: Who is being inducted?

23 JUROR: I am.

24 THE COURT: What for?

25 JUROR: Track and field.

1 THE COURT: Good. When were you down there?

2 JUROR: I was down there '91 to '95.

3 THE COURT: And you ran track?

4 JUROR: Yes, sir. Yes, sir. That's the only
5 thing. I am not requesting to be taken off, just that's
6 the only thing.

7 THE COURT: Sure. What time do you have to be
8 down there?

9 JUROR: The interview starts at like 11:00
10 o'clock on Friday. The actual ceremony is 6:30 that
11 evening.

12 THE COURT: So you are good with us Tuesday,
13 Wednesday, and Thursday?

14 JUROR: That's fine.

15 THE COURT: Right now let's see if we get to
16 that point.

17 JUROR: Okay.

18 THE COURT: If you would stay with us right
19 now, I would appreciate it. Thank you very much. See
20 you Tuesday morning at 9:30.

21 JUROR: Thank you, sir.

22 (The juror leaves the bench conference.)

23 THE COURT: Mr. Bailiff, 108 or whoever is
24 left.

25 (The juror enters the courtroom.)

1 THE COURT: Step right up here.

2 (Whereupon the following bench conference with
3 the Court, counsel, and the juror is reported.)

4 THE COURT: Tell me, you are juror 108?

5 JUROR: Yes, sir.

6 THE COURT: Tell me your situation.

7 JUROR: I am a hair dresser and I have no
8 income if I'm not there. I am off on Mondays and
9 Wednesday though if that makes a difference.

10 THE COURT: You are off on Monday and
11 Wednesday?

12 JUROR: Uh-huh. (Indicating affirmative
13 response.)

14 MR. PRIDE: Judge, could you ask her to step
15 off and let me talk with you a minute? Just ask her to
16 step back.

17 THE COURT: If you would step back over to the
18 podium.

19 (The juror leaves the bench conference, and
20 the following is reported.)

21 MR. PRIDE: The problem with her is that she
22 could be called in for a long deliberation. The trial
23 might be over, but if she is in deliberation by the
24 jury, it could go into Thursday or Friday. I just
25 wanted the judge to take that into consideration as he

1 pondered the decision.

2 MS. WALKER: I think we could cross that
3 bridge when we got to it, maybe Wednesday.

4 MR. PRIDE: You can't cross that bridge.

5 MS. WALKER: She can be replaced with an
6 alternate.

7 MR. PRIDE: Not in deliberation.

8 MS. WALKER: On Tuesday if we finish, Tuesday
9 morning. I don't know how long your trial will be; but
10 if we finish Tuesday and they are deliberating
11 Wednesday, then it's not an issue if it's not a long
12 deliberation. If it goes to Thursday, I guess it
13 becomes -- I mean, I don't know when it's going to
14 become a problem. They could get a verdict quickly.

15 THE COURT: Step back up here for me, please.

16 (The juror returns to the bench conference,
17 and the following is reported.)

18 THE COURT: Given the seriousness of the case,
19 I will ask you to stay with us.

20 JUROR: Okay.

21 THE COURT: I understand your situation and I
22 don't want to say I feel your pain because that's not
23 fair to you for me to say that; but right now, given the
24 seriousness of the point we are at in the trial and the
25 case itself, I will ask you to stay with us. Thank you.

1 Thank you very much for agreeing to do that.

2 JUROR: Sure.

3 THE COURT: See you Tuesday morning at 9:30.

4 JUROR: Thank you.

5 (The juror leaves the bench conference and is
6 excused, and the bench conference is concluded.)

7 THE COURT: On 255 I am going to check with
8 her employer. Number 376 is going to stay with us. He
9 is an alternate and has a conflict next Friday. And 108
10 I am going to have her stay with us also. Anything
11 further from the State before we recess?

12 MS. CAMPBELL: No, sir.

13 THE COURT: From the defense?

14 MR. PRIDE: One moment. I think we have an
15 order for you.

16 THE COURT: I will be in the back. If y'all
17 get the order prepared, I would be glad to sign it.
18 Thank you very much. Court will be in recess until
19 Tuesday morning at 9:30.

20 (Whereupon the proceedings are concluded for
21 August 31, 2012.)

22 (The following proceedings are reported on
23 September 4, 2012.)

24 MR. PRIDE: Judge, it's my understanding that
25 Zinah is getting dressed, and she will be brought up

1 momentarily.

2 THE COURT: We will wait on her. No problem.

3 (Pause.)

4 MR. PRIDE: Judge, I have not seen
5 Ms. Jennings since on last Thursday. This is my first
6 time seeing her. Would you give me a few minutes to
7 talk with her?

8 THE COURT: How long do you need, Mr. Pride?

9 MR. PRIDE: Two minutes.

10 THE COURT: Certainly.

11 (Pause.)

12 MR. PRIDE: Thank you, Judge.

13 THE COURT: Certainly. Any matters before we
14 bring out our jury, Mr. Pride?

15 MR. PRIDE: I have a motion, Your Honor.

16 THE COURT: All right.

17 MR. PRIDE: Your Honor, first of all, could
18 you advise me of what the doctor has told you as it
19 relates to Ms. Jennings' health and welfare?

20 THE COURT: That she had a normal delivery and
21 would be released from the hospital on Sunday.

22 MR. PRIDE: What did he say about -- did he
23 say anything about her ability to be fit for trial?

24 THE COURT: It was a she and she did not.

25 MR. PRIDE: The reason why I am asking, Judge,

1 is, first of all, I want to say that I'm concerned about
2 the jury. Being concerned about the jury, I think it
3 would have been incumbent upon me to ask you to
4 sequester the jury if I had any concerns.

5 I did not make a motion to sequester the jury
6 because of my inability. The law requires that a
7 defendant be present at all times. Ms. Jennings was not
8 here; so I was not able to make that motion to sequester
9 the jury.

10 THE COURT: Yes, sir.

11 MR. PRIDE: I would respectfully ask you for a
12 mistrial, Judge, on a number of grounds. Just in my
13 conversation with Ms. Jennings, Zinah says that she had
14 to have stitches after the birth of the child. Some of
15 this is so personal, Judge, is it possible we can do it
16 in camera without the media? I don't know quite --

17 THE COURT: No, sir.

18 MR. PRIDE: Okay. Also, Judge, obviously from
19 having the child, she is hemorrhaging and hemorrhaging
20 as she is requires that pads be changed every two hours.
21 That's my understanding from her.

22 Thirdly, Judge, can I say this very
23 respectfully to the Court. I don't know a woman sitting
24 in this courtroom who could have a baby on Thursday and
25 be ready for trial on Tuesday. She had it early Friday

1 morning -- Friday, Saturday, Sunday, Monday, Tuesday --
2 it's like five days.

3 I question her fitness physically for trial at
4 this time. Sitting through a trial in my opinion,
5 Judge, is a long, arduous process. Being pregnant and
6 sitting through the trial, certainly was difficult. But
7 having the baby and sitting through the trial is even
8 more difficult, especially, Judge, when you take under
9 consideration the human element involved.

10 Number one, Judge, she has not seen the baby.
11 That certainly has a mental kind of effect on a mother
12 not to even see her baby. Number two, her mother has
13 not had access to Zinah the entire time that she was at
14 the hospital; and I might say her lawyer has not either,
15 Judge.

16 When you have the birth of a child, part of
17 the rehabilitation is the love and care of the family
18 around you. She hasn't had that at all in this case.
19 The Court may say, Well, had she not been involved in a
20 situation like this, she sort of brought it on herself.

21 I would respectfully submit to you in some
22 respects that might be true, but she is a person who is
23 presumed innocent. If you are presumed innocent, then
24 you are entitled to the love, the care, and affection
25 and all the things that innocent people receive when

1 they have child birth.

2 Plus, Your Honor, I would also move for a
3 mistrial on the grounds that most of the cases that I
4 have read say that, first of all, it's a discretionary
5 call. That's the law.

6 Second of all, Judge, during my tenure as a
7 lawyer I have read very few cases where the Supreme
8 Court or the Court of Appeals has reversed on the basis
9 that the sitting judge has abused his discretion.

10 But I would say this to you, Judge, is that
11 the rule is further that a jury can be held for a
12 reasonable length of time. I would submit to you that
13 even under these circumstances, five days -- when I say
14 five days, you would have Thursday; so that would be
15 Friday, Saturday, Sunday, Monday, and coming back
16 Tuesday.

17 THE COURT: We worked all day Thursday.

18 MR. PRIDE: I said Friday, Saturday, Sunday,
19 Monday. You are absolutely right, first, to answer the
20 Court. We did have a full day on Thursday. It was only
21 after Thursday that I learned that Zinah was taken from
22 the courthouse to the hospital.

23 All that I tell you about Zinah, Judge, is
24 from somebody else and not from my personal knowledge.
25 I understand she had the baby about 3:00 o'clock in the

1 morning.

2 I do understand that when she did have the
3 baby, that other than being stitched, she had no unusual
4 medical care connected with the birth of the child. But
5 on those grounds, Judge, I would ask you to give us a
6 new trial.

7 I certainly say to you, Judge, that this has
8 been a long process for all of us. Oftentimes when I
9 stand, I am wondering if I am stepping on your patience;
10 but you certainly have been patient and courteous and
11 professional and that I appreciate.

12 But by the same token, Judge, I think your
13 call of starting this trial after such an enormous
14 event, as having given birth to a child is certainly one
15 that will prohibit Ms. Jennings from receiving due
16 process and a fair trial.

17 So based on the foregoing reasons and the
18 rational basis that I hope I have set out in making this
19 motion for you, I would ask you for a mistrial.

20 THE COURT: Thank you. Thank you very much,
21 Mr. Pride.

22 Solicitor, anything in response?

23 MS. GARFIELD: Just briefly, Your Honor. We
24 would respectfully ask you to deny Mr. Pride's motion.
25 Your Honor may not be aware -- well, you are aware that

1 we are in court on this case pursuant to a speedy trial
2 motion being granted that the defense did file.

3 However, Your Honor, you might not be aware
4 that when this motion was filed, I believe back in May
5 or June, a hearing was held before Judge Cooper. Judge
6 Cooper did take the parties in chambers, and at that
7 time the State brought up the fact that Ms. Jennings may
8 have either complications with her pregnancy or in fact
9 deliver.

10 Mr. Pride informed the Court at that time that
11 Ms. Jennings was due sometime in mid September, and he
12 also told Court that it would not be an issue. So we
13 would ask you to please proceed with the case.

14 THE COURT: Mr. Pride?

15 MR. PRIDE: Judge, having filed a motion for a
16 speedy trial certainly didn't put me in the position of
17 realizing these intervening circumstances that we are
18 faced with now.

19 I gave the Court a projected day of birth
20 based on -- and I told the judge not on the independent
21 knowledge that I had, but based on the information that
22 was given to me by Ms. Zinah Jennings based on what the
23 doctors told her at the Alvin S. Glenn Detention Center
24 which were managing her pregnancy.

25 So having made the motion for a speedy trial

1 is remote to the issue before Your Honor right now. So
2 as far as my proffering to the Court when I thought the
3 child would be born, again, that was my best information
4 at that time.

5 THE COURT: Thank you. Thank you very much,
6 Mr. Pride. As Mr. Pride points out and as the solicitor
7 I'm sure is well aware, the standard for declaring a
8 mistrial, I reviewed State versus Prince, 301 S.E.2d
9 471; State versus Vaun, V-A-U-N, 584 S.E.2d 419.

10 It's clear that the cases hold generally that
11 there must be a manifest necessity for the discharge of
12 the jury and leave the Court to determine in their
13 discretion whether under all the circumstances of each
14 case, such necessity exists -- please lock the door,
15 Mr. Bailiff.

16 The test to determine whether sound grounds
17 exist for declaring a mistrial after the jury is sworn
18 is whether the mistrial was dictated by manifest
19 necessity or the ends of public justice, the latter
20 being defined as the public's interest in a fair trial
21 designated to end in a just judgment.

22 Manifest necessity is not a standard that can
23 be applied mechanically or without attention to the
24 particular problem confronting the trial judge.
25 Further, the word necessity is not to be interpreted

1 literally.

2 Rather there need only be a high degree of
3 necessity in order to conclude that a mistrial is
4 appropriate under the circumstances. Whether a mistrial
5 is mandated by manifest necessity is a fact specific
6 inquiry.

7 Given the varying and often unique situations
8 arising during the course of a criminal trial, the
9 United States Supreme Court has recognized broad
10 discretion reserved to a trial judge in declaring a
11 mistrial.

12 I have reviewed a number of matters in cases
13 prior to reconvening court today. As an initial matter,
14 I would point out that the speedy trial motion was filed
15 May 14th of 2012.

16 At that time all the parties knew that
17 Ms. Zinah Jennings was pregnant or expecting a child and
18 the potential due date. When I go from there, I see
19 that the first matter Mr. Pride brings to the attention
20 of the Court is the sequestration of the jury.

21 I go back to Monday a week ago, the 27th, when
22 we qualified the jury. I told them if there were any
23 violations of their oath, I was not above sequestering
24 them. I did not sequester them. I think they have been
25 true to their oath. No motion was made.

1 Mr. Pride's point is well taken. He felt that
2 he could not make such a motion outside the presence of
3 his client. Be that as it may, the jury missed only one
4 day of testimony, and that was Friday.

5 The jury wrote a note early on in the trial:
6 Is there an estimate of how long this trial may last?
7 Will it go through the weekend and through the holidays?
8 That note was written and given to the court on
9 Wednesday morning.

10 I asked the jury Thursday night to consider
11 their preference for the three-day weekend. I received
12 this note: The jury unanimously agrees not to serve on
13 Saturday or Monday due to prior work and personal
14 commitments. I had already told them I would not work
15 on Sunday. So at the point we are at, we have missed
16 about one day of testimony, which was Friday.

17 The medical information I received is that it
18 was a normal, natural delivery. As far as needing to
19 change pads every two hours or her fitness at trial, I
20 watched her very intently when she came into the
21 courtroom. She appeared to be moving in a manner
22 appropriate to the procedure that she underwent last
23 Friday.

24 We started pretrial hearings in this case on
25 July the 30th of this year, knowing again the condition

1 of Ms. Jennings and when she may deliver. There was
2 never a motion for a continuance. There has never been
3 a motion for continuance. It was my understanding that
4 we were moving forward with the trial of this case
5 regardless.

6 We had two other days of motions, one on the
7 8th of August, I believe, and another maybe on the 15th
8 of August. There was never any mention. The point we
9 are at, the parties have made a substantial investment
10 in the trial.

11 There have been 36 witnesses presented by the
12 State, three days of testimony, four days of trial.
13 Last Monday, a week, it took until 6:30th to select a
14 jury panel. There has been at least approximately 68
15 State's Exhibits introduced and four or five defense
16 exhibits.

17 No one has indicated to me -- I did talk to
18 the deputies that transported Ms. Jennings this morning.
19 They said she was moving slower than she did last
20 Thursday, voiced no complaints whatsoever, had no
21 conversation with the officers that transported her last
22 week, and the same officers again transported her.

23 I am also not sure that jail would be
24 necessarily a more appropriate environment for her. So
25 I respectfully deny the motion for mistrial, but I will

1 say this. I intend to take a break every 45 minutes. I
2 intend to take a break every 45 minutes.

3 I don't care if a witness is in mid sentence,
4 we are going to take a break in 45 minutes. We will
5 take a minimum of a 15-minute break. If Ms. Jennings
6 needs a longer break, we will take a longer break.

7 I intend to take at least a two-hour luncheon
8 recess. I intend to quit, if I do my calculations
9 right, by 4:30 in the afternoon, quarter to 5:00 at the
10 latest.

11 I have asked the deputies also -- well, not
12 the deputies. I have informed them that I was going to
13 inform Ms. Jennings if at any time we get to that 45
14 minutes and she needs a break, all she has to do is tell
15 one of her lawyers. We will take a break at that time.
16 So with that being said, we will take about a 15-minute
17 recess now.

18 Yes, sir, Mr. Pride.

19 MR. PRIDE: Judge, would you indulge me just
20 one minute?

21 THE COURT: Yes, sir.

22 (Pause.)

23 MR. PRIDE: Can I approach, Judge?

24 THE COURT: Yes, sir, certainly.

25 MR. PRIDE: Not for a conference. I simply

1 wanted to give this to the Court. Judge, I would
2 appreciate it at your convenience if you would apprise
3 yourself of this memorandum because I foresee that this
4 issue -- not now -- but at some point in the trial will
5 come up, and I would like to have a definitive
6 discussion with you about it.

7 THE COURT: All right. Mr. Pride, I didn't
8 specifically address your issues, as you couched them in
9 terms of the human element, of not seeing the baby or
10 not having the love and care of her family around her
11 and that support.

12 She certainly has appeared to have had that in
13 the courtroom, the support of her family and loved ones,
14 from my observations. I realize being incarcerated
15 there is not necessarily that surrounding, but she does
16 see her family in that regard. As far as those other
17 elements, there are other processes that trigger certain
18 action by the State that are not before this Court.

19 MR. PRIDE: I understand. Judge, can the
20 mother sit in that chair behind her just for a few
21 minutes?

22 THE COURT: I don't have any objections, as
23 long as security has no objections.

24 MR. PRIDE: Thank you, Judge. I appreciate
25 it.

1 THE COURT: She can. As long as security has
2 no objections, I have no objections.

3 MR. PRIDE: Thank you very much, Judge.

4 THE COURT: We will take a 15-minute recess.
5 Please, again, Mr. Pride, any time Ms. Jennings needs a
6 break and I haven't taken one, let me know.

7 MR. PRIDE: I appreciate your consideration.

8 THE COURT: Thank you very much. Court will
9 be in recess 15 minutes.

10 (Whereupon there is a recess.)

11 THE COURT: Anything additional from the State
12 before we bring in our jury?

13 MS. GARFIELD: Yes, sir. Judge, our next
14 witness was inadvertently left off our witness list.
15 It's Captain Melron Kelly. I just wanted to provide
16 that to you in case you wanted to voir dire the jury.

17 THE COURT: What is his or her name?

18 MS. GARFIELD: Melron Kelly with the Columbia
19 Police Department.

20 THE COURT: M-E-L-R-O-N, K-E-L-L-Y?

21 MS. GARFIELD: Yes, sir.

22 THE COURT: Anything further?

23 MS. GARFIELD: No, sir.

24 MR. PRIDE: Since it was left off, Judge, we
25 have no statement from that witness. Could you ask the

1 solicitor to make a proffer of what that witness will
2 testify to?

3 THE COURT: Solicitor.

4 MS. GARFIELD: Mr. Pride, if you will refer to
5 what was provided in discovery regarding the East Point
6 search. That's what he is testifying to. He doesn't
7 have a formal statement.

8 MR. PRIDE: Thank you, Judge.

9 THE COURT: Anything additional from the
10 defense?

11 MR. PRIDE: Nothing, Your Honor.

12 THE COURT: Thank you. Bring the jury.

13 (The jury returns to the courtroom at
14 10:11 A.M.)

15 THE COURT: Good morning, ladies and gentlemen
16 of the jury panel. Welcome back. I hope y'all had a
17 pleasant weekend. There are just a couple of matters I
18 need to address.

19 Again, I apologize for the delay in getting
20 you out here this morning. I assure you that was not
21 the fault of either of the parties. They were here
22 early working very diligently.

23 A couple of administrative matters. The next
24 witness to be called by the State is Captain Melron
25 Kelly. Is Captain Kelly present? Would you please

1 stand and face the jury panel. Thank you. You may be
2 seated.

3 That particular individual, his name was left
4 off the witness list. I will go back and ask you one of
5 those questions I asked throughout the course of the
6 jury selection.

7 Is any member of the jury panel related by
8 blood or marriage or close personal friends, have any
9 business, social, or professional relationship with
10 Captain Melron Kelly? If so, please stand.

11 (There is no response.)

12 THE COURT: No one stands. Next, juror
13 number 255, contact was made with your employer. I
14 understand that slot is reserved.

15 JUROR: Thank you.

16 THE COURT: That's the information I received
17 back from Judge Benjamin that had the contact within the
18 City, you might say.

19 Ladies and gentlemen, I would also
20 administratively advise you that I am probably going to
21 take breaks more frequently throughout the day. I am
22 probably going to take a break about every 45 minutes.
23 We will take a break about every 45 minutes.

24 I told the attorneys that. Even if a witness
25 is in mid sentence, we will take a 15-minute break

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1 during those periods of time. I will probably take --
2 you may think we already take extended lunch breaks. I
3 will probably take about a two-hour lunch break today
4 also.

5 With that being said, if you would please
6 continue to give the parties your complete and undivided
7 attention as you have done throughout the trial of this
8 case.

9 Solicitor, you may call your next witness.

10 MS. GARFIELD: Thank you, Your Honor. May it
11 please the Court. The State calls Captain Melron Kelly.

12 MELRON KELLY, being
13 first duly sworn, testifies as follows:

14 CLERK: Have a seat in the witness stand,
15 please. State your name for the record and spell your
16 first and last names.

17 THE WITNESS: Melron Kelly, M-E-L-R-O-N
18 K-E-L-L-Y.

19 DIRECT EXAMINATION

20 BY MS. GARFIELD:

21 Q Captain Kelly, please tell the jury where you're
22 employed.

23 A I'm employed at the Columbia Police Department
24 assigned to the North Region.

25 Q And can you explain to the jury what your duties

1 are with the police department?

2 A I'm a police captain. I direct patrol services for
3 North Columbia. That includes the Eau Claire and
4 Greenview area, North Main.

5 Q Are you familiar with the Defendant in this case,
6 Zinah Jennings?

7 A I am.

8 Q And can you explain to the jury how you know
9 Ms. Jennings?

10 A I know Ms. Jennings through living in the Waverly
11 neighborhood. They lived on my street some years
12 back before I moved.

13 Q Were you also involved in the investigation in the
14 course of this trial?

15 A I was, yes, ma'am.

16 Q And can you explain to the jury what you did in
17 this investigation?

18 A On this investigation, I was assigned to make
19 contact with any out-of-state leads. I made
20 contact with the East Point Police Department and
21 the Atlanta Police Department.

22 At that time, I made contact with Lieutenant
23 Sean Buchanan of the East Point Police Department.
24 The information we had received led us to his
25 jurisdiction, being that Ms. Jennings used to

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1 reside in East Point, Georgia.

2 Q And after you made contact with the authorities in
3 East Point, Georgia, what was your next course of
4 action?

5 A My next course of action was to see if there were
6 any locations that she frequented, as well as
7 resided at; and we would go to those areas to
8 search to see if we could find Child

9 Q And did you conduct any searches in the Georgia
10 area?

11 A Yes, ma'am, I conducted three searches.

12 Q And can you just briefly describe for the jury what
13 you did?

14 A We went to the home of Ms. Jennings at 2282 Ridge
15 Crest Lane, searched the residence for Child We
16 also went to a residence around the corner that
17 Zinah was known to frequent on Marlowe Drive. We
18 searched that area as well.

19 We also did subpoenas at Grady Memorial
20 Hospital and D.F.A.C.S., which is the Georgia
21 Department of Families and Children, to see if
22 anyone had dropped off a child under their Safe
23 Haven Act.

24 Q And what were the results of those searches?

25 A The results for all those searches were negative,

1 ma'am.

2 Q Did you also search -- when you went to the home
3 where Ms. Jennings had formerly resided, did you
4 search any of the outside area?

5 A Yes, ma'am, we did.

6 Q And can you just explain to the jury what you did?

7 A Yes, ma'am. We searched the outside area, the
8 adjacent neighbors' houses, the backyard area, any
9 outbuildings or sheds or vehicles that had been
10 parked there for a long time. We also took a -- It
11 was a foot path next to the Marlowe Drive residence
12 that we searched as well.

13 Q And were you able to find any clues that led you to
14 the finding of ^{Child} Jennings?

15 A No, ma'am, we were not.

16 Q And do you see Zinah Jennings in the courtroom
17 today?

18 A Yes, ma'am, I do.

19 Q And can you point her out for the record?

20 A She's to my left seated next to her mother.

21 Q And what is she wearing?

22 A A white shirt and a black vest.

23 MS. GARFIELD: Your Honor, may the record
24 reflect that Ms. Jennings has been identified?

25 THE COURT: So reflected.

MELRON KELLY -- CROSS -- MR. PRIDE

1 BY MS. GARFIELD:

2 Q Thank you, Captain Kelly. Please answer any
3 questions the defense may have for you.

4 THE COURT: Thank you, Solicitor. Mr. Pride.

5 CROSS EXAMINATION

6 BY MR. PRIDE:

7 Q Captain Kelly, the reason why you searched Atlanta
8 is that you were looking for Child

9 A Yes, sir.

10 Q And Child lived in Atlanta at one time with his
11 mother?

12 A Yes, sir. It was my understanding that he resided
13 with his mother there, with a young lady who was
14 identified as Zinah's sister; and I believe her
15 name was Denise Jennings, sir.

16 Q Okay. And the total of your testimony is that you
17 did not find Child in Atlanta, Georgia --

18 A No, sir, I did not.

19 Q -- notwithstanding the places that you searched?

20 A Not the places that were searched, correct.

21 Q Thank you very much.

22 THE COURT: Redirect?

23 MS. GARFIELD: Nothing further, Judge.

24 THE COURT: Thank you. Thank you very much.

25 You may step down, and you may be excused.

1 THE WITNESS: Thank you.

2 (Witness leaves the witness stand.)

3 THE COURT: All right. You may call your next
4 witness.

5 MS. CAMPBELL: May it please the Court. The
6 State calls Investigator Colin Bailey.

7 COLIN BAILEY, being
8 first duly sworn, testifies as follows:

9 CLERK: Thank you. Have a seat in the witness
10 stand, please, and state your name for the record; and
11 spell your last first and last names.

12 THE WITNESS: Investigator Colin Bailey,
13 C-O-L-I-N. The last name is spelled B-A-I-L-E-Y.

14 DIRECT EXAMINATION

15 BY MS. CAMPBELL:

16 Q Investigator Bailey, where are you employed?

17 A I'm employed with the City of Columbia Police
18 Department, specifically the special victims unit
19 in investigations.

20 Q And as part of the special victims unit, what do
21 your duties include?

22 A Our duties include investigating criminal domestic
23 violence cases, sexual assaults, runaways, missing
24 persons, internet crimes against children. We also
25 investigate vulnerable adults; and occasionally I

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1 will investigate cases that don't involve -- don't
2 fall into that criteria -- when the need arises,
3 such as an assault or a burglary.

4 Q And how long have you actually been in law
5 enforcement, sir?

6 A I've been in law enforcement just over ten years.

7 Q And how long have you been assigned to the special
8 victim unit?

9 A Over two years.

10 Q And as part of that unit, you mentioned that your
11 duties include missing persons reports --

12 A That's correct.

13 Q -- as well as crimes against children?

14 A That's correct.

15 Q I want to turn your attention back to December of
16 2011. Tell this jury how you first became involved
17 in this case.

18 A I received a telephone call from a secretary in the
19 Chief's office, the Chief of Police, who indicated
20 that there was a woman named Jocelyn Jennings who
21 wished to speak to an investigator regarding filing
22 a missing person report.

23 I then called Ms. Jocelyn Jennings, who is the
24 mother of Zinah Jennings and the grandmother of
25 Child Jennings, and I called her to ask -- to gain

1 some details -- as to why she wanted to file a
2 missing person report.

3 Q Okay. So your first contact came through whose
4 office?

5 A The Chief of Police's office.

6 Q And who is the Chief of Police?

7 A The Chief of Police is Scott, Chief Scott.

8 Q And at that point it was information relayed to you
9 that led you to Jocelyn Jennings; is that correct?

10 A Yes, ma'am.

11 Q And what type of report was it that Jocelyn
12 Jennings wanted to make at that point?

13 A Ms. Jocelyn Jennings wanted to make a missing
14 person report regarding her daughter, Zinah
15 Jennings. She also additionally wanted to advise
16 the police department that not only had she not
17 seen her daughter, but she had not seen her
18 grandson.

19 Q And you got certain information then from the
20 Chief's office, and then you were able to make
21 contact with Ms. Jennings?

22 A I was. I actually called her on the phone.

23 Q And what date was this, sir?

24 A This was on the 8th of December.

25 Q Of 2011?

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1 A That's correct.

2 Q Once you made contact with Ms. Jennings, were you
3 able to get information that would be important to
4 your attempts to locate either Zinah Jennings or
5 Child Jennings?

6 A Right. I collected information from Ms. Jennings,
7 of course, regarding dates of birth; and I also
8 spoke to her about some of Zinah's friends and
9 relatives.

10 I learned from Ms. Jennings that Zinah had
11 lived for a period of time -- about three months --
12 in East Point, Georgia, during the months of
13 September, October, and early November but had been
14 generally staying in the Columbia area and
15 specifically most nights had been staying at her
16 house at Lady Street.

17 Q Was Ms. Jennings able to give you any information
18 as far as the last time she thought she had seen
19 Zinah at that point?

20 A At that particular time, she was unsure of the last
21 time she had seen Zinah. She said that -- she
22 indicated to me that it was possible that Zinah was
23 coming in late at night and staying in the house
24 and then leaving in the morning before Ms. Jennings
25 went to work.

1 So she was not able to determine exactly the
2 last time that she had seen Zinah, but she did
3 indicate that. Yes, ma'am, that's what she told
4 me.

5 Q Were you able to get other information from her in
6 order to -- or what's the procedure you go through
7 once a person is reported as missing?

8 A Right. I'll write what's called a police incident
9 report and then forward it to the front desk of the
10 Columbia Police Department, also known as the
11 telephone response unit.

12 Their job is to enter the missing person
13 information into the N.C.I.C. database, alerting
14 all police departments nationwide that a particular
15 person is missing.

16 Q There is a database in your department where you
17 can enter this information about missing persons?

18 A Correct.

19 Q And specifically, what pertinent information was
20 entered in at that point about Zinah Jennings?

21 A We entered in her name and date of birth, and we
22 also entered in her car information.

23 Q Were there any phone numbers associated with
24 Ms. Zinah Jennings at that point? And I'll show
25 you the incident report from the missing person

1 case.

2 A Sure, and this was according to Ms. Jocelyn
3 Jennings. She reported to me that Zinah had a
4 telephone number of (803)497- , a phone -- that
5 she had a phone associated with that phone number,
6 a cell phone.

7 Q Once that information had been entered into the
8 database, did you try to follow up on the phone
9 number itself?

10 A Correct. I tried to call that number, and it was
11 -- it was not working.

12 Q At that point?

13 A That's correct.

14 Q And this was on what date?

15 A This was on the 8th of December.

16 Q Later on in your investigation and already into
17 evidence, did you then obtain some phone records
18 that went with that phone number?

19 A I did.

20 Q And we'll get back to that information in a
21 minute -- that day did you also make contact with a
22 Ms. Yolanda Williams?

23 A I did. I spoke to Ms. Yolanda Williams over the
24 phone, and she indicated to me that she had seen
25 Zinah recently, although at that time she was not

1 able to give me an exact date but that she had seen
2 Zinah. She had seen Zinah without Child and --

3 Q Without Child

4 A Without Child Zinah was seen without Child without
5 her son and --

6 Q Did you also make contact with Zinah's sister?

7 A I did. I spoke to Ms. Denise Jennings over the
8 phone. Denise Jennings was in East Point, Georgia,
9 which is just outside of Atlanta at the time; and I
10 spoke to her about her sister's location and her
11 recent activities.

12 Q And was she able to give you any pertinent
13 information as to where Zinah might be then, on
14 December the 8th?

15 A Denise indicated to me that although she did not
16 know where Zinah was, she indicated to me that she
17 had recently spoken to Zinah and that Zinah was
18 fine and that there was no need for a report and
19 there was no need for the police department to look
20 into the case.

21 Q So she had recently spoken to Zinah and Zinah was
22 fine?

23 A That's correct.

24 Q And that was the information that Denise Jennings
25 gave you on December the 8th?

1 A That's correct.

2 Q Did you also try to make contact with a Ms. Nina
3 Simpson?

4 A Right, I did. I had a wrong number for her. We
5 contacted her later. But on that particular day, I
6 called her and the phone number I was given by
7 Ms. Jocelyn Jennings was not the correct number.

8 Q And on that date, on December the 8th of 2011, was
9 that generally the information you were able to
10 follow up on on that day?

11 A Correct.

12 Q And approximately how long was it that were you
13 able to determine that Zinah and ^{Child} had been
14 missing at this point or did you learn more about
15 that later?

16 A We didn't have a date. We did have a period of
17 time that we were just -- it was indicated from
18 Ms. Jocelyn Jennings that it was possible that they
19 had not seen ^{Child} or Zinah since around December
20 the 1st or 2nd.

21 Q The next day did you go onto a certain database to
22 get additional information?

23 A Right. I have access to what's called a database
24 called a S.C.I.E.X. I can't remember offhand what
25 the acronym stands for, but it is a database that's

1 run by S.L.E.D. that gives me access to almost all
2 incident reports written by police officers
3 statewide.

4 COURT REPORTER: Can you tell me what the
5 acronym is?

6 THE WITNESS: The acronym is S-C-I-E-X.

7 BY MS. CAMPBELL:

8 Q Were you able to get any information concerning the
9 actual biological father of ^{Child} Jennings?

10 A Correct. Through reports I was able to determine
11 that there was a gentleman by the name of Roderick
12 Mitchell who seemed to have -- who in one of the
13 reports it was indicated that he was the father of
14 ^{Child} Jennings.

15 Q And did you make any attempt to contact him that
16 day?

17 A I did. We went to Roderick Mitchell's residence,
18 and a person there, who asked not to be identified,
19 indicated he did not live there. I then went to
20 his -- but she told me where he worked. So we went
21 to his place of work, Hunter-Gatherer restaurant on
22 Main Street; and I was told he was not there.

23 Q That day, without saying what Jocelyn Jennings
24 said, did you also have -- update her about the
25 information you had at that point?

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1 A I did.

2 Q The next -- and at that point the information was
3 entered into your database about trying to contact
4 her?

5 A Yes.

6 Q And tell the jury how that works. Once a missing
7 person, be it ^{Child} or Zinah, is entered into that
8 database, how police can be alerted that they're
9 actually missing?

10 A Right. Police often, when they encounter someone
11 on the street or during an investigation, will do
12 what's called a record's check. That simply means
13 that the officer is checking -- either they have to
14 call dispatch or sometimes they can do it
15 themselves using their computer terminal -- can
16 check the National Database, the N.C.I.C., which is
17 run by the F.B.I., to see if a particular person is
18 wanted or if a person is missing.

19 Officers do this routinely, typically when
20 encountering someone that has broken the law or
21 been involved in an incident, to make sure that
22 that person is not, you know, wanted either by the
23 Columbia Police Department, another department
24 within the State of South Carolina, or any
25 department nationwide, and sometimes international.

1 Q So over the next two weeks, up until December 24th,
2 were there any hits off the database or any other
3 information?

4 A There was not.

5 Q And did you have any further contact --

6 A Between the 8th and the 24th, there was not any
7 hits on her name.

8 Q And did you have any further contact after
9 December 9th with Ms. Jennings as far as Zinah or
10 Child whereabouts?

11 A With Jocelyn Jennings not until -- although I had
12 had one additional phone conversation with her,
13 like I testified on the 9th, I did not speak to her
14 until the 27th.

15 Q I want to turn your attention to December 24th of
16 2011. Is that a significant date in this
17 investigation?

18 A Correct. On December 24th in the early morning
19 hours, I received a telephone call -- and this was,
20 by the way, 2011, of course -- I received a
21 telephone call from Officer Miller who indicated
22 that he was working a car accident in Columbia and
23 that a person listed in N.C.I.C. as missing, Zinah
24 Jennings, had been involved in said accident; and
25 he asked me for guidance as to what to do next.

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1 Q And what information -- or what did you ask him to
2 do at that point?

3 A I asked -- well, my first question to Officer
4 Miller was, was there a child with Zinah; and he
5 indicated there was not, that the accident -- there
6 was only one person involved in the accident, there
7 was one car. There was only one person in the car
8 and that was Zinah Jennings. I then asked him
9 could he ask Zinah where the child was.

10 Q And at that point was that the extent of the
11 conversation that you had with him?

12 A No, it was not. Miller indicated to me that he had
13 to go to the hospital to ask her. I said yes, to
14 please go immediately to the hospital and ask Zinah
15 Jennings where her son ^{Child} was, and that was it.

16 Q And that would have been Christmas Eve?

17 A That would have been Christmas Eve, right, in the
18 early morning hours of Christmas Eve.

19 Q And did Officer Miller get back to you immediately
20 about this information he got?

21 A He did not. He got back to me several days later
22 and told me what he had -- about his conversation
23 with Zinah and his conversation -- well, Zinah's
24 conversation with a nurse.

25 Q I want to turn your attention to December 27th, two

1 days later or three days later actually. Did you
2 receive information from Ms. Jocelyn Jennings about
3 Zinah?

4 A Right. Jocelyn Jennings e-mailed me and sent me an
5 e-mail and indicated that Zinah was back at her
6 house at Lady Street; however, ^{Child} Jennings was
7 not with her. So that afternoon myself and
8 Investigator Coleman went to the home of Jocelyn
9 Jennings to meet with Zinah Jennings.

10 Q And the first time you responded to -- what's the
11 address at Lady Street?

12 A The address is Lady Street, Columbia, South
13 Carolina.

14 Q Is that here in Richland County?

15 A It is.

16 Q And when you responded to that address the first
17 time then on December the 27th, were you able to
18 make contact with Zinah Jennings?

19 A I was not. Ms. Jocelyn Jennings indicated that
20 Zinah had left and we had missed her.

21 Q Later that day what did you do?

22 A Later on I received a text message from Jocelyn
23 Jennings indicating that Zinah Jennings was back at
24 Lady Street. I was at home at the time. So I
25 got in my car and called for another officer to

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1 meet with me there. In fact, it ended up being
2 Officer Buck. We met -- Officer Buck and I -- met
3 at Lady Street with Jocelyn Jennings and Zinah
4 Jennings.

5 Q And what time was this? I'm sorry.

6 A This was at 6:30 in the evening.

7 Q And you mentioned that you had actually gone home
8 for the day?

9 A That's correct.

10 Q Why did you think it was important to make contact
11 with Zinah Jennings as soon as you found out she
12 was back at the house?

13 A Because earlier in the day, Ms. Jocelyn Jennings
14 had indicated to me that Zinah was back and that
15 she was back without Child She indicated to me she
16 was getting worried because now she hadn't seen
17 Child for --

18 MR. PRIDE: Objection to what Ms. Jennings
19 told him.

20 THE COURT: Sustained.

21 BY MS. CAMPBELL:

22 Q Don't go into what she told you. As a result of
23 what she told you, did you think it was important
24 to get in touch with Zinah as soon as you could?

25 A Right. She caused me concern, and I was concerned

1 and I needed to -- I decided that it was pretty
2 important to meet with Zinah and try to get the
3 issue solved as to where her son was.

4 Q Were you able to make contact with Zinah sometime
5 after 6:30 that evening?

6 A I was. I made contact with Zinah Jennings in the
7 living room of her mother's address at Lady
8 Street.

9 Q And at that point what were you trying to do?

10 A I was trying to determine from Zinah -- because the
11 family had not been able to find out -- I was
12 trying to determine from Zinah where her son was so
13 we -- who her child was with so we could close the
14 case as to regarding the missing person.

15 Q And at this point was she under arrest?

16 A She was not.

17 Q Was she in custody?

18 A She was not in custody.

19 Q And at this point you were just trying to get
20 information?

21 A That's correct.

22 Q And when you met with her at her house, what
23 happened?

24 A I met with Zinah Jennings at her house; and we
25 spoke about what she had been up to, where she had

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1 been recently. We spoke about where she had gone
2 to college; and then, of course, I asked her where
3 her son was.

4 Q What information did Zinah Jennings relate to you
5 on December 27th, that evening?

6 A Zinah Jennings told me that ^{Child} her son, was with
7 his biological father. She told me that the
8 biological father's name was an Ernest Robinson,
9 and he was a 2005 graduate of Dreher High School.

10 She indicated that Ernest Robinson lived in an
11 apartment complex, which name she did not know, but
12 she described it as being off -- somewhere off of
13 Garners Ferry between Walmart and I-77.

14 She indicated it was -- the building where
15 Ernest Robinson lived was an apartment complex on
16 the right and was possibly green. She also gave me
17 a telephone number to Ernest Robinson which was
18 (803)728- .

19 Q And did you follow up on any of the information she
20 gave you that evening?

21 A I did. Using my Smartphone I have access to the
22 South Carolina Department of Motor Vehicles'
23 database. So I immediately ran Ernest Robinson's
24 name in the database and several different
25 spellings.

1 I ran it several different ways, and I could
2 not come up with an Ernest Robinson who was close
3 to fitting the criteria that Zinah had given to me,
4 that he would have to have been of a certain age or
5 within an age range to graduate from Dreher High
6 School. I was just unable to determine -- I was
7 unable to find an Ernest Robinson who fit that
8 description, and I then told Zinah --

9 Q Wait a minute. Before you get to that, did you
10 also follow up on the phone number she gave for
11 this Ernest Robinson?

12 A I did and that phone number was not working. Later
13 I learned that that phone number is what is called
14 a routing number. So it's not assigned to -- it is
15 not assigned to any particular person.

16 Q So at that point based on the information she gave
17 you, you can't find anyone matching that
18 description?

19 A Correct.

20 Q And the phone number is the some routing number
21 that doesn't even belong to anyone?

22 A Correct.

23 Q Were you still at the Lady Street address when you
24 were running this information?

25 A I was. I was standing right in front of Zinah

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1 Jennings at this time.

2 Q And what did you do? Once you were not able to
3 find an Ernest Robinson or the phone number didn't
4 work, what did you do?

5 A I asked Zinah -- I told Zinah that Ernest Robinson
6 was not in the Department of Motor Vehicles'
7 database. I asked her further for some more
8 information. Then she said, Well, I think he may
9 be -- maybe he's from New Jersey because he has a
10 New Jersey driver's license.

11 Q Was that the only additional information she gave
12 you at that point once you confronted with her the
13 fact he didn't exist?

14 A She actually wrote down basically the information
15 that I just testified with the exception of that
16 New Jersey information. I then gave Zinah Jennings
17 my business card, and it had the address of my
18 south region office which is at -- which is on
19 Devine Street near Five Points in Columbia -- and
20 asked her to meet me there at 3:00 o'clock the next
21 day.

22 Q So you actually set up an appointment to talk with
23 her?

24 A I did. I made sure that Zinah's schedule was
25 clear, and she indicated that -- she promised that

1 she would be there the next day at 3:00 o'clock.

2 Q And that's at the south region headquarters?

3 A That's right. And it's -- I think it's about a
4 mile, maybe a little less than a mile, from Zinah's
5 home on Lady Street. So it's within walking
6 distance.

7 Q That next day did you do any follow-up in the lower
8 side as far as the Garners Ferry Road information
9 she had given you?

10 A Right. The very next day I went with another
11 investigator to -- and drove down Garners Ferry
12 Road to try to find this apartment complex that
13 Zinah had described.

14 I ended up discovering that Wellington Farms,
15 which is an apartment complex off of Greenlawn,
16 somewhat fit the description. We met with the
17 leasing agent there.

18 We got a full list of residents who lived
19 there and had lived there in the past, and we did
20 determine that there were some Robinsons living
21 there but no one fitting the description Zinah had
22 given us.

23 Q And when you said you determined there were some
24 Robinsons, did you actually make contact with those
25 people?

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1 A We attempted. At that point we attempted to make
2 contact with the Robinson family that did live
3 there. We went to their work, and we tried to call
4 them on the phone; but we were just unable to make
5 contact with them.

6 Q And there was no information you were able to get
7 when you actually went to this apartment complex
8 which somewhat fit the description where she said
9 you could find Ernest Robinson?

10 A Correct.

11 Q And that area of town, that's also in Richland
12 County?

13 A It is.

14 Q Did you also speak to a Ms. Shon Harris that day?

15 A Right. I spoke -- I spoke to a Ms. Shon Harris
16 over the phone. Ms. Shon Harris is a relative, I
17 believe a cousin, of Zinah Jennings; and I spoke to
18 her on the phone. The reason for speaking to her
19 is she had been one of the people who had recently
20 seen Zinah Jennings.

21 Q And what information was she able to give you?

22 A Ms. Shon Harris indicated to me that she had
23 recently seen Zinah over the Christmas holiday
24 without ^{Child} meaning ^{Child} was not with her and
25 that -- she caused me concern because it was

1 relayed to me that Zinah Jennings was giving
2 conflicting information to family members about the
3 location of Child at the time, indicating to family
4 members that Zinah [verbatim] was in East Point,
5 Georgia.

6 Q That who was in East Point, Georgia?

7 A That Child was in East Point, Georgia, with her --
8 with Zinah's sister.

9 Q After that did you also speak to Ms. Jocelyn
10 Jennings again that afternoon?

11 A Yes, I spoke to Ms. Jocelyn Jennings. The 3:00
12 o'clock time had not come yet, but I spoke to her
13 on the phone. She indicated that as soon as we had
14 spoken to Zinah that night that Zinah left the
15 house, and she hadn't seen her since.

16 Q At that point did you also ask for some additional
17 information in order to try to track Zinah's
18 whereabouts?

19 A Right, I did. We asked for Zinah's -- we asked
20 Jocelyn Jennings who Zinah banks with. We figured
21 that that might be one way we could try to track
22 her movements; and she gave me some information
23 regarding -- or indicating that Zinah's primary
24 banking was with South Carolina Federal Credit
25 Union.

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1 Q And did you later follow up on that information?

2 A I did.

3 Q Did you also make contact with Denise Jennings
4 again about Zinah and Child whereabouts?

5 A Sure, I did. I spoke again to Denise Jennings over
6 the phone about the whereabouts of Child Of
7 course, I notified her that family members in
8 Columbia were saying that Child was with her in East
9 Point.

10 She also had that same information and relayed
11 to me -- and it caused me concern -- she indicated
12 that her earlier statement to me was -- she
13 regretted her earlier statement to me that Zinah
14 was fine.

15 MR. PRIDE: I object, Your Honor. That's
16 hearsay.

17 THE COURT: Sustained.

18 MS. GARFIELD: State v. Caldwell, Your Honor.
19 This is Denise Jennings.

20 THE COURT: Sustained.

21 BY MS. CAMPBELL:

22 Q That day did you also make contact with D.S.S.?

23 A Right. We made contact with the Department of
24 Social Services just to check to see if they had a
25 record of Child or of Zinah, and they did not. We

1 later learned that Zinah only had a record with
2 D.S.S. for having an E.B.T. card and not for any
3 particular investigation.

4 Q And what is an E.B.T. card?

5 A An E.B.T. card is a card that is given to some
6 people so that they can use it to generally buy
7 food. It is issued by the government.

8 Q And the purpose of contacting D.S.S. was to
9 determine what?

10 A Well, I was trying to determine whether or not
11 perhaps that ^{Child} had been turned over to D.S.S.,
12 either by Zinah or by some other person; and to
13 this day the Department of Social Services has
14 indicated to me that they have not received ^{Child}
15 Jennings.

16 Q Did you also follow up anymore on the Ernest
17 Robinson name she gave you?

18 A I did. I once again checked all the databases that
19 I had access to, again, the Department of Motor
20 Vehicles. We have access to the Richland County
21 jail website. We checked there. We have access to
22 see if anyone had been -- to look for someone who
23 is there at the jail now or someone who had been
24 there in the past.

25 I also searched, once again, the database I

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1 spoke of earlier, S.C.I.E.X., S-C-I-E-X; and also I
2 have access to a database called Accurint.
3 Accurint is a database that's generally only for
4 law enforcement where we can do essentially a
5 background check on someone.

6 Accurint collects information regarding people
7 who pay bills, people who pay rent at a particular
8 location, phone numbers that people have used and
9 put on documents regarding housing or paying their
10 bills. Using all those databases, I could not find
11 an Ernest Robinson that fit the description that
12 Zinah had given me.

13 Q At that point did you seek to get a warrant in this
14 case?

15 A Right. I sought to get a warrant, and we ended up
16 calling the Solicitor's Office and spoke to a
17 solicitor regarding our next steps.

18 Q And, in fact, the next morning did you secure a
19 warrant?

20 A I did.

21 Q And what was the charge you secured a warrant for
22 the next morning based on just the information you
23 had at that point?

24 A Unlawful conduct towards a child.

25 Q And before securing a warrant in any case, does a

1 judge have to actually -- what does a judge have to
2 do?

3 A A judge must be apprized of the case, meaning I
4 must review the entire case with the judge or at
5 least the pertinent parts. Then the judge will,
6 based on an affidavit that I have written or typed
7 and based on the information I give them orally,
8 will make a determination as to whether or not a
9 warrant should be issued, an arrest warrant.

10 Q Did you also take any steps to further find Child
11 that day as far as putting him in any additional
12 database?

13 A Right. Child was entered into the N.C.I.C. database
14 also as a missing person. We were, of course,
15 trying to determine -- we wanted to make sure that
16 if any other law enforcement agency encountered
17 Child and somehow figured out his date of birth,
18 that that would -- that we would be alerted.

19 Q At that point had Zinah been the only one in the
20 database?

21 A She had.

22 Q And why was that?

23 A We didn't enter Child because my assumption was --
24 and from what the family had told me -- that Child
25 and Zinah were together. So it wouldn't make sense

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1 to enter in an 18-month-old child into the N.C.I.C.
2 database if he was with his mother and we could
3 just enter in the mom's name.

4 Q And on the 28th you took steps to remedy that?

5 A Right. At that point, I had -- it was determined,
6 based on what Zinah herself had told me and based
7 on statements from other family members, that Zinah
8 and Child were no longer together and they were not
9 in the same place.

10 MR. PRIDE: Objection, Your Honor.

11 THE COURT: Sustained.

12 BY MS. CAMPBELL:

13 Q That day -- you mentioned earlier that on the 28th,
14 Zinah was supposed to meet you at 3:00 o'clock at
15 headquarters?

16 A That's correct.

17 Q Did you go to headquarters to meet her?

18 A Actually she was supposed to meet me in the office
19 on Devine Street. I was there at 3:00 o'clock.
20 She was not there. In fact, I believe that day we
21 stayed late waiting for her, and she never showed
22 up.

23 Q And moving your attention to December 29th of 2011,
24 did you make contact with a certain agency in
25 Georgia?

1 A Right, the Department of Social Services in
2 Georgia. Their version is called D.F.A.C.S. --
3 acronym, D-F-A-C-S -- and we sent a request to
4 D.F.A.C.S asking them for information regarding
5 Zinah and ^{Child} D.F.A.C.S indicated that they did
6 not have any records on either person.

7 Q That morning did you also get an arrest warrant for
8 Zinah Jennings that you referenced earlier?

9 A I did.

10 Q And, again, what was that warrant for?

11 A The warrant was for unlawful conduct towards a
12 child.

13 Q That day did you receive -- and you can't say what
14 it was -- did you receive additional information
15 from Ms. Jocelyn Jennings?

16 A I did. I received some additional information from
17 Jocelyn Jennings pertinent to the case.

18 Q That day did you start tracking down certain phone
19 numbers that might be connected to Zinah Jennings?

20 A Right. We had a -- we did, yes.

21 Q And who were you able to get a number for that was
22 connected to her?

23 A I got a phone number and ran it, once again,
24 through the database, S.C.I.E.X., and the number --
25 S.C.I.E.X. indicated that the number belonged to a

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1 Daniel Woods and a Tai Williams Woods.

2 Q And is that as a result of the information provided
3 by Ms. Jennings?

4 A It was.

5 Q Okay. Did you actually get officers to go and make
6 contact with Mr. Woods?

7 A Right. We went to the Gonzalez Gardens Apartments
8 to make contact with Danny Woods and Tai Woods.
9 Tai Woods was not there. She was in Greenville.
10 However, we made contact with Danny Woods, and we
11 were told that Zinah had been there.

12 Q You can't go into what he said.

13 A Yes, ma'am.

14 Q Were they able to give you though information about
15 when they had last seen Zinah?

16 A They were.

17 Q Were they able to give you any useful information
18 about the whereabouts of ^{Child} Jennings?

19 A They were not.

20 Q That day did you also speak to a Ms. Nina Simpson?

21 A Yes, I spoke to Ms. Nina Simpson by phone. She
22 lives in Charlotte.

23 Q And is she also a relative of Zinah Jennings?

24 A She is.

25 Q Without saying what she said to you, was she able

1 to give you information about her most recent
2 sighting?

3 A She was, of Zinah, yes.

4 Q Was she able to give you any information regarding
5 the whereabouts of Child Jennings?

6 A She was not.

7 Q That evening after you went home, tell the jury
8 what happened.

9 A Well, just prior -- before going home we had -- we
10 had continued to search for Zinah throughout the
11 City of Columbia. But, yes, that evening, I did go
12 home. Then about 11:30 at night, I received a
13 telephone call from the Columbia Police Department
14 front desk indicating that Zinah Jennings was en
15 route to police headquarters. Then they later
16 called me and said, in fact, that she was there at
17 police headquarters.

18 Q And so she actually turned herself in?

19 A Yes, she did.

20 Q And that evening did you make contact with her?

21 A I did.

22 Q Was anyone else with you when you made contact with
23 her after she turned herself in?

24 A There was one other person, a Sergeant Arthur
25 Thomas.

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1 Q And that's Sergeant Thomas sitting here?

2 A It is.

3 Q And is he a supervisor over your unit?

4 A He is.

5 Q And why was -- was he also called in that evening?

6 A Yes. I called Sergeant Thomas and asked for his
7 guidance and advice regarding what steps to take,
8 and he told me that he would come and assist with
9 the interview of Zinah Jennings.

10 Q And in the interview, which is already in evidence,
11 prior to questioning her about ^{Child} again, did you
12 advise her of any rights?

13 A We did. We advised her of her Miranda rights and
14 told her that she did not have to talk to us, that
15 she could get a lawyer.

16 Q And why did you advise her of her Miranda rights
17 this time when before you had not?

18 A Because we had a warrant for her arrest. So she
19 was -- at that point she was under a criminal
20 investigation.

21 Q Once you advised her of her rights -- and I believe
22 that was recorded, and the actual conversation was
23 played for the jury.

24 A It was.

25 Q Did she agree to talk to y'all?

1 A She did.

2 Q And did y'all talk to her at length that evening?

3 A We did. We talked to her for several hours.

4 Q What information was she giving you at that point
5 about Child whereabouts?

6 A Zinah at that point was giving vague information
7 about Child that he was fine; but that's pretty
8 much about it. She did not tell us where he was,
9 what state he was in, what family member or friend
10 she had left the child with. She did not give us
11 any concrete information regarding the whereabouts
12 of her son Child Jennings.

13 Q And after speaking to her -- and I believe it was a
14 little over two hours?

15 A It was.

16 Q Were you able to get any additional information to
17 help you find Child

18 A I was not able to get any information, but I
19 certainly was able to gather some information that
20 led me to believe that there was a problem and that
21 -- that Zinah was being intentionally evasive about
22 the location of Child Jennings.

23 Q The next day, on December 30th of 2011, did you get
24 some search warrants?

25 A I did. I got -- that day I secured a total of

1 three search warrants.

2 Q And what areas or what -- where were you trying to
3 search at that point?

4 A I wanted to search her cell phone records, I wanted
5 to search her car, and I wanted to search the house
6 at Lady Street.

7 Q And in order to get a search warrant, again, what
8 do you have to do? Explain to the jury what you
9 have to do.

10 A Just as we do with an arrest warrant, regarding a
11 search warrant, we explain the case to the judge.
12 The judge will also read over the search warrant
13 that I had typed, but it would be unsigned at that
14 time. The judge would make a determination whether
15 or not they thought we had the constitutional right
16 to obtain a search warrant.

17 Q And were you able to get a lawful search warrant
18 for her phone?

19 A I was.

20 Q Were you able to get a lawful search warrant for
21 the car?

22 A I was.

23 Q I'll get back to that. And the house that you
24 wanted to search, where was that located?

25 A Lady Street in the City of Columbia. That is

1 in Richland County, South Carolina.

2 Q That day, did you also -- were you also being
3 assisted by Investigator Wade in this
4 investigation?

5 A I was. I was in contact with Investigator Wade,
6 who is attached to the Marshall's office.

7 Q And at some point were you able to learn
8 information about the phone number that had been
9 initially provided that belonged to Zinah?

10 A Right. The reason why -- it was relayed to me that
11 Zinah Jennings' phone number had changed on
12 December 1st.

13 Q And what did the phone number change to?

14 A It had changed to (803)467- .

15 Q And were you able to lawfully secure those
16 additional records in this case --

17 A I was.

18 Q -- regarding the phone number it changed to?

19 A Correct.

20 Q And I show you what has been marked as State's
21 Exhibit Number 65. Do you recognize those?

22 A I do. These are the calls -- these are phone
23 records for that phone.

24 Q And, again, the date that that phone number changed
25 was what?

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1 A The date that these records indicate the number was
2 changed was December 1st.

3 MS. CAMPBELL: Your Honor, at this time, we'd
4 offer State's Exhibit Number 65. It was stipulated as
5 to authentication.

6 THE COURT: Mr. Pride, State's 65?

7 MR. PRIDE: No objection.

8 THE COURT: All right. State's 65 is in
9 evidence without objection.

10 (State's Exhibit Number 65 is received into
11 evidence.)

12 THE COURT: Solicitor, we will take a brief
13 recess at this time.

14 MS. CAMPBELL: Yes, sir.

15 THE COURT: Ladies and gentlemen of the jury
16 panel, please leave your notes upside-down on your
17 chair. We are going to take about a 15-minute recess.
18 Do not discuss the case during this brief recess.

19 (The jury retires to the jury room.)

20 THE COURT: Mr. Bailey, you may certainly step
21 down and refresh yourself during this brief recess. You
22 may not discuss your testimony with anyone.

23 THE WITNESS: Yes, Your Honor.

24 THE COURT: Thank you very much. Court will
25 be in recess.

1 MR. PRIDE: Judge, can I tell you something?
2 THE COURT: Yes, sir.
3 (Whereupon there is a bench conference off the
4 record.)

5 (Whereupon there is a recess.)

6 THE COURT: Thank you. Please be seated.
7 Anything before we bring in our jury from the State?

8 MS. GARFIELD: No, sir.

9 THE COURT: Defense?

10 MR. PRIDE: Nothing, Your Honor.

11 (The jury returns to the courtroom.)

12 THE COURT: Thank you. Thank you very much.
13 Solicitor, you may continue.

14 MS. CAMPBELL: May it please the Court, Your
15 Honor.

16 THE COURT: Yes, ma'am.

17 **DIRECT EXAMINATION**

18 BY MS. CAMPBELL:

19 Q I want to back up to what was Court's Exhibit
20 Number 2 and now has been marked as State's Exhibit
21 Number 78. You mentioned that you actually went
22 and interviewed Zinah at her mother's home on that
23 day?

24 A That's correct.

25 Q And State's Exhibit now number 78, do you recognize

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1 that?

2 A I do.

3 Q And what is that?

4 A This is a statement form that we commonly use in
5 the Columbia Police Department. It is partially
6 filled out by me, partially filled out by Zinah
7 Jennings, in which I ask her on paper; and I write,
8 Where is Child And then she writes her answer.

9 MS. CAMPBELL: Your Honor, at this time, we
10 would offer State's Exhibit 78 into evidence. It was
11 Court's Exhibit 2.

12 MR. PRIDE: Let me see it.

13 (Pause.)

14 MR. PRIDE: I have no objection, Your Honor.

15 THE COURT: All right. State's 78 is in
16 evidence without objection.

17 (State's Exhibit Number 78 is received into
18 evidence.)

19 BY MS. CAMPBELL:

20 Q Now, I show you State's Exhibit Number 78. What is
21 the question you asked her there?

22 A The question I asked Zinah and I wrote it down on
23 the statement is: "Q. Where is Child

24 Q And what was her answer that she wrote?

25 A She wrote, "Child is with his father, Ernest

1 Robinson. I dropped him off on December 6th, 2011.
2 He is safe and happy."

3 Q And that was what she actually wrote that evening,
4 and she gave you the additional information you've
5 related to the jury orally as well?

6 A Correct, yes, ma'am.

7 Q And I note in State's Exhibit Number 20, which is
8 the warrant that you swore out on the 29th, what is
9 the date that you reflect at that point was the
10 last time ^{Child} was seen alive according to that
11 information?

12 A According to the warrant that I filed, that I swore
13 to, the date is December 6th, 2011; and that's, of
14 course, based on that statement.

15 Q Based on Zinah's statement at that point?

16 A Yes, ma'am.

17 Q And during the course of your investigation, did
18 you later find out that that, in fact, was not
19 true?

20 A I later found out that that was not true and that
21 that date -- I indicated at the very end of the
22 warrant -- is mostly likely, due to my
23 investigation, is going to be November 29th.

24 Q November 29th?

25 A November 29th would be the last time any known

1 family or friends of Zinah Jennings have seen ^{Child}
2 Jennings.

3 Q You also mentioned that you were searching for an
4 Ernest Robinson. Did you do any actual research at
5 Dreher High School in an attempt to find him as
6 well?

7 A Correct. We spoke to -- I spoke to several of the
8 school resource officers who indicated to me that
9 they were not --

10 MR. PRIDE: Objection.

11 THE COURT: Excuse me just a minute. Keep
12 that door locked. I don't even want the staff coming in
13 and out anymore, Mr. Bailiff. Thank you. Thank you
14 very much. The objection is sustained.

