

21514

VOL IV of IV

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

R. Knox McMahon, Circuit Court Judge

RECEIVED

DEC 18 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ZINAH DAMARIS JENNINGS,

APPELLANT

APPELLATE CASE NO. 2012-212947

RECORD ON APPEAL

DAVID ALEXANDER
Appellate Defender

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

Attorney for Appellant

ALAN WILSON
Attorney General

WILLIAM M. BLITCH, JR.
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

DANIEL E. JOHNSON
Solicitor, Fifth Judicial Circuit
Post Office Box 192
Columbia, SC 29202-0192
(803) 576-1800

Attorneys for Respondent

INDEX

INDEX	i
TRIAL TRANSCRIPT (dated July 30 – September 7, 2012)	1
PRE-TRIAL MOTIONS	24
TESTIMONY	
COLIN BAILEY (IN CAMERA)	
Direct examination by Ms. Garfield	25
Cross-examination by Mr. Pride	48
Redirect examination by Ms. Garfield	55
ARTHUR THOMAS (IN CAMERA)	
Direct examination by Ms. Garfield	58
Cross-examination by Mr. Pride	61
COLIN BAILEY (IN CAMERA)	
Direct examination by Ms. Garfield	120
Cross-examination by Mr. Pride	132
ANGELA LADSON (IN CAMERA)	
Direct examination by Ms. Garfield	140
Cross-examination by Mr. Pride	146
CHRISTON LEE MILLER (IN CAMERA)	
Direct examination by Ms. Garfield	155
Cross-examination by Mr. Pride	158
Redirect examination by Ms. Garfield	159
JAMIE GUNTER (IN CAMERA)	
Direct examination by Ms. Garfield	166
Cross-examination by Mr. Pride	170
JAMIE GUNTER (IN CAMERA)	
Direct examination by Ms. Garfield	195
Cross-examination by Mr. Pride	203
GEORGE WISE (IN CAMERA)	
Direct examination by Ms. Garfield	211
Cross-examination by Mr. Pride	223
Redirect examination by Ms. Garfield	229

KIMBERLY HARRISON (IN CAMERA)	
Direct examination by Ms. Campbell	241
OPENING STATEMENT BY MS. GARFIELD.....	297
OPENING STATEMENT BY MR. PRIDE.....	303
TESTIMONY	
RANDALL G. SCOTT	
Direct examination by Ms. Garfield	315
Cross-examination by Mr. Pride.....	321
Redirect examination by Ms. Garfield.....	325
KEYONIA JOHNSON	
Direct examination by Ms. Garfield	327
Cross-examination by Mr. Pride.....	330
ROBIN WARD	
Direct examination by Ms. Garfield	333
Cross-examination by Mr. Pride.....	336
Redirect examination by Ms. Garfield.....	343
Recross examination by Mr. Pride.....	344
CHRISTON MILLER	
Direct examination by Ms. Garfield	346
Cross-examination by Mr. Pride.....	352
Redirect examination by Ms. Garfield.....	358
Recross examination by Mr. Pride.....	359
ARTHUR L. THOMAS	
Direct examination by Ms. Campbell	360
Cross-examination by Mr. Pride.....	387
Redirect examination by Ms. Campbell	427
Recross examination by Mr. Pride.....	442
ERIC J. WALKER	
Direct examination by Ms. Garfield	471
Cross-examination by Mr. Pride.....	475
Redirect examination by Ms. Garfield.....	477
ARTAVIA MITCHELL	
Direct examination by Ms. Walker.....	479

CHARISMA MITCHELL

Direct examination by Ms. Walker.....	485
Cross-examination by Mr. Pride.....	490

RODERICK MITCHELL

Direct examination by Ms. Walker.....	494
Cross-examination by Mr. Pride.....	506
Redirect examination by Ms. Walker.....	520

DARLENE MITCHELL

Direct examination by Ms. Garfield.....	525
Cross-examination by Mr. Pride.....	530

YOLANDA WILLIAMS

Direct examination by Ms. Campbell.....	532
Cross-examination by Mr. Pride.....	543

PATHENIA STARKS

Direct examination by Ms. Campbell.....	545
Cross-examination by Mr. Pride.....	553

CHRISTIAN DICKERSON

Direct examination by Ms. Walker.....	557
Cross-examination by Mr. Pride.....	571
Redirect examination by Ms. Walker.....	594
Recross examination by Mr. Pride.....	597

KRISTEN KNIGHT

Direct examination by Ms. Garfield.....	603
Cross-examination by Ms. Darwin.....	612
Redirect examination by Ms. Garfield.....	615
Recross examination by Ms. Darwin.....	616

ASHLEIGH BURNETT

Direct examination by Ms. Garfield.....	618
Cross-examination by Mr. Pride.....	624

MARCUS JOHNSON

Direct examination by Ms. Campbell.....	629
---	-----

MICHAEL SUTTON

Direct examination by Ms. Campbell.....	653
---	-----

ADRIENNE ALSTON	
Direct examination by Ms. Campbell.....	673
TROY CLARK	
Direct examination by Ms. Walker.....	688
Cross-examination by Mr. Pride.....	692
JESSICA THOMAS	
Direct examination by Ms. Garfield	696
Cross-examination by Mr. Pride.....	704
Redirect examination by Ms. Garfield.....	716
STEPHAN NAREWSKI	
Direct examination by Ms. Garfield	718
Cross-examination by Mr. Pride.....	723
DENISE JENNINGS	
Direct examination by Ms. Campbell.....	750
Cross-examination by Mr. Pride.....	764
Redirect examination by Ms. Campbell	804
Recross examination by Mr. Pride.....	820
TAI WILLIAMS WOODS	
Direct examination by Ms. Walker.....	822
DANIEL WOODS	
Direct examination by Ms. Walker.....	828
SHONDALA HARRIS	
Direct examination by Ms. Campbell	832
Cross-examination by Mr. Pride.....	845
NINA SIMPSON	
Direct examination by Ms. Garfield	855
Cross-examination by Mr. Pride.....	863
GEORGE WISE	
Direct examination by Ms. Garfield	867
Cross-examination by Mr. Pride.....	886
PAUL NELSON	
Direct examination by Ms. Garfield	891

DONNA MARTIN	
Direct examination by Ms. Garfield	894
Cross-examination by Mr. Pride	898
TRACEY DIXON	
Direct examination by Ms. Garfield	899
AMY STEPHENS	
Direct examination by Ms. Garfield	913
BETTY BUTLER	
Direct examination by Ms. Garfield	918
Cross-examination by Mr. Pride	932
Redirect examination by Ms. Garfield	937
Recross examination by Mr. Pride	938
NIKKI PERRY HUGHES	
Direct examination by Ms. Garfield	941
PATRICIA CROOKS	
Direct examination by Ms. Garfield	944
Cross-examination by Mr. Pride	947
JENNIFER CLAYTON	
Direct examination by Ms. Campbell	948
Cross-examination by Mr. Pride	991
MELRON KELLY	
Direct examination by Ms. Garfield	1031
Cross-examination by Mr. Pride	1035
COLIN BAILEY	
Direct examination by Ms. Campbell	1036
Cross-examination by Mr. Pride	1129
Redirect examination by Ms. Campbell	1181
Recross examination by Mr. Pride	1198
HEATHER RAMOS	
Direct examination by Ms. Campbell	1205
Cross-examination by Mr. Pride	1207
CRAIG JANUCHOWSKI	
Direct examination by Ms. Walker	1209
Cross-examination by Mr. Pride	1216

MOTION FOR A DIRECTED VERDICT.....	1219
TESTIMONY	
JENNIFER BISHOP	
Direct examination by Mr. Pride	1272
LEAH THOMPSON	
Direct examination by Mr. Pride	1276
GELISA MACK	
Direct examination by Mr. Pride	1281
MILDRED HOUSTON	
Direct examination by Mr. Pride	1285
JOCELYN JENNINGS NELSON	
Direct examination by Mr. Pride	1293
Cross-examination by Ms. Campbell	1337
LAURA MARIE BEAVER	
Direct examination by Mr. Pride	1346
Cross-examination by Ms. Campbell	1352
Redirect examination by Mr. Pride.....	1356
Recross examination by Ms. Campbell	1359
SHAKA MUSTAFA (IN CAMERA)	
Direct examination by Mr. Pride	1379
Cross-examination by Ms. Campbell	1397
ZINAH JENNINGS	
Examination by the Court	1403
STEPHAN NAREWSKI	
Direct examination by Ms. Garfield	1415
Cross-examination by Mr. Pride.....	1419
APRIL MERRILL	
Direct examination by Ms. Garfield	1424
Cross-examination by Mr. Pride.....	1428
RENEWAL OF PREVIOUS MOTIONS	1433
CLOSING ARGUMENT BY MS. WALKER.....	1467

CLOSING ARGUMENT BY MR. PRIDE	1489
CLOSING ARGUMENT BY MS. CAMPBELL	1510
CHARGE ON THE LAW	1567
VERDICT	1582
MOTION FOR A MISTRIAL	1588
RENEWAL OF PREVIOUS MOTIONS	1588
MOTION HEARING TRANSCRIPT (dated June 7, 2012)	1595
MOTION TO QUASH INDICTMENT	1624
MEMORANDUM IN SUPPORT OF MOTION TO QUASH INDICTMENT	1627
STATE'S RESPONSE TO DEFENSE MOTION TO QUASH INDICTMENT	1642
DEFENDANT'S REPLY TO STATE'S RESPONSE TO DEFENSE MOTION TO QUASH INDICTMENT	1647
ORDER ON MOTION TO QUASH INDICTMENT	1652
MOTION TO QUASH SUPERSEDING (REPLACEMENT) INDICTMENT	1656
MOTION TO REQUIRE STATE TO SPECIFY ALL CRIMINAL ACTS CONSTITUTING A VIOLATION OF SECTION 63-5-70	1659
MOTION IN LIMINE REGARDING RULE 404 (B)	1661
MOTION FOR DISCLOSURE OF INTENT TO USE EVIDENCE	1664
DEFENDANT'S REQUEST TO CHARGE INDICTMENT	1665
COURT'S EXHIBIT # 2 (TRANSCRIPT OF DEFENDANT'S INTERVIEW)	1666
MOTION TO QUASH WARRANT	1773
INDICTMENT	1777
AMENDED INDICTMENT	1779

ARREST WARRANT	1781
STATE’S EXHIBIT # 78 (DEFENDANT’S STATEMENT).....	1783
CERTIFICATE OF COUNSEL.....	1784

**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS
COURT:**

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

1685

1 When I asked him, Well, did you think Denise
2 was a truthful witness? He said yes. The minute I
3 said, Why didn't you believe Denise when she said that
4 the baby had a cold sore? He said, Because she didn't
5 tell me about it.

6 She didn't tell him about it because she
7 didn't know that that was important to him because he
8 didn't ask about it. But that's what I mean when I say
9 that he vacillated, anything in order to prove the case.

10 He wasn't going to doing anything to prove or
11 be fair and impartial in his testimony so that you could
12 decide and find anything for emphasis. All he was going
13 to do was give those things that were unfavorable,
14 anything that he could find, but never gave a
15 straight-up, honest answer.

16 Out of 41 witnesses, they dotted all the I.s
17 and crossed all the T.s, but somehow or another out of
18 those 41 witnesses and this magnificent production that
19 they have put on and this meticulous investigation they
20 went through, they missed Ms. Beaver.

21 It just so happened they missed Ms. Beaver.
22 They missed Ms. Beaver because Ms. Beaver messed up
23 their timeline. They decided the last time that this
24 boy was seen was on the 29th of November, and she had
25 stretched their time line; and they didn't have any

1 place for her in this trial. That should tell you
2 something about them.

3 When the little lady who come up here in reply
4 who testified that she gotten this report up in -- I
5 don't remember, upstate somewhere -- and that she looked
6 into it, and the child was five or six years old; but
7 the bottom line was that the lead didn't pan out.

8 She said, Also, the restaurant up there didn't
9 have a camera in it because it wasn't broke. They made
10 a great deal to do out of the fact that Ms. Beaver's
11 camera didn't work or Ms. Beaver's cash register didn't
12 work.

13 But yet when I asked Mr. Bailey, who had
14 pulled off of these films from these different stores,
15 Did you go back to this cash register and that clerk and
16 pull that tape and see whether or not anything that
17 Zinah bought were items that she was buying for the
18 baby?

19 He had an explanation but he didn't have an
20 answer. His explanation was a vacillation. That's what
21 it was, anything to get around it, an excuse, not a
22 straightforward answer, not at all.

23 Now, Zinah Jennings is entitled to a fair
24 trial. This is her day in court. She has come to court
25 and pled not guilty. She has maintained her innocence

1 since being arrested on the 30th of December. She said,
2 I'm not guilty. I'm not guilty. I'm not guilty.

3 Ladies and gentlemen of the jury, you have
4 heard all kinds of testimony, but the pieces that the
5 solicitor gave you to put the puzzle together, they
6 didn't give you all the pieces; and you can't see the
7 picture on the puzzle. So it's not but one verdict that
8 you can reach and that's not guilty. You can't in good
9 conscious reach a verdict of guilty in this case.

10 When they say that Zinah said the baby walked
11 out in the street, Zinah was saying to them, It is
12 possible because of Child size and he is an active
13 child that he could walk out into the street. She
14 wasn't saying that she let him walk out into the street.

15 All of these were hypothetical questions that
16 they were trying to find information, something to hang
17 their hats on, because they didn't have anything. The
18 only way they felt that they were going to find Child was
19 to charge Zinah Jennings with an offense and hold her
20 and try and make her talk.

21 But the criminal justice system doesn't work
22 that way. Because a person charged with a criminal
23 offense has a right to remain silent, notwithstanding
24 the fact that they are a mother. That might be
25 difficult for you to wrestle with, but that is the law.

1 That's the truth, and that's what happened in
2 this case. That's why Ms. Beaver does not fall within
3 the timeline. Because they can't give you an
4 explanation of why they want you to just disregard
5 Ms. Beaver's testimony.

6 They can't give you any motive that Ms. Beaver
7 would come in here and take her time away from her
8 business, as she testified, in order to tell you what
9 she told you.

10 When I took her down off of this stand and I
11 said, Do you see the person that came into your store?
12 She said, Yes, that's her right over there. When I
13 asked about the description of ^{Child} she said, Yes,
14 that's who I saw. That's who I saw. I think she
15 probably testified that Zinah bought something for about
16 three dollars and told her that she was heading to
17 Atlanta for something.

18 Now, ladies and gentlemen of the jury, I don't
19 know how the State hopes to prove a case when, in fact,
20 they want you to believe that ^{Child} went missing on the
21 29th of November. They haven't given that up.

22 Now, obviously when I get through -- I don't
23 get but one argument -- Ms. Campbell will come in, and
24 she will give you her argument, and she will try and
25 find a reason.

1 But just because somebody tries to find a
2 reason, it's up to you to use your good judgment and
3 common sense to see if that fits in the puzzle like it's
4 supposed to or is that just an answer to a problem that
5 the prosecutors have?

6 I would submit to you that there is no way in
7 the world that you can find Zinah guilty. The witnesses
8 that we brought in were witnesses that had known Zinah
9 for a considerable period of time. They testified that
10 she was a good mother, took care of the child, and loved
11 him.

12 The prosecutor had no witnesses -- had no
13 cross examination for them at all. So you can consider
14 that as uncontested testimony, absolutely true. It was
15 not contested at all, no cross examination, almost
16 admitted to be true.

17 Now, the other people who talked about the
18 fact that Zinah didn't feed the baby, her mother told
19 you, she said Zinah would feed the baby sometime and
20 wouldn't want her to feed the baby.

21 The mother had to come in -- and, you know,
22 it's difficult to come in the public and take all your
23 clothes off and have to tell your personal business, but
24 she got right up there on the stand and she said, A lot
25 of what Zinah's problems are I must contribute to the

1 way I handled myself and I handled Zinah.

2 I think she said she was old school, and she
3 had rules and regulations in her house. I don't know
4 what is wrong with that, and I can imagine -- I'm not
5 supposed to refer to myself -- but I can imagine that
6 sometimes it's not so easy to comply with a parent's
7 rules and regulations.

8 But as long as you are sitting at their table
9 and as long as you have got a roof at home, you've got
10 to comply with it. She said Zinah began to talk with
11 her -- and she didn't say disrespectful -- but what she
12 described was a very disrespectful manner.

13 She talked back to her, argued with her; but
14 she didn't relent from her rules about what time to come
15 in and what you have to do. Now, for whatever reason
16 Zinah couldn't abide by those rules and regulations and
17 decided that she would go out on her own.

18 When Zinah went out on her own, Zinah had
19 nowhere to go. She had no job no more. She wasn't in
20 school anymore. She had ^{Child} and the only thing that
21 she owned and had was ^{Child} and she was very possessive.
22 That's the only thing she could control.

23 Even the baby's father, Rod, testified. Rod
24 and Ms. Jennings, I would submit to you, out of all the
25 witnesses in this case were in a better position to

1 observe Zinah and her relation with the child.

2 Rod said, Yeah, Zinah left me and took the
3 baby and went and got another place because I brought
4 some people in the house to see the baby.

5 Was she a good mother?

6 She was a good mother.

7 Would she harm the child?

8 No.

9 Would she take care of him?

10 Yes.

11 That testimony was consistent with what the
12 mother said in this case. And if you think that you
13 heard something different or you are not certain about
14 something, then as a juror -- and I know you have been
15 here a long time and I know you are worn out -- but you
16 have got an obligation to yourself and to your oath and
17 to the State and to Zinah. Look at all the evidence.
18 Listen to the evidence, to discuss the evidence.

19 Your decision in this case must be unanimous.
20 That's not to say if one of you disagrees with the rest
21 of you that you can't stick to your opinion. You've got
22 a right to do that, and the rest of the jurors have a
23 right to try and convince you to see their side of the
24 case.

25 But if each one of you individually has not

1 made up your mind that Zinah is guilty, then you have a
2 responsibility to hold to your conviction. You
3 certainly do. I simply ask that you carry out your
4 responsibility in this case.

5 They can't prove that the baby was abandoned,
6 and they sure can't prove that he was abandoned in
7 Richland County. Because they allege that he was
8 abandoned on the 29th of November. We disproved that.

9 That's why little Ms. Walker wouldn't let that
10 go. She is still hanging onto the 29th of November to
11 my dismay. And had we not brought Ms. Beaver in here,
12 we would have had to live with the 29th.

13 I didn't find Ms. Beaver on my own, unlike the
14 police department. She said, I called your office.
15 When she called the office, Ms. Darwin and I went to see
16 her twice.

17 We went to check her background, and we went
18 to make sure that she was not a disgruntled employee;
19 that she didn't have some hidden agenda; that she didn't
20 have some ill motive.

21 Once we found that out, we asked her, Would
22 you sign an affidavit to what you are getting ready to
23 say? She said, Yes, I will go ahead and sign an
24 affidavit. She came here today because she was
25 subpoenaed.

1 That doesn't stack up that you can find Zinah
2 guilty on the basis that she left and -- he was
3 abandoned on the 29th of the November, when, in fact, it
4 has been proved beyond a reasonable doubt that that is
5 not true. That's not true. That's not true.

6 I expect fairness for my client. I expect
7 your fairness. I expect you to examine this case. I
8 expect you to examine your conscience. I expect for you
9 to review the evidence. I expect for you to discuss the
10 evidence and weigh the evidence.

11 I submit to you that after you have done all
12 that, you can reach a verdict; and that verdict should
13 be not guilty by reason of the fact that Zinah Jennings
14 was not proven guilty beyond a reasonable doubt. Thank
15 you.

16 THE COURT: Thank you. Thank you very much,
17 Mr. Pride.

18 Madame Forelady, ladies and gentlemen of the
19 jury, we are going to take about a 15-minute recess.
20 Please leave your notes on your chair upside-down. Do
21 not discuss the case during this brief recess. Thank
22 you very much. You may now go with your bailiff.

23 (The jury retires to the jury room.)

24 THE COURT: Court will be in recess 15
25 minutes. Thank you very much.

1 (Whereupon there is a recess.)

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

4 MS. CAMPBELL: No, sir.

5 THE COURT: Defense?

6 MR. PRIDE: None.

7 THE COURT: Bring us our jury, please.

8 (The jury returns to the courtroom.)

9 THE COURT: Welcome back, ladies and
10 gentlemen. If you would please continue to give the
11 parties your complete and undivided attention.

12 Solicitor, you may address the jury.

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

15 THE COURT: Yes, ma'am.

16 **CLOSING ARGUMENT**

17 MS. CAMPBELL: As Ms. Walker said, in
18 preparing for trial, you always try to anticipate what
19 the defense may be in a case. In a case such as
20 unlawful conduct towards a child where a child has
21 either been abandoned or exposed to harm or actually
22 harmed in any way, typically it may be a case of I.D. I
23 wasn't the person who harmed the child. I wasn't the
24 person that actually did this.

25 Or maybe it's a defense of duress. I had to

1 do it for whatever reason, accident. But this case is
2 different because none of those defenses or any others
3 apply here. Listen carefully to the judge as he
4 instructs you on the law.

5 As I listened to opening argument, the theme
6 became clear from the defense attorney. It was somewhat
7 unique. His focus was and he said over and over again,
8 This case is not about Child It's about Zinah.

9 He said you couldn't convict because the State
10 has not been able to find Child You can't convict
11 because Zinah Jennings did such a good job of getting
12 rid of him that despite national coverage, F.B.I.,
13 S.L.E.D., Columbia Police Department, Richland County
14 Sheriff's Department, friends, families, no one can find
15 Child And for that reason you can't convict?

16 And then he went further. Zinah is the real
17 victim here. Zinah Jennings is the real victim. She is
18 the victim of a conspiracy by her friends, by her
19 family, by police -- who had never seen her before the
20 day her mother reported she and her child missing.

21 It's a grand conspiracy for these people to
22 come in here and frame this poor, innocent victim. But
23 the one thing that became clear, nothing is Zinah's
24 fault. That has been the theme since the outset of this
25 case, and it continues in closing arguments just a few

1 minutes ago.

2 Nothing is Zinah's fault. Oh, she is a liar,
3 he admits, because that is just overwhelming. She lied
4 but she is not charged with that. But you are supposed
5 to believe her? He just admitted she is a known liar
6 who lied over and over and over, but you are supposed to
7 believe her that the baby is safe? That's not the lie
8 here?

9 Her own defense attorney just got up here and
10 said, She lied to the police. She lied to her friends.
11 She lied to her family over and over and over. But you
12 are supposed to trust her that the baby is safe? That's
13 the defense in this case?

14 But then the real defense became the Beaver
15 Hut, Ms. Beaver. For approximately 30 minutes,
16 Mr. Pride got up here and talked about Ms. Beaver and
17 why you should believe her.

18 I submit, ladies and gentlemen, even if you do
19 believe her -- and I will explain in a minute why she is
20 not credible -- it still doesn't make the facts of this
21 case and the time frame we are talking about any
22 different.

23 There is still abuse towards this child. This
24 child was put in harm's way. There is still credible
25 evidence that this child didn't meet a good end.

1 Whether she was seen the last time on the 29th or the
2 last time sometime before Christmas in December, whether
3 or not Child was seen then, he's still not here now.

4 She still abandoned him under any theory that
5 is plausible, reasonable, or believable. Remember,
6 ladies and gentlemen, each of you individually and then
7 collectively once you get back there, you have to make a
8 determination from the facts -- and I am getting ready
9 to talk about those -- what happened with Child

10 What is reasonable? And he talked about, You
11 can't look on the ground and see water and assume it
12 rained. We aren't asking you to do that. The ironic
13 part was he got up here and talked about the warrant in
14 this case and how all they had was the sightings. The
15 warrant is going back with you.

16 Ladies and gentlemen, at that point on that
17 date, on December 29th, there was enough to convict her
18 of unlawful conduct, but the police didn't stop. They
19 did their job. They continued to gather evidence.

20 They have searched and you heard about what
21 all they have done to try to find Child with the hope,
22 the prayer, that he would be safe. But unfortunately,
23 ladies and gentlemen, he is not here.

24 Now, I always wonder. When we were trying
25 this case and getting ready for trial, you look at Zinah

1 Jennings. You will have pictures they put in. She came
2 from a nice family, had a good upbringing.

3 What type of person -- what do they look like?
4 Who would harm their own child? In that same vein for
5 that matter, what does an armed robber look like? What
6 does a rapist look like? What does a child molester
7 look like?

8 Unfortunately, we know from our own common
9 sense, it can be priest at the local church. It can be
10 the football coach who runs a charity. It can be a
11 number of different people. Good people, what appear to
12 be good people, can do evil, horrible things that are
13 not comprehensible to most people.

14 So now I want to talk to you a little bit
15 about what the facts are before you in this case.
16 Before I go any further with the Beaver defense, he got
17 up here and said, You've got to believe her. You've got
18 to believe her.

19 I submit, ladies and gentlemen, even if you
20 were to believe her -- and I submit she is not
21 credible -- it doesn't affect what happened in this
22 case.

23 You will have -- the judge will instruct
24 you -- the indictment in this case runs from the 1st of
25 September until the end of December. Conduct, any and

1 all, in that time period.

2 The defense is going to say, You can't convict
3 on a technicality. He is arguing a technicality.

4 Because we can't prove it happened in Richland County?

5 I submit we have, ladies and gentlemen. But even if
6 that is not a correct statement, you listen to the judge
7 when he instructs you on this fact.

8 He will tell you that the State must present
9 evidence that the offense was committed -- any part of
10 the offense -- was committed in Richland County. That's
11 the county we are in.

12 However, the judge will further instruct
13 you -- and this is important -- when some acts material
14 to the offense occur in one county and some in
15 another -- in this case certain acts occurred in
16 Georgia -- venue is proper in either county, wherever it
17 happened. The judge will instruct you on that.

18 Let me repeat it. When some acts material to
19 the offense occur in one county and some in another --
20 or in this case in another state -- venue is proper in
21 either location. The judge will instruct you on that.
22 So for him to get up here and argue that we haven't
23 proved jurisdiction is simply not true.

24 Now, I want to talk to you a little bit about
25 what actual evidence is before you in this case. What

1 is the evidence? The evidence, ladies and gentlemen, is
2 the actual testimony. It's not questions by attorneys.
3 It's not fishing expeditions, speculation, conjecture,
4 innuendo, or just plain wishful thinking.

5 Evidence is when someone comes in here and
6 puts their hand on the Bible and swears to tell the
7 truth, and then you are the sole judges of the
8 credibility of each and every witness.

9 I submit, as Ms. Walker said before, I beg
10 you, judge the credibility of the witnesses in this
11 case. Do they have something to gain? Something to
12 lose? A reason to come forward?

13 Do you think it was easy for Shon Harris to
14 get up here and talk about her cousin like she had to?
15 Do you think that was easy? Do you think it was easy
16 for Denise Jennings to talk about her sister and her
17 behavior towards her own child? Do you think that was
18 easy? Did they have something to gain or to lose?

19 I submit, ladies and gentlemen, all any one of
20 them want is justice for ^{Child} There is no agenda here.
21 There is no conspiracy. What there is, unfortunately
22 for everyone, but most unfortunately for ^{Child} Jennings,
23 is the conduct of Zinah Jennings over a three-month
24 period that led to the fact that her child no longer
25 exists anywhere we can find him.

1701

1 That's horrible. That's tragic. But that
2 does not make her a victim, ladies and gentlemen. She
3 made choices. All we are asking on this indictment in
4 this courtroom is you hold her responsible.

5 Who did you hear from? You heard from a
6 number of police officers in this case. You heard from
7 Officer Eric Walker. Why is he significant? On
8 November 23rd -- and this is just one tiny piece. I
9 will go on for a while because we did put up 41
10 witnesses as you had to see.

11 He pulls her over for a traffic violation off
12 of Two Notch Road near Carter Street. When he pulls her
13 over on that day, ^{Child} is not properly restrained in the
14 child seat. Remember he got out and put him in the
15 back?

16 Ladies and gentlemen, that is just one small
17 iota of the evidence in this case. He actually wrote
18 her a ticket for that on that occasion. That is
19 significant because then we can say on November 23rd of
20 2011, Zinah has still got ^{Child} with her at that point.

21 You also heard from Officer Chris Miller, who
22 a month later, on December 24th, responded to a one-car
23 wreck around 3:00 or 4:00 A.M. I believe it was later
24 put together with another witness that she had been to a
25 party that night and was driving home allegedly from

1 that party.

2 I believe you heard that from Ms. -- I can't
3 remember her name -- Yolanda Williams. At that point he
4 writes her up for the ticket. When he enters her into
5 the computer at that point, she has already been put in.
6 The B.O.L.O. is on out her. They are looking for her as
7 a missing person.

8 When it comes up, he does his job. He calls
9 the investigator in the case at home. He goes a step
10 beyond what was actually necessary. He is like, I've
11 got this missing person. What do I do with this
12 information?

13 At that point Investigator Bailey says, what
14 about the child? Where is the child? On December 24th
15 he then proceeds to the hospital because Zinah had
16 already been transported at that point. We heard a lot
17 about a concussion or something.

18 Zinah is in the hospital and she tells him
19 she doesn't have a child. She also tells the nurses,
20 when they first come in contact with her, after being
21 asked if she had any children, she replies no to them as
22 well.

23 They then start to do their examination and
24 confront her. This is on the early morning hours of the
25 24th after she has been in her own one-car wreck. They

1703

1 confront her with her C-section scar, and she says, Oh,
2 I have a little girl. It's one of the many lies.

3 Officer Miller goes back. Upon further
4 questioning he says, Where is your child? I know you
5 have a child. And her answer is -- and this is supposed
6 to be she is only saying this at one point was the
7 inference was because she has a concussion.

8 But she is able to put a address out there,
9 2282 Ridge Crest Lane, which investigators later put
10 together as Denise Jennings' address in Atlanta. She is
11 already intentionally lying to the police. It wasn't
12 because she was confused or had a concussion.

13 You also heard from Christian Knight and
14 Ashley Burnett. They were the bank tellers. What did
15 they say? They saw Zinah Jennings on many occasions in
16 the bank, often saw her in the drive-through, saw her in
17 the drive-through one day.

18 One of the two bank tellers testified ^{Child} was
19 loose in the car, not restrained, as he often wasn't.
20 At that point they noticed that she smelled of alcohol,
21 had been drinking beer, putting her child at risk of
22 harm.