15 BY MS. CAMPBELL:

16 Q Did you go to Dreher -- without saying what anybody
17 told you -- did you go to Dreher High School?

18 A I personally did not go to Dreher High School;
19 however, I did issue a search warrant to the
20 Richland I School District asking for information
21 about Ernest Robinson.

22 I received information back from the Richland
23 I School District indicating that there was no
24 records of an Ernest Robinson at Dreher High
25 School.

1 Q And prior to -- you mentioned that on the 27th,
2 when you met with Zinah, you set up a meeting for
3 the next day, on the 28th, I believe you testified?

4 A I did.

5 Q And did you give her anything?

6 A Right. I gave her, just before I left -- and this
7 would be on the 27th. This is the evening where I
8 met with Zinah at her mother's house, and this was
9 the second time I had gone to that house. So I had
10 come from home.

11 I met with Zinah and asked her to meet me at
12 3:00 o'clock the next day, and I gave her my
13 business card. My business card had my telephone
14 number, and it had the address to my office on
15 Devine Street.

16 Q And so that was given to her on the 27th?

17 A It was.

18 Q I'm going to turn your attention finally to the
19 statement that was taken on the early morning hours
20 of the 30th at police headquarters; is that
21 correct?

22 A Repeat that. I'm sorry.

23 Q The statement you actually took on the early
24 morning hours -- you and Sergeant Thomas -- took on
25 the early morning hours --

1 A Oh, correct, yes.

2 Q Does that refresh your memory?

3 A Yes, ma'am.

4 Q And during the course of that, did you ask her
5 certain questions about Ernest Robinson?

6 A I did. We had some pictures that we pulled from
7 the jail website -- that's the Alvin S. Glenn
8 Detention Center website which I have access to --
9 and we had two pictures. If I recall correctly, I
10 don't think either one was a picture of an Ernest
11 Robinson, but I think one was a picture of an
12 Ernest and another one was a picture of another
13 Ernest; and I presented both of those pictures to
14 Zinah Jennings.

15 Q And, in fact, did you inquire of her further about
16 those pictures?

17 A Right. I asked Zinah, Are either of these persons
18 the Ernest Robinson you referred to the other day?

19 Q And why were you attempting to do that?

20 A I was attempting to get some kind of response from
21 Zinah that perhaps they were the person that she
22 left the child with, but I was certain that -- I
23 was wondering what her reaction would be to me
24 actually showing her pictures and showing her that
25 we had done research, actual research, and that we

1 had paperwork regarding our research on the search
2 for Ernest Robinson.

3 Q And when you attempted to show her the photos of
4 these people that were Ernest but not Robinson,
5 what did she do?

6 A Zinah did not look at the photographs. I then said
7 to -- I asked Zinah or I then said to Zinah, I said
8 to her -- and I'm paraphrasing from my statement --
9 I said to Zinah, Would you be interested to know
10 which one of these two individuals said that they
11 know you? She did not respond.

12 That, once again, was another attempt for me
13 to indicate to Zinah that we had made an attempt to
14 locate an Ernest Robinson and that we were fairly
15 certain that Ernest Robinson didn't exist.

16 Q That day, after getting the search warrants we just
17 discussed, did y'all execute the search warrant at
18 Lady Street?

19 A Yes, ma'am, we did.

20 Q And approximately what time of day was that?

21 A Around 5:00 o'clock in the evening.

22 Q And tell the jury how the household was set up and
23 where Zinah's room was, Zinah and ^{Child}

24 A The house is a two-story house, and Zinah's room is
25 on the second floor. Her room would be on the

1 south side of the house at the end of a hallway.
2 So one could say that her room is basically at the
3 end of the hallway past all the other rooms on the
4 second floor.

5 Q And as far as Ms. Jocelyn Jennings, which part of
6 the house does she occupy?

7 A Ms. Jocelyn Jennings' room, if I recall, is going
8 to be on the north, northwest side of the house;
9 and it's across the hall from her office. She has
10 a -- she also has an office on the second floor.

11 Q And when you went into the area where Zinah
12 Jennings and Child had been living on and off,
13 describe generally what you observed.

14 A We observed a bedroom with a bed, belongings. It
15 was two dressers, two closets, pillows. There was
16 also some boxes on the floor, and one could say it
17 was quite a typical bedroom of a young person.

18 Q Okay. I show you what is marked as State's
19 Exhibits 71 through 74 and then State's Exhibit 56.
20 I'd first ask if you recognize those?

21 A I do. I recognize these photographs.

22 Q And what do those photographs depict?

23 A These photographs depict the bedroom of Zinah
24 Jennings.

25 Q And were those photographs actually taken that day

1 of the bedroom?

2 A They were.

3 MS. CAMPBELL: Your Honor, at this time we
4 would offer 71 through 74 and 56 into evidence.

5 MR. PRIDE: No objection, Your Honor.

6 THE COURT: Seventy-one, 72, 73, 74, and 56
7 are in evidence without objection.

8 (State's Exhibits Number 56 and 71-74 are
9 received into evidence.)

10 BY MS. CAMPBELL:

11 Q I show you State's Exhibit 71. What is depicted in
12 that picture?

13 A This photograph depicts a -- it looks like a
14 bedside table and a basket containing children's
15 toys, and then you can catch the side of the bed as
16 well.

17 Q State's Exhibit 72?

18 A This picture is a photograph partially of the bed
19 and of a dresser within the room.

20 Q State's Exhibit 73?

21 A This picture is of a bed and also some sort of a
22 chair in the bedroom.

23 Q And in this can you actually see children's
24 belongings and toys and things of that nature?

25 A You can.

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1 Q And that's how it appeared when you went in on what
2 date?

3 A The date we went into Zinah Jennings' bedroom was
4 on December 30th, 2011.

5 Q And who was actually taking the photographs that
6 day? Do you recall?

7 A It was Officer Wise, also known as Investigator
8 Wise.

9 Q And there are additional pictures that he put in,
10 but I want to show you State's Exhibits 74 and 56.
11 What do they show?

12 A They show my business card.

13 Q And was that how it appeared when you gave it to
14 her?

15 A It was not. That was not how it appeared when I
16 gave it to her.

17 Q And how is it different?

18 A The business card that I gave to her was not
19 folded.

20 MS. CAMPBELL: Your Honor, permission to
21 publish these photos?

22 THE COURT: Yes, ma'am, you may.

23 MS. CAMPBELL: Thank you.

24 BY MS. CAMPBELL:

25 Q During the course of the search that day -- I want

1 to show you what has been marked as State's 79 and
2 80.

3 MR. PRIDE: I don't have any objection. If
4 it's offered -- I may be premature -- if it is offered,
5 I would not have an objection, Your Honor.

6 MS. CAMPBELL: Thank you.

7 THE COURT: State's 79 and 80 are in evidence
8 without objection.

9 (State's Exhibits Number 79-80 are received
10 into evidence.)

11 BY MS. CAMPBELL:

12 Q What is State's Exhibit Number 79?

13 A State's Exhibit Number 79 is going to be the birth
14 certificate of Child Jennings.

15 Q And State's Exhibit Number 80?

16 A State's Exhibit 80 is going to be the Social
17 Security card of Child Jennings.

18 Q And where were those located?

19 A Those were located in the bedroom of Zinah
20 Jennings.

21 Q When you did that search on the 30th?

22 A It was.

23 MS. CAMPBELL: Permission to publish these,
24 Your Honor.

25 THE COURT: You may publish them, yes, ma'am.

1 BY MS. CAMPBELL:

2 Q That same day on the -- excuse me. You also got a
3 search warrant for the car in this case?

4 A I did.

5 Q And tell the jury where was the car or what had
6 gone on with the car after -- you were aware of a
7 car wreck it was in on the 24th?

8 A Correct. The car to my understanding was totaled
9 on the 24th in a one-car car accident.

10 Q And at that point did you become aware of what
11 happened to the car?

12 A I did. We learned that the car had been towed, in
13 fact, at two different lots and that it was at a
14 lot on Atlas Road at a -- I can't recall the exact
15 name of the lot -- but it was on Atlas Road just
16 south of Garners Ferry Road where it had been
17 towed, and it was located there. And that was in
18 the City of Columbia, County of Richland.

19 Q And, once you located it at that lot, did you take
20 any steps to secure it or have it secured?

21 A We did. They had a separate -- at that tow lot,
22 they have sort of a separate garage. The car was
23 actually, per our request, when I got there, it had
24 already been placed in that separate garage. There
25 were no employees there nor no other cars around,

1 and it was not accessible to the public at that
2 time.

3 Q And did you take any steps to secure the car and
4 have it towed to headquarters?

5 A I did. We arranged --

6 Q And what was the purpose of that?

7 A Well, we wanted to search the car. We knew it
8 could take a long period of time, and so we wanted
9 to have it at police headquarters where we had
10 access to the various methods that we would use to
11 search the car. We also wanted to ensure that it
12 was secure and that no one had further access to
13 it.

14 Q And you actually secured the search warrant and had
15 made arrangements for the car to be towed, but did
16 someone else actually execute that search warrant?

17 A That's correct. I secured the search warrant, and
18 someone else executed the search warrant.

19 Q And why would that person be the one executing the
20 search warrant?

21 A That person, whose name I mentioned earlier -- it's
22 going to be Investigator Wise -- he is part of the
23 crime scene unit. So it would be appropriate for
24 him to be there conducting and being on scene for a
25 search, especially a search of a car in a case such

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1 as this.

2 Q And as far as -- as part of your investigation,
3 that search warrant was executed?

4 A Correct.

5 Q And then they took into evidence the baby blankets
6 and the other items that have been mentioned?

7 A That's correct.

8 Q Turning your attention to December 31st of 2011,
9 did the search continue for Child

10 A The search did continue.

11 Q And at that point did y'all take advantage of any
12 press in order to help in your search?

13 A Correct. After I briefed the Chief of Police, as
14 well as most of the command staff of the Columbia
15 Police Department and some members of other law
16 enforcement agencies, it was decided that we would
17 alert the media and ask for their assistance in
18 trying to locate Child

19 Q That same day did you also interview Ms. Yolanda
20 Williams?

21 A I did. I interviewed Yolanda Williams, who is a
22 friend of Zinah Jennings, at police headquarters;
23 and she wrote a statement for me.

24 Q Did you also have Ms. Starks, her mother,
25 interviewed as well?

1 A Right. We had learned that Ms. Starks had also
2 been in contact with Zinah. So at the same time I
3 interviewed Ms. Williams, I arranged for my
4 sergeant to interview Ms. Williams' mother,
5 Ms. Starks.

6 Q Was the search continuing for ^{Child}

7 A It did. The search continued.

8 Q I'm going to turn your attention to January 2nd of
9 2012 now. Did you make contact with Denise
10 Jennings again?

11 A Yes, I did. Denise Jennings was still at that time
12 in East Point, Georgia; and I made contact with her
13 by phone.

14 Q And without saying what she said to you, did you
15 ask her any certain questions?

16 A Right. I asked her a series of questions trying to
17 just further gather information regarding the
18 whereabouts of ^{Child} and Zinah's activities.

19 Q Specifically, did you ask her about an Ernest
20 Robinson?

21 A I did.

22 Q You can't say what she said. Did you request her
23 to bring certain items to Columbia that may have
24 belonged to ^{Child}

25 A Right. I requested of Denise Jennings to bring any

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1 items that she thought that might have Child
2 D.N.A. on it, talking about toys, items he may have
3 touched and, specifically, of course, items he may
4 have put in his mouth, such as a pacifier.

5 Q And why was that? Why were you requesting that,
6 those items?

7 A Because we didn't -- in this particular case, we
8 didn't have Child D.N.A. because we didn't have
9 Child but we needed his D.N.A. to further the
10 investigation.

11 I wanted something, an item from her, that we
12 -- that would be likely to have his D.N.A. so we
13 could compare it to other things that we were
14 gathering at that time, other evidence.

15 Q And at that point had the baby blankets been
16 recovered from the trunk?

17 A They had.

18 Q And you were aware of the preliminary findings on
19 those?

20 A I was.

21 Q Without saying what it was, was Denise also able to
22 give you information on the last time she saw Child

23 A Yes, she was.

24 Q And that day did she come to the Columbia area and
25 turn over those items to you --

1 A She did.

2 Q -- including, specifically, the blue baby's
3 pacifier?

4 A Correct. She brought a pacifier, as well as a few
5 other items that she knew -- as well as some other
6 children's items.

7 Q And once you got the pacifier, during the time
8 period it was with you, did you alter it or change
9 it in any way?

10 A I did not.

11 Q And was the chain of evidence, while it was with
12 you, tampered with in any way?

13 A It was not.

14 Q And that was later forwarded to S.L.E.D.?

15 A It was.

16 Q January 2nd into January 3rd, did you make contact
17 with S.L.E.D. lab techs and Jennifer Clayton at
18 S.L.E.D. about doing a further collection of
19 evidence from the car?

20 A Correct. We wanted to make sure in this particular
21 case and based on the evidence we had already
22 gathered, we wanted to make sure that we were
23 collecting evidence correctly from the car.

24 That's why we waited until that particular
25 date so that we could have a conference call with

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1 the agents at S.L.E.D. and discuss exactly what we
2 had at that point and how we should proceed further
3 in regards to the search of the car.

4 Q And that day after talking to them on the 3rd, did
5 you and Investigator Nelson -- or did he actually
6 make a video of the car?

7 A Yes. Investigator Nelson and I reentered the car
8 at that point intending on gathering more evidence
9 based on the guidance we had from S.L.E.D.

10 Q And at some point was the liner from the trunk area
11 taken?

12 A It was.

13 Q Both of them?

14 A Yes, ma'am.

15 Q Later that day did you take certain items to
16 S.L.E.D.?

17 A I did. Right around 4:00, just after 4:00 o'clock,
18 I transported a series of items to S.L.E.D.
19 including the pacifier, the trunk liner, and some
20 items that are right in front of me: The
21 comforter, the white baby blanket, two other baby
22 blankets, and the trunk liner.

23 Q As well as buccal swabs?

24 A Yes, ma'am, I did.

25 Q During the time period these were in your custody,

1 did anyone alter them or tamper with them in any
2 way while you were transporting them to S.L.E.D.?

3 A They did not.

4 Q On January 4th of 2012, did you go back to the Lady
5 Street address of Ms. Jocelyn Jennings?

6 A Correct, right. On January 4th of 2012, we did
7 return to the residence of Ms. Jocelyn Jennings.

8 Q And at that point -- you can't say what it was --
9 but did you receive some information from a Russell
10 Nelson that led you to do a new search warrant?

11 A We did.

12 Q And who is Russell Nelson?

13 A Russell Nelson is Zinah Jennings' stepfather. He
14 is married to Jocelyn Jennings, and he lives there
15 at that residence.

16 Q Without saying what he said to you, what items
17 specifically were you looking for when you went
18 back over there?

19 A We were looking for a shovel.

20 Q I'm going to show you what has been marked as
21 State's Exhibit Number 69. Have you had the
22 opportunity -- do you know what this is?

23 A I do.

24 Q And was this the shovel that y'all went and
25 recovered that day?

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1 A It is.

2 Q I'm going to show you State's Exhibits 75 and 76.
3 Do you recognize those?

4 A I do. This is the rear of the residence at
5 Lady Street, the residence of Jocelyn Jennings
6 and Zinah Jennings and Russell Nelson.

7 Q And does that show where the shovel was located
8 when y'all located it that day?

9 A Yes, ma'am, it does.

10 MS. CAMPBELL: Your Honor, at this time we
11 would offer State's Exhibits 75 and 76 into evidence.

12 MR. PRIDE: Without objection.

13 THE COURT: State's 75 and 76 are in evidence
14 without objection.

15 (State's Exhibit Number 75-76 are received
16 into evidence.)

17 MS. CAMPBELL: Permission to publish?

18 THE COURT: Yes, ma'am, you may publish.

19 BY MS. CAMPBELL:

20 Q And on that date did you also receive the
21 additional records, which I think is State's
22 Exhibit 65, that we referred to from Sprint?

23 A Correct. Yes, ma'am, I did.

24 Q And on January 5th were other officers involved in
25 a search of the Atlanta area?

1 A Correct. We did send another officer to East
2 Point, Georgia, to gather further information.

3 Q And were they -- was anyone able to find Child at
4 that point?

5 A They were not.

6 Q On January 6th did you secure additional search
7 warrants?

8 A I did. I secured two additional search warrants,
9 at least two additional search warrants, on that
10 day. I secured a search warrant for -- attempting
11 to gather information on Zinah's Facebook account.
12 Also, I sent a search warrant to Yahoo trying to
13 gather information about her e-mail account.

14 Q And once those search warrants were executed, were
15 you able to get any information about the
16 whereabouts of Child

17 A I was not.

18 Q Did you also, during the course of your
19 investigation, have other investigators try to go
20 back and get certain information as to where Zinah
21 may have been during the months of December and
22 November?

23 A Right. That was our main goal at that point in the
24 investigation was to try to determine Zinah's
25 activities, her whereabouts, and try to determine

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1 whether or not Child was with her and at what times
2 and, of course, determine what dates Zinah was seen
3 without Child That became a process that I had to
4 elicit the assistance of a multitude of other
5 investigators.

6 Q And during the course of your investigation, were
7 y'all able to trace back to her E.B.T. card certain
8 transactions that were significant?

9 A We were.

10 Q Explain that to the jury. What happened?

11 A Right. We got with the Department of Social
12 Services and we got information, printed
13 information, regarding her E.B.T. card use. It was
14 generally confined to just December.

15 Myself and other investigators went to various
16 stores where the E.B.T. card had been used and
17 downloaded the video -- when we could -- from those
18 stores showing Zinah Jennings.

19 Q During the course of your investigation, did you
20 also secure -- I'm sorry. How were you able to
21 know where to go to get the videos that you've
22 collected in this case from various locations, such
23 as Dollar General, Hardee's, and things of that
24 nature?

25 A Right. The information we got from D.S.S.

1 indicated the date, time, and location that the
2 E.B.T. card had been used. So we knew what stores
3 to go to; and if the store had video, we knew what
4 times to check to see if we could see Zinah on the
5 videos.

6 Q And specifically in December were you able to
7 gather -- and, of course, what were you looking
8 for?

9 A We were looking for Child Jennings.

10 Q And in all the videos you collected, when is the
11 only video in which you were able to see Child
12 What's the date on that?

13 A The date is the 29th of November. That's
14 November 29th, 2011. That's the only video --
15 That's the latest video I have of Child Jennings.

16 Q And where is that video from that actually shows
17 Child Jennings?

18 A That video is from the South Carolina Federal
19 Credit Union which is on -- it is located on Forest
20 Drive.

21 Q And the video is already in evidence. But State's
22 Exhibit Number 77, is that a still photograph from
23 that video?

24 A It is.

25 MS. CAMPBELL: Your Honor, at this time we

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1 would offer State's Exhibit 77.

2 MR. PRIDE: I have no objection, Your Honor.

3 THE COURT: State's 77 is in evidence without
4 objection.

5 (State's Exhibit Number 77 is received into
6 evidence.)

7 BY MS. CAMPBELL:

8 Q And at the bottom of this, it indicates the date?

9 A It does.

10 Q And the time?

11 A It does. Yes, ma'am, it does.

12 Q And what is the date and time?

13 A The date and time on that video is November 29th,
14 2011, at 10:13 and 46 seconds.

15 MS. CAMPBELL: May I have permission to
16 publish?

17 THE COURT: Yes, ma'am, you may publish.

18 BY MS. CAMPBELL:

19 Q During the course of your investigation, as far as
20 credible information, what does that video show?

21 A The video shows Child Jennings.

22 Q And do you have any evidence of sightings of Child
23 Jennings that are credible since then?

24 A I do not. That is the last sighting of Child
25 Jennings on video or by any family -- family or

1 friends of Zinah.

2 Q State's Exhibit Number 22, have you had the
3 opportunity to review the other videos that are on
4 that, in addition to the bank video?

5 A I have.

6 Q And are those videos that y'all were able to get
7 during the course or your investigation showing
8 Zinah Jennings during the month of December?

9 A They were.

10 Q And, again, you were able to get those through what
11 card?

12 A Her E.B.T. card.

13 MS. CAMPBELL: Your Honor, at this time I
14 would ask permission to publish those videos to the
15 jury.

16 THE COURT: All right. You may publish. Any
17 objections, Mr. Pride?

18 MR. PRIDE: I don't have any objection.

19 MS. CAMPBELL: We will need just a second to
20 set it up, Your Honor.

21 (Pause.)

22 MS. CAMPBELL: Your Honor, may the witness
23 step down and come over to this side (indicating)?

24 THE COURT: Yes, ma'am.

25 (Witness leaves the witness stand.)

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1 (During the playing of the videotape, State's
2 Exhibit Number 22, the following is reported.)

3 BY MS. CAMPBELL:

4 Q The first one I want to talk about is 2300 -- Is
5 that 2300 Taylor Street? If you can come here so
6 that I don't block anybody. Do you know what store
7 that is?

8 A 2300 Taylor Street is the Dollar General, I
9 believe, which is very close to Allen University
10 and Benedict College.

11 Q And this shows what area of the store?

12 A That appears to be -- it is the check-out area of
13 the store. So we're just looking at video
14 obviously of the aisles, and there's the check-out.

15 Q Are you able to see Ms. Jennings in this
16 photograph?

17 A Right. Ms. Jennings, it's looks like she's second
18 in line to check out.

19 Q And is she -- what is she wearing?

20 A It looks like she's wearing a tan coat of some
21 kind. She's got sunglasses and at least from the
22 video, it appears that she -- her hair was blue at
23 that time.

24 Q And that's her exiting?

25 A It is.

1 Q During the course of your review of this video, at
2 any point are you able to see ^{Child} Jennings?

3 A I am not able to see ^{Child} Jennings in the video.

4 Q The next one, this is going to be 3020 Farrow Road.
5 Again, I believe the date and time are at the
6 bottom right-hand corner?

7 A That's right, although we're not --

8 Q Who is that right there?

9 A That right there is going to be Zinah Jennings. It
10 looks like she's got a similar hair style, similar
11 sunglasses, and maybe a coat that's slightly
12 darker.

13 The times at some of the stores are not exact.
14 The convenience stores are notorious for the time.
15 So what we would do is we'd mirror up the time to
16 when the E.B.T. card indicated the card was used,
17 and that would be a more accurate time of when she
18 went in.

19 Q The next one is 3900 Main Street. And where is
20 this?

21 A If I could refer to my notes. I believe this was
22 -- this is Bi-Lo.

23 Q Do you need your notes?

24 A Yes.

25 Q I'm sorry. And what date is this one? Do you see

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1 her in the line? I'll get back to the dates.

2 MR. PRIDE: Excuse me, Judge. The question
3 was: What date is this? And I didn't hear the answer.

4 THE WITNESS: I did not answer the question.

5 THE COURT: Go ahead, Solicitor.

6 BY MS. CAMPBELL:

7 Q Where is she standing in line? I'll get back to
8 the date.

9 A This video shows Zinah Jennings, and it looks like
10 she's second in line to check out from this
11 particular store, grocery store.

12 Q And who is that right there?

13 A That is Zinah Jennings.

14 Q Is that her walking out?

15 A It is.

16 Q And at any time on this video, were you able to see
17 Child Jennings?

18 A I do not see Child Jennings.

19 Q The next one would be one by the name of -- is this
20 on Beltline, One Love? And what type of store is
21 this?

22 A This is a convenience store. It's on Beltline
23 Boulevard right near the intersection of Beltline
24 and Truman Street.

25 Q Who do you see come in?

1 A That is Zinah Jennings walking in -- it looks to be
2 around the counter -- and there is another register
3 facing the exit.

4 Q And, again, in the course of reviewing this video,
5 were you ever able to see Child

6 A I was not able to see Child anywhere in that video.

7 Q The next one is Food Lion on Harden?

8 A Yes, it is. This is a video that we took from the
9 Food Lion on Harden Street right there in Five
10 Points.

11 Q And who are you able to identify in this video?

12 A Just based on the records that we had, it appeared
13 that this was Zinah Jennings. The jacket matches
14 the jacket that we'd seen on some of the previous
15 videos.

16 Q And, again, during the course of reviewing that
17 video, were there any signs of Child

18 A I did not see Child in that video at all.

19 Q Finally, the Kroger on Forest Drive?

20 A Yes, ma'am. This is -- this video is of the Kroger
21 on Forest Drive. It's right there at the
22 intersection of Beltline --

23 Q Who is that?

24 A That is Zinah Jennings.

25 Q The car that you see in that video, was that the

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1 car that was later searched?

2 A I can't -- we can't tell for certain if that's the
3 actual car; however, it looks exactly like the same
4 car that we searched, a similar make and model --
5 or the make and model from what I can tell.

6 Q At any time during this video, do you see ^{Child}
7 Jennings?

8 A I do not see ^{Child} Jennings.

9 Q Thank you.

10 A (Witness resumes the witness stand.)

11 MR. PRIDE: Judge, could we approach?

12 THE COURT: Yes, sir.

13 (Whereupon there was a bench conference off
14 the record in the presence of the jury but out of the
15 hearing of the jury.)

16 THE COURT: You may proceed, Solicitor.

17 MS. CAMPBELL: Thank you.

18 BY MS. CAMPBELL:

19 Q During the course of your investigation, did y'all
20 attempt to chronicle the card usage by Zinah?

21 A We did, yes, ma'am.

22 Q And taking them chronologically would you discuss
23 with the jury where she used the card and whether
24 or not you were able to retrieve video.

25 A Right. The E.B.T. card, beginning on December 5th,

1 was used at 2571 Forest Drive -- I'm sorry. Could
2 you repeat the question? That was one of the
3 stores that we didn't have video on; so I'll just
4 go through --

5 Q There was no video? And just for each one can you
6 clarify whether or not there was any video that
7 y'all were able to retrieve.

8 A Correct, at that store the video was broken. On
9 the 14th of December -- that's 1001 Harden
10 Street -- we did gather video on December 14th,
11 2011. At 2571 Forest Drive, the video was broken;
12 so we do not have --

13 Q What date was that?

14 A That was on the 14th of December. On the 19th of
15 December, 2011, we collected video from Forest
16 Drive. Once again, there was video. These aren't
17 dates that we actually collected the video. These
18 are the dates where we had learned that Zinah had
19 been at that particular store on that particular
20 day.

21 Q So for clarification the dates you're referring to
22 is not when you collected it?

23 A Correct.

24 MR. PRIDE: I object to that question without
25 him laying the basis on how he derived or learned that

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1 Zinah Jennings was there.

2 THE COURT: How he derived what?

3 MR. PRIDE: To make the statement Zinah was
4 there. He says, We learned. He should state the basis
5 of that.

6 THE COURT: All right. Well, you can lay that
7 foundation.

8 BY MS. CAMPBELL:

9 Q How did you know to go look for videos at these
10 stores on these certain days?

11 A The records that we got from the Department of
12 Social Services.

13 Q From the E.B.T. card?

14 A Correct. They actually contract out with a bank to
15 run their E.B.T. services for them. So the
16 information is actually from a bank, but it was
17 provided to us by the Department of Social
18 Services.

19 Q And on the places where we did have the videos
20 which we've covered, which we're talking about, you
21 can actually identify Zinah in those videos --

22 A Yes, ma'am.

23 Q -- as published to the jury?

24 A Yes, ma'am.

25 Q And the dates you're referring to is not when it

1 was collected; is it?

2 A Correct. The dates I am indicating -- and I think
3 I misspoke. Those aren't dates that we actually
4 collected the video. Those are the dates that
5 video was -- that Zinah uses her E.B.T. card at
6 that time at a particular location.

7 Q And continuing, I believe you were up to December
8 the 19th?

9 A Right. On December 19th there is video from -- we
10 had learned from the information gathered from
11 D.S.S. that Zinah had used her E.B.T. card at
12 2367 Taylor Street; however, there was not video.

13 Q And why was there not a video in some of these
14 stores?

15 A Well, one thing I've learned through law
16 enforcement is that a lot of the convenience stores
17 change hands many times. Oftentimes, the new
18 owners never update the video, never put in new
19 disks or just completely are unable to operate it
20 or let it fall into disrepair. So about half of
21 all the convenience stores where we collected video
22 in this case --

23 MR. PRIDE: Objection.

24 A -- the video was no longer working.

25 MR. PRIDE: Objection. That's spurious.

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1 THE COURT: I'm going to overrule the
2 objection. He is -- I'm going to overrule the
3 objection. You may ask your next question, Solicitor.

4 BY MS. CAMPBELL:

5 Q Continue with where else the E.B.T. card indicated
6 it was used.

7 A Right. Also, Zinah used her E.B.T. card on
8 December 21, 2011, at 3900 Main Street where we did
9 collect video.

10 Q And what's 3900 Main Street?

11 A I believe 3900 Main Street is Bi-Lo. Let me just
12 double-check. That's right. It's Bi-Lo.

13 Q So that was the Bi-Lo which they saw?

14 A Yes, ma'am.

15 Q Continue.

16 A Okay. On December 22, 2011, Zinah's E.B.T. card
17 was used at 7200 Two Notch Road. We do not have
18 video from that store. Also, again on December 22,
19 2011, the E.B.T. card is used at 2571 Forest Drive.
20 The video was -- the video system was broke there.
21 We were unable to collect video.

22 The E.B.T. card was used indicating and
23 showing Zinah alone in the video on December 27,
24 2011, at 2300 Taylor Street. So once again we had
25 video and it showed Zinah alone.

1 On December 29, 2011, the E.B.T. card is used;
2 and Zinah is shown on a video at 3922 Beltline
3 Boulevard. Once again, Zinah in the video appears
4 alone.

5 On December 29, 2011, the E.B.T. card was
6 used; and there is video showing Zinah alone at
7 3032 Farrow Road. The E.B.T. card was used two
8 more times on the -- I'm sorry. It was used one
9 more time -- well, actually, it was used two more
10 times for two purchases on December 29, 2011.

11 This is at 2522 Forest Drive where the E.B.T.
12 card is used twice. A video was not available on
13 that particular day, and it was told to us that
14 they only keep video for the last seven days. So
15 we were too late at that point to collect video.

16 Q And all this that you were attempting to collect is
17 in January?

18 A Yes, ma'am.

19 Q Was that unusual for a store to only --

20 MR. PRIDE: Objection.

21 THE COURT: Restate your question, Solicitor.

22 BY MS. CAMPBELL:

23 Q Is that unusual for a store to only keep video for
24 a certain amount of time in your experience as an
25 investigator?

1 A Yes. Stores, in my experience and from collecting
2 video from stores over the last ten years of my
3 career, some stores often save video. Some of them
4 only save it for 24 hours. Some stores save it for
5 a week. Some save it for a month. So it's not
6 surprising in any way.

7 Q In a review of all the videos that you were able to
8 collect as well, did you attempt to make contact
9 with those store people to see if they had any
10 independent knowledge?

11 A I personally did not.

12 Q Was that done as a part of your investigation?

13 A It was.

14 Q And during the month of December, at any of those
15 places, was anyone able to recall seeing ^{Child}

16 A No one was able to recall seeing ^{Child}

17 Q I'm going to turn your attention back to
18 January 10th of 2012. Did you interview
19 Ms. Jocelyn Jennings again in this case?

20 A I interviewed Ms. Jocelyn Jennings again in this
21 case. The interview took place at my office on
22 Devine Street.

23 Q And what type of information were you trying to get
24 from Ms. Jennings at that point?

25 A We were trying to -- we were still trying to learn

1 about Zinah Jennings, her background, who she was,
2 what types of people -- who she associated with,
3 who are her friends.

4 Also, specifically on that day, we were trying
5 to learn about special places that Zinah and her
6 mother would go or special places that Zinah would
7 go and also learning about the history of where the
8 family had lived in the past.

9 Q And without saying what she said to you, based on
10 that information, did you then attempt to search
11 certain areas of town?

12 A We did. All the investigators were made aware of
13 the various places that Zinah Jennings had
14 frequented and there were special places --

15 Q Including what?

16 A The places included Caughman Road, M.L.K. Park,
17 Sesquicentennial Park, Hyatt Park off of
18 Monticello, Saluda Park, the Zoo, and what I
19 believe is Fairview Park off Gervais.

20 Q Okay. And was ^{Child} ever located in any of those
21 areas?

22 A ^{Child} was never located in any of these places.

23 Q Did you also specifically -- you can't say what she
24 said -- ask Ms. Jennings if she knew of an Ernest
25 Robinson?

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1 A I did, and she indicated -- well, we did ask her if
2 she knew an Ernest Robinson.

3 Q And as a result of your conversation, were you able
4 to get any more information about Ernest Robinson?

5 A I was not.

6 Q Going on into that day, were you also in contact
7 with the officers from the South Carolina Federal
8 Credit Union, I believe Mr. Cole?

9 A Correct. We continued to -- we tried to stay in
10 touch with the South Carolina Federal Credit Union,
11 the security staff, in trying to gather video from
12 the store because Zinah -- we had learned that that
13 was a common -- that was where Zinah banked at that
14 time.

15 Q Over the next several days, did your investigation
16 continue? Ultimately, did you meet with a D.N.A.
17 analyst from S.L.E.D. on January 20th?

18 A Correct. I met with Jennifer Clayton with S.L.E.D.
19 at her office at S.L.E.D. headquarters to discuss
20 the case.

21 Q Without saying what she said to you, were you able
22 to get information about preliminary findings in
23 this case as far as the blanket?

24 A We were.

25 Q And on January 25th did you make contact again with

1 Yolanda Williams?

2 A I did. I spoke to Yolanda Williams by phone. She
3 was one of the people that we continued to try to
4 stay in touch with and ask questions about Zinah's
5 activities.

6 Q And was there a certain area of town you were
7 specifically asking her about that day?

8 A I did. We had gotten her phone records, and they
9 indicated that -- I could see from the phone
10 records, when they were married with the cell
11 towers and using Google maps, we were able to see
12 what cell towers Zinah Jennings had hit off of.

13 Because Zinah Jennings had hit off a tower
14 that was north of -- that was off of Heyward
15 Brockington Road at Dubard Boyle Road, which is far
16 north of I-20 up Monticello Road, in that area. We
17 couldn't figure out who Zinah -- why Zinah would
18 have been up there and who she would know.

19 Q What date was that?

20 A The date that she pinged off the tower was the
21 evening of the 29th of November.

22 Q And was that date becoming more and more
23 significant during the course of your
24 investigation?

25 A It was. Because Zinah had been seen on video on

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1 the 29th with Child at the South Carolina Federal
2 Credit Union, and Child had not been seen since. So
3 every place that she went to after that was
4 significant.

5 Q Had anybody else actually seen Child that morning
6 prior to going to the Federal Credit Union in your
7 investigation?

8 A Yes. During our investigation we had learned that
9 two people had seen Child that morning prior to the
10 South Carolina Federal Credit Union visit and that
11 Zinah had Child with her.

12 Q During the course of your investigation, have you
13 had contact with Roderick Mitchell?

14 A I have.

15 Q Was he cooperative?

16 A Roderick Mitchell was cooperative. Yes, ma'am, he
17 was.

18 Q And was he able to provide you with what's known as
19 a buccal swab -- or someone in your department --
20 as part of this investigation?

21 A Right. I asked Roderick Mitchell to voluntarily
22 give me a buccal swab, to basically give me some of
23 his D.N.A. so I could compare it to some of the
24 other D.N.A. we had collected; and he voluntarily
25 gave that to us, yes, ma'am.

1 Q Now I'll skip back to the phone records and the
2 evening of the 29th. The phone, Zinah's phone, was
3 pinging where?

4 A Zinah's phone was pinging off a Sprint cell phone
5 tower that was very close to the intersection of
6 Heyward Brockington Road and Dubard Boyle Road
7 which is -- which is in the northern part of
8 Richland County. It's actually north of I-20.
9 It's, you know, 10, 15 miles north of I-20.

10 Q And specifically you were asking Ms. Yolanda
11 Williams questions about what?

12 A I was inquiring with her, and I later inquired with
13 virtually everyone that I came into contact with
14 who knew Zinah, if she -- if they knew anyone who
15 lived up there or they knew any reason at all why
16 Zinah would be up there in that part of Richland
17 County.

18 Q And after you had spoken to family members and
19 friends of Zinah, did y'all actually do a search of
20 that area?

21 A We did. On January 26th of 2012, the Columbia
22 Police Department, in conjunction with the Richland
23 County Sheriff's Department, a few agents from
24 S.L.E.D. and a few agents from the F.B.I., we did a
25 grid, what's called a grid search, of a fairly

1 large section of Richland County near the
2 intersection of Heyward Brockington Road and Dubard
3 Boyle Road.

4 The area that we searched was where -- we
5 selected it because it was an area that Zinah
6 potentially -- that Zinah had made a phone call.
7 It was an area that included an area where Zinah
8 had made a phone call on December 20th -- I'm sorry
9 -- on November 29, 2011.

10 Q November 29th?

11 A Yes, ma'am.

12 Q And how many officers were actually involved in
13 that search?

14 A More than 90 officers from the various agencies I
15 just mentioned were involved in that search.

16 Q And what were you looking for?

17 A We were looking for any evidence to help us locate
18 Child Jennings.

19 Q Around that same time period, did you also make
20 contact with an Ashley Burnett from the Federal
21 Credit Union?

22 A Correct. I went to the Federal Credit Union on
23 Forest Drive. I had already at that point gotten
24 the video from the South Carolina Federal Credit
25 Union. I had gotten actually two separate videos

1 showing Zinah at the Federal Credit Union.

2 The first on the 29th showed Zinah with Child
3 and another one at a later date showed Zinah
4 Jennings without Child In the videos -- there were
5 several people in the video that I wanted to speak
6 to, identify and speak to, and see if they had any
7 indication as to where Zinah had gone after leaving
8 the South Carolina Federal Credit Union.

9 That is why I met Ashley Burnett at the South
10 Carolina Federal Credit Union, and she was able to
11 relate some information about -- banking
12 information. But we did not learn any further
13 information about the whereabouts of Child Jennings.

14 Q Towards the end of the month, did you make contact
15 with a Marcus Johnson?

16 A I did.

17 Q And tell the jury how -- what led you to Marcus
18 Johnson? Where was he located?

19 A Marcus Johnson, at the time that I called him, he
20 was living in Augusta, Georgia, although he was
21 making frequent trips back and forth. Well, just
22 at the time he was living in Augusta, Georgia,
23 although he had on his address a Sandersville,
24 Georgia, address.

25 Q And by that time had you received certain phone

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1 records that had to do with when Zinah changed her
2 phone number? I show you State's Exhibit 65.

3 A I did.

4 Q And tell the jury what you were going through when
5 you went through both her -- the initial phone
6 records and those phone records -- what you were
7 trying to do and what attempts you made to try to
8 find out if anybody knew anything.

9 A Well, Zinah Jennings in all the phone records we
10 had, had made hundreds of telephone calls and
11 received hundreds of telephone calls. But, of
12 course, we were concentrating on the telephone
13 calls that were made and received that were close
14 to the time that Child was last seen.

15 The phone records indicated while Zinah was in
16 Augusta, Georgia, her cell phone hit off a tower in
17 Augusta, Georgia. She made a -- made and
18 received -- a series of phone calls from a 478
19 number and then had sporadic phone contact with
20 that same number. But, again, she made, while in
21 the Augusta area, made and received a series of
22 telephone calls from that same number.

23 Q And when you say a number, can you give the full
24 number?

25 A Sure. It's (478)251-2700.

1 Q And whose phone number was that?

2 A I actually called the phone number, and I spoke to
3 Marcus Johnson.

4 Q Once you made contact with Mr. Johnson, what, if
5 any, information did you tell him you were
6 searching for?

7 A I told Marcus Johnson that we were involved in a
8 missing person and that his phone number had showed
9 up on the phone, on the call records of the person
10 who last saw the missing person.

11 I then asked him -- after some confusion
12 trying to get him to remember dates and who he had
13 met -- I asked him to get on the internet and type
14 in Zinah Jennings' name to refresh his memory about
15 who we were talking about.

16 Q And was he able to give you -- and you can't say
17 what he said -- but was he able to give you any
18 pertinent information as far as his interaction
19 with Ms. Jennings?

20 A Marcus Johnson gave us pertinent information
21 regarding his interaction with Zinah Jennings.

22 Q And what date was he referring to or what dates?
23 Excuse me.

24 A During that phone conversation, we spoke mostly
25 about the 29th of November in the morning.

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1 Q The 29 or the 30th?

2 A I'm sorry, the 30th of November in the morning,
3 right.

4 Q And that would be the morning after the video from
5 the bank; is that correct?

6 A That's correct. That would be the next day.

7 Q And I'll show you State's Exhibit Number 29, the
8 Sprint records before she changed the phone number.
9 Are you familiar with those as well?

10 A I am.

11 Q And were both sets of those records forwarded to
12 the F.B.I. for Mr. Sutton?

13 A They were, by me.

14 Q And was there certain information, during the
15 course of your investigation, that became
16 significant as far as her movement on the 30th that
17 included Mr. Johnson?

18 A Could you repeat -- can you repeat that?

19 Q In your review of those records, as far as where
20 her cell phone was hitting, was there certain
21 information that became significant as far as your
22 investigation, as far as the phone's movement --

23 A Yes.

24 Q -- on the 29th into December, I think, 3rd?

25 A Right. So, on the morning of the -- I had already

1 mentioned that the phone had pinged off a tower on
2 the night of the 29th in the northern part of
3 Richland County.

4 However, on the 30th of November, 2011, the
5 phone began to what I call ping -- that means the
6 phone was using these particular towers -- it began
7 to ping off towers along Interstate 20 leading from
8 Columbia, through Augusta, to Atlanta.

9 Q And was the information -- without saying what
10 Mr. Johnson told you -- was the information he was
11 able to provide corroborative of this movement?

12 A It was. I was able to, in speaking to him, confirm
13 that, in fact, that the phone itself and Zinah
14 Jennings were likely in the same location. They
15 were traveling together down I-20.

16 Q And was he able to give you any pertinent
17 information as far as the whereabouts of Child
18 Jennings or whether or not he was able to give you
19 any information about Child

20 A He was not able to give me any information about
21 Child Jennings.

22 Q But he did have significant information about
23 Zinah?

24 A He did. He did have significant information about
25 Zinah.

1 THE COURT: How much longer do you think you
2 have of this witness, Solicitor?

3 MS. CAMPBELL: Less than 15 minutes, Your
4 Honor.

5 THE COURT: All right. I think now would be a
6 good time to take a recess.

7 MS. CAMPBELL: Yes, sir.

8 THE COURT: Mr. Bailey, you may step down.

9 THE WITNESS: Yes, sir.

10 (Witness leaves the witness stand.)

11 THE COURT: Madame Forelady, and ladies and
12 gentlemen of the jury, we are now going to take our
13 luncheon recess. I remind you during this recess that
14 you are not to discuss this case with others. That
15 includes your fellow jurors, lunch mates, family,
16 friends, or anyone else.

17 Do not read, watch or listen to any news
18 reports about the case. Do not use your computer or
19 cellular phone to obtain or disclose information about
20 the case.

21 Information about the case includes but is not
22 limited to the following: Information about a party, a
23 witness, an attorney or court officer, news accounts of
24 the case, information collected through juror research
25 on any topics raised or testimony offered by any witness

1 or witnesses, information collected through juror
2 research on any other topic the juror might think would
3 be helpful in deciding the case.

4 Remember to keep an open mind. Do not begin
5 your deliberations until you have heard all the
6 evidence, all the testimony, the closing arguments by
7 the attorneys, and the instruction on the law by the
8 Court and then directed by the Court to begin your
9 deliberations with your fellow jurors in your jury
10 room.

11 If you would leave your notes upside-down on
12 the chair. You are excused. I would ask you to be back
13 promptly at 2:15. Please be back promptly at 2:15.
14 Thank you very much. I hope y'all have a pleasant
15 lunch.

16 (The jury is excused for lunch at 12:34 P.M.)

17 THE COURT: All right. Mr. Bailey, you may
18 certainly step down and refresh yourself during this
19 luncheon recess. You may not discuss your testimony
20 with anyone.

21 Solicitor, how many more witnesses do you
22 have?

23 MS. CAMPBELL: Your Honor, we would have one
24 short witness from Sprint just to talk about the change
25 in the phone number and then one final witness.

1 THE COURT: All right. Thank you.

2 MR. PRIDE: Judge, could you inquire as to
3 whether or not the final witness will take up the
4 majority of the day? What I'm trying to do is not hold
5 you up so that when the State rests, I'll be ready to
6 go.

7 THE COURT: Well, I think -- if the solicitor
8 said she would be 15 more minutes with Investigator
9 Bailey, how long will you be? I'm not holding you to
10 it, of course.

11 MR. PRIDE: Probably as long as the Solicitor.

12 MS. CAMPBELL: Well then, that's the day.

13 MR. PRIDE: Okay.

14 THE COURT: Well, we'll get through the
15 State's case, and then I certainly -- I take it I'll
16 have to hear motions.

17 MR. PRIDE: You certainly will.

18 THE COURT: All right. We'll get through the
19 State's case today and hear motions and see where we're
20 at.

21 MR. PRIDE: Okay. Thank you.

22 THE COURT: All right. Thank you very much.
23 Court will be in recess until 2:15.

24 (Whereupon there is a luncheon recess.)

25 THE COURT: Mr. Bailiff, when a witness is on

1 the stand, I want the door locked. Nobody goes in and
2 out. No living person comes in or out of this courtroom
3 when a witness is on the witness stand.

4 BAILIFF: Yes, Your Honor.

5 THE COURT: After the solicitor finishes
6 direct and before Mr. Pride does his cross examination,
7 people can leave then. Any other time, they're in this
8 courtroom. Thank you. Thank you very much.

9 BAILIFF: Yes, Your Honor.

10 THE COURT: Anything before we bring in our
11 jury from the State?

12 MS. CAMPBELL: No, Your Honor. As far as just
13 trying to expedite things, we did turn over the redacted
14 phone calls to the defense for them to review to make
15 sure that there won't be any problem, and we've limited
16 it to like four or five of them.

17 THE COURT: Thank you. Anything from the
18 defense?

19 MR. PRIDE: No, Judge. We are reading them
20 now.

21 THE COURT: All right. Are you ready for the
22 jury?

23 MR. PRIDE: Yes.

24 (The jury returns to the courtroom at
25 2:19 P.M.)

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1 THE COURT: We are continuing the trial of the
2 case by the direct examination of Detective Bailey by
3 the solicitor.

4 Solicitor, you may proceed.

5 MS. CAMPBELL: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY MS. CAMPBELL:

8 Q Investigator Bailey, one thing I missed is back at
9 the end of the December, did you also go do a
10 search warrant for a computer associated with
11 Ms. Jennings?

12 A We did. What happened was we did a search warrant
13 for the home of Jocelyn Jennings. And during that
14 search warrant, we grabbed the laptop of
15 Ms. Jocelyn Jennings and we did a search warrant
16 for that.

17 The reason why we grabbed Jocelyn Jennings'
18 laptop is back on the 27th of December when I had
19 initially -- when I had met Zinah for the first
20 time at the Lady Street address, I had seen
21 Zinah using a laptop in the kitchen just before I
22 started talking with her.

23 So I was interested to find out any
24 information from that laptop that could lead us to
25 the location of Child or to just further the case of

1 unlawful conduct towards a child.

2 Q And after getting a search warrant for that laptop,
3 did it reveal any information that was probative in
4 this case?

5 A It did not for the most part, just pictures.

6 Q You also mentioned an area you were searching off
7 of Garners Ferry Road for a Mr. Ernest Robinson; is
8 that correct?

9 A That's correct.

10 Q And you mentioned a number of steps you took.
11 Would you just recap the steps you took to try to
12 find this Ernest Robinson who supposedly had ^{Child}
13 according to Ms. Jennings?

14 A Right. As I stated earlier, we -- I went through
15 all the databases that we had access to that I
16 spoke about earlier. We also did a search warrant
17 with Richland I School District to try to gather
18 any information about any Ernest Robinson that had
19 possibly attended Dreher High School. That, as I
20 said earlier, came up negative.

21 We also spoke to some of the school resource
22 officers at Dreher High School, one from the past
23 and one who is currently there; and they didn't
24 have any information or know anything about an
25 Ernest Robinson.

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1 We also, myself and other members of the
2 special victim unit, we just did research to try to
3 determine whether or not there was possibly an
4 Ernest Robinson that we had missed. Like I said,
5 checking all the databases we just could not find
6 someone who matched that description.

7 I had gone to the apartment complex that I
8 mentioned that was off Garners Ferry and inquired
9 with the leasing agents there about an Ernest
10 Robinson, and they didn't have any information.

11 It was perhaps -- and I have it in my notes --
12 but it was about a month later, we actually went to
13 another apartment complex that wasn't too far away
14 from the one I had mentioned.

15 This one was known as Harbor Landing, the
16 second one, which was off of Garners Ferry. It was
17 known as Harbor Landing. We did a search. We had
18 to serve a search warrant at the apartment complex
19 because the leasing office would not voluntarily
20 give up any leasing information; and we determined
21 that Ernest Robinson was not staying there.

22 In fact, there was one apartment that we had
23 received information that there was a small child
24 that was staying at that apartment that sort of fit
25 the description of Child

1 The residents of that apartment allowed us to
2 come in and speak with them, and we determined that
3 that child was not Child At that same apartment
4 complex, we also searched the wooded area around
5 it, and we had an official from the Department of
6 Natural Resources do a dive searching for any
7 evidence.

8 There is a small lake right next to the
9 apartment complex that I spoke of, Harbor Landing.
10 So he did a dive basically of the shoreline area to
11 see if he could find any evidence leading us to the
12 location of Child

13 Q And were you able to find Child

14 A We were not able to find Child

15 Q And you've been aware of all the witnesses that
16 were interviewed, family members, friends,
17 acquaintances, people that may have just had very
18 little to do with this case, such as Mr. Johnson?

19 A Correct, and all the interviews that either I
20 conducted or somebody from the special victim unit
21 conducted or someone had conducted on our behalf
22 from another law enforcement agency.

23 Q And specifically you've had contact with
24 Ms. Jocelyn Jennings?

25 A I have.

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1 Q Denise Jennings?

2 A I have.

3 Q Other family members such as Shon Harris?

4 A Correct.

5 Q And in making inquiries of them, was it important
6 to you to determine what ^{Child} health was up until
7 he went missing?

8 A That's correct.

9 Q And when is the first time you've heard anything
10 about him having an open sore on his face?

11 A Last week in court.

12 Q And that's the first time anybody had mentioned
13 that?

14 A That is the first time I've heard anything about
15 him having a sore from anyone.

16 Q And that was an area that you would have inquired
17 into?

18 A Correct, yes, ma'am.

19 Q We talked about your investigation in December,
20 January, into February. Did you get -- can you
21 describe kind of the types of information that has
22 come across your desk in hopes of finding ^{Child}
23 Jennings?

24 A During the investigation -- because the case had
25 attained some local media attention and not just

1 Columbia, but in Atlanta and in Charlotte and some
2 national media attention, including some time on
3 headline news on some of the kind of crime shows,
4 including Nancy Grace -- we began to receive a
5 multitude of telephone calls, essentially tips,
6 regarding potentially the whereabouts of Child

7 Some of the people were self-described
8 psychics. Some of the people were from states very
9 far away from South Carolina, including Texas and
10 Washington State. Some of the people who called
11 actually had some interaction with Zinah; and their
12 information, of course, was valuable and was
13 collected.

14 Q And did you basically follow up on any possible,
15 credible sightings?

16 A Right. Investigators followed up on many of the
17 other leads. Some of the leads that I followed up
18 on were -- there was one in Kershaw County where
19 there was a gentleman -- or there was a woman who
20 was babysitting some children, and the neighbor had
21 never seen her babysitting before and had seen the
22 case on the news and called the police.

23 So we went and we made contact with that
24 woman. In fact, she was babysitting, if I remember
25 correctly, seven different children, none of which

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1 were Child Jennings.

2 Q And those tips were -- but all the tips were
3 followed up on?

4 A They were.

5 Q Was there any kind of reward posted as far as
6 finding Child

7 A Correct. There is a \$10,000 reward. It is posted
8 by CrimeStoppers.

9 Q And you also mentioned earlier that you had
10 interaction with D.S.S. Were there any other
11 agencies of local states that you have been in
12 contact with in trying to find Child Jennings?

13 A Right. We've been in contact with a whole host of
14 law enforcement agencies trying to gather either
15 incident reports or other pieces of information
16 regarding Zinah or Child

17 Obviously, as I testified to earlier, we made
18 contact with the Department of Social Services and
19 then their counterparts in North Carolina and in
20 Georgia.

21 We have also made contact and solicited the
22 assistance from the South Carolina Law Enforcement
23 Division, S.L.E.D., as well as the Federal Bureau
24 of Investigation.

25 Q The F.B.I.?

1 A Correct. And, of course, the Richland County
2 Sheriff's Department, especially during the grid
3 search where we were in their territory searching
4 the woods.

5 Q And up until today have you been able to find any
6 credible evidence as to where Child is?

7 A I have not.

8 Q And when was the last time Child Jennings, as far as
9 your investigation goes, when was the last time he
10 was seen?

11 A Well, as I said earlier, I've been able to
12 determine -- and we just happen to have a video
13 from that same location -- I've been able to
14 determine that the last place that anyone -- with
15 the exception of Zinah Jennings who was the last
16 person -- that anyone who saw Child Jennings was at
17 the South Carolina Federal Credit Union leaving
18 with Zinah Jennings. That would have been on
19 November the 29th, 2011, in the morning hours, late
20 morning hours.

21 Q Zinah Jennings, the mother of Child do you see her
22 here in the courtroom?

23 A I do.

24 Q Can you point her out for the jury?

25 A She's sitting third from the right at the table

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1 that I'm pointing at (indicating).

2 Q Thank you.

3 MS. CAMPBELL: May the record reflected he
4 identified the defendant?

5 THE COURT: So reflected.

6 MS. CAMPBELL: Thank you, Your Honor. Nothing
7 further from the State.

8 THE COURT: Thank you, Solicitor. Mr. Pride.

9 **CROSS EXAMINATION**

10 BY MR. PRIDE:

11 Q Mr. Bailey, would it be fair to say that you were
12 the chief investigating officer on this case?

13 A It would be fair to say that.

14 Q Okay. And any information involving Zinah or ^{Child}
15 would have come through you and would have been
16 gathered and filed as part of your investigation;
17 is that correct?

18 A No, actually not exclusively. Some of the tips I
19 was never apprized of the results because there
20 were so many. So there are some tips that we got
21 that other investigators looked into that I just
22 never learned the results on.

23 Q Well, I guess what I'm asking you is that you
24 directed whoever would have looked into these tips
25 as the chief investigating officer; is that not

1 correct?

2 A For the most part, I did. I was also -- some of
3 the tips were also, for lack of a better word, were
4 farmed out to investigators by my supervisor or by
5 other officials within the Columbia Police
6 Department.

7 Q And as a result of your investigation which
8 commenced on December the 6th through September the
9 4th, I think today, it has resulted in your being
10 unable to find Child

11 A Correct.

12 Q And you are the person, as head of this
13 investigation, who is responsible for charging
14 Ms. Jennings under Section 63-5-70 with unlawful
15 conduct towards a child; is that correct?

16 A That's correct.

17 MR. PRIDE: I want to approach the witness,
18 Judge.

19 THE COURT: Yes, sir.

20 BY MR. PRIDE:

21 Q I want you to look at this and -- I want you to
22 look at what I'm giving you, and it's Section
23 63-5-70. It is entitled unlawful conduct towards a
24 child; is that correct? And that's what the
25 warrant said; is that correct?

1 A That's what the warrant said; that's correct.

2 Q And so far as you know, that's what the indictment
3 was for Zinah Jennings?

4 A Correct.

5 Q Look at that statute and tell me, can you read to
6 the jury any portion of it where it says that Zinah
7 Jennings' conduct in lying to you would be a
8 violation of that statute?

9 A Could you repeat that?

10 Q Can you look at the statute and tell me whether or
11 not you can read to the jury any provision of that
12 statute that says Zinah Jennings' lying to you
13 would be a violation of that statute?

14 A Zinah Jennings' lying to us would be a violation?

15 Q Zinah Jennings' lied to you; didn't she?

16 A She did.

17 Q And she didn't tell you the truth?

18 A She did not tell us the truth.

19 Q And she wouldn't tell you where ^{Child} was; is that
20 not correct?

21 A She would not tell us where ^{Child} was; that's
22 correct.

23 Q She didn't tell you where ^{Child} was?

24 A She did not tell us where ^{Child} was, except to say
25 that he was with an Ernest Robinson and then gave

1 some vague information about exactly where she had
2 dropped him off, which we determined was not
3 truthful.

4 Q Okay. Now, to lie to you is not a violation of
5 that statute; is it? The statute doesn't say
6 anything about a mother who lies to the police when
7 a child is lost violates the statute; does it?

8 A The statute does not use the word lie in it.

9 Q Well, what word would be synonymous to lying that
10 you're looking at? Any word? None. That's your
11 answer; isn't it?

12 A What was the question?

13 Q The question is whether or not a mother like Zinah
14 Jennings who lied to you, does that statute have
15 any provision that says, if a mother lies about a
16 child, that she's --

17 A Right. On the face the statute itself does not
18 directly address that.

19 Q How about underneath the statute, since you say on
20 the face? Anywhere in that statute?

21 A Right. We have --

22 Q Not we have --

23 MS. CAMPBELL: Objection, Your Honor.

24 THE COURT: Rephrase your question, Mr. Pride.

25 MR. PRIDE: I'll be glad to.

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1 THE COURT: And, Officer, answer the question,
2 and then you can explain your answer.

3 MR. PRIDE: Thank you, Judge.

4 BY MR. PRIDE:

5 Q Either on the face or under the statute, a mother
6 who lies about the whereabouts of a child, that is
7 not a violation of that statute; is it? Answer the
8 question.

9 A If her lies place the child at unreasonable risk of
10 harm affecting the child's life, physical or mental
11 health, or safety, yes, those lies would be a
12 violation of the statute. So if the lies were to
13 lead to or to essentially cover up the crime, it
14 would contribute to probable cause regarding a
15 violation of the statute.

16 Q Tell the jury, what conduct on the part of Zinah
17 Jennings that you discovered violated harm to Child
18 or safety to Child

19 A What conduct of Zinah Jennings committed that harm
20 or put Child at harm?

21 Q Right, other than not telling you where he is.

22 A Right. We've already heard this, that Child was
23 often seen not in his car seat and was not strapped
24 in properly to his car seat --

25 Q Well, that evidence --

1 MS. CAMPBELL: Objection, Your Honor.

2 THE COURT: Wait a minute. Let him finish his
3 answer.

4 BY MR. PRIDE:

5 Q Go ahead. Now, you said the evidence of his not
6 being in the car seat; is that correct?

7 A Correct. I also had a statement from Denise
8 Jennings that while living in East Point, Georgia,
9 that there was at least one time where Child was in
10 the custody of Zinah, and Child got out of the house
11 and onto the street. This was in East Point,
12 Georgia.

13 In addition, there was an incident that was
14 reported to police where a friend of Zinah had seen
15 Zinah kick the back of Child Jennings. There was
16 also -- we had reports from Denise Jennings that
17 Zinah did not -- often did not -- feed Child
18 properly.

19 I can't think of who else, but there was at
20 least one other person who said that, that they
21 were -- they thought that Child wasn't being
22 properly fed. There was additional --
23 additionally, we had a statement where someone said
24 that they had seen Zinah Jennings squeezing the
25 hand of Child

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1 Q All that evidence and conduct that you've testified
2 about happened after you took the warrant out for
3 Zinah; didn't it?

4 A The information that I just told you about, a
5 statement from Denise Jennings about ^{Child} getting
6 out, that actually came before the warrant. Also,
7 what Denise had said about not feeding or doing a
8 good job of feeding ^{Child} that was prior to the
9 warrant.

10 Q Now, the two incidents that you have spoke about,
11 you say that you had those two incidents before you
12 took the warrant out?

13 A Correct; that's right. We had information about
14 those two incidents.

15 Q Okay. I show you State's Exhibit 20 and ask you to
16 read the affidavit that is attached to it.

17 A (Pause.) Okay.

18 Q What did you tell the judge? What evidence did you
19 tell the judge you had?

20 A I'll start at -- I'll start where the --

21 THE COURT: Let me stop you a minute. That's
22 two questions. Do you want him to read the affidavit?
23 Is that your question?

24 MR. PRIDE: That's correct.

25 THE COURT: All right. So read the affidavit.

1 A Yes, sir. "Occurring within Columbia, County of
2 Richland, the defendant, being the mother and
3 primary caregiver of Child Jennings, age one, has
4 purposely lied to law enforcement several times
5 regarding the whereabouts of Child telling Officer
6 Miller on 12/24/2011, she did not have a child;
7 then said the child was in Atlanta with her aunt;
8 then on 12/28/2011, telling the affiant the child
9 was at the residence of Ernest Robinson, having
10 left him there because she needed a break.

11 This affiant's training, experience, and
12 investigation of the fictitious Robinson residence
13 led him to believe that Ernest Robinson does not
14 exist, and Child is not at the residence in Atlanta.

15 Therefore, this affiant believes the defendant
16 is willfully withholding information that would
17 implicate the defendant or others in the harm that
18 has befallen Child

19 Based upon Child age, he would require
20 intense supervision and care; and the defendant is
21 unable or unwilling to establish that this child,
22 who is solely in her care, is alive and healthy.