23 You also heard from them that ^{Child} wandered
24 around the bank without Zinah Jennings properly watching
25 him. You have an actual video in this case -- and I

1 will get back to that video in a little bit -- where you
2 can see actually see ^{Child} go out the front door as Zinah
3 Jennings is draining her bank account.

4 It's the last time anyone, I submit
5 credible -- and I will get back to Ms. Beaver -- ever
6 sees him alive. It's on that video. That video proves
7 very important in this case at a later time.

8 You heard from the Mitchell family: Charisma
9 Mitchell, Artavia Mitchell, Darlene Mitchell, and
10 Roderick, sisters and the mother. What is significant
11 about them? Again, we have to prove a timeline, the
12 last time they had contact.

13 Zinah never wanted them around ^{Child} If she
14 couldn't have Roderick -- we agree with Mr. Pride on
15 that -- Roderick's family wasn't going to get ^{Child} No
16 one was getting ^{Child} If she couldn't have him, no one
17 was.

18 You heard about how recently Ms. Mitchell
19 received a card, Ms. Darlene Mitchell, Roderick's
20 mother. It was from Zinah, a Mother's Day card: Our
21 friendship holds so many wonderful memories. Darlene,
22 may your heart always stay young, and may you always
23 have a dream to chase. Happy Mother's Day, Zinah, 2012.

24 In that card she enclosed a note: Hey,
25 Darlene. I just wanted to let you know I love you, and

1705

1 I know now that I have let the devil use me to turn away
2 from the ones that love me. I am not the same person I
3 used to be. Let the devil use her? So now it's the
4 devil's fault what happened to Child

5 You heard from Troy Clark and Adrienne Alston.
6 What information were they able to give you? On a day
7 in early December -- excuse me -- November, the end of
8 November, they went outside to check on Child

9 Zinah had come up. There was a concern
10 because Child was found in the car with the windows
11 rolled up, and no one was in attendance. It was a hot
12 day, even for November. That was the testimony, yet
13 just another small cog in the evidence that was
14 presented before you.

15 You heard from Marcus Johnson. Marcus Johnson
16 was important in this case because of the timeline.
17 Because Marcus Johnson is minding his own business on
18 November the 30th, the day after anyone sees him. He is
19 pumping gas at the Racetrac gas station in Augusta,
20 Georgia, right off I-20.

21 That will get back to the phone records that
22 show her going down to Atlanta and coming back that same
23 day. While he was pumping gas, someone -- Zinah --
24 comes up behind him and pulls on his hair. There is an
25 exchange.

1 He realizes she is driving this small red car
2 was what he remembered. He actually looked in that car.
3 There is no sighting of Child There is none of Child
4 there at the point. He doesn't see him in the back
5 seat. He didn't see a car seat. He doesn't see Child

6 This is on the morning hours of the 30th. At
7 that point they exchange phone numbers. Marcus even
8 says, Can we get together today? But, no, she had
9 something else she had to do.

10 She said she needed to go pick up -- I can't
11 remember whether it was her brother or nephew or
12 somebody -- to take him to school. You remember what
13 she said.

14 I submit, ladies and gentlemen, she did have
15 something to take care of. It's up to you to understand
16 what that something was. Where was Child What did she
17 have to take care of at that point so that she couldn't
18 get with Marcus Johnson?

19 She took his phone number. You can see the
20 phone records. She called him back multiple times over
21 the next couple of days, went back to Augusta.
22 Remember, these are the only time periods you ever see
23 any phone activity outside of the Columbia area is when
24 she goes to Atlanta, all the way to Atlanta to the East
25 Point area to do something -- I submit to get rid of

1 something -- and then comes back that same night. She
2 is back in town by 7:30 on the 30th.

3 Either two days later -- and it could be one
4 or two days later. You look at the phone records --
5 she goes back to Augusta and fulfills her visit with
6 Marcus Johnson.

7 Nina Simpson, Zinah visits her in Charlotte in
8 early December. What is significant about that? She is
9 acting weird. She is in a fetal position on the
10 floor. She doesn't respond when she says, Are you okay?

11 At that point she tells Nina, Oh, he is in
12 Augusta. I guess Augusta is on her mind. Nina is so
13 concerned she goes and calls Jocelyn. Zinah leaves
14 before anymore action occurs.

15 You heard from Danny Woods who saw Zinah
16 during the day and evening of December 27th without
17 Child as did Tai Williams Woods, his wife. You also
18 heard from Yolanda Williams, and I misspoke her name. I
19 should have said Jessica Thomas earlier.

20 She, I believe, is the cousin, relative of
21 some sort. She saw Zinah Jennings on December 6th.
22 Again, inquiries. Because everybody keeps inquiring
23 about Child because Zinah doesn't go anywhere without
24 Child

25 Where is Child Answer: Child is in Atlanta.

1 You remember the testimony. Pathenia Starks, she spoke
2 to Zinah Jennings on the phone around a week after
3 Thanksgiving. At that point she asked about the child,
4 Ms. Starks. Remember, she is Yolanda's mother?

5 When she asked Zinah about the child, Zinah
6 said Child was traveling with family. That was the whole
7 conversation around going to Bojangle's. She even went
8 to Bojangle's because she wanted to see if she was okay
9 and needed helped.

10 When she gets to the Bojangle's where she said
11 was, there was no one there. The trip took two to three
12 minutes. She spoke to Zinah on another occasion about
13 two weeks later. At that point again asked, Where is
14 Child She told her Child was in Georgia with Denise.

15 You heard from Christian Dickerson.
16 Ms. Dickerson had been a friend of Zinah's, a friend
17 that obviously Jocelyn Jennings didn't approve of, but a
18 friend through the years. She told you about how she
19 had gone to live with them for a period of time, what
20 happened, how Ms. Jennings got angry with her.

21 She didn't hold Zinah responsible for her lies
22 on that occasion either, threw her out of the house; but
23 she and Zinah remained friends. It's significant. She
24 told you Zinah Jennings wanted to get pregnant.

25 She talked to her about it. Because she

1709

1 thought it would help her relationship with Roderick.
2 She thought it would make it all better if she just got
3 pregnant.

4 Jocelyn Jennings testified Zinah knew about
5 safe sex. She intended this pregnancy to improve the
6 relationship with Roderick Mitchell. When she met with
7 Ms. Dickerson in September, she went over to her house.
8 Remember, this would be before she went to Atlanta.

9 She expressed to her how overwhelming she felt
10 her motherhood to be. She told her that she thought
11 about throwing ^{Child} out of the car on the highway and
12 continuing to ride. She told her that she thought of
13 selling him. At one point she stated, I will just give
14 his ass away.

15 On another occasion when Zinah came over to
16 her house -- I can't remember which time it was when she
17 was getting her hair done -- where she showed up in the
18 early morning hours with two beers.

19 She saw Zinah Jennings kick ^{Child} in the back
20 and told him to go play. She did it two times. She did
21 it to hurt him, and she was wearing a wedge heel.
22 Again, just a piece of the evidence that is before you.

23 You also heard from Jessica Thomas. And what
24 did Jessica tell you? She was also a friend of Zinah's.
25 These are all friends of Zinah's. They aren't out to

1 get her. She saw Zinah Jennings with Child around
2 November.

3 Child was not dressed properly. He always
4 seemed hungry. Jessica even said that she would take it
5 upon herself to feed him to try to make him feel better.
6 She saw Zinah on December 23rd, and she said Child was
7 with his aunt at that point. Again, another lie.

8 She got into an altercation with Zinah because
9 Zinah picked up her nephew and threw him on the floor
10 and hit him and indicated that his -- I am sorry to
11 quote -- mother fucking ass should have stopped.

12 Zinah talked to her about her friend who went
13 to jail for hurting her friend's child. She witnessed
14 Zinah Jennings squeeze Child hand, causing him pain to
15 the point where he starting crying because he wouldn't
16 say momma. She last saw Child with Zinah on
17 November 27th when he had a mark on his head.

18 Christian Dickerson, ladies and gentlemen, I
19 submit reeks of credibility. She got up here and she
20 told you what she knew. The defense would want to think
21 she has got some grudge?

22 She got up here and told you the little pieces
23 that she knew about what she observed of Zinah's
24 behavior. She even said after that last time, she was
25 concerned enough that she would check in with her often

1711

1 after that.

2 You heard from Shon Harris. Ms. Harris, I
3 believe, was Zinah's -- married to Zinah's cousin. They
4 were close. Ms. Harris is the one I believe who had
5 gone overseas and worked, I believe, in Afghanistan.
6 She had even come back shortly before June of 2011
7 because it was Child birthday, and she helped plan his
8 birthday party that June.

9 When she got back in -- she had to go back to
10 Afghanistan and come back -- when she came back, she
11 then didn't see Zinah between -- she saw her between
12 December 15th and December 26th. She never had Child
13 She told her Child was with his father's girlfriend.

14 She told her she was not mother material.
15 Zinah Jennings told her she was not mother material;
16 that she would never be stuck in a house on a Saturday
17 night again with the baby.

18 She shows back up on her doorstep on Christmas
19 Eve after the accident. When she shows back up, she is
20 tired. She is desperate for sleep, and she sleeps all
21 day. At some point Shon then asks her, Where is Child
22 It's Christmas Eve. Where is your child?

23 Child is in Atlanta with her sister Denise.
24 Ms. Harris knew something wasn't right. She even went
25 so far as to call Denise or Jocelyn -- I can't remember

1 which. You remember -- and follows up on it.

2 But you know the ironic part? Child was her
3 only child. She sleeps all through the night of the
4 24th and wakes up that Christmas morning and plays with
5 Shon's children while her own is missing? Gone? In
6 this safe place that she is not lying about?

7 Those were some of the witnesses you heard.
8 You heard from Denise Jennings, her half-sister.
9 Ms. Jennings got up here -- and we apologize for having
10 to put the evidence in -- but she talked about how
11 Zinah moved in with her sometime in September, how she
12 stayed with her over the course of the next couple
13 months.

14 I believe the last day she was there was
15 November 17th when Jocelyn showed up, and they got into
16 a fight and Zinah left because she didn't want Jocelyn
17 to have Child That's a common theme here. She sure
18 never wanted Jocelyn to have Child

19 She said how Zinah would disappear for days on
20 end. She wouldn't know where she was, how she didn't
21 take care of him, didn't do anything, how he would
22 wander out into the streets when she was supposed to be
23 looking after him. This is a good mother?

24 She told you she was even so concerned about
25 her behavior she took her, I believe, to some facility

1713

1 to have her checked out; and they gave her right back.
2 Because she was so concerned she even tried to call it
3 schizo behavior.

4 Ladies and gentlemen, I submit what you saw
5 was abusive behavior, unlawful neglect of a child
6 behavior is what Denise Jennings observed. That would
7 cause alarm for anyone. Because anyone who would
8 cause harm or put a child in harm's way has aberrant
9 behavior.

10 You heard from many police officers, from
11 Chief Randy Scott on how it was reported to him.
12 Ms. Jennings came to him and reported them both missing.
13 You heard from Sergeant Thomas.

14 Sergeant Thomas and Investigator Bailey, after
15 getting the warrant, interviewed Zinah Jennings because
16 they were desperate at this point to find out, Where is
17 Child

18 But they did their job. They read her her
19 rights. They made sure she signed the waiver of rights.
20 They did not infringe upon any of her constitutional
21 rights.

22 You heard it on the tape. You heard during
23 the course of it, she makes multiple admissions about
24 not caring or not wanting to get Child These are just
25 some. You listened to the actual thing. What did she

1 tell them?

2 Investigator Thomas: Right now, look at me.
3 Has any harm come to your child? I can't see your eyes
4 though, but you are shaking your head no but you are
5 crying. That scares me. Now you are crying even
6 harder. It scares me more. Where is he?

7 I'm sorry. She is sorry?

8 I need to know where ^{Child} is and what has
9 happened to him. That's very important. I am very
10 patient and your tears are telling me a lot. So let's
11 talk about it.

12 Zinah: There is nothing to talk about.

13 Her explanation, Oh, I just always cry.

14 Listen to the rest of the tape. Later in the
15 conversation -- and, again, these are just a few points,
16 and you will have the actual recording itself --

17 Investigator Thomas:

18 They didn't know -- he was referring to where
19 she took the child -- they didn't know you were coming?
20 How long did you stay before driving off?

21 Um, not long.

22 What is not long?

23 Ten, for ten minutes.

24 Did y'all conversate any?

25 It continues. Zinah Jennings says who?

1715

1 You and the people you dropped ^{Child} off with.

2 Um, yeah.

3 What was your conversation about?

4 Well, I guess they wanted me to come back and
5 get him, but I haven't been back to get him.

6 When was the last time you talked to them
7 about that?

8 We haven't talked.

9 You haven't talk at all? Since you left, you
10 haven't spoken?

11 Huh-uh.

12 That in and of itself is abandonment, willful.
13 Because Zinah, by her own admission, says over and over
14 she left him somewhere. If you were to believe that is
15 the truth, that alone is enough to convict her.

16 It goes on. I am thinking the baby might be
17 wandering the streets somewhere -- this is Investigator
18 Thomas -- somebody picked him up because you left him at
19 the mall.

20 He could be. He could be in the street.

21 Did you leave him in the street?

22 He walks out of the house walking down the
23 street. I didn't leave him in the street, but he knows
24 how to do it on his own; so...

25 She admits in this whole conversation that her

1 child is prone to walking in the street but does nothing
2 to follow up on it?

3 Do you understand where we are tonight? We
4 have got to get this done, Baby. We've got to find this
5 the baby and make sure he is okay, make sure nothing has
6 happened to him. I want to make sure you didn't snap
7 and do something to him as well. I am not going to lie
8 to you because that's on my mind as well. That's why I
9 keep asking the question, Did you snap? Did you hurt
10 your child? Then prove to me he is alive.

11 I can't.

12 That, ladies and gentlemen, is a confession,
13 to at the very least unlawful neglect.

14 Investigator Bailey: Zinah, I know you say
15 you are not ready, but can we go? Can you take us to
16 where the spot is, please? Can you please take us to
17 the spot where you left ^{Child}

18 Investigator Thomas chimes in: Why? I am
19 getting scared here really.

20 And her reason is: Because I don't want to.

21 What's the problem?

22 I can't do nothing.

23 What do you mean by that? So what do you mean
24 when you say, I can't do nothing?

25 There is nothing I can do.

1717

1 And truer words never existed.

2 Is he gone? Why is there nothing you can do
3 then?

4 I don't know.

5 What do you mean by that? What does that
6 mean? That could mean a lot of things. It's different
7 things in my head right now. Tell me what it means,
8 Zinah, There is nothing I can do. Then she goes on
9 talking about how she can't get him back.

10 You heard from Investigator Bailey, Officer
11 Walker, Narewski, Sutton from the F.B.I., Craig
12 Januchowski with the phone calls. Y'all just heard him
13 yesterday. I will not go through those again.
14 Investigator George Wise.

15 In this case, ladies and gentlemen, what is
16 significant is that there were two search warrants done.
17 There was a search warrant that was gotten on
18 December the 30th for the Lady Street address and then a
19 search warrant for the Dodge Neon.

20 What was interesting in looking at these
21 search warrants, when you look at State's Exhibit 71,
22 72, and 73, this is Zinah's room, the room she shared
23 with ^{Child} the room where they lived.

24 This is on either the 30th or the 31st of
25 December. Look at what is there. If she left him

1 somewhere safe, wouldn't she at least take some of his
2 toys?

3 Wouldn't she at least take -- where she was
4 potty training him -- the little potty? Wouldn't she at
5 least take his shoes? The shoes are still there a month
6 later.

7 If you look at the video, in the video you can
8 actually see it. It's in the still on State's Exhibit
9 77 and if you look at State's Exhibit Number 55. It's
10 December/November and he is okay, but he doesn't even
11 have his shoes?

12 A search warrant of the room. She put him
13 somewhere safe but doesn't bother to give them anything
14 he would need to enroll in school, any kind of program
15 to receive any kind of benefits? But he is okay?

16 What is significant is what is there: His
17 stuff, his things, the things that made his life good,
18 the things that made him the child he was. Yet he is
19 safe? That's what we are supposed to believe?

20 The search warrant on the Dodge Neon. What
21 is significant about that? It's very significant
22 because you heard how the police found out that the car
23 had been towed. They then had it towed to police
24 headquarters.

25 In the interim it's interesting because the

1 defense put up this information, which is important.
2 You heard from Millie Houston, the defense witness, aunt
3 of Zinah, a very nice lady.

4 She got up here and she testified about the
5 first time she saw Zinah was that Christmas. On
6 Christmas Day Zinah asked her to help her go to her
7 wrecked car and get some items she needed out of the
8 car.

9 She testified how she drove the next morning
10 with Zinah on the 26th to where the car had been towed
11 and how Zinah went through the car. She mentioned
12 specifically: Zinah got wigs, she got toiletries, she
13 got clothing. There was a lot of food in the car.

14 She put it -- and I couldn't put it better --
15 she got everything of any importance to Zinah in her
16 life at that point because the car was totaled. It was
17 going to be destroyed. So they got everything that was
18 important, everything that would be needed.

19 But what is significant, ladies and gentlemen,
20 is State's Exhibit Number 32. She didn't take her
21 baby's baby blankets because those weren't necessary
22 anymore. There was no baby that needed his baby blanket
23 anymore.

24 And unfortunately for Zinah Jennings, she
25 didn't realize that when they collected these blankets

1 and did the cuttings out of them, some of which -- there
2 are other stains still here -- but his blood, ^{Child}
3 blood, was on the blankets. She left the blankets
4 because they were not needed.

5 You heard also how the baby's D.N.A., although
6 not blood, was found on the trunk lining, as well as the
7 defendant's. George Wise and Melron Kelly participated
8 in the search.

9 You also heard from a number of other
10 witnesses, chain witnesses, ladies and gentlemen. You
11 have to hear from all those to make sure that none of
12 the evidence has been tampered with in any way. That's
13 why you listened to those. You heard from Jennifer
14 Clayton from S.L.E.D. who told you the results of her
15 D.N.A. analysis, what was significant.

16 What places ^{Child} in harm's way? And these are
17 just a few of the items: Throw him out of the car, give
18 him away, sell the child, no more baby-sitting, not
19 mother material, no restraint for the child in the car,
20 drinking and driving, left the child in the car
21 unattended, kicked two times, squeezed hand, no momma,
22 left child days on end, ^{Child} ran in the street, refused
23 to care for him, blood on the baby blanket, blood on the
24 shovel recovered from her home. That is the only
25 significance to that.

1 She traveled to Atlanta the day after he is
2 last seen alive by anyone credible -- and I will get
3 back to that -- traveled to Charlotte to see her aunt,
4 which was unusual for her to go and not call beforehand.
5 When she got there, she gave a lie about where he was
6 and left abruptly.

7 Lies over and over about ^{Child} location.
8 There is no child. She says he is with different
9 people. He's in Atlanta. He's in Augusta. He's with
10 Roderick. He's with Ernest Robinson.

11 I submit, ladies and gentlemen, the one thing
12 that the defense didn't get up here and argue was that
13 Ernest Robinson exists. Because clearly there is no
14 Ernest Robinson like she told the police.

15 Now, the defense did choose to put up some
16 witnesses, such as Jennifer Bishop, who was a nice lady.
17 She was affiliated with the church. When she saw Zinah
18 at the church several months before all this happened,
19 Zinah was behaving.

20 Gelisha Mack, a lifelong friend, a lovely
21 woman, had seen her, I believe, the summer before at
22 some point, didn't observe any bad behavior. Leah
23 Thompson, another lifelong friend had not observed
24 anything either. Again, she had not had any contact in
25 the time period we are talking about, ladies and

1 gentlemen. It's September 1st through the end of the
2 year.

3 Ms. Houston, she was significant. She told
4 you about her interaction with the Zinah, how Zinah used
5 to go to church with her, how things had changed. You
6 heard from Jocelyn Jennings.

7 On behalf of the State of South Carolina, we
8 truly feel for this entire family. This is a tragedy.
9 Jocelyn Jennings got up here and she talked about Zinah
10 and how she hadn't done right by Zinah.

11 You have these pictures the defense put in
12 showing Zinah. One looks like a debutant dress, how she
13 had extracurricular activities, how she went to the
14 right schools, how she had every opportunity.

15 Zinah Jennings had a loving good family, a
16 support system, which some people don't have the luxury
17 of having. Zinah Jennings -- and you heard her say
18 this -- they are sitting there talking about her child
19 being missing, and all she can do is complain about how
20 she never got an allowance.

21 Because her mother tried to instill good work
22 habits, told if she wanted money, to work for it.
23 Ms. Jennings got up and berated herself as a bad mother.
24 I submit she is a good mother. She tried to instill the
25 right values in her child, values she wanted to pass on

1723

1 to her grandchild. Again, it's not Zinah's fault?

2 You heard from Ms. Beaver. Ms. Beaver came
3 forward and she said -- and said over and over, and it's
4 the Beaver defense -- that she doesn't have a dog in
5 this. She didn't have anything to gain or lose was the
6 inference.

7 I submit, ladies and gentlemen, there are
8 certain people in life who just want to be involved, who
9 come forward. Did she come forward for the reward money
10 at first and that didn't work for her? Did she come
11 forward -- some people just want the publicity.
12 Publicity she is getting. The Beaver Hut is all over.

13 For whatever reason look at her testimony. Is
14 it credible? When she first told the police, she was
15 positive there was a single person. She went through
16 the Rolodex or her stack of little business cards and
17 pulled it out.

18 She made the phone call to the woman who
19 completely refuted what she said. Does she want to be
20 helpful for whatever reason? Be it self-promotion or
21 otherwise? Yes.

22 But what is interesting -- and you will see
23 these phone records when you get back there, these phone
24 records -- because remember she said she was definitely
25 there the 22nd or 23rd. She is more sure now than when

1 she met with the police.

2 On the 22nd and 23rd, she is in Lexington
3 County, almost downtown Lexington. I asked her those
4 specific questions. What is significant when you heard
5 from Investigator Bailey, who monitored part of this
6 case and he reviewed all the phone records. It's
7 uncontested. Because if there was anything different,
8 the defense would have asked him about it.

9 All the phone calls -- and look at them -- on
10 the 22nd and the 23rd of December, started -- and I
11 wrote down the times -- at 12:41 A.M. on the 22nd. That
12 is shortly after midnight until 23:59 P.M. the next day.
13 That is one minute before midnight. In that 23-hour
14 period, 23 and a half, almost 24 hours, you can look at
15 these records. They all hit on towers in Columbia.

16 I counted it -- and I did it quickly -- 89
17 calls that day hitting on towers in Columbia, not one in
18 Lexington. Go to the next day in case she is wrong:
19 12/23, start at 1:06 A.M. in the morning, until 20:53,
20 which is, I think, 8:53 the next evening, the phone
21 calls.

22 She said it was during business hours. There
23 are 99, every one of them hitting off towers in
24 Columbia. Credible? She describes Zinah to a tee.
25 exactly how she appeared on the news after her arrest,

1 blue hair.

2 Even if you were to believe Ms. Beaver, he is
3 still missing. She still mistreated him. She still
4 abused him prior to that. It does not affect the
5 outcome of this case, no matter how much the defense
6 wishes it would.

7 The defense got up here and said that there is
8 no law that says that you can't lie to the police about
9 where your child is, but you have to tell the police
10 where your child is.

11 There is a law, ladies and gentlemen -- and
12 that's the indictment before you -- that says a parent,
13 especially even someone who is charged with custody of a
14 child, has a duty to that child to ensure its safety and
15 take care of it.

16 I submit when you are the actual parent, that
17 duty is even higher. There is a law that says when the
18 parent or guardian who is responsible for the welfare of
19 the child places the child at unreasonable risk -- and I
20 submit, ladies and gentlemen, over and over in this
21 case, she placed him at risk -- physical or mental
22 health, or safety, do or cause to be done unlawfully and
23 maliciously any bodily harm so that his life or health
24 is endangered or likely to be endangered.

25 I submit, ladies and gentlemen, we met that

1 prong. Again, the judge will instruct you. We don't
2 have to prove all three of these things. We just have
3 to prove her behavior, her criminal, intentional
4 behavior, falls within one; or that she willfully
5 abandoned him.

6 By her own admission -- and again with
7 Ms. Beaver's testimony -- Zinah, you will have her
8 written statement back there. The first time
9 Investigator Bailey interviewed her on the 27th, she
10 said in that statement the last time she saw her own
11 child was December 6th. So that makes it impossible for
12 Ms. Beaver to be credible, just another point.

13 By her own admission she has willfully
14 abandoned her child. I submit by credible testimony she
15 has placed him in harm's way. Listen carefully to the
16 judge. He will not instruct you that you cannot convict
17 her if we have not found the child.

18 I submit, ladies and gentlemen, that fact in
19 and of itself exacerbates her guilt tenfold. Zinah
20 Jennings was totally possessive of her child ^{Child}
21 There were two people in life that she had kind of a
22 love/hate relationship with.

23 One was her mother, Jocelyn Jennings. The
24 other one was the father of her child, Roderick
25 Mitchell. Zinah planned her pregnancy. She wanted to

1 get pregnant. She thought it would save her
2 relationship with Roderick -- it has been testified over
3 and over -- whom she loved. It was her first love.

4 She wanted anything to make that relationship
5 work, and she thought the child would do it. In her
6 mind it would be like a dream come true. She and
7 Roderick and their baby, independent of her mother,
8 their own family. Her mother would no longer be there
9 to tell her what to do or to give her some rules when
10 she had to come and go.

11 That was her dream that she thought was going
12 to come true. Her dream went horribly wrong. Getting
13 pregnant with Roderick didn't bring them closer. It
14 made things worse.

15 By the time Child was born, she had moved out
16 or Roderick had moved out. They split, some back and
17 forth, but never the same as it was. She became more
18 dependent on her mother because she depended on her for
19 child care, to help baby-sit.

20 She went back to school. She tried to get her
21 life back together, had a job of some sort at that
22 point. But as Child got older and by her own admission
23 -- remember in her statement -- once he got to be about
24 six months old, he started acting bad.

25 It wasn't so much fun anymore. It became

1 overwhelming, her words. She needed a break and things
2 kept getting worse. She lost her job. She dropped out
3 of school. She moved to Atlanta to be with her sister.
4 That didn't work out.

5 She was losing control but the only thing she
6 could control was Child and she could make sure that
7 Roderick never got him. Remember, she didn't want him
8 to see him. And she could make sure Jocelyn didn't take
9 her child.

10 The ultimate revenge, solve all of her
11 problems. Take the one thing that both of them wanted.
12 Because if she couldn't take care of him, she made sure
13 nobody else would, not Roderick and not Jocelyn, and she
14 succeeded.

15 The State does not have to prove -- listen
16 carefully to the judge -- about what it means when Zinah
17 Jennings harmed her child. We only have to prove that
18 he was in harm's way or that she put his life and safety
19 at risk or that she abandoned him.

20 When you think of the word abandoned and what
21 she did with Child I think of like -- she kind of
22 treated him like he was trash. She threw him away. She
23 made sure no one would ever find him, and no one has.

24 All we ask in this courtroom is that you hold
25 her responsible for the very least for unlawful conduct

1 towards a child. Mr. Pride said in his opening, it has
2 been 169 days.

3 I submit, ladies and gentlemen, it has been
4 282 days since ^{Child} Jennings was last seen. The person
5 responsible for that is his mother. Hold her
6 responsible for her choices, her decisions, and follow
7 the law as the judge gives it to you. Thank you.

8 (Whereupon the Court charges the jury as
9 follows.)

10 THE COURT: Madame Forelady, ladies and
11 gentlemen of the jury, if you would please give me your
12 complete and undivided attention. Momentarily, I am
13 going to charge or instruct you on the law that applies
14 to this case.

15 The procedure that I follow in instructing a
16 jury on the law is I initially charge the general
17 criminal law that applies in all criminal cases. After
18 I complete that, I then go to the specific charge in the
19 indictment.

20 After I cover the charge in the indictment and
21 certain definitions that will go along with that
22 statutory charge, I will then instruct you on the form
23 of your verdict.

24 I try to change the tone of my voice somewhat.
25 It will take probably 35, 40 minutes for me to instruct

1 you on the law. I will give you the caption of the area
2 I am fixing to cover and try to give the next area I am
3 fixing to cover when I change from one subject to the
4 next. Please give me your complete and undivided
5 attention.

6 Charge, arrest, indictment not evidence. The
7 indictment charges the defendant with unlawful conduct
8 towards a child. I remind you again that the fact the
9 defendant was arrested, charged, and indicted in this
10 case is not evidence and cannot be considered by you as
11 evidence of guilt in this case, nor does it create any
12 presumption or inference of guilt.

13 This document, this indictment, is simply the
14 formal written instrument which contains the charge made
15 against the defendant. It is the formal document by
16 which this case is brought into this court.

17 Presumption of innocence. The defendant has
18 pled not guilty to this indictment, and that plea puts
19 the burden on the State to prove the defendant guilty.
20 A person charged with committing a criminal offense in
21 South Carolina is never required to prove himself or
22 herself innocent.

23 I charge you that it is an important rule of
24 law that the defendant in a criminal trial, no matter
25 what the seriousness of the charge may be, will always

1 be presumed to be innocent of the crime for which the
2 indictment was issued unless guilt has been proven by
3 evidence satisfying you the jury of that guilt beyond a
4 reasonable doubt.

5 This presumption of innocence does not end
6 when you begin your deliberations, but it accompanies
7 the defendant throughout the trial until you reach a
8 verdict of guilt based on evidence satisfying you of
9 that guilt beyond a reasonable doubt.

10 The presumption of innocence is said to be
11 like a robe of righteousness placed about the shoulders
12 of a defendant which remains with the defendant until it
13 has been stripped from the defendant by evidence
14 satisfying you of the defendant's guilt beyond a
15 reasonable doubt.

16 The presumption of innocence is not a mere
17 legal theory. It is not just a legal phrase. It is a
18 substantial right to which every defendant is entitled
19 unless you the jury are satisfied from the evidence of
20 the defendant's guilt beyond a reasonable doubt.

21 What is a reasonable doubt? A reasonable
22 doubt is the kind of doubt that would cause a reasonable
23 person to hesitate to act. The State has the burden of
24 proving the defendant guilty beyond a reasonable doubt.

25 Some of you may have served as jurors in the

1 past in civil cases where you were told that it is only
2 necessary to prove that a fact is more likely true than
3 not true, such as by the greater weight or the
4 preponderance of the evidence.

5 In criminal cases the State's proof must be
6 more powerful than that. It must be beyond a reasonable
7 doubt. Proof beyond a reasonable doubt is proof that
8 leaves you the jury firmly convinced of the defendant's
9 guilt.

10 There are very few things we know in this
11 world with absolute certainty, and in criminal cases the
12 law does not require proof that overcomes every possible
13 doubt.

14 If based on your consideration of the evidence
15 you are firmly convinced that the defendant is guilty of
16 the crime charged, you must find the defendant guilty.
17 If, on the other hand, you think there is a real
18 possibility that the defendant is not guilty, you must
19 give the defendant the benefit of that doubt and find
20 her not guilty.

21 Duties of the jury and the trial judge. I
22 remind you that during this trial, you and I have
23 certain duties to perform. As the trial judge, it is my
24 responsibility to preside over the trial in this case;
25 and I also have the duty to rule on the admissibility of

1 the evidence offered during the trial.

2 You are to consider only the competent
3 evidence before you. If there was any testimony ordered
4 stricken from the record in this case during this trial,
5 you must disregard that testimony. You are to consider
6 only the testimony which has been presented from this
7 witness stand and any exhibits which have been made part
8 of the record in this case.

9 I have the additional duty to charge you the
10 law that applies to this case. As the presiding judge,
11 I am the sole judge of the law of this case; and it is
12 your duty as jurors to accept and apply the law as I now
13 state it to you.

14 If you already have any idea of what the law
15 is or what the law ought to be and it does not agree
16 with what I now tell you the law is, you must abandon
17 your idea because you are sworn -- you have taken an
18 oath -- to accept the law and apply the law exactly as I
19 state it to you.

20 In every case tried in this court before a
21 jury, the jury becomes the sole and exclusive judge of
22 the facts in a case. A trial judge cannot intimate,
23 state, comment on, or make any statement to a trial jury
24 about the facts in a case.

25 Since you the jury are the sole judge of the

1 facts in this case, you are not to infer from what I
2 have said during the progress of this trial, in ruling
3 upon the admissibility of the evidence or otherwise, or
4 anything that I now say during the course of this
5 instruction to you that I have any opinion about the
6 facts in this case.

7 The law does not allow me to have an opinion
8 about the facts in this case. That is a matter solely
9 for you the jury to determine. As jurors it is your
10 duty to determine the effect, the value, the weight, and
11 the truth of the evidence offered during this trial.

12 Direct and circumstantial evidence. There are
13 two types of evidence which are generally presented
14 during a trial, direct evidence and circumstantial
15 evidence.

16 Direct evidence is the testimony of a person
17 who claims to have actual knowledge of a fact, such as
18 an eyewitness. It is evidence which immediately
19 establishes the main fact to be proved.

20 Circumstantial evidence is proof of a chain of
21 facts and circumstances indicating the existence of a
22 fact. It is evidence which immediately establishes
23 collateral facts from which the main fact may be
24 inferred. Circumstantial evidence is based on inference
25 and not on personal knowledge or observation.

1 The law makes absolutely no distinction
2 between the weight or the value to be given to either
3 direct or circumstantial evidence, nor is there a
4 greater degree of certainty required of circumstantial
5 evidence than of direct evidence.

6 You should weigh all of the evidence in this
7 case. After weighing all of the evidence in this case
8 if you are not convinced of the guilt of the defendant
9 beyond a reasonable doubt, you must find the defendant
10 not guilty.

11 Credibility of the witnesses. Ladies and
12 gentlemen, in determining what the facts are in this
13 case, you of necessity must pass upon the credibility of
14 the witnesses who have testified.

15 Credibility in the law means believability.
16 Can I believe this witness? Is this witness credible?
17 The value and the weight to be given to their testimony
18 is in your sound discretion. You alone must decide the
19 force and effect and the truth of the testimony.

20 In making a determination as to the
21 credibility of a witness, there are many factors that
22 you may and should take into consideration, such as, the
23 appearance or the manner of the witness as he or she
24 gave testimony from the witness stand, known in the law
25 as the demeanor of the witness.

1 Did the witness have an interest in the
2 outcome of the trial? Was the witness forthright or
3 hesitant? Was the witness' testimony consistent or did
4 it contain discrepancies?

5 What was the ability of the witness to know
6 about the facts concerning which he or she gave
7 testimony? Did the witness have a cause or reason to be
8 biased or prejudiced in favor of the testimony that he
9 or she gave?

10 Was the testimony of the witness corroborated
11 or made stronger by other testimony and evidence? Or
12 was it made weaker and impeached by other testimony and
13 evidence?

14 As jurors you have the right to believe a
15 small portion of a witness' testimony and disregard a
16 larger portion, or you may believe a larger portion of a
17 witness' testimony and disregard the smaller portion.

18 You may disregard a witness' testimony
19 entirely if you have sound reason in the record for
20 doing so. You may believe the testimony of a single
21 witness against that of many witnesses or many witnesses
22 as against one.

23 Most certainly, you do not determine the
24 matter of credibility or believability by counting the
25 number of witnesses for either side. Throughout this

1 entire process, you have but one single objective; and
2 that is to seek the truth, regardless of from what
3 source that truth may come.

4 Expert witnesses. The rules of evidence,
5 ladies and gentlemen, ordinarily do not permit witnesses
6 to testify to opinions or conclusions. An exception to
7 this rule exists for witnesses we call expert witnesses.

8 A witness, who by education and experience,
9 has become an expert in some art, science, profession,
10 craft, or calling may state an opinion as to relevant
11 and material matter in which the witness claims to be an
12 expert and may also state the reasons for the opinion.

13 You should consider any expert opinion
14 received in evidence in this case and like any other
15 evidence give it the weight you think it deserves. If
16 you decide that the opinion of an expert is not based on
17 sufficient education and experience or if you conclude
18 that the reasons given in support of the opinion are not
19 sound or that the opinion is outweighed by other
20 evidence, you may disregard the opinion entirely.

21 An expert witness' testimony is to be given no
22 greater weight than that of other witnesses simply
23 because we call the witness an expert. Further, you are
24 not required to accept an expert's opinion, even though
25 it is not contradicted.

1 I instruct you, ladies and gentlemen, and
2 emphasize that the fact that this defendant did not
3 testify is not a factor to be considered by you in any
4 way in your deliberation and in your consideration on
5 the question of the guilt or innocence of the defendant.
6 It must not be considered by you in any manner
7 whatsoever.

8 A defendant has the constitutional right to
9 remain silent, and the assertion of this right must not
10 be considered by you in your deliberations. I repeat,
11 under your oath you are to draw no conclusions
12 whatsoever from the fact that the defendant in this case
13 did not testify.

14 The fact that this defendant did not testify
15 should not even be discussed in the jury room. The
16 burden of proof, as I have stated to you, is on the
17 State. The defendant is not required to prove her
18 innocence. The burden of proof remains on the State to
19 prove guilt beyond a reasonable doubt.

20 Intent. In order to establish criminal
21 liability, criminal intent is required. For example,
22 the mental state required to be proven by the State for
23 a particular crime might be purpose, intent, knowledge,
24 recklessness, or criminal negligence.

25 Criminal intent must be proven by the State

1 beyond a reasonable doubt. Criminal intent is always a
2 matter that must be determined by the jury from the
3 circumstances surrounding the situation.

4 There is no way to prove intent to a
5 mathematical certainty. There is no way medical science
6 can dissect a person's brain and determine what the
7 person had in mind.

8 So the law says that criminal intent may be
9 interred from the circumstances shown to have existed.
10 This is how you make your determination of whether or
11 not the element requiring intent was present.

12 It is not necessary to establish intent by
13 direct and positive evidence, but intent may be
14 established by inference in the same way as any other
15 fact, by taking into consideration the acts of the
16 parties and all the facts and circumstances of the case.

17 Criminal intent is a mental state, a conscious
18 wrongdoing. It is up to you to determine what the
19 defendant intended to do based on the circumstances
20 shown to have existed.

21 Criminal intent can arise from action or a
22 failure to act. It may arise from negligence,
23 recklessness, or an indifference to duty or to
24 consequences that is considered by the law to be the
25 equivalent of criminal intent.

1 Prior record of a witness. A person who has a
2 past criminal record is competent to testify during a
3 trial. A past record does not affect the ability of
4 that witness to testify.

5 The past record may only be considered by you,
6 if at all, in determining the witness' believability.
7 Remember, you are the sole judges of the facts in this
8 case and of the believability of any and all of the
9 witnesses.

10 Statement of the defendant. A statement
11 alleged to have been made by the defendant has been
12 admitted into evidence in this case. While the Court
13 has determined that the statement is admissible, I
14 instruct you that you make the ultimate decision of
15 whether or not the defendant made the statement.

16 If the defendant did make the statement, you
17 must determine whether the statement was made by the
18 defendant voluntarily and of her own free will. This
19 means that the statement was not caused by pressure,
20 force, fear, threats, coercion, or intimidation, or by
21 hope or a promise of leniency or a reward of any kind.

22 In determining whether a statement was
23 voluntary, you should consider both the characteristics
24 of the defendant and the details of the questioning.
25 Some of the factors that you must consider are:

1 The age of the defendant, the defendant's
2 education or lack of education, the defendant's mental
3 ability or capacity, the defendant's I.Q. or
4 intelligence, the defendant's background and
5 environment, the place and length of detention, the
6 nature of the questioning and the advice or lack thereof
7 to the defendant of her constitutional rights, including
8 but not limited to:

9 The right to remain silent; that any statement
10 could be used against her in a court of law; the right
11 to have a lawyer present; that if she could not afford a
12 lawyer, a lawyer would be appointed to represent her
13 without any cost; and that she could stop making a
14 statement at any time.

15 You must carefully consider all of the
16 surroundings circumstances before you give any weight to
17 an alleged statement. The State has the burden of
18 proving beyond a reasonable doubt that the alleged
19 statement was voluntary.

20 If you determine it was, you may give the
21 statement any further consideration that you deem
22 proper. You must decide what weight, if any, should be
23 given to the alleged statement. If you determine the
24 alleged statement was not the free and voluntary
25 statement of the defendant, you should not consider the

1 statement at all.

2 Ladies and gentlemen, that covers the general
3 criminal law that applies in this case. I am now going
4 to cover the specific statute under which Ms. Jennings
5 is indicted, unlawful conduct towards a child.

6 It's part of our Code of Laws under Section
7 63-5-70. The defendant is charged with -- if you would
8 please continue to give me your complete and undivided
9 attention.

10 The defendant is charged with unlawful conduct
11 towards a child. The State must prove that Zinah
12 Damaris Jennings did in Richland County, on or between
13 September 1, 2011, through December 24, 2011, they must
14 prove beyond a reasonable doubt, first, that the
15 defendant had charge or custody of the child, was the
16 parent or guardian of the child, or was responsible for
17 the care and support of the child. A person responsible
18 for a child's welfare includes the child's parent.

19 The State must also prove beyond a reasonable
20 doubt that the defendant either, one, placed the child
21 at unreasonable risk of harm affecting the child's life,
22 physical or mental health, or safety.

23 Or, two, unlawfully or maliciously did or
24 caused to be done any bodily harm to the child so that
25 the life or health of the child was in endangered or

1743

1 likely to be endangered. Or, three, willfully abandoned
2 the child.

3 Abandon means that the defendant willfully
4 deserted the child or willfully surrendered physical
5 possession of the child without making adequate
6 arrangements for the child's need or the continuing care
7 of the child. A child means a person under the age of
8 18.

9 I am going to define certain other terms in
10 the statute I read that appears in a definitional
11 section of that same code section. The term abandonment
12 of a child, again, means a parent or guardian willfully
13 deserts a child or willfully surrenders physical
14 possession of a child without making adequate
15 arrangements for the child's needs or the continuing
16 care of the child.

17 The term child abuse or neglect or harm.
18 Child abuse or neglect or harm occurs when the parent or
19 other person responsible for the child's welfare
20 inflicts or allows to be inflicted upon the child
21 physical or mental injury or engages in acts or
22 omissions which present a substantial risk of physical
23 or mental injury to the child.

24 I am next going to define under our code what
25 is meant by the term mental injury. It means an injury

1 to the intellectual, emotional, or psychological
2 capacity or functioning of a child as evidenced by a
3 discernible and substantial impairment of the child's
4 ability to function when the existence of that
5 impairment is supported by the opinion of a mental
6 health professional or medical professional.

7 I will further define the term physical
8 injury. It means death or permanent or temporary
9 disfigurement or impairment of any bodily organ or
10 function.

11 Willfully, again, in its customary
12 understanding means voluntary and intentional but not
13 necessarily malicious. That is the charge on unlawful
14 conduct towards a child.

15 Finally, ladies and gentlemen, there are two
16 possible verdicts which you may find in this case,
17 guilty or not guilty. Madame Forelady, you will have,
18 in addition to all the items of evidence that have been
19 introduced, in the jury room you will also have a form
20 of verdict, this document I now hold in my hand.

21 It has the name of the case, the caption, the
22 indictment number. It's entitled verdict form. It has
23 indicated as to the charge of unlawful conduct towards a
24 child, in violation of Code Section 63-5-70, we the jury
25 unanimously find -- it has got under that statement a

1745

1 line and then the two words, not guilty. Under that is
2 a line and the two words -- the one word, guilty.

3 There is absolutely no significance whatsoever
4 in the manner in which I have listed those forms of
5 verdict on this form. One had to be listed first and
6 the other had to be listed second.

7 Ladies and gentlemen, your verdict must be
8 unanimous. All 12 of you must agree. Your verdict
9 cannot be based on passion, prejudice, emotion, bias, or
10 any other unlawful characteristic not in the record.

11 Once you determine what the facts are in the
12 case, based on your determination of the facts and
13 applying them to the law as I have told you the law is,
14 if you find that the State has failed to meet its burden
15 of proving the case beyond a reasonable doubt and that
16 is your unanimous finding of the jury, I would ask you,
17 Madame Forelady, to please check to the left of the two
18 words not guilty, circle both the checkmark and those
19 two words, sign as the presiding juror, and date it.

20 If you find, after your determination of the
21 facts, that the State has met its burden of proving its
22 case beyond a reasonable doubt, I would ask you, Madame
23 Forelady -- if that fact finding is unanimous -- I would
24 ask you, Madame Forelady, to check to the left of the
25 word guilty, to circle both your checkmark and the word

1 guilty, sign as the presiding juror, and date it today.

2 Once you have reached that unanimous verdict,
3 if you would then knock on the jury room door, inform
4 the bailiff that you have reached a verdict. At that
5 time we will receive you back into the courtroom for
6 your verdict.

7 I will ask you now to return to your jury
8 room, but do not begin your deliberations until you are
9 directed to do so by the clerk. The law requires I meet
10 with the attorneys one final time outside of your
11 presence.

12 Thereafter, if I do not have to bring you back
13 into the courtroom, all the items of evidence will be
14 delivered to you, along with the verdict form; and the
15 clerk will then instruct you to begin your
16 deliberations.

17 Do not begin your deliberations until you are
18 instructed to do so by the clerk. You may take your
19 notes with you at this time. Do not begin your
20 deliberations. Thank you very much. You may now go
21 with the bailiff.

22 (The jury retires to the jury room.)

23 THE COURT: Solicitor.

24 MS. CAMPBELL: Your Honor, I may have just
25 missed it. The only thing -- maybe I misheard you

1 before we starting closing -- but I thought you were
2 going to instruct them on Williams.

3 THE COURT: I was.

4 MS. CAMPBELL: Thank you.

5 MR. PRIDE: Instruct them on what?

6 THE COURT: State versus Williams. Any other
7 exceptions, Solicitor?

8 MS. CAMPBELL: No, sir.

9 THE COURT: Any exceptions, Mr. Pride?

10 MR. PRIDE: No objections or exceptions, but I
11 request for an additional charge.

12 THE COURT: What additional charge?

13 MR. PRIDE: Judge, I ask you again to please
14 charge the Baltimore D.S.S. case versus Bouknight.

15 THE COURT: All right. I would decline that
16 respectfully. Any others?

17 MR. PRIDE: That would be it. Judge, you said
18 on one of these -- you gave us an option, I think,
19 either if you use this chart over here about the
20 counties and venue, which they did, then you would not
21 instruct. I don't understand. That Williams case,
22 doesn't that go to jurisdiction and doesn't that go to
23 this particular --

24 THE COURT: It goes to both jurisdiction and
25 venue.

1 MR. PRIDE: Right. So they elected to use
2 this. So when you gave -- you said, I will instruct
3 them or you can use this. They used this; so they don't
4 get the instructions.

5 THE COURT: I think my position was they could
6 use the first line of that as far as demonstrative, and
7 I was going to charge it. They could still argue it.
8 Quite frankly, I don't know if they used it.

9 MS. CAMPBELL: We did not use the board in
10 front of them. We made sure of that, Judge, so we were
11 not in violation of your ruling.

12 THE COURT: All I can see is the back of the
13 boards. Of course, I tracked Solicitor Walker's
14 argument.

15 MR. PRIDE: I don't want to make an
16 accusation, but I think Ms. Walker used it in the
17 opening.

18 MS. WALKER: That is incorrect.

19 MR. PRIDE: All right. Then, Judge, I would
20 take just exceptions to the initial charge.

21 THE COURT: All right. Bring the jury back
22 out, please.

23 (The jury returns to the courtroom.)

24 THE COURT: Madame Forelady, ladies and
25 gentlemen of the jury panel, I am going to give you an

1 additional instruction. Of course, this is also
2 encapsulated in my entire charge to you.

3 When I was discussing the State's burden of
4 proof and the various elements of the offense the State
5 must prove beyond a reasonable doubt, I read part of the
6 indictment:

7 That the State must prove that Zinah Damaris
8 Jennings did in Richland County, on or between
9 September 1, 2011, and December 24, 2011, commit
10 unlawful conduct towards a child; and that includes that
11 language concerning in Richland County.

12 The State must present evidence that the
13 offense was committed in the county alleged in the
14 indictment. That can be proved by direct or
15 circumstantial evidence, as any other element of the
16 offense.

17 When some acts material to the offense occurs
18 in one county and some in another, venue or jurisdiction
19 is proper in either county. That just goes solely to
20 the element, important element, of venue and
21 jurisdiction.

22 With that being said, again, Madame Forelady,
23 ladies and gentlemen of the jury, if you would return to
24 your jury room. Do not begin your deliberations until
25 you are instructed to do so.

1 (The jury retires to the jury room.)

2 THE COURT: Any exceptions or additions,
3 Solicitor?

4 MS. CAMPBELL: No, sir.

5 THE COURT: Mr. Pride?

6 MR. PRIDE: Yes, Your Honor. In that Williams
7 case, Judge, you have a responsibility to charge them
8 that they must find that beyond a reasonable doubt; and
9 you didn't say that.

10 THE COURT: I will bring them back out. Bring
11 me the jury, please. Wait just a minute. Please read
12 that part of the charge for me.

13 COURT REPORTER: You said: "When I was
14 discussing the State's burden of proof and the various
15 elements of the offense the State must prove beyond a
16 reasonable doubt, I read part of the indictment:

17 That the State must prove that Zinah Damaris
18 Jennings did in Richland County, on or between
19 September 1, 2011, and December 24, 2011" -- that was
20 one place.

21 (Pause.)

22 COURT REPORTER: That was the only place that
23 I see in my cursory look back on it, Judge.

24 THE COURT: What do you want me to charge?

25 MR. PRIDE: I want you to charge the last part

1 of your sentence where you said that they must find
2 proof -- that they should find proof beyond a reasonable
3 doubt.

4 THE COURT: I thought that's what she just
5 read.

6 MR. PRIDE: But that was at the beginning, and
7 it was not at the end. That's where I think it should
8 be.

9 MS. CAMPBELL: Respectfully, Your Honor, we
10 disagree. You charged them as part of the whole charge
11 that we have to prove it beyond a reasonable doubt.
12 That has been done.

13 THE COURT: You know, Mr. Pride, further I
14 told them that this additional charge I was addressing
15 is encapsulated -- well it's an eight-day trial. Bring
16 the jury out, please. Bring the jury out.

17 (The jury returns to the courtroom.)

18 THE COURT: Madame Forelady, ladies and
19 gentlemen of the jury, I have charged you and instructed
20 you multiple times on the fact that the State has the
21 burden of proving the case beyond a reasonable doubt.

22 That charge, that burden, always remains with
23 the State; and that goes to each and every element of
24 the offense charged. The State must prove beyond a
25 reasonable doubt jurisdiction in Richland County and

1 those other elements of unlawful conduct towards a child
2 which I instructed you on earlier.

3 The burden of proof is always upon the State
4 of South Carolina to prove its case beyond a reasonable
5 doubt. Madame Forelady, ladies and gentlemen of the
6 jury, that specifically includes jurisdiction.

7 If you would please return to your jury room.
8 Do not begin your deliberations until you are instructed
9 to do so.

10 (The jury retires to the jury room.)

11 THE COURT: Anything additional, Solicitor?

12 MS. CAMPBELL: Your Honor, the only concern I
13 have at that point is that you said jurisdiction, but
14 you didn't go through the definition of jurisdiction
15 again, and that has to be proved beyond a reasonable
16 doubt.

17 THE COURT: Y'all write it down what you want
18 me to charge. I didn't charge it originally. I came
19 back and charged it. I have charged it. Y'all write
20 down what you want me to charge and submit it. What do
21 you want me to charge now, Solicitor?

22 MS. CAMPBELL: Your Honor, we would just ask
23 for the definition of: When some acts material to the
24 offense occur in one county and some in another, venue
25 is proper in either county. This must be proved beyond

1 a reasonable doubt.

2 THE COURT: Mr. Pride?

3 MR. PRIDE: I take exception, Your Honor.

4 It's just being picayune.

5 THE COURT: I thought that's what -- never
6 mind. Bring me the jury.

7 (The jury returns to the courtroom.)

8 THE COURT: Madame Forelady, ladies and
9 gentlemen of the jury, the State must present evidence
10 that the offense was committed in the county alleged in
11 this indictment. They must present evidence of that
12 element of the offense beyond a reasonable doubt.

13 When some acts material to the offense occur
14 in one county and some in other, venue or jurisdiction
15 is proper in either county. Thank you very much.

16 Madame Forelady, ladies and gentlemen, encapsulated in
17 that charge is within the total charge I have given you
18 throughout this instruction to you.

19 Thank you very much. You may now return to
20 your jury room. Do not begin your deliberations until
21 you are instructed to do so by the clerk.

22 (The jury retires to the jury room.)

23 THE COURT: Solicitor, any exceptions or
24 additions?

25 MS. CAMPBELL: No, sir.

1 THE COURT: Mr. Pride?

2 MR. PRIDE: None, Your Honor. No exceptions
3 and no requests for additional charge.

4 THE COURT: Here is a copy of the form of the
5 indictment. Y'all can sort of proof it. There is a
6 copy for each, and if you would get the items of
7 evidence straight.

8 MR. PRIDE: I have no objection to this.

9 THE COURT: Mr. Pride, there is no objection
10 to the form of the verdict?

11 MR. PRIDE: That's correct. That's what I
12 said.

13 MS. GARFIELD: Fine. No problem.

14 (Pause.)

15 THE COURT: Madame Solicitor, did y'all check
16 the exhibits?

17 MS. GARFIELD: Yes, sir.

18 THE COURT: Were they all present and
19 available and accounted for?

20 MS. GARFIELD: Yes, sir.

21 THE COURT: Ms. Darwin, did you check the
22 exhibits?

23 MS. DARWIN: I did, Your Honor, as well.

24 THE COURT: And they are now going to the
25 jury.

1 (The jury commences its deliberation at
2 6:02 P.M.)

3 (The following occurred at 6:07 P.M.)

4 THE COURT: Mr. Bailiff, bring me the jury,
5 please, and the alternates.

6 (The jury returns to the courtroom).

7 THE COURT: Madame Forelady, ladies and
8 gentlemen of the jury, I received a note from one of
9 your number concerning a child care issue this evening,
10 having concern that her child would be left at home
11 alone.

12 My first question is this: Has the jury begun
13 its deliberations?

14 FOREMAN: No, sir.

15 THE COURT: Well, I can't release that one
16 juror tonight. I would have to release the entire jury
17 panel to come back in the morning and begin their
18 deliberations.

19 Would you, Madame Forelady, ladies and
20 gentlemen, along with the alternates, return to your
21 jury room and discuss solely that issue: Whether the
22 jury panel wants to begin its deliberations in the
23 morning.

24 You can start at any time. I'm not sure what
25 other option I have available at this time. If you

1 would discuss that with your fellow jurors and either
2 write me a note or let the bailiff know you have an
3 answer for me.

4 FOREMAN: I will.

5 THE COURT: Please return to the jury room,
6 and the alternates will return with you to the jury
7 room.

8 (The jury retires to the jury room.)

9 THE COURT: I received this note from juror
10 number 255 that her grandson is home alone, and she has
11 not been able to reach anyone to check on him. She has
12 his age in here, and he is not accustomed to being alone
13 after dark or for an extended length of time.

14 The jury has not begun its deliberations, but
15 in full disclosure I had already spoken to -- I had the
16 alternates pulled out of the jury room before I received
17 this note and had spoken to the alternates, who were
18 still present and available and had not discussed the
19 case in any manner.

20 I can do one of two things. As I say, it's
21 juror number 255. I could select one of two alternates
22 because -- I forget his number -- but one of the three
23 wanted protection for Friday for a commitment he has
24 down at South Carolina State.

25 MR. PRIDE: The Hall of Fame.

1 THE COURT: Correct. So it would be one of
2 the two. I could do that or I could release the jury
3 for the night and have them come back at whatever time
4 they want to come back in the morning.

5 I'm available from 0700 on, as early as they
6 want to get here quite frankly, and they can begin. Did
7 y'all have any opinion? Did you have any suggestion?

8 MS. CAMPBELL: Your Honor, either one of those
9 solutions would be fine with us, whatever.

10 THE COURT: Mr. Pride?

11 MR. PRIDE: I think that is solely within Your
12 Honor's province.

13 THE COURT: I will ask the forelady, when the
14 jury comes back out; and I will wait on the note to see
15 if they want to just come back in the morning. If they
16 want to press on tonight, we will draw an alternate.

17 MR. PRIDE: Well, I don't think -- I wouldn't
18 want to press on tonight if a child is home that a juror
19 has that she cannot locate. I think she is -- I mean,
20 that's a kind of circumstance that either you can put an
21 alternate or either let everybody go. I would not want
22 you to force her to deliberate.

23 THE COURT: I agree with you. I wasn't going
24 to do that. I wasn't going to do that. It's either
25 select an alternate or send the whole panel home.

1 That's exactly right. I agree with that. I agree with
2 you. Let me wait to hear from them.

3 MR. PRIDE: Judge could we approach?

4 THE COURT: Yes, sir.

5 (Whereupon there was a bench conference off
6 the record.)

7 THE COURT: Bring the jury, please.

8 (The jury returns to the courtroom.)

9 THE COURT: Ladies and gentlemen, thank you
10 for your patience, your long suffering -- if that's a
11 word -- and your sense of fulfilling your oath and your
12 civic responsibilities.

13 With that being said, I am going to release
14 you from your jury service for the remainder of the
15 evening. Again, you are not to discuss this case with
16 anyone.

17 That includes your family, friends, fellow
18 jurors, or anyone else. If anyone tries to talk with
19 you about the case, please let me know. Do not read,
20 watch, or listen to any news accounts of the case.

21 Do not use your computer, cellular phone, or
22 any other electronic device with communication
23 capabilities to research any information about the case.
24 Information about the case includes but is not limited
25 to the following:

1 Information about a party, a witness, an
2 attorney, or a court officer, news accounts of the case,
3 information collected through juror research on any
4 topics raised or testimony offered by any witnesses,
5 information collected through juror research on any
6 other topic the juror might think would be helpful in
7 deciding the case.

8 As you heard me say over and over again, you
9 decide the case based on the evidence and the testimony
10 of the witness testifying under oath from the witness
11 stand.

12 We have come so far down the road in this
13 case. The stakes are high and a lot of effort has gone
14 into the case by the State and by the defense. You have
15 taken your oath seriously. I know you will continue to
16 do so.

17 I am going to release you until 9:30 in the
18 morning. I will also ask the two alternates -- I
19 apologize. I can't read your numbers from here -- the
20 lady at the back left and the gentleman next her -- to
21 return also in the morning at 9:30.

22 The gentleman directly in front of me in the
23 blue shirt, you are released from your jury service when
24 you leave tonight. Congratulations on your induction
25 into the South Carolina State Hall of Fame for athletes.

1 Congratulations.

2 With that being said, any questions? Thank
3 you very much. You are now released. See you promptly
4 at 9:30. Do not begin your deliberation, Madame Juror,
5 in the morning until you are directed to do so by the
6 Court. Thank you very much.

7 (The jury is excused for the day at 6:20 P.M.)

8 THE COURT: The note I received, Solicitor,
9 Mr. Pride, indicates that the jury has unanimously
10 agreed to return to deliberate this case at 9:30 on
11 Friday, September 7. Juror 255 will be available to
12 deliberate at that time as well.

13 So I will bring them back. I also brought
14 those two alternates back in case something occurs
15 between now and the beginning of the morning. Anything
16 from the State, Solicitor?

17 MS. CAMPBELL: No, sir, just a housekeeping
18 matter. I am scheduled for a hearing for a continuance
19 motion in front of Judge Manning at 9:30 in the morning.
20 Do I need to put that off so that I can be in here? Are
21 you going to bring the jury back in?

22 THE COURT: I want to make sure, since I
23 brought those alternates back, I see them all before I
24 release those alternates.

25 MS. CAMPBELL: I understand. We will just

1 call Judge Manning.

2 THE COURT: That was my main concern or either
3 if the bailiff tells me all 14 of them are present, I
4 will just bring the two alternates out. I will leave
5 that up to you, Solicitor.

6 MS. CAMPBELL: I will be here.

7 THE COURT: Mr. Pride?

8 MR. PRIDE: Judge, the jury is solely within
9 your province, but please take into consideration that
10 that's the same juror that you leaned over backwards to
11 accommodate because she wanted to get off, and now she
12 has got another problem at home.

13 I don't know how you see that, but I just
14 wanted to remind you because it's beginning to look like
15 a unwilling juror. So before you let your alternates
16 go, please be mindful of that.

17 THE COURT: I certainly appreciate you
18 reminding me, and my clerk also noted that with that
19 particular juror. She is specifically referenced in
20 this note from our foreperson that she would be
21 available tomorrow.