23 This admission by the defendant and family
24 established that Child has not been seen by the
25 defendant or any known family members since

1 December 6, 2011."

2 Q So, when you went before this judge, you didn't say
3 that the evidence we have is somebody squeezed
4 Child hand; did you?

5 A That's correct. We did not mention that.

6 Q And you didn't say anything about what you say you
7 obtained from Denise; did you? Yes or no?

8 A Right. I would have mentioned it to the warrant
9 clerk. If it didn't go into the affidavit, it's
10 because we didn't have it in writing at that time
11 because she was living in East Point.

12 Q But you didn't put it in your sworn affidavit; did
13 you?

14 A It is not in the sworn affidavit.

15 Q And as a matter of fact, what you told that judge
16 was that Zinah Jennings is not cooperating with us
17 and she won't talk to us and she told us lies and
18 she won't tell where the baby is? Isn't that
19 basically what you told the judge in order get that
20 warrant?

21 A Right, a slight correction. Zinah was talking to
22 us. Zinah spoke to me when I went to see her on
23 December 27th and voluntarily gave a written
24 statement. Zinah Jennings, again, voluntarily
25 spoke to us after the arrest.

1 But at that point, yes, Zinah had spoken to
2 the police department. She wasn't refusing to
3 talk. She had elected to speak to law enforcement
4 and actually write down what ended up being
5 untruthful about the location of her son.

6 Q But what you told that judge basically, in order to
7 get a warrant to arrest Zinah, was on that date
8 that Zinah would not tell you where ^{Child} was and
9 Zinah lied to you about Ernest -- isn't that
10 correct -- Robinson?

11 A Zinah did lie about Ernest Robinson. That's
12 correct.

13 Q And basically on that sworn statement, you also say
14 that she lied to Officer Miller; isn't that
15 correct?

16 A It is.

17 Q Now, you say that Zinah would not tell you --

18 MR. PRIDE: Judge, just a minute, please. If
19 you would indulge me.

20 THE COURT: Certainly. And what are these?

21 MR. PRIDE: These are the transcripts that
22 were read from the interview by Officer Bailey and
23 Officer Thomas that were introduced.

24 THE COURT: All right. Thank you.

25 MR. PRIDE: Judge, with your indulgence, we're

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1 just trying to get it straight. Would you give us a
2 minute, please?

3 THE COURT: Certainly.

4 (Pause.)

5 MR. PRIDE: We can share it. I can proceed in
6 the absence of that, Judge.

7 THE WITNESS: It's not up here, but I have
8 another copy in my file. Your Honor, if it's all right?

9 THE COURT: Certainly.

10 (Pause.)

11 BY MR. PRIDE:

12 Q Officer Bailey, at the time that you applied for
13 this warrant against Ms. Zinah Jennings, was that
14 before or after you and Officer Thomas had had a
15 conversation with her when she turned herself in?

16 A The application for the warrant came before
17 Sergeant Thomas and I had spoken with Zinah
18 Jennings at police headquarters.

19 Q Well, but if it came -- if you applied for the
20 warrant before you had this interview along with
21 Officer Thomas --

22 A Right.

23 Q -- the only thing that she lied about then was the
24 fact that she told you that Ernest Robinson had the
25 baby; isn't that correct?

1 A Yes, that's correct. Also, we believe she lied
2 about the date that she had last seen Child We
3 believe that was a lie as well. That date was
4 given to me on the 27th; so that was before the
5 application for the warrant.

6 Q Well, what evidence did you have that you
7 believed -- that made you believe she had lied
8 about Child on the 27th?

9 A Because we had, just before the application for the
10 warrant -- if I can review my notes -- we had
11 spoken to, I think it was Yolanda Williams, who
12 indicated that she had seen Zinah after the 29th
13 but before the 6th without Child

14 So we contend that Zinah -- and that date was
15 the date that Yolanda Williams saw her was on
16 December 1st of 2011; and my investigation has led
17 me to believe that Zinah did not have Child at that
18 time, on that date, or at any date afterwards.

19 Q So what date is it that you believe Zinah did not
20 have Child

21 A The 29th of November -- when she did not have Child
22 Beginning sometime on November 29, 2011, up until
23 the morning of November 30th of 2011.

24 Q And you conducted your interview starting on the
25 29th of December through the 30th of December; is

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1 that not correct?

2 A I believe we -- I actually got to headquarters on
3 the 30th of December or at least I encountered
4 Zinah beginning on the 30th, just after midnight.

5 Q Well, let's put it another way. Zinah turned
6 herself in on the 29th?

7 A Zinah came to police headquarters on the 29th.
8 That's right, yes.

9 Q And the interview started after 12:00 o'clock,
10 which makes it the 30th; is that correct?

11 A That's correct.

12 Q All right. And during the course of that
13 interview, you say Zinah lied because Zinah would
14 not tell you where ^{Child} was?

15 A During the interview at headquarters with Sergeant
16 Thomas, Zinah did mention -- I can't remember if
17 she mentioned Ernest Robinson's name again during
18 that particular interview -- but when I asked her
19 had she lied to me the previous day, she said no,
20 she hadn't lied. So, in fact, that's yet another
21 lie that she perpetrated.

22 Q Well, Zinah flat out lied about Ernest Robinson.
23 Because so far as from your investigation, he does
24 not exist; is that a fair statement?

25 A That is a fair statement.

1 Q All right. And did Zinah lie when she told you
2 where Child was, other than with Ernest Robinson?

3 A I believe that she did. I believe when Zinah told
4 us that Child was in a safe place, I believe that
5 was a lie.

6 Q You don't believe her?

7 A I do not believe her.

8 Q What evidence do you have to contradict that? You
9 didn't know where he was; did you?

10 A The evidence is that we have not heard from Child
11 Jennings or anyone who has him since that date. In
12 fact, we haven't heard from Child Jennings or anyone
13 who has him since the 29th of November of 2011.

14 We haven't -- no one has come forward and told
15 the police department that they are caring for Child
16 Jennings despite the reward, despite the intensive
17 care that an 18-month-old child would entail.

18 As far as we can tell during our
19 investigation, no one is collecting benefits on
20 Child Jennings' name or Social Security number. No
21 one has gone to the Department of Social Services
22 in either South Carolina, North Carolina, or
23 Georgia and asked for assistance or indicated to
24 anyone -- where the information has come to us that
25 they are caring for Child Jennings.

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1 Q Did you eliminate the possibility that maybe
2 somebody might have ^{Child} that does not need
3 assistance for him?

4 A We have considered that. That person, if one were
5 to believe that hypothesis, that there is a person
6 who does not need assistance and has not applied
7 for government assistance and is caring for ^{Child}
8 they would also -- if you were to make that
9 hypothesis, you would also have to acknowledge that
10 that person does not care about Zinah Jennings,
11 does not care enough about Zinah Jennings to come
12 forward, and does not care about the Jennings
13 family to go to the Jennings family.

14 They've been suffering, as you know, for
15 months now wondering about the location of ^{Child}
16 about their relative. And if one were to say that,
17 sir, this person would be putting this family under
18 an intense amount of pressure.

19 Also, if you were to put forward that
20 hypothesis, you would have to take into account
21 this person, for whatever reason, does not care
22 about the time and money and the emotional costs
23 this case has cost, not only family, but friends of
24 Zinah Jennings and Jocelyn Jennings and, of course,
25 for the police department and for the media as well

1 and for other people.

2 There's a host of people who are -- who
3 deeply care about this, who care about Child and,
4 you know, who would be very, very happy to see him
5 come home.

6 Q So the answer to my question is: Yes, someone with
7 means could have Child that does not need
8 assistance; isn't that correct?

9 A Someone with means? Say that one more time.

10 Q Someone with means who does not need assistance
11 could have Child -- isn't that correct --
12 notwithstanding the soliloquy that you went
13 through?

14 A Right.

15 Q Isn't that true? Isn't that true?

16 A Someone with means right now could have Child

17 MS. CAMPBELL: Objection, Your Honor. We have
18 a matter of law.

19 THE COURT: All right. Ladies and gentlemen
20 of the jury panel, step out momentarily. Leave your
21 transcripts and your notes on your chair. Do not
22 discuss the case during this brief recess.

23 (The jury retires to the jury room.)

24 THE COURT: Yes, Solicitor.

25 MR. PRIDE: If you could hold that thought and

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1 let's talk to the Judge.

2 (Whereupon there is a bench conference off the
3 record.)

4 THE COURT: All right. We'll take a 15-minute
5 recess. Thank you very much. Court will be in recess
6 15 minutes.

7 Detective Bailey, you may step down and
8 refresh yourself. Do not discuss your testimony during
9 this recess with anyone.

10 Just let me know when you are ready.

11 MS. CAMPBELL: Yes, sir.

12 (Whereupon there was a recess.)

13 THE COURT: Solicitor, you had a matter of
14 law?

15 MS. CAMPBELL: Yes, sir. May it please the
16 Court, Your Honor. I waited until we went over this
17 issue several times. I believe his first question --
18 and I'm paraphrasing; the court reporter would have the
19 actual question -- asked by Mr. Pride inquiring into the
20 welfare of the child was: Did he have anything to say
21 that he is not -- that his welfare is anywhere
22 compromised.

23 He also went into the fact that she may have
24 just given him -- had he contemplated whether or not she
25 just gave him away to someone with means that could take

1 care of him and didn't need anything from anyone else
2 and, therefore, he was safe and happy. Also, he asked
3 about if there's proof that ^{Child} was not safe and happy,
4 Your Honor.

5 I believe, Your Honor, in a pretrial ruling,
6 we did bring forth evidence that we sought to introduce
7 in this trial of a cadaver dog hitting on the trunk area
8 of the car. This is the same area where the blankets
9 were found. Your Honor even instructed this witness
10 that he is not to mention, pursuant to your ruling, of
11 course, anything about the cadaver dog.

12 He keeps asking him questions about whether or
13 not the safety and health of this child -- if he has any
14 proof that it's been compromised, Your Honor. I believe
15 that speaks directly to that, and he should have an
16 opportunity now to answer that truthfully because there
17 is proof -- even though you did rule it was more
18 prejudicial than probative, Your Honor, at this point
19 because of the defense counsel's tactics in asking
20 questions, Your Honor -- we feel like he has opened the
21 door to this evidence; that it's truthful; and there is
22 evidence that ^{Child} safety and happiness have been
23 compromised.

24 THE COURT: Thank you, Solicitor. Mr. Pride?

25 MR. PRIDE: That's a stretch to say the least.

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1 And, second of all, Your Honor, I stayed in a very
2 narrow avenue. I asked him did he have any information
3 from witnesses, and he went on to name the witnesses
4 that he got the information from. That's the
5 information.

6 And even if I didn't ask him about witnesses
7 and asked him where did he get the evidence from, you've
8 made it very clear where I would be stepping over the
9 line as it related to the cadaver dog; and that is not
10 the line that the Court drew in the questioning I am
11 pursuing with this witness.

12 So, therefore, Your Honor, I would ask you to
13 certainly inform Ms. Campbell that her objection should
14 be overruled.

15 THE COURT: Thank you. Anything in response,
16 Solicitor?

17 MS. CAMPBELL: Your Honor, this is an avenue
18 we've gone down before; and I believe that the cadaver
19 dog lady would be a witness in response to his question
20 if, in fact, that's how he phrased it. But that's not
21 how I recall it.

22 THE COURT: In a recent case, State v.
23 Collins, which is a very tragic case out of Dillon
24 County where a ten-year-old child was mauled by several
25 dogs, the issue in that case was the introduction of

1 seven autopsy photographs showing the victim's body
2 partially eaten.

3 There were a number of photographs introduced,
4 and the objection was under 403. The Court, our Court
5 of Appeals, provided some guidance, additional guidance
6 I should say, stating that Rule 403 provides that,
7 although relevant, evidence may be excluded if its
8 probative value is substantially outweighed by the
9 danger of unfair prejudice.

10 Probative means tending to prove or disprove.
11 Probative value is the measure of the importance of that
12 tendency to the outcome of a case. It is the weight
13 that a piece of relevant evidence will carry in helping
14 the trier of fact decide the issues. The more essential
15 the evidence, the greater its probative value.

16 Thus, a Court analyzing probative value
17 considers the importance of the evidence and the
18 significance of the issues to which the evidence
19 relates.

20 It goes on and cites some cases concerning
21 photographs and further states: If valuation of
22 probative value cannot be made in the abstract, it
23 should be made in the practical context of the issues at
24 stake in the trial of each case.

25 When balancing the danger of unfair prejudice

1 against the probative value, the determination must be
2 based on the entire record and will turn on the facts of
3 each case, citing State v. Gilliam, G-I-L-L-I-A-M, 646
4 S.E.2d 872.

5 The Court goes on to explain unfair prejudice.
6 The probative value must be balanced against the danger
7 of unfair prejudice. Prejudice that is unfair is
8 distinguished from the legitimate impact all evidence
9 has on the outcome of the case.

10 Unfair prejudice does not mean damage to a
11 defendant's case that results from the legitimate
12 probative force of the evidence, rather it refers to
13 evidence which tends to suggest a decision on an
14 improper basis. All evidence is meant to be
15 prejudicial. It is only unfair prejudice which must be
16 scrutinized under Rule 403.

17 The Court goes on to state that a trial court
18 has particular wide discretion on ruling on 403
19 objections. Of course, the solicitor's position is:
20 Well, over and above 403, the door has been opened and,
21 you know, the State is not authorized to strike foul
22 blows but is authorized to strike hard direct blows and
23 not just have to sit there and to take it, so to speak,
24 if the door is open.

25 Given my recollection of the matter, I do not

1 think the door has been opened. I think there is a
2 danger of unfair prejudice. The State's evidence thus
3 far, as far as the 2004 Dodge Neon four-door, is that
4 there is a blanket with blood in the trunk of that
5 vehicle that was the defendant's vehicle.

6 We can talk about pacifiers and natural
7 offspring of Ms. Jennings and Mr. Mitchell, but the
8 bottom line of that inference to be drawn is that it was
9 Child blood on the blanket in the trunk of the
10 defendant's vehicle.

11 So at this time, Solicitor, I would deny your
12 motion. Anything further?

13 MS. CAMPBELL: No, sir. I just want to make
14 sure so the witness understands. I mean, if he's asked
15 that question again: Is there any evidence? There is
16 evidence. He is just not allowed to say what it is.

17 I mean, there is evidence that this child --
18 and we didn't go there, Your Honor. I mean, he keeps
19 asking whether there is any evidence that Child is not
20 safe and happy. There is evidence that he is not safe
21 and happy.

22 THE COURT: And there's evidence of that in
23 the record now because the officer from S.T.A.R.R.
24 Testified that the dogs are trained or the dog was
25 trained to detect body fluids, human flesh,

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1 deteriorating human flesh.

2 So there has been no distinguishment that what
3 the dog hit on both around the seams of the trunk and in
4 the back seat was the blood on the bloody blanket. So
5 that evidence, as far as the inference from that
6 evidence, in my opinion, is already in the record.

7 MS. CAMPBELL: I understand, Your Honor.

8 THE COURT: And I know you're not being
9 argumentative. I didn't mean to -- I hope you didn't
10 take my response as being argumentative with the State
11 in any way, but I think that's in the record. There is
12 evidence already in this record that harm has come to
13 Child because there is a bloody blanket in the
14 caretaker's vehicle in the trunk.

15 MS. CAMPBELL: Yes, sir. And I'm saying it's
16 just somewhat frustrating because there is additional
17 evidence that is not before this jury that this child
18 has had harm come to him.

19 THE COURT: Thank you, Solicitor. Mr. Pride,
20 anything further?

21 MR. PRIDE: Nothing further from the defense,
22 Your Honor.

23 THE COURT: And if the witness even thinks he
24 is getting close to saying the word cadaver or cadaver
25 dog, he needs to ask to take up a matter of law with

1 you.

2 MS. CAMPBELL: I think he understands: Do not
3 say those words.

4 THE COURT: I think he does. I think he
5 understands that.

6 Mr. Bailiff, you can bring the jury.

7 (The jury returns to the courtroom.)

8 THE COURT: Thank you. Thank you very much.
9 We are continuing with the cross examination of
10 Detective Bailey by Mr. Pride. Please continue to give
11 the parties your complete and undivided attention.

12 Mr. Pride, you may continue.

13 MR. PRIDE: May it please the Court.

14 CROSS EXAMINATION

15 BY MR. PRIDE:

16 Q Officer Bailey, we have agreed that it is possible
17 that Zinah could have left ^{Child} with someone of
18 means, someone who did not need any kind of
19 government assistance; is that not correct?

20 A When you asked me that question earlier, I was
21 actually just repeating your question. I wasn't
22 agreeing. I don't think that it is possible in the
23 sense that it is something that I believe is any
24 kind of -- I don't believe it possibly could be,
25 and I don't think that. I don't think that ^{Child} is

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1 with someone in the situation that you describe.

2 Q I didn't ask you if you thought he was. I asked
3 you if you thought it was possible that someone
4 could have ^{Child} who was of means and didn't need
5 any supplement? That was my question.

6 A Right. Is it possible, as in not impossible? Yes.

7 Q Thank you. Now, during the time --

8 THE COURT: Was that an answer? I'm sorry?

9 THE WITNESS: Right. I said, Is it possible,
10 as in not impossible? Yes.

11 THE COURT: I just missed that last word.

12 Thank you. Thank you very much.

13 BY MR. PRIDE:

14 Q Now, Zinah told you and gave you an answer as to
15 where ^{Child} was; didn't she?

16 A When I first met her, yes, she did, sir.

17 Q And when you were talking with her, along with
18 Officer Thomas -- turn to page 20 and look at line
19 10. Have you got that there, page 20, line 10? Go
20 above to line 6.

21 The investigator says, Well, you can, and then
22 you can get other people in trouble if there are
23 other people involved, all right, and I don't want
24 other people in trouble.

25 And Zinah says, Well, I don't trust him with

1 anybody or anybody else. And then it becomes
2 inaudible; isn't that correct? Isn't that what the
3 transcript says?

4 A Unfortunately, sir, we're on two different -- we're
5 on the wrong page. I think we're on a different
6 page.

7 Q Page 22. I'm sorry.

8 A Yes, sir. Okay. Yes, sir, I see the line you just
9 read. What was the question?

10 Q Okay. And in the transcript Zinah says, Well, I
11 don't trust him with anybody or anybody else. And
12 then it becomes inaudible; isn't that correct?

13 A According to the transcript, yes, that's what's
14 written, sir.

15 Q And do you remember it differently?

16 A I do not remember it differently.

17 Q Okay. And then on line 18 she tells you, So they
18 were helping me out. Is that not correct?

19 A Right, on line 18 -- well just before that,
20 Investigator Thomas -- and it's actually Sergeant
21 Thomas asks -- and this is part of a whole back
22 and forth with question after question after
23 question.

24 Q Well, right now I'm not asking what it is. I'm
25 asking whether or not in that line, does Zinah

1 Jennings say, So they're helping me out. And she's
2 referring to the people who have the child. Is
3 that not correct? Do you see that differently?

4 A I do slightly. I think that Zinah at that point
5 was slightly confused about what we were talking
6 about. I'm not really sure what she meant by that.
7 She says --

8 Q Well, the line before that, if you go to line 16 --

9 A Yes, sir.

10 Q -- the officer says, The person that's supposed to
11 be watching your baby; right? And her answerer is,
12 So they're helping me out; isn't that correct?
13 Isn't that what the transcript says?

14 A That is what the transcript says.

15 Q It doesn't?

16 A There is a question mark at the very end of line
17 18. There is a punctuation question.

18 Q But that's what -- that was the answer; right?
19 She's asking you, So they're helping me out.
20 Right?

21 A That was her response to Investigator -- Sergeant
22 Thomas' question.

23 Q Okay. And on page 37 at line 15, there's a long
24 narrative before it, and Zinah says, Well, I
25 already told you -- the investigator -- that he was

1 fine. She's talking about the baby; isn't she?

2 A She is.

3 Q Okay. But you didn't believe her?

4 A At that point, no, sir, I did not. I did not
5 believe her.

6 Q And then on page 40 at line 13, she tells you
7 exactly that; doesn't she? She says, You all are
8 not getting -- are not going to believe me. Isn't
9 that what she says?

10 A She does say -- I don't know what the context is.
11 I would have to read the lines before that.

12 Q Would you like to read the context?

13 A Yes, I would, sir. (Pause.) Right. She does
14 state according to the transcript and my memory,
15 Y'all are not going to believe me.

16 Q Okay. And then, on page 95, this is a conversation
17 where you are telling her that she told -- where
18 you were telling her about the fact that she lied
19 to Officer Miller. Would you not agree?

20 A Which line are you referring to, sir, the whole
21 page or --

22 Q I'm on line 10.

23 THE COURT: What page?

24 MR. PRIDE: Page 85. I can't see. These are
25 not my glasses.

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1 THE WITNESS: I think he's talking about page
2 95, line 10, sir, or is it 85? I'm sorry.

3 BY MR. PRIDE:

4 Q Page 85.

5 A Okay. Yes, sir, I see the line.

6 Q All right. And then --

7 A What was the question regarding that?

8 Q The question was she was talking about in that
9 sentence about the fact that you all were accusing
10 her of lying to Officer Miller about the
11 information that he obtained from the scene of the
12 accident and he obtained from the hospital; isn't
13 that correct?

14 A Correct, yes, sir.

15 Q All right. And then, on page 96 starting at line
16 1, she starts off about -- Zinah's talking -- and
17 she says, They were asking me where is my I.D. and
18 I pointed to my bag. Then it says, Uh-huh, uh-huh.

19 A What was the line? What was the page again?

20 Q Page 96.

21 MS. CAMPBELL: Eighty-six.

22 BY MR. PRIDE:

23 Q Eighty-six -- I'm sorry -- line 1. Do you see
24 that?

25 A I do. I see that line.

- 1 Q Okay. And it says, They were asking me where is my
2 I.D. and I pointed to my bag. Then you say,
3 Uh-huh, or something which is not discernible.
4 Then Zinah says, I didn't talk to no officer. Then
5 you go on to tell her that she had a conversation
6 with the officer; isn't that correct? In the next
7 line, that's you talking; isn't it?
- 8 A It is.
- 9 Q Okay. And then on line 21, Zinah tells you, I had
10 a concussion; didn't she?
- 11 A She did state that, yes, sir.
- 12 Q And the car was a total loss; right?
- 13 A The car was a total loss.
- 14 Q And that's a reasonable explanation for someone who
15 was in a car that was a total loss, that she
16 doesn't even remember this conversation with
17 Miller. Then she says, Well, I had a concussion.
18 That's why I gave those answers. Isn't that her
19 explanation for it?
- 20 A That was her explanation for why she didn't
21 remember the conversation with Officer Miller and
22 the staff at the hospital. That was her response.
- 23 Q Well, you do remember that she was so bruised in
24 the eye until you told her, Let me see your eye,
25 and you looked at it; isn't that correct?

1 A That is correct.

2 Q All right. And she got that abrasion or that
3 bruise from the car accident; didn't she?

4 A I'm not sure where she got the abrasion or the
5 bruise.

6 Q You didn't think at the time you were looking at it
7 that that's where she got it from?

8 A If I were to assume, I would assume it was from the
9 accident, but I wasn't sure. She never -- She
10 never responded when I asked her.

11 Q Okay. But you did ask her about it; right?

12 A I did.

13 Q Okay. Now, it is true that in your affidavit, you
14 told the judge about two events concerning Zinah?
15 You said one on the 24th when she lied to Officer
16 Miller; right?

17 A Yes, sir, that's right.

18 Q And Zinah told you, when you talked to her, that
19 she had a concussion from the automobile accident
20 and didn't remember it; right? We just went over
21 that; right?

22 A She did. When I confronted her about her
23 conversation with Officer Miller and the hospital
24 staff, she said that she had gotten a concussion.

25 Q All right. And then on the 28th you went on to say

1 that when you said that the child was in Atlanta
2 with her aunt, anything that happened in Atlanta
3 you wouldn't have jurisdiction over it; would you?
4 You couldn't prosecute it; could you?

5 A If the incident happened in Atlanta --

6 Q Yes.

7 A -- could I prosecute it?

8 Q Yes.

9 A In some rare occasions, we can. There are criminal
10 acts such as harassment and such where, if someone
11 called from Atlanta to the City of Columbia, we
12 could prosecute it.

13 Q You could prosecute a crime in Atlanta?

14 A Right -- well, it would actually have been
15 committed here.

16 Q No. You are here and you're talking about what
17 happened in Atlanta; aren't you?

18 MS. CAMPBELL: Objection, Your Honor. He's
19 asked and answered his question.

20 THE COURT: Ask your next question.

21 BY MR. PRIDE:

22 Q Aren't you talking about in this affidavit what
23 happened in Atlanta, Georgia?

24 A Let me look at that again. I don't remember if I
25 actually referred to...

1 Q Sure. (Hands to witness.)

2 A Right. The affidavit doesn't actually refer to any
3 conduct in Atlanta. The typed affidavit does not
4 refer to any conduct in Atlanta.

5 Q I didn't ask you about the typed affidavit.

6 A Right.

7 Q Read for me the language on the front of State's
8 Exhibit 20. Read it to the jury.

9 A Which section, sir?

10 Q The affidavit part.

11 A Okay. "Occurring within Columbia, County of
12 Richland, the defendant, being the mother and
13 primary caregiver of ^{Child} Jennings, age one, has
14 purposely lied to law enforcement several times
15 regarding the whereabouts of ^{Child} telling Officer
16 Miller on 12/24/2011, that she did not have a child
17 and then said the child was in Atlanta with her
18 aunt and then on 12/28/2011, telling the affiant --
19 that would be me -- that the child was at the
20 residence of Ernest Robinson, having left him there
21 because she needed a break.

22 This affiant's training and experience and
23 investigation of the fictitious Robinson residence
24 has led him to believe Ernest Robinson does not
25 exist and ^{Child} is not at the residence in Atlanta;

1 therefore, this affiant believes the defendant is
2 willfully withholding information that would
3 implicate the defendant or others in the harm that
4 has befallen ^{Child}

5 Based upon ^{Child} age, he would require
6 intense supervision and care; and the defendant is
7 unable or unwilling to establish that the child,
8 who is solely in her care, is alive and healthy.

9 This admission by the defendant and family
10 established that ^{Child} has not been seen by the
11 defendant nor any known family members since
12 December 6th, 2011."

13 Q All right. Now, once you got that affidavit and
14 once you got the warrant, you testified that Zinah
15 turned herself in on the 29th of December and that
16 you commenced the conversation which is contained
17 in this transcript -- you and Officer Thomas -- on
18 the 30th; is that correct?

19 A Say that one more time. I apologize.

20 Q That's okay. I'm saying Zinah turned herself in on
21 the 29th of December.

22 A That's correct.

23 Q And the interrogation or the asking of questions
24 regarding ^{Child} started on the 30th --

25 A That's correct.

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1 Q -- in the morning.

2 A Yes.

3 Q And according to your testimony, it lasted for a
4 couple of hours?

5 A It did.

6 Q And then subsequently you took Zinah from your
7 office and carried her to the Richland County
8 Detention Center --

9 A That is correct.

10 Q -- and told her, We will have further conversations
11 with you later on; is that not correct?

12 A I did.

13 Q And then you went out -- such as the video that was
14 shown here -- and tried to find out the last places
15 that you could find where Zinah was in Columbia
16 based on, I'll call it, a food stamp card; is that
17 not correct?

18 A Right. Well, actually our main objective was to
19 find or try to find a video or a witness who had
20 seen Child and Zinah. As we further investigated,
21 we focused mainly in that November/December time
22 period before her arrest trying to find video that
23 showed -- or witnesses who had encountered Zinah
24 with Child and witnesses who had encountered Zinah
25 without Child and try to get the dates and times of

1 those meetings.

2 Q But the purpose of going to those places was
3 further effort to see if you could find Child is
4 that not correct?

5 A It was. Well, it was largely twofold. What we
6 were doing in the police department, not only was I
7 searching for Child but also we -- because we had
8 some indication that harm had come to Child I was
9 trying to just gather evidence.

10 Q All right. And as you gathered evidence, you were
11 trying to gather evidence to determine the
12 existence of Child is that correct?

13 A That's correct.

14 Q And when you went and talked with the various
15 merchants and could obtain film, were they
16 cooperating? Were the merchants cooperating with
17 you?

18 A Yes, sir. I believe we had virtually complete
19 cooperation from -- I can't think of right now, any
20 merchant, that did not cooperate with us.

21 Q And you've put it in there as complete cooperation;
22 is that not correct? You virtually had complete
23 cooperation?

24 A Right, sir. There were a couple of occasions --
25 and this happens with every investigation -- where

1 we will run into -- we'll try to obtain video from
2 a store, and they will require a search warrant.

3 Q But at least in the videos, merchants gave you
4 complete cooperation; is that correct?

5 A Right. That's correct, sir. Those videos that we
6 just saw while I've been up here, we had complete
7 cooperation from those merchants.

8 Q Why didn't you ask those merchants, What did Zinah
9 buy, to see if she bought any food for her baby?

10 A I believe what happened was we attempted to get
11 information about exactly what Zinah had bought,
12 and this was actually another investigator who was
13 looking into that. So you'll have to ask him. My
14 understanding was we did not gather a lot of
15 information about the products bought. We just
16 know the amounts spent.

17 Q Well, with the kind of computers that we have
18 today, they generate certainly copies. And when
19 you look at the video and you could identify that
20 it was Zinah and she certainly had purchased
21 something, you could go to the register and see if
22 anything that she purchased were things to be used
23 by a baby, by ^{Child} isn't that correct?

24 A Right, sir, and that would be helpful. I do not
25 have first-hand knowledge about those receipts and

1 about exactly what she had bought. Now, if I could
2 expand. The investigator who did look into that,
3 that was, of course, one of the things he was
4 trying to ascertain as to what Zinah had purchased.

5 Q Well, if he was trying to ascertain it, we can
6 certainly say today that you have no information to
7 tell this jury what Zinah purchased; is that not
8 correct?

9 A I do not have any information about that.

10 Q And he doesn't either; does he?

11 A I'm not sure if he does or not.

12 Q Well, that would be relevant to your investigation.
13 You've identified yourself as the chief
14 investigator on this case.

15 A Yes, sir.

16 Q And certainly something as important as Zinah going
17 and buying Pampers, if one of the investigators
18 knew about that, he would run to you and say,
19 Listen, man, she was in there buying Pampers;
20 wouldn't they?

21 A Right, sir. And there has been no investigator who
22 has run to me and said anything like that. I
23 haven't heard from any investigators that Zinah was
24 purchasing products for a child in December of
25 2011.

1 Q And you have no information from any of your
2 investigators to show that she was not purchasing
3 items for children either; do you?

4 A Right. We had reviewed the video and tried to
5 determine what she had purchased. In some of the
6 videos, you can see she's buying a drink; and
7 that's pretty much all we can really determine.

8 Q But that tape on the register would have told you,
9 item by item, the date she bought it, what she
10 bought, and how much she paid for it; wouldn't it?

11 A Yes, sir.

12 Q All right. Now, I want to ask you about a
13 document.

14 (Attorneys confer.)

15 BY MR. PRIDE:

16 Q I want to show you a document from S.L.E.D. and ask
17 you whether or not you helped compile the
18 information that is on that document? I heard in
19 your direct testimony that you said you went to
20 S.L.E.D. to carry certain items. I know that the
21 examinations certainly are not yours; but other
22 information supplied on that document, did you have
23 a hand in supplying it?

24 A Yes, sir, I would have been part of supplying
25 information to S.L.E.D., either directly or

1 indirectly.

2 Q Did you tell S.L.E.D., according to that report,
3 that the incident in this case happened on the 24th
4 of December? That's what is on there; isn't it?
5 Isn't that what is on there?

6 A Wait a minute. Let me try to find that.

7 Q On the front page, see where it says --

8 A Yeah. Actually, it says incident date, 12/23/2011.

9 Q And that's the date of Zinah's accident; is that
10 correct?

11 A I believe Zinah's one-car accident -- and I can
12 look back to my notes -- I'm fairly certain that
13 was on the 24th.

14 Q Well, the night of the 23rd and the eve of the
15 24th. Would that be correct?

16 A Yes, sir.

17 Q All right. Now, Let me have that back.

18 A Yes, sir.

19 Q Now, when you carried this shovel to S.L.E.D., you
20 carried it there for the purpose of having it
21 examined?

22 A Yes, sir, I did.

23 Q Did they take any of Zinah's fingerprints off that
24 shovel?

25 A As far as I know, they did not.

1 Q All right. Thank you. Now, I want to show you a
2 series of affidavits. I don't have the exact
3 exhibit. I don't have the exhibit numbers, but
4 these affidavits are on the search warrants.

5 Take a look at them for me. Those are the
6 search warrants that you either generated or either
7 you served; is that not correct? You applied for
8 them certainly.

9 A If these are correct copies, these are, in fact,
10 search warrants that I applied for.

11 Q Okay. And when you applied for these search
12 warrants, according to these affidavits, what was
13 your source of information?

14 A And that would be in regards to which search
15 warrant, which affidavit?

16 Q This is a search warrant for the house on Lady
17 Street.

18 A We actually served two search warrants on the house
19 on Lady Street; so I'd have to know which one it
20 was.

21 Q Okay. Here. Excuse me. (Hands to witness.)

22 A The source for this information here is Ms. Jocelyn
23 Jennings, the grandmother of Child and the mother --

24 Q That's the person --

25 A -- of Zinah Jennings.

1 Q -- who you obtained information from in order to
2 get the search warrant?

3 A Right. That was one of the people. We obtained
4 information also based somewhat on what Zinah had
5 told me, that she -- well, based on the fact that
6 she was there at the house and based on what
7 Jocelyn Jennings had told us.

8 I can't recall if I knew at that point, if I
9 had spoken to Roderick Mitchell at that time to
10 learn that he had seen Child also at the house. I'm
11 looking back through my timeline right now to try
12 to determine if that was before or after. But,
13 yes, largely, sir, it's from Jocelyn Jennings.

14 Q Okay. And all of the search warrants in this case
15 were search warrants that were served after Zinah
16 was arrested and served with the warrant on the
17 30th at the Columbia Police Department; is that
18 correct?

19 A That's correct.

20 Q And the best information that you have in this case
21 is that Child was last seen on the 29th of November;
22 is that not correct?

23 A Yes, sir.

24 Q And you don't know where Child is. He could be in
25 Georgia; is that not correct?

1 A I don't think he is.

2 Q But he could be; is that not correct? He could be
3 anywhere because you don't know where he is; isn't
4 that correct?

5 A I do not know where he is.

6 Q All right. And, therefore, you don't know where he
7 was taken from; do you? You don't know whether or
8 not he was taken from North Carolina or Georgia or
9 South Carolina. You don't know that; do you?

10 A I've been able to -- during the investigation we
11 have been able to determine that the majority of
12 the time that Zinah Jennings has spent after ^{Child}
13 was last seen is in Richland County. It's in South
14 Carolina and confined to Richland County. Zinah
15 Jennings herself did leave the State at least three
16 times between November 29th and her arrest.

17 Q And when you say Zinah Jennings left the State, you
18 base that on your telephone records; is that
19 correct?

20 A That's based on telephone records and interviews
21 with witnesses.

22 Q And basically, just like when you say --

23 A And also we had some -- I'm sorry to interrupt --
24 we also had some -- the E.B.T. records, I believe,
25 showed at least one purchase in Atlanta.

1 Q And those records basically say that the phone
2 number which was assigned to that phone hit a tower
3 in a certain area; is that correct?

4 A That's correct.

5 Q All right. Now, you don't have any evidence at all
6 or any reports from anybody that Child was seen in
7 South Carolina or in Richland County in December?

8 A We don't have any reports from family or friends of
9 Zinah Jennings, Child Jennings, and the Jennings
10 family to indicate that Child has been seen in South
11 Carolina in December.

12 We don't have any video. We have had -- as I
13 testified earlier, there have been multiple
14 sightings of Child and I'm sure they're still
15 coming in now.

16 For the most part, we have been able to meet
17 with the person who reported the sighting; and
18 we've been able to put eyes on the child they
19 thought was Child

20 We've been able to determine that that child
21 was not Child I don't -- some of the sightings of
22 Child we haven't been able to completely -- we can't
23 say for certain that this person has made up the
24 story.

25 We can't say that the person is erroneous

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1 simply because they will say something like, I saw
2 him on the street on any given day; and there's
3 just no video. So it's impossible to follow up
4 those leads, but I had no evidence.

5 Q All right. Let me ask it another way. You have no
6 credible leads or sources to show that Child was in
7 Richland County in December; is that not correct?

8 A Well, I don't have any credible sources or leads to
9 say that Child was in Richland County with his
10 mother. I don't have any credible leads or
11 witnesses to say that Child was alive in Richland
12 County in December.

13 Q And not to be repetitious, but you say the last
14 time that you had a credible lead was that Child was
15 seen on November the 29th?

16 A Well, that is the date that we have several people,
17 three or four; and then we have video, that, yes,
18 Child was seen on the 29th in Richland County at his
19 residence at Lady Street and at the South
20 Carolina Federal Credit Union later on in the day,
21 which is on Forest Drive.

22 Q Well, what day do you have that indicates that
23 Zinah abandoned Child

24 A We have made the determination -- we have, I think,
25 correctly determined that it is likely that Zinah

1 abandoned Child sometime between the morning of
2 November 29th and November -- the morning of
3 November 30th -- because that is when the first
4 person encounters Zinah without Child

5 Q Well, you do agree that there are many occasions
6 where a mother may be without her child? That's
7 possible; isn't it?

8 A Yes, sir.

9 Q Okay. And where did your investigation reveal that
10 Zinah abandoned Child Where?

11 A The information we had -- because she had mostly,
12 between the time that Child was last seen and the
13 time that Zinah, of course, spent -- and our
14 witnesses stated such -- spent a majority of her
15 time with Child during that time period.

16 That was here in various locations in Richland
17 County. There isn't one particular address that
18 that occurred because the child was last seen in --
19 well, that's my answer.

20 Q Would you not agree that your investigation is
21 based on the fact that Zinah has not been seen with
22 Child since that date? In other words, that's what
23 constitutes abandonment based on your judgment;
24 isn't that correct?

25 A Right. And you're referring to the third section

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1 of the unlawful conduct towards a child statute
2 which states willfully abandon the child. Yes, the
3 fact that -- and the fact that no one has -- we
4 haven't heard from anyone who has Child

5 No one has come forward and said they have
6 Child Our investigation has seen and I've seen --
7 looked into some of Child say, credit history,
8 Social Security history -- and there just hasn't
9 been any activity.

10 So it's just based on the fact that they
11 haven't seen Child that Zinah, who was with Child a
12 majority of her time prior to November 30th,
13 beginning on November 30 and on to her arrest, is
14 not seen in the company of Child

15 Q And that's the basis of abandonment?

16 A That is part of the basis of the abandonment.

17 Q Well, what's the other part? Zinah told you that
18 he is with somebody safe.

19 A When Sergeant Thomas and I interviewed Zinah at
20 police headquarters, Zinah made it clear that she
21 no longer wanted to care for Child that she
22 certainly didn't want her mother to care for Child
23 and so she needed a break and was a selfish person.

24 So based on that additional information is why
25 we believe there has been an abandonment, plus all

1 the other statements from witnesses, including
2 Officer or Investigator Wise who found blood in the
3 trunk of the car. It's just that culmination of
4 evidence that has led us to believe there has been
5 an abandonment of Child

6 Q Well, when you say that Denise never told you that
7 Child had a sore on his lip, did you ask Denise
8 about Child physical appearance the last time she
9 saw him?

10 A I don't recall actually asking that exact question,
11 but we did -- Denise and I have, and Denise and
12 Sergeant Thomas have, spoken multiple times over
13 the phone; and I met with Denise Jennings twice in
14 person.

15 I met Denise Jennings when she came and
16 delivered the pacifier and met with her when she --
17 when I went to her residence in East Point several
18 months ago, and she didn't mention anything about
19 an injury to Child

20 Q Well, you say she didn't mention anything because
21 you didn't ask her anything; isn't that correct?
22 Isn't that what you said?

23 A Well, I think it would be -- and if I didn't ask
24 the question, I thought it would be significant for
25 her to relay that information to us considering she

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1 has seen -- she's familiar with the case at least
2 in the sense that she knows what's going on. She
3 knows that Zinah was arrested, and she knew some of
4 the evidence in regards to the case.

5 Q Well, do you realize that a cold sore is not an
6 injury?

7 A A cold sore?

8 Q A cold sore is not an injury. That's what I'm
9 saying. You said that she should have told you
10 because ^{Child} was injured. But I'm telling you, do
11 you realize that a cold sore on a child's lip does
12 not constitute an injury?

13 A A cold sore on a child's lip does not constitute an
14 injury? Yes. I suppose it is a condition and not
15 an injury, but I really don't know.

16 MR. PRIDE: Would you indulge me, please, Your
17 Honor?

18 THE COURT: Certainly.

19 (Pause.)

20 BY MR. PRIDE:

21 Q Did you see Zinah's car when it was brought to the
22 police department?

23 A I did.

24 Q And did you see that Zinah had a lot of trash in
25 her car? Would you agree?

1 A I would agree that it was a moderate amount. It
2 was not -- it was not clean.

3 Q Did you see any food in the car?

4 A I can't remember if there was any food in the car.
5 I would have to refer to my notes. I don't recall.
6 I don't recall any actual food in the car.

7 Q You have determined that Denise [verbatim] and her
8 aunt went to the car on the 27th of December -- not
9 Denise -- Zinah and her aunt went to the car on the
10 27th in order for Zinah to get things out of her
11 car?

12 A I'm not sure what date they went to the car. It
13 was relayed to me by Jocelyn Jennings or another
14 family member that Zinah had had access to the car
15 and had removed some items from the car after the
16 accident but before the search warrant.

17 Q Okay. And when you say before the search warrant,
18 you mean before it arrived at the Columbia Police
19 Department; is that not correct?

20 A Well, to be exact my information was that Zinah
21 Jennings and another family member had gone to
22 where Zinah's car was after her accident but before
23 her arrest. So before we -- and that was, of
24 course, before we searched the car. She had gone
25 to a tow lot and had access to her car and removed

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1 items.

2 Q Okay. And when you saw the car down at the police
3 department, did you see a number of wigs in that
4 car, if you can remember?

5 A Wigs in the car? I don't remember seeing any.

6 Q Well, the car or the trunk?

7 A I don't -- right. I don't recall seeing a wig in
8 the car.

9 Q All right. And when you went to Zinah's mother's
10 house, did you see bags of items that had been
11 taken out of that car and were on the floor in what
12 you have described as Zinah's room?

13 A Right. I actually didn't know what -- it was clear
14 that there were bags that were Zinah's. I have no
15 idea where they came from, if they were in the car
16 during the accident or not.

17 Q But you did see bags in Zinah's room?

18 A I did.

19 Q And you did learn from these various proceedings
20 that Zinah's aunt, Ms. Houston, delivered those
21 bags to Ms. Jennings; didn't you?

22 A No. I actually -- what you just said, that's the
23 first time I'm hearing that. I was under the
24 impression -- I've forgotten who told me -- but
25 that Zinah and another family member had gone to

1 the car and removed items.

2 Q That's Ms. Houston, her aunt.

3 A Okay.

4 Q And they brought them home -- you found that out --
5 to Ms. Jennings' house; is that not correct?

6 A It was my understanding that they removed items
7 from the car. I don't know where they brought
8 them.

9 MR. PRIDE: Indulge me just a moment, Judge.

10 THE COURT: Certainly.

11 (Pause.)

12 BY MR. PRIDE:

13 Q Not to be repetitious but based on your
14 investigation and based on the fact that you are
15 the chief law enforcement officer in this case, you
16 have designated that November the 30th is the date
17 of the abandonment and the date that the crime was
18 committed; is that correct?

19 A Actually, I said the date of the abandonment is
20 going to be sometime after December 29th; so after
21 the morning of December 29th.

22 Q December?

23 A I'm sorry. November 29th of 2011. It has occurred
24 after that. We feel that it has most likely
25 occurred between December 29th and December 30th --

1 I'm sorry -- November 29th and November 30th of
2 2011.

3 Q So after the 30th the abandonment had taken place,
4 in November. That's what you believe?

5 A That is, I believe, the most likely scenario.
6 That's what I believe simply because Zinah is seen
7 in the company of Child up until the 29th and then
8 after that, after the time that she's at the South
9 Carolina Federal Credit Union, she is no longer --
10 She is seen, but she is no longer seen with Child
11 She is seen for the first time without Child on
12 November 30th of 2011, and she is seen on
13 subsequent dates, including on video, without Child

14 Q And the rational basis of what you -- how you
15 concluded that -- was based on your investigation;
16 is that correct?

17 A That is correct.

18 MR. PRIDE: No further questions.

19 THE COURT: Redirect?

20 MS. CAMPBELL: Yes, sir.

21 **REDIRECT EXAMINATION**

22 BY MS. CAMPBELL:

23 Q He asked you about November 29th, the last time you
24 see him is in that video. And when she's in the
25 bank on November 29th, what is she doing to her

1 bank account?

2 A On the 29th -- and this is based on the information
3 that we received from the South Carolina Federal
4 Credit Union -- that Zinah effectively takes out
5 virtually all the money from her -- from her South
6 Carolina bank account.

7 She at one point had three. She had kind of
8 slowly taken money out of the various accounts at
9 various times throughout the last couple of years.
10 However, on the 29th, she goes into the South
11 Carolina Federal Credit Union and effectively, I
12 think leaving just a minute amount of money, less
13 than \$10, effectively drained out one of her bank
14 accounts.

15 I have the exact figure -- right. So on
16 November 29, 2011, Zinah withdraws \$386 from her
17 South Carolina Federal Credit Union account
18 labeled, my savings, leaving just a very, very
19 small amount of money left in the account.

20 Q How much?

21 A I would have to refer to the records; but if memory
22 serves me right, it was less than about \$10. It
23 might have been less than \$5. It was a very small
24 amount.

25 Q And that was on the 29th; is that correct?

1 A That's correct.

2 Q And then the next day where does her phone track
3 her? What does the phone track her doing?

4 A The very next day Zinah Jennings is tracked, by
5 way of her phone, driving west on I-20 from
6 Columbia, through Augusta, to Atlanta and then --
7 yes, ma'am.

8 Q What information do you have? What happened when
9 she got to Augusta that next day, the 30th?

10 A Well, on the 30th she -- our information is that
11 she actually stopped at a gas station in Augusta on
12 Washington Road. The information I had was it was
13 actually a Raceway gas station on Washington Road
14 just off I-20 in Augusta and that she had met a
15 young man there named Marcus and that they had
16 exchanged phone numbers.

17 Q And was ^{Child} with her at that point?

18 A ^{Child} was not with her at that point.

19 Q And then based on your information, where does she
20 proceed?

21 A Zinah continues to drive west on I-20 going towards
22 Atlanta, more specifically the suburb of East
23 Point, Georgia.

24 Q And she returns to Columbia when?

25 A Later on that day.

1 Q And she's back in Columbia by approximately what
2 time that evening?

3 A Zinah arrives in the late afternoon, evening time,
4 in Columbia on November 30th.

5 Q And then over the course of December 1st and 2nd,
6 the first days of the month, does she make contact
7 with other friends?

8 A She does.

9 Q And is she seen with Child

10 A She is not seen with Child

11 Q And did you have information from other witnesses
12 throughout the month of December, in addition to
13 the videos, where she is seen by herself?

14 A We do. We have information from several witnesses
15 who encounter Zinah Jennings during December who do
16 not see Child

17 Q The defense attorney asked you about your
18 investigation in this case and that you based it
19 upon Zinah lying about the whereabouts of Child

20 A That's correct, he did.

21 Q And in your investigative skills and your knowledge
22 and your experience, why do people lie about where
23 their children are?

24 MR. PRIDE: Objection, Your Honor.

25 THE COURT: Sustained.

1 BY MS. CAMPBELL:

2 Q In your investigation when Zinah was lying to you
3 about where her child is, why was that significant
4 to you?

5 A Because it was significant in several ways. First
6 of all, we couldn't figure out why she would lie.
7 There didn't seem to be a motive as to why she
8 would lie unless she had done something to ^{Child}
9 essentially abandoned him or done something worse.

10 So we couldn't figure -- we couldn't figure
11 out why she would lie to law enforcement about
12 that. So that was the first part. Zinah was the
13 primary caregiver for ^{Child} and so there would just
14 be -- it would seem fantastic to me that a mother
15 would lie not only to law enforcement, but to close
16 friends and family, about the location and
17 well-being of her child.

18 Q Mr. Pride asked you about the statute in this case,
19 and there are three separate prongs to the statute;
20 is that correct?

21 A That is.

22 Q And it can fit under either one of the prongs or in
23 between every one; is that correct?

24 A That's correct.

25 Q And what's the first prong?

1 A Place the child at unreasonable risk of harm
2 affecting the child's life, physical or mental
3 health or safety.

4 Q And during the course of your investigation, has
5 Zinah Jennings fulfilled that prong?

6 A She has.

7 Q And with information from Christian Dickerson, her
8 friend?

9 A Correct. Well, actually another friend had said
10 that Child was left in the car. But if I remember,
11 Ms. Dickerson was the one who said that she had
12 seen Zinah kick Child

13 Q And also made several comments about what she
14 wanted to do to Child

15 A Correct. She indicated that, you know, just what
16 her testimony said, and that caused us alarm.

17 Q And Ashley Burnett, who is the teller?

18 A Right. And Ashley Burnett had, in meeting with her
19 at the South Carolina Federal Credit Union, had --
20 the video itself just showed sort of essentially
21 that Zinah was putting her child at unreasonable
22 risk in allowing him to run out of the bank twice
23 and failing to seatbelt him at most of her visits
24 to the bank.

25 Q And Troy Clark?

1 A Yeah, Troy Clark also did indicate and give a
2 statement to us that led us to believe that Child
3 had been placed at unreasonable risk.

4 Q Jessica Thomas?

5 A Jessica Thomas, again, had given a verbal and
6 written statement indicating to us that Zinah had
7 placed Child at unreasonable risk of harm.

8 Q Denise Jennings?

9 A Denise Jennings, again, on several phone
10 conversations with her, she did indicate to me that
11 Zinah was putting Child at unreasonable risk of
12 harm.

13 Q And Jocelyn Jennings?

14 A Jocelyn Jennings, while not necessarily being
15 specific about specific incidents, had indicated to
16 us that there were some issues regarding the care
17 of Child that he was being spanked at too early of
18 an age and that she was not necessarily --

19 MR. PRIDE: Objection, Your Honor. That's
20 hearsay.

21 THE COURT: Let's move along, Solicitor.

22 BY MS. CAMPBELL:

23 Q Without saying what she said, did she convey
24 information?

25 A She did.

1 Q And, finally, the blood on the baby blanket in the
2 trunk?

3 A Correct. That caused us to believe that there had
4 been unreasonable risk of harm.

5 Q And he asked you about the fact that the defendant
6 had access to the car prior to y'all doing your
7 search?

8 A He did.

9 Q Do you know what evidence she was able to remove?

10 A I do not.

11 Q The second prong of the statute, what is that?

12 A It reads: Do or cause to be done, unlawfully or
13 maliciously, any bodily harm to the child so that
14 the life or health of the child is endangered or
15 likely to be endangered.

16 Q In your review of the evidence in this case, has
17 she placed ^{Child} in the way of harm based on the
18 evidence in this case?

19 A In fact, she has.

20 Q And without going through the specific witnesses,
21 it's some of the same ones we've gone through
22 before?

23 A Right; that's correct. Some of the same witnesses
24 and, once again, him being left in the car and not
25 being properly belted, him not being fed properly,

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1 him escaping from houses and businesses.

2 Q And in your investigation, prong three, which is
3 which one?

4 A Willfully abandon the child.

5 Q In her own admission, did she abandon the child?

6 A I believe she did. When we first interviewed --
7 after her arrest when we interviewed Zinah
8 Jennings, she indicated she needed a break and no
9 longer wanted to care for Child

10 Q At one point did she allege to one witness that she
11 wanted to sell her child?

12 MR. PRIDE: I'm sorry. I didn't hear the
13 question.

14 THE COURT: Repeat the question.

15 BY MS. CAMPBELL:

16 Q At one point in this investigation, did she
17 indicate to one witness that she wanted to sell the
18 child or give it away?

19 A She did.

20 Q And would that be abandonment?

21 A It would be.

22 Q He asked you specifically about Zinah's responses
23 to the officer after her car accident; correct?

24 A He did.

25 Q And did you get the medical records in this case?

- 1 A I did get the medical records in this case.
- 2 Q And have those been reviewed?
- 3 A Those have been reviewed, yes, ma'am.
- 4 Q Did she suffer a concussion?
- 5 A I don't recall the medical records, but it didn't
- 6 indicate a concussion as far as I know.
- 7 Q That same night when she talked to Officer Miller,
- 8 he was asking her about she had been in an
- 9 accident, and she just didn't remember that she had
- 10 a son at first?
- 11 A Ask that again. No, no, ma'am.
- 12 Q Did the defense attorney ask you about her first
- 13 talking about not having a son?
- 14 A He did ask her questions regarding that.
- 15 Q And from your investigation that's what she
- 16 initially indicated to Investigator Miller? That's
- 17 what Zinah told Investigator Miller?
- 18 A Yes.
- 19 Q And the nurses, I guess?
- 20 A Well, Zinah -- well, repeating what Zinah had told
- 21 Investigator Miller and the nurses is that she did
- 22 not have a child and indicated to the nurses that
- 23 she had a daughter.
- 24 Q And then, however, when confronted with the fact
- 25 that she did have a child, she changed that story?

1 A She did, and then she gave an address.

2 Q A specific address?

3 A She gave a specific address, and I had to later
4 educate Officer Miller about where that address was
5 because he didn't know where it was. I recognized
6 the address as being the address of Denise Jennings
7 who lives in East Point, Georgia.

8 Q So she was able to remember a specific address?

9 A She was.

10 Q He asked you about what information you had, what
11 evidence you had at the time you got the warrant.
12 By then had you gotten information from Jocelyn
13 Jennings?

14 A I had.

15 Q Denise Jennings?

16 A I had.

17 Q Shon Harris?

18 A I had.

19 Q Yolanda Williams?

20 A Yes, ma'am.

21 Q Nina Simpson?

22 A Yes, ma'am.

23 Q Tai Williams?

24 A Yes, ma'am.

25 Q Daniel Williams?

1 A Yes, ma'am.

2 Q Officer Miller?

3 A That's correct.

4 Q And also the information she gave the nurses at the
5 hospital?

6 A Correct -- well, just Officer Miller. I hadn't
7 actually spoken to the nurses prior to that, but he
8 related what they said.

9 Q As well as the people at the bank? You contacted
10 the bank?

11 A Correct. But just prior to the warrant, we didn't
12 have the information from the bank, just to correct
13 that.

14 Q But the rest of the information you had?

15 A Correct.

16 Q And at that point you were able to get a warrant?

17 A I was.

18 Q Just with that amount of information?

19 A Yes, ma'am.

20 Q He asked you about the transcript and certain
21 admissions?

22 MS. CAMPBELL: Your Honor, if he may refer to
23 the transcript?

24 THE COURT: Yes, ma'am.

25 BY MS. CAMPBELL:

1 Q Going to page 10, line 13. If I get it wrong,
2 correct me.

3 A Page 10, line 13?

4 Q And what's the question from Investigator Thomas?

5 A He asked -- and it continues from a previous line
6 -- do you realize the severity of what you're
7 facing right now? Look at me. Has any harm come
8 to your child? I can't see your eyes though, but
9 you're shaking your head no, but you're crying.
10 That scares me. Now you're crying even harder.
11 That scares me more. Where is he?

12 Q And what is her answer?

13 A I'm sorry.

14 Q Turning to page 25, there is a conversation on
15 another page, but moving down the page to line 15,
16 she's talking about where she's dropped the child
17 off. Are you with me?

18 A I am.

19 Q And what was Investigator Thomas' question?

20 A Investigator Thomas asked, Did they know you were
21 coming? And Zinah responds, Huh-uh. And then he
22 responds, They didn't know you were coming? How
23 long did you stay before dropping him off?

24 Q They didn't know you were coming and how long did
25 you stay? And what does she answer?

- 1 A Not long. She says, um, not long.
- 2 Q What's not long?
- 3 A And Investigator Thomas says, What's not long? And
- 4 then Zinah says ten -- for ten minutes.
- 5 Q Then going to the next page.
- 6 A Investigator Thomas asks, Did you all conversate
- 7 any? And Zinah says, Who? And Sergeant Thomas
- 8 says, You and the people that you dropped ^{Child} off
- 9 with. And Zinah responds, um, yeah.
- 10 Q And then it's you, Investigator Bailey?
- 11 A I then asked, What was your conversation about?
- 12 Zinah responds, Um, well, I guess they wanted me to
- 13 come back and get him; but I haven't been back to
- 14 get him.
- 15 Q And then finally Investigator Thomas asks, When was
- 16 the last time you talked to them?
- 17 A Yes. Investigator Thomas asked, When was the last
- 18 time you talked -- or Sergeant Thomas asked, When
- 19 was the last time you talked to them about that?
- 20 And Zinah responds, We haven't talked.
- 21 Q Going to page 27, midway down, line 14. He was
- 22 asking about was he a good baby. And how does she
- 23 describe her child?
- 24 A Sergeant Thomas asks, Was he a good baby? When you
- 25 say he was, why would you say it like that. And

1 Zinah then says, responds, Because he just turned
2 another way. He started acting up and being bad.

3 Q And then page 28, line 7, she continues about his
4 behavior?

5 A Zinah Jennings says, He just -- he wouldn't listen.
6 He would run around, run away from me. And then
7 Sergeant Thomas says, Yeah. And then I say, He
8 wasn't following when you called his name? What
9 else? What were the other things he was doing that
10 were bothering you? And she says, That's it.

11 Q And then down three lines, it says, This started
12 when he was how old?

13 A She responds, He was six months old.

14 Q Moving on to page 36, Investigator Thomas, starting
15 at line 3, I'm thinking the baby --

16 A You said 37?

17 Q Thirty-six. I'm sorry. Did I say 37?

18 A Thirty-six.

19 Q -- line 3 --

20 A Thirty-six, page 36, line 3, Sergeant Thomas
21 continues, Something -- because right now I'm
22 thinking the baby might be wandering the streets
23 somewhere. Somebody picked him up because you left
24 him at the mall.

25 Q And what does Zinah Jennings reply to that?

- 1 A He could be. He could be in the street.
- 2 Q And what is the next question?
- 3 A And Sergeant Thomas asked, Did you leave him in the
4 street? And then Zinah responds, He walks out of
5 the house walking down the street.
- 6 Q Page 38, line 13: That's why I keep asking the
7 question?
- 8 A Page 38, line 13, yes. And this is Sergeant Thomas
9 again, line 13, That's why I keep asking the
10 question. Did you snap? Did you hurt your child?
11 Then prove to me he is alive.
- 12 Q And what does Zinah answer?
- 13 A She says, I can't.
- 14 Q Page 40, line 21, what does Zinah Jennings tell
15 Investigator Thomas?
- 16 A Zinah Jennings tells Sergeant Thomas, and I don't
17 want to see him; and by him she's referring to
18 Child
- 19 Q Page 42, line 13, when you asked a question and
20 Investigator Thomas follows up?
- 21 A What was the line? I'm sorry. Line?
- 22 Q Thirteen. I'm sorry. Page 42, line 13.
- 23 A Can you please take us to the spot where you left
24 Child And Sergeant Thomas says, Why? I'm getting
25 scared here really. And Zinah Jennings responds,

1 Because I don't want to.

2 Q And then the last line on that page, line 25, and
3 the next page.

4 A I say, Okay. What's the problem? And Zinah
5 Jennings responds, I can do nothing.

6 Q And does she repeat that down the page?

7 A She later -- then she says there is nothing I can
8 do. I don't know. There is nothing I can do.

9 Q Page 87, line 1 -- well, it starts on the page
10 before that.

11 A I'm asking, Why would you have said, I don't have a
12 son?

13 Q And her reply is?

14 A I'll say that in my son's face. I'll call him my
15 nephew in his face because of how he be acting
16 sometimes.

17 Q And then you say what?

18 A I respond by saying, Oh, trying to make him think
19 that -- and she cuts me off by saying, I don't want
20 to claim him.

21 MS. CAMPBELL: Nothing further, Your Honor.

22 THE COURT: Recross?

23 **RECROSS EXAMINATION**

24 BY MR. PRIDE:

25 Q When you were talking to Zinah, you were trying to

1 get her, along with Officer Thomas, to go show you
2 where the baby was; is that correct?

3 A That was, yes, sir. That was part of our interview
4 with Zinah and one of our hopes was that Zinah
5 would take us to the location of where Child was at
6 that time.

7 Q And she made it very plain and clear to you that
8 she didn't trust you and she didn't want to go;
9 didn't she?

10 A I don't think she made it clear that she didn't
11 trust us, but she did make it clear that she did
12 not want to go.

13 Q Okay. And you and Sergeant Thomas, through
14 various means and questions and conversation,
15 tried to get her to change her mind and go; is
16 that not correct?

17 A Yes. We were trying to determine what -- if we
18 were to believe her that Child was in a safe place,
19 what possible reason would she have for not taking
20 us to that location.