22 I thought with her reluctance they might say,
23 Well, we want to press on tonight or something. There
24 were some options there. So if she is willing to
25 return, I think that shows a willingness to fulfill her

1 oath.

2 MR. PRIDE: I sure take no exception to that,
3 sir.

4 THE COURT: Thank you. Thank you very much.
5 Nothing further, Mr. Pride?

6 MR. PRIDE: Except the matter that I
7 approached the bench on.

8 THE COURT: I will speak with the sheriff
9 about that.

10 MR. PRIDE: Thank you very much.

11 THE COURT: Court will be in recess until
12 9:30.

13 (Whereupon the proceedings are concluded for
14 September 6, 2012.)

15 (The following proceedings are reported on
16 September 7, 2012.)

17 THE COURT: Bring us our jury, please,
18 Mr. Bailiff.

19 (The jury returns to the courtroom at
20 9:36 A.M.

21 THE COURT: Madame Forelady, ladies and
22 gentlemen of the jury. Good morning. I am glad to see
23 you all returned promptly this morning. As far as the
24 primary jury, everyone looks wonderful, as does our
25 alternates.

1 Since we have all the primary jury here, are
2 there any other issues I need to address concerning the
3 jury before I send you to the jury room to begin your
4 deliberations?

5 FOREMAN: No, sir.

6 THE COURT: With that being said, Madame
7 Forelady, ladies and gentlemen of the jury, if you would
8 please return to your jury room. You may now begin your
9 deliberations with your fellow jurors in your jury room.
10 Thank you. Thank you very much. If the alternates
11 would remain in the courtroom at this time.

12 (The jury retires to the jury room to
13 deliberate its verdict at 9:40 A.M.)

14 (The alternates are excused.)

15 THE COURT: Anything further from the State?

16 MS. CAMPBELL: No, sir.

17 THE COURT: Defense?

18 MR. PRIDE: No, Your Honor.

19 THE COURT: We will be awaiting our verdict.
20 Thank you. Thank you very much.

21 (Whereupon there is a recess.)

22 (The following occurred at 12:25 P.M.)

23 THE COURT: First, before we bring the jury
24 out, I had received two notes from the jury during the
25 course of their deliberations. I discussed the notes

1 with the attorneys for the State and the attorneys for
2 Ms. Jennings.

3 The first note the jury requested two things.
4 They requested a copy of 63-5-70. Both the State and
5 the defense consented to the jury getting a copy of that
6 statute, which is unlawful conduct towards a child.

7 The jury also requested 12 copies of the
8 transcript of the statement that Ms. Zinah Jennings gave
9 to Sergeant Thomas and Detective Bailey. The State and
10 the defense consented to that. They were given one copy
11 each, for a total of 12 copies of the transcript of that
12 statement. Is that correct, Solicitor?

13 MS. CAMPBELL: Yes, sir.

14 THE COURT: Is that correct, Mr. Pride?

15 MR. PRIDE: That's correct.

16 THE COURT: And you agreed to that?

17 MR. PRIDE: I absolutely did.

18 THE COURT: The next note I received was the
19 jury requested a definition of the term abandonment. I
20 provided both the part of my charge with the explanation
21 of willful abandonment, and I further provided the
22 definition that was also part of my charge of
23 abandonment. The State consented to that; correct,
24 Solicitor?

25 MS. CAMPBELL: Yes, sir.

1 THE COURT: And the defense?

2 MR. PRIDE: That is correct, Your Honor.

3 THE COURT: Thank you. One further thing.

4 Before we bring the jury in, this can many times be very
5 emotional for one side or the other or for both. I do
6 not allow any show of emotion in the courtroom. If you
7 feel that you cannot control your emotions upon the
8 return of the verdict, I would suggest that you leave
9 the courtroom now.

10 Anyone that does show any outburst or show of
11 emotion that is inappropriate, I would ask the officers
12 stationed about the courtroom closest to that individual
13 to take them into custody. I will deal with them as if
14 contempt of court.

15 Now would be your opportunity to leave if you
16 choose to do so. Thank you. Thank you very much.
17 Bring us our jury, please.

18 (The jury returns to open court to report its
19 verdict.)

20 THE COURT: Madame Clerk.

21 CLERK: Yes, Your Honor.

22 Madame Forelady, has the jury reached a
23 verdict?

24 FOREMAN: We have.

25 CLERK: Would you please hand the verdict to

1 the bailiff.

2 (Hands to Court.)

3 THE COURT: Madame Clerk, the verdict of the
4 jury appears to be in the proper form, signed by the
5 presiding juror, and dated today's date. Would you
6 please publish the verdict.

7 (Whereupon the verdict of the jury is
8 published as follows.)

9 CLERK: Yes, Your Honor. In the Court of
10 General Sessions for the Fifth Judicial Circuit, in the
11 matter of the State of South Carolina versus Zinah
12 Damaris Jennings, Indictment Number 2012-GS-40-2067, as
13 to the charge of unlawful conduct towards a child in
14 violation of the South Carolina Code, we the jury
15 unanimously find the defendant guilty. It's signed by
16 the forelady and dated September 7, 2012.

17 Madame Forelady, is this your verdict and the
18 verdict of the entire jury?

19 FOREMAN: It is.

20 CLERK: Thank you.

21 THE COURT: Thank you. Thank you, Madame
22 Clerk.

23 Anything additional for the jury from the
24 State?

25 MS. GARFIELD: No, sir.

1 THE COURT: From the defense?

2 MR. PRIDE: Your Honor, I respectfully move
3 the Court to poll the jury.

4 THE COURT: Thank you, Mr. Pride.

5 Madame Clerk, will you please explain that
6 procedure to the jury panel and poll the jury.

7 CLERK: Yes, Your Honor. Madame Forelady,
8 ladies and gentlemen of the jury, I am going to call out
9 your number. I will ask each of you two questions, and
10 I need you to answer both of these questions.

11 Number 293, was this your verdict?

12 JUROR: Yes.

13 CLERK: Is it still your verdict?

14 JUROR: Yes.

15 CLERK: Number 243, was this your verdict?

16 JUROR: Yes.

17 CLERK: Is it still your verdict?

18 JUROR: Yes.

19 CLERK: Number 108, was this your verdict?

20 JUROR: Yes.

21 CLERK: Is it still your verdict?

22 JUROR: Yes.

23 CLERK: Number 55, was this your verdict?

24 JUROR: Yes.

25 CLERK: Is it still your verdict?

1 JUROR: Yes.
2 CLERK: Number 363, was this your verdict?
3 JUROR: Yes.
4 CLERK: Is it still your verdict?
5 JUROR: Yes.
6 CLERK: Number 167, was this your verdict?
7 JUROR: Yes.
8 CLERK: Is it still your verdict?
9 JUROR: Yes.
10 CLERK: Number 107, was this your verdict?
11 JUROR: Yes.
12 CLERK: Is it still your verdict?
13 JUROR: Yes.
14 CLERK: Number 328, was this your verdict?
15 JUROR: Yes.
16 CLERK: Is it still your verdict?
17 JUROR: Yes.
18 CLERK: Number 159, was this your verdict?
19 JUROR: Yes.
20 CLERK: Is it still your verdict?
21 JUROR: Yes.
22 CLERK: Number 255, was this your verdict?
23 JUROR: Yes.
24 CLERK: Is it still your verdict?
25 JUROR: Yes.

1 CLERK: Number 335, was this your verdict?

2 JUROR: Yes.

3 CLERK: Is it still your verdict?

4 JUROR: Yes.

5 CLERK: Number 257, was this your verdict?

6 JUROR: Yes.

7 CLERK: Is it still your verdict?

8 JUROR: Yes.

9 CLERK: The jury has been polled, Your Honor.

10 THE COURT: Thank you. Thank you, Madame

11 clerk.

12 Anything further for the jury from the
13 defense, Mr. Pride?

14 MR. PRIDE: Nothing further.

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

16 Madame Forelady, ladies and gentlemen of the
17 jury, momentarily I am going to release you from your
18 jury service for the remainder of the day and the
19 remainder of your second week of service.

20 I can't tell you how much and how impressed I
21 have been with this jury throughout the course of these
22 proceedings. I imagine Richland County is no different
23 from the other 45 counties in South Carolina.

24 We could probably go out and find 12 people in
25 Richland County that would not have better things to do

1 than serve on jury duty; however, you want people on
2 jury duty that are engaged in life, that have other
3 things to do: family commitments, professional
4 commitments, personal commitments.

5 We want that cross section of our community --
6 of your community -- to come into court and to listen to
7 the case, to listen to the evidence and the witnesses
8 testifying under oath, to listen to the law, and to
9 reach a verdict based on your finding of the facts,
10 applying those facts to the law.

11 I commend you for your civic duty. I know it
12 has been a long, trying two weeks for you. I know you
13 each have other commitments, important things to do; and
14 there is no greater service that you could have
15 performed to your community during the last two weeks
16 than what you have done.

17 It has been my pleasure and privilege to have
18 served with you throughout those two weeks. I hope you
19 never find yourself a part of the system again by way of
20 juror, witness, or otherwise.

21 If you do, I hope the jury selected for the
22 trial of that case is as hard working and dedicated and
23 committed to their oath as each of you have been. With
24 that being said, you are now excused from your jury
25 service.

1771

1 Madame Clerk, do you want them to report back
2 to their jury room?

3 CLERK: No, sir, I just need speak to them in
4 the back.

5 THE COURT: The clerk will come out and speak
6 with y'all in the back. You certainly may remain if you
7 would like. The Court has other matters to take up,
8 both as to motions and as to sentencing.

9 As I say, you are welcome to remain if you
10 would like. If not, you are now excused. The clerk
11 will check with you in the back. Anyone wanting to be
12 excused may leave at this time.

13 (The jury is excused.)

14 THE COURT: Mr. Pride, do you have any
15 motions?

16 MR. PRIDE: Yes, Your Honor. Your Honor, I
17 would like to renew all previous motions that I have
18 made in this case: at the beginning of the case, at the
19 end of the State's case to appear in the transcript
20 verbatim as I recited them during that period of time.

21 Likewise, I would like to move for a mistrial
22 on the same grounds that I moved previously in this
23 matter. I would further, Your Honor, like to move for a
24 mistrial on the grounds that this case took
25 approximately eight or nine days -- nine days in trial.

1 As I looked at the clock, I think the jury
2 went out about a little after 9:30 and reached its --
3 came back in a little after 12:15. I would submit that
4 they did not give timely and ample consideration to
5 review all of the evidence in this case so as to reach a
6 just verdict.

7 I think it was a rush to judgment and would
8 respectfully move on behalf of Zinah Jennings for a
9 mistrial in this matter. I think, having said that -- I
10 think having said that that I have covered all that
11 would be appropriate at this time.

12 THE COURT: Thank you. Thank you very much,
13 Mr. Pride. I would renew all my previous trial rulings,
14 both evidentiary and as to previous grounds stated for a
15 mistrial.

16 As to the timing of the case and the timing of
17 the jury's deliberations, although the trial started the
18 27th day of August, 2012, the testimony did not begin
19 until Tuesday, the 28th.

20 There was testimony Tuesday, Wednesday, and
21 Thursday of last week. There was then a break Friday,
22 Saturday, Sunday, and Monday. We began again Tuesday,
23 Wednesday, and Thursday with testimony.

24 I watched the jury and jurors throughout the
25 trial of the case. I noted that they were all very

1773

1 alert, aware, and attentive, and many were taking notes;
2 and they requested the right to take notes during the
3 trial. It appeared that they were tracking the evidence
4 very intently.

5 I also moved about the courtroom during the
6 course of the trial, when videos were shown or when
7 items of evidence were shown to the jury where I could
8 also see those videos or those items of evidence when an
9 expert witness perhaps was testifying. I believe it was
10 Agent Clayton.

11 The jury was very alert and aware and focused
12 on those items, whether they were being presented by the
13 State or the defense. Timing is solely within the
14 jury's province.

15 I don't know of any standard by which to say a
16 jury has deliberated too short or too long. They have
17 rendered a unanimous verdict, they have been polled, and
18 confirmed that verdict. I do not think there was any
19 rush to judgment, and I would respectfully deny a
20 mistrial on that ground.

21 Anything further, Mr. Pride?

22 MR. PRIDE: That would be it, Your Honor.

23 THE COURT: Any reason, Mr. Pride, sentence
24 cannot be imposed at this time?

25 MR. PRIDE: No, Your Honor. Do you want me to

1 bring the defendant around?

2 THE COURT: Yes, sir, if you would bring her
3 around, please.

4 (Pause.)

5 THE COURT: May I see, Solicitor, photograph
6 Number 77, 54, and Defense 6.

7 (Hands to Court.)

8 THE COURT: Solicitor, anything further from
9 the State?

10 MS. GARFIELD: No, sir.

11 THE COURT: Mr. Pride, I would be glad to hear
12 from you.

13 MR. PRIDE: I don't know if I know what to say
14 really, Judge. Judge, obviously I give sanctity to the
15 jury's verdict. I can't get before you and quarrel
16 about that.

17 There is one thing that I think is extremely
18 important, and I think I have said this to you before.
19 When Zinah Jennings was first charged in this case, she
20 was placed under \$150,000 bond. That is quite unusual,
21 and there was no consideration given by the Court for a
22 reduction of bond.

23 I have said to you before that this case, if
24 Zinah Jennings had been represented by the Public
25 Defender's Office, this is probably a case that the bond

1775

1 wouldn't have been as high. And based on her background
2 and based on the charges against her, she might even be
3 eligible for probation.

4 I know that this is a hard case to try and
5 speak about. It really is, Judge. I guess I need to
6 point to some of the things that Dr. Moustafa said that
7 the jury didn't hear in this case.

8 I guess I need to point to the fact that the
9 probate court early in January passed that
10 January 17th order which determined that Zinah was
11 mentally ill.

12 Mentally ill is not my defense in this case,
13 and it certainly didn't pass the muster test for either
14 a case of not guilty by insanity or for the fact that
15 she was not competent to stand trial.

16 But it is a factor now that you can consider
17 as it relates to diminished capacity. I don't think you
18 would argue with me. I think that you would agree with
19 me that this is the appropriate time for you to consider
20 it.

21 Judge, having heard and been involved in this
22 case for a considerable period of time, you have heard
23 hearings after hearings after hearings on motions way
24 before we finally reached the trial date in this case.

25 This is a situation that was brought about,

1 Judge, because of a number of reasons. I really believe
2 in my client's innocence. I don't think that the child
3 has been hurt. I think that because of her mental
4 illness and other factors that she just wouldn't tell.

5 I have never asked her where the child is
6 because I had to work with her; and I have always felt
7 if I had inquired about that, that would interfere. I
8 could not have gotten her confidence in order to defend
9 her.

10 Primarily, this is a case where the child --
11 and I don't feel like I am really doing a great job in
12 trying to make you understand why -- and where I am
13 going is: Please don't give this girl ten years.
14 That's really all that I'm trying to get over to you.

15 I am trying to get over to you that this is a
16 girl -- this is a young lady, excuse me -- who has no
17 prior criminal record. Of course, I don't have to worry
18 about you considering the pending charges in Atlanta for
19 prostitution because you know that that cannot be
20 considered.

21 Throughout the trial you demonstrated your
22 ability to know the law, but you have got to give her
23 credit for the fact that she is 23 years old. She
24 doesn't have any prior criminal record.

25 Notwithstanding the fact that this sentence

1777

1 that you could impose is a sentence of up to ten years
2 in jail, also, Judge, you certainly -- the law gives her
3 credit for the fact that she has been in jail for nine
4 months.

5 Judge, I had a client to work with who was
6 pregnant, who was mentally ill, and who was under a lot
7 of stress in her life for a long period of time before
8 she got charged with this offense. Judge, you have got
9 to also give her credit for the fact that she didn't run
10 and hide. She turned herself in. I think that is
11 important.

12 I've got a client who doesn't have the ability
13 to speak for herself, to demonstrate remorse, and to ask
14 for mercy. So I have got to ask for mercy for her. I'm
15 certain her mother will address the Court and have
16 things to say. But, Judge, don't throw the book at this
17 girl -- I'm sorry -- Zinah Jennings. That's my whole
18 point to you.

19 It doesn't take a long sentence to punish her
20 for what she did, and I ask for the Court's mercy. I
21 have gotten justice from the jury, but from you I want
22 mercy.

23 I have not finished, Judge, what I want to say
24 to you, but I would like to pause; and I would like to
25 give Ms. Jennings an opportunity to speak to you.

1 THE COURT: Certainly.

2 MR. PRIDE: And I might say to you, I have not
3 prepared Ms. Jennings with what she should say to the
4 Court. So whatever she says will be things that she
5 feels and that she is expressing without any input on my
6 part.

7 THE COURT: Mr. Pride, I will hear from anyone
8 you want me to hear from.

9 Tell me again your full name for the record.

10 MS. JENNINGS: Jocelyn Jennings.

11 THE COURT: Ms. Jennings, I would be glad to
12 hear from you.

13 MS. JENNINGS: Judge, there were many things
14 that were not said in court over the last two weeks.
15 Zinah Jennings brought her baby home, a loving mother
16 planning for the future of herself, for her baby.

17 I noticed that it was difficult. I noticed
18 that she was depressed. I noticed that my daughter
19 needed help. She needed help that I could not provide.
20 I went from agency to agency to get help for her. I
21 went to L.R.A.D.A.C. I consulted with counselors. I
22 consulted with my own therapist.

23 I spoke with Zinah. She did not understand
24 what depression was. She did not understand that
25 through hormones and through other -- she didn't

STATE OF SOUTH CAROLINA	)	GENERAL SESSIONS
	)	
County of Richland	)	2010-GS-40-02067
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
ZINAH DAMARIS JENNINGS,	)	
	)	
DEFENDANT,	)	

June 7, 2012
Columbia, South Carolina

BEFORE:

THE HONORABLE G. THOMAS COOPER, JR., JUDGE.

APPEARANCES:

JOANNA MCDUFFIE, ASSISTANT SOLICITOR
FOSTER MATTHEWS, ASSISTANT SOLICITOR
DOLLY GARFIELD, ASSISTANT SOLICITOR
Attorneys for the State

HEMPHILL PRIDE, ESQ.
Attorney for the Defendant

KAREN AMBROZIAK
Official Court Reporter

C O N T E N T S

INDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

1 MR. PRIDE: Seated at counsel table is Zinah Jennings
2 who is the defendant who is charged in this indictment
3 pursuant to section 63-5-70 of the United States Code.

4 THE COURT: No. South Carolina Code.

5 MR. PRIDE: South Carolina State code. Thank you,
6 Your Honor. I appreciate it.

7 Your Honor, Zinah Jennings was arrested on the 24th
8 of December. Just briefly, a background on this case.

9 THE COURT: The warrant is signed the 29th.

10 MR. PRIDE: On -- on the 24th of December, she
11 reported to the Columbia Police Department.

12 THE COURT: All right.

13 MR. PRIDE: And she walked -- Your Honor, if you know
14 where Benedict College is, she lived about three blocks
15 from Benedict College. She walked from her home to the
16 Columbia Police Department. You know where that is.

17 THE COURT: Yes, sir.

18 MR. PRIDE: Because she had found out that the police
19 department was looking for her and wanted to see her.
20 When she went to the police department, she went there and
21 told them, "I understand you're looking for me. My name
22 is Zinah Jennings."

23 While there at the police department, they began to
24 question her about her son Child who had been reported to
25 be missing. By the time they questioned her at the police

1 department, Zinah told gave various -- gave various
2 answers as to where the child one.

3 I might remind you, Your Honor, but on the 17th of
4 January, the associate judge in the probate court
5 determined that Zinah was mentally ill. At that time --

6 THE COURT: What was the date?

7 MR. PRIDE: The 17th of January. An order is
8 attached to my memorandum in this case.

9 THE COURT: All right.

10 MR. PRIDE: Judge, I'm not prepared at this time to
11 tell you how long Zinah had been mentally ill, whether on
12 the 24th of December she was mentally ill at that time
13 because I -- there is no evidence and no examination and
14 no --

15 THE COURT: She had never been evaluated?

16 MR. PRIDE: Not -- yes, but the evaluation does not
17 address the question of how long she suffered.

18 THE COURT: I understand. I understand.

19 MR. PRIDE: And my point is at the 24th, I can't tell
20 you she was mentally ill then --

21 THE COURT: I understand.

22 MR. PRIDE: -- because I don't have any evidence of
23 that. I don't have any evidence --

24 THE COURT: I understand. When was the evaluation
25 done?

1 MR. PRIDE: The evaluation was done -- I'm not
2 certain when but she while was at the Bryan
3 Psychological...

4 THE COURT: After the Probate Court order.

5 MR. PRIDE: No. Before the Probate Court order.

6 THE COURT: What Probate Court?

7 MR. PRIDE: That's what precipitated the Probate
8 Court order. There was a hearing, and at that hearing, a
9 psychiatrist testified that he had evaluated her, and
10 based on the evaluation, he found her to be mentally ill.
11 The Court prescribed a drug called Risperdal for a period
12 of one year. I think it --

13 THE COURT: What was his diagnosis?

14 MR. PRIDE: That she was...

15 THE COURT: Do you have a copy of it?

16 MR. PRIDE: Do I have a copy of it? I don't. I have
17 a hearing before the Probate Court. I have a hearing at
18 two -- at 3:30 this afternoon because she is pregnant.
19 The drug that she is on could have an adverse effect to
20 the baby. I don't have that file with me so no.

21 THE COURT: Okay. I'm just curious as to her --

22 MR. PRIDE: I'll see that you get it.

23 THE COURT: -- diagnosis.

24 MR. PRIDE: I'll see that you get it.

25 THE COURT: You can tell something about her

1 condition by the diagnosis even though it was six months
2 ago?

3 MR. PRIDE: Right. Well, they determined that she
4 was paranoid schizophrenic.

5 THE COURT: A paranoid schizophrenic, that's the
6 diagnosis?

7 MR. PRIDE: Right.

8 THE COURT: A diagnosis.

9 MR. PRIDE: I'll give you the written report.

10 THE COURT: All right. Go ahead.

11 MR. PRIDE: Judge, thereafter, Zinah was taken to the
12 Richland County Detention Center, and she was questioned,
13 I know, on the 28th of December. She was also questioned
14 on the 2nd of January again.

15 After being charged, she has remained there
16 incarcerated and has not bonded out. Judge, the
17 indictment that you have before you, we had filed a motion
18 to quash that indictment on the grounds that the
19 indictment does not set forth, first of all, notice of
20 conduct which would put the defendant on notice.

21 The purpose of notice is to give the defendant and
22 fully advise the defendant of the criminal charges against
23 them so that one might defend themselves, and to just
24 repeat the statute is not sufficient. The indictment
25 should describe conduct demonstrated by the defendant

1 which is a violation of the statute.

2 I also call your attention to the warrant in this
3 case, Your Honor. We think that's important, too, because
4 basically the warrant is lacking in that respect, too.

5 Primarily, what the warrant accuses Ms. Jennings of
6 is not cooperating, and of course, we have cited a number
7 of cases in the memorandum which -- as the Court well
8 knows that I'll be citing cases that a person who is a
9 suspect in a criminal offense does not have to give --
10 cooperate with the police department, does not have to
11 answer questions and certainly does not have to
12 incriminate themselves and has a constitutional right not
13 to cooperate.

14 Thereafter, Your Honor, back to this indictment
15 again, the indictment just fails upon its face, Your
16 Honor. It does not describe any conduct on the part of
17 Ms. Jennings which is a violation. What it does is repeat
18 the section, 63-5-70.

19 The indictment in this case, Your Honor, we would
20 submit to you is an overreach by the prosecutor. The
21 constitutional rights of a defendant against the
22 constitutional right rights of a missing child to locate a
23 missing child.

24 There is no balancing of a test in that respect, and
25 the entire indictment in this case and the entire holding

1 of Zinah Jennings in this case is a mere pretext.

2 It is because we have a missing child. We have no
3 evidence, Your Honor. There's been a search warrant
4 issued, and I set out in the memorandum and I know you
5 read it, Judge, a litany of things the search warrant has
6 produced in this case.

7 In no respect has any of those items, has no blood as
8 reported by the media on the blanket. There was no blood
9 or no DNA on the shovel, on the blanket. There is just no
10 evidence other than the fact that the child is missing.

11 THE COURT: Well, just...

12 MR. PRIDE: Excuse me.

13 THE COURT: If the indictment is based on the
14 warrant, the warrant only accuses her of lying to law
15 enforcement. That's the only allegation in the warrant.

16 MR. PRIDE: That's correct and...

17 THE COURT: Previously lied to law enforcement.

18 MR. PRIDE: Yeah, but she is not charged with lying
19 to law enforcement. She is charged with -- in the warrant
20 with 63-5-7.

21 THE COURT: I understand that.

22 MR. PRIDE: Yes.

23 THE COURT: I just reread the warrant.

24 MR. PRIDE: Right.

25 THE COURT: I can't find anything that they

1 specifically accused of her other than lying to law
2 enforcement.

3 MR. PRIDE: And not cooperating. Those are the only
4 two things. Judge, we just submit to you that in this
5 case, the indictment falls on its face.

6 Judge, I have a number of transcripts that I would
7 ask you to read in this case, and these transcripts
8 emulated from the discovery that was given as a result of
9 a motion that I filed in this.

10 These transcripts are interviewed by various members
11 of the Columbia Police Department with Zinah Jennings.
12 One of them, Judge, is absolutely -- I mean, it's -- it's
13 just unbelievable.

14 They interviewed this young lady and read her her
15 rights, and there's a serious question as to whether or
16 not she said yes or no that I waive my constitutional
17 rights because there's a serious question as to whether or
18 not she understood her constitutional right.

19 In that interview with the Columbia Police Department
20 which occurred -- none of the transcripts have dates on
21 them, but I've been able to go through the discovery. I
22 can pinpoint each date of each interview.

23 I did not change the transcripts in any respect to
24 give you the dates because I didn't think that I should do
25 that, but I can -- I can fix the date, but in this

1 particular date, Judge, they interviewed her, and then
2 they allow a sister, a half sister who comes from Atlanta,
3 Georgia, they bring her into the room with Zinah.

4 For at least three hours, this sister is working with
5 the police department, "Zinah, tell me where the baby is.
6 Zinah, the police department" -- and I'm paraphrasing,
7 Judge. You will read for yourself and make your own
8 interpretation. "Zinah, if you tell me when the child is,
9 we live and be here."

10 The police officer who is a female African-American
11 police officer, her name is Bee Fields, it will only say
12 in the transcript investigator, female investigator, but
13 that's her name, along with a gentleman by the name of
14 Bailey.

15 Bailey isn't even in there, Judge. He reads the
16 rights, and I don't know where he goes, but you can hear
17 him going in and out in the door, but then they turn the
18 investigation over to the sister, the interrogation to the
19 sister from Atlanta.

20 They sit behind as though they are a choir saying,
21 "Amen" and saying, "that's right. If you go on and tell
22 us where the child is, we will let you go. We'll let you
23 go. That's all you have to do is just tell us where the
24 baby is, and we'll let you go."

25 Now, mind you, Judge, she is a suspect. I don't know

1 of any case law that laws the police department to bring
2 in a member of the family and interrogate her.

3 After they finish with the sister from Atlanta,
4 Georgia -- and all of this is in the transcript -- they
5 bring in the minister, and the minister says, "Zinah,
6 baby, I want to pray with you," and the minister prays a
7 prayer that the ultimate end of the prayer is, "Where is
8 the baby? The baby is so cute, you and the baby are
9 joined at the hip together. Tell me where the baby is,"
10 and the officer stands up and goes through that.

11 Then, Judge, this is just unbelievable. They go out
12 in the car, and they get a dog named Molly. They bring
13 the dog in for Zinah to play with, all of this in an
14 effort, but the important thing that I want you to get out
15 of these transcripts is one thing: Zinah, throughout the
16 entire transcript, tells them, "No, I'm not going to tell
17 you where the child is. I have not done one thing to harm
18 this child. I left this child in safekeeping."

19 That theme, Judge, will be consistent throughout each
20 one of the transcripts that you read in this case, and
21 I'll give them to you when I finish my argument for your
22 review, but she never says one thing other than assure
23 them that the child is safe; that no harm has come to
24 her -- come to the child, come to him, I'm sorry, Child
25 "I know where he is. I can go get him. I'm not going to

1 tell you where he is."

2 And then Bailey -- I'm sorry, not Bailey, Fields says
3 to Zinah, "We'll give you relief. We'll get DSS to come
4 in and take your child so that you can get a rest from
5 this child since you've had this child for 18 months and
6 nobody else has helped you raise this child, and you've
7 been saddled with the child all the time."

8 Zinah says, "No. I'm not going to give you my child
9 to turn over to DSS," which shows concern for the child.
10 Now, Zinah, unfortunately, as many children do when they
11 reach a certain age, has developed an antagonistic
12 relationship with her mother. She rails in those
13 interviews about the fact that perhaps her mother didn't
14 help her as much as she thought her mother should have
15 done.

16 Her testimony is consistent, and her answers are
17 always consistent in the fact that Child is always safe.
18 "I know where he is. I'm not going to tell you where he
19 is, and I'm not going to turn him over to DSS."

20 That's all. They don't have anything. They don't
21 even have, Judge, the corpus delicti. Obviously, you know
22 what I mean, Judge. I'm not talking about a body, but
23 they don't have it in this case. That's one of the main
24 elements of any crime.

25 I would submit -- Judge, I know this is a highly

1 publicized case. I don't know any case that you haven't
2 tried since you've been on the bench, and I've known how
3 you work, for two cents, but I mean, the case should be
4 dismissed.

5 If you don't indict right. If you don't -- if you
6 violate people's constitution and you don't hold people in
7 order to make someone tell you where a child is, and that
8 is what this case is all about.

9 Thank you very much.

10 THE COURT: Well --

11 MR. PRIDE: Judge, can I give you the transcripts
12 now?

13 THE COURT: Well, I want to hear the argument. I'm
14 not sure that I need the transcripts.

15 MR. PRIDE: All right. Thank you, Judge.

16 THE COURT: If I do, I'll ask you for them.

17 MR. PRIDE: Thank you.

18 THE COURT: Now, who is representing the State in
19 this matter?

20 MS. GARFIELD: Thank you, Your Honor. May it please
21 the Court. While I'd like to respond to many of the
22 allegations Mr. Pride has made, I don't find it
23 appropriate.

24 I don't think this is the forum to try the case at
25 this time. A lot of things he has presented to you are

1 inaccurate, especially concerning the DNA collected, as
2 the media did report that falsely.

3 However, Judge, we are here today to address the
4 indictment and whether or not it should be quashed.
5 According to South Carolina statute section 17-19-20, an
6 indictment is sufficient if it charges the crimes
7 substantially in the language of the common law or of the
8 statute prohibiting the crime or so plainly the nature of
9 the offense charged may be easily understood.

10 Your Honor, the reflects the statute --

11 THE COURT: That's all it does.

12 MS. GARFIELD: And that is all the South Carolina law
13 requires us to do.

14 THE COURT: Are you sure about?

15 MS. GARFIELD: That's what the statute says.

16 THE COURT: Don't you have to say a time and place
17 where the person individually violated the statute in that
18 so and so and so and so -- I mean, isn't that typical
19 language?

20 The indictments -- if all you had to do was say,
21 quote the language of the statute, then in a murder case,
22 you could say, "The defendant committed a murder. Who did
23 he murder? When did he murder? Where did he murder?"

24 MS. GARFIELD: Judge --

25 THE COURT: You know, you have to say something

1 besides quote the statute.

2 MS. GARFIELD: Your Honor, the indictment does
3 reflect who we're charging, the dates we're charging, the
4 county we're charging, and the individual that's missing
5 which would be her son. There is no corpus delicti
6 problem.

7 THE COURT: Is or is not --

8 MS. GARFIELD: Is not because the child is missing.
9 The child has been abandoned. That's what the statute
10 covers. That is the cloak. The fact that we don't know
11 where the toddler is, is not situation where
12 Ms. Jennings --

13 THE COURT: Well, how are you going to prove when you
14 go -- if you go to court? Given the State of the facts
15 today, six months after the defendant has been arrested
16 can you just hold her until you find something?

17 MS. GARFIELD: Your Honor, I'll --

18 THE COURT: If you just take it out of the missing
19 child situation, the factual situation that you have here,
20 can you -- can the State hold somebody against their will
21 until you find enough evidence to go forward?

22 MS. GARFIELD: Judge, I wouldn't have presented the
23 case to the grand jury if I didn't think there was enough
24 evidence to go forward. I will relay to you some of the
25 evidence which is quite different than what Mr. Pride

1 relayed to you.

2 First of all, Ms. Jennings did not walk to the police
3 department to turn herself in. She and her son were
4 missing as of around the Thanksgiving holiday. Her mother
5 became concerned and reported her and her son missing on
6 December 8th of last year.

7 On December 24th, Christmas Eve, Ms. Jennings was
8 involved in a single car accident. She was taken to the
9 hospital. At that time, it was registered that she was
10 missing, so law enforcement responded to Ms. Jennings.

11 At that time, she was asked where her son was. At
12 that time, she indicated she didn't have a child. The
13 nurse brought out that she had a C section scar and
14 presented that to her. At that point, she goes, "Oh, that
15 child. Oh, my child is with my sister in Atlanta."

16 The police took that. They did not arrest her at
17 that time.

18 THE COURT: I read the warrant. I mean, the warrant
19 lists the various alleg--- the things that she may have
20 said that were not --

21 MS. GARFIELD: First she said it's with her sister in
22 Atlanta.

23 THE COURT: I read it. I read it.

24 MS. GARFIELD: I understand, Your Honor, but you're
25 asking me do I have the evidence to hold it. I think I

1 should be able to create a record.

2 THE COURT: Well, that -- as I said, Mr. Pride, the
3 warrant only charges her with lying.

4 MS. GARFIELD: Well, that should have been presented
5 at the preliminary hearing. These are arguments that have
6 been made at a preliminary hearing. Keep that in mind.
7 That preliminary hearing was waived.

8 The case has now gone before the grand jury. An
9 indictment supersedes the warrant. The indictment is the
10 charging paper to the jury.

11 Also, Your Honor, the mention of dogs, there was also
12 a cadaver dog that came and searched the car and made hits
13 on the trunk of Ms. Jennings' car.

14 The dog handler reported to law enforcement that that
15 was the hardest hit she had ever seen her dog do. Also,
16 Judge, there was a baby blanket found in the trunk of the
17 car. It does have blood on it. It is blood, according to
18 the DNA analyst at SLED.

19 I don't know how the media reported there was no DNA.
20 I certainly don't talk to the media about the case. I was
21 -- that was news to all of us, before any of us, including
22 law enforcement, even received any reports from SLED.

23 There's also a phone -- I have Investigator Bailey
24 here who can tell you the ins and outs of the case left
25 and right. We have her cell phone being tracked to

1 Atlanta for one mysterious day and coming back.

2 The fact of the matter is the child is still missing,
3 and she refuses to tell anyone where the child is. We are
4 charging her with abandoning a child, and these are
5 arguments that should be made before a jury or a directed
6 verdict.

7 THE COURT: Sort of like a no body case?

8 MS. GARFIELD: Yes, sir. It could turn into one.

9 Your Honor, just to put on the record, one of my
10 colleagues shared with me, and that is good point, South
11 Carolina recognizes that there are mothers who are
12 overwhelmed with children that they cannot handle and
13 cannot care for.

14 There are safe statutes provided where you can safely
15 and legally abandon your child. She has not done that.
16 This is a situation where no one knows where this child
17 is. It would be a travesty to quash the indictment when
18 South Carolina law provides exactly what is reflected.

19 THE COURT: Mr. Pride?

20 MR. PRIDE: Judge, the travesty is the indictment of
21 holding a person in violation of their constitutional
22 right.

23 The law would rather prevent -- 50 people go free who
24 were perhaps guilty of a crime rather than hold one person
25 who is innocent.

1 Judge, when you Ms. Garfield argues about the
2 indictment, I cited to you State vs. Ham, and in that
3 State vs. Ham case, it held that an indictment must be
4 sufficient, and that's the only challenge that I make
5 today.

6 THE COURT: Well, she says the indictment is
7 sufficient in that they identified the county, the dates,
8 and identifies the child that the statute is directed
9 towards. She says that's sufficient --

10 MR. PRIDE: Yes, sir.

11 THE COURT: -- to sustain a challenge to the
12 indictment.

13 MR. PRIDE: Just because she says it is doesn't make
14 it so and, Judge --

15 THE COURT: I'm reading the indictment.

16 MR. PRIDE: Sure.

17 THE COURT: Those elements are in the indictment.

18 MR. PRIDE: But, Judge, what she doesn't describe,
19 doesn't describe the conduct. That's what the indictment
20 requires is described conduct on the part of the
21 defendant, and it does not do that.

22 In that Ham case, Judge, they said that the
23 indictment must be sufficient as to apprise the defendant
24 of what the defendant must be prepared to meet. What
25 we're trying here is a missing trial, missing child case.

1 THE COURT: Well, it's -- as I indicated, it's a
2 missing -- no -- what I referred to as a no body case.

3 MR. PRIDE: I'm sorry. I didn't hear you. I still
4 couldn't hear you. Say that again.

5 THE COURT: I just -- I mentioned to Ms. Garfield
6 that it's very similar to a no body case where the State
7 cannot locate the body of the victim, right?

8 MR. PRIDE: Someone who has been killed.

9 THE COURT: The victim of a murder.

10 MR. PRIDE: Right.

11 THE COURT: Which the State occasionally goes forward
12 on those kind of cases and tries a no body case. One was
13 tried, I think, in Lexington in the last 60 days.

14 MR. PRIDE: Sure, that's correct.

15 THE COURT: And I happen to have a full knowledge of
16 no body cases so...

17 MR. PRIDE: But this --

18 THE COURT: I tried one myself.

19 MR. PRIDE: This is not a no body case. This is a
20 case based on procedure.

21 THE COURT: Let me --

22 MR. PRIDE: This is what we're coming to on a
23 procedural question, not a substantive question about
24 trying a case without a body.

25 Judge, this is based on the vehicle that brings the

1 charges against a defendant, and the Court has said over
2 and over in South Carolina that the trial court judge has
3 to examine the indictment to make sure it's sufficient.
4 The reason that you have to make sure it's sufficient is
5 that if it's not, it violates a constitutional right that
6 this young lady has.

7 THE COURT: Well, what do you -- how do you answer a
8 State that says they apply sufficient evidence to the
9 grand jury in order to obtain the indictment, the
10 indictment?

11 MR. PRIDE: Judge, they could get a ham sandwich and
12 get an indictment from the grand jury. They know that,
13 and I know that, too.

14 THE COURT: I just wanted you to put that on the
15 record.

16 MR. PRIDE: Sure. That doesn't make -- that doesn't
17 meet the test at all. They got to meet -- the test has to
18 be before you. What comes out of that grand jury has to
19 meet the trial judge's test if it's challenged properly by
20 a defendant, and you have before you a proper challenge
21 today.

22 THE COURT: I understand that.

23 MR. PRIDE: Yeah.

24 THE COURT: Let me ask you another question. Your
25 client was on a -- you said a \$150,000 bond?

1 MR. PRIDE: Right. Could we approach the bench?

2 THE COURT: Absolutely.

3 (Whereupon, there was a bench conference.)

4 THE COURT: Stand at ease ten minutes.

5 Counsel, meet me in chambers, please.

6 (WHEREUPON, a short break was taken.)

7 THE COURT: All right. Counsel, as to the motion to
8 quash, Mr. Pride has submitted a memorandum in support of
9 his motion. I'd like the State to reply to that motion.
10 It's my understanding based on conversations in chambers
11 that the State would be prepared to do that by.

12 MS. GARFIELD: Monday.

13 THE COURT: No later than Monday the 11th.

14 MS. GARFIELD: Yes, sir.

15 THE COURT: By five o'clock.

16 MS. GARFIELD: Yes, sir.

17 THE COURT: And after that, Mr. Pride will have three
18 days to respond to that motion, but regardless of the
19 outcome of this motion, in the event that the motion is
20 denied, should the defendant submit a speedy trial motion,
21 I would be inclined to grant that.

22 MR. PRIDE: The defendant has already submitted a
23 speedy trial motion.

24 THE COURT: Is that correct?

25 MS. GARFIELD: Yes, sir. It's before you.

1 THE COURT: Well...

2 MS. GARFIELD: It was scheduled Tuesday.

3 THE COURT: Ma'am?

4 MS. GARFIELD: It was scheduled Tuesday, continued to
5 today.

6 THE COURT: The trial of this case?

7 MS. GARFIELD: No. The motion for a speedy trial was
8 one of the motions that was scheduled for this past
9 Tuesday that you continued for today's hearing.

10 THE COURT: I beg your pardon.

11 MR. PRIDE: Do you want a copy of it, Judge?

12 THE COURT: Yes. I mean, I -- I was not prepared --
13 I have a motion to quash the warrant, and a motion for a
14 speedy trial dated May 11th.

15 You're correct. It just hasn't been heard. I'll
16 consider it based on the discussions we had in chambers,
17 so I'll grant that motion.

18 As I said, I would be inclined to grant it if I had
19 the motion. Now I see the motion has been filed. When
20 will the State be prepared to move forward with the trial
21 of this case?

22 MS. GARFIELD: Your Honor, we'll begin to put her
23 case on the docket the week of July 9th. It will remain
24 on the docket until it's called until she gives birth to
25 her unborn child. It's my understanding from Mr. Pride

1 she will only need a week.

2 THE COURT: All right.

3 MS. GARFIELD: And then we'll proceed --

4 THE COURT: All right.

5 MS. GARFIELD: -- until it's called. Your Honor, in
6 reference to that, I'd like is to ask for a competency
7 evaluation to be conducted.

8 THE COURT: Since one has not been conducted to my
9 knowledge.

10 MS. GARFIELD: That's correct.

11 THE COURT: I grant the motion.

12 MS. GARFIELD: Thank you.

13 MS. SAMPSON: Your Honor, can I just make the record
14 clear that for the trial docket, that you are saying that
15 we are placing her on the back up trial docket? It will
16 not be the first called on the weeks of the 9th, 16th, and
17 30th?

18 THE COURT: Yes.

19 MS. SAMPSON: I just need the record to be clear.

20 THE COURT: The record will be clear in that regard
21 because there are other cases scheduled first on the trial
22 docket is my understanding, although I didn't -- I don't
23 recall setting those, but I will...

24 (Indicating).

25 Let me finish my sentence.

1 MR. PRIDE: Excuse me.

2 THE COURT: But I will encourage the State to give
3 Mr. Pride sufficient notice. When anything is on the back
4 up docket, it's difficult to prepare every week to know if
5 you don't know where your case is going since the State is
6 now in the practice of notifying defendants ten days in
7 advance of their projected trial date.

8 I would suggest as soon as it appears that there may
9 be an opening on the trial docket that Mr. Pride be
10 notified immediately.

11 Mr. Pride, you had something to add?

12 MR. PRIDE: Yes, Judge. As to a motion for a
13 competency examination, you sort of granted it sua sponte
14 without -- I oppose that motion.

15 THE COURT: Well, you're the one --

16 MR. PRIDE: That takes -- wait, wait, wait. Wait a
17 minute.

18 THE COURT: Okay.

19 MR. PRIDE: Let me finish, Judge.

20 Judge, that's a period of 30 days. Not only that,
21 you have to get in line as to when you go for that
22 evaluation.

23 THE COURT: Not if I order it.

24 MR. PRIDE: Okay, Judge. I certainly would not argue
25 with that, but Judge, what is -- I don't want a competency

1 exam. I never said anything about a competency exam. I
2 said we were talk about putting her...

3 THE COURT: You just told me that she's been --

4 MR. PRIDE: Right.

5 THE COURT: It's --

6 MR. PRIDE: But I'm not going to defend on the
7 basis --

8 THE COURT: But you are not a psychiatrist. You
9 cannot -- I don't accept your evaluation that she -- what
10 if the court -- what if the examining doctor says she is
11 incompetent to go forward with her trial? I think it's my
12 obligation to her to make certain that she is able to
13 assist you with her defense.

14 MR. PRIDE: But --

15 THE COURT: And that is the purpose for a competency
16 evaluation.

17 MR. PRIDE: But, Judge, I have no evidence that she
18 is not able to effectively assist me.

19 THE COURT: You told me she is paranoid schizophrenic
20 and has an order from the probate court.

21 MR. PRIDE: All right, Judge. Thank you.

22 THE COURT: Now, I understand your concern, but the
23 facts that are in front of me indicate that to be safe,
24 it's better to order a competency examination pretrial so
25 that you don't have a problem, or she doesn't have a

1 problem at some later date.

2 MR. PRIDE: All right. Judge, and I hope you draw a
3 very tight order that --

4 THE COURT: I'll order it to be expedited so it does
5 not delay the trial of the case, and I think that's
6 primarily your concern that it does not delay the trial of
7 the case.

8 MR. PRIDE: And I do have her concern also, Your
9 Honor.

10 THE COURT: Well, I don't think she'll be harmed by
11 an evaluation.

12 MR. PRIDE: And neither do I.

13 THE COURT: Thank you.

14 MS. GARFIELD: Judge, you wanted me to put 30 days?

15 THE COURT: What?

16 MS. GARFIELD: Do you want me to have a competency
17 evaluation performed within 30 days? Today is June 7th,
18 and the first trial date is July 9th.

19 THE COURT: I want it -- I want it expedited.

20 MS. GARFIELD: Yes, sir.

21 THE COURT: Immediately. I realize 30 days is the
22 normal process, but I want it expedited so that it be held
23 as soon as possible.

24 MS. GARFIELD: Yes, sir.

25 THE COURT: So get me the order.

1 Anything further?

2 MR. PRIDE: Excuse me one second, Judge. I'm sorry.

3 (Pause).

4 I have nothing further, Your Honor.

5 THE COURT: All right. Anything further from the
6 State?

7 MS. GARFIELD: No, sir.

8 THE COURT: All right. Thank you very much. This
9 hearing is adjourned.

10

11 (Whereupon, the proceedings were concluded.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Karen Ambroziak, Official Court Reporter for the
5th Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of General Sessions for
Richland County, South Carolina, on the 7 day of June,
2012.

February 7th, 2014

Karen Ambroziak

Karen Ambroziak, Court Reporter

My Commission Expires: 04/01/14

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF GENERAL SESSIONS
FIFTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
v.)
ZINAH DAMARIS JENNINGS,)
Defendant.)

MOTION TO QUASH INDICTMENT

Docket No. 2012-GS-40-02067

K 690460

Comes now Zinah Damaris Jennings ("Defendant" or "Ms. Jennings"), by undersigned counsel, and moves this honorable Court to issue an Order to quash the Indictment in the above-captioned matter. This motion is based on the following, to wit:

1. The Indictment, "Child- Unlawful Conduct Towards A Child," fails to give notice to the Defendant as to what conduct on her part constitutes a crime and simply repeats the language of S.C. Code §63-5-70.

2. The Indictment violates the Defendant's rights protected pursuant to the Fifth, Sixth, and Fourteenth Amendments of the United States Constitution; and, Article 1, §§ 3 and 14 of the South Carolina Constitution.

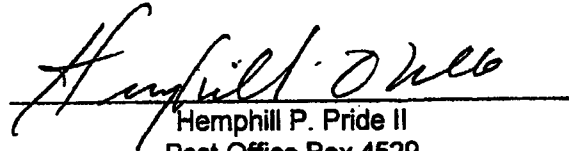
3. The Indictment is vague and alleges no specific act of a criminal nature on the part of this Defendant.¹

¹ Before a defendant can be required to go into his defense, it is necessary that there shall be a *corpus delicti*.

(SIGNATURE BLOCK ON NEXT PAGE)

RICHLAND COUNTY
FILED
2012 MAY 31 AM 11:29
JEANETTE W. McBRIDE
Clerk & G.S.

Law Office
of
HEMPHILL P. PRIDE II, LLC

A handwritten signature in cursive script, reading "Hemphill P. Pride II", is written over a horizontal line.

Hemphill P. Pride II
Post Office Box 4529
Columbia, South Carolina 29240-4529
(803) 256-8015
hppride@bellsouth.net

ATTORNEY FOR DEFENDANT

May 24, 2012.

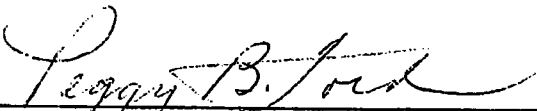
STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

CERTIFICATE OF SERVICE

I, the undersigned do hereby certify that all counsel and/or parties in this action were served with a copy of the pleading(s) herein below specified by mailing a copy of the same by United States mail, postage prepaid, to the following address(es):

PLEADING: Motion to Quash Indictment

PARTY: Dolly Justice Garfield, Esq.
Assistant Solicitor for the Fifth Judicial Circuit
OFFICE OF THE SOLICITOR
Post Office Box 192
Columbia, South Carolina 29202


Peggy B. Ford

Columbia, South Carolina

May 24, 2012.

RICHLAND COUNTY
FILED
2012 MAY 31 AM 11:21
JEANETTE W. McBRIDE
C.C.P. & G.S.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

IN THE COURT OF GENERAL SESSIONS
 FIFTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
)
 v.)
)
 ZINAH DAMARIS JENNINGS,)
)
 Defendant.)

**MEMORANDUM IN SUPPORT
 OF
 MOTION TO QUASH INDICTMENT**

Docket No. 2012-GS-40-02067

Comes now Zinah Damaris Jennings ("Defendant" or "Ms. Jennings"), and offers the following in support of her Motion to Quash Indictment No. 2012-GS-40-02067 on the charges brought against her, under S.C. Code §63-5-70 and Warrant No. K-690460, seeking dismissal and Defendant's immediate release from custody, as follows:

BACKGROUND

Ms. Jennings came to the attention of South Carolina law enforcement personnel on December 24, 2011, as the result of a one-car accident involving her automobile. At that time, she was questioned by police who were, then, investigating the Defendant as a suspect in a hit- and-run incident" [Copy of Jan 6, 2012 Search Warrant Affidavit of Inv. C.D. Bailey attached as Exhibit A]; and, she answered her interrogators with conflicting statements about her child (Id.). From then on, Ms. Jennings has been in police custody on a \$150,000.00 bond which is, for her, utterly unattainable. She has not been charged with hit and run, however. She is charged, in City of Columbia, SC, Municipal Court Arrest Warrant No. K-690460, with felony "unlawful conduct toward a child," solely because she has refused to cooperate with law enforcement. [See copy of Warrant attached as Exhibit B.]

On January 17, 2012, she was adjudged to be seriously mentally ill¹ and in need of psychiatric treatment and psycho tropic medications for a period of at least one year, by Order of Hon. Theresa L. Clement, Associate Probate Judge. [Copy of Order attached as Exhibit C.]

Ms. Jennings has been treated by the State as a criminal suspect at all times since December 24, 2011, during which time the State has thoroughly searched for evidence against Ms. Jennings. None has been discovered.

Ms. Jennings contends that, at all times when she was questioned by law enforcement, she was entitled to refuse the information sought, because she has the right not to incriminate herself; and, the State is not allowed to detain and prosecute her for exercising this right.

ARGUMENT

1. **THERE IS NO ALLEGATION, NOR EVIDENCE IN THE CASE, LEGALLY SUFFICIENT TO ENTITLE THE STATE TO A CONVICTION UNDER S.C. CODE §63-5-70, IN THAT THERE IS NO ALLEGATION OF FACT, IN INDICTMENT NO. 2012-GS-40-02067, NOR SUBSTANTIAL EVIDENCE THAT A CRIME WAS COMMITTED BY OR THROUGH THE DEFENDANT.**

A. The Indictment is Defective.

The charges before this Court are contained solely in Indictment 2012-GS-40-002067 [hereinafter 'the Indictment']], which purports to allege that Ms. Jennings harmed her child, under S.C. Code §63-5-70. However, the Indictment does not allege any facts, independent of the language in the statute, which tend to prove that Ms. Jennings' child has been neglected or abandoned by her or harmed in any way by her or with her knowledge and notice as required by the Constitutions both state and federal. Ms. Jennings contends that, while the overarching *sympathies* lie in establishing the well being of the child, the *law* forbids the State from attempting to establish its well being through prosecuting and detaining the Defendant as coercion to incriminate herself. There is no balancing test for the right against self-incrimination. The State

¹ Mental illness may explain why Ms. Jennings' statements to law enforcement appear to conflict, but mental illness is not evidence of any crime; and, notably, Ms. Jennings has not been adjudged to be a danger to herself or others. Thus her continued detention by the State is not supported by her mental illness.

may not weigh its interest in the child against Ms. Jennings' rights and; as a result, the defective Indictment must be dismissed and the Defendant must be released.

South Carolina should not, and does not, allow arrest, detention and prosecution on the basis of *sympathies*, where the charging papers show no basis in law and fact.

The South Carolina Constitution and case law place the unfettered discretion to prosecute solely in the prosecutor's hands. "Prosecutors may pursue a case to trial, or they may plea bargain it down to a lesser offense or they may simply decide not to prosecute the offense in its entirety." *State v. Thrift*, 312 S.C. 282, 291-92, 440 S.E.2d 341, 346 (1994). Furthermore, the Court of Appeals held that while prosecutors have some duties to crime victims, "their prosecutorial discretion is not contracted or limited by victims' rights laws." *Reed*, 333 S.C. at 676, 511 S.E.2d at 400.

Although **prosecutorial discretion** is broad, **it is not unlimited**. The judiciary is empowered to infringe on the exercise of prosecutorial discretion when it is necessary to review and interpret the results of the prosecutor's actions when those actions violate certain constitutional mandates. *Id.* (citing *Thrift, supra*). For example, the judiciary may infringe on prosecutorial discretion where the prosecutor bases the decision to prosecute on **unjustifiable standards** such as race, religion, or other arbitrary factors. *State v. Needs*, 333 S.C. 134, 508 S.E.2d 857 (1998). **The judiciary can also check prosecutorial discretion by dismissing flawed indictments, directing a mistrial of a case wrongfully brought or prosecuted, or granting a directed verdict for lack of credible evidence.**

Ex parte Littlefield, 343 S.C. 212, 218-19, 540 S.E.2d 81, 84 (2000) (emphasis added).

Here, the case has been "wrongfully brought or prosecuted," because there is simply no allegation of any fact showing that Ms. Jennings has taken any act forbidden by S.C. Code §63-5-70, which provides:

(A) It is unlawful for a person who has charge or custody of a child, or who is the parent or guardian of a child, or who is responsible for the welfare of a child as defined in Section 63-7-20 to:

- (1) **place the child at unreasonable risk of harm** affecting the child's life, physical or mental health, or safety;
- (2) **do or cause** to be done unlawfully or maliciously any bodily harm to the child so that the life or health of the child is endangered or likely to be endangered; or
- (3) **wilfully abandon** the child.

S.C. Code Ann. § 63-5-70 (emphasis added)

It is alleged in the Warrant that Ms. Jennings told conflicting accounts of her child's whereabouts. The Warrant does not state any facts alleging the elements of a crime under S.C. Code §63-5-70, such as those emboldened above - **placement** at risk of harm, **unreasonableness** of the risk, **doing** harm, **causing** harm to be done, **endangerment** of the child, **abandonment** of the child, or **willfulness** of abandonment.

The Indictment does not state that any harm whatsoever had come to the Defendant's child. It does not allege: (1) any act by Ms. Jennings which placed the child at unreasonable risk of harm; (2) any act by her which harmed or caused another to do harm to the child; nor, (3) that she wilfully abandoned the child. The State cannot determine the child's whereabouts, nor not that Ms. Jennings has harmed him. It alludes to "the harm that has befallen" the child, without stating any evidentiary basis to believe there was any harm. It states that the child has not been seen by "any known family members since December 6, 2011", but this is not evidence that he is harmed or unsafe. The gravamen of the charge, as stated in the Warrant, is that Ms. Jennings has refused to cooperate with law enforcement investigations into suspected criminal activity by Ms. Jennings – in other words, she is charged with exercising her Constitutional right not to incriminate herself. The Warrant alleges that she "is wilfully withholding information that would implicate the Def[endant]". But this is something she has an absolute right to do.

South Carolina Appellate Courts recognize this Court's obligation to dismiss facially defective charges. See, for example, the recent and as yet unpublished disposition in State v. Galimore, 2012 WL 243328 (S.C. Ct. App. Jan. 25, 2012) (Noting, with approval dismissal where "[t]he trial court ruled the State had failed to allege a specific act forbidden by law.")

In reading the Warrant and Indictment, it is clear the State now detains and prosecutes Ms. Jennings for refusing to incriminate herself. "No person shall ...be compelled in any criminal

case to be a witness against himself." U.S. Const. Amendment 5; S.C. CONST Art. I, § 12 In doing so, the State deprives her of substantive and procedural due process. "...nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. Amendment 14.

Defendant's reasonable belief at time of police questioning that full disclosure of facts surrounding murder and armed robbery could have exposed her to prosecution as principal or accessory barred her prosecution for misprision of a felony based upon her concealment of information from police, where concealment of inculpatory information was protected by privilege against self-incrimination.

State v. Smith 357 S.C. 182, 592 S.E.2d 302 (S.C. 2004)(emphasis added).

It is clear that an accused may not be punished for exercising a constitutional right. *Blackledge v. Perry*, 417 U.S. 21, 94 S.Ct. 2098, 40 L.Ed.2d 628 (1974). To punish a person because he has done what the law plainly allows him to do is a due process violation of the most basic kind. *Bordenkircher v. Hayes*, 434 U.S. 357, 98 S.Ct. 663, 54 L.Ed.2d 604 (1978).

State v. Dawkins, 297 S.C. 386, 389, 377 S.E.2d 298, 300 (S.C.1989) (emphasis added).

Ms. Jennings has been in custody since December 24, 2011, in violation of her U.S. Const. 5th and 14th Amendment rights to procedural and substantive due process of law, because:

(a) She is being detained² by the State under the auspices of the facially defective Warrant described herein;

(b) The Warrant is tantamount to being a mere pretext;

(c) Her detention and prosecution penalize her for exercising her U.S. and S.C. Constitutional right not to be "compelled in any criminal case to be a witness against [her]self". U.S. Const. Am. 5; S.C. CONST Art. I, § 12.

And, all of this denies Ms. Jennings the equal protection of the law, guaranteed to her by the 14th Amendment.

² Ms. Jennings is detained subject to what is for her an unreachable bond amount, \$150,000.00.

Further, the Warrant cannot survive on the basis of any potential for amendment. As discussed below, the charge must be prosecuted on the basis of grand jury indictment only; and the standard for dismissal of the current charge is what is stated within the current charging document.

[W]e held that the true test of the sufficiency of an indictment is *not whether it could have been more definite* and certain, but *whether it contains the necessary elements of the offense* intended to be charged and sufficiently apprises the defendant of what he must be prepared to meet.

State v. Ham, 259 S.C. 118, 129, 191 S.E.2d 13, 17 (1972) (emphasis added).

And, South Carolina has long prohibited the State from using as "evidence" before a grand jury, facts amounting to a Defendant's exercise of the right not to incriminate him/herself. See, for example, State v. Thrift, 312 S.C. 282, 302, 440 S.E.2d 341, 352 (S.C.1994) ("We hold today that polygraph evidence, including evidence that an individual refused to take a test, is inadmissible before South Carolina grand juries"). Thus, the Warrant's statement that Ms. Jennings refuses to incriminate herself ("is willfully withholding information that would implicate the Def[endant]") cannot go before a grand jury. This in itself may explain why no indictment has been issued.

B. The State has insufficient evidence to prosecute.

Ms. Jennings has been treated by the State as a criminal suspect at all times since December 24, 2011, during which time the State has spoken often and freely with news and other media, in an attempt to obtain evidence from the general public. Undersigned asserts, as an Officer of the Court, that as of this writing, an internet search for "Zinah Jennings" results in several hundred news articles, citing to statements by Columbia Police Chief Randy Scott and other "authorities" seeking public assistance with the investigation. This has yielded no evidence of wrongdoing by the Defendant.

Additionally, the State has conducted its own thorough searches of the following:

- (1) Ms. Jennings' home and curtilage, twice;
- (2) Information viewed by Ms. Jennings on public library computers;
- (3) Her vehicle;
- (4) Her cell phone;
- (5) Her cell phone records;
- (6) Her family's computer;
- (7) Her Yahoo! email account;
- (8) Her Facebook account;
- (9) Her banking records;
- (10) Her medical records;
- (11) Her person;
- (12) Clothing in car (no blood stains or DNA); and,
- (13) Shovel in back of the residence of Defendant's mother (no blood stain or DNA).