21 Q And on page 26 in the transcript at the very
22 bottom, line 25, Thomas says to Zinah, Did you hurt
23 Child And on page 27, she says, I never hurt him;
24 is that not correct?

25 A That's correct. That's the way the transcript

1 reads.

2 Q Okay. And all of this talking that Zinah was doing
3 with you and Thomas was being done at the police
4 department between 12:00 o'clock at night and 2:00
5 o'clock in the morning; is that correct?

6 A It was.

7 Q Right. And oftentimes Zinah would just give you
8 any answer, whatever she could think of? If it was
9 off the wall, that's what she would say? Didn't
10 you get that impression?

11 A No, I didn't. I believe that Zinah knew her
12 answers, her willingness to -- well, sometimes she
13 would give a short answer; sometimes she would give
14 a lengthy answer; but it seemed like she was
15 willing to answer our questions.

16 Q Well, when she answered the questions and they were
17 favorable to her guilt, you believed her; is that
18 correct? Well, let me ask you another way. Did
19 you believe her when she told you, I would never
20 hurt him?

21 A Did I believe her at the time? No. And, of
22 course, now I certainly don't believe that.

23 Q And that's only because you can't find Child isn't
24 it?

25 A No, it's -- well, that particular, what you just

1 said in that particular line, just as I have been
2 testifying and others, that actually she -- that
3 was not true when she said, I would never hurt
4 Child We've been able to determine that, in fact,
5 she has hurt Child

6 Q Well, that was subsequent to your arrest of Zinah
7 when you went around to all of these people that
8 you were able to identify from phone numbers to ask
9 them about various experiences; is that correct?

10 A Right. We encountered witnesses and spoke to
11 family members and in a variety of ways, not just
12 through what we got on the phone, but it's got all
13 of Zinah's contacts in her phone. Some people came
14 forward. We heard from other people that other
15 witnesses might exist and so on.

16 Q Other witnesses what?

17 A That other witnesses might exist. For example,
18 that is how we discovered -- I can't remember her
19 name offhand -- but there was one witness whose
20 name didn't readily come from the phone list but
21 who had indicated to another person that she had
22 information. We were able to interview her and
23 get a statement from her, and she testified last
24 week.

25 Q All right. But any witnesses that you found in

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1 this case were after Zinah was placed in jail and
2 after Zinah was served with a warrant charging her;
3 is that correct?

4 A With the exception of several witnesses who we had
5 discovered beforehand: Denise Jennings, Officer
6 Miller, myself, Officer Walker, the nursing staff
7 -- although we hadn't spoken to them, we knew they
8 existed and we knew what they had, according to
9 Officer Miller, what they had witnessed. Yolanda
10 Harris, Ms. Nina Simpson; and I think I've already
11 mentioned Denise Jennings.

12 Q Did you believe Denise Jennings, what she said
13 about Zinah?

14 A I believed Denise Jennings for the most part.
15 Denise Jennings had indicated to me that she did
16 not want this case to -- she did not want her
17 sister to be arrested.

18 Q Well, I'm not asking you what she said. I'm asking
19 you if you believed Denise as related to the
20 allegations that she made against Zinah about ^{Child}
21 Did you believe her?

22 A I did.

23 Q But you didn't believe her when she said ^{Child} had a
24 sore on his mouth?

25 A I actually never said that I didn't believe her

1 that ^{Child} had a sore on his mouth.

2 Q Well, do you believe her?

3 A I'm not sure. It seems odd that that's coming up
4 now instead of at some time in the past, especially
5 since Denise has my telephone number and we have an
6 open line of communication.

7 Q And you think Denise should have called you on the
8 phone and said, Officer Bailey, ^{Child} had a sore on
9 his mouth?

10 A I think that Denise could have mentioned it.

11 Q Thank you.

12 THE COURT: Thank you. Thank you very much,
13 Officer Bailey. You may step down.

14 THE WITNESS: Thank you, sir.

15 (Witness leave the witness stand.)

16 THE COURT: All right. Madame Forelady,
17 ladies and gentlemen of the jury, I believe now would be
18 the appropriate time to take our evening recess. Again,
19 I would like to thank you very much for your patience
20 that you have shown to the Court throughout the day and
21 throughout these proceedings.

22 I would like to commend you on your work ethic
23 and your sense of civic duty. I realize you are not
24 volunteers, and it has been many years since we've had
25 true draftees in America. You may be the last of those.

1 But be that as it may, I appreciate it very much.

2 Please remember during this recess, do not
3 discuss the case with others. Do not read, listen to,
4 or watch any news reports about the case. Do not use
5 your computer or cellular phone to obtain or disclose
6 information, which I have informed you several times is
7 prohibited. Do not do any independent investigation or
8 any investigation on the internet.

9 Please remember, do not begin your
10 deliberations until you've heard all the evidence and
11 testimony in the case, the closing arguments by the
12 attorneys, and instructions on the law by the Court.

13 I would ask you to please leave your notes and
14 the transcripts upside-down on your chairs, and please
15 be back promptly at 9:30 in the morning, 9:30 in the
16 morning. I hope y'all have a pleasant evening. Thank
17 you very much.

18 (The jury is excused for the day at 5:00 P.M.)

19 THE COURT: All right. Anything further from
20 the State before we take our evening recess, Solicitor?

21 MS. CAMPBELL: No, sir.

22 THE COURT: Defense?

23 MR. PRIDE: Nothing.

24 THE COURT: Nine-thirty in the morning. Thank
25 you very much.

(Whereupon the proceedings are concluded for September 4, 2012.).

(The following proceedings are reported on
September 5, 2012).

THE COURT: All right. Anything before we bring in our jury from the State?

MS. CAMPBELL: No, sir.

THE COURT: Defense?

MR. PRIDE: No, sir.

THE COURT: Bring the jury, please.

(The jury returns to the courtroom at
9:55 A.M.)

THE COURT: Thank you. Good morning, ladies and gentlemen of the jury panel. I hope y'all had a pleasant evening. We are continuing the trial of the case by the presentation of evidence and testimony by the State in its case in chief.

If you would please continue to give the parties your complete and undivided attention as you have done throughout the trial of this case.

With that being said, Solicitor, you may call your next witness.

MS. CAMPBELL: May it please the Court, the State calls Heather Ramos.

HEATHER RAMOS, being

HEATHER RAMOS -- DIRECT -- MS. CAMPBELL

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1 first duly sworn, testifies as follows:

2 CLERK: State your name for record and spell
3 your first and last names.

4 THE WITNESS: My name is Heather Ramos,
5 H-E-A-T-H-E-R, R-A-M-O-S.

6 DIRECT EXAMINATION

7 BY MS. CAMPBELL:

8 Q Ms. Ramos, where are you employed?

9 A Sprint Nextel.

10 Q And what do you do there, ma'am?

11 A I am a subpoena analyst.

12 Q And as a subpoena analyst, what do your duties
13 include?

14 A As a subpoena analyst, I comply with legal demands
15 that are served upon Sprint Nextel. I interpret
16 those records, authenticate those records; and then
17 part of my duty is I serve as the custodian of the
18 records.

19 Q Is it unusual in your capacity at Sprint to
20 receive search warrants or subpoenas for certain
21 records?

22 A No.

23 Q And typically are phone records from Sprint kept in
24 the normal course of business?

25 A Yes, they are.

- 1 Q In this case specifically I'm going to show you
2 what has been marked as State's Exhibit Number 29.
3 Were those records that were subpoenaed from --
4 excuse me -- was a search warrant issued requesting
5 those from your company?
- 6 A Correct.
- 7 Q And what is the phone number that was requested and
8 the phone records that you supplied?
- 9 A The phone number is area code (803)497- .
- 10 Q And at a later date, were additional records
11 concerning that phone number requested from y'all?
- 12 A Yes.
- 13 Q And I'll show you what has been marked as State's
14 Exhibit Number 65. Do you recognize those?
- 15 A Yes, I do.
- 16 Q And are those additional records that you supplied
17 in this case?
- 18 A Correct.
- 19 Q And what is the phone number associated with those
20 records?
- 21 A The phone number is area code (803)467- .
- 22 Q And specifically the first set of records that we
23 are referring to is State's Exhibit, I believe --
24 is it 25?
- 25 A Twenty-nine.

HEATHER RAMOS -- CROSS -- MR. PRIDE

1 Q Twenty-nine. What date did those records go
2 though?

3 A Through December 1st of 2011.

4 Q And the records from State's Exhibit 29 that go
5 through December 1st, was that phone number then
6 changed to the phone number associated with the
7 second set of records on December 1st?

8 A That is correct.

9 Q Thank you, ma'am. And these records were all
10 forwarded to the appropriate police agency?

11 A Correct.

12 MS. CAMPBELL: Your Honor, I don't have
13 anything further.

14 THE COURT: Thank you. Mr. Pride?

15 **CROSS EXAMINATION**

16 BY MR. PRIDE:

17 Q Where were those records forwarded to?

18 A I believe they were forwarded to the Solicitor's
19 Office or the Columbia Police Department. I'd have
20 to retake a look at Exhibit 29.

21 Q Are those the records on direct examination that
22 you identified, State's Exhibit 29 and State's
23 Exhibit 65, that I hand you?

24 A Yes, sir.

25 Q And where were they forwarded?

1 A The Columbia Police Department.

2 Q Both records?

3 A For Exhibit 65 I don't have the cover letter. It's
4 not attached to the records; so I don't have any
5 idea if they were sent to the police department or
6 the Solicitor's Office, sir.

7 Q And where are you stationed?

8 A Our office is located in Overland Park, Kansas,
9 which is a suburb of Kansas City, Missouri.

10 MR. PRIDE: That's all, Judge.

11 THE COURT: Redirect?

12 MS. CAMPBELL: No, sir.

13 THE COURT: Thank you. Thank you for being
14 with us. You may step down and you may be excused.

15 (Witness leaves the witness stand.)

16 MS. WALKER: The State calls Craig
17 Januchowski.

18 CRAIG JANUCHOWSKI, being
19 first duly sworn, testifies as follows:

20 CLERK: Have a seat, please. State your name
21 for the record and spell your first and last names.

22 THE WITNESS: Craig Januchowski, C-R-A-I-G
23 J-A-N-U-C-H-O-W-S-K-I.

24 MS. WALKER: May it please the Court.

25 THE COURT: Yes, ma'am.

CRAIG JANUCHOWSKI -- DIRECT -- MS. WALKER

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DIRECT EXAMINATION

1

2 BY MS. WALKER:

3 Q Agent Januchowski, where are you currently
4 employed?

5 A Federal Bureau of Investigation, the Columbia
6 Division.

7 Q And what do you do for the F.B.I.?

8 A Yes, ma'am.

9 Q I'm sorry. What do you do there?

10 A I'm assigned to the Safe Streets Task Force.

11 Q And what do your duties include?

12 A We investigate violent crimes, gangs, narcotics.
13 We also have a couple of individuals that will
14 investigate violent crimes to assist other
15 agencies. Kidnappings, if it's interstate, we'll
16 get involved as well.

17 Q Did you, back in the latter part of last year, did
18 you become involved in the search for Child
19 Jennings?

20 A Our agency did, yes; myself, no.

21 Q Your agency became involved?

22 A Right. I was not included in the actual search
23 itself.

24 Q At some point during the investigation, did you
25 have the occasion to listen to a series of phone

1 calls?

2 A Yes, I did.

3 Q And those phone calls that you listened to, who was
4 talking?

5 A They were calls between Jocelyn Jennings and Zinah
6 Jennings.

7 Q And approximately how many phone calls did you
8 listen to?

9 A There were 39 calls that were placed from the Alvin
10 S. Glenn Detention Center from Zinah to Jocelyn
11 Jennings.

12 Q And those phone calls are recorded by the Alvin S.
13 Glenn Detention Center?

14 A Yes, they are.

15 Q Are the people making the phone calls aware that
16 those phone calls are being recorded?

17 A Yes, they are. Before they're recorded before the
18 calls start, there is a recording that advises them
19 that the calls are monitored.

20 MS. WALKER: Your Honor, at this point the
21 State seeks to admit State's Exhibit 81 into evidence, a
22 series of phone calls recorded from the Alvin S. Glenn
23 Detention Center.

24 THE COURT: All right. Mr. Pride, State's 81?

25 MR. PRIDE: No objection.

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1 THE COURT: State's 81 is in evidence without
2 objection.

3 (State's Exhibit Number 81 is received into
4 evidence.)

5 MS. WALKER: Your Honor, permission to publish
6 those to the jury?

7 THE COURT: Yes, ma'am, you may publish.
8 (Pause.)

9 THE COURT: Now, what is the bailiff handing
10 out? Nobody said anything to me about that.

11 MS. WALKER: I'm sorry. These are the
12 transcripts, Your Honor, that have been provided to
13 Mr. Pride already of the phone calls that we are going
14 to be playing.

15 THE COURT: Do you have a copy of that,
16 Mr. Pride?

17 MR. PRIDE: I'm getting a copy of that. It's
18 the redacted copy.

19 MS. WALKER: It's the same thing that we
20 provided you. We provided it yesterday.

21 MR. PRIDE: Do you have an additional copy?

22 MS. WALKER: May we hand the transcripts out,
23 Your Honor?

24 THE COURT: Number one I would like one marked
25 a Court's exhibit. Two, I would like to have one; and

1 three, you may hand them out. Is that all right,
2 Mr. Pride?

3 MR. PRIDE: I didn't hear what you said,
4 Judge.

5 THE COURT: One of them is going to be marked
6 as a Court's exhibit. She can then hand the transcripts
7 out by the bailiff to members of the jury, and she's
8 also handed one up to me.

9 MR. PRIDE: I have no objection.

10 (Court's Exhibit Number 3 is marked for
11 purposes of the record.)

12 MS. WALKER: Can I go ahead and mark the rest
13 of the transcripts as Court's exhibits?

14 THE COURT: Yes, ma'am.

15 COURT REPORTER: How many do you have?

16 MS. WALKER: There are four additional.

17 THE COURT: We have three additional?

18 COURT REPORTER: This is the first one. I
19 thought you just said there were four. Maybe I just --

20 MS. WALKER: There are five, four additional,
21 five total.

22 THE COURT: Mr. Pride, there are four
23 additional transcripts. The solicitor is saying she is
24 going to hand those out to the jury.

25 MR. PRIDE: All right, Your Honor.

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1 THE COURT: I will have each of them marked by
2 the court reporter as a Court's Exhibit Number 4 through
3 7. State's 81 is Court's Exhibit 3, the transcript.

4 (Court's Exhibit Number 4-7 are marked for
5 purposes of the record.)

6 BY MS. WALKER:

7 Q Agent Januchowski, is that a portion of the phone
8 calls that you reviewed in this case?

9 A Yes, it is.

10 Q How did you become involved in this investigation?

11 A One of the agents in our office was assisting
12 Columbia with cell tower mapping and things of that
13 nature. We were contacted -- one of the agents was
14 contacted by Investigator Bailey.

15 There were a few witnesses that they wanted
16 re-interviewed, Jocelyn Jennings being one of them.
17 I was contacted by my supervisor and asked to
18 assist in the interview of Jocelyn Jennings.

19 I had asked if anyone had reviewed the
20 telephone calls from the jail. I was advised that
21 Jocelyn had been contacting Zinah. I had never met
22 Jocelyn.

23 So in order to prepare for the interview, it
24 was a good way of preparing and understanding who
25 Jocelyn Jennings is and the context of the

1 conversations by listening to the recorded phone
2 calls.

3 Q And were you briefed on this case?

4 A Yes, I was.

5 Q I'm going to turn your attention to some of the
6 facts surrounding this case. The traffic stop made
7 with the defendant, that Officer Eric Walker
8 made --

9 A Yes, ma'am.

10 Q -- where was that traffic stop made?

11 A Two Notch Road and Carter Street.

12 Q And where is that located?

13 A It's in Richland County.

14 Q The bank, the federal credit union, with the video
15 showing the defendant and her son, where is that
16 bank located?

17 A It's on Forest Drive. It's also in Richland
18 County.

19 Q Troy Clark and Adrienne Alston, when the child was
20 left in the car with the windows up, where was
21 that?

22 A That was on Dubard Street. That's in Richland
23 County as well.

24 Q Christian Dickerson, where the child was kicked
25 twice with wedge heels, where was that?

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1 A That's off North Main Street, Richland County.

2 Q Jessica Thomas' house, where the child's hand was
3 squeezed so tightly that he began to cry, where is
4 that?

5 A That's in the Gonzalez Gardens area of Columbia,
6 which is Richland County.

7 MR. PRIDE: Judge, I object.

8 THE COURT: What is the basis of your
9 objection?

10 MR. PRIDE: It's not relevant. The location
11 has already been established. It's just repetitious.

12 THE COURT: Solicitor?

13 MS. WALKER: Is he stipulating to
14 jurisdiction?

15 MR. PRIDE: I'm sorry?

16 THE COURT: Are you stipulating to
17 jurisdiction if an event happened at these particular
18 locations in Richland County?

19 MR. PRIDE: No, I'm not. I withdraw the
20 objection.

21 THE COURT: You may continue.

22 BY MS. WALKER:

23 Q The residence of Jocelyn Jennings, where is that
24 located?

25 A It's on Lady Street, Columbia, Richland County.

1 Q And, finally, Garners Ferry Road where the
2 defendant claims to have dropped off her son, where
3 is that located?

4 A That's in Richland County as well, Garners Ferry,
5 around Leesburg.

6 Q Agent Januchowski, in all of the phone calls that
7 you listened to, have we heard one where she asked
8 about a "Find ^{Child} website?

9 A Yes, ma'am.

10 Q Did the defendant ever again ask about her son when
11 she was talking to her mother?

12 A No, she did not.

13 MR. PRIDE: I object. He can't interpret the
14 phone calls.

15 THE COURT: Right. The transcript and the
16 telephone calls speak for themselves. Thank you.
17 Sustained. You may ask your next question.

18 MS. WALKER: No further questions, Your Honor.

19 THE COURT: Thank you, Solicitor. Mr. Pride?

20 **CROSS EXAMINATION**

21 BY MR. PRIDE:

22 Q All of these areas that you named are in Richland
23 County; is that correct?

24 A Yes, sir.

25 Q And the purpose of your testimony is to establish

1 that Richland County was the last place that the
2 child was seen; is that correct?

3 A The purpose of my testimony is the phone calls that
4 I listened to and also, upon being briefed, to get
5 my participation in the investigation. I was
6 advised of those particular incidents and that they
7 were in Richland County; that's correct.

8 Q In other words, someone else told you about those
9 incidents? You don't have any personal knowledge
10 of your own; do you?

11 A I was advised of those incidents; that's correct.

12 Q All right. And you don't know the last place --
13 you don't know where ^{Child} is; do you?

14 A I do not, sir.

15 Q And you don't know where ^{Child} was the last time
16 when Zinah was with him; do you?

17 A What I understand was from the video from the
18 credit union.

19 Q You don't know of your own personal knowledge; do
20 you?

21 A My personal knowledge? No, I do not.

22 Q Thank you. I don't have any further questions.

23 MS. WALKER: Nothing, Your Honor.

24 THE COURT: Thank you. Thank you very much.

25 You may step down and you may be excused.

1 (Witness leaves the witness stand.)

2 THE COURT: All right. Solicitor, you may
3 call your next witness.

4 MS. CAMPBELL: Your Honor, may I check with
5 the court reporter on one matter?

6 THE COURT: Yes, ma'am.

7 (Pause.)

8 MS. GARFIELD: Your Honor, at this time, the
9 State of South Carolina rests its case.

10 THE COURT: Thank you. Thank you very much,
11 Solicitor.

12 Ladies and gentlemen, we are going to take
13 about a 20-minute recess. During this recess do not
14 discuss this case with anyone, including your fellow
15 jurors. Please leave your notes and transcripts
16 upside-down on your chair. Thank you. Thank you very
17 much. You may now go with the bailiff.

18 (The jury retires to the jury room.)

19 THE COURT: All right. Yes, sir, Mr. Pride?

20 MR. PRIDE: Judge, would you give us a few
21 minutes?

22 THE COURT: Yes, sir. I was going to take a
23 recess. Court will be in recess 20 minutes.

24 (Whereupon there is a recess.)

25 THE COURT: The State has rested; is that

1 correct, Solicitor?

2 MS. CAMPBELL: Yes, sir.

3 THE COURT: Any motions, Mr. Pride?

4 MR. PRIDE: Yes, Your Honor. On behalf of the
5 defendant at this time we would move for a directed
6 verdict or in the alternative for a verdict of
7 acquittal. This motion is being requested based on the
8 following grounds that I will discuss with you in this
9 matter.

10 Judge, I again point you back to the warrant,
11 State's Exhibit 20. I think it's important in looking
12 at the warrant to realize that this warrant was issued
13 on the 29th of December.

14 I would respectfully submit to you, Judge,
15 that the reason why it was issued on the 29th of
16 December was because Bailey told Zinah to meet him on
17 the 28th at 3:00 o'clock. Zinah didn't show up; and as
18 a result of Zinah not showing up, Bailey went before the
19 judge and got a warrant.

20 Now, when Bailey got the warrant on the 29th,
21 Judge, primarily what Bailey told the judge was this:
22 Zinah will not tell us where the baby is, number one.
23 And her not telling us where the child is is willful,
24 and that's the language in the warrant too. It's
25 willfully withholding information.

1 The second thing that Bailey told the judge
2 was, She lied to us on two occasions. We talked about
3 the fact on the warrant that she lied on the 24th of
4 December. What he was talking about then was the
5 automobile accident that Zinah had had, and the lie that
6 Zinah told was that she didn't have any children.

7 Zinah, on the 30th, along with Bailey and
8 Thomas when interviewed, said to them on the 24th: I
9 had an automobile accident and I had a concussion. She
10 said, What statements? She didn't know what they were
11 talking about. That's very clear in the transcript,
12 Judge.

13 The kind of accident she had, her car was a
14 total loss. We know that she hit her head because
15 Bailey, even though he was a very reluctant witness,
16 finally acknowledged that he said, Zinah, let me look at
17 your eye.

18 We know from other witnesses that that eye was
19 bloodshot -- and from pictures over there -- all the way
20 down to the bottom. We know also from witnesses that
21 she had a cut lip.

22 So in all likelihood -- and it really doesn't
23 make any difference if Zinah did lie to him -- there is
24 nothing in the world, Judge, under Section 63-5-70 that
25 prohibits or makes it a crime for a mother to lie to a

1 police officer about where her child is or to refuse to
2 tell a police officer where a child is. There is just
3 nothing under that statute which makes that a
4 prohibition.

5 Then, Judge, I want to call your attention
6 back to the case I gave you, Baltimore City Department
7 of Social Services versus Bouknight. I gave you a copy
8 of it, and the Court does have a copy of it.

9 In reading that case, Judge, it's a very
10 similar case where a mother would not produce a child.
11 In that case there was a Court order in place which
12 required her to do so.

13 But the appellate court said no, to require
14 her to produce the child was to require her to admit the
15 crime; and the Fifth Amendment of the Constitution
16 clearly says that a person does not have to give
17 information against themselves when they are, number
18 one, a suspect and, number two, charged with a crime.

19 In this case Bailey had charged Zinah on the
20 29th. The basis again, Judge, that I have to go back
21 to -- because it's so important -- is he charged her on
22 the basis that she lied to the police officer when she
23 had a wreck.

24 He also charged her on the basis that she lied
25 to him on the 28th when she said she was coming down to

1 the police department and didn't come down and when she
2 told him the baby was with Ernest Robinson, who
3 apparently is a mythical person that Zinah just gave a
4 name. It appears that way.

5 I say that, Judge, because I think there has
6 been a diligent search for Ernest Robinson; and no one
7 has been able to produce him. By the same token, no one
8 has been able to produce Child This motion goes to
9 question and to challenge the jurisdiction of the Court.

10 Your Honor, all you have before you is
11 testimony from a witness that the last time that they
12 saw Child was on the 29th of November. There is no
13 testimony before you after that about Child -- other than
14 the fact that they can show you different places where
15 my client Zinah Jennings went and where they took
16 pictures of her and where they were able to trace her
17 from a food stamp card and from collecting money from a
18 bank -- that she was without the child.

19 I mean, what is unusual about that? A mother
20 don't keep a child 24 hours a day. Judge, when
21 Mr. Bailey and Mr. Thomas respectfully say that Zinah
22 wouldn't tell us where the child is, that is absolutely
23 not true.

24 Because Zinah told them the child was in a
25 safe place, but she wouldn't tell them where that safe

1 place was. Each time she reiterated, He is in a safe
2 place.

3 Judge, I know of no law which requires a
4 mother to produce the child. I know of no law that is
5 in effect that requires or that has criminal sanctions
6 under at least the child protection -- unlawful conduct
7 towards a child statute -- which requires the mother to
8 help the police department and especially where the
9 mother is a suspect.

10 The testimony in this case is that it's not
11 direct but it's certainly circumstantial that they
12 thought the child was dead. There is innuendos and
13 insinuations that he is no longer in existence.

14 However, Bailey -- Officer Bailey -- from his
15 testimony categorically laid out one, two, three --
16 everything he did in this case. I would acknowledge
17 that he was thorough, but the point is conversely
18 everything he did did not produce a child.

19 There is no evidence in this case to show that
20 the child is dead. There is not even -- I would submit
21 to you, Judge, not even the blood. The blood, they
22 don't even -- where you have blood, you have the ability
23 to determine whether or not the blood is stale or
24 whether or not the blood is fresh.

25 There is no evidence in this case to show that

1 it's fresh blood. So the presumption is that it's stale
2 blood. Also, you have before you a reasonable
3 explanation where Denise Jennings says that he had a
4 cold sore on his mouth.

5 Now, Bailey, of course, who is an advocate for
6 the prosecution, says, Well, she didn't tell me about
7 his injuries. He didn't ask about it. I asked him, I
8 said, Did you think that Denise Jennings was honest,
9 truthful, and straightforward with you in her response.
10 He said yes.

11 Then I said, Well, why don't you believe that
12 she was telling the truth when she told you that the
13 baby had a cold sore? His answer was, Because when I
14 was questioning her, she didn't say nothing about it.

15 Well, she didn't say nothing about it because
16 he didn't ask her about it. It's not the fact that she
17 withheld something from him, it is the fact that she did
18 not disclose something because she was not asked about
19 it. Obviously, the blood could have come -- that was on
20 the blanket -- from that area of Child face.

21 Judge, I would submit to you -- and as a
22 matter of fact, I will move before you -- to have the
23 shovel eliminated as evidence because there is no
24 relevancy about the shovel, none whatsoever.

25 S.L.E.D. can take fingerprints off of ice. I

1 mean, their technology is just that good up there, but
2 yet they didn't even submit the shovel for an
3 examination to see if it had Zinah's fingerprints. So
4 there is no tie between Zinah and the shovel at all.

5 What they say -- that there was an
6 infinitesimal amount of blood on the tip of the shovel
7 which didn't produce anything -- certainly adds to my
8 argument that it is not relevant in this case because it
9 stands for nothing. It stands for absolutely nothing.

10 Judge, there is no reason in this case not to
11 direct a verdict. I want to call your attention to
12 something else too, Judge. This goes to a motion to
13 require the State -- if, in fact, you rule against me --
14 to elect.

15 When Ms. Garfield opened up before the jury --
16 and the law is the solicitor has to open, the right to
17 open -- but if the solicitor opens, they open on the
18 law. That's the law. When she opened before the jury,
19 she told them that the defendant, Zinah Jennings, was
20 being charged with abandonment.

21 And now I would submit to you that the case is
22 looking weak for the State, they shoot a shotgun full of
23 pellets. They spray a mist here. I will hit over here.
24 So now they are under the statute, under not only
25 Section 63-5-73, but they want 63-5-70(a) -- not (a) but

1 (1) and (2).

2 I submit to you, even if you agree, Judge, the
3 incidents that were testified about the fact that Zinah
4 kicked Child in the back, you always have to consider the
5 source from whence evidence comes.

6 I would submit all of these allegations that
7 the State would point to as harm to Child from Zinah or
8 affecting the child's welfare, all of those instances
9 are remote in time, Judge. They are remote as it
10 relates to the indictment in this case.

11 Judge, this is a case where Bailey jumped the
12 gun. He simply went and got the warrant because Zinah
13 didn't show up on the 28th. And when he applied for it
14 on the 29th and he came in and he Mirandized her and she
15 voluntarily agreed to cooperate, he didn't even say,
16 Here is a warrant, and I want to read you the language
17 of the warrant.

18 The record is absolutely devoid of any
19 evidence to that effect. So when he gets through
20 Mirandizing her and when he doesn't get what he wants,
21 then he says, Oh, yeah, I got a warrant that I got for
22 you on the 29th that I am serving on you tonight; and we
23 are carrying you to the Alvin S. Glenn Detention Center.

24 That's the evidence in this case, Judge. The
25 fact that the warrant was served was purely obtained

1 from the magistrate because she broke her promise and
2 didn't show up on the 28th, and the fact that she told
3 an officer at the scene of an accident that she didn't
4 have any children and a nurse too.

5 But you have to take that -- those
6 statements -- under consideration with the fact that the
7 defendant says at that time, I don't remember making
8 those statements, first. Second of all, I had a
9 concussion. Who would know best whether or not she
10 suffered a concussion, the defendant or the police
11 department?

12 Then when you take the statement made on the
13 28th, Judge, and the statements about Ernest Robinson,
14 that's when you have got to consider the defendant's
15 constitutional protection.

16 You can't find a law -- and I think that the
17 case I cited, the Baltimore case about the Department of
18 Social Services and the Court order, shows there is no
19 law or no obligation imposed on Zinah Jennings to say
20 where the child is. She does not have to produce the
21 child.

22 As a practical matter, does it look bad? Yes.
23 Is it a situation where an ordinary person thinks maybe
24 she should? But this is not about an ordinary person.
25 This is about a person who is charged with a criminal

1 offense and a suspect who is being asked to give
2 evidence against herself.

3 When they say -- they repeatedly said, She
4 wouldn't tell us. They wouldn't accept the fact that
5 what she told them was that he is in a safe place. They
6 wouldn't accept the fact that she told them, I don't
7 trust you. They wouldn't accept the fact that she told
8 them, I am not taking you anywhere.

9 I would submit to you that Zinah Jennings is
10 23 years old, and much of what she had to say down there
11 is babbling, you know. A lawyer is not supposed to use
12 himself as an example, but I will do it anyhow.

13 Judge, oftentimes I will go home and my wife
14 is blah, blah, blah about something. I will hear and I
15 will just say, yeah, yeah, yeah, just to get away from
16 it and go about my business, have a little peace and
17 tranquility.

18 I would submit to you that is exactly what
19 Zinah did. She just gave them answers, gave them
20 answers because they kept asking her questions. They
21 couldn't -- you know, they lost her in that interview,
22 Judge. You know when they lost her?

23 They lost her for good when they told her, If
24 you will just tell us where the baby is, we will give it
25 to D.S.S. D.S.S. is a State agency. When it comes to

1 children -- I don't go to family court -- but from what
2 I understand, it's an uphill battle once they take
3 custody of the child. Maybe it should be, Judge. I
4 won't comment on that, but it's a difficult task to get
5 them back.

6 Zinah Jennings wasn't turning that baby over
7 to anybody because, Judge, you have got to look at the
8 fact that Zinah Jennings was very possessive of ^{Child}
9 Even when her mother -- even when Denise called her
10 mother and said, You know, something is wrong with
11 Zinah. I don't like the way she is acting. I denote --
12 and I am paraphrasing, Judge -- I denote a change in her
13 behavior.

14 Ms. Jennings got in her car and went to
15 Atlanta with the express purpose of getting ^{Child} What
16 did Zinah do? Zinah got the baby and left. She
17 wouldn't let her mother have him. Judge, she was very
18 possessive of that child.

19 When she came home from the hospital and Rod
20 brought more people at the house than she felt should be
21 around ^{Child} what did Zinah do? She moved out and got
22 her own place.

23 The father of the child testified, She
24 wouldn't hardly let me see the child. But conversely he
25 also testified that he was in a better position to know

1 that she was a good mother. He had never seen her do
2 anything to harm the child's safety and welfare.

3 I would submit to you, Judge, that this is a
4 purely circumstantial case. You would submit to me,
5 Mr. Pride, that circumstantial evidence is just as good
6 as direct evidence. I would have to acknowledge that it
7 is.

8 But, Judge, in this case you can't get around
9 the law; and you cannot violate the defendant's
10 constitutional right and charge her because she would
11 not cooperate and would not give the information.
12 That's like mixing oil and water. I don't care how much
13 you stir, it doesn't go together.

14 I would submit to you, Judge, that there is
15 not enough evidence to send this case to the jury and
16 would ask you two things. Number one -- three things --
17 number one, grant me a directed verdict or give a
18 verdict of acquittal.

19 Number three [verbatim], require the State to
20 elect under the statute. The problem in this case has
21 been notice all along. I have complained about that all
22 along, lack of notice.

23 The State is all over the place in terms of
24 what they are prosecuting. Their answer is going to
25 come back and say, Well, we were prosecuting unlawful

1 conduct towards a child under Section 63-5-70.

2 Yes, you may be and that's true, but under
3 what part of that section? If you go by the opening
4 argument made by Ms. Garfield, the argument and the
5 charges were purely abandonment. Thank you, Judge.

6 THE COURT: Thank you, Mr. Pride. Solicitor.

7 MS. CAMPBELL: May it please the Court, Your
8 Honor. Taking his arguments -- I guess addressing them
9 in the first place, as far as the warrant, it was
10 sufficient. It was taken before a ministerial recorder
11 who found that probable cause existed for the charge of
12 unlawful conduct towards a child.

13 Furthermore, at a later date it was then taken
14 before the grand jury. The indictment is before you,
15 Your Honor, under the three prongs of either placing the
16 child at unreasonable risk of harm affecting the child's
17 life, physical, or mental health or safety; or doing or
18 causing to be done unlawfully, maliciously any bodily
19 harm to the child; the life or health of the child is
20 endangered; or willfully abandoning the child.

21 That is on the face of the indictment. I do
22 not believe Ms. Garfield conceded -- in fact, I believe
23 the first words out of her mouth were that Zinah
24 Jennings either harmed or abandoned her child.

25 In addition to that, Your Honor, we would be

1 restrained, I believe, by the constraints of the
2 indictment; however, the indictment is sufficient to
3 allow us to proceed under the three separate prongs.

4 The evidence in this case, Your Honor, as far
5 as he said these acts were remote. We restrained
6 ourselves to acts that occurred, as far as the bad acts,
7 within the time period of the indictment, which I
8 believe reflects September 1st through the end of
9 December.

10 Your Honor, as far as any -- it all being
11 circumstantial evidence -- there is both direct and
12 circumstantial evidence in this case. There is direct
13 evidence of Ms. Jennings, from at least three or four
14 different witnesses, where she either left her child in
15 an unsafe condition, the car seat, left the child in the
16 car with no windows open so that a friend became
17 concerned and went and checked on him.

18 On another occasion she actually kicked her
19 child and on another occasion she was squeezing the
20 child's hand so much that the child starting crying. I
21 believe that is direct evidence, as well as, Your Honor,
22 there is an inordinate amount of circumstantial evidence
23 in this case.

24 He talks about the fact that she chose to talk
25 to the police. I don't think he is disputing the

1 voluntariness. The fact that she chose to talk to
2 police and then gave -- which he just conceded -- are
3 totally fictitious places where she placed this child,
4 under our law it is required that a parent take care of
5 their child and provide safe means as outlined under
6 this statute, Your Honor.

7 There is ample evidence. He says it's not
8 unlawful to lie to the police. False information to the
9 police is a separate charge; however, Your Honor, the
10 inference here is that the reasons for lying to the
11 police about where her child was was because the child
12 had befallen some harm or that she had abandoned it and
13 had not made arrangements for its safety.

14 By her own admission, she has made no attempts
15 to check on the child. In her statement, Your Honor --
16 parts of which we went over yesterday after Mr. Pride
17 opened that door -- we went back into parts of her
18 statement where she admits she was sorry; that the child
19 could be running in the streets; that he was prone to do
20 that; that she didn't want to go check on the child;
21 that she was not going to cooperate with the police or
22 tell them where he was.

23 In addition to that, Your Honor, he also asked
24 about evidence of the shovel. We did not go into any
25 evidence surrounding the shovel. As the Court may

1 remember, Mr. Pride brought that up on cross examination
2 where he then went into the whole shovel being tested at
3 S.L.E.D. and what it meant with Jennifer Clayton.

4 At that point once he went into it, we felt
5 like at that point the jury may infer that we were
6 trying to hide evidence, even though we felt like it
7 might be prejudicial and did not go into it.

8 At that point he then went into it, went into
9 what the testing showed on it. The only follow-up we
10 did was to show the shovel was, in fact, tested as he
11 brought out. Then we just showed where the shovel was
12 found.

13 As far as relevance to this case, Your Honor,
14 the shovel did test positive for a presumptive test for
15 blood; and that shovel was found in the back yard of
16 where Zinah Jennings was on the last day. That was one
17 of the places she was with the Child

18 We did not seek to introduce that evidence.
19 Mr. Pride went into that evidence. At that point the
20 only thing we did was to make it relevant to the case so
21 that they didn't wonder why suddenly the shovel that he
22 asked about was being talked about.

23 Your Honor, basically taking it in the light
24 most favorable to the State, we believe there is
25 overwhelming evidence in this case to go forward and

1 respectfully would ask that you so rule. Thank you,
2 sir.

3 THE COURT: Thank you, Solicitor.
4 Anything in response, Mr. Pride?

5 MR. PRIDE: Yes. Judge, I went into the
6 shovel in order to show to the Court that it had no
7 relevancy. They don't even put the shovel in Zinah's
8 hand. They didn't even put it within proximity of
9 Zinah.

10 They simply say, We went with a search
11 warrant, and one of the things that we got from the
12 residence where Zinah lived was a shovel. So what?
13 That just didn't have any bearing on this case. You
14 have got to connect things.

15 Judge, when it comes to talking about Zinah
16 and the fact that she said the child ran out of the
17 house and could run in the street, she didn't say the
18 child did do that. That was what the child had the
19 ability to do. That's what she was saying, ability to
20 do that. That's exactly what she was saying.

21 Judge, you questioned me when I raised the
22 fact that this was a prosecutorial scheme, the way they
23 went back and got that second indictment. They didn't
24 have enough. So what they had to do, they had to widen
25 the avenue from the original indictment and go all the

1 way back from September through December, so that they
2 could pick up this unindicted conduct from various
3 witnesses.

4 I say that there is no causal connection
5 between what those witnesses testified and what
6 Ms. Jennings is charged with. That's where I argued
7 that it's remote. Judge, this case has much to do with
8 smoke and mirrors. It really does, and inferences as
9 opposed to circumstantial evidence or direct evidence.

10 I would ask you for your utmost consideration
11 in requiring them to elect, ruling that the shovel is
12 remote, and granting my motion for either a directed
13 verdict or a verdict of acquittal. Thank you.

14 THE COURT: All right.

15 MS. CAMPBELL: Your Honor, I want to correct
16 something. I misspoke. It was brought up on cross
17 examination of Betty Butler. I apologize.

18 THE COURT: I recall that. Item Number 10 on
19 Mr. Butler's S.L.E.D. report, after questioning by
20 Mr. Pride: Were there any other items that you
21 examined? And Ms. Butler's response was, Yes, item 10.
22 What was item 10? And it then became the shovel.

23 MS. CAMPBELL: Yes, sir.

24 THE COURT: Some young assistant with the
25 Solicitor's Office -- well, all of y'all are young --

1 walked back around --

2 MR. PRIDE: You have got to give some
3 exemptions, Judge.

4 THE COURT: I didn't want to discriminate in
5 that regard -- but she walked around and got the shovel
6 on redirect examination of Ms. Butler.

7 She did not go into that -- the solicitor did
8 not go into item 10. Item 10, in fact, was not listed
9 on the S.L.E.D. report that I was tracking in my
10 notebook. It came up during the cross examination and
11 then redirect.

12 Mr. Pride, anything further?

13 MR. PRIDE: No. Thank you very much.

14 THE COURT: As an initial matter on the
15 opening statement, an opening statement -- well, some
16 people say they are a dying art as far as trial advocacy
17 is concerned. If they watched this trial on both sides,
18 they will see that that art is not dying.

19 An opening statement is a road map, if you
20 will, for the jury wherein a lawyer can address the
21 jury, advise the theme, and what they intend to prove.
22 There are different theories as to opening arguments and
23 opening statements -- not arguments -- as to whether you
24 should overstate or understate them.

25 My philosophy has been you should understate

1 because it seems like towards the end of the trial,
2 jurors are more likely to remember the lawyers'
3 misstatements than their statements.

4 As we all know, evidence has to be
5 presented -- with that professionalism charge -- it's
6 not like television all the time. Many times it's slow,
7 deliberate, and repetitive.

8 Of course, if you look at cases like State
9 versus Kornahrens, where the solicitor in his opening
10 statement argued that the grave of the victims that were
11 killed by Kornahrens were pre-dug. There was an
12 objection made.

13 It gives the guidelines that there is wide
14 latitude in opening statements. I do not think that
15 limits the State's presentation of the evidence because
16 I have reinforced to the jury that what the lawyers say
17 is not evidence.

18 The questions are not evidence. The evidence
19 comes from the witnesses testifying under oath from the
20 witness stand. It's really the framework -- the
21 questions -- by which evidence is presented.

22 As I reviewed the 40 witnesses I believe that
23 were presented by the State by my count, in the totality
24 of the evidence presented, when I follow the time frame,
25 it appears that the last known sighting of Child Jennings

1 was November 29th of 2011, at the Safe Federal Credit
2 Union on Forest Drive on video with his mother Zinah
3 Jennings.

4 There is testimony through witnesses that
5 there were various phone calls made, one made out in the
6 Heyward Brockington Road area off Monticello Road, I
7 believe, going towards Jenkinsville in a remote
8 location.

9 Many officers searched at various points in
10 time and with various agencies and did not find any
11 evidence and could not determine what reason, if any,
12 Zinah Jennings would have to be in that area of northern
13 Richland County.

14 As I track the evidence, Zinah Jennings on the
15 next morning is observed at the Raceway -- or
16 Racetrac -- gas station on Washington Road right off of
17 I-20. That's where she encounters Marcus Johnson.

18 They exchange phone numbers. Those records
19 are in evidence. Mr. Johnson testifies that Red, as he
20 knew her as, was in a red vehicle, did not have a
21 child, saw the car, did not see a child in the car.

22 It appears -- I don't recall the exact date,
23 if it was the 6th of December or the 8th of December --
24 with a phone call to Chief Scott and then a follow-up
25 that Zinah Jennings and ^{Child} Jennings were reported

1 missing.

2 I have not heard any testimony from any
3 witness after November 29th of 2011, where ^{Child} Jennings
4 was ever seen again, with or without Zinah Jennings,
5 ^{Child} Jennings' custodial parent.

6 There is sufficient evidence in my opinion for
7 the case to go to the jury on the issue of willful
8 abandonment. He is never seen throughout December. She
9 is seen by various individuals during that time frame:

10 Yolanda Williams, Pathenia Starks, Officer
11 Eric Walker, who wrote her two traffic tickets -- well,
12 I take that back. Actually he wrote those two traffic
13 tickets, and ^{Child} was with her and not properly
14 restrained in the vehicle, which was also testified to
15 at various times by individuals at Safe Federal Credit,
16 when she came through the drive-through, which was
17 Christine Knight and Ashley Burnett.

18 There was testimony by Christian Dickerson
19 where she testified that Ms. Jennings made statements in
20 September of 2011 that she wanted to throw the baby out
21 the car window.

22 She further testified that she wanted to sell
23 the baby. She, Ms. Dickerson, testified that Zinah
24 Jennings said she wanted to sell the baby. She further
25 testified that Ms. Jennings kicked the baby twice.

1 That doesn't go to abandonment -- the baby has
2 not yet been abandoned -- but that goes to the other
3 prong of placing the child at unreasonable risk of harm
4 affecting the child's life, physical or mental health,
5 or safety by kicking the child, by hauling the child
6 around in a vehicle without being properly restrained.

7 Further, the testimony of Troy Clark and
8 Adrienne Alston where ^{Child} the baby, was left in the
9 car asleep. All the windows were up. There is
10 testimony of another witness -- whose name I can't find
11 on my list right now -- concerning squeezing, the
12 defendant squeezing ^{Child} hand -- Jessica Thomas --
13 because he wouldn't say the word momma. Those go to the
14 other prongs of 63-5-70.

15 When you look at State versus Cope, the
16 standard I must apply is I must look at the evidence in
17 the light most favorable to the non-moving party if
18 there is any direct or substantial circumstantial
19 evidence.

20 Clearly, there is direct and substantial
21 circumstantial evidence, both from eye witnesses
22 observing this behavior or lack of proper behavior by
23 Ms. Jennings towards her child and circumstantial
24 evidence of the potential for harm based on the blanket
25 with the D.N.A. which is consistent with ^{Child} blood.

1 If you take the numbers and you take the
2 pacifier, as Agent Clayton testified to, that would lead
3 one to the inference that it was ^{Child} blood on the
4 blanket in the trunk of Ms. Jennings' car.

5 Could it have been a cold sore? Well, that's
6 the type of question that juries have to answer. That
7 is conflicting evidence there, and that's the issue of
8 credibility of the witnesses in that regard.

9 Further, the defense throughout has questioned
10 witnesses about the jurisdiction being in Richland
11 County. Jurisdiction can be proved by direct or
12 circumstantial evidence, just as any other element of
13 the crime.

14 State versus Horne, a case out of Georgetown
15 County where a husband stabbed his pregnant wife, the
16 State evidently did not offer any evidence of
17 jurisdiction during the trial of that case.

18 However, they were -- the victim was taken to
19 Georgetown County Medical Center. It was a brief ride.
20 She was treated at Georgetown County. So that was
21 circumstantial evidence for jurisdiction to be in
22 Georgetown County.

23 I think, looking at the videotapes as a whole,
24 from Safe Federal to whenever the last one was on the
25 29th of December, where you have ^{Child} on November 29th,

1 and you have all those others where you do not, it is
2 circumstantial evidence of at least abandonment and the
3 other prong.

4 Mr. Pride, as far as State's Exhibit 20, the
5 standard for a warrant, of course, as we all know is
6 probable cause. The magistrate issuing the warrant is
7 supposed to issue warrants with a practical eye and a
8 common sense decision in issuing that warrant.

9 I have tried to rule without regard to
10 Ms. Jennings' statements. I only do that to say that
11 because, first, the State should prove the corpus
12 delicti, which is harm to the child's safety or
13 something causing harm to the child's safety or
14 abandonment of the child.

15 Once that is presented, then I think the State
16 can present proof aliunde, which is then statements that
17 would corroborate the corpus delicti. I think
18 Ms. Jennings' statements that have been admitted, both
19 to Officer Miller, to Detective Bailey, to Sergeant
20 Thomas, corroborates the corpus delicti in the crime.

21 Again, those issues of a concussion, that is a
22 balance for the jury to make. If she had a concussion
23 and she could not think clearly or that caused her to
24 not be able to track what Sergeant Thomas or Bailey or
25 Detective Bailey or Officer Miller was talking with her

1 about, that's again an issue for the jury.

2 So I would deny the motion for directed
3 verdict. I would not require the State to elect.
4 Again, as I recall the testimony on the shovel, it came
5 in on redirect examination.

6 That not only goes to the issue of blood and
7 circumstantial evidence, but it also goes to the issue
8 of the thoroughness of the investigation in that regard.
9 So I respectfully deny the defendant's motion for
10 directed verdict.

11 Anything else, Mr. Pride?

12 MR. PRIDE: No.

13 THE COURT: Mr. Pride, are you going to
14 present witnesses?

15 MR. PRIDE: Judge, I will be prepared after
16 lunch, whatever time you tell us to report back, to
17 begin to put the defendant's case up.

18 THE COURT: All right. I don't have any
19 objection to that. I will bring the jury out. I should
20 have thought about that about 45 minutes ago, but I will
21 bring the jury out -- not that you should have thought
22 about it. I should have thought about it about 45
23 minutes ago and let them go to lunch.

24 I have a question on your memo as to mental
25 health issues under State versus Santiago and Gill

1 versus State. If you want me to revisit that issue,
2 (A), I need to hear it, what your position is now. (B),
3 I need to hear it, your position from you, and hear the
4 testimony.

5 MR. PRIDE: Okay.

6 THE COURT: I can't -- I'm not quite tracking
7 what witnesses you are calling to present the testimony,
8 what the testimony is going to be, what the purpose of
9 the testimony is.

10 MR. PRIDE: Okay.

11 THE COURT: So we can perhaps come back a
12 little earlier, and I will let the jury take an extended
13 break.

14 MR. PRIDE: Would you indulge me a moment?

15 THE COURT: Certainly.

16 (Pause.)

17 MR. PRIDE: Judge, we had not alerted the
18 doctors in this case to come today; but we will make an
19 effort to get all of them here so you can address those
20 issues. We were going to start off with other witnesses
21 in this case.

22 THE COURT: That's fine. If that takes the
23 afternoon, that's fine. I just wasn't sure. I wasn't
24 tracking the time frame you are on and how many
25 witnesses or how long it might take.

1 MR. PRIDE: Judge, I don't want to pre-argue
2 my case at this time.

3 THE COURT: Yes, sir, I understand.

4 MR. PRIDE: But I do want to say one thing to
5 you. Nowhere in Santiago or the other cases did the
6 Court not allow testimony from the doctors in those
7 cases.

8 The Court refused to instruct the jury, as the
9 defense lawyer had requested, about diminished capacity.
10 So the way I read those cases, I am entitled to put the
11 testimony on. It's just that I'm not entitled to an
12 instruction on diminished capacity.

13 THE COURT: I saw that in Gill, but the issue
14 in Gill though is I can't see where the State objected
15 to Dr. Morgan's testimony. As I told you earlier in the
16 trial -- not told you. I don't mean in any kind of
17 condescending way -- as I have said on numerous
18 occasions, some people ask me, young lawyers will say,
19 Judge, what is evidence?

20 I say two things: Whatever the judge lets in
21 evidence and whatever the lawyers don't object to. I
22 couldn't find an objection in Gill where the State
23 objected to the presentation of Dr. Harold Morgan's
24 testimony. So I don't know if that -- I don't know what
25 the trial judge ruled in that case.

1 MR. PRIDE: Right, and you wouldn't be able to
2 find the objection from the Court's decision. The only
3 way you could do that would be able to read the record.
4 I'm assuming that I am correct in that. Be that as it
5 may, I will further develop my position before you.

6 THE COURT: All right. Thank you very much.
7 Anything before I bring the jury out?

8 MS. GARFIELD: No, sir.

9 MR. PRIDE: Nothing, Your Honor.

10 THE COURT: You don't have any objection to me
11 informing the jury you are going to present evidence?

12 MR. PRIDE: No, I don't, Judge.

13 (The jury returns to the courtroom.)

14 THE COURT: Twenty minutes; right? I warned
15 y'all about my ability to tell time. Ladies and
16 gentlemen, thank you very much for your patience. As
17 you recall, the State has rested.

18 At that point in the trial, I had certain
19 matters I had to take up. I don't now long they would
20 take typically, and it took a little longer than I
21 anticipated. As I say, I warned y'all about that
22 before, about my timing, number one.

23 Number two, that means with the State resting,
24 you have heard all the evidence and all the testimony
25 you are going to hear from the State in its case in

1 chief in this trial.

2 The defense may now present evidence and
3 testimony if the defense chooses to do so. The parties
4 have talked. Mr. Pride has informed me that he does
5 intend to present evidence and testimony through sworn
6 witnesses testifying under oath for you.

7 Given the hour at 12:30, rather than break the
8 flow, so to speak, I am going to go on and take our
9 luncheon recess now. If I knew it was going to take
10 this long, I would have probably sent you even earlier.
11 However, we will take our luncheon recess now and start
12 back at 2:00 o'clock.

13 Please remember my instructions. Do not
14 discuss the case with anyone. Do not watch, read,
15 listen to any news reports. Do not do any independent
16 investigation or any investigation on the internet.

17 With that being said, you are now excused.
18 Please be back promptly at 2:00 o'clock. Thank you very
19 much. If you will leave your notes, I will have the
20 clerk secure them during the recess.

21 (The jury is excused for lunch at 12:31 P.M.)

22 THE COURT: Anything further from the State
23 before we take our recess?

24 MS. CAMPBELL: Your Honor, the only thing is
25 we did ask for the dates of birth on their witnesses so

1 we could take care of that without having to delay the
2 Court anymore.

3 MR. PRIDE: We will give you what we have been
4 able to attain now. By the time we come back, we will
5 have the rest.

6 THE COURT: All right. Anything further,
7 Solicitor?

8 MS. CAMPBELL: No, sir.

9 THE COURT: Mr. Pride?

10 MR. PRIDE: No. You said 2:00 o'clock; right?

11 THE COURT: Two o'clock. Thank you very much.
12 Court will be in recess until 2:00 o'clock.

13 (Whereupon there is a luncheon recess.)

14 THE COURT: Anything before we bring in our
15 jury from the State, Solicitor?

16 MS. CAMPBELL: No, sir.

17 THE COURT: Defense?

18 MR. PRIDE: Yes. Judge, I intend to call
19 Ms. Jocelyn Jennings, who is the mother of Zinah
20 Jennings; and part of her testimony -- just to generally
21 make a proffer -- would be that she noticed a change in
22 Zinah's behavior and that as a result of this change in
23 her behavior that her mother sought treatment.

24 She went to numerous mental health care
25 facilities. She talked with different people and

1 described her daughter's behavior. Ultimately, she went
2 to the Richland County Probate Court where the probate
3 court down there signed an order, and Zinah was sent to
4 the Bryan Psychological Institute.

5 I'm giving you the testimony that would be
6 extracted from this witness: That Zinah was there for
7 approximately three weeks being evaluated; and
8 thereafter when Zinah was released, she found out that
9 Zinah had been prescribed a drug called Risperdal.

10 She became concerned about that because she
11 went on the internet. She knew her daughter was
12 pregnant, and she knew that that drug was not compatible
13 with a woman who is pregnant.

14 She then sought help from Brandy Bunton, who
15 worked for L.R.A.D.A.C. As a result, Brandy Bunton went
16 to see Zinah at the Lexington County Detention Center,
17 made an examination of Zinah.

18 By the way, Judge, the results of that
19 examination have been turned over to the Solicitor's
20 Office. They have a copy of it and all; so they know
21 what Ms. Bunton would testify to.

22 That's primarily an area that Ms. Jennings
23 would attempt to testify to. As I said again, I know
24 that you have been somewhat reluctant about any
25 testimony coming in describing Zinah's mental health

1 problems. So I wanted to proffer that to you for a
2 pre-witness ruling on the matter before I place
3 Ms. Jennings up.

4 THE COURT: What is the purpose of the
5 testimony?

6 MR. PRIDE: Well, the purpose of the testimony
7 would certainly go into the fact that she did have
8 problems. She had bizarre behavior. Some of the
9 witnesses that have previously testified testified about
10 the fact that they saw a change in Zinah's behavior.

11 We believe that a defendant is entitled to a
12 full defense. And, again, I'm not urging a defense of
13 diminished capacity. I understand in South Carolina the
14 limitations that have been placed on it, and that's not
15 my objective to use that as a defense.

16 But if, in fact, a defendant does have some
17 mental problems, it certainly does go to one of the
18 elements in the offense of abandonment. Abandonment has
19 to be proved by the State showing the element of
20 willfulness.

21 I think that testimony about the demeanor, the
22 behavior of Zinah is appropriate. I think, as you know,
23 Judge, I have an expert witness, Dr. Moustafa, who is
24 going to come in and testify to his findings as a result
25 of his examination.

1 THE COURT: Thank you.

2 MR. PRIDE: By the way, Judge, one other thing
3 too. As a result of Zinah going before the Richland
4 County Probate Court, I have a judicial order from that
5 Court committing her and determining that she was
6 mentally ill. That's exactly what the order says.

7 The order goes on to dictate that as a result
8 of Ms. Jennings' being determined mentally ill that she
9 is to take Risperdal for a period of one year. So that
10 is also a treatment plan, and I would seek to introduce
11 into evidence that order from the probate court.

12 THE COURT: What is the time frame of this
13 change in behavior?

14 MR. PRIDE: The change in behavior started
15 around September, a little before September, and went
16 through December. The examination by the Bryan
17 Psychological Institute took place in January, and the
18 order was passed by the associate judge of the probate
19 court -- Rogers, I think that's her name -- was passed
20 on the 17th of January.

21 Judge, again, all of this information based on
22 reciprocal discovery has been submitted to the
23 Solicitor's Office.

24 THE COURT: Anything further, Mr. Pride?

25 MR. PRIDE: Not at this time, Judge.

1 THE COURT: Madame Solicitor.

2 MS. CAMPBELL: May it please the Court, Your
3 Honor. Respectfully, this is the same argument he had
4 earlier. In the motion that he presented to the Court
5 in support of this argument, I believe that he
6 specifically said that he was offering this evidence for
7 purposes of mitigation, Your Honor.

8 Respectfully, mitigation would not be proper
9 before this jury. Of course, all this would be proper
10 before a sentencing judge or, say, a second stage in a
11 death penalty case where that type of evidence would be
12 admissible.

13 Your Honor, specifically he says that he wants
14 it to go to the element of the offense of unlawful conduct
15 towards -- as far as willful abandonment -- that she did
16 not have the requisite means to talk about willful
17 abandonment.

18 That is exactly what Santiago addressed, Your
19 Honor. The psychiatrist's testimony of the defendant's
20 Asperger's Disorder was not admissible to establish the
21 defendant did not have the requisite mental state to
22 commit murder.

23 Your Honor, I don't know. He has called it
24 mitigation and other things, and I just don't know how
25 this is anything but kind of a combination of diminished

1 capacity and/or insanity defense.

2 Prior to this trial ever starting, we have
3 requested over and over whether or not he intends to
4 assert any type of mental defense in this case. The
5 mental defenses that are available to him by the law in
6 South Carolina, Your Honor, it's my understanding are
7 not guilty by reason of insanity or a guilty but
8 mentally ill defense.

9 He has repeatedly said he wants neither one of
10 those; however, now he wants to somehow insert into this
11 trial for purposes of mitigation or just plain
12 diminished capacity -- which are the only two things he
13 has argued before the Court -- he then wants to insert
14 her mental conditions or allegations of her mental
15 conditions before this Court.

16 Yet he doesn't argue anything except
17 diminished capacity or a combination of diminished
18 capacity and insanity, which is not proper; or that he
19 wants, pursuant to his latest memorandum of law
20 addressing this same issue that you have ruled upon,
21 Your Honor, as far as mitigation of the criminal charge
22 brought against her.

23 Respectfully, Your Honor, we would ask -- and
24 I understand in Santiago that the Court should take
25 notice, hear the evidence in a hearing, Your Honor, and

1 then make a ruling.

2 But as in Santiago it was apparent from that
3 proffer that Ms. Schwartz-Watts would have testified to
4 Santiago's mental capacity, his perception of the
5 shooting, his in-court demeanor, and mental state as it
6 related to voluntary manslaughter.

7 Your Honor, respectfully, I don't know how he
8 can label this anything but a diminished capacity. We
9 would just respectfully ask that you abide by your
10 earlier rulings on this same issue. Thank you.

11 THE COURT: Thank you, Solicitor.

12 MR. PRIDE: Judge, I was straight upfront with
13 the Court when you asked whether or not I intended to
14 use the fact that Ms. Jennings would use a mental
15 defense in this case, and I told you no.

16 I told you that I clearly understood that
17 diminished capacity only went to the element of
18 mitigating sentencing after a defendant was found
19 guilty. No question about that. I haven't been
20 equivocal about that.

21 Now, I never filed a motion. What
22 Ms. Campbell is referring to, I gave you a memorandum
23 this morning and asked you to please look at that
24 memorandum because I knew this matter was coming up.

25 In that memorandum, Judge, you can't find the

1 word mitigate because I never referred to the position
2 that I have now taken to be used to mitigate anything.
3 That's not my position.

4 I further would like the Court to be advised
5 of Clark versus Arizona, which is a United States
6 Supreme Court decision. It's 126 S.Ct. 27, an '09
7 decision.

8 In there the Court says, notwithstanding the
9 limitations that the states may place on the defense for
10 a person who has a mental illness, that by and large, a
11 person with a mental illness has a constitutional right
12 to raise -- to due process. Due process is part of
13 being able to raise and put before the Court any defects
14 that they may suffer from.

15 Again, Your Honor, when you start to talk
16 about mental health and mental illness, if my client
17 suffered from the flu, her momma could testify she
18 suffered from the flu. And just as she suffered from
19 the flu, she could have suffered from amnesia or she
20 could suffer from postpartum depression.

21 THE COURT: Postpartum?

22 MR. PRIDE: Postpartum depression or
23 postpartum psychosis. All of that would simply go to
24 the element of willfulness and the element of specific
25 intent as a defense. It doesn't go to the capacity that

1 this person is mentally ill.

2 The Courts have held that it's relevant to
3 negate the element of specific intent in a crime. The
4 due process clause of the United States Constitution
5 makes it applicable.

6 I would submit, Your Honor, that the mother
7 certainly in her testimony sets the stage for the
8 mental -- for the psychiatrist -- psychologist, I'm
9 sorry -- to come in and testify. It also sets the stage
10 for the doctor from the Bryant mental institution to
11 come in and testify as to his findings.

12 Now, because I have taken this position, I
13 have not changed. I have been consistent with this
14 Court about what my position is. I don't think I have
15 changed at all.

16 Again, Your Honor, in the memorandum I
17 submitted to you, I never used the word that I was using
18 these defenses to mitigate. You only use mitigation in
19 terms of sentencing.

20 Again, Judge, I just want to remind you in the
21 Santiago decision, the expert witness did testify. He
22 testified about diminished capacity, but the judge
23 refused to instruct the jury based on the expert
24 witness' testimony.

25 I concur with that. I have no objection to

1 that. My only point is that case stands for the
2 proposition that the expert was allowed to testify. The
3 end result was the judge didn't take that testimony and
4 use it for instructions.

5 THE COURT: Would you hand me up Clark versus
6 Arizona? Did you have that in your hand?

7 MR. PRIDE: I don't think I do.

8 THE COURT: I will get it on the internet.

9 MR. PRIDE: It's Clark versus Arizona.

10 THE COURT: Do you have a copy, Solicitor?

11 MS. CAMPBELL: No. I do have a Fourth Circuit
12 case on point, Your Honor, that I would like to hand up.
13 It's called R-I-E-B versus Robert Stevenson, if I might.
14 I will hand defense counsel a copy. It's a 2010 case
15 out of, I believe, the Fourth Circuit that addresses
16 South Carolina. I believe it's ground three, Your
17 Honor.

18 THE COURT: Mr. Pride, I go back and I
19 reviewed Santiago, Santiago's mental state during the
20 commission of the crime.

21 On appeal Santiago argues the trial Court
22 erred in refusing to allow the testimony of
23 Schwartz-Watts because the evidence was relevant to
24 Santiago's mental state, both at the time he made the
25 statement to police and at the time of the shooting.

1 At trial defense counsel offered
2 Schwartz-Watts as an expert witness to testify that
3 Santiago's Asperger's Disorder caused him to fear for
4 his life. Accordingly, Santiago did not have the
5 requisite mental state to commit murder.

6 Essentially, defense counsel argues that
7 Santiago was culpable of a lesser offense because of his
8 diminished capacity; however, the diminished capacity
9 defense is not recognized in South Carolina, citing
10 Gill.

11 In Gill the defense counsel wanted a forensic
12 psychiatrist to testify that because Gill had a low
13 I.Q., he did not have the requisite mental state to
14 commit murder.

15 The Supreme Court held the trial judge
16 properly excluded the testimony because South Carolina
17 does not recognize the diminished capacity defense.
18 Thus, the trial judge did not commit an abuse of
19 discretion when she refused to allow Schwartz-Watts to
20 testify regarding Santiago's diminished capacity.

21 This case that the solicitor handed up,
22 R-I-E-B versus Stevenson, it's actually habeas corpus.
23 It went to a federal magistrate, United States
24 magistrate judge.

25 As part of the testimony in that case, he

1 particularly claimed his trial counsel should have
2 proffered a Post Traumatic Stress Disorder defense at
3 trial on account of suffering -- the defendant
4 suffering -- from this disorder after being raped in New
5 York.

6 The P.C.R. court rejected these claims. The
7 Court found no evidence in the record below to support
8 that applicant suffered from Post Traumatic Stress
9 Disorder.

10 They further went on to say: Therefore,
11 psychiatric records were clearly not relevant for that
12 purpose. Defense counsel argued, partially in
13 contemplation of a self-defense charge, that they were
14 relevant to applicant's mental state at the time.

15 Limited testimony was allowed regarding
16 applicant's past, but the judge declined to allow
17 testimony about the actual psychiatric hospitalization
18 and records due to the fear of misleading or confusing
19 the jury about an insanity defense when, in fact, there
20 was not one being presented.

21 While petitioner did not assert an insanity
22 defense, the trial judge allowed limited testimony
23 regarding past sexual assaults against him. The trial
24 judge declined to allow testimony about the actual
25 psychiatric hospitalization, and records, again, for

1 fear of misleading and confusing the jury about an
2 insanity defense when there was not one being presented
3 because the diminished capacity defense is not
4 recognized in South Carolina, the federal judge citing
5 Santiago.

6 In the Clark versus Arizona case, it looks
7 like the State of Arizona changed its M'Naghten rule
8 back in 1993 and lessened the standard for M'Naghten,
9 the cognitive standard and the legal standard, which was
10 done by many states around that time.

11 Then it looks like Clark argued, Well, that's
12 a fundamental right and prohibits me from presenting a
13 defense. Ultimately the Court said M'Naghten is not so
14 rooted in our Anglo-American law that it is a
15 fundamental right. States can change and many states
16 have different standards than the traditional M'Naghten
17 standard.

18 With that being said, Mr. Pride, as I did with
19 Mr. Denise Jennings' testimony, I think there are areas
20 in which Ms. Jocelyn Jennings can testify. I think she
21 can testify about change in behavior. Other people have
22 testified as to change in behavior of Zinah Jennings.

23 I think some of them even framed it around the
24 time of before she had a child, after she had a child,
25 as I recall some of that testimony. So I think that is

1 appropriate testimony. I think she can testify as to
2 that time frame, when she observed it, whatever it may
3 be, if it includes within there the time frame of the
4 indictment.

5 Solicitor, I don't have an issue with her
6 testifying, with a properly posed question: What steps,
7 if any, did you take? Well, I tried to get her some
8 help and she got some help -- but not go to the
9 foundation of the -- not go to the exact records of
10 Bryan Psychiatric Hospital or Richland County Probate
11 Court.

12 MS. CAMPBELL: Your Honor, as long as she
13 tried to get her some help and that is the extent of it,
14 we have no problem with that. I agree with you. But I
15 think any mention of any psychiatric hospital or any
16 probate court or anything like that would be beyond the
17 scope.

18 THE COURT: Again, Solicitor, as far as her
19 being prescribed a drug and then her mother being
20 concerned about the drug as far as her pregnancy, what
21 is your position on that?

22 MS. CAMPBELL: Your Honor, if she wants to
23 mention -- as long as she doesn't mention what the name
24 of the drug was and that it was a psychiatric drug, I
25 don't have a problem with it. She was placed on

1 medication and that she expressed concern.

2 However, Your Honor, I would say -- and I
3 don't want to mislead the Court -- is that all the time
4 period when she was in Bryan and all this
5 hospitalization took place after she was arrested.

6 THE COURT: I understood that, post arrest.

7 MS. CAMPBELL: Yes, sir.

8 THE COURT: I did understand that. I knew
9 Richland County Probate and Bryan Psychiatric was also
10 post arrest. I took it her observations were not all
11 post arrest.

12 MS. CAMPBELL: Yes, sir. Her observations, I
13 agree -- I'm sorry. I don't mean to mislead the
14 Court -- her observations would, of course, be in the
15 time period she said.

16 As far as she tried to get her some help, the
17 first time that I am aware that she tried to get her --
18 and I could not be aware of something -- any help, as
19 long as it's framed in that generic way, Your Honor. I
20 just think any mention of any psychiatric, probate
21 court, anything of that nature, would allude to an
22 insanity defense.

23 Then, Your Honor, if you want to allow him
24 once she was in jail, was she on medication? Did you
25 request they change the medication? As long as she

1 doesn't get into the type of medication or what it was
2 for, we don't have a problem.

3 THE COURT: The other thing is there has been
4 testimony -- well, there has been a number of nice
5 witnesses -- but I remember this nice lady, Ms. Starks,
6 I believe it was, where Ms. Zinah Jennings had called
7 her. I think it was a flat tire at the Bojangle's and
8 how concerned she was and how she wasn't quite herself.

9 So I think that is appropriate for her mom --
10 I shouldn't say mom -- appropriate for Ms. Jocelyn
11 Jennings' testimony as to her observations.

12 MS. CAMPBELL: The only question I would then
13 have, Your Honor, is we have deliberately kept out her
14 extensive drug use during this period of time. We did
15 not go into it because we didn't think it was proper on
16 our part at that point unless her insanity or something
17 of a nature did come into play.

18 Ms. Jennings is aware of her daughter's drug
19 use during the time period that could have affected her
20 behavior as well. We would have limited questioning in
21 that area: Was she aware of her drug use that may have
22 affected her behavior and the observations she made.

23 We deliberately did not go there, Judge,
24 because I don't think we are allowed to go there under
25 the rules. However, if they are pursuing this line of

1 questioning by the change in her behavior, an
2 alternative explanation we feel like -- if that is gone
3 into, and we didn't go there -- would be her drug use,
4 which many of the witnesses we told them they couldn't
5 mention drug use. We didn't want to violate any of the
6 rules of the Court.

7 We didn't mention at the time her admitted --
8 I mean, she admits to multiple people about her
9 extensive drug use during this period of time. That's
10 kind of like -- I am not trying to make it a bigger
11 pot -- but if they want to talk about her change in
12 behavior, which they have already got some of that out,
13 then an alternative theory and a very reasonable
14 explanation for her strange behavior at this time was
15 her admitted -- by her own admission and Ms. Jennings
16 reported to many different officials -- her drug use at
17 the time.

18 THE COURT: Well, certainly y'all's positions
19 are y'all's positions, but if you ask that question on
20 cross examination unobjected to and Ms. Jocelyn Jennings
21 responds to that question affirmative or whatever: Of
22 course, I also thought it was something else. I thought
23 it was because she may be psychotic or schizophrenic or
24 delusional or what have you, it's not that they have
25 opened the door.

1 It's more like the door was chopped down and
2 disappeared at that point in time. I don't know why
3 they couldn't then offer the alternative theory it may
4 have been drugs, but it could have been some type of
5 mental incapacity.

6 Don't I get into -- I am keeping this out,
7 like the federal magistrate said, to keep from
8 misleading the jury or confusing the jury on the
9 insanity defense.

10 Then if it comes in in its limited nature and
11 it goes to drugs, aren't I doing the same thing the
12 trial judge was in Rieb by misleading the jury somewhat?
13 I am not saying you are doing that. I don't mean it
14 like that.

15 MS. CAMPBELL: Some of the quandary where we
16 are in, because he wants to go into mental defense or
17 change in behavior, whatever, yet he doesn't want to
18 open it up to where that would be all admissible. That
19 just puts us at a disadvantage somewhat too, Your Honor,
20 but I understand your ruling.

21 THE COURT: The flip side of that coin -- this
22 might not even be the flip side. This may be a
23 multisided coin, more than two. I'm not sure -- but if
24 you say, Well, if Mr. Pride gets into all -- I know this
25 isn't your position -- all of the mental health issues,

1 that then opens the door for all the drug issues because
2 you are trying to explain behavior.

3 MS. CAMPBELL: Yes, sir. I understand it's a
4 quandary we have been in. We are the ones that actually
5 moved for a competency evaluation in this case. At that
6 point we didn't feel like we had the basis or were able
7 to move for a M'Naghten evaluation and fully explore
8 this.

9 He has repeatedly put on the record that there
10 will be no mental defense in this case, and therefore
11 our hands were somewhat tied. But, Your Honor, I
12 understand if it's limited to what you have indicated,
13 we would not be going there.

14 THE COURT: Of course, I haven't seen the
15 probate judge's order. They have a different standard,
16 I think, they apply in probate court than what would be
17 applied in circuit court, number one.

18 Number two, I think there is an older case out
19 there, State versus Johnson, concerning the introduction
20 of a family court judge's order in circuit court being
21 inappropriate because it takes the ultimate issue before
22 the jury and like confirms it by order of another judge
23 in other court. With that all being said, I haven't
24 seen the order either.

25 MR. PRIDE: Judge, I will give you the order

1 in just a minute. I would like to respond what
2 Ms. Campbell said.

3 THE COURT: Certainly.

4 MR. PRIDE: Judge, to allow Ms. Jennings to
5 simply say that she recognized some -- let's say --
6 bizarre behavior on the part of Zinah and she sought to
7 get help and go no further would certainly leave the
8 jurors ponding, Well, what did she do? I think that is
9 a natural response to somebody who got help, and not
10 being able to go any further would certainly be very
11 damaging to the defense.

12 On the question of what the State can do if,
13 in fact, you did rule that we were allowed to do that
14 based on the discovery handed to us in this matter,
15 there is certainly some information in there about Zinah
16 smoking marijuana.

17 I'm not certain that that constitutes extended
18 drug use. I do understand what marijuana is, but I
19 think that is a hyperbole on the part of Ms. Campbell
20 when she calls it extended drug use.

21 Having said that, Judge, if your ruling is
22 that Ms. Jennings can go that far, you have certainly
23 ruled out the expert witness in your ruling and the
24 doctor from the Bryan Psychological Institute who made
25 the determination that Zinah Jennings was mentally ill.

1 That's in the form of a question as opposed to
2 stating it. I am asking you, has your ruling gone that
3 far at this time? Let me give you that order too. May
4 I approach?

5 THE COURT: Yes, sir.

6 MR. PRIDE: As I told you before, the
7 solicitor does have a copy of it.

8 (Hands to Court.)

9 (Pause.)

10 THE COURT: I have reviewed this order dated
11 17 January 2012, signed by Associate Probate Judge
12 Teresa Clement, I believe it is.

13 MR. PRIDE: Is that Rogers?

14 THE COURT: Whatever the name that is on
15 there. It indicates that there is a finding that Zinah
16 Jennings is mentally ill and lacks sufficient insight or
17 capacity to make reasonable decisions with respect to
18 treatment and/or is in danger to herself or others and
19 in need of further involuntary treatment.

20 This was 18 days after she voluntary turned
21 herself in at the Columbia Police Department. There is
22 no connection between this finding by the probate judge
23 and the guilt or innocence of the defendant.

24 It's not relevant at this time on the issue of
25 the defendant's guilt or innocence. Further, there is

1 not an insanity defense. There is no notice of an
2 insanity defense.

3 It would still fall under Santiago, Gill, and
4 Rieb and would not be admissible at this time for this
5 purpose on specific intent. I will tell you what Judge
6 George Bell Timmerman used to tell me about taking a
7 ruling and expanding it to other witnesses.

8 I have not heard what other witnesses may or
9 may not say. I'm not ruling as to the doctor from this
10 Just Care facility or Bryant Psychiatric Hospital
11 because I'm just not going to fly on instruments.

12 MR. PRIDE: You are not going to do what?

13 THE COURT: Fly on instruments. I am flying
14 blind in that regard, and I haven't heard from the
15 doctor. I can only rule on what is in front of me at
16 this time.

17 MR. PRIDE: All right. Thank you.

18 THE COURT: Anything further before we bring
19 in our jury? Mr. Pride?

20 MR. PRIDE: Just give me one second.

21 THE COURT: Certainly.

22 (Pause.)

23 MR. PRIDE: Judge, instead of calling
24 Ms. Jennings at this time, I am going to call
25 Ms. Bishop, who is present in the courtroom and

1 available.

2 THE COURT: All right, sir. Are you ready for
3 the jury, Mr. Pride?

4 MR. PRIDE: Yes, I am.

5 THE COURT: Ready, Solicitor?

6 MS. CAMPBELL: Yes, sir.

7 (The jury returns to the courtroom at
8 2:45 P.M.)

9 THE COURT: Welcome back. I hope y'all had a
10 pleasant lunch. I am going to quit apologizing for the
11 delay. I will just (indicating) and that will be like a
12 sign that I apologize for the delay and just move on.

13 With that being said, the defense is now going
14 to begin presenting evidence and testimony. A criminal
15 defendant never has to present evidence or testimony.
16 The State always has the burden of proving the case
17 beyond a reasonable doubt.

18 A criminal defendant in South Carolina is
19 always presumed to be innocent, regardless of the
20 seriousness of his or her charges and never has any
21 burden to prove that they are not guilty or innocent.

22 That burden that presumption stays with them
23 throughout the course of the trial and up until the jury
24 determines, based on your view of the evidence, the
25 State has met its burden of proof beyond a reasonable

1 doubt.

2 With that being said, Mr. Pride, you may call
3 your first witness.

4 MR. PRIDE: Ms. Jennifer Bishop.

5 THE COURT: If you would come around for me,
6 Ms. Bishop, and be sworn.

7 JENNIFER BISHOP, being
8 first duly sworn, testifies as follows:

9 CLERK: Have a seat in the witness stand,
10 please. State your name for the record and spell your
11 first and last name, please.

12 THE WITNESS: Jennifer Bishop,
13 J-E-N-N-I-F-E-R, B-I-S-H-O-P.

14 DIRECT EXAMINATION

15 BY MR. PRIDE:

16 Q Ms. Bishop, where do you live?

17 A Street in Columbia, South Carolina.

18 Q Are you married?

19 A I am.

20 Q Who is your husband?

21 A Aaron Bishop.

22 Q And what is his profession?

23 A He's the pastor at Grace Christian Church.

24 Q Where is that church located?

25 A 5010 Monticello Road.

JENNIFER BISHOP -- DIRECT -- MR. PRIDE

1 Q Are you employed?

2 A I am.

3 Q And what employment?

4 A I work at a nonprofit organization.

5 Q For the church?

6 A Yes.

7 Q And how long has your husband been pastor at the
8 church?

9 A Five years.

10 Q And do you know Zinah Jennings?

11 A I do.

12 Q How long have you known Zinah Jennings?

13 A Probably about four years or so.

14 Q And during that period of time did she attend your
15 church?

16 A Yes.

17 Q And what about her son ^{Child} Did you know him?

18 A I do.

19 Q And do you recall whether or not he went to church
20 with his mother?

21 A He did.

22 Q Can you tell us, have you ever had any interactions
23 with Ms. Jennings in your church?

24 A I have.

25 Q Tell us about it, please.

1 A Zinah and I would interact at different ministry
2 functions we would have and during different
3 services we would have throughout the year.

4 Q And what about Child Was he involved in any
5 programs in your church?

6 A He was very young. So when I would see Child with
7 Zinah, she would hold him. She would bring him to
8 church services. We have a portion of our services
9 called pastor peace.

10 That is what happens when you get up and you
11 greet each other. You go and hug and just speak to
12 one another. So I would have the opportunity to
13 see Child and play with him during those times and
14 after service and during other ministry functions.

15 Q When is the last time that you saw Zinah and Child
16 together?

17 A Last year, I am thinking maybe around October or
18 so. I can't recall offhand.

19 Q October?

20 A Perhaps.

21 Q And where did you see them?

22 A It would have been at church.

23 Q And when you saw Zinah with Child was Child dressed
24 well?

25 A Dressed very well, clean.

JENNIFER BISHOP -- DIRECT -- MR. PRIDE

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1 Q Did Zinah interact with her son well?

2 A She was holding him.

3 Q Holding him?

4 A She was holding him.

5 Q And did you also know Zinah's mother?

6 A Yes.

7 Q Did she attend your church also?

8 A She came with Zinah.

9 Q With Zinah?

10 A Uh-huh. (Indicating affirmative response.)

11 Q And how would you describe Zinah's relation with
12 her son ^{Child} based on your observation?

13 A From my observations it was a good relationship.
14 She always was holding him. I never saw him
15 crying. He was always well kept. When I wanted to
16 hold him or play with him, I had to take him from
17 her arms because she always was holding him. I
18 have always seen them in a good relationship.

19 Q How often did Zinah and ^{Child} attend church? Was it
20 on a regular basis or periodically or what?

21 A It was on a consistent basis.

22 Q Consistent basis?

23 A Uh-huh. (Indicating affirmative response.)

24 Q Answer any questions please the solicitor may have
25 to ask you.

1 THE COURT: Thank you, Mr. Pride. Solicitor?

2 MS. GARFIELD: No questions, Your Honor.

3 THE COURT: Thank you. Thank you very much
4 for being with us today, Ms. Bishop.

5 MR. PRIDE: I would like to have Ms. Bishop
6 excused.

7 THE COURT: You may be excused. Thank you
8 very much.

9 (Witness leaves the witness stand.)

10 THE COURT: Mr. Pride, you may call your next
11 witness.

12 MR. PRIDE: Leah Thompson.

13 LEAH THOMPSON, being
14 first duly sworn, testifies as follows:

15 CLERK: Have a seat in the witness stand,
16 please. State your name for the record. Spell your
17 first and last name, please.

18 THE WITNESS: Leah Thompson, L-E-A-H,
19 T-H-O-M-P-S-O-N.

20 DIRECT EXAMINATION

21 BY MR. PRIDE:

22 Q Ms. Thompson, where do you live?

23 A 2002 Dupont Drive, Columbia, South Carolina, 29223.

24 Q What is your occupation?

25 A I'm security officer for Coastal International.

LEAH THOMPSON -- DIRECT -- MR. PRIDE

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- 1 Q Do you know Zinah Jennings?
- 2 A Yes, sir, I do.
- 3 Q How long have you known her?
- 4 A I have known Zinah over 11 years.
- 5 Q And were you aware that Zinah had a baby?
- 6 A Yes, sir.
- 7 Q Child
- 8 A Yes, sir.
- 9 Q And did you know Child
- 10 A Yes, sir.
- 11 Q And did Zinah ever -- how many children do you
- 12 have?
- 13 A I have two children.
- 14 Q Did Zinah ever babysit for your children?
- 15 A Yes, sir.
- 16 Q And where would she sit for them? At your house or
- 17 her house or where?
- 18 A She would sit at my house, she kept them at her
- 19 mom's house, or she kept them at her house.
- 20 Q And how often did she do that?
- 21 A Probably twice or three times a week or on the
- 22 weekends if I had to work.
- 23 Q Was she good with children?
- 24 A Yes.
- 25 Q And how about Child Did you see her with Child

- 1 A Yes, sir.
- 2 Q When is the last time you saw her with Child
- 3 A The last time I saw her with Child was earlier last
- 4 year.
- 5 Q What would earlier last year be? January or
- 6 December?
- 7 A No, probably March or April.
- 8 Q April. Where did you see her?
- 9 A At the house.
- 10 Q At your house?
- 11 A No. The last time I saw Zinah was in November, but
- 12 the last time I saw Child and Zinah together was, I
- 13 think, in April.
- 14 Q In April?
- 15 A Uh-huh. (Indicating affirmative response.)
- 16 Q Where did you see them together?
- 17 A I believe it was at her mom's house.
- 18 Q How would you describe the relation between Child
- 19 and Zinah?
- 20 A Loving. Wherever she went, he went. She held him.
- 21 When she was always around us, she was very
- 22 protective.
- 23 Q And how was he dressed?
- 24 A Well dressed.
- 25 Q And what about his health? Was he clean?

LEAH THOMPSON -- DIRECT -- MR. PRIDE

1 A He was clean and healthy every time I saw him, no
2 problems.

3 Q You say the last time that you saw ^{Child} and Zinah
4 together was in April?

5 A I think it was April.

6 Q And you saw Zinah -- the last time you saw her --
7 was in March?

8 A No the last time I saw Zinah was in November.

9 Q In November. Where did you see her in November?

10 A She was at my house when I got off from work one
11 night.

12 Q She was in your driveway?

13 A Yes, sir.

14 Q And you backed out to let her out?

15 A Yes, sir.

16 Q But ^{Child} was not with her?

17 A No, sir.

18 Q Did you know Ms. Jennings, Zinah's mother?

19 A Yes, sir.

20 Q And did you live near them?

21 A No, sir, I live off of Decker and they lived closer
22 to town.

23 Q In the Waverly area?

24 A Yes.

25 Q And did you ever have an experience to go anywhere

1 with Zinah and Child

2 A We have gone out to eat a couple of times.

3 Q And she would take Child with her?

4 A Yes.

5 Q Would she have Child with her most of the times that
6 you saw her?

7 A Yeah, whenever I saw her, she had Child with her.

8 Q Answer any questions, please, the State has to ask
9 you.

10 MS. GARFIELD: Judge, we have no questions.

11 THE COURT: Thank you. Thank you for being
12 with us, Ms. Thompson. You may step down.

13 (Witness leaves the witness stand.)

14 THE COURT: Mr. Pride.

15 MR. PRIDE: I would like to have her excused.

16 THE COURT: Yes, you may be excused,

17 Ms. Thompson. Again, thank you for being with us.

18 MR. PRIDE: Gelisa Mack.

19 GELISA MACK, being
20 first duly sworn, testifies as follows:

21 CLERK: Have a seat in the witness stand,
22 please. State your name for the record and spell your
23 first and last name.

24 THE WITNESS: My name is Gelisa Mack,
25 G-E-L-I-S-A, M-A-C-K.

GELISA MACK -- DIRECT -- MR. PRIDE

DIRECT EXAMINATION

1

2 BY MR. PRIDE:

3 Q Ms. Mack, where do you live?

4 A I live at Platham (phonetic) Road, Apartment
5 -Charlie, Columbia, South Carolina, 29205.

6 Q How long have you lived there?

7 A Approximately eight months.

8 Q And did you spend some time in the service?

9 A Yes, sir, I currently still am.

10 Q You are currently still in the service?

11 A Yes, sir.

12 Q What branch are you in?

13 A Army, sir.

14 Q And how long have you been in the service?

15 A It will be six years in February.

16 Q Do you have children?

17 A Yes, sir.

18 Q How many children do you have?

19 A I have a daughter, one.

20 Q One year old?

21 A Yes, sir.

22 Q And do you know Zinah Jennings?

23 A Yes, sir.

24 Q How long have you known Zinah?

25 A All my life.

- 1 Q And did you all go to school together?
- 2 A Yes, sir.
- 3 Q And did you ever live near Zinah?
- 4 A I live approximately ten minutes away from them.
- 5 Q Ten minutes away from her?
- 6 A Yes, sir.
- 7 Q And were you in the same class at Dreher?
- 8 A Yes, sir.
- 9 Q And did you and Zinah have a friendship between the
- 10 two of you?
- 11 A Yes, sir.
- 12 Q Are you still friends?
- 13 A Yes, sir.
- 14 Q Have you seen Zinah with Child
- 15 A The last time I saw Zinah with Child was
- 16 approximately July, August of 2011. My daughter
- 17 was about six weeks old when I came home from the
- 18 hospital on maternity leave.
- 19 Q And where did you see her then?
- 20 A They came over to the house, to my mother's house.
- 21 Q And Child came with her?
- 22 A Yes, sir.
- 23 Q Did you have an opportunity to observe the relation
- 24 between Child and Zinah?
- 25 A Yes, sir, it was fine. Zinah was trying to

GELISA MACK -- DIRECT -- MR. PRIDE

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1 introduce her son to my daughter because Zinah and
2 I had been friends. So she wanted Child and my
3 daughter also to become friends. So it was fine.

4 Q And was Child clean?

5 A Yes, sir.

6 Q Was he well dressed?

7 A Yes, sir.

8 Q And when Zinah came to see you, it was shortly
9 after you got out of the hospital from having your
10 daughter?

11 A Yes, sir.

12 Q And how much time did you all spend together?

13 A She came over a couple of times. My daughter was
14 born in April. She came over a couple of times
15 between April and August. She came to my baby
16 shower. She also helped me with the preparation in
17 doing my hair, and at that time Child was also with
18 her.

19 Q So when you would see Zinah, you would see Child

20 A Yes, sir.

21 Q Do you know who Child father was?

22 A I haven't met him, but I've seen a few pictures of
23 him. I was deployed at the time of the baby
24 shower.

25 Q And, again, the relationship between Zinah and Child

1 was an good mother/son relation?

2 A Yes, sir, so far that I could tell.

3 Q And you observed her being a good mother?

4 A Yes, sir.

5 Q I think you testified he was healthy and well
6 dressed?

7 A Yes, sir.

8 Q Answer any questions the solicitor has.

9 THE COURT: Thank you, Mr. Pride.

10 MS. GARFIELD: Your Honor, we have no
11 questions.

12 THE COURT: Thank you. Thank you for being
13 with us, Ms. Mack.

14 MR. PRIDE: I would like to have her excused.

15 THE COURT: You may step down and you may be
16 excused.

17 (Witness leaves the witness stand.)

18 THE COURT: You may call your next witness,
19 Mr. Pride.

20 MR. PRIDE: Mildred Houston.

21 MILDRED HOUSTON, being
22 first duly sworn, testifies as follows:

23 CLERK: Have a seat in the witness stand,
24 please. State your name for the record and spell your
25 first and last name for the record.

MILDRED HOUSTON -- DIRECT -- MR. PRIDE

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1 THE WITNESS: Millie Mildred Houston,
2 M-I-L-D-R-E-D, H-O-U-S-T-O-N.

3 DIRECT EXAMINATION

4 BY MR. PRIDE:

5 Q Ms. Houston, what is your relation to Zinah
6 Jennings?

7 A I am Zinah's aunt.

8 Q And Jocelyn Jennings is your sister?

9 A Yes.

10 Q And, Ms. Houston, do you live here in Columbia?

11 A I do.

12 Q And where do you live?

13 A I live at Street in Columbia.

14 Q And how far is that from your sister Jocelyn
15 Jennings?

16 A Around the corner.

17 Q Around the corner?

18 A Yes, sir.

19 Q And are you married?

20 A I am.

21 Q What is your husband's name?

22 A Frank Houston.

23 Q What business is he in?

24 A He's a chef.

25 Q And what is your occupation?

- 1 A I too -- I'm a caterer, Houston's Enterprise
2 Catering Service.
- 3 Q The two of you work together?
- 4 A We do.
- 5 Q Do you have any children?
- 6 A My husband has children.
- 7 Q And how long have the two of been married?
- 8 A We have been married for 17 years.
- 9 Q And, Ms. Houston, you know ^{Child} quite obviously;
10 isn't that correct?
- 11 A Yes.
- 12 Q Have you had the occasion to observe Zinah and ^{Child}
13 together?
- 14 A Yes.
- 15 Q When is the last time you saw them together?
- 16 A I believe it had to be the summer of last year,
17 2011, during the summer.
- 18 Q Where was it that you saw Zinah and ^{Child}?
- 19 A At my sister's home.
- 20 Q And did Zinah sometimes go to church with you?
- 21 A Yes. Yes, she did.
- 22 Q Would she take ^{Child}?
- 23 A Zinah went to church with me every Sunday before
24 she had ^{Child} and she joined a new church once she
25 had the baby.

MILDRED HOUSTON -- DIRECT -- MR. PRIDE

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1 Q Now, were you aware that Zinah was involved in an
2 automobile accident on the 23rd and 24th -- late
3 23rd, early 24th of December?

4 A Yes.

5 Q How did you become aware of that?

6 A Christmas Day my husband and I hosted brunch at our
7 home for our family. Basically it was a drop-in
8 where they could come whenever they got ready.
9 Zinah came with my nephew, and that's when I
10 learned that she had been in an accident the day
11 before.

12 Q Did Zinah make any requests of you as it relates to
13 the accident?

14 A She did. While she was at my home on Christmas
15 Day, she asked me if I would take her to her car
16 the following day.

17 Q And what was your response?

18 A I told her that I would.

19 Q Did you give her any instructions as it related to
20 taking her over there?

21 A I did. I had go to work the following day. So I
22 let her know that it would have to be early because
23 I did have to go into work.

24 Q And did you and Zinah go to Zinah's car?

25 A We did.

- 1 Q And when did you go?
- 2 A We went the following morning.
- 3 Q That would have been the 26th of December?
- 4 A That would have been the 26th. Yes, it was the day
- 5 after Christmas.
- 6 Q Where did you take her?
- 7 A I took her to a garage off of Rosewood Drive.
- 8 Q Would that be City Garage?
- 9 A City Garage, yes, sir.
- 10 Q And did you drive up in the parking lot of City
- 11 Garage?
- 12 A We did.
- 13 Q When you got into the parking lot, did you see
- 14 Zinah's car?
- 15 A We could see the car, yes.
- 16 Q Did you get permission from anyone at City Garage
- 17 to go to Zinah's car?
- 18 A We did. She went in -- we went in and she spoke to
- 19 the gentleman that was at the desk and let him know
- 20 that she was there to retrieve things from her car,
- 21 and he pointed to where the car was and said it was
- 22 open, and we went to get her things.
- 23 Q Was the car open?
- 24 A It was.
- 25 Q Was any yellow tape on it?

MILDRED HOUSTON -- DIRECT -- MR. PRIDE

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1 A No.

2 Q And when you and Zinah arrived at her car, what did
3 the two of you do?

4 A We began to gather her things. She had bags in the
5 car, and we just began to gather her things and put
6 her things in bags and started taking it to my car.

7 Q And did that require more than one trip to unload
8 Zinah's car and put them in a bag and take them to
9 your car?

10 A Yes, it did.

11 Q I show you a comforter, cream colored, and ask you
12 whether or not: Did you see this in the car?

13 A Yes.

14 Q What did you all do with this comforter?

15 A Well, she took the comforter out of the car --

16 THE COURT: Excuse me just a minute. What is
17 the number on that, please?

18 MR. PRIDE: It's State's Exhibit 44.

19 THE COURT: Thank you. You may continue.

20 Excuse me for interrupting, Ms. Houston.

21 A She took the comforter out the car because it was
22 in the back of the car, and she had clothes and
23 shoes, just all of her things were in the car. It
24 was taking up a lot of space. She took out the
25 comforter and placed it on the ground and started

1 gathering her things. I was in the front of the
2 car gathering her things.

3 Q And what were some of the things that you observed
4 Zinah gathering?

5 A Clothes, shoes, toiletries, personal items, just
6 her things.

7 Q Was there food in the car?

8 A There was food.

9 Q And was the food sort of on the seats and on the
10 floor of the car, if you can remember?

11 A It was all over. I mean, there was food on the --
12 yes. Some of it was open; some of it wasn't. I
13 started gathering the food because from the looks
14 of the car, it looked like as if it was totaled and
15 that we would not be able to return to the car.

16 So I expressed to Zinah, I said, Zinah, let's
17 get everything that you need because chances are
18 this car is totaled. What we did was we checked
19 with the gentleman as we took some of the loads
20 back.

21 I asked him if the car was totaled in his
22 opinion, and he said, you know, in his opinion he
23 felt it was totaled. So I said, Let's get
24 everything that we can.

25 Q Did Zinah have any wigs in the car?

MILDRED HOUSTON -- DIRECT -- MR. PRIDE

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1 A She had wigs.

2 Q Did she leave those wigs or did she take them?

3 A I'm going to say she took them because anything
4 that looked as if it had any value, I urged her to
5 get it because I didn't think we would be able to
6 come back.

7 Q Did she have more than one wig in there? Did you
8 notice?

9 A She had a bag with hair things; so I would say yes.

10 Q Did you see any items that belonged to ^{Child}

11 A Yeah, there was diapers and there were some toys
12 and some clothing. We packed that up too.

13 Q And did you leave any items in the car that Zinah
14 did not take?

15 A We left items. As I said, we made several trips.
16 After she gathered things in the back, I was in the
17 front handing her things to put in bags. When I
18 went back to the back, I also took the beige
19 comforter and I shook it and tried to make sure
20 there was nothing underneath it that was of value.
21 I asked her if she wanted to take the comforter.
22 She said no. We left it.

23 Q And when you say you left it, did you put it back
24 in the car?

25 A We put it back in the back.

1 Q And also I would assume you left other items that
2 Zinah did not want?

3 A There was items scattered throughout the car. It
4 looked like she had been living in the car. So
5 there were -- we didn't take everything. It was
6 stuff left.

7 Q Were there pampers in the car?

8 A There were pampers. I may have left some but we
9 were bagging up things. There might have been some
10 things that were left, some lose items.

11 Q And the items that were taken from the car on the
12 26th of December, what ultimately happened with
13 them? What did you do with them?

14 A The items that were taken?

15 Q Yes.

16 A We took them to Zinah's mother's house.

17 Q And were they taken out of your car and put into
18 Zinah's mother's house?

19 A Yes.

20 Q Were all the items taken out of your car?

21 A All the items as far as I knew were taken out of my
22 car.

23 Q Answer any questions, please, the solicitor may
24 have to ask you.

25 THE COURT: Thank you, Mr. Pride. Solicitor.

JOCELYN JENNINGS -- DIRECT -- MR. PRIDE

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1 MS. CAMPBELL: Beg the Court's indulgence.

2 (Pause.)

3 MS. GARFIELD: Judge, we have no questions.

4 THE COURT: Thank you. Thank you very much,
5 Ms. Houston.

6 MR. PRIDE: You may come down.

7 (Witness leaves the witness stand.)

8 MR. PRIDE: Your Honor, this is Ms. Jocelyn
9 Jennings, the mother of Zinah.

10 THE COURT: If you would come around and be
11 sworn for us, please, Ms. Jennings.

12 JOCELYN JENNINGS NELSON,
13 being first duly sworn, testifies as follows:

14 CLERK: Have a seat in the witness stand,
15 please. State your name for the record and spell your
16 first and last name.

17 JUROR: Jocelyn Jennings Nelson.

18 J-O-C-E-L-Y-N, N-E-L-S-O-N.

19 DIRECT EXAMINATION

20 BY MR. PRIDE:

21 Q Jocelyn, you have been identified throughout this
22 trial as Zinah's mother. Where do you live in
23 Columbia?

24 A I live in the Waverly neighborhood, Lady
25 Street.

- 1 Q And are you married?
- 2 A I am.
- 3 Q And what is your husband's name?
- 4 A My husband's name is Russell Nelson.
- 5 Q And were you previously married before marrying
- 6 Mr. Nelson?
- 7 A I was.
- 8 Q And what was your husband's name at that time?
- 9 A My husband, Zinah's father, is Jacob Jennings, Jr.
- 10 Q And where was Mr. Jennings, Zinah's father, from?
- 11 A We moved here from Chicago, Illinois.
- 12 Q And how old was Zinah when her father passed?
- 13 A He passed right before her fourth birthday.
- 14 Q And was Zinah an only child?
- 15 A She was our only child together. We also had
- 16 stepchildren. He had children.
- 17 Q Now, Ms. Jennings, when Jake -- your husband was
- 18 Jake Jennings; is that correct?
- 19 A Yes.
- 20 Q When Mr. Jennings passed, you were left as the
- 21 custodial parent to raise Zinah; is that correct?
- 22 A Yes.
- 23 Q And where did you put her in school?
- 24 A Well, Zinah went from U.S.C. Child Development
- 25 Center to St. Martin de Porres. From there she

JOCELYN JENNINGS -- DIRECT -- MR. PRIDE

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1 went to Hand Middle School and then to Dreher High
2 School.

3 Q And what kind of student was Zinah in school?

4 A Zinah was an excellent student, just a regular
5 child growing up, and a good student at Hand and a
6 fairly decent student at Dreher. I think she
7 finished with a 2.9 or 3.0 average at Dreher.

8 Q And was she involved in other activities at Dreher?

9 A Zinah was involved in activities throughout. I'm a
10 working mom. So I kept her involved in community
11 activities and events. She was an athlete in high
12 school and in middle school. She played
13 basketball, volleyball.

14 She was on the color guard for three years at
15 Dreher. She was involved in other -- Christ in
16 Youth gospel choir. That was a year-round program.
17 I think her involvement there was three or four
18 years.

19 Q Ms. Jennings, were you involved in Zinah's growth
20 and development over at the schools where she
21 attended as a parent? Did you go to
22 parent/teachers' meetings? And did you go to
23 events where Zinah was participating?

24 A Oh, yeah. I was a basketball mother during the
25 summer. I was a football mother throughout the

1 fall in that she was on the color guard. So I
2 attended all the games, Dreher home games. I was
3 very much involved.

4 Zinah was a girl scout. I volunteered with
5 the girl scouts at St. Martin de Porres. She was
6 involved in -- she was a Double Dutch Force and a
7 world champion turner, and we traveled the country
8 together. So I would say, yes, I was very involved
9 with Zinah.

10 Q Ms. Jennings -- I don't think I asked you -- where
11 do you work?

12 A I work for Richland County government in the Office
13 of Community Development.

14 Q What does that constitute? What do you do in
15 community development?

16 A I work with neighborhood revitalization projects.
17 I'm an agent or manage federally funded projects.
18 I work with neighborhood associations. I help to
19 build the capacity of neighborhoods.

20 Q Is that neighborhoods here in Richland County?

21 A Unincorporated Richland County.

22 Q And are you the only one that works in that
23 capacity or are there several people employed in
24 the capacity?

25 A When I was hired at Richland County, it was a

JOCELYN JENNINGS -- DIRECT -- MR. PRIDE

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1 one-person office, and I was the community
2 development specialist. When we became an
3 entitlement community, our staff expanded. We
4 became independent of the Administrator's Office.
5 So now we have gone from one person to we have a
6 staff of seven.

7 Q Ms. Jennings, when Zinah graduated from high
8 school, did you want her to go to college?

9 A Oh, absolutely. That was the plan.

10 Q Did you facilitate her going, helping her get in
11 college?

12 A Yes, sir. In fact, during her early junior year,
13 she, along with several of her girlfriends, we took
14 a road trip; and we toured colleges in North
15 Carolina and South Carolina. We had lunch on
16 college campuses. It was an overnight trip. So we
17 started very early looking for a college that she
18 would want to attend.

19 Q And where did Zinah finally settle on going to
20 college?

21 A Zinah ended up accepting -- she applied and was
22 accepted at Winthrop, and I think Winthrop accepted
23 her before some of the other colleges. She was a
24 little anxious and so she made that choice, and she
25 attended Winthrop.

1 Q Now, her senior year at Dreher, was Christen also a
2 member of your household?

3 A Yes, her junior year.

4 Q Her junior year?

5 A Yes.

6 Q Can you tell us about that experience, how she came
7 to live with you and how compatible she was living
8 in your house?

9 A Christian and Zinah became friends. Christian,
10 although she was not -- did not participate in some
11 of the same activities as Zinah -- she wasn't an
12 athlete, she wasn't on the color guard -- but they
13 had mutual friends. They had some of the same
14 friends.

15 I learned that Christian's caretaker -- and I
16 believe it was her grandmother -- was ill. So
17 Christian was looking for a place to live, and my
18 husband and I offered her a room in our home.

19 Q Did she have her own room?

20 A Yes.

21 Q And how did that work out for your family by taking
22 in Christian?

23 A For the first few months it worked out very well,
24 but what I found was two teenagers, typical
25 teenagers. I had the feeling they were plotting

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1 and scheming to do things together.

2 They were very much in cahoots. I felt that
3 they were overpowering me, I will say. So for a
4 while it went very well, and then towards the end I
5 began to not trust the relationship. I felt
6 threatened, my household.

7 Q Did you feel that Christian staying in your house
8 was impairing your ability to raise Zinah as you
9 wanted to?

10 A Yes, I began to feel that way. I began to feel
11 that it was a detriment to Zinah and Zinah's plans.

12 Q Could you name some of the problems or problem that
13 occurred as a result of Christian living in the
14 house?

15 A Well, for example, Zinah was very -- always
16 independent. She earned and we felt she could
17 handle and manage having her own car, and she got a
18 car.

19 Q How did she get that car?

20 A The first car was a gift from us to her, a
21 Christmas gift. It was a beater but she wanted a
22 car. She had been asking for one. We felt that
23 she could handle having one. She did very well.
24 She maintained it. She kept the household rules.

25 When Christian came they started coming in

1 later. I found that they were leaving campus, the
2 Dreher High School campus, during the day
3 sometimes. So I noticed that Zinah had a little
4 more -- she began to break the household rules.

5 Q And you did have rules in your house?

6 A Oh, absolutely.

7 Q Did you also have an expectation that those rules
8 would be abided by?

9 A I had very high expectation for both Zinah and
10 Christian while she was there, not just with
11 maintaining their space, their laundry, but also
12 helping to maintain the rest of the house.

13 There was homework that had to be done. If
14 they had jobs, I needed to know their schedules.
15 Yeah, there were rules; and if there were things
16 that were not done, there was punishment.

17 Q Did Zinah have a job in the 11th grade?

18 A Yes, sir.

19 Q Where did she work?

20 A Zinah worked at Hardee's and occasionally she
21 worked for Houston's Catering.

22 Q And Zinah was able, through her job and earnings,
23 to maintain her own car?

24 A Zinah was able and did very well with maintaining
25 her own car. In her senior year, by the way, she

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1 worked a third job. She took a job at the Capital
2 City Club.

3 Q So she had three jobs her senior year?

4 A Yes, sir.

5 Q And during the summer after she graduated, where
6 did she work?

7 A She maintained those jobs until she went away to
8 school.

9 Q And Zinah went to Winthrop as a freshman; is that
10 correct?

11 A Yes.

12 Q And she completed her freshman year; is that
13 correct?

14 A She did.

15 Q And when did Zinah get pregnant?

16 A Zinah completed her freshman year at Winthrop. And
17 when she came home that summer, she informed me
18 that she didn't want to go back to Winthrop. She
19 didn't like it. She intended and did enroll at
20 Midlands Tech.

21 Zinah was with me throughout that summer, and
22 it became very stressful for both of us. My
23 household rules had not changed, and she eventually
24 moved out of the home and got her own apartment.

25 Q How did you find out she was pregnant?

1 A About six months after she moved, she invited me to
2 dinner. That was my first time seeing her
3 apartment, and just very casually she informed me
4 that she was expecting.

5 Q And how did you feel about that?

6 A I was disturbed, angry. That was not in our plan.
7 We had discussed safe sex many, many, many times.
8 I was angry.

9 Q And did she tell you who was the father of the
10 baby?

11 A At the time I learned that she was living with
12 Roderick Mitchell. I just assumed, yes, that
13 Roderick was the father. They were going to be
14 parents.

15 Q At that time how was your relation with Zinah?
16 When I say that, I mean, could you still talk to
17 her as her mother? You have told us that she had
18 gotten her own place. Was she so independent until
19 it was difficult for you to give her advice?

20 A By that time there was absolutely no relationship.
21 We did not communicate well. Once she got her own
22 place, it was very difficult for us to communicate
23 at all.

24 Q While Zinah was in her own place, was she working?

25 A Yes.

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1 Q Was she in school?

2 A Yes.

3 Q And when she had the baby, how did you find out
4 that ^{Child} had been born?

5 A Well, I gave Zinah a baby shower, which kind of
6 broke the ice between us. It was at that point
7 where she said, Well, Mom, I didn't think you cared
8 at all. The baby shower was a huge success. All
9 of her friends and family members came.

10 It was mainly a baby shower of my friends,
11 people who she grew up around. Very few of her
12 friends were invited. That kind of broke the ice
13 for us.

14 So when she went into labor, I don't know if
15 Roderick called me or if Zinah called me, but I met
16 her at the hospital; and I was there when ^{Child} was
17 born.

18 Q Let me back up a little bit. When you told
19 Christian that she had to leave, how did she take
20 it?

21 A She was very angry. She immediately went and
22 collected her things, and before we could even have
23 a conversation, she -- her ride was there within
24 the hour and she left.

25 Q So that was the way that she left your house. Did

1 she thank you?

2 A No, she was angry.

3 Q Now, after Zinah had the baby, did she -- when she
4 was released from the hospital, did she go back to
5 where she was living?

6 A When the baby was born, I picked Zinah up. My
7 husband had told me that Zinah asked him to move
8 her. So I learned when I picked her up -- her and
9 Child -- from the hospital that she had moved.

10 Q When you say moved, she had moved from where you
11 went to have dinner with her that time?

12 A Actually the place where I was first invited to
13 dinner, Zinah and Roderick moved. They upgraded
14 their apartment to a two bedroom, which was down
15 the street from my house. And when I picked her up
16 and Child up from the hospital, she had moved again.

17 Q Had she moved into her own place or had she moved
18 into an apartment with Roderick, if you know?

19 A I was under the impression and learned later that
20 she moved without Roderick.

21 Q She moved what?

22 A Without Roderick.

23 Q Without Roderick. Now, after Zinah had the baby,
24 did Zinah work at all?

25 A No, I know that she continued to try to secure

1 employment.

2 Q Did she continue in school?

3 A Yes, she continued school. I would leave work on
4 her -- the night she went to school -- leave my job
5 and go over to her apartment to baby-sit while she
6 attended classes.

7 Q And did Zinah put Child in daycare?

8 A Yes.

9 Q And that was the arrangements by which she
10 maintained Child when she was in school?

11 A She put Child in daycare. We actually had -- I had
12 continued to ask Zinah if she would consider coming
13 back home. I thought it was -- first of all, it
14 was becoming more and more taxing for me to go over
15 three or four nights a week after work. Oftentimes
16 I had to work late and it was conflicting.

17 But because our house -- the size of our
18 house -- there was plenty of room for her and Child
19 Although she was reluctant to do that, she decided
20 to move back home. She chose a daycare down the
21 street from our home so that we could -- you know,
22 it would be convenient for she and I.

23 Q Did Zinah always have a key to your house?

24 A Yes, yes, she always had a key. My house has
25 always been her home if she chose to be there.

1 Q Now, when Zinah moved back with you, what month was
2 that?

3 A I don't know.

4 Q How old was --

5 A She was still in school. So it was late fall, I
6 think, towards before the semester ended. She was
7 in school a full semester. Then when the semester
8 ended, she came back home; so four months maybe.

9 Q In December of 2011 when Zinah was involved in the
10 automobile accident, prior to being involved in an
11 accident, did she live with you?

12 A Zinah had moved to Atlanta. Although she was in
13 and out of the home once she returned to Columbia,
14 I rarely saw Zinah. My husband saw Zinah often,
15 but she worked very hard to avoid me.

16 Q Did you have a relation with ^{Child} at that time or
17 was Zinah keeping ^{Child} away from you?

18 A Well, at some point -- I will say at some point
19 Zinah lost trust in me. It was pretty stressful in
20 our home for she and I. Although we were parenting
21 together -- and I say that because I let her know
22 that I was there for her -- there were times when
23 she could not pick up ^{Child} from daycare, for
24 example, where I would get a call; and I would go
25 and pick him up.

1 Although I would assist, she didn't really
2 want me to. So she did. She went out of her way
3 to take care of Child and to keep me from having to
4 do that or even -- even though I wanted to, she
5 would intervene.

6 Q Why do you think Zinah had that kind of resentment
7 for you? Do you know?

8 A Well, yes.

9 Q Why?

10 A Over time when Zinah came back from Winthrop, my
11 household was in a crisis. Financially, my
12 marriage, I was under a lot of stress at work. She
13 often -- I was disappointed with some of the
14 decisions she was making.

15 So she got a lot of anger from me. She got a
16 lot of that hostility that I was feeling. I
17 probably made everybody in the house very
18 uncomfortable for a period of time.

19 Q When Zinah moved back in with you, notwithstanding
20 the fact that she had a job, had a car and was a
21 mother, did you still have house rules?

22 A I did.

23 Q Could Zinah come and go like she wanted to?

24 A No, nobody could come and go in my house like they
25 wanted to.

1 Q Did she resent that?

2 A Sure.

3 Q Did she rebel against it?

4 A Sure. Zinah just got to the point -- and she made
5 it very clear -- she did not view Lady Street
6 as her home. She didn't feel comfortable there.
7 She didn't want to be there.

8 Q Now, in December Zinah was involved in an
9 automobile accident. Do you recall that?

10 A Yes.

11 Q And prior to Zinah being involved in an automobile
12 accident, when was the last time that you saw ^{Child}

13 A The last time I saw ^{Child} she came home. I think
14 it was maybe November 27th or so, maybe somewhere
15 around the last week of November. They came in one
16 night. I was in the bed but I got up. I asked her
17 if she was hungry. She said no. I asked her if
18 she needed anything. She said no.

19 She immediately drew a bath for the baby. I
20 asked if he could sleep with me, if we could watch
21 a movie before they went to bed; and she said yes.
22 So she gave him a bath, and then he came and he
23 slept with me that night. I got up the next
24 morning and got dressed and went to work, and that
25 was the last time I saw him.

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1 Q Now, you called the -- are you okay?

2 A Yes.

3 Q You called the -- here, take this.

4 A Thank you.

5 Q You called the Columbia Police Department on the
6 8th of December and reported to them that Zinah and
7 Child were missing; is that correct?

8 A Actually on the 7th of December.

9 Q The 7th of December?

10 A On the 7th of December, Zinah came home that night.
11 It was probably 12:30, 1:00 o'clock. I was asleep.
12 I got up and she didn't have Child with her, and I
13 asked her where he was.

14 As usual it wasn't uncommon for her not to
15 answer. She kind of gave me the cold shoulder as
16 she, you know, often did, which was really unusual.
17 Zinah was always respectful, always followed the
18 rules.

19 Then it got to the point where, you know, the
20 conversations dwindled. So this was one of those
21 occasions where I got no response. I woke up the
22 next morning, got ready for work; and once I got to
23 work, I called 9-1-1. I didn't report Zinah
24 missing. I reported Child missing. Zinah was home
25 in the bed when I left for work.

1 Q Okay. And why did you report Child missing?

2 A I reported Child missing because Zinah wouldn't tell
3 me where he was. I had the attitude, well, there
4 was more than one way to get information. I felt
5 that Zinah was trying to hurt me, and I wanted to
6 know where the baby was.

7 Q I want to take you back to December. You told us
8 about the 7th. I want to take you back to
9 Thanksgiving in November. You have told us about
10 December 7th. Did there come an occasion where
11 Denise informed you that she had some concerns
12 about Zinah when Zinah was living with her down in
13 Georgia?

14 A Yes, we had talked several times.

15 Q Several times?

16 A Many times in fact.

17 Q Don't tell me what she said, but would it be a fair
18 statement to say that those conversation were about
19 Zinah?

20 A We had many conversation about Zinah.

21 Q And those conversations were about concern for
22 Zinah?

23 A Yes, sir.

24 Q And as a result of those conversations -- maybe
25 it's a bad way to put it -- but did you and Denise

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1 sort of concoct a scheme where you would go to
2 Atlanta? Did you all get together?

3 A We did.

4 Q What did you all do?

5 A Denise called and said that she had a job out of
6 town, that she did not trust leaving Zinah in the
7 house, that she was going to take Zinah with her --

8 MS. CAMPBELL: Objection, Your Honor, hearsay.

9 MR. PRIDE: She is right and I will do better.

10 THE COURT: Rephrase your question.

11 BY MR. PRIDE:

12 Q You can't tell me what Denise said. Let me just
13 put it this way.

14 A Well, this is what I said.

15 Q Well, just hold on a minute.

16 A Yes, sir.

17 Q You and Denise had a conversation which resulted in
18 your coming to Atlanta; is that correct?

19 A Yes, sir.

20 Q What was the purpose of your coming to Atlanta?

21 A I went to Atlanta to pick up ^{Child}

22 Q And did Zinah find out about this scheme and the
23 reason why you were coming to Atlanta to pick up
24 ^{Child}

25 A I believe Zinah learned of this scheme very early

1 before we even realized that she was aware.

2 Q And as a result of knowing that you were going to
3 come to get the baby, what did Zinah do?

4 A Zinah came home -- first of all, I was there all
5 day, did not intend to be in Atlanta all day. When
6 the plan was not working, I called Zinah away from
7 their home and told her I was in town and that I
8 wanted to see her and Child

9 I asked her was she at home. Would she be?
10 She said she would be at home in an hour. When I
11 went to the home, she came home in an hour; and
12 she brought dinner with her. We sat and we ate
13 dinner.

14 Zinah -- I did not know -- had already packed
15 up her car. When I tried to convince her to let me
16 take Child with me so that she could have some time
17 off to her herself, she said no thanks. She took
18 Child out of my arms, and she left out the door and
19 she left.

20 Q That was in November?

21 A That was in November.

22 Q And I assume that after you could not get Child
23 then, you in turn came home? You came back to
24 Columbia?

25 A Yes.

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1 Q Now, I want to move back up to the 24th of -- later
2 on the 23rd of December and early on the 24th of
3 December. Did you learn that Zinah had been in an
4 automobile accident?

5 A I did.

6 Q How did you find out about it?

7 A Shon Harris called me and said that Zinah showed up
8 on her door step in a hospital gown and that she
9 had had a car accident.

10 Q And as a result, when is the next time you saw
11 Zinah?

12 A The next time I saw Zinah was Christmas morning.

13 Q Was that at your sister Millie Houston's house?

14 A Yes. Actually I went to take -- my mother was
15 visiting from Chicago. My mother wanted to go to
16 Zinah, and I went to Shon. I was going in then to
17 see -- my mother wouldn't allow me in.

18 She said, You leave her alone. You have done
19 enough. I am going in and I am staying with Zinah.
20 So I came back home and we were all invited to my
21 sister's for Christmas dinner, and that's when I
22 saw her.

23 Q When your mom said leave her alone, she realized
24 that you were upset and sort of irate; is that
25 correct?

1 A Yes.

2 Q And she told you to leave her alone?

3 A Yes.

4 Q Is your mother in the courtroom today?

5 A She is.

6 MR. PRIDE: Stand up, please.

7 (Witness complies.)

8 BY MR. PRIDE:

9 Q Is this your mother?

10 A That's my mother.

11 Q Thank you. And your mother lives where?

12 A She lives in Chicago.

13 Q In Chicago. Were you aware that on the 26th that
14 your sister Millie and Zinah were going to Zinah's
15 car to gather her belongings?

16 A No, I was not aware of that.

17 Q How did you become aware of the fact that Zinah had
18 gotten her belongings out of the car?

19 A My sister Millie informed me. I was aware as they
20 were leaving but didn't know that they had planned
21 to do this. But she -- Millie -- told me that she
22 had some things in her car, and she wanted to drop
23 them by.

24 Q Did they ever bring the items from Zinah's car to
25 your house?

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1 A Yes, the things were brought.

2 Q And where were they taken?

3 A All of the things that came out of Zinah's car was
4 put in her bedroom.

5 Q And when they were put in the bedroom, what did you
6 do with them?

7 A For months I did nothing with them. Then actually
8 probably six -- it wasn't until this summer -- that
9 I cleaned up all of those things, unpacked them,
10 looked through them. I was looking for Zinah's
11 contact lenses. There were several items I was in
12 search of. So I went through it. I washed the
13 dirty clothes. I threw out what looked like trash.

14 Q What did you throw out?

15 A I threw out -- one of the things I remember
16 throwing out was a lot of the hair. I threw out
17 clothes that I didn't consider becoming. I threw
18 away things that were ragged.

19 Q Did Officer Bailey come to your house and see those
20 items in Zinah's room that were taken from her car?

21 A Yes, yes.

22 Q What comment did he make?

23 MS. CAMPBELL: Objection, Your Honor, hearsay.

24 MR. PRIDE: She's right. I will stay away
25 from that.

1 THE COURT: Thank you.

2 BY MR. PRIDE:

3 Q But he did see them in Zinah's room?

4 A Yes.

5 Q You can't tell me, but I want to ask you this. Did
6 he make a comment about them?

7 A Officer --

8 Q Don't tell me what he said. Did he make a comment
9 about those items?

10 A Investigator Bailey made comments about the content
11 of Zinah's room.

12 MR. PRIDE: I tried, Judge.

13 THE COURT: Well, you were asking about the
14 contents. Go right ahead. Ask your next question.

15 BY MR. PRIDE:

16 Q What was Officer Bailey at the house for that day?

17 A He came with a search warrant.

18 Q And he -- I assume that he executed that? He
19 searched the house; is that correct?

20 A He only searched Zinah's room.

21 Q And he served the search warrant on you?

22 A Yes.

23 Q Gave you a copy of it?

24 A Yes.

25 Q Do you remember the date that he came? Was it in

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1 December?

2 THE COURT: I thought you had already asked
3 that question. I think you prefaced your question with
4 the date.

5 MR. PRIDE: I don't believe I did.

6 A No, it wasn't in December. I don't think so.

7 Q Do you remember what month?

8 A It would have been January. There were two search
9 warrants.

10 Q So it was in January that he came?

11 A Yes.

12 Q Now, you heard some tapes played where you and
13 Zinah were talking while Zinah was down at the
14 Alvin S. Glenn Detention Center, and she would call
15 you; is that correct?

16 A Yes.

17 Q Now, in those phone calls you indicated some
18 concern for Child Would you tell us about that.

19 A The conversations that I had with Zinah from the
20 Alvin S. Glenn center were all, first of all, very
21 stressful for me. However short they were, it
22 seemed like each of them seemed like an eternity.
23 They were long for me.

24 My concerns, I wanted Zinah to tell me where
25 Child was, and she wouldn't. I was concerned for

1 her. Basically my conversations were trying to
2 build a rapport with Zinah at the same time. I was
3 just trying to rebuild our relationship, however
4 limited that was.

5 With her being incarcerated, it was just very
6 difficult to do. I thought that if she wanted to
7 share with me, that she -- I wanted to open the
8 door for her to share with me. I wanted her to
9 know she could trust me. I never thought she did
10 though.

11 Q You also indicated in a conversation that you had
12 with Zinah that you had some concerns about Child
13 is that correct?

14 A Yes.

15 Q Do you think Zinah would hurt Child

16 A No, not intentionally, no. I didn't think Zinah
17 would hurt her baby at all.

18 Q Do you think she would kill him?

19 A Oh, no, sir.

20 Q Have you ever seen Zinah mistreat Child

21 A I have never seen Zinah mistreat him. She didn't
22 always treat him the way I wanted him to be
23 treated. You know, he was her baby. She often
24 felt that I was trying to take over her baby.

25 So my standards were a little higher. I'm old

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1 school. I wanted him to look a certain way. I
2 wanted her to treat him a certain way. I wanted
3 her to feed him certain things.

4 Q Did she resist?

5 A Sure, sure she resisted. She had said, you know,
6 this is my son. This is not your son.

7 Q Was Zinah very possessive with ^{Child}

8 A Very much so, very much so. She didn't really want
9 my help at all. She tried to do things on her own.
10 She wanted to be successful: a successful mother,
11 a successful student. She wanted to work. She
12 wanted a relationship.