No evidence of any crime has been discovered. Thus, the State's "evidence" against the Defendant consists of statements that her child is missing. The State has no independent evidence of the *corpus delicti* of a violation of S.C. Code §63-5-70 by Ms. Jennings; and it cannot force her to defend this baseless charge. See for example, State v. Brown, 103 S.C. 437, 442, 88 S.E. 21, 22 (1916) ("Before a defendant can be required to go into his defense, it is necessary that there shall be some proof of the *corpus delicti*"). Our Supreme Court elaborated on the *corpus delicti* corroboration rule:

[T]he corroboration rule should apply whether a statement amounts to a confession or merely constitutes an admission.

We think that an accused's admissions of essential facts or elements of the crime, subsequent to the crime, are of the same character as confessions and that corroboration should be required.

The need for corroboration extends beyond complete and conscious admission of guilt—a strict confession. Facts admitted that are immaterial as to guilt or innocence need no discussion. But statements of the accused out of court that show essential elements of the crime ... stand differently. Such admissions have the same possibilities for error as confessions. They, too, must be corroborated.

Opper v. United States, 348 U.S. 84, 90, 75 S.Ct. 158, 163, 99 L.Ed. 101, 107 (1954) (internal citations omitted). See also *State v. Trexler*, 316 N.C. 528, 342 S.E.2d 878, 880 (1986) ("[R]egardless of whether defendant's statements constitute an actual confession or only amount to an admission, our long established rule of *corpus delicti* requires that there be corroborative evidence, independent of the statements, before defendant may be found guilty of the crime"); 29A Am.Jur.2d at § 753; E.H. Schopler, Annotation, *Corroboration of Extrajudicial Confession or Admission*, 45 A.L.R.2d 1316, 1323 (1956).

State v. Osborne, 335 S.C. 172, 178, 516 S.E.2nd 201, 203-204 (1999) (emphasis added).

In the case at bar, where the statements in question are those of a mentally ill young woman in police custody, this Court must require substantial evidence, independent of the elements of the crime charged, in order for the State to proceed. The *Osborne* Court explained:

It is necessary, therefore, to require the Government to introduce **substantial independent evidence** which would tend to establish the trustworthiness of the statement. Thus, the **independent evidence** serves a dual function. It tends to make the admission reliable, thus corroborating it while also **establishing independently the other necessary elements of the offense**.

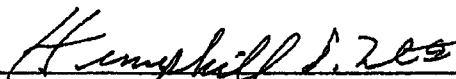
Id. The State has no such independent evidence of the other necessary elements of the offense, even after its thorough searches and public and media involvement in the investigation. As a result, the charge must be dismissed.

CONCLUSION

WHEREFORE, the Defendant prays that the Honorable Court will grant this motion; issue an Order dismissing the charge brought against her for violation of S.C. Code §63-5-70; quashing Warrant No. K-690460 and Indictment No. 2012-GS-40-02067; and, directing Defendant's immediate release from custody.

[SIGNATURE BLOCK ON NEXT PAGE]

Law Office
of
HEMPHILL P. PRIDE II



Hemphill P. Pride II
Post Office Box 4529
Columbia, South Carolina 29240-4529
(803) 256-8015
e-mail address hppride@bellsouth.net

ATTORNEY FOR DEFENDANT

May 6, 2012.

STATE OF SOUTH CAROLINA

COUNTY OF Richland

AFFIDAVIT

Personally appeared before me, one Inv. C. D. Bailey
who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions
of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

PHOTOS OF THE INTERIOR AND EXTERIOR OF THE VEHICLE DOCUMENTING THE SEARCH, ANY HAIR FIBER, BLOOD, OR BODY TISSUE, OR OTHER ITEMS THAT COULD CONTAIN THE DNA OF MISSING PERSON AMIR JENNINGS. ALSO ANY BABY ITEM, DOCUMENTS, ELECTRONICS, CLOTHING OR ANY ITEM THAT COULD LEAD TO THE LOCATION OF MISSING PERSON AMIR JENNINGS.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

2004 Dodge Neon, burgundy in color, VIN 1b3es56c04d562589 with the South Carolina Tag of GSW861. LOCATED AT IAA
SALVAGE YARD, Atlas RD Suite A, Columbia, SC 29209

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

THE AFFIANT, AN INVESTIGATOR WITH THE CITY OF COLUMBIA POLICE DEPARTMENT, HAS RECEIVED INFORMATION THAT MISSING PERSON **Child** JENNINGS WAS SEEN SHORTLY BEFORE HIS DISAPPEARANCE IN HIS MOTHER'S 2004 DODGE NEON, SOUTH CAROLINA TAG GSWF61, WHICH HAS SINCE BEEN WRECKED AND TOWED TO THE IAA SALVAGE YARD AT _____, AS ROAD, WHICH IS LOCATED IN THE CITY OF COLUMBIA, COUNTY OF RICHLAND. IT IS THE AFFIANT'S BELIEF THAT A SEARCH OF THE VEHICLE MAY REVEAL EVIDENCE THAT MAY LEAD TO THE LOCATION OF THE MISSING PERSON.

Sworn to and Subscribed before me

this 30TH day of DECEMBER, 20 11

 Signature of Judge (L.S.)

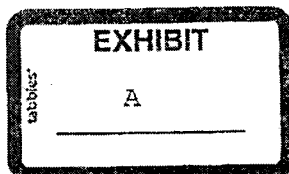
Search Warrant # 511 - 399

Affiant:

Address INVESTIGATOR C. D. BAILEY

1 Justice Sq., Columbia, SC 29201

Phone 803 545 3500 or 803 737 5738



Amended on 01/10/2012

See copy

Giles
Russell TS

RETURN

I received the attached Search Warrant 311-399 20 11 and have executed it as follows:On Nov 30 20 11 at 245 o'clock P M. I searched
(the person) described in the warrant and (the premises)I left a copy of the warrant with left with vehicle
Name of person searched or "at the place of search" with.
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: on 12/30/2011,
pictures documenting the use of a cadaver dog
On 12/31/2011, pictures documenting the search
Blackberry cellular phone from passenger side door
Note with name Kassen from center console
Business card of Sherrese Butler from backseat
Money gram receipt on floor board
On 01/03/2012, pictures documenting the search
Car trunk liner, Backseat, Backseat floor mats
Beats of America Stationery and envelope from glove box
Strip of paper with numbers and strip of paper with names from glove box
Box of cookies from glove box
Toy gun from passenger side door
Multi-colored towel from front floor board
2 strips of paper from Driver's side door
1 business card from Driver's side seat

This inventory was made in the presence of Officer Wise on 12/30/11 and 12/31/11
 AND Officer Nelson on 01/03/12

I swear that this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 16th
 day of January 20 11

[Signature] (L. S.)
 Ministerial Recorder

[Signature]
 (Signature of Officer Executing Warrant)

ARREST WARRANT
98460 K-800460 136800
STATE OF SOUTH CAROLINA

☐ County of ☒ Municipality of
COLUMBIA

THE STATE
against

ZYNGH DEMARIS JENNINGS
2300 LADY STREET
COLUMBIA SC 29203

DOB: 04/02/1969 Sex: F Race: B Height: 5'07" Weight: 130
State: SC Agency: SC00000120
Issuing Agency: CITY OF COLUMBIA
Issuing Officer: MOTLEY, D. C. D. 110000
Term: UNLAW CARTRIDGE, TOWNSHIP CHILD
Charge: HAD
Arrested: 05/19/98

By: JAMES H. GILBERT, JR. Sheriff of the County of Columbia
Subscribed: [Signature] District Attorney
I, the undersigned, do hereby certify that the above is a true and correct copy of the original.

Notary Public for South Carolina

Witness my hand and seal of office this 19th day of May, 1998.

Copy of this warrant to be made and served on the defendant.

Witness my hand and seal of office this 19th day of May, 1998.

Subscribed: [Signature] District Attorney

Witness my hand and seal of office this 19th day of May, 1998.

With Warrant: 10

EXHIBIT
B

STATE OF SOUTH CAROLINA
☐ County of ☒ Municipality of
COLUMBIA

AFFIDAVIT

Personally appeared before me the undersigned, JIMMY D. MOTLEY, District Attorney for the County of Columbia, South Carolina, who being duly sworn, deposes and says that defendant did within the County and State of South Carolina (or ordinance of County of Columbia) in the following particular: **UNLAW CARTRIDGE (HCPD) CHLD**

I further state and there is probable cause to believe that the defendant named above has committed the crime set forth and that probable cause is based on the following facts:

Occurring within the Municipality of Columbia, South Carolina, and further to wit: ZYNGH DEMARIS JENNINGS was born on 04/02/1969 and is currently residing at 2300 LADY STREET, COLUMBIA, SOUTH CAROLINA. On 12/24/2001, she was arrested for possession of a firearm without a license. She was released on bond and returned to the United States in January 2002 with her aunt. She was arrested on the above charge on 05/19/98. She was released on bond and returned to the United States in January 2002. She was arrested on the above charge on 05/19/98. She was released on bond and returned to the United States in January 2002.

Signature of affiant

Subscribed: [Signature] District Attorney
I, the undersigned, do hereby certify that the above is a true and correct copy of the original.

Witness my hand and seal of office this 19th day of May, 1998.

Subscribed: [Signature] District Attorney

Witness my hand and seal of office this 19th day of May, 1998.

With Warrant: 10

Subscribed: [Signature] District Attorney

Witness my hand and seal of office this 19th day of May, 1998.

1638

4-10-1979 12:45 PM; 12:45 PM; 12:45 PM

Address of: 2291 Oak Street

4-29905 (2)

Ref/Stat/Lit 671.0441A 60 24201

FD-37 (Rev. 1-15)

3000 20 1500 1000

Government to conduct authorized business and

On 12/28/2011

Director of Health Center
District of Columbia

Julius Cohen 463235

CITY OF CHICAGO

DISCUSSION

PC BOX 414

COLLIERIA, AC 28292

August 2, 1952

Abstract

Admission: Free

44 ARCADE SQUARE

COLOMBIA, SEC 292174

045 2513

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE PROBATE COURT
CASE # 2012 MI40 0017

IN THE MATTER OF:
ZINAH JENNINGS

ORDER

(Date of Birth: Phone No
(A Person Alleged to be Mentally Ill))

2 JAN 17 PM 4:53

APPLICANT
ANDREW KELLY

CLERK OF COURT
PROBATE COURT
RICHLAND COUNTY, S.C.

An Application for Involuntary Emergency Hospitalization for Mental Illness filed on the 9th day of January, 2012 on behalf of ZINAH JENNINGS, who currently resides at JOHN MARK DIAL DR COLUMBIA, SC. ZINAH JENNINGS is represented today by ERIC J. KAUFMANN, Court-appointed attorney and Guardian ad Litem. Present at the hearing were ZINAH JENNINGS; ERIC J. KAUFMANN; DR. MICHAEL FERLAUTO; LAUREL VOSS, MSW.
(LIT) HENRIETTA PRIDE, (MOTHER) JOCELYN JENNINGS, (DMH) MONIQUE MONTGOMERY LEE

Based on the documents before the court and the testimony presented at the hearing, I find that ZINAH JENNINGS is mentally ill and lacks sufficient insight or capacity to make reasonable decisions with respect to treatment and/or is in danger to herself or others and is in need of further involuntary treatment.

Therefore, it is hereby ordered that:

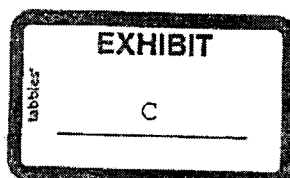
- ☐ ZINAH JENNINGS be discharged from Just Care Facility.
- ☒ ZINAH JENNINGS be committed to Just Care Facility for further inpatient care and treatment as provided in S.C. Code Ann. §44-17-580 and remain there until stable for discharge.
- ☒ Upon discharge from Just Care Facility, ZINAH JENNINGS must undergo an outpatient treatment program at the South Carolina Department of Corrections (SCDC) or if released, at the Columbia Area Mental Health Center (CAMHC) or a local mental health facility in her county of residence for a period not to exceed 12 months.
- ☒ ZINAH JENNINGS must comply with all medications as prescribed.
- ☒ ZINAH JENNINGS must comply with all appointments as scheduled. Furthermore, ZINAH JENNINGS is responsible for notifying the treating facility if any appointments cannot be attended as scheduled and is responsible for rescheduling the appointment.
- ☐ ZINAH JENNINGS must reside in a structured environment for a period not to exceed _____ months.
- ☐ A Review Hearing will be held in this matter in _____ months. Notification will be sent to all necessary parties.
- ☒ This Order replaces all other orders regarding treatment for mental illness.

This Court shall retain jurisdiction over ZINAH JENNINGS to insure compliance with this Order, pursuant to S.C. Code Ann. §44-17-580. If ZINAH JENNINGS does not comply with any portion of this Order, an Affidavit of Noncompliance and Request for Supplemental Hearing will be filed with the Richland County Probate Court and ZINAH JENNINGS will be required to attend a hearing to show cause as to the reason(s) for the noncompliance.

AND IT IS SO ORDERED.

January 17, 2012
Columbia, South Carolina

Theresa K. Allen
Associate Probate Judge

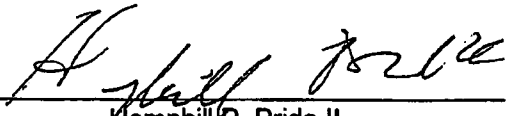


STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that, on May 6, 2012, the foregoing Memorandum in Support of Motion to Quash Indictment No 2012-GS-40-02067 was served on counsel for the State by the undersigned personally delivering a copy of said Memorandum to:

Dolly Justice Garfield, Esq.
Assistant Solicitor for the Fifth Judicial Circuit
OFFICE OF THE SOLICITOR
1701 Main Street
Columbia, South Carolina 29201


Hemphill P. Pride II

Columbia, South Carolina

May 6, 2012.

JEANETTE W. McBRIDE
C.C.P. & G.S.

2012 JUN -6 PM 2:47

RICHLAND COUNTY
FILED

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
The State)
- vs -)
Zinah Jennings)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
OF THE FIFTH JUDICIAL CIRCUIT

**STATES RESPONSE TO DEFENSE MOTION
TO QUASH INDICTMENT**

Indictment Number: 2012-GS40-2067

In South Carolina, an indictment "shall be deemed and judged sufficient and good in law which, in addition to allegations as to time and place, as required by law, charges the crime substantially in the language of the common law or of the statute prohibiting the crime or so plainly that the nature of the offense charged may be easily understood and, if the offense be a statutory offense, that the offense be alleged to be contrary to the statute in such case made and provided." S.C.Code Ann. § 17-19-20 (2003). Thus, an indictment is sufficient legally if it substantially outlines the charge in the language of the statute, or plainly describes the nature of the offense charged so it is easily understood. *State v. Reddick*, 348 S.C. 631, 560 S.E.2d 441 (Ct. App. 2002).

The indictment must state the offense with certainty and particularity sufficient to enable the Court to know what judgment to pronounce, the defendant to know what he is called upon to answer, and whether he may plead an acquittal or conviction thereon. *Browning v. State*, 320 S.C. 366, 465 S.E.2d 358 (1995); *State v. Hamilton*, 344 S.C. 344, 543 S.E.2d 586 (Ct. App. 2001); *State v. Ervin*, 333 S.C. 351, 510 S.E.2d 220 (Ct. App. 1998). The true test of the sufficiency of an indictment is not whether it could be made more definite and certain, but whether it contains the necessary elements of the offense intended to be charged and sufficiently apprises the defendant of what he must be prepared to meet. *Browning*, 320 S.C. at 368, 465

S.E.2d at 359; *Reddick*, 348 S.C. at 635, 560 S.E.2d at 443. An indictment phrased substantially in the language of the statute which creates and defines the offense is ordinarily sufficient. *State v. Shoemaker*, 276 S.C. 86, 275 S.E.2d 878 (1981).

An indictment is sufficient if it apprises the defendant of the elements of the offense intended to be charged, and informs the defendant of the circumstances he must be prepared to defend. *Locke v. State*, 341 S.C. 54, 533 S.E.2d 324 (2000); *Carter v. State*, 329 S.C. 355, 495 S.E.2d 773 (1998); *Hamilton*, 344 S.C. at 364, 543 S.E.2d at 597. Generally, an indictment is required to perform two functions: (1) it should inform the accused of the charge against him by listing the elements of the offense charged; and (2) it should be sufficiently specific to protect the accused against double jeopardy. *State v. Bullard*, 348 S.C. 611, 560 S.E.2d 436 (Ct.App.2002). "In determining whether an indictment meets the sufficiency standard, the court must look at the indictment with a practical eye in view of all the surrounding circumstances.... Further, whether the indictment could be more definite or certain is irrelevant." *State v. Gentry*, 363 S.C. 93 at 103, 610 S.E.2d 494 at 500 (2005). Further, all of the surrounding circumstances must be weighed and considered to make an accurate determination as to whether the defendant was prejudiced by a lack of notice and/or an insufficient indictment. *State v. Gunn*, 313 S.C. 124, 130, 437 S.E.2d 75, 78 (1993); *State v. Evans*, 216 S.C. 328, 57 S.E.2d 756 (1950). The Supreme Court has provided further guidance on this minimal standard in *Gentry*. A Circuit Court Judge should determine the sufficiency of an indictment only on two grounds: "1) whether the offense is stated with sufficient certainty and particularity to enable the court to know what judgment to pronounce, and the defendant to know what he is called upon to answer; and 2) whether it apprises the defendant of the elements of the offense that is intended to be charged." *Gentry*, 363 S.C. at 102-3.

Indictment 2012-GS40-02067, indicting Defendant for Unlawful Conduct Towards a Child in violation of S.C. Code §63-02-0070, satisfies §17-19-20 and the *Gentry* standard. The indictment alleges the time, between November 24, 2011 through December 24, 2011, the place, Richland County, and the charge in a language substantially similar to the statute prohibiting the crime. The indictment further satisfies the *Gentry* standard. It states the offense with enough certainty and particularity to enable the Court to know which judgment to pronounce, and provides the Defendant with notice of the elements of the offense that is intended to be charged and tried: "That Zinah Demaris Jennings did . . . while having charge or custody, or being the parent or guardian . . . place the child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety . . . or did willfully abandon the child." See Indictment.

Further, an indictment need only allege the place where the crime was committed sufficiently to lay jurisdiction of the Court and inform the defendant of the county in which he is charged with a violation of the law. The State is not required to plead evidence showing the location of the crime in the indictment. *Jones v. State*, 333 S.C. 6, 507 S.E.2d 324 (1998). The State is not required to plead its evidence in the indictment. *State v. McIntire*, 221 S.C. 504, 71 S.E.2d 410 (1952). See also *State v. Fleming*, 243 S.C. 265, 133 S.E.2d 800 (1963). Here, the facts alleged in the indictment allege the offenses were committed in Richland Count. This is sufficient to satisfy the requirements of the law and confer jurisdiction upon the court. *State v. Thompson*, 305 S.C. 496, 409 S.E.2d 420 (Ct. App. 1991).

Once a defendant is indicted, the right to a preliminary hearing is lost, for the indictment itself constitutes a finding of probable cause. *State v. Ballington*, 346 S.C. 262, 551 S.E.2d 280 (Ct. App. 2001), *overruled on other grounds*, *State v. Belcher*, 385 S.C. 597, 685 S.E.2d 802 (2009). In the instant case the Defendant through her counsel waived her right to a preliminary

hearing, therefore, the issuance of the indictment on May 10, 2012 is a determination that probable cause exists. Further, the Defendant is requesting that the trial court quash the indictment based the Defense's characterization of the States "weak evidence" in this matter. There is no basis in law for the Court to hold a hearing on the merits of the allegations contained in an indictment. The defense's remedy is to move for a directed verdict if the State fails to produce proof of every element of the offense charged. This is the appropriate legal recourse for the Defense to pursue. Furthermore, a Circuit Court Judge cannot restore the right to a preliminary hearing by ordering a post-indictment preliminary hearing. *State v. Ballington*, 346 S.C. 262, 551 S.E.2d 280 (Ct. App. 2001).

Additionally, the State is not required to demonstrate *corpus delicti* in an indictment, as the Defendant seems to allege. See *State v. Gentry*, 363 S.C. 93, 102-3 (2005). S.C. Code §17-19-20 provides:

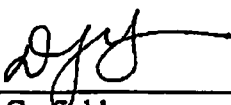
Every indictment shall be deemed and judged sufficient and good in law which, in addition to allegations as to time and place, as required by law, charges the crime substantially in the language of the common law or of the statute prohibiting the crime or so plainly that the nature of the offense charged may be easily understood and, if the offense be a statutory offense, that the offense be alleged to be contrary to the statute in such case made and provided.

Defendant incorrectly cites *State v. Brown*, 103 S.C. 437 (1916) as basis for her argument. In *Brown*, the Court denied Defendant's motion for directed verdict after the close of the State's case-in-chief. *State v. Brown*, 103 S.C. 437, 442 (1916). The defendant was subsequently convicted of arson. *Id.* The defendant argued the trial court should have granted his motion for a directed verdict because *corpus delicti* was not proved during the trial. *Id.* The Supreme Court ruled the *corpus delicti* standard is applicable when a defendant moves for a directed verdict, not when a challenge is made as to the sufficiency of an indictment. *Id.* (stating

that a defendant is entitled to a verdict of not guilty if no evidence is presented during a trial which proves the *corpus delicti*). Thus, the Defendant's analogy to *Brown* is inapplicable.

Finally, Defendant incorrectly analogizes *State v. Osborne*, 335 S.C. 172 (1999) with the present case. Like the defendant in *Brown*, the defendant in *Osborne* also argued that his conviction should have been overturned due to the State's failure to demonstrate *corpus delicti*. Neither defendant in *Brown* nor *Osborne* challenged the sufficiency of their indictments based on *corpus delicti*, and neither Court ruled that the State must prove *corpus delicti* in the indictment. In both cases, the Defendants' *corpus delicti* challenge was based solely on the evidence demonstrated during trial. The Supreme Court has never deemed an indictment insufficient based on an absence of *corpus delicti*.

THEREFORE, the State respectfully request that the Defense motion to quash the indictment should be DENIED.



Dolly Garfield
Assistant Solicitor
Fifth Judicial Circuit

This 11th day of June, 2012
Columbia, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF GENERAL SESSIONS
FIFTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
v.)
ZINAH DAMARIS JENNINGS,)
Defendant.)

**DEFENDANT'S REPLY
TO
STATE'S RESPONSE
TO
MOTION TO QUASH INDICTMENT**

Docket No. 2012-GS-40-02067

COMES NOW Zinah Damaris Jennings ("Defendant" or "Ms. Jennings") and offers the following reply to the State's Response to Defense Motion to Quash Indictment No. 2012-GS-40-02067 on the charges brought against her under S.C. Code §64-5-70 and Warrant No. K-690460, seeking dismissal and Defendant's immediate release from custody, as follows:

Defendant's motion raises two points: (1) the indictment is insufficient and defective on its face and should be dismissed on that ground alone; and, (2) the dismissal is warranted and not merely a technical defense that could be corrected by re-indictment because there is no evidence of a crime. While the second issue is arguably beyond the scope of this motion (and a ruling on the second issue is not necessary to grant the motion to quash), Defendant desires to provide additional context to the Court in ruling on the Motion to Quash.

In the leading case of *State v. Gentry*, 363 S.C. 93, 101, 610 S.E.2d 494 (S.C. 2005), the Supreme Court held that an indictment may be challenged as insufficient or defective up until the time a jury is sworn.¹ The Supreme Court went on to reiterate the well established principle that:

¹*Gentry* overruled prior cases that combined the concepts of the sufficiency of an indictment and subject matter jurisdiction, including *Bullard*, *Ervin* and *Browning*, *infra*. However, those cases remain good law for the purpose of analyzing the sufficiency of an indictment. *Gentry*, *supra*, Appendix.

If the objection is timely made, the circuit court should judge the sufficiency of the indictment by determining whether (1) the offense is stated with sufficient certainty and particularity to enable the court to know what judgment to pronounce, and the defendant to know what he is called upon to answer and whether he may plead an acquittal or conviction thereon; *and* (2) whether it apprises the defendant of the elements of the offense that is intended to be charged.

363 S.C. at 102-03, 610 S.E.2d at ____ (Emphasis added.)

The State meets the second requirement of *Gentry* by alleging the element of *mens rea* by repeating the statute in the indictment. However, the indictment *sub judice* fails to meet the first requirement under *Gentry* in that it is utterly devoid of any factual allegations of a crime. Rather, the indictment merely tracks *verbatim* the language of the child endangerment statute, S.C. Code § 63-5-70 as mandated by the second requirement. Furthermore, the indictment does not contain a date, but specifies a month-long time frame keyed to the date of the traffic incident that initially brought Ms. Jennings to the attention of the police. The indictment also invokes venue in Richland County, but there are no factual allegations of any acts that took place in Richland County. While such general allegations as to time and place may be sufficient when accompanied by adequate factual allegations as to specific acts, see *State v. Thompson*, 305 S.C. 496, 409 S.E.2d 420 (S.C. App. 1991), those allegations add nothing to a bare bones recitation of the statutory language.

The case of *State v. Reddick*, 348 S.C. 631, 560 S.E.2d 441 (S.C. App. 2002) provides an example of how the sufficiency of an indictment is determined. That case involved an alleged violation of S.C. Code § 24-13-70, which makes it a criminal offense for an inmate to attempt to throw or throw bodily fluids at a state or local correctional facility employee. The indictment provided: "That Corey L. Reddick did in Richland County on or about April 1, 1999, willfully and knowingly threw [sic] or attempted to throw urine on Sergeant John Rivera an employee of the South Carolina Department of Corrections, Broad River Correctional Institute." 348 S.C. at 634. The caption of the indictment identified the defendant as a "prisoner." Thus, the indictment

alleged that the named accused - "Corey L. Reddick," "a prisoner," on a particular date - "April 1, 1999," with intent - "willfully and knowingly," performed an act "threw [sic] or attempted to throw," involving a specific bodily substance - "urine," directed at a particular person - "Sergeant John Rivera," who was a correctional facility employee - "employee of South Carolina Department of Corrections," at a particular place - "Broad River Correctional Institute." The defendant contended that the indictment was defective because it did not specify Reddick's status as an "inmate." The Court of Appeals held that the indictment was sufficient because the defendant could not be confused as to his own status as an inmate; therefore, the indictment informed the trial judge and the defendant as to what crime was being alleged. 348 S.C. at 639.

A different result was reached in *State v. Bullard*, 348 S.C. 611, 560 S.E.2d 436 (S. C. App. 2002), where the indictment failed to contain an essential factual allegation of the crime of armed robbery. The Court of Appeals held: "In this case, the body of the indictment delineates armed robbery as the offense and specifically alleges the statutory provision which defines armed robbery. However, the body of the indictment does not contain an allegation of asportation. Instead, it alleges an 'attempt to take' from the person or the presence of the victim, which is consistent with a charge of attempted armed robbery rather than armed robbery." 348 S.C. at 615. See also *State v. Ervin*, 333 S.C. 351, 510 S.E.2d 220 (S.C. App. 1998), *Browning v. State*, 320 S. C. 366, 465 S.E.2d 358 (S.C. 1995) (missing factual allegations in the indictments required reversal of their convictions).

In this case, unlike *Reddick* and in line with *Bullard*, *Ervin* and *Browning*, there are no factual allegations as to what Ms. Jennings allegedly did to endanger^{Child} Jennings or how he was placed at risk of harm. Recitation of the statute is not enough. Furthermore, this segues to the second argument raised by Defendant, namely that even if a "'practical eye,' or common sense standard" is applied, *Reddick, supra*, 348 S.C. at 637 (citation omitted), the outcome in this case should be the same. The prosecution is unable to point to additional facts to supplement the

indictment because there are none, despite a thorough investigation by law enforcement. Moreover, the Motion to Quash has nothing to do with waiver of a preliminary hearing, as the prosecution contends. Rather, the Motion to Quash requires that the Court parse the factual allegations of the indictment against the elements of the offense cited therein. If the Court is unable to identify any illegal acts of the Defendant, the indictment must be quashed.

In conclusion, the Defendant prays that the Honorable Court will grant her Motion to Quash, issue an Order dismissing the charge brought against her for violation of S. C. Code § 63-5-70, quashing the Indictment No. 2012-GS-40-02067, and directing Defendant's immediate release from custody.

Law Office
of
HEMPHILL P. PRIDE II, LLC



Hemphill P. Pride II
Post Office Box 4529
Columbia, South Carolina 29240-4529
(803) 256-8015
email address: hppride@bellsouth.net

ATTORNEY FOR DEFENDANT

June 13, 2012.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

CERTIFICATE OF SERVICE

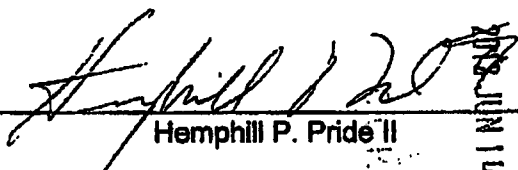
The undersigned counsel hereby certifies that, on June 17, 2012, the foregoing Defendant's Reply to the State's Response to Defense Motion to Quash Indictment No 2012-GS-40-02067 was served on all concerned parties to the action by the undersigned personally delivering a copy of said Reply to:

Honorable G. Thomas Cooper, Sr.
 Chief Administrative Judge
 Court of General Sessions
 RICHLAND COUNTY JUDICIAL CENTER
 1701 Main Street
 Columbia, South Carolina 29201

Dolly Justice Garfield, Esq.
 Assistant Solicitor for the Fifth Judicial Circuit
 OFFICE OF THE SOLICITOR
 1701 Main Street
 Columbia, South Carolina 29201

Columbia, South Carolina

June 17, 2012.


 Hemphill P. Pride II

FILED
 JUN 14 AM 11:31
 RICHLAND COUNTY

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
 The State of South Carolina,)
 v.)
 Zinah Jennings,)
 Defendant.)

BOOK - 242 PAGE 0357
 IN THE COURT OF GENERAL SESSIONS

FIFTH JUDICIAL CIRCUIT

Indictment No.: 2012-GS-40-2067 *11695-200*

ORDER

This matter comes before this Court on Defendant's Motion to Quash the Indictment issued on May 20, 2012. A hearing was held on this Motion on June 21, 2012. Present at the hearing were Assistant Solicitor Dolly Garfield, for the State, Hemphill Pride, attorney for the Defendant, and Defendant. After brief oral argument on the Motion, this Court took the matter under advisement and ordered Defendant to undergo a mental evaluation. Based on the following, Defendant's Motion to Quash the Indictment is DENIED.