13 Q Do you feel that Zinah had certain fears of losing
14 ^{Child} or that ^{Child} would be taken from her?

15 MS. CAMPBELL: Objection, Your Honor, as to
16 what she...

17 THE COURT: Restate the question or rephrase
18 the question.

19 BY MR. PRIDE:

20 Q How did Zinah feel about parting with ^{Child}

21 MS. CAMPBELL: Objection, Your Honor.

22 THE COURT: If she knows that. Do you know
23 that in some way? Rephrase the question.

24 BY MR. PRIDE:

25 Q Zinah was the primary caretaker for ^{Child} is that

1 correct?

2 A Yes.

3 Q And you testified that she was -- I think you said
4 very selfish and had become very possessive of
5 Child is that correct?

6 A Yes.

7 Q And do you think she had apprehensions about losing
8 Child

9 MS. CAMPBELL: Objection, Your Honor.

10 THE COURT: Sustained.

11 BY MR. PRIDE:

12 Q Let me let you look at these pictures and tell me
13 if you can recognize them.

14 A Yes.

15 MR. PRIDE: Judge, I have given copies to the
16 Solicitor's Office.

17 MS. CAMPBELL: Your Honor, if I can just see
18 what he is showing her.

19 MR. PRIDE: Sure, I will bring them to her.

20 (Pause.)

21 BY MR. PRIDE:

22 Q Do you recognize all those pictures?

23 A (Witness nods.) (Indicating affirmative response.)

24 (Attorneys confer.)

25 MS. CAMPBELL: Your Honor, we would object as

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1 to relevance.

2 THE COURT: Have them marked for
3 identification purposes only and let me see them.

4 (Defendant's Exhibit Number 6 is marked for
5 identification).

6 (Pause.)

7 THE COURT: There's 15 photographs in here --
8 there's 17 photographs in here. The solicitor's
9 objection is on relevancy.

10 Ten of them I am removing from the envelope,
11 Mr. Pride, as not relevant. I can't connect the dots on
12 those. That leaves seven that appear to be
13 corroborative of Mr. Jocelyn Jennings' testimony.

14 Two of those seven appear to be photographs of
15 Zinah Jennings. One of those photographs seems to be a
16 photograph of Zinah Jennings and ^{Child} One photograph
17 seems to be a photograph of Ms. Jocelyn Jennings and
18 Ms. Jocelyn Jennings' mother, Zinah Jennings, and ^{Child}

19 I allow those into evidence. I place them
20 back into the envelope. The others appear to be
21 corroborative of the activities Ms. Jocelyn Jennings has
22 testified that Zinah Jennings was involved with.

23 (Defendant's Exhibit Number 6 is received into
24 evidence.)

25 THE COURT: How much longer are you going to

1 be, Mr. Pride?

2 MR. PRIDE: At least 30 minutes.

3 THE COURT: Why don't we take a quick recess
4 if you don't mind.

5 MR. PRIDE: Thank you, Your Honor.

6 THE COURT: Ladies and gentlemen, let's take
7 about a 15-minute recess. Please leave your notes. Do
8 not discuss the case during this brief recess. Thank
9 you very much.

10 (The jury retires to the jury room.)

11 THE COURT: Ms. Jennings, you may certainly
12 step down and refresh your yourself during this brief
13 recess. You may not discuss your testimony with anyone.
14 Thank you very much. Court will be in recess 15
15 minutes.

16 (Whereupon there is a recess.)

17 MR. PRIDE: Judge, are your plans to recess
18 for the day after I finish my direct examination in
19 light of the fact that it's 4:30 now? And that cross
20 examination will start tomorrow morning?

21 THE COURT: How long are you going to be on
22 cross examination, Solicitor?

23 MS. CAMPBELL: I don't know what else is going
24 to be elicited at this point, Judge; but at this point I
25 would say brief.

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1 THE COURT: I would like to finish with this
2 witness today for several reasons, not only the Court
3 time, but I would like for Ms. Jennings not to have to
4 go through the overnight hours without having concluded
5 her testimony.

6 MR. PRIDE: Okay. I understand.

7 THE COURT: All right?

8 MR. PRIDE: Yes.

9 THE COURT: You can bring the jury.

10 (The jury returns to the courtroom.)

11 THE COURT: Mr. Pride.

12 MR. PRIDE: May it please the Court.

13 THE COURT: Yes, sir.

14 **DIRECT EXAMINATION**

15 BY MR. PRIDE:

16 Q Ms. Jennings, there was some testimony about the
17 fact that Zinah's cell phone was traced to the area
18 of Brockington Road out in northeast Richland
19 County. Can you tell us if you know, do you have
20 any reason why Zinah would be in that area?

21 A Well, I know the area very well. I worked that
22 area. But we have family and friends that live on
23 Heyward Brockington Road, friends of mine,
24 colleagues, and a friend of Zinah's.

25 Q So Zinah quite obviously could have been out there

1 to visit friends of yours or friends of hers; is
2 that correct?

3 A Yes.

4 Q You heard the testimony that there were some --
5 more than a hundred officers -- searching in that
6 area. But as you testified, Zinah knew people and
7 you knew people in that area; is that correct?

8 A Yes.

9 Q And so if her car was traced there, it could have
10 been to visit someone?

11 A Very easily.

12 Q Just to turn to a little bit about you,
13 Ms. Jennings. Every parent in a household probably
14 has rules or should have rules, but it's a question
15 about how those rules were exercised. Were you
16 overzealous with Zinah as it related to exercising
17 your rules in your house, given the fact that she
18 was 23 years old and with a child?

19 A I imposed my will on Zinah. Yes, I was pretty
20 tough on Zinah.

21 Q Do you regret that?

22 A I do.

23 Q Do you think that was a mistake?

24 A It killed our relationship.

25 Q And as a result of killing your relationship, how

JOCELYN JENNINGS -- DIRECT -- MR. PRIDE

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1 did Zinah -- did Zinah have apprehensions about
2 you?

3 A Well, you know, I noticed Zinah -- there was a
4 time, no matter what I said or did, she was always
5 respectful, very calm. No matter what I did, she
6 never lost her temper.

7 She got to the point where she would leave.
8 She would, you know, offer her opinion, raise her
9 voice, which was rare. So, yes, I pushed her. I
10 pushed her to the limit.

11 Q Did she feel like you were going to take Child

12 MS. CAMPBELL: Objection, Your Honor.

13 THE COURT: Rephrase the question.

14 A I think --

15 MS. CAMPBELL: Objection.

16 THE COURT: Rephrase your question, please,
17 Mr. Pride.

18 BY MR. PRIDE:

19 Q How did she feel about your relationship with Child

20 MS. CAMPBELL: Objection.

21 MR. PRIDE: How did she feel about her
22 relationship with Child

23 THE COURT: I think there is a buzzword in
24 there, that you would have to lay a foundation for her
25 knowledge, her knowledge of another person's feelings.

1 I take it that's the foundation of the objection.

2 MR. PRIDE: Thank you, Judge.

3 THE COURT: I could be wrong.

4 MR. PRIDE: Thank you. Judges are never
5 wrong.

6 THE COURT: I don't know. I have got some
7 appellate decisions that can disprove that for you,
8 Mr. Pride.

9 BY MR. PRIDE:

10 Q Ms. Jennings, when you were with ^{Child} you told us
11 that once -- on one occasion -- Zinah came in and
12 she gave ^{Child} a bath. You told her to let ^{Child}
13 spend the night with you and she did. Do you
14 recall testifying to that?

15 A Yes, yes.

16 Q Did Zinah's relationship change with you that you
17 could discern as it related to your being with
18 ^{Child}

19 A Wherever and whenever I could, I wanted to spend my
20 free time with ^{Child} I was overbearing and she was
21 very resistant to that. I would jump up and feed
22 him before she could even walk into the kitchen. I
23 was always a step ahead of her, stepping into her
24 role, I guess, now that I look back, not giving her
25 a chance within our household to be a mother.

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1 Q Do you regret that?

2 A I mean I do. I do. It was to the point where she
3 no longer wanted to live at home, where she no
4 longer wanted my assistance with Child She felt
5 threatened by me, and she did not trust me. She
6 didn't want me with Child She just -- she didn't
7 trust me and it was very obvious.

8 Q When you say she didn't trust you with Child could
9 you explain that for me a little bit? What do you
10 mean by that?

11 A There were several instances where -- not just with
12 Child -- but if I had a conversation, for example,
13 with Roderick, you know she felt that that was
14 contrived, that I was imposing. Why are you -- you
15 know, what did you talk about? She felt that I was
16 in cahoots, so to speak, with Roderick regarding
17 Child

18 If I went in to fix him a meal, she might pick
19 him up and leave the house with him. I was just --
20 I imposed on her. She watched me, my every move.
21 She was no longer comfortable in our house.

22 She would, when I was with him, she would
23 watch what I did. She would ask me why I was doing
24 it. If I went to draw a bath, for example, she
25 would say, Why are you doing that? He is not

1 dirty -- things like that.

2 Q Ms. Jennings, do you know where Child is?

3 A No. No, I don't.

4 Q Do you know whether Zinah knows where Child is?

5 MS. CAMPBELL: Objection, Your Honor.

6 THE COURT: Sustained.

7 MR. PRIDE: Do you know whether Zinah knows
8 where Child is?

9 THE COURT: Yes, that would be hearsay.

10 A I believe Zinah --

11 Q No, the judge has ruled. Do you believe that Zinah
12 would kill Child

13 A No, sir.

14 Q Do you believe Zinah would sell Child

15 A No, sir.

16 Q Do you believe that Zinah would abandon Child

17 A No, sir.

18 Q Do you believe that Zinah would do anything that
19 wasn't in the best interest of Child safety and
20 welfare?

21 A No.

22 Q Did you ever have any hidden feelings in you that
23 made you think that Zinah might have done something
24 to hurt Child Did you understand my question?

25 A I'm not sure I do.

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1 Q Was there a given time when Child was missing that
2 you felt that Zinah had done something to hurt
3 Child

4 A Feelings that were unprompted by conversation. I
5 had many conversations with people who voiced their
6 opinions that at times I second-guessed and
7 considered the thoughts of other people; for
8 example, the discussions I have had with the
9 investigators.

10 I had a conversation with Chief Scott once,
11 and he said, Where she feels she may have left him
12 in a safe place, it may not be safe in your mind or
13 my mind. I pondered that.

14 We know that she is 23 years old. I don't
15 have -- young people right now are going through
16 some tough times, and they do some things that
17 don't make a whole lot of sense to me.

18 I'm not just talking about her but her peers.
19 So, yes, when having that conversation, there are
20 places and things that they do that I never did,
21 that I can't relate to.

22 Q Ms. Jennings, did you ever call the police
23 department and tell them, I have got a lead where
24 Child is?

25 A Yes, yes. I have called, not just to find out if

1 there was any updates, but to say, Well, I heard.
2 For example, I heard that there was a sighting of
3 Child in Abbeville. I immediately called to find
4 out if anything -- had that lead been followed up
5 on.

6 I spoke with Investigator Bailey. He was not
7 aware of it. I began to investigate it on my own.
8 I never did get an update. He did call. He said
9 that it had been investigated by someone else, and
10 they had exhausted -- that they had determined that
11 it was not Child but I furthered my investigation.

12 Q What month was that?

13 A That was July of 2012.

14 Q So as recent as July, you were calling Officer
15 Bailey giving him leads and information about Child
16 is that correct?

17 A Yes. I had gotten a call from the Black and
18 Missing Foundation. They had received a report
19 that Child was sighted in a restaurant. They gave
20 me the name of the lady who reported it. They gave
21 me the name of the restaurant, its location, the
22 name of the waitresses that worked there, the name
23 of the owner that worked there, the owner of the
24 facility. I immediately called, called
25 Investigator Bailey.

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1 Q And gave him that information?

2 A He didn't have it, but, yes, I think I did share
3 with him what I had learned.

4 Q When you would visit or talk with your daughter
5 Zinah while she was in confinement, did you ever
6 ask her, Zinah, tell me where ^{Child} is?

7 A Yes.

8 Q What was her response?

9 MS. CAMPBELL: Objection, Your Honor.

10 THE COURT: Sustained.

11 MR. PRIDE: Okay.

12 BY MR. PRIDE:

13 Q Did Zinah have a lot of friends?

14 A I would say not, no.

15 Q Do you know Adrienne Alston who testified?

16 A Yes, she was a neighbor.

17 Q Ms. Jennings, there is no question about the fact
18 that you have been sitting in here from the
19 beginning of the trial up until this present time,
20 and you have heard witnesses who have taken the
21 stand; is that correct?

22 A Yes.

23 Q How would you describe the relation to the best of
24 your knowledge between Zinah and Alston?

25 A While Adrienne was a neighbor, they spent time

1 together. I would say that they were friends. It
2 was seasonal as far as I was concerned because once
3 she moved away, I never saw her again.

4 During a time when they played summer ball,
5 they were on the A.A.U. basketball teams. They
6 were friends but they didn't go to the same school.
7 So, you know, it was a seasonal friendship.

8 Q What about Troy Clark? Did you know him?

9 A No.

10 Q How about Jessica Thomas?

11 A She was also a neighbor.

12 Q Can you describe the relation between Zinah and
13 Jessica?

14 A I didn't consider Jessica a friend. They didn't
15 have a lot in common. She wasn't an athlete. They
16 may have gone to the same school, but Jessica, I
17 viewed her -- they were kind of a transient family.
18 They didn't stay in one place long, and she did not
19 stay in that house very long. Once she moved off
20 the block, I never saw her again.

21 Q While Zinah was young, did Zinah earn money by
22 baby-sitting other people's children?

23 A Yes, she was a baby-sitter. She was a certified
24 baby-sitter.

25 Q What does that mean?

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1 A She took a class at the Red Cross, and she received
2 a certificate that she knew how to care for an
3 infant, if an infant was in trouble. I think that
4 was the primary criteria for receiving the
5 certificate; other than some basic child safety and
6 child care methods and techniques.

7 Q Ms. Jennings, you regret obviously some of the
8 things and the kind of relationship that finally
9 you ended up having with your daughter; is that
10 correct?

11 A Yes.

12 Q But when Zinah got in this trouble, you didn't
13 abandon her as a mother; did you?

14 A When I called 9-1-1, I just wanted to know where
15 Child was. I did not -- certainly did not see this.
16 I did not see my daughter being prosecuted or this
17 happening to my family. I just wanted to know
18 where Child was, and I called 9-1-1 because I
19 thought they would help me to find him.

20 I reported him missing and I didn't hear
21 anymore for a week. I called Chief Scott and I
22 said -- I asked him. He didn't seem to be aware.
23 There was no Amber Alert. There was no F.B.I. at
24 my door, none of that.

25 It didn't appear that anything was being done.

1 It was weeks before -- I think it wasn't until I
2 had a conversation with the Chief of Police that
3 the ball started rolling, the press conference took
4 place. But prior to that, I just didn't feel like
5 anything was being done to find him.

6 Q When Zinah left in December and subsequent to your
7 reporting the missing of ^{Child} on December the 6th,
8 when she returned did you call Investigator Bailey
9 and tell him, Zinah is back at the house and she is
10 here?

11 A I did. I called. I was trying to be cooperative.
12 In fact, I called the day after Christmas, and I
13 believe it was the funeral service for the canine
14 dog that had been killed in the line of duty; and I
15 couldn't get through to anyone.

16 I sent a text. I sent an e-mail. I made
17 several calls. I got a call back on the 27th, and
18 I continued until he was able to come to my house
19 at a time when Zinah was there.

20 Q Ms. Jennings, you never called the police
21 department to report that Zinah had demonstrated
22 unlawful conduct towards a child; did you?

23 A When I called 9-1-1, what I was told was: If she
24 didn't want you to know where her child is, she is
25 not obligated to tell you. I was told that -- not

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1 by them -- but that she would have had to have
2 posed a danger to herself or to Child I expressed
3 when I called that I felt that she was a danger to
4 herself and to Child

5 Q Why did you do that?

6 A Because I wanted to know where Child was.

7 Q Did you believe what you had told them?

8 A I believed that Zinah, being outside of our
9 household and not wanting to live at home, that,
10 you know, that she -- I had no control. So I
11 didn't know what Zinah -- I just didn't know how
12 she was living and I was concerned.

13 Q So your report was based on the fact that you had
14 no control?

15 A Yes.

16 Q Did you ever report to them that Zinah had
17 abandoned the child?

18 A No.

19 Q Do you think Zinah would abandon Child

20 A No. No, I don't think she would abandon him, just
21 leave him any place.

22 Q I don't mean to be repetitious, but I want to ask
23 you once more. Have you ever seen Zinah
24 demonstrate any behavior or conduct around Child
25 that would lead to his harm or his safety?

1 A Zinah and I -- I engaged Zinah in several
2 conversations about child care. There was an
3 occasion -- and she was angry with me -- expressing
4 her anger and Child was present. It appeared to him
5 that while she was angry and lashing out at me, I
6 think it was taken -- I took it as an affront to
7 him as well.

8 Q And that was it?

9 A Yes.

10 MR. PRIDE: Judge, permission to publish the
11 pictures.

12 THE COURT: Did she -- she has already
13 identified them; is that correct?

14 MR. PRIDE: She identified them prior.

15 THE COURT: You may publish them.

16 BY MR. PRIDE:

17 Q Answer any questions, please, the solicitor may
18 have to ask you.

19 THE COURT: What was that number, Mr. Pride?

20 MR. PRIDE: I'm sorry, Judge?

21 THE COURT: What number exhibit is that?

22 COURT REPORTER: Defense 6.

23 THE COURT: Thank you, Mr. Pride. Solicitor.

24 MR. PRIDE: Thank you, Judge.

25 (Pause.)

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1 MR. PRIDE: I said no further questions.

2 THE COURT: All right.

3 MS. CAMPBELL: Your Honor, may I just wait
4 while they pass the pictures around?

5 THE COURT: Yes, ma'am.

6 MS. CAMPBELL: Thank you.

7 (Pause.)

8 MS. CAMPBELL: Your Honor, I will go ahead.

9 THE COURT: Solicitor, you are welcome to
10 wait.

11 MS. CAMPBELL: I can go ahead, Judge.

12 THE COURT: All right. Thank you, Solicitor.
13 You may proceed.

14 CROSS EXAMINATION

15 BY MS. CAMPBELL:

16 Q Ms. Jennings, you just testified that you didn't
17 think that your daughter would do anything to harm
18 Child She would not abandon him? Is that what
19 your testimony is?

20 A Yes.

21 Q Are you worried about him?

22 A Sure.

23 Q When is the last time you saw your grandchild
24 alive?

25 A The last time I saw him in my home was around

1 November the 26th or 7th, I believe I had stated.

2 Q And, in fact, you are so worried you are conducting
3 your own investigation in an attempt to find your
4 grandson who is missing; is that correct?

5 A From day one I started with putting posters out,
6 notifying all of my friends and my family, sending
7 e-mails. I partnered -- responded to a couple of
8 Facebook pages that were out there about him. I
9 made some attempts to find him, and I still am.

10 Q You also testified on direct examination that you
11 never thought Zinah would harm her child or abandon
12 her child; is that correct? Is that what you
13 testified to, ma'am?

14 A Yes.

15 Q And in that same vein, you also testified that you
16 had never observed anything, other than the one
17 instance you just shared with the jury, about any
18 anger even in front of him or towards him; is that
19 correct?

20 A What I said was and what is important and perhaps
21 you can understand that what I wanted was to find
22 out where Child was.

23 Q Yes, ma'am, I understand that.

24 A So I would have -- and I said what I thought needed
25 to be said to solicit the help of the Columbia

1 Police Department in helping me identify his
2 location.

3 Q Do you remember giving them a statement back on
4 December 29, 2011, about your daughter's behavior?

5 A May I see the statement?

6 Q Yes, ma'am, specifically the third line where you
7 talk about how you witnessed anger, child abuse,
8 and paranoia towards Child

9 THE COURT: Anger, child abuse, and what?

10 MS. CAMPBELL: Paranoia.

11 A The statement I wrote dated 12/29?

12 Q Yes, ma'am.

13 A Is a compilation of months into a 15 or 20-minute,
14 one-page overall.

15 Q Yes, ma'am, I don't disagree with that.

16 A What I said here was that I witnessed anger, child
17 abuse, and paranoia -- anger towards me and in the
18 presence of Child I think I told Investigator
19 Bailey that Zinah had a belt at one point.

20 We had a conversation about that, and I
21 explained to her what child abuse is. You can't
22 whoop Child It was that she had wrapped it up to
23 the tip, and she did not hit him with it, but if
24 that's what you are speaking to. If you can give
25 me a moment, I would like to read this.

1 Q That's your statement?

2 A It was written in December, yes.

3 Q And you would agree that you mention you had
4 witnessed anger and child abuse?

5 MR. PRIDE: Excuse me, Judge. She asked to
6 read the statement first.

7 THE COURT: Yes, ma'am. You may read the
8 statement. Take all the time you need, Ms. Jennings.

9 (Pause.)

10 BY MS. CAMPBELL:

11 Q So you would agree with me that is what you told
12 the police back in December?

13 A Yes, but it is -- please understand that that is a
14 summary --

15 Q Yes, ma'am.

16 A -- of what had taken place over a year.

17 Q Yes, ma'am. And you also mentioned that y'all had
18 some friends in the Heyward Brockington Road area?

19 A Yes.

20 Q That she would go visit?

21 A Yes.

22 Q What are their names?

23 A Ruth Black. Ruth Black and I worked together 20
24 years ago for many, many years. I know her family,
25 her daughter. Her granddaughter was a friend of

1 Zinah's. They went to Dreher High School together.
2 They participated in some student activities
3 together. I have on occasion -- and so has
4 Zinah -- with and without me visited the Blacks.

5 Q The Blacks?

6 A Yes.

7 Q Did you ever check with them to see whether Zinah
8 visited them that day?

9 A What I did was I got a call that there was a search
10 in that area. I was asked was I aware of it, and I
11 was not. Ruth later visited me at my home to
12 inquire, and I discussed it with her.

13 Q Okay.

14 A At the time I didn't really think about that search
15 versus the proximity to her house, but I did ask
16 her had she seen Zinah; and she could not recall
17 the last time she saw Zinah.

18 Q And finally, ma'am, do you know where ^{Child} is?

19 A I don't.

20 Q Thank you, Ms. Jennings.

21 THE COURT: Redirect?

22 MR. PRIDE: No redirect.

23 THE COURT: Thank you. Thank you very much,
24 Ms. Jennings. You may step down.

25 (Witness leaves the witness stand.)

1 THE COURT: Mr. Pride, Solicitor, if y'all
2 would step up here a moment, please.

3 (Whereupon there was a bench conference off
4 the record in the presence of the jury but out of the
5 hearing of the jury.)

6 THE COURT: Ladies and gentlemen of the jury
7 panel, again, thank you very much for your patience that
8 you have shown to the Court, the attention you have
9 shown the parties today and throughout the course of
10 this trial.

11 Momentarily I am going to release you from
12 your jury service for the remainder of the afternoon and
13 evening. Again, I must remind you. Do not discuss this
14 case with anyone, including your fellow jurors, family,
15 friends or anyone else.

16 Do not read, watch, or listen to any news
17 reports about the case. Do not use your computer or
18 cellular phone to obtain or disclose information about
19 the case.

20 Information about the case includes but is not
21 limited to the following: Information about a party, a
22 witness, an attorney, or a Court officer, news accounts
23 of the case, information collected through juror
24 research on any topics raised or testimony offered by
25 any witness, or information collected through jury

1 research on any other topic that the juror might think
2 would be helpful in deciding the case.

3 Do not do any independent investigation or any
4 investigation on the internet. With that being said,
5 you are now excused for the evening. Please be back
6 promptly at 9:30 in the morning. I hope y'all have a
7 pleasant evening. Leave your notes. The clerk will
8 secure them on the overnight hours. Thank you very
9 much.

10 (The jury is excused for the day at 5:10 P.M.)

11 THE COURT: Anything further from the State
12 before we take our recess?

13 MS. CAMPBELL: No, sir.

14 THE COURT: Defense?

15 MR. PRIDE: Nothing further, Judge.

16 THE COURT: Part of this note on the
17 transcriptions that are marked as Court's exhibit, you
18 have my permission to provide them so that it would be
19 accurate.

20 MR. PRIDE: I'm sorry, Judge. I'm not
21 hearing. What note?

22 THE COURT: This is her note, my clerk's note,
23 to me that a reporter wants a copy of the transcript of
24 the telephone calls for accuracy. I assume there is no
25 objection to that.

1 MR. PRIDE: There is none.

2 THE COURT: They are Court's exhibits. I was
3 just simply authorizing the solicitor to provide
4 transcripts.

5 MR. PRIDE: There is none, Judge.

6 THE COURT: Thank you. Thank you, Mr. Pride.

7 MS. CAMPBELL: Your Honor, can I submit
8 requests to charge tonight?

9 THE COURT: Yes.

10 MS. CAMPBELL: Thank you.

11 THE COURT: What was your question again,
12 please? Tell me your question again.

13 MS. CAMPBELL: May I submit my requests to
14 charge tonight?

15 THE COURT: Yes. Do you have any, Mr. Pride?

16 MR. PRIDE: Will have.

17 THE COURT: Tonight?

18 MR. PRIDE: Yes, Judge.

19 THE COURT: In the morning would be fine. In
20 the morning will be fine.

21 MR. PRIDE: I will have them first thing
22 tomorrow morning.

23 THE COURT: Thank you very much. Have a
24 pleasant evening. Court will be in recess until 9:30.

25 (Whereupon the proceedings are concluded for

1 September 5, 2012.)

2 (The following proceedings are reported on
3 September 6, 2012.)

4 THE COURT: Solicitor.

5 MS. CAMPBELL: May I approach. It's my
6 understanding from Mr. Pride that his first witness or
7 one of the witnesses this morning is a Dr. Moustafa, who
8 is one of the people that performed an evaluation on the
9 defendant. We would object to that testimony under
10 Santiago and the previous rulings.

11 MR. PRIDE: That's a bit premature because
12 it's not my first witness. I would appreciate if you
13 would let me proceed with my case, and then when we get
14 to Dr. Moustafa, I will cross that bridge.

15 THE COURT: Certainly.

16 MR. PRIDE: Thank you very much.

17 THE COURT: Anything further before we bring
18 in the jury, Solicitor?

19 MS. CAMPBELL: No, sir.

20 THE COURT: Anything from the defense?

21 MR. PRIDE: Nothing.

22 THE COURT: Bring the jury.

23 (The jury returns to the courtroom at
24 9:38 A.M.)

25 THE COURT: Good morning, ladies and gentlemen

1 of the jury panel. I hope y'all had a pleasant evening.
2 We are continuing the trial of the case by the
3 presentation of evidence and testimony by the defense in
4 its case in chief. With that being said, if you would
5 please continue to give the parties your complete and
6 undivided attention.

7 Mr. Pride, you may call your next witness.

8 MR. PRIDE: May it please the Court. I call
9 Laura Beaver to the stand.

10 THE COURT: If you would come around, please.

11 LAURA MARIE BEAVER, being
12 first duly sworn, testifies as follows:

13 CLERK: Have a seat in the witness stand,
14 please. State your name for the record and please spell
15 your last name.

16 THE WITNESS: My name is Laura Marie Beaver.
17 The last name is B-E-A-V-E-R.

18 **DIRECT EXAMINATION**

19 BY MR. PRIDE:

20 Q Ms. Beaver, where do you live?

21 A Ridge Court, Lexington, South Carolina.

22 Q Ms. Beaver, have you ever testified in a courtroom
23 before?

24 A Yes, many times.

25 Q And where were you previously employed?

LAURA BEAVER -- DIRECT -- MR. PRIDE

- 1 A The Columbia Police Department.
- 2 Q How long did you work for the Columbia Police
3 Department?
- 4 A Over 11 years.
- 5 Q And during that 11-year period, what were your
6 responsibilities?
- 7 A I was to enforce the law, do law prevention --
8 crime prevention -- and I was also a drug
9 enforcement officer.
- 10 Q And during that period of time -- you started at
11 what year?
- 12 A 1987.
- 13 Q And how did you leave? Did you resign?
- 14 A I left. I quit.
- 15 Q And did you quit in good standing?
- 16 A Yes.
- 17 Q Ms. Beaver, would you come down off the stand for
18 just a moment for me.
- 19 A (Witness leaves the witness stand.)
- 20 Q Can you find Zinah Jennings in this case?
- 21 A Yes. (Indicating.)
- 22 Q Do you recognize her by her face?
- 23 A Yes.
- 24 Q Have a seat, please.
- 25 A (Witness resumes the witness stand.)

1 MR. PRIDE: Let the record reflect that the
2 witness recognized Zinah Jennings.

3 THE COURT: So reflected.

4 MR. PRIDE: Or identified Zinah Jennings.
5 Thank you, Your Honor.

6 THE COURT: So reflected, yes, sir.

7 BY MR. PRIDE:

8 Q Now, were you aware of the publicity regarding ^{Child}
9 and Zinah in this case?

10 A After the fact, yes.

11 Q After the fact. When you say after the fact, you
12 mean after Zinah was arrested?

13 A Correct.

14 Q Did you recognize before -- well, after she was
15 arrested, would you agree with me that there was a
16 great deal of television --

17 A Yes.

18 Q -- and publicity about the case?

19 A Yes.

20 Q And were you aware of that?

21 A Yes.

22 Q And did you recognize the fact that you had seen --
23 first of all, let me ask you: Have you ever seen

24 ^{Child}

25 A Yes.

LAURA BEAVER -- DIRECT -- MR. PRIDE

1 Q And have you ever seen ^{Child} and Zinah Jennings
2 together?

3 A Yes.

4 Q And what kind of business are you in?

5 A I have a consignment store.

6 Q Where?

7 A In Lexington, 115-E Library Lane.

8 Q What is a consignment store?

9 A That's when people bring their objects in, their
10 goods to me, and I sell it for them.

11 Q And where did you see Zinah and ^{Child}

12 A At my store.

13 Q And when did you see them at your store?

14 A It was either the 22nd or 23rd of December.

15 Q And what was Zinah and ^{Child} doing in your store on
16 the 22nd or 23rd of December?

17 A She was shopping for a gift for her baby's daddy's
18 auntie.

19 Q And did you have any conversation with Zinah?

20 A Yes, I always talk to my customers. I ask them
21 what they are doing for the holidays, how they
22 found out about us. I had asked her what she was
23 doing for Christmas.

24 Q What did she say she was doing for Christmas?

25 A She said that she was going to Atlanta to her

1 baby's daddy's auntie's house.

2 Q And what was ^{Child} doing while Zinah had him in the
3 store?

4 A He was like any other child. There is a lot of
5 glassware and stuff. He was touching and so on. A
6 couple of times she swiped him away from that and
7 told him to stop. I told her to go ahead. I
8 always keep chairs in the front by my register, and
9 I told her, go ahead and put him in the chair, that
10 I would watch him.

11 Q And did she do that?

12 A Yes, she did.

13 Q And how would you describe ^{Child} conduct?

14 A He was a wonderful baby. He was just being a baby.
15 I mean, he wasn't doing anything different than any
16 other child that age.

17 Q And when you offered a chair for him to sit in, she
18 put him in that chair?

19 A Yes.

20 Q And did he stay in that chair?

21 A He stayed in that chair.

22 Q Did Zinah continue to shop in your store?

23 A Yes.

24 Q Do you recall what she bought?

25 A It was a small item. It was maybe a two or three

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1 dollar item. I don't recall the item itself.

2 Q And how did she pay you?

3 A Cash.

4 Q Now, do you maintain a camera in your store?

5 A I have a camera and it's wired to my computer, but
6 it wasn't recording.

7 Q And do you recognize Ms. Darwin who works with me
8 in this case?

9 A Yes.

10 Q And Ms. Darwin and I came to see you in August; is
11 that correct?

12 A Correct.

13 Q I think we came to see you twice in August?

14 A Correct.

15 Q And would you not agree that what you have told the
16 jury is what you told us that day?

17 A Yes.

18 Q Would you not agree that had we asked you to sign
19 an affidavit swearing to what you have testified
20 today, you would have signed an affidavit?

21 A Yes.

22 Q And are you sure that the child that Zinah Jennings
23 had with her was Child

24 A No doubt.

25 Q And are you sure that the person who came to your

1 store on the 22nd or 23rd of December was Zinah
2 Jennings?

3 A Positive.

4 Q Please answer any questions that the prosecution
5 may have to ask you.

6 THE COURT: Thank you. Thank you very much,
7 Mr. Pride. Solicitor.

8 MS. CAMPBELL: Beg the Court's indulgence.
9 (Pause.)

10 **CROSS EXAMINATION**

11 BY MS. CAMPBELL:

12 Q Ma'am, you have a store over in Lexington; is that
13 correct?

14 A Correct.

15 Q Where in Lexington County is it?

16 A It's behind the Lexington library, off of Number 1.

17 Q Off of Number 1?

18 A Uh-huh. (Indicating affirmative response.)

19 Q So is it close to downtown Lexington?

20 A Yes.

21 Q And that would not be in Richland County; would it?

22 A No.

23 Q And on that date -- you recall that date for what
24 reason? You have a specific memory of Zinah
25 Jennings?

1 A Uh-huh. (Indicating affirmative response.)

2 Q Let me ask you this: Had you ever seen her before?

3 A Not before that time.

4 Q So the only time that you ever observed the person
5 you have identified as Zinah Jennings and Child in
6 your store was from a one-time meeting with them --

7 A Correct.

8 Q -- at your store?

9 A Uh-huh. (Indicating affirmative response.)

10 Q And do you remember talking to the police back in
11 January of 2011 about your sighting?

12 A Yes.

13 Q You met, I believe, with Investigator Narewski.

14 Did he come to you or did you go to him? Do you
15 remember?

16 A He came to me.

17 Q And he came to you in response to you calling in
18 saying you had seen them sometime in December, you
19 thought?

20 A Uh-huh. (Indicating affirmative response.)

21 Q And at that point y'all talked about what time
22 period it was you saw them; is that correct?

23 A Correct.

24 Q And you said you had a specific memory because
25 there was another customer in the store at the same

1 time that also observed Zinah and Child

2 A Correct.

3 Q And do you remember making a phone call to that
4 customer to confirm that that date was specifically
5 that week in December that you remembered so well?

6 A I had said that there was a customer in the store.
7 I wasn't sure which one. I called one that I
8 thought was the one that came in, and she said that
9 she wasn't there. There was another one that came
10 in as she was leaving.

11 Q No, ma'am. You told the officer at the time that
12 you were sure that that witness that you called was
13 in the store at the same time as Zinah and Child as
14 you recalled it. Do you remember? Do you remember
15 telling the officer that?

16 A I said I'm pretty sure she was in.

17 Q And then you made a phone call to that witness who
18 would have confirmed the date for you, and she
19 indicated that she couldn't have been in the store
20 those dates because she was in Colorado that week?

21 A Right.

22 Q So you were wrong about the witness being in the
23 store that day that you were sure about when you
24 talked to the police officers?

25 A I had told him there was a woman in there, one of

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1 my customers. It could have been one of three
2 women that I know that I had baby-sat children.
3 She was the first one I thought that was in there.
4 Yes, my time and date on her was wrong, but on
5 Zinah there was no doubt.

6 Q And you remember this specifically some two to
7 three weeks later based on your one-time meeting
8 with the person you later identified as Zinah
9 Jennings with ^{Child} is that correct?

10 A Correct.

11 Q But when you talked to the officer, you were sure
12 this witness, who happened to be in Colorado that
13 week, was in the store? That's what you related to
14 him, and you even made the phone call in his
15 presence?

16 A I did. I made the phone call in his presence.

17 Q And she did not confirm what you just talked to the
18 officers about?

19 A Correct.

20 Q Describe Zinah. How did she look when you saw her?

21 A Her hair was pulled back. She had the big loop
22 earrings. She was wearing a jacket. It had fur
23 around the collar.

24 Q Was her hair similar to what it is today?

25 A No, it was long.

1 Q It was long. She had dark hair?

2 A No, it had a stripe going back here (indicating).

3 Q And you saw the coverage of Zinah on T.V.; is that
4 correct?

5 A I did.

6 Q Including the photographs of Zinah?

7 A I did.

8 Q And you are sure about this date, even though at
9 the time the witness who could confirm it wasn't
10 even in town, was in Colorado?

11 A Uh-huh. (Indicating affirmative response.)

12 MS. CAMPBELL: I don't have anything else.

13 THE COURT: Redirect?

14 **REDIRECT EXAMINATION**

15 BY MR. PRIDE:

16 Q Ms. Beaver, if I understand your testimony
17 correctly, when the officers came out, you were
18 wrong about the customer being in the store when
19 you called to verify; but you were certain about
20 the fact that Zinah and ^{Child} were in the store?

21 A Correct.

22 Q Is that correct?

23 A Correct.

24 Q How did the officers treat you when you reported
25 this information?

1 A I was kind of blown away. I felt when I heard that
2 she was missing or he was missing and had not been
3 seen since November, and I know had I seen him, I
4 felt like, you know, it needed to be out there that
5 he was alive at that point. He was there. They
6 needed to know.

7 So when I called him, he came up and
8 introduced himself. Anyways, he kept on looking
9 down at me like trying to look into my eyes, Oh,
10 yeah? He wasn't friendly. If I hadn't been a
11 police officer before, I would have been
12 intimidated by him. I didn't feel like he believed
13 me. I didn't feel like what I had to say was
14 important to him.

15 Q Have you got a dog in this fight?

16 A Pardon me?

17 Q Do you have a dog in this fight?

18 A No, I have nothing gain to by this, nothing at all.
19 This is wasting my time being here. I have a
20 business to run, but the truth needs to come out.

21 Q And when you called the police department, it was
22 before you called my office; is that correct?

23 A Correct.

24 Q And did they take a written statement from you?

25 A No.

1 Q Did they ask you to write your statement down as
2 they did other witnesses --

3 A No.

4 Q -- and sign it?

5 A No.

6 Q Did they ask you for an affidavit?

7 A No. As a matter of fact, I even told them the
8 chair that he had sat in was still there in the
9 front. Knowing about investigations, his D.N.A.
10 would have been on there.

11 Q And they made no effort to take that chair?

12 A No.

13 Q Now, when you say that you felt intimidated, you
14 felt intimidated by the manner in which the officer
15 looked at you?

16 A He was looking at me like I was a criminal or
17 something, like he wasn't open to conversation, you
18 know. I don't know how you put it, but he was down
19 in my face, kind of like trying to look into my
20 eyes, like to see if your body language was lying.
21 Oh, yeah? What else? You know, just not laid back
22 to what happened here, what happened there.

23 Q And did the Columbia Police Department have any
24 follow-up?

25 A No.

1 Q Never came back to see you again?

2 A No. That's why when I heard again that they were
3 still claiming that he had not been seen during
4 that time, I knew for a fact they probably didn't
5 believe me; so I called you.

6 Q Thank you very much for your testimony.

7 THE COURT: Recross, Solicitor?

8 MS. CAMPBELL: Yes, sir, just a couple of
9 questions.

10 **RECROSS EXAMINATION**

11 BY MS. CAMPBELL:

12 Q You said you had no dog in this fight, and it just
13 happens that your video didn't record at the time?

14 A It doesn't record. I have it for crime prevention.

15 Q And it just happened to be a cash transaction that
16 she made?

17 A Yes, that's pretty common in my business.

18 Q And you said you had no dog in this fight. Are you
19 aware that there was a cash reward for any
20 information about Child Jennings?

21 A Oh, I'm sure there is, but I never went after it.
22 I never called into CrimeStoppers, never did any of
23 that stuff. It isn't about the money. It's about
24 the child.

25 Q Thank you.

1 THE COURT: Thank you. Thank you very much,
2 Ms. Beaver. You may step down.

3 (Witness leaves the witness stand.)

4 MR. PRIDE: Judge, I have a matter to discuss
5 with you.

6 THE COURT: Thank you for being with us. Any
7 objection to this witness being excused from the State?

8 MS. CAMPBELL: None.

9 THE COURT: Defense?

10 MR. PRIDE: None.

11 THE COURT: You have what, sir?

12 MR. PRIDE: I have a matter of law to discuss
13 with you.

14 THE COURT: Ladies and gentlemen, if you would
15 step momentarily to your jury room. Leave your notes in
16 your chair. Do not discuss the case during this brief
17 recess.

18 (The jury retires to the jury room.)

19 MR. PRIDE: Your Honor, I flat out accuse the
20 Solicitor's Office of a violation of Brady. That was
21 exculpatory. I don't want any -- no flimsy excuses from
22 them about why they didn't give me that information.
23 They should have made a record of it. Not to make a
24 reward of it is to violate Brady.

25 That was exculpatory. They got there way

1 before I did in January, and they made no effort to
2 document the information. They made no effort to note
3 it in their voluminous investigation in this matter.

4 I mean, they've got a timeline of everything
5 they did, 41 witnesses, all the way around the clock.
6 Why did they leave this one out? Did they leave it out
7 because they had information they didn't want? Or did
8 they leave it out because they knew that it would be
9 helpful to me in my defense of my client?

10 That's a pure, unadulterated violation of the
11 Brady rule. I am certain that Ms. Campbell will offer
12 some flimsy explanation about why they didn't take the
13 explanation down. I know there is no reasonable reason
14 why they should not have taken this information down for
15 their use, first of all.

16 They did no follow-up on it. Not only that,
17 Judge, you heard the witness who is an experienced
18 police officer talk about the fact that she, as an
19 11-year police officer, felt intimidated by a police
20 officer, as if he was -- didn't want the information and
21 looked down at her as if to say, Are you sure?

22 No documentation whatsoever, no recording
23 whatsoever, no follow-up, didn't even ask for a
24 statement. Judge, I respectfully submit and move for a
25 mistrial on the grounds that the Solicitor's Office in

1 this case has clearly violated the Brady rule. Thank
2 you very much.

3 THE COURT: Thank you, Mr. Pride. Solicitor.

4 MS. GARFIELD: Thank you, Your Honor. May it
5 please the Court. The information that was just
6 testified to was documented by Investigator Steve
7 Narewski.

8 It is on page 2 of his notes, indicating he
9 wrote this down on January 6, 2012, and also followed up
10 on it January 7, 2012. This was provided to Mr. Pride
11 by me. Would you like to see a copy of it, Judge?

12 THE COURT: Yes, ma'am.

13 (Hands to Court.)

14 MR. PRIDE: Tell me what you have got first of
15 all.

16 MS. GARFIELD: The document provided to you is
17 from Investigator Narewski.

18 (Hands to Court.)

19 MR. PRIDE: Judge, would you indulge us for
20 just a moment. I want to see that document and see it
21 in the discovery.

22 THE COURT: All right, sir.

23 MR. PRIDE: Give me just a moment.

24 (Pause.)

25 MR. PRIDE: Judge, could I see your document?

1 That might help us.

2 THE COURT: Certainly.

3 MR. PRIDE: Do you want me to mark that as an
4 exhibit so we can keep up with it? .

5 THE COURT: Certainly.

6 MR. PRIDE: Can I mark it as a Court's
7 exhibit?

8 THE COURT: Yes, sir.

9 (Court's Exhibit Number 8 is marked for
10 purposes of the record.)

11 MR. PRIDE: Thank you, Judge, whenever you are
12 ready.

13 THE COURT: Mr. Pride, Court's Exhibit 8.

14 MR. PRIDE: Judge, I want to move to two areas
15 at the same time. At this time I say the Solicitor's
16 Office perjured themselves because they went before the
17 grand jury and told the grand jury that the last
18 sighting of ^{Child} was on November the 29th in Richland
19 County.

20 So if they gave -- if they say that that
21 document -- which it doesn't say, Judge. That's an
22 ambiguous document. It doesn't have Zinah's name on it,
23 doesn't have ^{Child} name on it. That's no kind of
24 notice to the defense as to the same thing that
25 Ms. Beaver told them.

1 That is not even close to what Ms. Beaver told
2 them or testified to. Now, how could they go before the
3 grand jury and tell the grand jury that the last
4 sighting of ^{Child} was November the 29th? That's sworn
5 testimony before the grand jury, and they allowed that
6 to happen.

7 And just because Ms. Garfield marched up there
8 and gave you a sheet that has the address and some vague
9 information on that sheet does not comply with the Brady
10 rule. Because what they should have done was given me
11 the testimony that Ms. Beaver gave today.

12 She says, That's what I told them. They even
13 put her to the test of trying to verify. She says, I
14 couldn't verify that the person that I told them was in
15 the store along with Zinah, but I am absolutely sure
16 that Zinah and ^{Child} were in the store that day.

17 Now, the statement, which was offered as
18 Court's Exhibit 8 doesn't come close to that kind of
19 notice. It doesn't come close to that kind of
20 information.

21 It's clear what Brady requires. It's clear
22 why Brady requires it. On the other hand, conversely
23 you can't go before the grand jury if you have
24 information. They may say, Well, we didn't believe
25 Ms. Beaver.

1 They didn't believe Ms. Beaver because they
2 didn't do a thorough investigation as they did with the
3 F.B.I. and the phone records and the food stamp card.
4 They didn't leave a stone unturned. They didn't leave
5 an I. that was not dotted. They didn't leave a T. that
6 wasn't crossed.

7 But when they found something they didn't
8 want, they summarily went over it, would not document
9 it, because they knew under Brady they were required to
10 give it to us.

11 Then, Judge, having that they went back before
12 the grand jury and got a superseding indictment and told
13 the grand jury twice the same thing: The last time we
14 saw ^{Child} was November the 29th.

15 If they try to distinguish it and say, Oh, we
16 meant Richland County, not Lexington County, that's a
17 State indictment. Thank you very much.

18 THE COURT: Thank you, Mr. Pride. Anything in
19 response, Solicitor?

20 MS. CAMPBELL: May it please the Court, Your
21 Honor. I would just note that he was provided with
22 notice of this in the document, which was provided to
23 him.

24 In that document it states that there was a
25 possible sighting of Zinah and ^{Child} in the store. That

1 document on January 6, 2012, the Narewski follow-up, it
2 gives the address where the possible sighting was; that
3 he went by the store on that day to follow up on that,
4 Your Honor, and left a card on the door; and he further
5 followed up on the next day on January 7, 2012.

6 It mentions that the investigator went to the
7 Beaver Hut, met with the owner, who believed Zinah was
8 in the store either that Tuesday or Thursday before
9 Christmas with ^{Child} which is actually what she
10 testified to.

11 At that point it goes further to make sure,
12 that the owner is unsure of the exact date. There is no
13 video in the store. While he was there, the owner
14 called a witness to conform the date, but the witness
15 was in Colorado the week that she specified they were in
16 the store.

17 Your Honor, I don't know what further notice
18 he would need as far as telling him that information.
19 Your Honor, the testimony has been there was no credible
20 evidence of any sighting. We still abide by that.

21 Since then the defense has even brought up
22 another sighting in Abbeville which was purported to be
23 the child, which was not, in fact, the child at that
24 point. That is not uncommon in these situations.

25 As far as what went before the grand jury,

1 those are secret proceedings, Your Honor. We were not
2 privy to what was actually said in the grand jury.
3 Respectfully, Your Honor, we feel like he had adequate
4 notice.

5 MR. PRIDE: They may not know what was said in
6 the grand jury room, but they know the results of the
7 grand jury meeting and what the grand jury did. They
8 offered a true bill.

9 Judge, when someone has a sighting of a child,
10 what you do is you go get a picture of Child and you ask
11 the witness, Is this the person you saw? Are you sure?
12 Or they go get a picture of Zinah and say, Is this the
13 lady that was with him?

14 Not only that, Ms. Beaver, being a police
15 officer, said -- she pointed it out to him and said, The
16 baby sat right here in this chair. Any officer would
17 have said, Will you voluntarily give me the chair? Or
18 can I go back and get a search warrant to get it. Or he
19 could have gone back to get a search warrant to get it.

20 You can't go before the grand jury and say the
21 last time that there was a sighting of Child was on the
22 29th of December [verbatim] when you have evidence,
23 clear and convincing evidence, that contradicts it. You
24 just can't do it, Judge.

25 I submit to you that they violated the Brady

1 rule and they violated -- they perjured themselves when
2 they went before the grand jury to tell the grand jury
3 the last sighting was on the 29th, when, in fact, they
4 had evidence that contradicted it. I mean,
5 November 29th was the last time that they say they saw
6 the sighting. I made a mistake.

7 THE COURT: So your objection is a Brady
8 violation. What are you wanting me to do?

9 MR. PRIDE: What does the Court do when
10 someone -- when a prosecutor -- violates Brady? What
11 are the options the Court has?

12 THE COURT: It's your motion, Mr. Pride.

13 MR. PRIDE: Well, the Court has acted sua
14 spontedly [verbatim] in other matters. You clearly said
15 to me when you see something, notwithstanding that it's
16 not raised, you have unfettered discretion to take
17 actions. I certainly would not make a recommendation
18 for the Court. I want you to do justice.

19 THE COURT: What is your motion?

20 MR. PRIDE: My motion is that they violated
21 Brady. My motion also is that they perjured themselves
22 when they went before the grand jury and told the grand
23 jury that November the 9th [verbatim] was the last
24 sighting --

25 THE COURT: November 29th.

1 MR. PRIDE: The 29th. Thank you.

2 THE COURT: And as a result of that, if I find
3 that, what are you asking me to do?

4 MR. PRIDE: Justice.

5 THE COURT: Thank you, Mr. Pride.

6 MR. PRIDE: Judge, you could exclude any
7 testimony that any police officer gave in those areas.
8 That is a remedy that is within your judicial
9 discretion, and that would take putting air back in the
10 bottle. I'm not sure you could do that.

11 But certainly when you consider the
12 totalitarian -- and that's what the Court says you do --
13 of circumstances and everything that is involved, you
14 could grant a mistrial, and I would so move for a
15 mistrial on that basis.

16 THE COURT: Thank you, Mr. Pride.

17 MR. PRIDE: Thank you, Judge.

18 THE COURT: Taking the matter of the grand
19 jury up first, the grand jury proceedings are secret in
20 South Carolina as far as county grand juries are
21 concerned.

22 I have no way of knowing what was or was not
23 said to the Richland County Grand Jury that returned a
24 true bill indictment -- actually twice -- but on the
25 amended indictment just once July 19th of 2012. With

1 that I would deny a motion based on anyone having
2 perjured themselves before the grand jury.

3 As to Brady, the standard in Brady in
4 determining whether or not a Brady violation occurred
5 with respect to exculpatory evidence or evidence to be
6 used for impeachment purposes is, number one, whether
7 the evidence in question was favorable to the
8 petitioner. The petitioner in this case is the
9 defendant.

10 Number two, whether the prosecution knew of or
11 had the evidence in its possession. Number three,
12 whether the prosecution suppressed the evidence. Four,
13 whether the evidence was material to the defendant's
14 guilt or punishment.

15 When I review Court's Exhibit Number 8 that
16 was handed up -- and as I understand, you do have a copy
17 of this?

18 MR. PRIDE: I acknowledge having a copy of
19 that in the discovery provided by the solicitor.

20 THE COURT: In Court's Exhibit Number 8, there
21 appears to be 13 different dates and times outlining
22 investigative notes of a Detective N-A-R-E-W-S-K-I of
23 the special victims unit.

24 Two of those entries are in regard to the
25 Beaver Hut, date and time, 1/6/2012, January 6, 2012,

1 5:40 hours, 5:40 in the afternoon, 1740 hours. Beaver
2 Hut, 115 Library Hill Lane, Lexington, possible sighting
3 of Zinah and Child Store closed, left card on door.

4 The entry, second entry down from there, is
5 date and time 1/7/2012, 1630 hours at Beaver Hut.

6 Owner, female, believes Zinah was in the store either
7 the Tuesday or Thursday before Christmas with Child
8 Owner is unsure of exact date. No video in store.
9 Owner called -- in parentheses -- a witness -- end of
10 parentheses -- to confirm date but the witness was in
11 Colorado the week specified.

12 Given the fact that the item was turned over
13 to the defense by the prosecution, the third prong of
14 Brady would not be met. The prosecution did not
15 suppress the evidence; therefore, there is no Brady
16 violation. Therefore, there is no basis to declare a
17 mistrial.

18 In viewing back to State versus Vaun where the
19 United States Supreme Court recognized the broad
20 discretion reserved to a trial judge in declaring a
21 mistrial, since there is no Brady violation, there would
22 not be a foundation for a mistrial.

23 Since there is no way for the Court to know if
24 perjured testimony was offered before the Richland
25 County Grand Jury, there is no basis to declare a

1 mistrial.

2 Mr. Pride's point is certainly well taken as
3 far as not having taken a statement from the witness,
4 not having followed up on any of the information, not
5 having done any forensics. But at the same time, that's
6 not a Brady violation.

7 MR. PRIDE: All right, Your Honor. Your
8 Honor, my next witness would be Dr. Moustafa, who is a
9 psychologist. He is the person that I applied for funds
10 in order to hire as an expert.

11 Ms. Campbell this morning said that she had an
12 objection. I now offer him as a witness. If you want
13 to go forward to discuss this testimony, I am in a
14 position to do that.

15 THE COURT: Are you going to offer his
16 testimony in camera?

17 MR. PRIDE: Well, I want to hear what
18 Ms. Campbell's objection was. That was not her request.
19 She stood to say she had an objection. So I would like
20 to hear that objection first.

21 THE COURT: Ms. Campbell.

22 MS. CAMPBELL: May it please the Court, Your
23 Honor. Mr. Moustafa is not the psychologist -- I don't
24 know. Anyway, Your Honor, he was hired by the defense
25 to evaluate the defendant in this case. I believe this

1 summer we were provided with a report.

2 His report goes to her mental state. Your
3 Honor, pursuant to the parameters set out in Santiago,
4 we feel like this is not admissible under the same
5 argument we have been arguing for the last six, seven
6 days. Your Honor, if you need a copy of his report, I
7 can provide it. I don't know if the Court has a copy.

8 THE COURT: I do not.

9 MS. CAMPBELL: I will get it for you.

10 THE COURT: Thank you.

11 MR. PRIDE: Your Honor, I would submit that
12 Dr. Moustafa's report was submitted because I was
13 required to submit it to them. I have not --
14 Dr. Moustafa has not given a final report in this case
15 to me; therefore, I have not submitted any additional
16 reports because I didn't have any.

17 I also would advise the Court that I have had
18 conversations with Dr. Moustafa, and he understands the
19 parameters of what he can and cannot testify to. He
20 will not testify to any mental illness that he discerned
21 during his investigation.

22 He certainly did not treat her for mental
23 illness, but he will be put on to discuss her
24 behavior -- not a mental illness. No mental illness at
25 all. No mental illness will be discussed by

1 Dr. Moustafa, at least not from any questions that I
2 will ask him. He will testify as to his findings as it
3 relates to her behavior. Thank you.

4 THE COURT: During what period of time?

5 MR. PRIDE: During the period of time from
6 September through December. Now, if you are asking me
7 did he examine her during that period of time, my answer
8 would be no, he did not. Obviously he was hired
9 subsequent to that, but he went extensively into those
10 periods from December forward also.

11 So I would submit to you that he has a
12 complete overview of Zinah Jennings and Ms. Jocelyn
13 Jennings, who he likewise interviewed. He would tell
14 you that he has read all of the reports by other doctors
15 in this case.

16 He understands that he cannot discuss their
17 findings or their treatment, but I simply mention that
18 to you to show you, first of all, that he has an
19 extensive background in this matter, having read those
20 reports, having interviewed Zinah, and having
21 interviewed the mother.

22 THE COURT: What is the purpose for which you
23 are offering the doctor's testimony?

24 MR. PRIDE: I would offer it on the
25 relevancy -- would you excuse me for one minute, Your

1 Honor?

2 THE COURT: Yes, sir.

3 (Pause.)

4 MS. CAMPBELL: Your Honor, he has given us two
5 reports. One, I think, has some typographical errors,
6 and he gave a corrected report. I haven't had a chance
7 to review which one. They may be the same.

8 (Hands to Court.)

9 THE COURT: Tell me again the purpose of the
10 doctor's testimony.

11 MR. PRIDE: To negate the mens rea of the
12 offense as charged against Ms. Zinah Jennings. Also,
13 Judge -- and I want to tell you this too so I will be
14 straight up on the table, and you will understand
15 exactly where I am going.

16 I also asked him about Court's Exhibit 2,
17 which is the recording played at the police department
18 on the 30th of December when Thomas and Bailey
19 interviewed Zinah.

20 I will ask him about her state of mind. I
21 will ask him about why in his opinion -- and I will
22 qualify him, offer him as an expert; and if he is an
23 expert, he is entitled to give his opinion -- about why
24 she gave some of the answers that she gave during that
25 examination by Mr. Bailey and Mr. Thomas.

1 THE COURT: All right. Anything further,
2 Solicitor?

3 MS. CAMPBELL: Your Honor, based on his
4 argument, we feel like it would not be permissible for
5 either the mens rea or to explain why she answered
6 certain ways.

7 MR. PRIDE: Judge, just in reply. To not
8 allow it, I would argue would be a direct violation of
9 the defendant's Fourteenth Amendment as protected by the
10 United States Constitution as to due process.

11 THE COURT: On the issue of mens rea, I think
12 Santiago, Gill, and Rieb are fairly clear on that issue.
13 It can't be offered for those purposes, and I would
14 reaffirm my rulings in that regard.

15 However, I intend to charge this jury on the
16 statement of the defendant. The statement, which is, I
17 think, as Mr. Pride pointed out, Court's Exhibit
18 Number 2.

19 Part of my charge to the jury, some of the
20 factors that they must consider in determining whether
21 or not the statement was voluntarily, they should
22 consider both the characteristics of the defendant and
23 the details of the questioning.

24 Some of the factors you must consider are the
25 age of the defendant, the defendant's education or lack

1 of education, the defendant's mental ability or
2 capacity, the defendant's I.Q. or intelligence, the
3 defendant's background and environment, the place and
4 length of detention, the nature of the questions, and
5 the advice or lack thereof to the defendant of her
6 constitutional rights, including a rendition of Miranda
7 rights.

8 In Santiago it appears that there are two
9 separate sections, a section of that appellate decision
10 marked 2 (a), Santiago's mental state during the
11 commission of the courtroom; and 2 (b), the
12 voluntariness of the statement to police.

13 The Court goes through initially a review as
14 to whether or not there was a preservation of that for
15 the appellate court to even look at. Evidently Santiago
16 was going to testify and then use Dr. Schwartz-Watts'
17 testimony to explain the manner of testifying and to
18 further explain the voluntariness of the statement.

19 In their third offer, Santiago's attorney said
20 the third and final proffer would be for her,
21 Schwartz-Watts, to explain Santiago's affect and
22 appearance in court in dealing with issuing a statement
23 as he did based on his perception of his not being well
24 treated, being messed with, his rights being violated,
25 et cetera.

1 That's the entire proffer for the record. The
2 Court stated that even if that issue was preserved, We
3 find any error in failing to allow Dr. Schwartz-Watts to
4 testify to be harmless.

5 They further on go to indicate that even
6 without Santiago's written confession, there is
7 overwhelming evidence of Santiago's guilt. Santiago, of
8 course, turned himself in at the fire station where he
9 told firemen present that he had just shot someone in
10 Hilton Head and that the weapon used in the shooting was
11 in his car.

12 He further testified at trial that he shot,
13 Wisn, W-I-S-N, on the day in question. It's not a case
14 of a perpetrator's identity at issue. It says, This is
15 not a case where the perpetrator's identity is at issue
16 or where Santiago's confession was a pivotal piece of
17 evidence.

18 Therefore, even if the trial judge erred in
19 declining to allow Schwartz-Watts to testify about how
20 Santiago's syndrome affected the voluntariness of his
21 statement, the error was harmless given the overwhelming
22 evidence of guilt.

23 Santiago, of course, was a three/two decision
24 with a very long dissent by Judge Anderson, which, of
25 course, a long opinion by Judge Anderson would not be

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1 unique.

2 I will allow you to offer the testimony in
3 camera before I rule as to only the issue of how it goes
4 to the voluntariness or those other factors, and I will
5 charge the jury on the statement of the defendant. I
6 want to hear it first.

7 MR. PRIDE: All right, Judge. Dr. Moustafa.

8 SHAKA MOUSTAFA, being
9 first duly sworn, testifies as follows:

10 CLERK: Have a seat in the witness stand,
11 please. State your full name for the record and please
12 spell your first name.

13 THE WITNESS: M-O-U-S-T-A-F-A.

14 COURT REPORTER: What is your first name?

15 THE WITNESS: Shaka, S-H-A-K-A.

16 MR. PRIDE: Your Honor, the biographical
17 portfolio of Dr. Moustafa has been delivered to the
18 Solicitor's Office. They have a copy of that.

19 IN CAMERA DIRECT EXAMINATION

20 BY MR. PRIDE:

21 Q Dr. Moustafa, where do you live?

22 A I am currently vacillating between Richland County
23 and Williamsburg County. I have a place in both
24 counties.

25 Q And what is your profession?

1 A Currently I am an owner of and a practitioner of
2 Behavior Health. I provide comprehensive behavior
3 health services over here in Richland County.

4 Q Give us your educational background.

5 A I have an earned Ph.D. from the University of South
6 Carolina, Department of Educational Psychology. I
7 taught at the University of South Carolina School
8 of Medicine for two years, the Department of
9 Neuropsychiatry and Behavior Science.

10 I have taught at the University of North
11 Carolina, Winston Salem State University, as I was
12 the department coordinator or program
13 coordinator -- pardon me -- of the rehabilitation
14 counseling program.