In South Carolina, an indictment "shall be deemed and judged sufficient and good in law which, in addition to allegations as to time and place, as required by law, charges the crime substantially in the language of the common law or of the statute prohibiting the crime or so plainly that the nature of the offense charged may be easily understood and, if the offense be a statutory offense, that the offense be alleged to be contrary to the statute in such case made and provided." S.C. Code Ann. § 17-19-20 (2003). Thus, an indictment is sufficient legally if it substantially outlines the charge in the language of the statute, or plainly describes the nature of the offense charged so it is easily understood. State v. Reddick, 348 S.C. 631, 560 S.E.2d 441 (Ct. App. 2002).

The indictment must state the offense with certainty and particularity sufficient to enable the Court to know what judgment to pronounce, the defendant to know what he is called upon to

GR.

SR

805A - 242 PAGE 0358

answer, and whether he may plead an acquittal or conviction thereon. Browning v. State 320 S.C. 366, 465 S.E.2d 358 (1995); State v. Hamilton, 344 S.C. 344, 543 S.E.2d 586 (Ct. App. 2001); State v. Ervin, 333 S.C. 351, 510 S.E.2d 220 (Ct. App. 1998). The true test of the sufficiency of an indictment is not whether it could be made more definite and certain, but whether it contains the necessary elements of the offense intended to be charged and sufficiently apprises the defendant of what he must be prepared to meet. Browning, 320 S.C. at 368, 465 S.E.2d at 359; Reddick, 348 S.C. at 635, 560 S.E.2d at 443. An indictment phrased substantially in the language of the statute which creates and defines the offense is ordinarily sufficient. State v. Shoemaker, 276 S.C. 86, 275 S.E.2d 878 (1981).

Further, an indictment is sufficient if it apprises the defendant of the elements of the offense intended to be charged, and informs the defendant of the circumstances he must be prepared to defend. Locke v. State, 341 S.C. 54, 533 S.E.2d 324 (2000); Carter v. State, 329 S.C. 355, 495 S.E.2d 773 (1998); Hamilton, 344 S.C. at 364, 543 S.E.2d at 597. Generally, an indictment is required to perform two functions: (1) it should inform the accused of the charge against him by listing the elements of the offense charged; and (2) it should be sufficiently specific to protect the accused against double jeopardy. State v. Bullard, 348 S.C. 611, 560 S.E.2d 436 (Ct.App.2002). "In determining whether an indictment meets the sufficiency standard, the court must look at the indictment with a practical eye in view of all the surrounding circumstances...further, whether the indictment could be more definite or certain is irrelevant." State v. Gentry, 363 S.C. 93 at 103, 610 S.E.2d 494 at 500 (2005). All of the surrounding circumstances must be weighed and considered to make an accurate determination as to whether the defendant was prejudiced by a lack of notice and/or an insufficient indictment. State v. Gunn, 313 S.C. 124, 130, 437 S.E.2d 75, 78 (1993); State v. Evans, 216 S.C. 328, 57 S.E.2d 756

(1950). The Supreme Court has provided further guidance on this minimal standard in *Gentry*. A Circuit Court Judge should determine the sufficiency of an indictment only on two grounds: "1) whether the offense is stated with sufficient certainty and particularity to enable the court to know what judgment to pronounce, and the defendant to know what he is called upon to answer; and 2) whether it apprises the defendant of the elements of the offense that is intended to be charged." *Gentry*, 363 S.C. at 102-3.

The indictment in this case satisfies §17-19-20 and the *Gentry* standard. Defendant is charged with Unlawful Conduct Towards a Child in violation of S.C. Code §63-02-0070. The indictment alleges the time (between November 24, 2011 through December 24, 2011), the place (Richland County), and the criminal charge in a language substantially similar to the statute prohibiting the crime. The indictment further satisfies the *Gentry* standard because it states the offense with enough certainty and particularity to enable the Court to know which judgment to pronounce, and provides the Defendant with notice of the elements of the offense that is intended to be charged and tried. Specifically, the indictment states: "That Zinah Demaris Jennings did...while having charge or custody, or being the parent or guardian...place the child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety...or did willfully abandon the child." See Indictment.

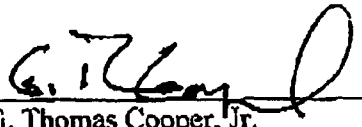
An indictment need only allege the place where the crime was committed sufficiently to lay jurisdiction of the Court and inform the defendant of the county in which he is charged with a violation of the law. The State is not required to plead evidence showing the location of the crime in the indictment. Jones v. State, 333 S.C. 6, 507 S.E.2d 324 (1998). The State is not required to plead its evidence in the indictment. State v. McIntire, 221 S.C. 504, 71 S.E.2d 410 (1952). See also *State v. Fleming*, 243 S.C. 265, 133 S.E.2d 800 (1963). Here, the facts alleged

BOOK - 242 PAGE 0300

in the indictment allege the offenses were committed in Richland County. This is sufficient to satisfy the requirements of the law and confer jurisdiction upon the court.

THEREFORE, based on the foregoing, Defendant's Motion to Quash the Indictment is DENIED.

June 3, 2012
Columbia, South Carolina


G. Thomas Cooper, Jr.
Judge, Fifth Judicial Circuit

))

))

))

))

)

DOCKET NO. 2012-GS-40-02067

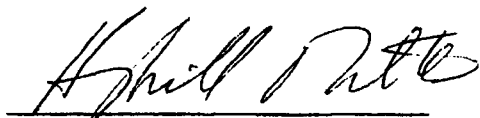
Now comes Zinah Damaris Jennings (Defendant herein or Ms. Jennings) by the undersigned counsel, and respectfully moves this Honorable Court to issue an Order to Quash the Superseding Indictment in the above – captioned matter that replaced the initial May 9, 2012's Indictment. This motion is predicated on the following, to wit:

1. The Superseding Indictment is identical to the first Indictment except that the alleged "Unlawful Conduct Towards a Child" in violation of S.C. Code section 63-5-70 occurred on or between September 1, 2011 through December 24, 2011, rather than November 24, 2011 through December 24, 2011, as charged in the first Indictment.
2. Inasmuch as the first Indictment has now become completely void, has no effect, and has been superseded, and inasmuch as the date of the commission of the offense has been enlarged by 84 days (two months and 23 days), for the same reasons stated in Defendant's first Motion to Quash the original Indictment, the Superseding Indictment should also be quashed for violating Defendant's Fifth, Sixth and Fourteenth Amendments rights under the United States Constitution.
3. Since the original Indictment has no effect and is completely void, it would also follow that Circuit Judge G. Thomas Cooper, Jr.'s Order of June 3, 2012, which denied Defendant's Motion to

Quash the original Indictment is also completely mooted and has no effect any longer. Accordingly, it is appropriate to determine whether the Superseding Indictment is legally sufficient.

4. The Superseding Indictment completely fails to give any facts to put the Defendant on notice of the charge and the specific misconduct that she is to answer and defend against, so she can prepare herself for trial. Put differently, this Superseding Indictment does not give the Defendant any of the circumstances or the specific misconduct she must prepare to defend. On the contrary, the Superseding Indictment is almost triply more defective and flawed than the original Indictment, since it enlarges the date of the offense by 84 days instead of 30 days that was initially alleged in the first Indictment. Inconceivably, the grand total number of days the offense was committed would be a staggering 115 days or three (3) months and three (3) weeks and four (4) days.
5. Ms. Jennings respectfully incorporates by reference her previously – filed memorandum in Support of her Motion to Quash the Superseding Indictment.

Respectfully submitted


Hemphill P. Pride II
Post Office Box 4529
Columbia South Carolina 29240-4529
(803) 256-8015
hpride@bellsouth.net

ATTORNEY FOR DEFENDANT

August 28, 2012

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

CERTIFICATE OF SERVICE

The undersigned do hereby certify that all counsel and/or parties in this action were served with a copy of the pleading(s) herein below specified by personally delivering a copy of the same to all parties:

PLEADING: Motion to Quash Superseding Indictment

PARTY: Dolly Justice Garfield, Esq.
Assistant Solicitor for the Fifth Judicial Circuit
OFFICE OF THE SOLICITOR
Post Office Box 192
Columbia, South Carolina 29202


Hemphill P. Pride II

Columbia, South Carolina

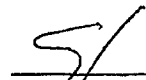
August 28, 2012.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF GENERAL SESSIONS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	
THE STATE	)	
	)	
v.	)	MOTION TO REQUIRE STATE TO
	)	SPECIFY ALL CRIMINAL ACTS
	)	CONSTITUTING A VIOLATION OF
	)	SECTION 63-5-70
ZINAH DAMARIS JENNINGS,	)	
	)	
Defendant	)	

The Defendant, through her attorney, respectfully moves this Honorable Court to require the State to specify with ample particularity each act that Defendant allegedly committed that constituted a violation of Section 63-5-70 of the South Carolina Code. This is indispensable since Defendant has to defend against each of the three (3) divergent subsections of the statute – i.e. A (1), (2), and (3).

The Defendant is entitled to this concretization predicated on her Sixth Amendment right “to be informed of the nature and cause of the accusation,” which the State has never set forth up to this point either orally or written. Also, this concretization is necessary so Defendant will not subsequently “be subject for the same offense to be twice put in jeopardy,” in violation of her Fifth Amendment right under the United States Constitution against self-incrimination.

Respectfully submitted,


 Hemphill P. Pride II
 Defendant's Attorney

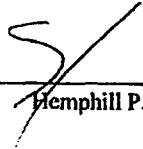
STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

CERTIFICATE OF SERVICE

I, the undersigned counsel do hereby certify that all counsel and/or parties in this action were served with a copy of the pleading(s) herein below specified by mailing a copy of the same by United States mail, postage prepaid, to the following address(es):

PLEADING: Motion to Require State to Specify All Criminal Acts Constituting A Violation of Section 63-5-70

PARTY: Dolly Justice Garfield, Esq.
Assistant Solicitor for the Fifth Judicial Circuit
OFFICE OF THE SOLICITOR
Post Office Box 192
Columbia, South Carolina 29202



Hemphill P. Pride II

Columbia, South Carolina

September 6, 2012.

STATE OF SOUTH CAROLINA }
COUNTY OF RICHLAND }

IN THE COURT OF GENERAL SESSIONS
FIFTH JUDICIAL CIRCUIT

STATE,

v.

ZINAH DAMARIS JENNINGS,

Defendant.

MOTION IN LIMINE

Docket No. 2012-GS-40-02067

COMES now Defendant Zinah Damaris Jennings, by and through her undersigned counsel, and respectfully moves this honorable Court for a hearing in limine and respectfully submits this motion is made in the spirit of judicial economy and in an effort as to not burden the State.

1. The undersigned counsel for Defendant request the State to provide, in writing, any and all relevant testimony it intends to use at trial pursuant to Rule 404(b) which reads, in pertinent part: "Other Crimes, Wrongs, or Acts."

2. The undersigned counsel further request the State to identify, in writing, the names of its witnesses; and, the relevant testimony of each to be introduced under Rule 404(b) as stated in paragraph 1 above.

3. The undersigned submits by the State providing, in writing, the information requested in paragraphs 1 and 2 above would:

- a. eliminate the State's burden of having to call these witnesses to appear at the limine hearing before this Court to give live testimony; and
- b. put the Defendant on notice and afford her the opportunity to address the matters before the Court prior to trial.

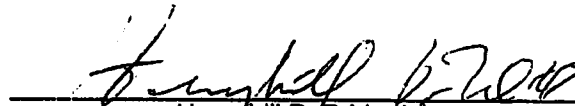
4. The undersigned further submits this motion is made in good faith and for the sole purpose of expediting the length of trial in that the State has estimated introducing as many as thirty (30 witnesses).

WHEREFORE, the Defendant prays that this honorable Court grants a hearing in this matter; and, issues an Order granting Defendant's motion.

[SIGNATURE BLOCK ON NEXT PAGE]

RICHLAND COUNTY
 FILED
 12 AUG 7 AM 10:32
 SEANE E. W. HARRIS
 C. P. & G.

Law Office
of
HEMPHILL P. PRIDE II, LLC



Hemphill P. Pride II
Post Office Box 4529
Columbia, South Carolina 29240-4529
(803) 256-8015
e-mail hppride@bellsouth.net



Lesli Brown Darwin
Post Office Box 4529
Columbia, South Carolina 29240-4529
(803) 256-8015
e-mail hppride@bellsouth.net

ATTORNEYS FOR DEFENDANT

August 16, 2012.

STATE OF SOUTH CAROLINA }
COUNTY OF RICHLAND }

CERTIFICATE OF SERVICE

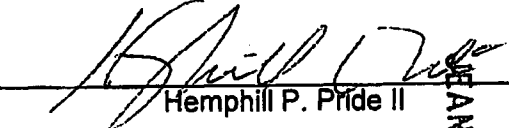
I, the undersigned counsel do hereby certify that all counsel and/or parties in this action were served with a copy of the pleading(s) herein below specified by mailing a copy of the same by United States mail, postage prepaid, to the following address(es):

PLEADING: Motion in Limine

PARTY: Dolly Justice Garfield, Esq.
Assistant Solicitor for the Fifth Judicial Circuit
OFFICE OF THE SOLICITOR
Post Office Box 192
Columbia, South Carolina 29202

Columbia, South Carolina

August 16, 2012.


Hemphill P. Pride II

RICHLAND COUNTY
FILED
JANETTE W. McBRIDE
C.C.P. & G.S.

12 AUG 17 AM 10:32

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF GENERAL SESSIONS
FIFTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,)
v.)
ZINAH DAMARIS JENNINGS,)
Defendant.)

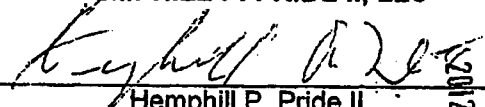
**MOTION FOR DISCLOSURE OF INTENT
TO
USE EVIDENCE**

Docket No. 2012-GS-40-02067

YOU WILL PLEASE TAKE NOTICE that the undersigned counsel for Defendant Zinah Damaris Jennings, will appear before this Honorable Court at such time and place as counsel may be heard and, then and there, move pursuant to Rule 5(a), South Carolina Rules of Criminal Procedure, for an Order requiring the State to notify the Defendant of its intent to use any evidence at trial which may be subject to a motion to suppress.

Respectfully submitted,

**Law Office
of
HEMPHILL P. PRIDE II, LLC**


Hemphill P. Pride II
Post Office Box 4529
Columbia, South Carolina 29240
(803) 256-8015
email: hppride@bellsouth.net

ATTORNEY FOR DEFENDANT

July 23, 2012.

2012 JUL 24 PM 10:29

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF RICHLAND	)	
	)	FIFTH JUDICIAL CIRCUIT
THE STATE	)	
	)	
v.	)	DEFENDANT'S REQUEST TO CHARGE
	)	INDICTMENT NO.: 2012-GS-40-02067
	)	
ZINAH DAMARIS JENNINGS,	)	
	)	
Defendant	)	

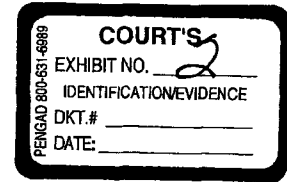
The jury should be directed that there is no law in the State of South Carolina that requires the Defendant to tell the police or any criminal law enforcement authority where the Defendant's child is located. Nor is there a law in the State of South Carolina that requires a Defendant to produce the Defendant's child for any type of inspection at the demand of the police or any criminal law enforcement authority. To require the Defendant to do so in either case violates the Defendant's Fifth Amendment right against self-incrimination. Furthermore, Defendant's refusal to comply with either request cannot be used as evidence against the Defendant.

Baltimore City Department of Social Services v. Bouknight, 493 U.S. 549, 110 S.Ct. 900, 107 L. Ed. 2d 992 (1990).

Respectfully submitted


 Hemphill P. Pride II
 Defendant's Attorney

Columbia, South Carolina
 This 6th day of September 2012



1
2
3
4
5
6
7
8 TRANSCRIBED INTERVIEW FILE
9
10 _____
11

12 MEDIA FILE NAME: VN620160.mp3
13
14
15
16
17
18
19
20

21 COMPUSCRIPTS, INC.
22

23 CLIENT FOCUSED. DEADLINE DRIVEN.
24

25 803-988-0086

1-800-988-0086

ZINAH JENNINGS

1 :04
2 (INDISTINCT AUDIO)
3 (DISTANT CONVERSATION)
4 (INDISTINCT AUDIO)
5 2:32
6 INVESTIGATOR BAILEY: You right handed or left
7 handed?
8 ZINAH JENNINGS: Mm, right.
9 INVESTIGATOR BAILEY: Right handed. Think we
10 (INDISTINCT COMMENT) put these in so tight.
11 ZINAH JENNINGS: Yeah.
12 UNIDENTIFIED MALE SPEAKER: (INDISTINCT COMMENT)
13 INVESTIGATOR BAILEY: Yep. That's --
14 UNIDENTIFIED MALE SPEAKER: Sit down right there
15 and (INDISTINCT COMMENT).
16 (INDISTINCT AUDIO)
17 (DOOR OPENS AND CLOSES)
18 (TIME LAPSE)
19 (DISTANT CONVERSATION)
20 (TIME LAPSE)
21 (DISTANT CONVERSATION)
22 (INDISTINCT AUDIO)
23 11:52
24 (DOOR OPENS)
25 (INDISTINCT AUDIO)

ZINAH JENNINGS

1 (DOOR CLOSSES)

2 INVESTIGATOR THOMAS: Hello, there. What's your
3 name?

4 ZINAH JENNINGS: Zinah.

5 INVESTIGATOR THOMAS: Zinah. I'm Sergeant
6 Thomas. Nice to meet you. I know you've met
7 Investigator Bailey. (INDISTINCT COMMENT)

8 INVESTIGATOR BAILEY: A couple nights ago we
9 met, I think, I believe.

10 ZINAH JENNINGS: Car wreck.

11 INVESTIGATOR THOMAS: Oh, okay. You all right?

12 All right. I know that Investigator Bailey
13 called me and said that you came in on your own
14 accord. Is that right?

15 ZINAH JENNINGS: Mm-hmm.

16 INVESTIGATOR THOMAS: How did you know to come
17 in?

18 ZINAH JENNINGS: I mean, I went to the store--

19 INVESTIGATOR THOMAS: Mm-hmm.

20 ZINAH JENNINGS: and this girl told me the
21 police were looking for me, so I was just call 911.

22 INVESTIGATOR THOMAS: Okay.

23 ZINAH JENNINGS: And they said that there was a
24 warrant, and I asked him where I could come, and they
25 said to come to Washington Street.

ZINAH JENNINGS

1 INVESTIGATOR THOMAS: Okay, so you came down.
2 You caught a ride up here, or you came on your own?

3 ZINAH JENNINGS: I came on my own.

4 INVESTIGATOR THOMAS: Okay. All right. Um,
5 have you read her her rights?

6 INVESTIGATOR BAILEY: Not -- Not yet.

7 INVESTIGATOR THOMAS: Okay.

8 Okay. Zinah, Investigator Bailey is going to
9 advise you of some rights before we ask you any, any
10 other questions, okay?

11 ZINAH JENNINGS: Okay.

12 INVESTIGATOR THOMAS: After he advises you of
13 some rights, and you know your rights, then we're
14 going to ask you some questions, okay? The questions
15 are going to be very important questions, okay? And
16 then we'll proceed from there. All right? But since
17 you are cooperating, I don't see where it's going to
18 be any issues, okay?

19 INVESTIGATOR BAILEY: Hey, Zinah. Before we ask
20 you any questions, you must understand your rights.
21 You can read along if you like, or I'll just read
22 aloud.

23 You have the right to remain silent. Anything
24 you say can be used against you in court. You have
25 the right to talk to a lawyer for advice before we

ZINAH JENNINGS

1 ask you any questions and have him with you during
2 questioning. If you cannot afford a lawyer, one will
3 be appointed for you before questioning if you wish.

4 If you decide to answer questions now without a
5 lawyer present, you will still have the right to stop
6 answering at any time. You also have the right to
7 stop answering at any time until you talk to a
8 lawyer.

9 Do you see the paragraph where it says, "Waiver
10 of rights?" Can you read that?

11 ZINAH JENNINGS: Mm-hmm.

12 INVESTIGATOR THOMAS: (INDISTINCT COMMENT)

13 INVESTIGATOR BAILEY: Read that -- just read
14 that aloud, if you would, please.

15 ZINAH JENNINGS: I have read this statement of
16 my rights and understand what my rights are. I am
17 willing to make a statement and answer questions. I
18 do not want a lawyer at this time. I understand and
19 know what I am doing. No promises or threats have
20 been made to me, and no pressure or correction (sic)
21 of any kind has been used against me.

22 INVESTIGATOR BAILEY: Right. So it just means
23 we haven't tricked you. We haven't tried to fool you
24 into doing anything. If you, if you would like to
25 speak now with us, please sign right there, and then

ZINAH JENNINGS

1 I'll witness it, and Sergeant Thomas will witness it.

2 INVESTIGATOR THOMAS: All right. Thank you.

3 I'll witness it. Investigator Bailey will witness
4 that you did sign (INDISTINCT COMMENT).

5 All right. Again, I'm going to start, if that's
6 all right with you, Investigator Bailey.

7 Zinah, now, are, are you and your mother close?
8 You're not close? You all look a lot alike.

9 ZINAH JENNINGS: We do?

10 INVESTIGATOR THOMAS: Yeah, you all favor.

11 ZINAH JENNINGS: I never heard that.

12 INVESTIGATOR THOMAS: Don't they favor?

13 Yeah, you all favor a lot.

14 INVESTIGATOR BAILEY: Mm-hmm.

15 INVESTIGATOR THOMAS: The most important reason
16 for you being here tonight, Zinah, or this morning is
17 that Investigator Bailey and myself want to see your
18 child. Look at me. We want to see your child, okay?

19 Now, the objective today, on this morning, is to
20 ride out so you can show me who is monitoring your
21 child for you. That's the primary objective, even
22 though you do have warrants for your arrest. Okay?
23 But overall, what Sergeant Thomas wants and what
24 Investigator Bailey wants is to make sure that the
25 caretaker -- keeper of your child is doing right by

ZINAH JENNINGS

1 him and that he's all right, just like we know you're
2 all right now, because you all were reported missing.
3 You understand that, right? Any time a person is
4 reported missing, it is our obligation by law to
5 locate, place eyes on you, and even though you're
6 bruised from your car accident, you're okay.

7 So now, all I need to do, all Investigator
8 Bailey needs to do, is to do the same thing -- what
9 is your child's name?

10 ZINAH JENNINGS: What?

11 INVESTIGATOR THOMAS: What is your child's name?
12 What's the baby's name?

13 ZINAH JENNINGS: What do I call him?

14 INVESTIGATOR THOMAS: Yeah.

15 ZINAH JENNINGS: Child

16 INVESTIGATOR THOMAS: Child All right. We want
17 to make sure that whoever is watching Child is taking
18 care of Child and that Child is all right, just like
19 you are. Do you understand that? Okay? Can we make
20 that possible this night? Why is that?

21 ZINAH JENNINGS: Um, I don't want to.

22 INVESTIGATOR THOMAS: Why is that?

23 ZINAH JENNINGS: Um, I've been missing before,
24 and nobody found me.

25 INVESTIGATOR THOMAS: Yeah, but they didn't have

ZINAH JENNINGS

1 me or Investigator Bailey on your case, okay? And
2 I'm, I'm almost certain when you were missing, you
3 were not 18 months old. You understand me?

4 ZINAH JENNINGS: Mm-hmm.

5 INVESTIGATOR THOMAS: There's a huge difference.
6 Now, my thing is this. As long as ^{Child} is fine with
7 whomever he's with, and they say, "We're going to
8 monitor him until she's straight," then Investigator
9 Bailey, the Columbia Police Department, and myself
10 are pulling back, and we're going to let you deal
11 with your situation, okay?

12 All right. That is the overall objective --

13 ZINAH JENNINGS: Mm-hmm.

14 INVESTIGATOR THOMAS: -- what we're doing right
15 now. So that is what we want to do this morning.
16 Investigator Bailey has gas in his car. I got gas in
17 mine. And we're ready to ride. I'm ready to go to
18 whatever whereabouts of ^{Child}

19 ZINAH JENNINGS: Mm-hmm.

20 INVESTIGATOR THOMAS: As long as there are no
21 cockroaches crawling, no rats, as long as there's
22 some food in the refrigerator and the individual has
23 power in the house and so forth, and I see him, and
24 he's, "Hey, Mommy. Bye, Mommy," then we're finished
25 with that part of the investigation. And we'll deal

ZINAH JENNINGS

1 with everything else accordingly, okay? Do you
2 understand that?

3 And even with the situation that you're in, that
4 could very well change your situation because part of
5 the reason you're sitting there right now is the mere
6 fact that we need to lay eyes on ^{Child} okay? And so
7 the overall objective is his whereabouts and his
8 safety. All right? And even though I'm certain I can
9 say you may have been missing, but I can promise you,
10 whether they located you or not, there were people
11 that were concerned because they reported you
12 missing. It, it was an issue.

13 But again, you were not 18 months old. You were
14 not a 1 1/2-year-old child that we were looking for.
15 All right? That changes the circumstances. It
16 elevates them. Do you understand what that means?

17 All right. And the fact that you are the
18 mother, all right, elevates it even more.

19 ZINAH JENNINGS: Mm-hmm.

20 INVESTIGATOR THOMAS: All right, because the
21 assumption would be that he would be with the mother.
22 And now that we have you here, and you've been
23 present for a, a certain number of days, now we're
24 concerned. Okay?

25 So can you first tell me where he is before we

ZINAH JENNINGS

1 go to try to locate him?

2 ZINAH JENNINGS: No.

3 INVESTIGATOR THOMAS: Look at me. Why?

4 ZINAH JENNINGS: I don't want to.

5 INVESTIGATOR THOMAS: Why don't you want to?

6 ZINAH JENNINGS: Because I don't want to go.

7 INVESTIGATOR THOMAS: You don't want to go
8 where?

9 ZINAH JENNINGS: Anywhere.

10 INVESTIGATOR THOMAS: Do you realize the
11 severity of what you're facing --

12 ZINAH JENNINGS: Mm-hmm.

13 INVESTIGATOR THOMAS: -- right now? Look at me.
14 Has any harm come to your child?

15 I can't see your eyes, though. But you're
16 shaking your head no. But you're crying. That
17 scares me. Now you're crying even harder. That
18 scares me more. Where is he?

19 ZINAH JENNINGS: I'm sorry.

20 INVESTIGATOR THOMAS: That's all right. I need
21 to know where Child is and what happened to him.
22 That's very important.

23 Now, we are -- we are not in any rush. We have
24 time, and I'm very patient. And your tears are
25 telling me a lot. So let's talk about it.

ZINAH JENNINGS

1 ZINAH JENNINGS: There's nothing to talk about.

2 INVESTIGATOR THOMAS: Where is ^{Child} and why are
3 you crying?

4 ZINAH JENNINGS: I always cry.

5 INVESTIGATOR THOMAS: That's all right. But why
6 are you crying specifically when I ask you those
7 questions, when I asked you was there any harm done
8 to ^{Child} That's the only time the tears came out.

9 ZINAH JENNINGS: No, it was before that.

10 INVESTIGATOR THOMAS: No, not to the level that
11 they are now.

12 ZINAH JENNINGS: I always cry.

13 INVESTIGATOR THOMAS: Okay.

14 ZINAH JENNINGS: I can't help it.

15 INVESTIGATOR THOMAS: All right. So answer the
16 question, because you never answered it when you
17 started crying. Has any harm come to Amir? What
18 does that mean? Is that a yes or a no?

19 ZINAH JENNINGS: No.

20 INVESTIGATOR THOMAS: Okay. Is Amir healthy
21 right now and happy where he's at?

22 ZINAH JENNINGS: Mm-hmm.

23 INVESTIGATOR THOMAS: Where is he?

24 ZINAH JENNINGS: I can't tell you.

25 INVESTIGATOR THOMAS: Why?

ZINAH JENNINGS

1 ZINAH JENNINGS: I don't want to.

2 INVESTIGATOR THOMAS: All right. We have to
3 find that out. You are his mother. All right? I'm
4 obligated to find him because a police report has
5 been filed. All right, I have to see him.
6 Investigator Bailey has to see him. You told
7 Investigator Bailey he was with your baby's father.
8 Is that correct? Was that a lie?

9 ZINAH JENNINGS: No.

10 INVESTIGATOR THOMAS: It's not a lie? Did you
11 give him false information? Because the name you
12 gave him is not in any files that we have.

13 ZINAH JENNINGS: That's not a lie.

14 INVESTIGATOR THOMAS: So it's not a lie. All
15 right. What baby father is he with?

16 ZINAH JENNINGS: I don't know who his father is.

17 INVESTIGATOR THOMAS: Okay, well, who -- who do
18 you believe, since you say he's with his baby father,
19 is his baby father? I'm going to get my pad out so I
20 -- (INDISTINCT COMMENT) write the name down

21 (INDISTINCT COMMENT).

22 Who is the baby father, or who did you leave him
23 with?

24 ZINAH JENNINGS: I don't know.

25 INVESTIGATOR THOMAS: You don't know?

ZINAH JENNINGS

1 INVESTIGATOR BAILEY: Do you know who you left
2 him with, Jocelyn -- I mean Zinah? Do you know who
3 you left the child with? You don't? Okay. Was that
4 in Columbia or somewhere else?

5 ZINAH JENNINGS: I don't know.

6 INVESTIGATOR BAILEY: Were you in Charlotte or
7 were you in Atlanta when this happened, or were they
8 local?

9 ZINAH JENNINGS: I don't know.

10 INVESTIGATOR BAILEY: You don't know? What's
11 your memory about (INDISTINCT COMMENT)?

12 ZINAH JENNINGS: I don't know who his father is.

13 INVESTIGATOR BAILEY: Well, who did you leave
14 Amir with?

15 INVESTIGATOR THOMAS: Where have you been when
16 he went missing? Let's start there and see what we
17 can catch up here.