15 I have about 15 years of experience with South
16 Carolina Department of Mental Health, facilitated
17 quite a bit on ongoing C.E.U.s for the Department
18 of Mental Health.

19 I have also served as a disability expert for
20 the Department of Health and Human Services on
21 behalf of the University of South Carolina School
22 of Medicine, and one or two other things.

23 Q Have you also worked at the Bryant Psychiatric
24 Institute at the South Carolina Department of
25 Mental Health?

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1 A Yes. While I was pursuing my Ph.D., I was employed
2 with South Carolina -- that is South Carolina
3 Department of Mental Health, Bryan Psychiatric
4 Hospital.

5 Q And how long did you work for the South Carolina
6 Department of Mental Health?

7 A I have worked at various facilities throughout the
8 State. I think I started on July 17, 1995, up
9 until maybe 2005, give or take a year.

10 Q And you own your own business?

11 A Correct.

12 Q What is the name of your business?

13 A It's International Consultants of Health and
14 Education Psychology.

15 Q Do you have more than one office?

16 A I currently have one. I previously had two.

17 Q Where was the other one located?

18 A The other one was located across the border in
19 North Carolina.

20 Q And where is the one here in -- you also have a
21 office here in the City of Columbia?

22 A Correct.

23 Q In terms of experience now -- you have told about
24 your educational background, and you also told us
25 that you taught school at various institutions in

1 South Carolina and North Carolina?

2 A Graduate level, both master and doctorate level
3 students, yes.

4 Q And have you had the occasion to evaluate people
5 during the course of your -- in the course of your
6 profession?

7 A Correct.

8 Q How many people do you think you have evaluated?

9 A Wow, hundreds, I imagine.

10 Q Hundreds. Now, you were asked by me to help
11 prepare the defense for Zinah Jennings; is that
12 correct?

13 A My office was contacted by you. As I understand
14 it, I would be facilitating my duties on behalf of
15 the State; but, I guess, yes, I was contacted by
16 you.

17 Q And you agreed that you would perform services
18 within your field as it relates to this case
19 concerning Zinah Jennings? Is that a correct
20 statement?

21 A Yes.

22 MR. PRIDE: Judge, I would offer him at this
23 time as an expert in the field of psychology.

24 MS. CAMPBELL: For purposes of this hearing,
25 we don't have an objection.

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1 THE COURT: All right.

2 MR. PRIDE: Is that a yes?

3 THE COURT: For purposes of this hearing, she
4 has no objections. I would accept him as an expert in
5 the field of psychology.

6 MR. PRIDE: Thank you, Judge.

7 BY MR. PRIDE:

8 Q Now, in assisting in this case as it relates to
9 Zinah Jennings, who were the persons that you
10 interviewed?

11 A Ms. Jennings, Zinah, and her mother, Ms. Jocelyn.

12 Q And how many times did you interview Ms. Jocelyn
13 Jennings?

14 A I believe I met with Ms. Jocelyn twice.

15 Q And how many times did you interview Zinah
16 Jennings?

17 A I went out to Allen S. Glenn, I'm pretty confident,
18 on four occasions.

19 Q When is the last time that you went to conduct an
20 interview with Zinah Jennings?

21 A Without looking at a calendar, I would think that
22 it might have been maybe two Fridays ago. It was
23 shortly before the trial was supposed to take
24 place. Without looking at a calendar, I am pretty
25 confident it was about two Fridays ago.

1 Q Now, Dr. Moustafa, in performing your evaluations
2 in this case, did you have the opportunity to read
3 the discovery that was furnished by the Solicitor's
4 Office to me?

5 A Yes.

6 Q Also, did you have the occasion to read a
7 transcript which has been marked as Court's Exhibit
8 2, which is an interview. I show you this
9 transcript and ask you to look at it and tell me:
10 Did you read that transcript, which is an interview
11 that took place on the 30th of December at the
12 Columbia Police Department conducted by Officer
13 Thomas and Officer Bailey, as it relates to
14 questioning Zinah Jennings? Did you read that
15 transcript?

16 A I read the transcripts that you submitted to me,
17 and it was quite extensive. I'm pretty
18 knowledgeable of the information.

19 Q Now, in that transcript that you read, would you
20 describe what -- how you evaluated Zinah Jennings
21 as it related to her participation in that
22 interview?

23 A Well, my research is what is called culture
24 mistrust, some research that I had developed.

25 Q Would you start over again for me. Say that again,

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1 please.

2 A I'm sorry. I have conducted research, extensive
3 research, on what is called culture mistrust.

4 THE COURT: Mistrust, Doctor, or distrust?

5 THE WITNESS: Mistrust.

6 THE COURT: Thank you. I apologize. I can't
7 hear any better than Mr. Pride.

8 MR. PRIDE: You are in bad shape.

9 THE COURT: Speak clearly and distinctly and
10 loudly for us. That wasn't a criticism, Mr. Pride.

11 MR. PRIDE: I know that, Judge.

12 A It's called cultural mistrust. This term is
13 basically defined as a person's lack of ability or
14 inability to trust helping professions, even legal
15 systems. That's kind of what I experienced when I
16 interviewed Ms. Jennings.

17 Q In other words, you found that Ms. Jennings
18 distrusted you?

19 A She was very apprehensive. One of the things that
20 really, really jumped out at me early on is her
21 body language suggests that she was really cautious
22 in what she would say.

23 She, in fact, asked me who I was working for,
24 was I working for you or was I working on behalf of
25 the Solicitor's Office. I explained to her much,

1 like you said earlier, I don't have a dog in this
2 fight. I am just here to do an evaluation.

3 That was an attempt or an endeavor to rest her
4 or to ease her anxiety. Oftentimes when you are
5 working with a patient or someone who is
6 experiencing what we are witnessing here, the
7 person, even though we share seemingly the same
8 ethnic identity, seemingly -- we have identified
9 her as African-American -- there is a tendency to
10 not trust anyone because you are not sure exactly
11 what the information is going to be used for and so
12 on. I quickly discerned that she was a bit
13 mistrustful of even me.

14 Q When asked the question by you to Zinah, how old
15 are you, what did she say?

16 A She on one occasion gave me her age, and on another
17 occasion she said that -- I think she gave me or
18 said she was 23, I think.

19 Q Twenty-three years old?

20 A The second time.

21 Q When asked about her education, what did she tell
22 you?

23 A Prior to interviewing her, I had learned that she
24 attended Winthrop University. I learned this as a
25 result of interviewing her mother. So I asked her

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1 about her experiences at Winthrop University, and
2 she denied ever having attended Winthrop
3 University.

4 Later on during the same interview, she gave
5 me some indication that she was there after I told
6 her, I interviewed your mom and I spoke with your
7 mom. I am trying to acquire as much information as
8 I possibly can so that I can adequately come up
9 with my assessments.

10 That's when she told me that she didn't -- I
11 didn't like my experience at Winthrop University,
12 when she, in fact, denied ever even having memory
13 of being there early on. So it was some back and
14 forth with what she was reporting.

15 Q Now, Dr. Moustafa, considering the first time that
16 you conducted your interview and going through the
17 last time that you conducted your interview, which
18 would have been in August, did your relationship or
19 did the trust factor improve with Zinah? In other
20 words, during your period of time, did you make
21 any progress in improving your relationship with
22 Zinah?

23 A I think so but there was still some defense
24 mechanisms that were really, really present. I
25 think as she thought about the gravity of what she

1 is being charged with, it was reasonable to assume
2 that the lack of trust in disclosing information to
3 me was pretty much going to remain consistent to
4 some degree.

5 Q When you read what has been marked by the Court and
6 admitted as Court's Exhibit 2, which is the
7 document right before you, did you find -- how did
8 you find Zinah's behavior as it related to the
9 interview conducted by Thomas and Mr. Bailey?

10 A As I said earlier, let me reiterate. I think that
11 much of her behavior was possibly, in my thinking,
12 possibly informed by her counsel that she had the
13 right to remain silent.

14 Beyond that I would assume and I am thinking,
15 given my experience, that she had a profound sense
16 of mistrust in sharing information for the sake or
17 possibility of incriminating herself.

18 Q When people -- not when people -- but when Zinah
19 had distrust, did that reflect in her answers?

20 A It reflected in her answers. It reflected in her
21 body language, yes.

22 Q And did it also reflect in the fact that oftentimes
23 she gave answers that she knew were untruthful just
24 to give an answer?

25 A I believe that when I asked her about her

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1 experience at Winthrop University and she told me
2 that she hadn't attended Winthrop University, and
3 then when I basically allowed her to know that I
4 had knowledge of her attending that institution,
5 then she started to give me little snippets about
6 her dislike for attending that institution.

7 So that's suggests to me she was being evasive
8 about what she wanted to tell me because she was
9 not sure exactly, you know, whose side I was on,
10 even though I assured her that I am not on anyone's
11 side. I am here to do a job.

12 Q Did you ever ask her, Where is ^{Child}

13 A Several times over.

14 Q What was her response?

15 A She told me that she left the child in a safe place
16 with some friends.

17 Q Did you further up on that answer by asking her
18 where?

19 A Yes, sir, several times.

20 Q What was her response?

21 A Same response. Oftentimes -- a few times -- tears
22 would come from her eyes, but it was always the
23 same verbalization: She left him in a safe place
24 or with some friends.

25 I have even suggested that we can bring this

1 to a halt if you just cooperate, if you just tell
2 the police where he is; and she basically said the
3 same -- not basically -- she did say the same thing
4 each time.

5 Q When she cried when you followed up with those
6 answers, what was your impression? I want to ask
7 you this way. Was it because she was guilty and
8 had done something to the child? Or was it because
9 of -- what reason do you think she cried?

10 A I think that leading up to the question, I asked
11 her about her experience as a mother and as a
12 single mother, and she was telling me that it was
13 somewhat arduous, somewhat laborious to be a single
14 parent.

15 So that might have induced some emotion prior
16 to me asking the questions about his whereabouts.
17 I even asked her how did she feel about the idea
18 that the family is so concerned and everyone is so
19 concerned about where the child is, and she is not
20 cooperating. She said, He is safe. He is in a
21 safe place. I couldn't get anything else out of
22 her.

23 Q Did she give you any answer or any body language or
24 demonstrate any proclivities that resulted in your
25 opinion that harm had come to the child?

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1 A The most vivid recollection I have when I asked
2 about the child was the tears. In several cases,
3 just shutting down and just being silent for a
4 moment. I'm not exactly certain what that means,
5 you know.

6 Quite naturally, much like the person said
7 prior to me sitting here, I really wanted to find
8 out where the child was. That's my -- that was
9 always my main concern, but I'm not exactly sure.

10 I do know that she said being a single parent
11 was really challenging. That's basically what a
12 lot of single parents go through here, and perhaps
13 she was not emotionally stable enough to facilitate
14 single parenthood to the extent that others might
15 have been.

16 Q What about her relationship between Zinah and her
17 mother? Did you examine that?

18 A It seemed to have been quite a bit of friction
19 there. Zinah expressed a sense of loss and perhaps
20 even abandonment by her momma. Maybe estrangement
21 is the term. She indicated that she did not get
22 the kind of support from her mother that she would
23 have liked.

24 Conversely, when her mom came into my office,
25 she demonstrated she was really, really concerned

1 about the child. She was really concerned about
2 getting Zinah to testify or at least work with the
3 police and tell the police where the child is.

4 So I saw something different from what Zinah
5 was presenting. I even asked her if having the
6 child was too much for you or if it was too much of
7 an undertaking, why didn't you enlist the support
8 of your family? Why didn't you utilize your
9 extensive family support members for support? She
10 suggested that she did. It was obvious there was
11 some estrangement there.

12 Q And when you talked to Ms. Jennings, you found that
13 her version of being available and wanting to take
14 care of ^{Child} was diametrically opposed to what
15 Zinah had represented to you? Is that a fair
16 statement?

17 A That's a fair statement. In fact, the passion that
18 she exhibited in getting in touch with me so that
19 she can sit down and talk with me -- and I am
20 speaking of Ms. Jocelyn now -- suggested to me that
21 she was really concerned. Perhaps she was always a
22 really concerned grandmother and a good support, a
23 good support source for Zinah.

24 Q Did you conclude from your overall investigation
25 and overall counseling -- well, first of all, you

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1 were not counseling Zinah to rehabilitate her; is
2 that correct?

3 A Correct.

4 Q And you were not a treating counselor; is that
5 correct? Treating her for anything?

6 A They had a psychiatrist on site at the detention
7 center, correct. That had counselors there as
8 well, and I spoke with one of them.

9 Q So your role was purely one of an evaluator; is
10 that correct?

11 A Correct.

12 Q Did you get the impression that Zinah had low
13 self-esteem?

14 A When I met with Zinah, she was emotionally
15 distraught. I think that she was withdrawn at
16 times. I couldn't tell whether that was part of
17 her personality trait or whether it was due to
18 medication.

19 I'm not sure whether it would be fair for me
20 to suggest that she had low self-esteem; but I'm
21 not sure about that, to say that at this point,
22 based on what I saw.

23 Q When Zinah said that she couldn't receive help from
24 her mother, that was really a lie, just as Zinah
25 had told you that she didn't go to Winthrop? Is

1 that not true?

2 A You are asking me is it a lie that Zinah could not
3 receive help from her mother?

4 Q No. I am asking you, Zinah told you a lie when she
5 told you she didn't go to Winthrop. She didn't
6 tell you the truth; right?

7 A Based on what I have gathered from her mother and
8 based on what she told me the second time I asked
9 her about it, yes.

10 Q And when she told you that she couldn't get any
11 help from her mother and when you talked to her
12 mother, you found out that what Zinah said was
13 diametrically opposed to the information the mother
14 was saying; is that correct?

15 A Based on my interaction with mom, it would be hard
16 for me to believe that she was not supportive. To
17 what degree I'm not sure, but I do believe that she
18 loved and would have supported Zinah in parenting,
19 her parenting duties.

20 Q Let me ask you this: Did Zinah represent to you
21 anything else that you can relay to us that was not
22 the truth?

23 A Yes. She told me that she -- initially part of my
24 initial evaluation, I tend to ask questions, a
25 standard set of questions that you ask. I asked

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1 about her highest attainment of education, formal
2 and/or college; and she said she only went as far
3 as the seventh grade, which at that time I knew was
4 untrue.

5 She said that she didn't have too many
6 friends, and her mom suggested to me that she was
7 really kind of an approachable person. Later on
8 she talked about having friends and living in
9 Atlanta and different things that she experienced
10 there.

11 Q Did she talk to you about Atlanta at all?

12 A A little bit.

13 Q What did she tell you about that?

14 A Actually I inquired about it. I asked her did she
15 recall being incarcerated for solicitation of
16 prostitution there, and she said yes. Then she
17 explained the event.

18 I asked her how that happened, what was her
19 state of mind, what was going on with her at that
20 time. She expounded on that. I asked also about
21 any drug use during that time period.

22 Q That information, that testimony, has been excluded
23 by the Court.

24 A Okay.

25 Q Now, based on your conclusions from your evaluation

1 of Zinah and from the times that you did consult
2 with her and from your conversations with her
3 mother and from all of the discovery that you read
4 and your educational background and your experience
5 in your profession, do you feel that Zinah was a
6 person who, as you have previously said, distrusts
7 people?

8 A Was she a person that previously distrusts people?

9 Q No. I said, as you previously said, you previously
10 said that she had a distrust for people. I'm
11 asking you based on all of your experience and all
12 of things that I named, did you conclude in your
13 examination of Zinah that she was a person who
14 distrusted people?

15 A My conclusion, as it relates to what you are asking
16 me, I do believe that at this point within the last
17 year or so since she got -- since the legal matters
18 came into play -- that she has become distrustful.

19 As to whether or not she was always
20 distrustful, I don't think so. I think right now
21 she is experiencing the gravity of what is really
22 going on, which induces some sense -- a profound
23 sense of distrust.

24 Q Thank you very kindly.

25 THE COURT: Thank you. Any questions,

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1 Solicitor?

2 MS. CAMPBELL: Just a couple.

3 IN CAMERA CROSS EXAMINATION

4 BY MS. CAMPBELL:

5 Q Dr. Moustafa, I have a copy of your report. Is
6 this the only report you have? Do you want to look
7 at it? How many reports did you do in this case?

8 A I submitted one to Mr. Pride's office and there
9 were some errors in it, and I repaired it and
10 submitted it to him.

11 Q But it's substantially the same report?

12 A Pretty much.

13 Q What is the date on that report, sir?

14 A 6/27.

15 Q Does that report -- it indicates that you
16 interviewed Ms. Jennings, the defendant?

17 A Yes, ma'am.

18 Q And that you also interviewed Ms. Jocelyn Jennings?

19 A Correct.

20 Q And some of the records you reviewed?

21 A Correct.

22 Q And it also lists the information about
23 Ms. Jennings' current charges, all that next page,
24 the second into the third page, is all the
25 information you reviewed in this case?

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1 A This was, yes.

2 Q That lists a lot of -- it's a lot of different
3 statements and stuff. That lists everything you
4 reviewed?

5 A It's quite a few documents.

6 Q And that accurately reflects the documents that
7 were provided to you as part of the discovery; is
8 that correct?

9 A Yes.

10 Q Thank you.

11 MS. CAMPBELL: I don't have anything further,
12 Your Honor.

13 MR. PRIDE: I don't have any further
14 questions.

15 THE COURT: Thank you. Thank you very much,
16 Doctor. You may step down.

17 MS. CAMPBELL: Your Honor, may he be
18 sequestered while we argue this?

19 THE COURT: I'm sorry?

20 MS. CAMPBELL: May he be out of the courtroom
21 while we argue?

22 THE COURT: Certainly. Doctor, would you
23 mind -- you can just step out in the hallway if you
24 would like. Thank you very much. You are not excused,
25 but if you would step just out of the courtroom for me,

1 please.

2 (The witness leaves the courtroom.)

3 THE COURT: It appears the witness has left
4 the courtroom, Solicitor or Mr. Pride. It's your
5 objection, I take it, Solicitor.

6 MS. CAMPBELL: I'm sorry, Your Honor. Did you
7 want me to address the Court?

8 THE COURT: Yes, ma'am.

9 MS. CAMPBELL: Your Honor, it's my
10 understanding that you are allowing the testimony as to
11 the voluntariness of the statement that has been entered
12 into evidence that was dated, I believe December 30th,
13 between Investigator Thomas -- Sergeant Thomas -- and
14 Investigator Bailey and the defendant.

15 THE COURT: That's what we are addressing.

16 MS. CAMPBELL: Yes, sir.

17 THE COURT: I didn't think I could rule on it
18 until I heard the testimony.

19 MS. CAMPBELL: Yes, sir. I am just confirming
20 that is the statement.

21 THE COURT: Yes, ma'am, I agree with that.

22 MS. CAMPBELL: And, Your Honor, I would just
23 note that when asked by this man what documents he had
24 reviewed in this case, he indicated all the documents he
25 reviewed were listed on his report that is dated

1 June 27, 2012. The actual statement we are referring to
2 is not even in the documents he reviewed. That would be
3 my first argument.

4 THE COURT: I noticed that, Solicitor. Other
5 arguments?

6 MS. CAMPBELL: Your Honor, in addition to
7 that, Your Honor, as far as his testimony being tailored
8 to the voluntariness of the statement, Your Honor, as
9 long as there is no reference to any of the other
10 psychiatric records or anything, as far as what he
11 proffered, we don't have any problem with that.

12 THE COURT: Of course, I think he testified
13 specifically that he had reviewed the transcript,
14 Court's Exhibit 2. As you point out, it is not listed
15 in his report that he -- that that was one of the
16 documents that he reviewed. Wasn't Court's 2 the
17 transcript of the interview with Ms. Zinah Jennings,
18 Sergeant Thomas, and Detective Bailey?

19 MS. CAMPBELL: Your Honor, I believe he
20 testified that he reviewed many transcripts. I believe
21 he said he reviewed many transcripts provided to him
22 by -- I could be wrong, Judge -- I believe his testimony
23 was that he reviewed transcripts that were provided to
24 him by the defense, which were the ones I then clarified
25 are provided in this document.

1 THE COURT: He does have -- well, Mr. Pride,
2 it appears the solicitor has no objections to the
3 relevant testimony being offered by Dr. Moustafa --
4 correct me if I misheard -- as to the issue of
5 voluntariness of the statement.

6 MS. CAMPBELL: As long as it sticks to the
7 parameters you have outlined, yes, sir.

8 THE COURT: I will give you a copy each of my
9 charge of voluntariness of the statement, what I charge
10 the jury on voluntariness of the statement; and his
11 testimony needs to be tailored to those issues.

12 MR. PRIDE: May I approach to get them?

13 THE COURT: I will have to print them out
14 right now. I have got them in a form where they are in
15 my complete charge. I will extract them out. We will
16 take a few minutes recess while my law clerk makes
17 copies of it. I will give you a copy and Ms. Campbell a
18 copy.

19 His testimony is admissible. Now, that is not
20 to say that I have ruled on the admissibility of each
21 and every question and answer that he gave during this
22 in-camera hearing.

23 She could have -- I don't know if she would or
24 wouldn't -- but the solicitor may have objections as to
25 others on relevancy or 403. So I'm not purging any of

1 the testimony at this time, nor am I saying it's
2 admissible in its totality.

3 But that part that is relevant would be
4 relevant only to the issue of voluntariness of the
5 statement, and that would preserve the State's objection
6 in other areas.

7 Mr. Pride, I would like to have a copy of his
8 bio, résumé, or whatever --

9 MR. PRIDE: I will see that you get it.

10 THE COURT: -- number one. Number two, at
11 some point in time, I need to interview Ms. Jennings as
12 to her right to testify or not to testify.

13 MR. PRIDE: Do you want to do that now?

14 THE COURT: Well, I would like to do it at
15 some point in time to where she would still have some
16 time between me advising her and her telling me her
17 final decision. I would be glad to do it now.

18 MR. PRIDE: All right, Judge.

19 THE COURT: If you would come around to the
20 microphone for me, please, Ms. Jennings.

21 (Pause.)

22 THE COURT: Madame Clerk, would you place
23 Ms. Jennings under oath for me, please.

24 CLERK: Yes, Your Honor.

25 MR. PRIDE: Would you object if I let her sit

1 down?

2 THE COURT: I do not object as long as she
3 speaks up where I can hear her.

4 MR. PRIDE: Thank you.

5 CLERK: Please raise your right hand.

6 ZINAH JENNINGS is first duly
7 sworn.

8 THE COURT: Ms. Jennings, I need to go over
9 some things with you. I do this with everyone who is on
10 trial. I need your responses to be under oath. That's
11 why I had the clerk administer the oath. Do you
12 understand?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Tell me your full name, please.

15 JUROR: Zinah Jennings.

16 THE COURT: How old are you, Ms. Jennings?

17 THE DEFENDANT: Twenty-three years old.

18 THE COURT: How much education do you have?

19 THE DEFENDANT: Some college.

20 THE COURT: As you know, we have reached the
21 stage of the trial where the State has already rested,
22 and your attorney has called witnesses on behalf of the
23 defense. Do you understand where we are at in the
24 trial?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: In that regard, of course, the
2 defense may continue to call witnesses to testify. If
3 you choose to testify yourself, you may do so. Do you
4 understand?

5 (Pause.)

6 THE DEFENDANT: Yes.

7 THE COURT: Speak up.

8 THE DEFENDANT: Yes, I understand.

9 THE COURT: Let me say this. Any time while
10 I'm asking you these questions, any time you want to
11 speak with your attorney, all you have do is notify me;
12 and I will allow you to do so. Do you understand?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Ms. Jennings, no one can force you
15 to testify. You have an absolute right to remain
16 silent. And if you choose not to testify, I will tell
17 this jury that they cannot hold your silence against you
18 in any way. I will tell them they are not to even
19 discuss that in the jury room. Do you understand?

20 THE DEFENDANT: Yes.

21 THE COURT: Does Ms. Jennings have any
22 criminal record that would subject her to impeachment
23 under Rule 609?

24 MR. PRIDE: None that I know of.

25 THE COURT: Do you affirm that, Solicitor?

1 MS. GARFIELD: Yes, sir.

2 THE COURT: Thank you. Thank you very much.
3 That would not be an issue.

4 Ms. Jennings, the decision about whether you
5 testify or not is your decision to make and yours alone.
6 It's your call. Do you understand?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: I expect that you have conferred
9 with your attorneys or perhaps with other whose opinions
10 you value on important decisions, but the ultimate
11 decision about whether you testify or not is your call
12 to make. Do you understand?

13 THE DEFENDANT: Yes.

14 THE COURT: Has anyone exercised any undue
15 influence over you to get you to choose to testify or
16 not to testify?

17 (Pause.)

18 THE DEFENDANT: No.

19 THE COURT: In other words, is anyone twisting
20 your arm to say, Ms. Jennings, I want you to testify or
21 is anybody twisting your arm to say, I don't want you to
22 testify?

23 THE DEFENDANT: No, sir.

24 THE COURT: Today are you under the influence
25 of any drug, alcohol, medication, or anything that

1 negatively affects your thinking ability?

2 MR. PRIDE: Judge, you know that she is under
3 pain medication.

4 THE COURT: Yes, sir.

5 MR. PRIDE: I have no idea of the name of the
6 medicine that she's under.

7 THE COURT: Yes, sir.

8 MR. PRIDE: I did learn, I think, along with
9 you that the medicine that she is under has a 12-hour
10 expansion. In other words, you take it every 12 hours.
11 I don't know when she took it this morning, but I do
12 know that during the course of the trial that I have had
13 the occasion to have to ask her information that I
14 needed relevant to her defense.

15 I do know that her responses have been
16 intelligent, and I do know based on the questions I
17 asked her she did understand what I was asking her. So,
18 Judge, notwithstanding the fact that she has taken the
19 medicine, I have no inclination from my client that it
20 has -- it's affecting her mental ability or has an
21 overwhelming effect on her as a defendant.

22 THE COURT: The medication she's taking is
23 prescribed medication?

24 MR. PRIDE: That is my understanding. I don't
25 know that. I know that second handedly. I have never

1 seen it.

2 THE COURT: And she is taking it according to
3 the prescription?

4 MR. PRIDE: She is supposed to take it with
5 the Alvin S. Glenn Detention Center being in charge of
6 administering it. I think it's a nurse. That's as much
7 as I know.

8 THE COURT: Ms. Jennings, you heard what
9 Mr. Pride just told me concerning your medication; is
10 that correct?

11 THE DEFENDANT: Yes.

12 THE COURT: And you understand what you are
13 doing today?

14 THE DEFENDANT: Yes.

15 THE COURT: You understand where we are at in
16 the trial?

17 THE DEFENDANT: Yes.

18 THE COURT: And you understand I am talking to
19 you now, asking you questions now about your right to
20 testify or not to testify?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Is anything today, physically or
23 mentally, affecting your thinking today in a negative
24 manner?

25 THE DEFENDANT: No.

1 THE COURT: Do you have any questions you
2 would like to ask me about your right to testify or not
3 testify?

4 THE DEFENDANT: No.

5 THE COURT: All right. I'm not going to ask
6 her any other questions at this time. I will take a
7 recess. She will have an opportunity to think, perhaps
8 over the break. I will talk with her attorneys again
9 concerning that matter, and I will ask her her decision
10 at a later point in the trial.

11 Thank you. Thank you very much, Ms. Jennings.

12 MR. PRIDE: Judge, as you saw during your
13 conversation with the defendant, there were many
14 occasions where we paused, and those pauses were so that
15 I could discuss with her your question to make sure that
16 she was understanding it and that she was giving a
17 correct answer.

18 On many occasions, as you spoke with her, I
19 likewise spoke with her just to double-check to make
20 sure that what she was saying was in response to your
21 answer and that she did understand.

22 THE COURT: Any of my questions you did not
23 understand, Ms. Jennings?

24 THE DEFENDANT: No.

25 THE COURT: Thank you. Thank you very much.

1 I will ask her at a later stage what her ultimate
2 decision is. Here is the copy of my charge on
3 statements of the defendant, one for the defense, one
4 for the State. If you would get me Dr. Moustafa's
5 biography or résumé to me. We will take a 15-minute
6 recess. Thank you very much.

7 (Whereupon there is a recess.)

8 THE COURT: Anything from the State before we
9 bring in our jury, Solicitor?

10 MS. CAMPBELL: No, sir.

11 THE COURT: Defense?

12 MR. PRIDE: Your Honor, we are not going to
13 call any additional witnesses, and the defense rests.

14 THE COURT: Let me talk with Ms. Jennings. If
15 you would bring her around, please.

16 (Pause.)

17 THE COURT: Ms. Jennings, we talked a few
18 minutes ago. You are still under oath. Do you
19 understand?

20 THE DEFENDANT: Yes.

21 THE COURT: We talked a few minutes ago about
22 your right to testify or not to testify. We have had a
23 few minutes break. Do you have any questions you would
24 like to ask me about your right to testify or not to
25 testify?

1 THE DEFENDANT: No.

2 THE COURT: Have you made a decision about
3 whether you are going to testify or not?

4 THE DEFENDANT: Yes.

5 THE COURT: What is your decision? Are you
6 going to testify?

7 THE DEFENDANT: No.

8 THE COURT: So your decision is you are not
9 going to testify; is that correct?

10 THE DEFENDANT: Yes.

11 THE COURT: Is that your own decision?

12 THE DEFENDANT: No.

13 THE COURT: Is that your own decision? Is
14 this a decision you made?

15 MR. PRIDE: Judge, time. I want to talk to
16 her.

17 THE COURT: All right.

18 (Pause.)

19 MR. PRIDE: I'm ready.

20 THE COURT: Is that your decision?

21 THE DEFENDANT: Yes.

22 THE COURT: Made of your own free will and
23 accord?

24 THE DEFENDANT: Yes.

25 THE COURT: It's your call?

1 THE DEFENDANT: Yes.

2 THE COURT: And you do not want to testify?

3 THE DEFENDANT: Correct.

4 THE COURT: Finally, do you have any questions
5 you would like to ask me about your right to testify or
6 not to testify?

7 THE DEFENDANT: No.

8 THE COURT: Thank you. Thank you very much.

9 MR. PRIDE: Just before she moves, Judge, I do
10 want to note that her decision not to testify was made
11 in consultation with her lawyer. Based on that
12 consultation, she derived the answer that she gave you,
13 which was no, I do not want to testify.

14 THE COURT: Is that correct, Ms. Jennings?

15 THE DEFENDANT: Yes.

16 THE COURT: I have given her an additional
17 opportunity previously to talk with her defense counsel.
18 I make a finding that the decision not to testify is her
19 own decision, made freely, knowingly, and voluntarily.

20 Thank you, Ms. Jennings. You may return to
21 your seat.

22 (Pause.)

23 THE COURT: Mr. Pride, you will have to
24 formally rest -- yes, Solicitor, did you have something
25 additional?

1 MS. GARFIELD: Just in light of him resting,
2 Judge, the State would be calling two brief reply
3 witness, one of which is not on our witness list,
4 Investigator April Merrill.

5 MR. PRIDE: And who is the other one?

6 MS. GARFIELD: Investigator Narewski.

7 THE COURT: I didn't hear you.

8 MS. GARFIELD: Investigator Narewski.

9 THE COURT: Mr. Pride, you will have to
10 formally rest in front of the jury.

11 MR. PRIDE: I will.

12 THE COURT: Then I will note your motions for
13 the record. I take it you would have a motion at the
14 point in which you rest?

15 MR. PRIDE: That is correct.

16 THE COURT: And rather than send the jury back
17 out, I would like to just note your motion for the
18 record. I will hear it after the completion of the
19 State's reply testimony if you have no objections.

20 MR. PRIDE: I have none.

21 THE COURT: Anything before we bring our jury
22 back then additional from the State?

23 MS. GARFIELD: No, sir.

24 THE COURT: From the defense?

25 MR. PRIDE: Nothing from the defense.

1 (The jury returns to the courtroom.)

2 THE COURT: Mr. Pride, you may call your next
3 witness.

4 MR. PRIDE: May it please the Court, Your
5 Honor, Laura Beaver, who was the last witness to
6 testify, will be the last witness. The defense rests in
7 this case.

8 THE COURT: Thank you. Thank you very much,
9 Mr. Pride. Motions are noted for the record, Mr. Pride.

10 MR. PRIDE: All right, Your Honor.

11 THE COURT: I will hear those at a later time.

12 Ladies and gentlemen, you have now heard all
13 the evidence and testimony you are going to hear on
14 behalf of the defense in this case. Please remember the
15 State always has the burden of proving its case beyond a
16 reasonable doubt. The defendant is presumed to be
17 innocent throughout the course of these proceedings.

18 The State may now offer reply testimony.
19 Reply testimony is generally testimony that is offered
20 to reply to specific areas that might have been brought
21 before the jury during a defendant's case. So we will
22 now turn our attention to the State and ask: Will the
23 State be presenting any reply testimony in this case?

24 MS. GARFIELD: Judge, we have two brief
25 witnesses.

1 THE COURT: Were both of these witnesses named
2 on the witness list, Solicitor?

3 MS. GARFIELD: Judge, one was not,
4 Investigator April Merrill with the Columbia Police
5 Department.

6 THE COURT: April Merrill, an investigator
7 with the Columbia Police Department, will be one of the
8 two reply witnesses. Of course, I go back to those
9 questions I asked you Monday a week ago.

10 Is any member of the jury panel related by
11 blood or marriage, close personal friends, have any
12 business, professional, or social relationship with
13 Investigator April Merrill with the Columbia Police
14 Department? If so, please stand.

15 (There is no response.)

16 THE COURT: No one stands. With that being
17 said, Solicitor, you may call your first witness.

18 MR. PRIDE: Judge, could we approach for just
19 one second?

20 THE COURT: Yes, sir.

21 (Whereupon there was a bench conference off
22 the record in the presence of the jury but out of the
23 hearing of the jury.)

24 THE COURT: Solicitor, you may call your first
25 witness.

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1 MS. GARFIELD: Thank you, Judge. The State
2 recalls Investigator Narewski.

3 THE COURT: If you would come around, please.
4 You are still under oath.

5 STEPHAN NAREWSKI, having been
6 previously duly sworn, resumes the witness stand and
7 testifies as follows:

8 **DIRECT EXAMINATION**

9 BY MS. GARFIELD:

10 Q Investigator Narewski, among the duties you were
11 assigned in the investigation trying to find ^{Child}
12 Jennings, did you receive a tip from a Ms. Beaver?

13 A That is correct.

14 Q And can you explain to the jury how you received
15 that tip?

16 A Sergeant Thomas would meet with us a minimum of
17 twice a day giving us tasks for the day, in
18 addition to any that we were previously working. I
19 was on night shift that week.

20 I remember Sergeant Thomas and I meeting. I
21 don't remember what day the 6th or 7th of January
22 was. So excuse me if I don't remember the exact
23 day, but I do remember having a conversation with
24 him.

25 He had mentioned we had gotten a tip from the

1 Beaver Hut. I then did research on Google, found
2 an address for the Beaver Hut, went out there in
3 the evening hours. It was close to dark. No one
4 was there.

5 So I placed -- I wedged my business card
6 between the door and the frame and left it so that
7 that way if the person saw it, they would call me
8 at my office.

9 Q What type of business was this?

10 A It's a consignment shop. They sell used goods for
11 other people.

12 Q Okay. And did you ever receive a phone call from
13 anyone from that business?

14 A I do not remember receiving a phone call. I
15 remember going back the next day on my way to work.

16 Q And what did you discover when you got to that
17 location?

18 A When I got to that location, Ms. Beaver was there.
19 The business was open. I noticed a lot of used
20 goods throughout the store with labels on them for
21 sale.

22 Q Did she report anything to you concerning Child
23 Jennings?

24 A Yes. She said that she had sighted Child and Zinah
25 in the store, and she gave me the time frame. It

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1 would have been a Tuesday or Thursday before
2 Christmas. She had stated that Zinah had bought
3 something. She also indicated that she would have
4 a paper record of that.

5 It's funny. In my youth I used go buy repair
6 parts for cars, and they always had little metal
7 thing with the little handle. The next form would
8 come up, and it would leave the copies in but tear
9 the top copy off and give it to me.

10 She had that. She went through selected
11 papers of that date range, went through those
12 papers, could not find the transaction she was
13 indicating.

14 She then told me that there was -- my case
15 notes indicated -- there was a witness that would
16 have been in the store at the time and had seen the
17 mother and child there at that time frame.

18 She then went through a stack of business
19 cards that were in a little box, went through a
20 stack of business cards, selected a name, dialed
21 that person.

22 That person, by way of relay from Ms. Beaver,
23 I was given information that that person could not
24 have been in the store. They were in Colorado on
25 vacation that week.

1 Q On the week that apparently Ms. Jennings and her
2 child were seen?

3 A The Tuesday, Thursday in the Christmas time frame.

4 Q And at that time what conclusion did you make in
5 your investigation?

6 A If I may continue. She also indicated that the
7 child had sat in a chair along the front end of the
8 counter of the business. Knowing it was a used
9 chair, I knew that testing it for anything would be
10 pointless because too many people would have had
11 access to it.

12 MR. PRIDE: Judge, that is sort of expert
13 testimony. He is not qualified to make that decision.
14 I object to it.

15 THE COURT: It's not being offered as expert
16 opinion. It can be offered as part of his
17 investigation -- why he did not do or why he did -- what
18 he did as part of his investigation, solely for that
19 purposes only, not as an expert opinion.

20 BY MS. GARFIELD:

21 Q Investigator, did you find what Ms. Beaver told you
22 to be credible?

23 A I did not based on --

24 THE COURT: I'm not going to allow that
25 question.

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1 MS. GARFIELD: Thank you, Judge.

2 THE COURT: The jury is the determiner of the
3 facts in this case and not the witnesses.

4 MS. GARFIELD: Yes, sir.

5 THE COURT: And credibility.

6 MS. GARFIELD: Beg the Court's indulgence.

7 (Pause.)

8 BY MS. GARFIELD:

9 Q Thank you, Investigator. Answer any questions the
10 defense has for you.

11 THE COURT: Thank you, Solicitor.

12 **CROSS EXAMINATION**

13 BY MR. PRIDE:

14 Q It's a good thing you didn't go to Florida; isn't
15 it? You have been in this courtroom throughout the
16 trial of this case; is that not correct?

17 A A significant portion of it. I did miss a day or
18 two.

19 Q And certainly it would be fair to say that you were
20 present when Ms. Beaver testified?

21 A That is correct.

22 Q And you heard her testimony?

23 A That is correct.

24 Q And, Officer, when Ms. Beaver gave you a
25 description of Zinah, what description did she give

1 you?

2 A She described her exactly as the picture that was
3 in the news.

4 Q How was that?

5 A The blue streak in the hair wearing the dark
6 clothing and the light-skinned female.

7 Q What description did she give you of Child

8 A She told me the child was approximately 18 months
9 to two years old.

10 Q And did you get any photographs of Zinah and say --
11 put them in a lineup? In other words, you know how
12 to do a lineup. You take the defendant's
13 photograph. Then you take other photographs. You
14 say to a person who is making an identification,
15 Can you pick out the person that you say you saw?
16 Did you do that?

17 A No, sir.

18 Q And did you get a photograph of Child and other
19 children of that same age, color, height, and put
20 them in a lineup and say, Ms. Beaver, can you pick
21 out that picture?

22 A No, sir.

23 Q And you say that you didn't pick the stool up
24 because you felt that it was an old stool, and that
25 it could not have been processed?

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1 A I didn't say not processed. I said it would not
2 have been able to be processed because it would
3 have been contaminated by other people.

4 Q Well, did you ask Ms. Beaver, Had anybody else sat
5 in that chair since Child had?

6 A No, sir.

7 Q Did you ask Ms. Beaver whether anybody else to her
8 knowledge had touched that chair since Child had sat
9 in it?

10 A No, sir.

11 Q And you do know that S.L.E.D. has perhaps the most
12 sophisticated testing apparatuses in the State; is
13 that not correct?

14 A I'm quite familiar with their capacity, sir.

15 Q Not only that, how many years have you been an
16 officer?

17 A I have been with the City of Columbia for 12 years.

18 Q And prior to that what did you do?

19 A Twenty-three years in the Army as a mechanic.

20 Q Sir, I'm sorry?

21 A I was a mechanic in the Army for 23 years.

22 Q So as a 12-year officer, certainly you have been
23 taught how to gather evidence; is that not correct?

24 A Yes, sir.

25 Q And did you ask Ms. Beaver to please write down her

1 statement, as we have all of these other witnesses
2 that testified for the prosecution? Did you say,
3 Ms. Beaver, I would like a statement from you. I
4 would like you to write a statement of what you
5 saw, when you saw it, and exactly reduce that to
6 writing? Did you do that?

7 A Sir, based on her not being able to give a credible
8 sighting of ^{Child} and being unable to confirm it by
9 way of her own paper trail and her phone call, I
10 did not.

11 Q When you say a credible sighting, you say -- I
12 asked you to give the descriptions that you said
13 she gave you. Am I mistaken that the descriptions
14 that she gave you fitted ^{Child} and Zinah?

15 A Sir, she contacted us based on what she saw in the
16 news; however, when I got there, the basis for her
17 contacting us did not come together for us.

18 Q Let's go back. The first question to you was: Did
19 you ask her to write a statement?

20 A No, I did not, sir.

21 Q And the second question I asked you was: Didn't
22 she give you a description when you went out there
23 and asked her, Ms. Beaver, what did you see? She
24 described Zinah; didn't she? You just told me a
25 light-skinned lady with blue and red hair. Didn't

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1 she describe Zinah?

2 A Yes, sir.

3 Q And the description that you said she gave you
4 described ^{Child} didn't it --

5 A Yes, sir.

6 Q -- didn't it?

7 MR. PRIDE: I don't have any further
8 questions.

9 THE COURT: Redirect, Solicitor?

10 MS. GARFIELD: No, sir.

11 THE COURT: Thank you. Thank you very much,
12 Officer. You may step down.

13 (Witness leaves the witness stand.)

14 MS. GARFIELD: May he be excused?

15 MR. PRIDE: Certainly.

16 THE COURT: Yes, sir, you may be excused.

17 Solicitor, you may call your next witness.

18 MS. GARFIELD: Thank you, Your Honor. The
19 State calls Investigator April Merrill.

20 APRIL MERRILL, being
21 first duly sworn, testifies as follows:

22 CLERK: Have a seat in the witness stand,
23 please. State your full name for the record and please
24 spell your last name.

25 THE WITNESS: Investigator April Merrill,

1 M-E-R-R-I-L-L.

2 DIRECT EXAMINATION

3 BY MS. GARFIELD:

4 Q Investigator Merrill, please tell the jury where
5 you are employed.

6 A The Columbia Police Department.

7 Q What are your duties with the police department?

8 A I am a member of the special victims unit in the
9 investigation division.

10 MR. PRIDE: I'm sorry, Judge. I just cannot
11 hear her. I will move up.

12 THE COURT: Yes, sir.

13 BY MS. GARFIELD:

14 Q I need you to speak up a little bit. How long have
15 you been with the special victims unit?

16 A Approximately three years.

17 Q And did you have any involvement in the
18 investigation of Zinah Jennings and finding ^{Child}
19 Jennings?

20 A I did.

21 Q Can you explain --

22 THE COURT: Have her pull the microphone a
23 little bit closer or get closer to it, Solicitor. Thank
24 you.

25 BY MS. GARFIELD:

APRIL MERRILL -- DIRECT -- MS. GARFIELD

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1 Q Can you explain to the jury what your role in this
2 investigation was?

3 A Some of the things that I would do is follow up on
4 tips that we may get, different things. I would
5 contact other law enforcement agencies. I also
6 contacted --

7 COURT REPORTER: I'm sorry. I cannot hear and
8 I'm sitting right here.

9 MR. PRIDE: I'm glad somebody else can't hear
10 because I sure can't hear.

11 A I contacted other law enforcement agencies to
12 follow up on different tips. I also contacted
13 N.C.M.E.C., the National Center for Missing and
14 Exploited Children, for them to distribute flyers
15 throughout Georgia, South Carolina, and North
16 Carolina.

17 Q Did you specifically become involved in a tip from
18 Abbeville here in South Carolina?

19 A I did.

20 Q About when was that?

21 A Around June 22nd of this year.

22 Q Just explain to the jury what the nature of that
23 tip was.

24 A I was given a name and phone number, Katherine or
25 Kathleen Kapsalis -- excuse me for the

1 pronunciation -- it's K-A-P-S-A-L-I-S. I spoke to
2 her by phone, a call on the 22nd.

3 She states that she was at Marino's Pizza in
4 Abbeville. She remembers a huge corner booth, and
5 she remembers three adults and two young girls and
6 a little boy.

7 She said the adults were two black females and
8 a black male. She said that she noticed they left
9 abruptly when people started looking at them. She
10 also stated --

11 MR. PRIDE: Excuse me, Judge. Can we
12 approach?

13 THE COURT: Yes, sir.

14 (Whereupon there was a bench conference off
15 the record in the presence of the jury but out of the
16 hearing of the jury.)

17 THE COURT: Thank you, Solicitor. You may
18 continue.

19 BY MS. GARFIELD:

20 Q Investigator Merrill, what was the significance of
21 the sighting of this family and small child?

22 A Ms. Kapsalis believed that she had seen ^{Child} at
23 Marino's Pizza. She said one of the reasons she
24 believed that is that she heard an adult woman in
25 the group that was sitting at the corner booth say,

APRIL MERRILL -- DIRECT -- MS. GARFIELD

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1 Hush, hush, be quiet. The little boy was saying,
2 Don't let them tie me down and hurt me.

3 Q And based on this report that you received, what
4 did you do?

5 A I contacted Abbeville Police, a Lieutenant Wilkie.

6 Q And what did you instruct them to do?

7 A I asked them to go to Marino's Pizza to see if they
8 could get video or if they could talk to anyone
9 that was there, potential witnesses.

10 Q And as a result of your direction to the Abbeville
11 Police Department, what resulted from that?

12 A I got an e-mail from, I believe, it's Lieutenant
13 Wilkie from the Abbeville Police Department. I
14 believe another investigator actually went to
15 Marino's Pizza.

16 They made contact with the owner, who stated
17 their video system, something was messed up. So it
18 was not making recordings. He also stated that the
19 waitress who was there that same time remembered
20 the group and said the little boy appeared to be
21 five or six years old.

22 Q Are you familiar, as of June of this year, what age
23 Child Jennings would have been?

24 A I believe he would have been around two years old.

25 Q Thank you, Investigator Merrill.

1 MS. GARFIELD: Nothing further.

2 THE COURT: Mr. Pride.

3 CROSS EXAMINATION

4 BY MR. PRIDE:

5 Q Investigator, when you checked with the restaurant
6 owner in Abbeville, the tape recording wasn't
7 working in that restaurant?

8 A That's my understanding. I did not go to Abbeville
9 myself. Abbeville Police actually went out and
10 made contact.

11 Q Do you have a report in front of you that you are
12 reading from?

13 A I have handwritten notes. There is an e-mail that
14 I believe the solicitor has.

15 Q So there was some paper trail --

16 A Yes, sir.

17 Q -- generated as a result of that sighting in
18 Abbeville; is that correct?

19 A Yes, sir.

20 Q And the paperwork that was generated is an official
21 part of the file; is that not correct? In other
22 words, that's in the file regarding the
23 investigation of the missing of Child Would you
24 not agree?

25 A I would assume it is. I don't know. That's my

1 documentation.

2 Q That's generally what happens if you have
3 something --

4 A I wouldn't know.

5 Q How long have you been a police officer?

6 A About nine years.

7 Q Nine years?

8 A Yes, sir.

9 Q And how long have you been working missing persons?

10 A I don't necessarily work missing persons. I work
11 the special victims unit. That includes missing
12 persons.

13 Q When you work the special victims unit, if you have
14 any notes or have any reports, they do go into a
15 file; is that correct?

16 A Yes, sir, I was not the lead investigator, simply
17 looking up tips.

18 Q Okay.

19 A So I'm not sure necessarily for some of the tips,
20 if they rule them out, if Investigator Bailey would
21 have included them.

22 Q Thank you very much.

23 THE COURT: Redirect?

24 MS. GARFIELD: No, sir.

25 THE COURT: Thank you. Thank you very much,

1 Officer. You may step down.

2 (Witness leaves the witness stand.)

3 MS. GARFIELD: May she be excused, Judge?

4 THE COURT: You may be excused. You may call
5 your next witness, Solicitor.

6 MS. GARFIELD: No further witnesses, Judge.

7 THE COURT: Thank you. Thank you, Solicitor.

8 Mr. Pride, I learned a hard lesson many years
9 ago that there is such a thing as sur-reply. Do you
10 have any evidence or testimony the defense intends to
11 present in sur-reply?

12 MR. PRIDE: I don't have any; and if I don't
13 have any, I can't present any.

14 THE COURT: Thank you. Thank you very much,
15 Mr. Pride.

16 With that, ladies and gentlemen, you have
17 heard all the evidence, all the testimony that you are
18 going to hear from both the State and the defense in
19 this case.

20 Ladies and gentlemen of the jury panel, at the
21 point we are at in the trial now, the next stage of the
22 process is the Court has to hear certain motions and
23 matters of law.

24 After the Court hears motions and matters of
25 law, depending on particular rulings, we would then go

1 into the closing arguments by the attorneys. I will
2 explain more in detail the procedure we follow on the
3 closing arguments by the attorneys.

4 But once the closing arguments are completed,
5 I will then charge the jury or instruct the jury on the
6 law that applies in this case. The case will then be
7 submitted to you for your deliberations and for your
8 verdict.

9 I realize I have held you captive throughout
10 these two weeks for periods of time well beyond your
11 patience, I'm sure, in the jury room. I will try to
12 avoid that now.

13 I am going to hear the motions while you take
14 your luncheon recess and give you a little bit of an
15 extended luncheon recess. So hopefully upon your
16 return, we would then be in a position to begin those
17 closing arguments.

18 So during this luncheon recess, please
19 remember, do not discuss this case with anyone: Your
20 fellow jurors, lunch mates, family, friends, or anyone
21 else.

22 Do not watch, listen to, or read any news
23 accounts of the case. Do not use your computer or
24 cellular phone or any other electronic device to do any
25 research or obtain or disclose information about the

1 case when you are not in court.

2 Information, as you well know, includes but is
3 not limited to: information about a party, a witness,
4 an attorney, or a Court officer, news accounts of the
5 case, information collected through juror research on
6 any topics raised or testimony offered by any witness,
7 or information collected through juror research on any
8 other topic that you might think would be important in
9 deciding the case.

10 As I have stated to you before, you decide the
11 case based on the evidence and the testimony presented
12 from the witnesses testifying under oath in this
13 courtroom before you and the law as I tell you the law
14 is.

15 I would ask you to please be back at
16 2:00 o'clock. If you would please be back promptly at
17 2:00 o'clock. If you would leave your notes upside-down
18 on your chair, they will be secured during this recess.
19 I hope y'all have a pleasant lunch. Thank you very
20 much.

21 (The jury is excused for lunch at 12:05 P.M.)

22 THE COURT: Mr. Pride, you have motions?

23 MR. PRIDE: I do, Your Honor.

24 THE COURT: I would be glad to hear from you.

25 MR. PRIDE: Judge, first off, I would like to

1 renew all of the motions that I previously have made for
2 a mistrial, verbatim as they -- as if I am saying them
3 again as I said them before.

4 THE COURT: Yes, sir.

5 MR. PRIDE: Second of all, Your Honor, I want
6 to request a directed verdict or in the alternative a
7 verdict of acquittal from the Court. Judge, let me call
8 your attention to something too that stuck in my mind
9 that I saw really and read, read, read for the first
10 time last night.

11 When it comes to the definition of child abuse
12 or neglect in the statute -- and that statute of 73-7-20
13 is a defining statute of the offense that Zinah is
14 charged with.

15 In that section, under Section 4, it says that
16 child abuse or neglect: That there must be a showing
17 and that the State must prove physical or mental
18 injury -- then it goes on and says -- or endangerment.
19 It still says present a substantial risk of physical and
20 mental injury to the child.

21 Now, Judge, you have recited correctly in the
22 record the testimony from the witnesses as it relates to
23 squeezing of the hands, the alleged kicking of the child
24 in the back.

25 Notwithstanding that incredulous testimony

1 from those witnesses, there is no injury proven by the
2 State to Child in this case; and therefore the State's
3 case certainly fails for lack of proof. Also, Your
4 Honor, under the statute of abandonment, there is the
5 element of willful abandonment, which is a step higher,
6 Judge.

7 I think about an abandoned car. That's sort
8 of a nuisance and a problem oftentimes for people who
9 have an old car, and they will go out in the woods; and
10 they will stick it there and walk away with no
11 intentions of ever coming back to get it because they
12 are really just getting rid of it.

13 But there is no testimony in this case that
14 could possibly rise to the level of abandonment on the
15 part of Zinah. Each time she was asked about the child,
16 whether it be from Dr. Moustafa, to the interrogation on
17 the 30th that took place down at the Columbia Police
18 Department, the 30th of December by Mr. Thomas and
19 Mr. Bailey, or whether it be Ms. Jennings, Ms. Jocelyn
20 Jennings' inquiry or discussions at the jail, the answer
21 was always the same:

22 Child is in a safe place. Child is in a safe
23 place. They don't have anything to contradict that.
24 They don't have the child. There is no physical injury.
25 No one has alleged that Child suffered a physical or

1 mental injury.

2 The only time a witness has talked about an
3 injury is when Mr. Bailey, who is the lead investigator
4 in this case, erroneously described a sore, a cold sore,
5 on Child upper lip as an injury. I say that,
6 erroneously described, because there is a big difference
7 between an injury and a sore.

8 I mean, there is no connection at all in this
9 case, Judge, between any physical or mental injury done
10 to Child What we have, Judge, is a missing child and a
11 mother who, within the province of her constitutional
12 rights, won't tell the police where the child is.

13 There have been several explanations that can
14 be pointed to. Number one, Mr. Thomas told her, We will
15 get D.S.S., and she didn't want D.S.S. to have the baby.
16 As a matter of fact, she didn't want her own mother to
17 have the baby. She was possessive. She didn't want the
18 father of the child to have the baby.

19 Judge, there is no evidence in this case. You
20 have got a case here where on the 29th, Ms. Zinah
21 Jennings turned herself in. She was interviewed. She
22 was interviewed previously on the 27th and told a lie.
23 She told a number of lies, a number of things that
24 weren't true.

25 But telling a lie about where the baby is or

1 who the daddy is is not a violation of the statute in
2 this case. It is not a violation of the statute in this
3 case.

4 There is no authority that can be pointed to
5 that places a burden or an obligation on Zinah Jennings
6 to tell where her child is to the police department.
7 Zinah Jennings is purely being held for those reasons
8 and indicted for those reasons.

9 You can't show any physical or mental injury
10 to the child. You can't show willful abandonment on the
11 part of Zinah Jennings. You don't have the child. You
12 have got to remember, Judge. This is a case in which
13 the State had an inordinate number of witnesses, 41
14 witnesses.

15 They went around and around the clock, and
16 they dotted their I.s and crossed their T.s And what
17 did they come up with? No ^{Child} No ^{Child} So what they
18 set out to do was: Well, we will just charge the mother
19 and sit on her until she tells us where ^{Child} is.

20 Not only that, Judge, I renew again that you
21 have a prosecutorial scheme in this case where they
22 lengthen the period of the indictment from September
23 through December.

24 That was purely to take in all of these
25 witnesses who testified about unindicted conduct on the

1 part of -- alleged unindicted conduct -- on the part of
2 Zinah Jennings. Even that conduct, Judge, does not rise
3 to the level of physical or mental injuries.

4 Judge, so far as the statements that they
5 say -- witnesses say -- that Zinah Jennings made about
6 throwing the baby out the window, the only thing I can
7 say about those is she didn't throw the baby out the
8 window. That is obvious. There is no evidence she
9 threw the baby out the window.

10 As to the statements about saying that she got
11 tired of children, I've got five children. I've been
12 five times as tired as she has of children, but I love
13 them. I love them to death but I get tired of them. I
14 get tired of them, Judge.

15 Not only that, Judge, this is a case of
16 innuendos and insinuations. We found Zinah Jennings in
17 the Dollar Store, and she was without the baby. I'm in
18 court today and I'm without my children.

19 You don't take your children everywhere you
20 go. And because she was there without ^{Child} meant
21 nothing, except ^{Child} wasn't with her when she went to
22 the Dollar Store and all these other places.

23 Judge, this is evidence that just does not
24 rise to the level of being sent to the jury, and I would
25 respectfully ask you, Judge, to grant my motion as to a

1 dismissal or acquittal on the basis that the State has
2 not provided the kind of testimony that would be
3 required.

4 There has been no showing of any kind of
5 physical injury or mental injury of Child The only
6 thing you have is that the police department can't find
7 Child Thank you.

8 THE COURT: Thank you, Mr. Pride. Solicitor.

9 MS. CAMPBELL: Respectfully, Your Honor, we
10 disagree with his characterization of the evidence; and
11 we would ask that you follow your earlier rulings.

12 THE COURT: Yes. I have looked at a number of
13 cases, reviewed the standard that I apply at the stage
14 of a request for directed verdict. The case should be
15 submitted to the jury when there is either direct or
16 substantial circumstantial evidence.

17 If there is any substantial evidence which
18 reasonably tends to prove the guilt of the accused upon
19 which guilt may be fairly and logically deduced, the
20 jury weighs the evidence.

21 When there is an absence of evidence, it
22 becomes the duty of the trial jury to direct a verdict.
23 Evidence must constitute positive proof of facts and
24 circumstances which reasonably tend to prove guilt in
25 order to be sufficient to submit the charge to the

1 jury.

2 Unless there is a total failure of competent
3 evidence as to the charges alleged and the refusal by
4 the trial judge to direct a verdict of acquittal, it is
5 not error. The trial court should grant a directed
6 verdict motion when the evidence presented merely raises
7 a suspicion of guilt.

8 I find, based on my previous ruling at this
9 stage, taking into consideration the testimony of the
10 defense witnesses also, there is both direct and
11 substantial circumstantial evidence for the case to be
12 submitted to the jury. It is a jury issue. I am only
13 concerned with the presence or absence of substantial
14 evidence and not the weight or value.

15 As to the statements that Zinah Jennings
16 always stated the child was in a safe place, as we all
17 know and as the jury will be charged, the jury can
18 believe all, part, or none of what a witness says.

19 They could believe, all, part, or none of the
20 statement that was given by Ms. Jennings to Sergeant
21 Thomas and Detective Bailey. That in and of itself
22 shows that it's a matter of the jury weighing
23 credibility in this particular case.

24 Mr. Pride, I have one other matter I should
25 have placed on the record before. I have ruled, of

1 course, that Dr. Moustafa, that his testimony was
2 admissible as it went to the voluntariness of
3 Ms. Jennings' statement to the police on 30 December of
4 2011. You chose not to present him; is that correct?

5 MR. PRIDE: Yes.

6 THE COURT: Do you have any other motions?

7 MR. PRIDE: None.

8 THE COURT: Requests to charge, I am going to
9 charge the definition of willfulness.

10 MS. CAMPBELL: Your Honor, I submitted that
11 but I withdraw it because that was under an old Black's
12 Law Dictionary. I found out subsequent that it was
13 updated.

14 THE COURT: I think there is a brief charge on
15 willfulness that I would define.

16 MS. CAMPBELL: I would just like to get a copy
17 at your convenience.

18 THE COURT: All right. I do intend to charge
19 the State must present evidence the offense was
20 committed in the county alleged in the indictment; and
21 when some act material to the offense occurs in one
22 county and some in another, venue is proper in either
23 county.

24 MR. PRIDE: Judge, before you do that, there
25 is one more motion.

1 THE COURT: Yes, sir.

2 MR. PRIDE: This is a written motion. I won't
3 argue the motion, but I do want to put it in the record.
4 I do want you to rule on it, I should say. It's just
5 not for the record.

6 (Hands to Court.)

7 THE COURT: I did have this motion. One of my
8 law clerks just stepped back to my office to get it off
9 my desk. I read it this morning.

10 Solicitor, this is a motion to require the
11 State to specify all criminal acts constituting a
12 violation of 63-5-70. Have you seen that motion?

13 MR. PRIDE: Yes.

14 THE COURT: Solicitor?

15 MS. CAMPBELL: Yes, sir, I have.

16 THE COURT: Do you care to respond or argue
17 that motion, Solicitor?

18 MS. CAMPBELL: I don't quite understand the
19 motion. We will be -- no, sir. I mean, I think we are
20 in compliance with all the rules of evidence as far as
21 the indictment and everything else, Judge, as previously
22 stated.

23 THE COURT: Well, of course, in closing, as
24 both parties know, you can argue the facts and any
25 reasonable inferences brought from the facts. I take it

1 this would be -- if it's direct evidence or
2 circumstantial evidence -- it would be based on the
3 testimony of the -- as you say -- 41 witnesses in the
4 case.

5 I don't know of a particular case or statute.
6 I realize you are citing the Fifth Amendment right
7 under the United States Constitution against self
8 incrimination.

9 I think as far as being subject to the same
10 offense to be put twice in jeopardy, that would depend
11 on several things. Number one, whether or not the jury
12 returns a verdict of guilty or acquittal. If she was
13 acquitted, then it would depend on the record in this
14 case versus what the State attempted to prove in a
15 second trial.

16 MR. PRIDE: If there was a second trial.

17 THE COURT: Absolutely. I am not saying there
18 would or would not be, but I think that issue wouldn't
19 even be ripe as far as double jeopardy until -- it's not
20 ripe at this time. That's my ruling.

21 MR. PRIDE: Thank you.

22 THE COURT: All right. Any other matters,
23 Mr. Pride?

24 MR. PRIDE: None, Your Honor. The only thing
25 I would ask you, Judge, what time did you tell the jury

1 to come back?

2 THE COURT: Two o'clock.

3 MR. PRIDE: I wanted to ask you for a little
4 longer lunch than usual to sort of do a little homework,
5 but I don't want to keep them waiting. I will be ready
6 at 2:00.

7 THE COURT: Ms. Campbell, have you reviewed
8 the requests to charge of Mr. Pride?

9 MS. CAMPBELL: Yes, sir, I have.

10 THE COURT: The first one concerning, 63-7-20?

11 MS. CAMPBELL: Your Honor, we have no problem
12 with the definition of abandonment of the child, child
13 abuse, or neglect. However, Your Honor, on the last
14 two, mental injury and physical injury, I don't believe
15 those are terms used in the statute that we are
16 referring to.

17 Specifically, the mental injury means injury
18 to the intellectual, emotional, or psychological
19 capacity or functioning of the child as evidenced by
20 discernable and substantial impairment of the child's
21 ability to function; and the existence of that
22 impairment is supported by the opinion of a mental
23 health professional or medical professional.

24 I don't think that would be appropriate, and I
25 do not see the term mental injury in the statute as I

1 just reviewed it, Your Honor. I could be wrong, of
2 course.

3 THE COURT: It has the term mental health.

4 MS. CAMPBELL: Mental health, Your Honor.
5 That is different from mental injury. We would have the
6 same objection to physical injury. I think it's mental
7 or physical health. I could be wrong.

8 THE COURT: Now, if you don't object to child
9 abuse and neglect, the definition of child abuse and
10 neglect cites the term physical or mental injuries. You
11 see what I'm saying?

12 MS. CAMPBELL: Yes, sir, I do. Beg the
13 Court's indulgence one second.

14 (Pause.)

15 MS. CAMPBELL: Your Honor, I didn't realize
16 this doesn't mention -- I don't believe the term child
17 abuse or neglect are mentioned; however, it does mention
18 the word harm in that. So whatever you think is
19 appropriate, Your Honor.

20 THE COURT: Thank you. Really Mr. Pride's
21 request under: The jury should be directed they cannot
22 consider in their deliberations any acts or omissions of
23 conduct of the defendant which occurred outside of
24 Richland County.

25 That is really consumed under State versus

1 Williams, where part of it occurred in another county,
2 but you still have a venue issue appropriate in this
3 county.

4 MR. PRIDE: That's Atlanta.

5 THE COURT: Excuse me?

6 MR. PRIDE: I am talking about Atlanta.

7 THE COURT: I understand you are talking about
8 another state.

9 MR. PRIDE: That's what that was in there
10 about.

11 THE COURT: I will -- I don't know that's the
12 correct law. Because I have had cases where a person
13 was kidnapped out of Augusta and killed in South
14 Carolina. Of course, kidnapping is a continuing
15 offense. Abandonment of a child may be also.

16 MR. PRIDE: Judge, we sort of got away from
17 what we were really discussing. What we were really
18 discussing was physical or mental injury and whether or
19 not --

20 THE COURT: I will charge that. I will charge
21 all of that.

22 MR. PRIDE: Okay.

23 THE COURT: Yes, sir. The solicitor, just
24 like you have done it throughout the course of the
25 trial -- and every now and then one of the other of

1 y'all have given me permission to do what I want. The
2 solicitor said, Judge, do what you want. You have done
3 that too. I will charge all of your charge on that.

4 MR. PRIDE: Thank you, Judge.

5 THE COURT: I will define the terms. There is
6 no question about it. It's referred to and I am going
7 to charge it. I'm not going to charge under Baltimore
8 City Department of Social Services versus Bouknight.

9 MR. PRIDE: Why not, Judge? Judge, that is a
10 case --

11 THE COURT: I have a responsibility to charge
12 the law.

13 MR. PRIDE: But that's right on point.

14 THE COURT: I have a responsibility to charge
15 the law that I think applies to the facts of this case.
16 I do not have a responsibility to charge what the law is
17 not. You may argue this.

18 MR. PRIDE: That's a Supreme Court decision.

19 THE COURT: I'm not going to charge it. You
20 may argue it. I didn't mean to cut you off if you want
21 to put anything else on the record.

22 MR. PRIDE: I don't have much meat on this
23 bone. When you take that away from me, you are cutting
24 right into the heart of my case. Do you disagree with
25 that decision?

1 Do you think a person who is in custody
2 charged with a criminal offense has the right to remain
3 silent or not to talk and incriminate themselves? If we
4 can agree on that premise, then you have got to move to
5 the next step and say that is an applicable case.

6 THE COURT: I'm not going charge to the jury
7 that there is no law in South Carolina that requires the
8 defendant to tell the police or any criminal law
9 enforcement authority where the defendant's child is
10 located. I think that is somewhat of a charge on the
11 facts in this specific case. You may argue that to the
12 jury, but I'm not going to charge it.

13 MR. PRIDE: If I argue it and you don't charge
14 it, it doesn't do me any good. Conversely, Judge, let's
15 look at it the other way. Is there a law in South
16 Carolina that requires a person in custody, who is
17 charged with what Ms. Jennings is charged with, to tell
18 where the child is? And if you can't meet that test,
19 then it's good law.

20 THE COURT: The law that I am going to charge
21 is 63-5-70.

22 MR. PRIDE: All right.

23 THE COURT: Willful abandonment.

24 MR. PRIDE: All right, Judge.

25 THE COURT: What about the jury should be

1 directed --

2 MR. PRIDE: Judge, I don't believe -- I am
3 just doing this out of an abundance of caution -- I
4 don't think I have to say into the record I take
5 exception to your ruling.

6 THE COURT: That point is well taken,
7 Mr. Pride. I'm not sure what the responsibilities are
8 anymore for a criminal defense lawyer.

9 MR. PRIDE: I'm not either.

10 THE COURT: I think it's very difficult
11 terrain that y'all have to somehow negotiate and
12 preserve an issue for appellate review.

13 MR. PRIDE: It's frightening.

14 THE COURT: I agree with you there. I think
15 though that it's similar to evidence of flight, where it
16 can be argued, but there is not a specific charge in
17 that regard.

18 MR. PRIDE: Thank you.

19 THE COURT: I also looked at Judge Anderson's
20 request to charge and did not find anything to support
21 that. You can argue it circumstantially.

22 MR. PRIDE: All right.

23 THE COURT: What about this other one
24 concerning: The jury should be directed they are not
25 entitled to infer the necessary intention unless they

1 feel sure that death or serious bodily harm was a
2 virtual certainty as a result of the defendant's actions
3 and that the defendant appreciated that such was the
4 case?

5 MS. CAMPBELL: I do not believe that that is
6 the law in South Carolina, Your Honor. I believe your
7 criminal intent charge, as I recall, Your Honor -- and I
8 didn't hand up one. I think it's the same one you do
9 anyway -- is the correct statement of the law in South
10 Carolina.

11 THE COURT: I think the defendant's criminal
12 intent must necessarily be determined by indirect or
13 circumstantial evidence. I use that general charge in
14 that regard.

15 MS. CAMPBELL: Thank you.

16 THE COURT: Were there others?

17 MR. PRIDE: Judge?

18 THE COURT: Yes, sir.

19 MR. PRIDE: I don't mean to overstate my time.

20 THE COURT: No, sir.

21 MR. PRIDE: But I found one case that I think
22 supports my position on that Baltimore D.S.S. case.

23 THE COURT: All right.

24 MR. PRIDE: It's State versus Burriss. It's
25 334 S.C. 256, 262 S.E.2d -- I'm sorry. Excuse me -- 513

1 S.E.2d 104. It's a 1999 decision. What this case says,
2 Judge --

3 THE COURT: Let me look at it. My law clerk
4 is looking it up right now. Let me look at it when she
5 pulls it up.

6 (Pause.)

7 THE COURT: And tell me -- can you direct me
8 to a particular headnote?

9 MR. PRIDE: It's headnote -- it says 1
10 through 4. I am reading it out of another case. Here
11 is the proposition that I would submit to you that I
12 stand on:

13 If there is any evidence to support a charge,
14 the trial judge should grant the request to charge.
15 There is some -- and I think it's a lot of evidence --
16 but certainly I passed the test when it says, If there
17 is any.

18 Then it goes on to cite other cases. It says
19 the refusal to grant a requested jury charge, that the
20 State must have a sound principle of law or case at
21 hand. If not, it is error. Then it goes on to further
22 state Clark versus Cantrell, which is 339 S.C. 368, 529
23 S.E.2d 528, and it is a 2000 decision.

24 THE COURT: I agree with the law that the
25 trial judge is responsible for charging the law that

1 applies. And if there is any evidence in the record to
2 support a particular proposition of the law, the trial
3 judge should charge that particular law.

4 Burriss was a homicide case in which the issue
5 was charging involuntary manslaughter. Mr. Pride, I
6 will re-look at your requests to charge on that. I will
7 read Baltimore City Department of Social Services versus
8 Bouknight again --

9 MR. PRIDE: Thank you.

10 THE COURT: -- in that regard --

11 MR. PRIDE: All right.

12 THE COURT: -- at the break. Anything
13 further, Mr. Pride?

14 MR. PRIDE: Nothing further, Your Honor.

15 THE COURT: Ms. Campbell?

16 MS. CAMPBELL: Your Honor, just for
17 clarification. I couldn't remember. You charge both
18 hesitate to act and Darby?

19 THE COURT: I do. I charge both Manning and
20 Victor, yes. Anything further?

21 MS. CAMPBELL: No, sir.

22 MR. PRIDE: Nothing.

23 THE COURT: Thank you. Court will be in
24 recess until 2:00 o'clock. If y'all would step up here
25 just a moment, Solicitor and Mr. Pride.

1 (Whereupon there was a bench conference off
2 the record, followed by the luncheon recess).

3 THE COURT: Mr. Pride, I reread Baltimore City
4 Department of Social Services versus Bouknight over the
5 break. I attempted to feather that into your charge.
6 The charge that you request is in my opinion the
7 defendant's theory of the case. It is a comment on the
8 facts.

9 So, again, I will deny your request; however,
10 as I have said before, you can argue that fact and those
11 facts to the jury. I do not think Baltimore City
12 Department of Social Services versus Bouknight stands
13 for the proposition to which -- you cited it properly.
14 I understand your argument.

15 But I cannot find a South Carolina case
16 directly on point. The other cases you cite, Clark
17 versus Cantrell, State versus Burriss stand for the
18 well-known proposition that a judge is required to
19 charge the law if there is any evidence in the record
20 that would suggest that law to be applicable. Again,
21 you can argue this. I will not charge it. I think it's
22 a charge on the facts.

23 MR. PRIDE: Judge, I just want to note for the
24 record that the Court ruled on this matter on its own
25 volition because there was no objection from the

1 solicitor. Thank you.

2 THE COURT: I understand that. Well, if the
3 solicitor doesn't object to it, I will charge it. I
4 told y'all before about what evidence is.

5 MS. CAMPBELL: The solicitor vehemently
6 objects.

7 MR. PRIDE: I guess she does, Judge. I guess
8 she does. Thank you for your consideration.

9 THE COURT: Certainly, Mr. Pride. Are there
10 any other requests to charge? I got the definition of
11 willfulness out of Black's Law Dictionary, Ninth
12 Edition, 2009.

13 Willful, it's voluntary and intentional but
14 not necessarily malicious. Voluntary and intentional
15 but not necessarily malicious is the definition of
16 willful out of Black's Law Dictionary.

17 MS. CAMPBELL: Thank you, Your Honor.

18 THE COURT: Anything further before we bring
19 in our jury from the State?

20 MS. CAMPBELL: Your Honor, Ms. Walker will be
21 opening on the law and I will be closing.

22 THE COURT: Can you give me a range of about
23 how long you think y'all's arguments would be,
24 Solicitor? I'm not holding you to it, and I am not
25 going to tell the jury either.

1 MS. CAMPBELL: A combination, Your Honor, I
2 would think at least an hour.

3 THE COURT: All right. Mr. Pride?

4 MR. PRIDE: Certainly no less than an hour.

5 THE COURT: All right.

6 MR. PRIDE: Judge, I want to call to your
7 attention that I just happened to look over here and see
8 charts that will be used by the solicitor for the
9 opening argument.

10 These charts have at the bottom of them case
11 decisions, and I don't think that is appropriate to
12 allow this chart to be shown before the jury with a case
13 cited at the bottom. It sort of gives more emphasis to
14 the section --

15 THE COURT: Let me stop you. Just take that
16 off.

17 MS. CAMPBELL: Yes, sir, I will do it right
18 now.

19 THE COURT: Is that your objection to it,
20 Mr. Pride?

21 MR. PRIDE: That's my objection.

22 THE COURT: Sure. Y'all can block it out,
23 tape it out, take scissors to it.

24 (Pause.)

25 THE COURT: Do you want to check the ones they

1 have already marked off, Mr. Pride?

2 MR. PRIDE: Judge, I see one right now,
3 voluntary intoxication. That is not applicable.

4 THE COURT: What is the evidence of that?

5 MS. CAMPBELL: The evidence was when she was
6 going through the drive-through that morning, that she
7 was drinking and driving.

8 THE COURT: Tell me what that morning is,
9 Solicitor.

10 MS. CAMPBELL: The credit union in the
11 drive-through.

12 MR. PRIDE: That's a stretch, Judge. So what?

13 THE COURT: I didn't think she was arguing
14 voluntary intoxication as a defense. You are not going
15 to argue it?

16 MR. PRIDE: No, I'm not going to argue it; and
17 I don't think they should be allowed to argue it.

18 THE COURT: They can argue she was drinking
19 when she went through the drive-through; can't they?

20 MR. PRIDE: But what does that have to do with
21 it? I mean, how does that -- what element does that go
22 to?

23 THE COURT: Was the child in the car?

24 MS. CAMPBELL: Yes, the child is lose in the
25 car, and she is drinking and driving.

1 THE COURT: Would it go to the child --

2 MR. PRIDE: She wasn't drinking and driving.

3 The testimony was that they smelled alcohol. That's not
4 drinking and driving.

5 MS. WALKER: That's not the evidence.

6 MR. PRIDE: Wait a minute. I thought we only
7 had one solicitor at a time.

8 THE COURT: I agree with you, Mr. Pride.

9 MR. PRIDE: Judge, that's remote.

10 THE COURT: I am trying to picture the event.
11 That would have been the first event that y'all talked
12 about at the South Carolina Federal Credit Union;
13 correct?

14 MS. CAMPBELL: Yes, sir.

15 THE COURT: The first of the two because y'all
16 allege the second one is the last time ^{Child} Jennings is
17 seen in the presence of his mother?

18 MS. CAMPBELL: Correct.

19 THE COURT: On the 29th?

20 MS. CAMPBELL: Yes, sir.

21 THE COURT: So at a prior time, the testimony
22 from the other young lady from the South Carolina
23 Federal Credit Union was that -- recap for me,
24 Solicitor, your memory of that testimony.

25 MS. CAMPBELL: My memory, Your Honor -- and

1 this is just me going off the top of my head -- is
2 that during the time period, she came through the
3 drive-through with Child lose in the car, not restrained
4 by a seat; and she was drinking. It is my recollection
5 of the testimony, but I defer to the record, of course.

6 THE COURT: They can certainly comment on the
7 facts in the record and the reasonable inferences
8 therefrom. If I allowed it into evidence, it's evidence
9 before this jury. They can argue the facts and the
10 reasonable inferences therefrom.

11 It would be up to the jury to determine what
12 weight and value to give to that testimony, if any, as
13 it goes to the charge of unlawful conduct towards a
14 child.

15 MR. PRIDE: All right, sir.

16 MS. CAMPBELL: Your Honor, that was the reason
17 we had submitted it as a request to charge; and he did
18 not object to it. So that's why.

19 THE COURT: Well, there is no evidence of
20 intoxication.

21 MS. CAMPBELL: There is evidence that she was
22 drinking which would infer intoxication.

23 THE COURT: That may be a stretch.

24 MR. PRIDE: I would object to it.

25 THE COURT: If he is not arguing it, if he is

1 not going to argue it, I don't think it's necessary for
2 me to charge voluntary intoxication. There is no -- all
3 the other witnesses that you have had testify or a
4 number of other witnesses you have had testify, outside
5 of perhaps the young lady that went to Apple Bottoms
6 Social Club to pick her up, never puts her necessarily
7 in a position of where she's drinking.

8 MS. CAMPBELL: I believe there was one other
9 witness, Your Honor, who testified that when she showed
10 up at her house at 9:30 in the morning to get her hair
11 done, she showed up and drank two beers.

12 THE COURT: Ms. Dickerson.

13 MS. CAMPBELL: Ms. Dickerson. Thank you, Your
14 Honor.

15 THE COURT: Unless he argues it as a defense,
16 I am not going to charge it. I will not charge
17 voluntary intoxication. You can argue it to the jury.

18 MS. CAMPBELL: We can argue it to the jury?

19 THE COURT: Yes, ma'am, you can argue it to
20 the jury.

21 MS. CAMPBELL: Thank you.

22 THE COURT: Anything further? Have the boards
23 been checked?

24 MR. PRIDE: Judge, there was one instruction
25 that was submitted that I see that they are going to

1 argue. Basically what the argument is -- and I can't
2 verbatim recite their request. I can by looking on
3 here -- what they want to argue is that on the 23rd or
4 the 24th when Ms. Beaver saw ^{Child} and Zinah, they were
5 in Lexington County. That's not an indictable offense
6 for them.

7 That's not applicable here. Because an
8 investigation can start in one county and it can be
9 taken all the way up to Greenville County, just like
10 they went to Augusta, just like they went to Atlanta.

11 But just because he was seen in Lexington,
12 they want you -- that instruction would exclude that
13 from consideration of the jury because they would say,
14 We have no responsibility as to that because it's in
15 another county.

16 MS. CAMPBELL: Your Honor, we will not be
17 making the argument he just made.

18 THE COURT: Yes, sir. I'm not tracking that,
19 Mr. Pride.

20 MR. PRIDE: What?

21 THE COURT: I'm not tracking that argument.
22 I'm not connecting the dot that you are trying to get me
23 to connect on the argument.

24 MR. PRIDE: Here is the instruction
25 (displaying to the Court).

1 THE COURT: Show it to the solicitor.

2 MR. PRIDE: The solicitor is well aware of
3 what I'm talking about, Judge. The F.B.I. agent
4 testified that all of the crimes or the crime in this
5 case was committed in Richland County. They asked,
6 Where is this? Richland County.

7 THE COURT: He testified as to where Two Notch
8 and Carter was, where Dubard Street was --

9 MR. PRIDE: Right.

10 THE COURT: -- to where Forest Areas was.

11 MR. PRIDE: In Richland County.

12 THE COURT: Richland County.

13 MR. PRIDE: Right.

14 THE COURT: I mean, he testified to various
15 places. I was curious where he was from. Be that as it
16 may, I understand that. It still doesn't -- I don't
17 know that that addresses that particular issue.

18 MR. PRIDE: It says venue is proper in either
19 county. There is no either county. Richland County is
20 the only county. So why do we have to talk about either
21 county? Either means Lexington or Richland.

22 THE COURT: I'm confused because I heard no
23 testimony of any bad conduct by Ms. Zinah Jennings
24 towards her son ^{Child} -- if that were Zinah Jennings and
25 her son ^{Child} in the Beaver Hut on Library Hill road in

1 Lexington County -- I heard no wrongful conduct.

2 MR. PRIDE: Then it's not necessary for this
3 instruction at all because we are only talking about
4 Richland County. So why do we have either county? What
5 other county could we be talking about? There is only
6 one county. That's what I'm complaining about.

7 THE COURT: Solicitor.

8 MS. CAMPBELL: May it please the Court, Your
9 Honor. This was submitted as a request to charge. You
10 approved it. In his opening statement -- and I have
11 notes from that -- the defense attorney raised the issue
12 that we were not going to be able to prove venue, that
13 it happened in Richland County. We don't know where the
14 child was abandoned and things of that nature.

15 We are not offering it for the purpose he just
16 put on the record at all. We will not be arguing that
17 they can't consider any -- I don't understand his
18 argument.

19 MR. PRIDE: I don't understand her response
20 either, Judge. I'm confused.

21 THE COURT: See, y'all have understood each
22 other entirely from Monday a week ago. Now, all of a
23 sudden, you bring up the closing arguments; and you
24 don't understand.

25 MR. PRIDE: It's not because I'm tired either.

1 It's just that we are only talking about -- that is
2 confusing. Why talk about either county when there is
3 but one county? I am saying you can't prove that Child
4 was abandoned in Richland County. Okay? That's the
5 only thing I said in opening argument.

6 THE COURT: Solicitor.

7 MS. CAMPBELL: May it please the Court, Your
8 Honor. You did rule on this previously today and found
9 it appropriate. The only reason we were offering that
10 is because the defense has raised jurisdiction in this
11 case.

12 In addition to that, Your Honor, this is a
13 continuing offense from September 1st until the end of
14 December. There are a number of events that went on
15 during that time period, and I think we have the right
16 for the jury to understand what the actual law is
17 regarding jurisdiction, which he brought up.

18 MR. PRIDE: Jurisdiction is an element that
19 they have to prove. Can we all agree on that?

20 THE COURT: Beyond a reasonable doubt. I
21 agree.

22 MR. PRIDE: And my argument was simply that
23 they cannot prove that element. Okay? Now, how does
24 that put into play an instruction that says venue in
25 either county. Either? What other county? Judge, that

1 is confusing and it's misleading.

2 MS. CAMPBELL: Judge, we rely on the Williams
3 case.

4 THE COURT: Williams is State versus Williams
5 out of Edgefield County, Solicitor, a death penalty case
6 back in the early '90s?

7 MS. CAMPBELL: I believe that's it, Your
8 Honor.

9 THE COURT: Yes, and that was across state
10 lines. Mr. Williams brutally beat his wife to death and
11 strangled his 12-year-old child, that had been adopted
12 out of Nicaragua in a war zone, and brought them in the
13 family van into McCormick County.

14 He turned down a lonely dirt road and took the
15 family van with his wife and adopted child and set it on
16 fire to roll it down a very steep embankment with the
17 hopes that it wouldn't be found until the next deer
18 season.

19 Unfortunately for Mr. Williams, who is no
20 longer among the living, unfortunately for him, a forest
21 ranger happened to come into that area, just happened
22 along, and was training another forest ranger and walked
23 down in the woods and saw the smoked up van.

24 The issue there was some of the acts occurred
25 in Georgia in Columbia County, and other of the acts,

1 the body was found -- the bodies were found -- in South
2 Carolina in Edgefield County, if that's the correct
3 State versus Williams.

4 What Mr. Pride is saying is that there is no
5 testimony that other acts of unlawful conduct towards a
6 child occurred in other counties or in other states,
7 which is what Williams is referring to, I think.

8 MS. CAMPBELL: Yes, sir.

9 THE COURT: However, what about the testimony
10 of Ms. Denise Jennings where she testified that Zinah
11 Jennings and Child were staying at her house and that
12 Zinah Jennings would disappear for days at a time and
13 was not taking care proper care of Child

14 Although the word is county versus county, the
15 State -- the case actually goes state to state. I agree
16 with you that they have to prove beyond a reasonable
17 doubt the acts occurred in Richland County, but there
18 could be other acts that occurred in other locations.
19 Do you want me to highlight state to state?

20 MR. PRIDE: No. Because, first of all, the
21 distinction is that whatever happened in Georgia, South
22 Carolina couldn't prosecute anyhow because that would be
23 beyond --

24 THE COURT: They could if they were parts of
25 the act that occurred in South Carolina. They could

1 bring in those acts that occurred in other venues.
2 Jurisdiction could still be here. That's the way I
3 always understood -- it was Luke Williams. It was Luke
4 Williams. The Honorable Luke Brown tried it.

5 MR. PRIDE: Judge, I guess --

6 THE COURT: Let me see the board again,
7 Mr. Pride.

8 MS. CAMPBELL: Your Honor, the board should
9 mirror the language we handed up in our request to
10 charge.

11 THE COURT: I understand, Solicitor. It's
12 either one of two things. I'm not going to sit here and
13 argue until bull bat time. You can either use the first
14 sentence of it on the board and argue the second
15 sentence of it or you cannot use the board and argue it
16 all. I will charge it to the jury.

17 MR. PRIDE: Judge, you are going to split the
18 baby in half?

19 THE COURT: Sir?

20 MR. PRIDE: You are going to split the baby in
21 half?

22 THE COURT: Well, that doesn't unduly
23 highlight that part of the charge. That's my whole
24 point. I will let them argue the charge and I will
25 charge it. If they want it -- the first sentence is the

1 most in my opinion -- well, that's irrelevant. Anything
2 further, Mr. Pride?

3 MR. PRIDE: Nothing further, Your Honor.

4 THE COURT: Anything further, Solicitor?

5 MS. CAMPBELL: Beg the Court's indulgence.

6 (Pause.)

7 MS. CAMPBELL: Your Honor, she is not going to
8 show the board to the jury. She will leave it up here
9 so she can make sure she gets the language correct.

10 THE COURT: I understand. You can certainly
11 do that as long as it's not used or displayed to the
12 jury. Anything further?

13 MS. CAMPBELL: No, sir.

14 THE COURT: Bring the jury.

15 (The jury returns to the courtroom at
16 2:37 P.M.)

17 THE COURT: Good afternoon, ladies and
18 gentlemen of the jury panel. My apology for the delay.
19 If you will recall that sign language. Be that as it
20 may, as you know, we are now at the point of the closing
21 arguments by the attorneys.

22 These are different from the opening
23 statements. They are true arguments. The attorneys may
24 comment on the law, the facts, inferences, any
25 reasonable inferences to be drawn from the facts, and

1 how those facts or inferences apply to the law.

2 The procedure we follow is the State opens, as
3 it is known, on the law. Thereafter, the defense will
4 close in full, Mr. Pride on behalf of Ms. Jennings; and
5 then the State closes in full, the State being the party
6 that bears the burden of proving its case beyond a
7 reasonable doubt.

8 The courtroom will be secured during the
9 closing arguments by the attorneys. If after the
10 argument of the State, the opening and Mr. Pride's, if
11 any of you need a break, please raise your hand.

12 We will take a brief recess at any time. I
13 would ask you again to please give the parties your
14 complete and undivided attention as you have done
15 throughout the course of these proceedings.

16 With that being said, Solicitor, you may
17 address the jury.

18 MS. WALKER: Thank you, Your Honor. May it
19 please the Court.

20 THE COURT: Yes, ma'am, Solicitor.

21 **CLOSING ARGUMENT**

22 MS. WALKER: Good afternoon. It's been a long
23 two weeks. When you guys came to this courtroom over a
24 week ago Monday of last week, there was no way that any
25 of you could have imagined that over a week later, you

1 would still be sitting in this courtroom listening to
2 the facts of this case that are at times difficult.

3 There are issues that are difficult that we
4 have been dealing with, but you guys have been patient.
5 You have paid attention. And for that on behalf of the
6 people of Richland County, Roderick Mitchell, I want to
7 thank you. I want to thank you for your time and
8 attention.

9 There have been times when you guys have been
10 shuffled in and out of the courtroom, kept in the jury
11 room for inordinate periods of time; and there are times
12 when you sat up here and we have asked questions
13 inartfully or you couldn't hear witnesses. For that I
14 want to apologize.

15 I want to apologize on behalf of the State of
16 South Carolina. I want to ask each of you, while things
17 have been difficult at times, to not hold that
18 inconvenience or those difficulties against the State of
19 South Carolina, not the prosecution, and most certainly
20 not Child Jennings.

21 For the next few minutes, I am going to talk
22 to you about the laws that govern this case. After I do
23 that, Mr. Pride will have an opportunity to address you,
24 as the judge told you; and then Ms. Campbell will have
25 an opportunity to address you.

1 If at any time I talk about the law and I say
2 something differently than what Judge McMahon says --
3 and he will charge you at the end of this case on the
4 laws that are applicable -- listen to Judge McMahon.

5 In that very same vein, if at any point in
6 time either side -- either the State or Mr. Pride --
7 gets up here and tells you something about the facts of
8 this case that are different than the way you remember
9 them, go with your own memory.

10 You guys, individually and when you go back to
11 that jury room and deliberate collectively, are the sole
12 judges of the facts of this case, just like Judge
13 McMahon is the judge of the law in this case.

14 Criminal cases are unique. The defendant,
15 Zinah Jennings, has been indicted by the Richland County
16 Grand Jury for unlawful conduct towards a child. In
17 order for you guys to find her guilty of that, it is our
18 job as prosecutors to prove her guilt beyond a
19 reasonable doubt.

20 Reasonable doubt is a legal term. I'm sure
21 you have all heard it before. Judge McMahon has
22 mentioned it this week. So what is proof beyond a
23 reasonable doubt?

24 According to the laws that are going to govern
25 this case -- and Judge McMahon will tell you the same

1 thing -- proof beyond a reasonable doubt is proof that
2 leaves you firmly convinced of the defendant's guilt.
3 There are very few things in life that we know with
4 absolutely certainty.

5 In criminal cases the law does not require
6 proof that overcomes every possible doubt. Based on
7 your consideration of the evidence if you are firmly
8 convinced that Zinah Jennings committed the crime of
9 unlawful conduct towards a child, you must find her
10 guilty. If, on the other hand, you think there is a
11 real possibility that she is not guilty, you give her
12 the benefit of the doubt and find her not guilty.

13 There has been testimony and exhibits over the
14 course of the past week and a half that I suggest,
15 ladies and gentlemen, proves Zinah Jennings' conduct.
16 It proves the things that she did to her son beyond a
17 reasonable doubt.

18 I want to talk to you about the way we went
19 about proving her guilt beyond a reasonable doubt. We
20 presented evidence to you, evidence in the form of the
21 exhibits and the witnesses' testimony, that you heard
22 here over the past several days.

23 There are two types of evidence that are
24 presented during a trial, direct evidence and
25 circumstantial evidence. Direct evidence is the

1 testimony of a person who asserts or claims to have
2 actual knowledge of a fact, such as an eyewitness.

3 The witnesses that came up here and testified
4 and told you about the things that they saw Zinah
5 Jennings do to her son and the things she wanted to do
6 to him, that's direct evidence.

7 When Christian Dickerson sat up here and told
8 you that she saw Zinah Jennings put her son on the floor
9 and kick him twice while she was wearing wedge heels,
10 that is direct evidence of Zinah Jennings' unlawful
11 conduct towards a child towards her son.

12 Direct evidence is when Zinah Jennings said
13 that she wanted to sell her son, and she wanted to throw
14 him away or her own words, "Hell, I will give his ass
15 away."

16 That is direct evidence of Zinah Jennings'
17 guilt, the things she wanted to do, the things she did
18 to him, and the things that we have shown you over the
19 past several days.

20 Circumstantial evidence is proof of a chain of
21 facts and circumstances indicating the existence of a
22 fact. The law makes absolutely no distinction between
23 the weight or value to be given to either direct or
24 circumstantial evidence, nor is a greater degree of
25 certainty required of circumstantial evidence than of

1 direct evidence. They are both treated equally. They
2 are both given the same treatment under the laws of this
3 State.

4 After weighing all the evidence if you are not
5 convinced of the guilt of the defendant beyond a
6 reasonable doubt, find her not guilty. If, on the other
7 hand, you are convinced of the defendant's guilt, the
8 evidence that you heard, the testimony that you heard
9 from the witnesses that you saw come in here and tell
10 you the things that this defendant did and said to her
11 son, then you must find her guilty.

12 Now, ladies and gentlemen, last week -- seems
13 like it was a much longer time ago than it actually
14 was -- there was a witness who came forward, the bank
15 teller.

16 I don't know if you remember that. She came
17 forward. She said that she saw the defendant drive
18 through the teller with her son unbuckled in the back
19 seat, and she was drinking beer.

20 The fact that the defendant was drinking while
21 she was doing that, the fact that she may have been
22 intoxicated does not absolve of her duties to properly
23 care for her son, to make sure he is buckled in the back
24 seat of the car.

25 It does not absolve her of the fact to not

1 actually drink and drive with her son in the back seat
2 of the car. She is not absolved of those duties simply
3 because she may have been intoxicated at the time.

4 Voluntary intoxication is never an excuse or a
5 defense to a crime. A person who voluntary renders
6 himself intoxicated is no less responsible for his acts
7 while in such condition.

8 The fact that she chose to drink and put her
9 son in the back seat of that car does not absolve her of
10 the duty to make sure he is safe, to make sure she is
11 following the laws, to make sure that he is buckled into
12 a car seat, not to even mention the fact that she is
13 drinking and driving with her son in the car.

14 If she voluntarily drinks intoxicating liquors
15 or takes drugs and becomes intoxicated and in that
16 condition she commits an act which would be a crime if
17 it had been committed by a sober person, the fact of
18 drunkenness or intoxication would not relieve the
19 intoxicated person from responsibility. Zinah Jennings
20 is culpable and she is responsible for her actions
21 whether she is sober or not.

22 Now, ladies and gentlemen, there is -- and the
23 judge will charge you on this as well -- criminal
24 intent, the intent of the person to commit the crime for
25 which he or she is charged.

1 In order to establish criminal liability,
2 criminal intent is required. For example, the mental
3 state required to be proven by the State for a
4 particular crime might be purpose, intent, knowledge,
5 recklessness, or criminal negligence.

6 Criminal intent must be proven by the State
7 beyond a reasonable doubt. Criminal intent is always a
8 matter that must be determined by the jury from the
9 circumstances surrounding the situation.

10 There is no way to prove intent to a
11 mathematical certainty. There is no way medical science
12 can dissect a person's brain and determine what the
13 person had in mind.

14 So the law says that criminal intent may be
15 inferred from the circumstances shown to have existed.
16 You can take all of the circumstances, all of the
17 information you received during this trial, and apply
18 that to Zinah Jennings' criminal intent.

19 Zinah Jennings told her friends she wasn't
20 going to be stuck at home baby-sitting on a Saturday
21 night. I submit, ladies and gentlemen, when it's your
22 child, it's not baby-sitting. It's called parenting.
23 She said she wasn't going to do that on a Saturday
24 night.

25 Lo and behold, the child is gone. That

1 problem is done. She no longer has to worry about what
2 to do with him on Saturday nights. She is free to
3 galavant around town like you heard from every witness
4 and you saw on the videos.

5 The intent to commit the crime. This is how
6 you make the determination of whether or not the element
7 requiring intent was present. It is not necessary to
8 establish intent by direct and positive evidence --
9 although I think we have.

10 Intent may be established by inference in the
11 same way as any other fact, by taking into consideration
12 the acts of the parties and all of the facts and
13 circumstances of the case.

14 Criminal intent is a mental state, a conscious
15 wrongdoing. It is up to you, ladies and gentlemen, to
16 determine what the defendant intended to do based on the
17 circumstances shown to have existed.

18 Criminal intent can arise from a failure to
19 act, a failure to care for her child, a failure to feed
20 him properly, a failure to watch him and supervise his
21 activities, and may arise from negligence, recklessness,
22 or an indifference to duty or consequences that is
23 considered by the law to be the equivalent of criminal
24 intent.

25 Indifference to duty. To say that Zinah

1 Jennings is indifferent to the duties placed on her as a
2 mother, both by nature and the laws of this State, is a
3 gross understatement.

4 She was indifferent. She didn't want to be a
5 mother anymore. She was over it. She thought that
6 bringing this child into her life was going to end up
7 one way and it didn't. Her intention was to get rid of
8 her burden, to no longer have to worry about her son.
9 That's what she told people and that's what she did.

10 The intention, ladies and gentlemen, I think
11 is clear in this case. Zinah Jennings has been charged
12 with unlawful conduct towards a child, Section 63-5-70
13 of the South Carolina Code of Laws:

14 It is unlawful for a person who has charge or
15 custody of a child or who is the parent or guardian of a
16 child or who is responsible for the welfare of a
17 child -- and this section governs these three.

18 No one is going get up here and tell you that
19 Zinah Jennings was not in charge of the custody of ^{Child}
20 Jennings. No one is going to get up here and tell you
21 that she is not responsible for him, that she wasn't his
22 mother. That one is covered.

23 It is illegal, it is unlawful, for one of
24 these people to place the child at an unreasonable risk
25 of harm affecting the child's life, physical or mental

1 health, or safety.

2 It is unlawful for her to put a baby on the
3 ground and kick him. And when Mr. Pride asked the
4 witness, Was she doing it to hurt him? The witness'
5 answer was yes, she did it hard. She did it while she
6 was wearing wedge heels. Did she do it once? No, she
7 did it twice. It's unlawful.

8 It's unlawful for her to put her son in the
9 back seat of the car unbuckled while she was drinking
10 and driving around town. It's unlawful for her to take
11 this child's hand, a one-year-old's hand, and squeeze it
12 so tightly that he begins to cry; and one of her friends
13 has to interject and tell her to stop.

14 It's unlawful to do or cause to be done
15 unlawfully or maliciously any bodily harm to the child
16 so that the life or health of the child is endangered or
17 likely to be endangered.

18 She even let him walk out of the house and
19 walk down the street. It's unlawful. He was one year
20 old. She wouldn't feed him properly. These two
21 (indicating), ladies and gentlemen, I think we have
22 proven to you. I submit to you that we have proven them
23 to you beyond a reasonable doubt.

24 Keep in mind, we have to prove one of these.
25 Her conduct has to be unlawful under one of these

1 sections. Finally, it's unlawful to willfully abandon
2 your child, willfully. It means voluntarily and
3 intentionally, not an accident, to purposefully abandon
4 your child.

5 Ladies and gentlemen, let's go to a -- let's
6 leave this for a moment and go to a world where Zinah
7 Jennings is telling the truth. Let's suspend all
8 suspicion of the things that she said. By her own
9 statement she abandoned that child.

10 You have listened to this. You will have it
11 back there in the jury room with you. It talks about
12 dropping her son off:

13 They didn't know you were coming? How long
14 did you stay before dropping him off?

15 Not long.

16 What is not long?

17 Zinah Jennings says ten, for ten minutes.

18 The investigator asks, Did y'all conversate
19 any?

20 She said who?

21 He said, You know, the people you dropped Child
22 off with.

23 Oh, yeah.

24 Then he asked her, what was her conversation
25 about. Zinah Jennings said, Um, well, I guess they

1 wanted me to come back and get him, but I haven't been
2 back to get him.

3 By her own words, if we are going to take them
4 as the truth, by her own words, she has abandoned her
5 child. If you believe what she says, she dropped him
6 off with people who were expecting her to come back and
7 just never went back.

8 She never checked on her son. She didn't call
9 to see how he was doing. She didn't send food or
10 clothes or toys. It was over and done. By her own
11 words, she abandoned her child.

12 Some of the language in this statute is
13 defined in other parts of the Code of Laws. I want to
14 go over those briefly with you. Child abuse or neglect
15 or harm occurs when the parent, guardian, or other
16 person responsible for the child's welfare inflicts or
17 allows to be inflicted upon the child physical or mental
18 injury or engages in acts or omissions which present a
19 substantial risk of physical or mental injury to the
20 child, including injuries sustained as a result of
21 excessive corporal punishment.

22 It goes on to say that if you fail to supply
23 the child with adequate food -- her sister and mother
24 testified to that -- shelter, education -- and it goes
25 on to talk about the requirements for education. Child

1 was too young. He was under two years old. That
2 doesn't apply here.

3 But the adequate food, clothing, and shelter,
4 her own family members testified that she didn't do
5 that. She abandons her child, which by her own words
6 she did.

7 Abandonment of a child means a parent or
8 guardian who willfully deserts a child or willfully
9 surrenders physical possession of a child without making
10 adequate arrangements for the child's needs or the
11 continuing care of the child.

12 Zinah Jennings dropped her little boy off ten
13 months ago and has not been back, didn't call, didn't
14 check on him, willfully deserted him. According to her
15 the people wanted her to come back.

16 There were no adequate arrangements made for
17 the child's needs or for his continued care if you take
18 her word for it. She just didn't ever check again on
19 her own son according to her. These aren't my words.
20 This isn't my argument. This is what Zinah Jennings
21 says she did.

22 Those people have never been found. They have
23 never come forward and said, Hey, we have ^{Child} Y'all
24 can stop all this. He is safe. He is happy. He is
25 with us.

1 Let's talk about some of the injuries
2 applicable here. Mental injury: The intellectual,
3 emotional, or psychological capacity or functioning of
4 the child. Perhaps that is being dropped off with some
5 stranger, never seeing your mom again.

6 Physical injury, death or permanent or
7 temporary disfigurement or impairment of any bodily
8 organ or function. The law, as we just went over,
9 requires the possibility of either of these two things
10 happening because of the conduct of the parent.

11 The possibility that if you are drinking and
12 driving and your son is unbuckled in the back seat,
13 something bad could happen. The possibility that if you
14 stay inside while he wanders around outside, wandering
15 the streets because he is one year old, something bad
16 could happen to him. He can be physically injured. The
17 possibility that you just don't feed him all the time,
18 he can be physically injured.

19 Some of the witnesses that testified -- I
20 think two of the witnesses that testified -- you heard
21 Judge McMahon say they were admitted as expert
22 witnesses.

23 Those expert witnesses were allowed to come in
24 here and give you their opinion. I'm not an expert in
25 anything. I can't get in the witness stand and give

1 y'all my opinion on anything.

2 But because of their training and because of
3 their education and because of a specialized skill set,
4 those witnesses, the D.N.A. expert came in and testified
5 that the blood found on the blankets in the back seat of
6 Zinah Jennings' car belonged to ^{Child} Jennings. It's
7 circumstantial evidence of the harm that has befallen
8 him.

9 The witness who came in and testified about
10 the cellular phone tracking, that on the last day ^{Child}
11 Jennings was seen alive, a cell phone went to a remote
12 part of Richland County. Circumstantial evidence,
13 abandonment, harm that has come to ^{Child} Jennings.

14 Now, we sat over a week ago and listened to a
15 statement I have been referring to with Sergeant Thomas
16 and Investigator Bailey. Zinah Jennings sat down and
17 talked to them.

18 They advised her of her right to remain
19 silent. As you guys saw earlier, the rights were
20 written down here. Zinah Jennings read them and she
21 signed a waiver of rights. She signed a waiver of
22 rights stating that she wanted to talk to the police.

23 As you listened to that statement, there are
24 certain things to take into consideration regarding the
25 manner in which that statement was given: The age of

1 the defendant. She is an adult. She's not too young to
2 understand what she is doing.

3 Her education or lack of education. She went
4 to high school. Her mother said she was a great
5 student. She went on to college. Her mental ability or
6 capacity or I.Q. or intelligence, her background and
7 environment.

8 Background and environment. This is a young
9 lady who comes from good people. Her mother testified,
10 I was there for her. I went to every event. She
11 participated in all these activities, her background and
12 environment.

13 I submit that she knew what she was doing.
14 She was intelligent enough. She understood what was
15 going on. She was capable of waiving those rights and
16 giving a statement to these officers, which she did.

17 The nature of the questioning. You heard for
18 yourself that they weren't aggressive. No one was
19 bullying Zinah Jennings. Sergeant Thomas was begging
20 for her to tell them where ^{Child} was: Tell me what
21 happened to him. Let's go get him. She wasn't scared.
22 She wasn't bullied. She gave that statement of her own
23 free will.

24 The advise of rights, to include the
25 constitutional right to remain silent; that any

1 statement could be used against her in a court of law;
2 the right to have a lawyer present; that if she could
3 not afford a lawyer, a lawyer would be appointed to
4 represent her without any cost; and that she could stop
5 talking at any time.

6 You saw the advise of rights that I just
7 showed you. She was advised of those rights. She
8 waived them. When she waived them, the things that she
9 said can and were used against her in this courtroom.

10 Different stories about where she put ^{Child}
11 about what had happened to him. You can hear
12 Investigator Thomas talking to her on that tape when he
13 asked her, Where is your son? Did any harm come to
14 him?

15 She starts to cry when he tells her that,
16 scares him. Have you done anything to him? You are
17 crying harder. That scares me more. The entire context
18 of that transcript of that audio recording that y'all
19 listened to can be considered by you guys as evidence of
20 Zinah Jennings' guilt in this case.

21 When I was getting ready for this trial, I was
22 going through the evidence and trying to figure out what
23 the defense was going to be in this case. As I was
24 sitting over there, I was sitting in that chair, and
25 Mr. Pride stood up here and he said, You can't prove she

1 abandoned the child because you don't have the child.

2 Somebody could have knocked me out of that
3 chair with a feather. Because once you abandon
4 something, that is kind of the point. I agree with
5 Mr. Pride. We don't have the child. That's the point
6 of abandoning something. You don't abandon something to
7 go produce it one day.

8 The fact that no one has seen ^{Child} that no
9 one has seen this child alive since November 29th of
10 last year, some almost ten months ago, is the proof of
11 the abandonment of the baby at the very least.

12 Unlawful conduct towards a child is the case
13 that we can prove to you beyond a reasonable doubt here
14 today. The abandonment of the baby is the point, not
15 having the child is the point. It proves the
16 abandonment.

17 Finally, I want to talk to you guys about
18 credibility. Credibility of the witnesses in this case,
19 the credibility of the things that they testified to.
20 They got on the stand, they took an oath, and they told
21 you they were going to tell the truth.

22 This case is more unique than other cases
23 because the witnesses in this case, the ones who had
24 direct knowledge, the eyewitnesses, they were Zinah
25 Jennings' family and friends.

1 What interest do they have in this case? What
2 motive do they have to get up there and say anything
3 other than the truth? You can tell it's the truth
4 because their stories remain consistent. The things
5 they said here today were the same things that they have
6 been saying all along.

7 I never saw Zinah again. I never saw ^{Child}
8 again after November 20th. I saw Zinah. Zinah said she
9 wanted to get rid of him. Zinah came to our house on a
10 hot November day with the windows rolled up. She left
11 the baby in the back seat of the car; so I went to go
12 check on him because she wasn't.

13 Those stories are consistent. I beg you -- I
14 beg you -- to go back there and judge the credibility of
15 the witnesses in this case. In the same vein as you
16 judge the credibility of the witnesses that we put
17 forth, judge the credibility of the witnesses that took
18 the stand and spoke on behalf of the defendant, that
19 Mr. Pride called to the stand.

20 Did their stories remain consistent or did
21 they change? Did they say, I've never seen Zinah harm
22 the baby, and then giving a statement and said, I
23 witnessed child abuse.

24 Are their statements corroborated by any other
25 evidence? Or did they get up here and talk about a

1 sighting in December with Child and Zinah at the Beaver
2 Hut that is not corroborated by any receipt that she
3 says she maintained, by the video evidence that wasn't
4 working that day, or by the witness that she said could
5 corroborate it.

6 Judge their credibility. This case is going
7 to boil down to credibility. You either believe the
8 witnesses and what they said happened or you believe the
9 investigators when they said, We searched. This case
10 was on the national news. You either believe those
11 things or you don't. And if you believe them, Zinah
12 Jennings is guilty of unlawful conduct towards a child.

13 Finally, ladies and gentlemen, the State must
14 present evidence that the offense was committed in the
15 county alleged in the indictment, Richland County. The
16 kicking, the squeezing of the hand, those things all
17 happened in Richland County.

18 And by Zinah Jennings' own statement, the
19 abandonment of the baby happened in Richland County.
20 She took him to an apartment complex off of Garners
21 Ferry Road, dropped him off, and never went back. Those
22 are her words. It happened in Richland County.

23 Zinah Jennings bet on a few things in this
24 case. She bet that if she told family members enough
25 different stories about where Child was, no one was going

1 to check into it and see if she was telling the truth.

2 She certainly didn't expect her mom to call
3 the police. She bet that when she talked to the police,
4 she told them enough different stories and sent them in
5 enough different direction that she wouldn't be charged
6 for a crime.

7 She bet that if she hid it well enough, if you
8 can't produce the abandoned baby, then you all wouldn't
9 find her guilty of unlawful conduct towards a child.
10 Those were the bets that she made.

11 I want you to look at this evidence. I want
12 you to go back in that jury room and deliberate. You
13 come back and you find her guilty. Zinah Jennings will
14 know that she bet wrong.

15 Ms. Garfield told you -- and she was kind of
16 mocked by Mr. Pride on this -- but this case was about a
17 little boy. Mr. Pride said this case was about Zinah
18 Jennings.

19 Don't be distracted. There is one victim in
20 this case. There is one little boy who hasn't been seen
21 in ten months. There is one little boy that according
22 to his own mother was left with some people and never
23 checked on again. This case is about ^{Child} Jennings.
24 Hold his mother accountable for what she did to him.
25 Thank you.

1 THE COURT: Thank you very much, Solicitor.
2 Mr. Pride.

3 MR. PRIDE: May it please the Court.

4 THE COURT: Yes, sir.

5 CLOSING ARGUMENT

6 MR. PRIDE: Mr. Foreman, ladies and gentlemen
7 of the jury, I've got to admit Ms. Walker really threw
8 me off my argument. When she told you that this crime
9 was committed in Richland County on November the 29th --
10 November the 29th -- what does that mean?

11 You are supposed to completely ignore
12 Ms. Beaver's testimony? Ms. Beaver doesn't have a horse
13 in this race. If Ms. Beaver was a disgruntled employee
14 of the Columbia Police Department or if Ms. Beaver had a
15 criminal record or if Ms. Beaver had some motive for the
16 kind of testimony she gave, don't you know that they
17 would have been up here in reply trying to discredit
18 her, trying to show why she came up here and told you
19 that Zinah and Child was in her store on the 22nd or
20 23rd?

21 I can't believe Ms. Walker told you the last
22 time that Child was seen was the 29th of November. What
23 reason would Ms. Beaver lie? Ms. Beaver didn't call me
24 first. She did like any of you, I hope, would have done
25 if you had some valuable information to help find the

1 child.

2 She called the police department and told
3 them, Listen, I think I have seen -- she didn't say it
4 exactly like I said it -- but she said, I have got some
5 information for you. She had 11 years of experience on
6 the force.

7 When she testified when the officer came
8 out -- and I don't remember his name -- that his
9 demeanor -- and she is an experienced police officer
10 with the same training he has got -- that his demeanor
11 was intimidating as though he didn't want the
12 information.

13 She was right. He didn't want it. When have
14 you ever heard of an officer trying to find a damn child
15 and go out there to someone who says, I have seen the
16 mother and I have seen the child, and not write one
17 thing down?

18 He didn't write a description, but yet when I
19 asked him, I said, What did the mother look like? He
20 described her. What did the child look like? He
21 described Child but he wrote nothing down.

22 When Ms. Walker says that the police
23 department could not confirm Ms. Beaver's story, it
24 didn't confirm all those people they put up there. Did
25 they confirm one of these witnesses' story that said she

1 kicked, she squeezed, she threatened to throw him out
2 the car?

3 Did you hear any confirmation that they did on
4 those witnesses? No, they didn't confirm any of that
5 because they needed that and they wanted that. Because
6 that's the kind of testimony that allowed them to do
7 exactly what they have done, hold her.

8 That's the kind of testimony they wanted, as
9 distinguished from what Ms. Beaver said. Ms. Beaver
10 doesn't have a horse in this race. When Ms. Campbell
11 stood up and said, Oh, what about the \$10,000 reward?
12 She said, I don't want no money. She said, I didn't put
13 any claim in for any money.

14 What she did is what any decent person would
15 have done with the kind of information she had. What
16 was not done was that no emphasis or credibility was
17 given to that. Absolutely none. Why not?

18 What is the State's motive in not putting any
19 emphasis on Ms. Beaver's testimony? You know what it
20 is? You have got to look at this warrant because I will
21 tell you exactly what they did.

22 Mr. Bailey testified that he went to Zinah's
23 mother's house on the 27th, and he met with Zinah. At
24 that time he asked Zinah, Where is ^{Child} And Zinah told
25 a lie. Zinah told so many lies.

1 I would plead her guilty to being a liar
2 because she is a liar, and she told many lies. But
3 unfortunately she is not charged with being a liar or
4 telling lies in this case.

5 She told them, she said, He's with Ernest
6 Robinson, his daddy. Mr. Bailey told Zinah, say, You
7 come down to the police department on the 28th at
8 3:00 o'clock and meet me.

9 On the 28th of December, Zinah didn't show up.
10 When Zinah didn't show up on the 28th, you read this
11 document. It's Exhibit 20. On the 29th he was right
12 before a judge getting a warrant against her. You must
13 read the affidavit, and you must read the language in
14 the warrant.

15 Because you know what he says in that warrant?
16 He says Zinah told two lies about the baby. He said,
17 She lied to me on the 28th, and she lied to the man who
18 investigated the automobile accident when he asked her
19 did she have any children.

20 Then it goes on to say that she also told him
21 that Ernest was the father. That's what the warrant
22 said. Hemphill Pride didn't say that. That's what this
23 piece of paper says.

24 On the 28th she didn't show up. On the
25 29th he got the warrant and on the 29th Zinah comes into

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1 What was their motive? What was their
2 relationship? And how close was it? They didn't go any
3 further. Because that's exactly what they wanted.
4 That's what they wanted because that's the information
5 that they needed in order to hold her.

6 Even on the 30th -- she went down there on the
7 29th -- on the 30th when Bailey and Thomas started to
8 question her, it was 12:00 o'clock at night. She is a
9 23-year-old girl with no criminal record, no
10 convictions. She was charged with prostitution. The
11 judge asked you not to hold that against her because she
12 is presumed innocent, and she has never been tried on
13 that.

14 They talked to her at 12:00 o'clock at night.
15 They asked her, Do you waive your rights? She said yes.
16 She signed it. Do you want a lawyer? She said no. She
17 didn't think she had done anything wrong. She didn't
18 know what they wanted. She knew they wanted to know
19 about the baby.

20 She also knew what her answer was, and that
21 was she wasn't going to tell them. So they went on to
22 ask question after question after question, and she had
23 a pat answer for them.

24 Either the baby was in a safe place or if you
25 ask me again, you will make me tell a lie. That's

1 exactly what she did. She lied to them over and over
2 and over and over again.

3 Not only that, she told them in that
4 transcript, I don't trust you. Later play it and you
5 will hear her. She said, I don't trust you. She didn't
6 trust them and she had good reason not to trust them.

7 Now, these officers that went out to talk with
8 the witnesses that they produced from the stand, they
9 had 41 witnesses. They went on and on and on and on and
10 on. At the end of on and on and on and on, you now how
11 the end was? We still didn't know where Child is.

12 Because even through the process that they are
13 putting Zinah through, it's not producing Child When I
14 raise the fact that they needed Child they need Child
15 because they can't really -- one of the things they have
16 got to prove to you, they have got to prove to you
17 beyond a reasonable doubt on the question of abandonment
18 that Zinah abandoned Child in Richland County.

19 I submit to you they can't prove that. They
20 can't prove that. Their whole case was based on what?
21 November the 28th was the last time that Child was in
22 Richland County, and that was a lie. That was not the
23 truth.

24 Instead of acknowledging this lady, they would
25 try and show that she is not a credible witness. I

1 asked her, How did you leave the police department? She
2 said, I left in good standing, didn't have any axe to
3 grind.

4 They asked her, Well what about that lady that
5 was in the store? She said, Well, I thought she was in
6 the store at the same time they were. But when I called
7 her and found out that she wasn't, she told him, I made
8 a mistake.

9 But they want to make it look like that she
10 was wrong about that, just like she was wrong about
11 Zinah and Child That was not true. She sure didn't
12 equivocate on the stand as Bailey and Thomas did.

13 Bailey and Thomas only gave testimony that was
14 favorable to the State. They didn't give fair and
15 impartial testimony only to tell the truth and the facts
16 as they were in this case.

17 If they could stick something in in the cross
18 examination or if they could get something over to make
19 a point in order to make it look good for a conviction,
20 that's exactly what they did.

21 That's not the role of a police officer.
22 Police officers are only supposed to do what? Tell the
23 facts. That's why when I argued before you and told
24 you -- not argued -- but when I opened up this case, I
25 told you that a fact is what a thing is and a value is

1 what something ought to be.

2 I asked you when I opened up this case, I
3 said, Please, please, don't make assumptions. I gave
4 you an example. I told you, I said, when water is on
5 the ground and you walk outside, you don't know where
6 that water is from. All you know for sure is the ground
7 is wet. You don't know if it rained. You don't know if
8 the car washed it, but you do know that the ground is
9 wet.

10 In this case that's what you have got to know.
11 You've got to know just that the ground is wet. You've
12 got to put your emotions down. You can't let the fact
13 that she is a mother and a child is missing take over
14 your ability and your reasoning in this case.

15 She is entitled to a fair and impartial trial
16 whether she is a liar, whether she told the truth about
17 the child. You have got to remember, at the time that
18 they were questioning her about the child, they were
19 holding back on a warrant.

20 Because you know when they say they served the
21 warrant on her? When they finished getting what they
22 wanted out of her, and they got ready to send her to the
23 Alvin S. Glenn Detention Center.

24 That's when they said, Aha, here is this
25 warrant for your arrest that we got on the 29th. The

1 warrant is based purely on the fact -- and I stand on
2 this. I stand on this as her lawyer. I stand on this
3 and represent to you that the warrant was based purely
4 on the fact that: She wouldn't tell us where the baby
5 was, purely on that, purely on that.

6 You want to talk about Zinah being consistent?
7 When Zinah's momma talked to her and said, Zinah -- I
8 didn't realize she was in jail, those conversations. I
9 didn't realize that it was going to get to this.

10 Because when Zinah's momma reported the matter
11 to the Columbia Police Department, she never knew that
12 this matter -- and had no intentions -- for this matter
13 to culminate in the fiasco and the criminal prosecution
14 of her daughter as they are doing.

15 Her family never expected that. She said, I
16 told Zinah, if you won't tell me where the baby is, I
17 will make you tell me. So that's when she said -- or
18 that's what motivated her to call the police department to
19 try to make and find out where ^{Child} was.

20 Even when she was in jail and in her lowest
21 point -- you know, when you get in trouble and you are a
22 child, you might be the most independent person in the
23 world. But when you get your behind in jail, I'll tell
24 you, you will run right back to momma and daddy. They
25 are the greatest people in your life.

1 She was running right back to her momma
2 because she needs the representation, and she needed
3 help to get out of this trouble. When her momma said,
4 Please, please, just tell me where the child is, she
5 said, Momma, it's in a safe place.

6 It's the same thing that she told them down at
7 the Columbia Police Department. She didn't change that.
8 She said, Child is in a safe place. That's consistent.
9 He is in a safe place.

10 Now, ladies and gentlemen of the jury, you
11 have rules that you are sworn to go by. One of those
12 rules is regardless of what the lawyers argue to you
13 about what the law is, that you will take your law from
14 the judge who sits behind this bench because he is going
15 to give it to you correctly.

16 With the law that he gives to you, you all
17 have to get together and figure out the facts. I will
18 give you an example of what I think figuring out what
19 the facts are.

20 Figuring out the facts is proving that Zinah
21 is guilty beyond a reasonable doubt. No question about
22 the fact that that burden of proof lies right over here
23 with the prosecutors.

24 I don't have to prove that Zinah was innocent.
25 I didn't have to prove that Zinah [verbatim] was still

1 alive and well in December on the 22nd or the 23rd. I
2 didn't have to do that. I didn't have to put up any
3 evidence, and she still would have been presumed
4 innocent. The burden still would have been on the
5 prosecutors.

6 But the prosecutors have a burden. I think
7 this is a good example. It's like you all are over here
8 and the prosecutors want you to solve a puzzle. I doubt
9 if people even do puzzles anymore. We have become so
10 computerized.

11 Anyhow, there are so many pieces to this
12 puzzle. If you can put the puzzle together, then you
13 can see the picture. But if all of the pieces aren't
14 there, you can't figure out what the pictures are.

15 The prosecutors puts all the pieces over
16 there. You all get down on your knees and one says,
17 I've got a piece that goes here, and I've got a piece
18 that goes here.

19 When you get through putting the puzzle
20 together, there are ten pieces missing. That's
21 reasonable doubt. Because they didn't give you all the
22 pieces that you could see the picture.

23 Don't you be worried about being criticized
24 publicly about a verdict in this case. No one has sat
25 in your shoes to hear this case and tolerate what you

1 have gone through.

2 Some of you, I know, probably have lost
3 financially. Some of you have missed appointments.
4 There are many of you that have had many other things to
5 do.

6 But I do join with Ms. Walker and express my
7 appreciation for your coming in and sitting as the
8 triers of the facts. You have been attentive. I have
9 seen you. You have taken notes. You have listened.

10 But they have got to prove to you her guilt
11 beyond a reasonable doubt. And when it comes to abuse,
12 they've got to prove to you that what ^{Child} suffered were
13 physical injuries.

14 The judge is going to tell you that. There
15 has been no testimony about any physical injuries. Even
16 if you believe that she did kick him in the back, even
17 if you do believe that she squeezed his hand, there is
18 no testimony that he suffered any physical or mental
19 injuries.

20 The only word of injury I have heard in this
21 court is when Mr. Bailey had the audacity to call a cold
22 sore an injury. That's another good example too with
23 Denise Jennings. He was willing to sit up here and say,
24 Denise said this and Denise said that and Denise said
25 this.