18 ZINAH JENNINGS: I was in Atlanta.

19 INVESTIGATOR THOMAS: Okay. Who did you visit
20 in Atlanta?

21 ZINAH JENNINGS: My sister.

22 INVESTIGATOR THOMAS: What sister is that?

23 INVESTIGATOR BAILEY: Denise.

24 INVESTIGATOR THOMAS: Denise? And when were you
25 there?

ZINAH JENNINGS

1 ZINAH JENNINGS: Thanksgiving.

2 INVESTIGATOR THOMAS: Thanksgiving? Okay. Did
3 you have ^{Child} with you when you went out there?

4 ZINAH JENNINGS: Mm-hmm.

5 INVESTIGATOR THOMAS: Mm-hmm. How long were you
6 out there?

7 ZINAH JENNINGS: Three months.

8 INVESTIGATOR THOMAS: So you all stayed -- you
9 all got up before Thanksgiving, or --

10 ZINAH JENNINGS: Mm-hmm.

11 INVESTIGATOR THOMAS: Okay. And you were up
12 there up until Thanksgiving?

13 ZINAH JENNINGS: Mm, we left.

14 INVESTIGATOR THOMAS: Okay. Where did you go
15 after you went to your sister's in Atlanta?

16 ZINAH JENNINGS: When I left, (INDISTINCT
17 COMMENT) I came here.

18 INVESTIGATOR THOMAS: And who did you see then?

19 ZINAH JENNINGS: Hm?

20 INVESTIGATOR THOMAS: Who did you go see after
21 you left?

22 ZINAH JENNINGS: In Atlanta?

23 INVESTIGATOR THOMAS: No, after you -- after you
24 left Atlanta, after you left your sister?

25 ZINAH JENNINGS: I came to Columbia.

ZINAH JENNINGS

1 INVESTIGATOR THOMAS: You came to Columbia? Who
2 did you stay with in Columbia?

3 ZINAH JENNINGS: Me and myself.

4 INVESTIGATOR THOMAS: Yourself? Do you have --
5 you have a residence here?

6 Did you bring ^{Child} back with you when you came
7 to Columbia?

8 ZINAH JENNINGS: Yes.

9 INVESTIGATOR THOMAS: So you and ^{Child} not just
10 yourself, right?

11 ZINAH JENNINGS: Hm?

12 INVESTIGATOR THOMAS: It was you and your baby,
13 not just yourself, right?

14 ZINAH JENNINGS: It was me and him.

15 INVESTIGATOR THOMAS: Okay. And when did you
16 all come back to Columbia?

17 ZINAH JENNINGS: I don't know.

18 INVESTIGATOR THOMAS: Was it the first part of
19 December, shortly after Thanksgiving?

20 ZINAH JENNINGS: Mm-hmm.

21 INVESTIGATOR THOMAS: What part of December was
22 that?

23 ZINAH JENNINGS: Mm, I don't know.

24 INVESTIGATOR THOMAS: Could it have been the
25 first part or the earlier part or whatever? Who did

ZINAH JENNINGS

1 you visit when you came to Columbia?

2 ZINAH JENNINGS: Nobody.

3 INVESTIGATOR THOMAS: You didn't go see your
4 grandmother, your mother, anyone?

5 ZINAH JENNINGS: My grandmother wasn't here.

6 INVESTIGATOR THOMAS: Mm-hmm. What about
7 friends, associates?

8 ZINAH JENNINGS: Mm-mm.

9 INVESTIGATOR BAILEY: Were you staying in your
10 car?

11 ZINAH JENNINGS: No.

12 INVESTIGATOR BAILEY: Where were you staying at?

13 ZINAH JENNINGS: In different places.

14 INVESTIGATOR THOMAS: Okay. Such as?

15 ZINAH JENNINGS: Um, I really wasn't staying
16 anywhere because I wasn't sleeping.

17 INVESTIGATOR THOMAS: You weren't sleeping?

18 ZINAH JENNINGS: Mm-mm.

19 INVESTIGATOR THOMAS: What had you so
20 discouraged that you could not sleep?

21 ZINAH JENNINGS: I didn't have a bed to sleep
22 in.

23 INVESTIGATOR THOMAS: Okay. You weren't
24 comfortable in the car? You couldn't sleep on
25 friends' couches?

ZINAH JENNINGS

1 Where did Child sleep? Hm?

2 Where did Child sleep?

3 ZINAH JENNINGS: I don't have any friends.

4 INVESTIGATOR THOMAS: Okay. So where did you
5 all sleep?

6 ZINAH JENNINGS: You know, we went different
7 places.

8 INVESTIGATOR THOMAS: And so that -- (INDISTINCT
9 COMMENT).

10 ZINAH JENNINGS: Like we would go to the mall
11 until the mall closed.

12 INVESTIGATOR THOMAS: Okay.

13 ZINAH JENNINGS: Then we would go to different
14 stores and walk around. Then we would go to Walmart.

15 INVESTIGATOR THOMAS: Which mall did you all go
16 to?

17 ZINAH JENNINGS: Then we would go eat and just
18 ride around.

19 INVESTIGATOR THOMAS: Okay. Which malls did you
20 go to?

21 ZINAH JENNINGS: Columbia Mall.

22 INVESTIGATOR THOMAS: Columbia Mall? Okay. How
23 many times did you all go there? Do you remember
24 what stores you went in?

25 ZINAH JENNINGS: We didn't go in the stores.

ZINAH JENNINGS

1 INVESTIGATOR THOMAS: You kind of walked in the
2 hall area a little bit, stay warm maybe?

3 ZINAH JENNINGS: Mm-hmm.

4 INVESTIGATOR THOMAS: Stay out of the cold? Do
5 you remember the last time you were at Columbia Mall
6 with Child was it the early part of December?

7 ZINAH JENNINGS: I don't remember.

8 INVESTIGATOR THOMAS: Last week or so? Last two
9 weeks?

10 ZINAH JENNINGS: Mm-mm.

11 INVESTIGATOR THOMAS: No? When was the last
12 time you seen Amir?

13 ZINAH JENNINGS: In December.

14 INVESTIGATOR THOMAS: What part of December?

15 ZINAH JENNINGS: The early part December.

16 INVESTIGATOR THOMAS: The early part of
17 December? Shortly after you left Atlanta?

18 ZINAH JENNINGS: Mm-hmm.

19 INVESTIGATOR THOMAS: Okay. And was that, I
20 guess, around the 2nd through the 6th or so of
21 December, maybe? Then have -- have any of your
22 family members down here seen him since you left
23 Atlanta? They haven't?

24 ZINAH JENNINGS: Mm-mm.

25 INVESTIGATOR THOMAS: So (INDISTINCT COMMENT)

ZINAH JENNINGS

1 see him this month? Why do you think that's so?

2 ZINAH JENNINGS: Hm?

3 INVESTIGATOR THOMAS: Why do you think that's
4 so?

5 ZINAH JENNINGS: I didn't want them to see him.

6 INVESTIGATOR THOMAS: Why?

7 ZINAH JENNINGS: I'm selfish.

8 INVESTIGATOR THOMAS: Okay. Why are you
9 selfish?

10 ZINAH JENNINGS: Because (INDISTINCT COMMENT).

11 INVESTIGATOR THOMAS: Okay. What about what
12 Child needs and wants? Because you know when you have
13 a child, you can no longer be selfish. You have to
14 consider him too.

15 ZINAH JENNINGS: And I did do that. (INDISTINCT
16 COMMENT) I had to drop him off. I just needed a
17 break.

18 INVESTIGATOR THOMAS: I know.

19 ZINAH JENNINGS: I was with him all day, every
20 day for 18 months.

21 INVESTIGATOR THOMAS: I understand.

22 ZINAH JENNINGS: And I just needed a break.

23 There was nobody helping me. You talk about family.

24 Family wasn't helping me. We didn't even have a
25 place to stay.

ZINAH JENNINGS

1 INVESTIGATOR THOMAS: Mm-hmm. (INDISTINCT
2 COMMENT) Very frustrating.

3 ZINAH JENNINGS: It's not that frustrating.
4 It's just that I didn't want them to see him. They
5 don't do nothing for him.

6 INVESTIGATOR THOMAS: Okay.

7 ZINAH JENNINGS: They wouldn't even buy Pampers
8 for him.

9 INVESTIGATOR THOMAS: So you were getting no
10 help from your family at all?

11 ZINAH JENNINGS: No help at all. I'm supposed
12 to do everything on my own, just like I've been doing
13 since whenever I can remember.

14 INVESTIGATOR THOMAS: So you were getting tired.

15 ZINAH JENNINGS: I just needed a break.

16 INVESTIGATOR THOMAS: I understand. I --

17 ZINAH JENNINGS: I had been taking care of him
18 and doing right by him for 18 months.

19 INVESTIGATOR THOMAS: (INDISTINCT COMMENT)

20 ZINAH JENNINGS: I just needed a break. Nobody
21 would babysit. I don't have friends. I don't have
22 sisters in Columbia. The only family I have is my
23 mother, my mother's sister, and their husbands'
24 family. And they husband family don't even stay in
25 Columbia. They stay in Charleston and wagener.

ZINAH JENNINGS

1 INVESTIGATOR THOMAS: Okay. And that's quite
2 some distance, so you can't get much help from them.
3 I understand. So you needed a break. Eighteen
4 months is a long time to try to handle a little --
5 little man by yourself. Is that right?

6 INVESTIGATOR BAILEY: Yeah.

7 INVESTIGATOR THOMAS: You just needed a little
8 breather?

9 ZINAH JENNINGS: I just needed a break, that's
10 it--

11 INVESTIGATOR THOMAS: Okay. Okay.

12 ZINAH JENNINGS: -- just a couple hours, but
13 they said they would keep him for me, so --

14 INVESTIGATOR THOMAS: Okay. All right. Well,
15 now, let's talk about they. That's a very kind thing
16 for a person to do. They see you stressing. They
17 see your frustrations. They want to help you.
18 You're not getting it from family. All right, so who
19 are they?

20 ZINAH JENNINGS: I can't tell you.

21 INVESTIGATOR THOMAS: You got to tell me,
22 sweetie, and let me tell you why. I don't want you
23 to be in trouble. Look at me.

24 ZINAH JENNINGS: I'm already in trouble.

25 INVESTIGATOR THOMAS: No, look at me. Look at

ZINAH JENNINGS

1 me. Look at me, Zinah.

2 ZINAH JENNINGS: I'm already in trouble --

3 INVESTIGATOR THOMAS: No --

4 ZINAH JENNINGS: -- so I can't get in much more
5 trouble than this.

6 INVESTIGATOR THOMAS: well, you can, and then
7 you can get other people in trouble if there are
8 other people involved. All right? And I don't want
9 other people in trouble.

10 ZINAH JENNINGS: well, I don't trust him with
11 anybody, for anybody else to (INDISTINCT COMMENT)

12 INVESTIGATOR THOMAS: But somebody -- but yet,
13 somebody has taken it upon themselves to help Zinah
14 out. Isn't that right?

15 ZINAH JENNINGS: Who?

16 INVESTIGATOR THOMAS: The person that's supposed
17 to be watching your baby, right?

18 ZINAH JENNINGS: So they're helping me out?

19 INVESTIGATOR THOMAS: If they're watching your
20 baby, they are, right?

21 ZINAH JENNINGS: I don't know what help is.

22 INVESTIGATOR THOMAS: well, if someone is
23 watching your child for you, you needed a break, you
24 don't consider that help? What do you consider that?

25 ZINAH JENNINGS: I don't consider it nothing,

ZINAH JENNINGS

1 just a break.

2 INVESTIGATOR THOMAS: Okay. How long have you
3 been breaking so far?

4 ZINAH JENNINGS: A couple weeks.

5 INVESTIGATOR THOMAS: So you've been on break
6 for a couple weeks? That's pretty good. Have you
7 checked up on him since?

8 ZINAH JENNINGS: No.

9 INVESTIGATOR THOMAS: You have not checked up at
10 all? Have you called your friend --

11 ZINAH JENNINGS: No.

12 INVESTIGATOR THOMAS: -- to see if he's okay, if
13 he needed some Pampers and milk? What have you been
14 doing for these past few weeks?

15 ZINAH JENNINGS: Nothing.

16 INVESTIGATOR THOMAS: Just driving around?

17 ZINAH JENNINGS: No, I've been -- was looking
18 for a job and trying to get into school.

19 INVESTIGATOR THOMAS: Oh, you're trying to get
20 back in school. Where were you trying to get back
21 into?

22 ZINAH JENNINGS: At Benedict.

23 INVESTIGATOR THOMAS: Oh, did you fill out the
24 applications and everything? When did you go there?

25 ZINAH JENNINGS: Whenever I got back from

ZINAH JENNINGS

1 Atlanta.

2 INVESTIGATOR THOMAS: Okay. And how far in that
3 process have you gotten?

4 ZINAH JENNINGS: Not far.

5 INVESTIGATOR THOMAS: Just a basic application?
6 Did you turn it back in or did you just pick it up?

7 ZINAH JENNINGS: I turned it in.

8 INVESTIGATOR THOMAS: Okay. Do you remember
9 when you turned that in?

10 ZINAH JENNINGS: Mm-mm.

11 INVESTIGATOR THOMAS: Now, when you met these
12 people -- I'm sorry, (INDISTINCT COMMENT) -- when you
13 met these people that decided to take care of Child
14 where did you meet them?

15 ZINAH JENNINGS: I've known them a long time.

16 INVESTIGATOR THOMAS: You've known them a long
17 time? Okay. High school or --

18 ZINAH JENNINGS: Mm-hmm.

19 INVESTIGATOR THOMAS: What high school did you
20 go to?

21 ZINAH JENNINGS: Dreher.

22 INVESTIGATOR THOMAS: So you've known them since
23 you've been to Dreher? But you don't consider them
24 friends?

25 ZINAH JENNINGS: Mm, no.

ZINAH JENNINGS

1 INVESTIGATOR BAILEY: Just associates, just
2 people you knew from school?

3 INVESTIGATOR THOMAS: Okay. well, what brought
4 -- brought this conversation of them watching Child
5 for you?

6 ZINAH JENNINGS: I never brang it up. I just
7 took him and dropped him off. They said -- because
8 they have kids there. He can play with them, so.

9 INVESTIGATOR THOMAS: Oh, they're about his age,
10 then?

11 ZINAH JENNINGS: Hm?

12 INVESTIGATOR THOMAS: The kids were about his
13 age?

14 ZINAH JENNINGS: Mm-hmm.

15 INVESTIGATOR THOMAS: Did they know you were
16 coming?

17 ZINAH JENNINGS: Mm-mm.

18 INVESTIGATOR THOMAS: They didn't know you were
19 coming. How long did you stay before dropping him
20 off?

21 ZINAH JENNINGS: Mm, not long.

22 INVESTIGATOR THOMAS: What's not long?

23 ZINAH JENNINGS: Ten, for ten minutes.

24 INVESTIGATOR THOMAS: Did you all converse
25 any?

ZINAH JENNINGS

1 ZINAH JENNINGS: who?

2 INVESTIGATOR THOMAS: You and the people you
3 dropped Child off with.

4 ZINAH JENNINGS: Um, yeah.

5 INVESTIGATOR BAILEY: What was your conversation
6 about?

7 ZINAH JENNINGS: Um, well, I guess they wanted
8 me to come back and get him, but I haven't been back
9 to get him.

10 INVESTIGATOR BAILEY: Mm-hmm.

11 INVESTIGATOR THOMAS: When was the last time you
12 talked to them about that?

13 ZINAH JENNINGS: We -- we haven't talked.

14 INVESTIGATOR THOMAS: You haven't talked at all?

15 INVESTIGATOR BAILEY: Since -- since you left,
16 you haven't spoken?

17 ZINAH JENNINGS: Mm-mm.

18 INVESTIGATOR BAILEY: Okay.

19 INVESTIGATOR THOMAS: Now, let me ask you this:

20 Is the reason that you're telling us you don't want
21 to tell us where he is is because you don't want him
22 back right now, and you still want a break, or what
23 is the reason?

24 ZINAH JENNINGS: I don't know.

25 INVESTIGATOR THOMAS: Did you hurt Child

ZINAH JENNINGS

1 ZINAH JENNINGS: I'd never hurt him.

2 INVESTIGATOR THOMAS: Did ^{Child} frustrate you?
3 would he not stop aggravating you? would he not stop
4 crying? would he not leave you alone? I see you
5 tearing up. Were -- were the --

6 ZINAH JENNINGS: I mean, I miss him, but --

7 INVESTIGATOR THOMAS: Were the struggles of
8 everything going on too much --

9 ZINAH JENNINGS: I really want him back.

10 INVESTIGATOR THOMAS: Were the struggles of
11 everything going on too much, and you just needed to
12 just stop it?

13 ZINAH JENNINGS: No. He was a good baby.

14 INVESTIGATOR THOMAS: He was a good baby? when
15 you say was, why do you say it like that?

16 ZINAH JENNINGS: Because he just turned another
17 way. He started acting up and being bad.

18 INVESTIGATOR THOMAS: Oh. (INDISTINCT COMMENT)
19 Tell me about that.

20 ZINAH JENNINGS: He was always doing stuff and
21 just like it wasn't like him to do.

22 INVESTIGATOR THOMAS: Mm-hmm.

23 INVESTIGATOR BAILEY: Mm-hmm.

24 INVESTIGATOR THOMAS: Did that get very
25 frustrating for you?

ZINAH JENNINGS

1 ZINAH JENNINGS: No, I wasn't frustrated. I had
2 a lot of patience with him.

3 INVESTIGATOR THOMAS: Mm-hmm.

4 INVESTIGATOR BAILEY: What -- what was he doing
5 that was -- that started turning, turning, turning
6 bad? What were the things he was doing?

7 ZINAH JENNINGS: He just, he wouldn't listen.
8 He would run around, run away from me.

9 INVESTIGATOR THOMAS: Yeah.

10 INVESTIGATOR BAILEY: He wasn't, he wasn't
11 following -- when you called his name.

12 What, what else -- what -- what were the other
13 things he was doing that was bothering you?

14 ZINAH JENNINGS: That's it.

15 INVESTIGATOR BAILEY: Where -- around what time
16 -- when did this start occurring? Was it before
17 Thanksgiving or after Thanksgiving?

18 ZINAH JENNINGS: He was about six months.

19 INVESTIGATOR BAILEY: Oh, when he turned six
20 months, you started having problems? All right. Did
21 they continue on? He didn't -- he didn't straighten
22 out?

23 ZINAH JENNINGS: I think he just needed a father
24 figure.

25 INVESTIGATOR THOMAS: Okay. So the subject that

ZINAH JENNINGS

1 you dropped him off to, is he a father figure?

2 ZINAH JENNINGS: Mm-hmm.

3 INVESTIGATOR THOMAS: Do you trust him --

4 ZINAH JENNINGS: Yeah, he have --

5 INVESTIGATOR THOMAS: -- with Child

6 ZINAH JENNINGS: He have -- he have kids his
7 age.

8 INVESTIGATOR THOMAS: Okay. And does he have a
9 female in his life as well, though? Because it's all
10 right to have a father figure, but you're going to
11 need a mother figure too. So does this friend have a
12 female in his life that Child would be attached to,
13 though?

14 ZINAH JENNINGS: Mm-hmm.

15 INVESTIGATOR THOMAS: So it's a male and a
16 female that -- that's tending to your child right now
17 is what you're telling me.

18 ZINAH JENNINGS: Yes.

19 INVESTIGATOR BAILEY: Zinah, do they live local?

20 ZINAH JENNINGS: Mm-hmm.

21 INVESTIGATOR BAILEY: Where do they live?

22 ZINAH JENNINGS: I don't know what the name is.

23 INVESTIGATOR BAILEY: Do you know what the name
24 of the street is?

25 ZINAH JENNINGS: Mm-mm.

ZINAH JENNINGS

1 INVESTIGATOR BAILEY: We can find that out.

2 Who, who is the -- who is it?

3 ZINAH JENNINGS: Who is who?

4 INVESTIGATOR BAILEY: Who is the guy you dropped
5 him --

6 ZINAH JENNINGS: I can't tell you.

7 INVESTIGATOR BAILEY: Why not?

8 ZINAH JENNINGS: Because I don't want to.

9 INVESTIGATOR THOMAS: Well, listen to me, okay?
10 Because what you do by some of the things that you're
11 saying, Zinah, is this. You tie our hands up, quite
12 tightly, actually. All right? Now, understand this.
13 If -- and I'll say when, I won't say if -- when you
14 show us where he is, okay --

15 ZINAH JENNINGS: Mm-hmm.

16 INVESTIGATOR THOMAS: -- and if these
17 individuals say, "Listen, we are have -- we have no
18 problem with him. We'll hold on to him for a while
19 while she gathers herself together," -- look at me --
20 we're going to leave him there. Look at me, Zinah.

21 ZINAH JENNINGS: Mm-hmm.

22 INVESTIGATOR THOMAS: Okay? Now, if they tell
23 us, "Listen, it's been several" -- how many weeks has
24 it been, now?

25 ZINAH JENNINGS: I don't know. Two weeks.

ZINAH JENNINGS

1 INVESTIGATOR THOMAS: About -- about two weeks.
2 "It's been about two weeks. We thought she would be
3 back and had gotten herself together in a week. We
4 can't keep him any longer than another week or two,"
5 then we can make some other decisions, okay? All
6 right, we can look at maybe at DSS holding him for a
7 little while until you get yourself together. You
8 see what I'm saying?

9 So it's not like we're going to have to give him
10 right back to you. You can still have that time to
11 gather yourself. Look at me. I want you to see me
12 when I'm talking to you on this. You can still have
13 that time to gather yourself. Nobody's going to
14 force the child back on you. All right?

15 When a person says they need a break, I
16 understand that. I'm a parent, okay? I'm a parent
17 of two. And there have been many, many times -- and
18 I'm sure Investigator Bailey can quote --

19 INVESTIGATOR BAILEY: (INDISTINCT COMMENT)

20 INVESTIGATOR THOMAS: and say the same -- that
21 we too have needed breaks. You understand? We may
22 go fishing. We may go hunting. We may go watch the
23 game or what have you with the fellows or whatever to
24 get that breather, whatever our hobbies may be to get
25 that little break. You understand?

ZINAH JENNINGS

1 So we are truly, truly understanding that you
2 need a break. You got me? All right? But I cannot
3 let you leave here without checking on the child,
4 making sure he's safe. All right? And we'll deal
5 with you still having a break, all right? I, I got
6 no problem with that.

7 Like I said, if the people that you left him
8 with says, "Hey, we understand. She -- he's good
9 here, sir. He's healthy, and we got plenty of food
10 for him, and he can stay here as long as she needs.
11 We're good," we will sign out. All right? We will
12 make our necessary notation of the health of the
13 child. We'll make sure that everything is good.
14 We'll (INDISTINCT COMMENT) and we will walk. And/or
15 if we think that, okay, it's too much for them, and
16 so forth, then we'll contact DSS, and we'll still
17 find a placement for him until you're ready. Do you
18 understand that, Zinah?

19 So you don't have to feel like you are going to
20 be forced to take the child back and still not have a
21 breather. Do you understand? You will still have
22 that breather. But I have to see the child. That's
23 it. Bailey has to see the child. That's where we
24 are with this. And we'll deal with Zinah still
25 having her time.

ZINAH JENNINGS

1 I got you with that. I'm not going to force you
2 to take your baby back. I'm not going to do that.
3 That's not my job. You found placement for him
4 yourself. You kind of just left him and ran. That's
5 fine. And then, again, if they're cool with it, I'm
6 cool with it. If they're not, then we'll include him
7 in a place where, when you're ready, you can go back,
8 and you can get your child. Are you feeling me? Do
9 you understand where I'm coming from with that?

10 But I want him in a structured environment where
11 I can feel that he's safe, where Investigator Bailey
12 can feel that he's safe, and where you can feel that
13 he's safe for when you're ready. But only when
14 you're ready, all right, so that you can have that
15 time to get yourself together. Maybe get in school,
16 get your head back on track. Is that right? Is that
17 what you want to do?

18 Okay. Let's do that. All right? All right?
19 But we got to go and check up on him. You got to
20 show us where he is so that I can do that, so I can
21 make the necessary arrangements, so that Bailey can
22 make the necessary arrangement, if need be, or leave
23 him exactly where he is. Can we do that? You still
24 don't have to take him back.

25 okay? I'll make that deal with you. I won't

ZINAH JENNINGS

1 force you to take your child back right now. I think
2 that it's best that you don't take him back right now
3 until you get your head together. Look at me because
4 I want you -- I want you to see what I'm saying and
5 believe in what I'm telling you. Do you believe me?
6 Zinah?

7 ZINAH JENNINGS: I hear you.

8 INVESTIGATOR THOMAS: Do you believe me, though?
9 Do you believe that I'm not going to force the child
10 back on you? I'm not. All right, if you say that
11 you need this break, all right, and you're going
12 through this difficult span with nobody helping you,
13 feeling hopeless, not knowing what to do to the point
14 that you drop your kids off with a person you hope is
15 going to care-take for them, that lets me know that
16 you are at a very precious state of mind right now.
17 Okay? All right? And it's deep.

18 And again, I understand. Bailey understands.
19 All right? But our primary concern right now, Zinah,
20 is that baby's health. All right? I want to make
21 sure he's healthy. I want to make sure no harm has
22 come to him. I want to make sure that he knows that
23 Mommy is coming back eventually, all right, and that
24 he is safe. And if I don't think the environment he
25 is in is safe enough for him, I want to place him in

ZINAH JENNINGS

1 a safe environment until Zinah is ready for him.

2 This happens sometimes. You understand me?

3 This is not a rare occasion where a mother has issues
4 with the child, and sometimes it has to go away for a
5 little while so Mom can get her head together. Do
6 you understand this? You are not the first that
7 we've had to deal with with this, okay? That's why I
8 know there are steps that we can take that can give
9 you that break. Because I don't want you to hurt
10 yourself, and I don't want you to hurt your child,
11 right?

12 And you tell me you have not hurt this child.
13 Isn't that correct? Have you done anything to the
14 baby, Zinah? Is the baby healthy? Is he okay?
15 You're not answering me. Is he okay? Is he alive?
16 Then you need to show me where he is at. And I will
17 not force him on you. I promise you that. You don't
18 need him right now. You need to get yourself
19 together, okay? Can we make that agreement?

20 Don't tell me no. Because by telling me no, it
21 makes my mind wonder. Give me a number so I can at
22 least talk to somebody that -- that can tell me he's
23 okay, then. I got to get something. Bailey got to
24 get something.

25 ZINAH JENNINGS: I don't have nothing.

ZINAH JENNINGS

1 INVESTIGATOR THOMAS: I got to get an address.

2 I got to let you show me a house. We got to do
3 something because right now, I'm thinking the baby
4 might be in -- wandering the streets somewhere.
5 Somebody picked him up because you left him at the
6 mall.

7 ZINAH JENNINGS: He could be. He could -- he
8 could be in the street.

9 INVESTIGATOR THOMAS: Did you leave him in the
10 street?

11 ZINAH JENNINGS: He walks out of the house,
12 walking down the street.

13 INVESTIGATOR THOMAS: Did you let him walk off?

14 INVESTIGATOR BAILEY: You didn't leave him in
15 the street?

16 ZINAH JENNINGS: I didn't leave him in the
17 street, but he know how to do it on his own, so --

18 INVESTIGATOR THOMAS: Right, right. And I want
19 to make sure that's not happening. Because I know
20 when you want your baby back, Zinah, you're going to
21 want him back with all the love that a mother would
22 want. Do you understand me? And you're going to
23 want him unharmed. All right? And the only way to
24 assure that that is going to happen is that we place
25 him somewhere where we can assure that that is going

ZINAH JENNINGS

1 to happen. Do you understand me?

2 But when you are ready. And you are damn sure
3 not ready right now. You got to get back in school.
4 You got to get your head together. You got to get a
5 job, all right? You got to build the relationship
6 back with your family if you choose to do so. I got
7 that. But I have to know that this young baby is
8 okay.

9 That is my concern. That is why I am here at
10 1:00 in the morning talking to his mother, all right,
11 to the ends of the earth so that I know that this
12 child is fine because I see him as my own. And if my
13 child is missing, I would want to know that is -- he
14 is in good hands wherever he's at.

15 ZINAH JENNINGS: well, I already told the
16 investigator that he was fine.

17 INVESTIGATOR THOMAS: well, that -- but that --
18 but I explained to you -- and I'm going to be more
19 explicit -- we have -- I see you, and I see that you
20 are fine except that you are emotional. I have to
21 see him and see that he is fine. And then we can
22 pull back. we can do other things if need be, or we
23 can pull absolutely back.

24 But, but I have to lay eyes on him like I'm
25 laying eyes on you, or I cannot rest. I cannot stop.

ZINAH JENNINGS

1 I must continue until I locate him, lay eyes on him,
2 and make sure he's fine. I got to make sure he's not
3 lying in a ditch somewhere. I got to make sure he's
4 not wandering around somewhere. I got to make sure
5 nobody picked him up that is not supposed to have
6 him.

7 Do you understand? That's where we are tonight.
8 We've got to get this done, baby. We've got to find
9 this baby and make sure he's okay, make sure
10 nothing's happened to him. I want to make sure you
11 didn't snap and do something to him as well. I'm not
12 going to lie to you. Because that's on my mind as
13 well. That's why I keep asking the question. Did
14 you snap? Did you hurt your child? Then prove to me
15 that he is alive.

16 ZINAH JENNINGS: I can't.

17 INVESTIGATOR THOMAS: You can. Take me to him
18 so I can see him. Take Bailey to him so we can see
19 him, so that we will know that he's alive. That's my
20 greatest fear, all right? Right here, right now.
21 I'll let you know. I'm putting the cards on the
22 table. I do not want that baby not to be alive. Do
23 you understand me?

24 That's why I got to lay eyes on him. As long as
25 he is living, I am great, Bailey is great, and

ZINAH JENNINGS

1 eventually, when you get your head together, and you
2 are ready to be a mother to that child, you'll be
3 fine with that. But right now, the most important
4 thing is me and Bailey laying eyes on him. We got to
5 do it. You got to help us.

6 Zinah, come on and take a ride with us, and
7 let's go see the baby.

8 ZINAH JENNINGS: I'm not going anywhere.

9 INVESTIGATOR THOMAS: Come take a ride with us,
10 and let's go see your baby.

11 ZINAH JENNINGS: No.

12 INVESTIGATOR THOMAS: Can we see your baby now?

13 ZINAH JENNINGS: Yeah.

14 INVESTIGATOR THOMAS: Give us directions. Is
15 your baby alive, Zinah?

16 ZINAH JENNINGS: Yes.

17 INVESTIGATOR THOMAS: Are you sure?

18 ZINAH JENNINGS: I'm positive.

19 INVESTIGATOR THOMAS: I'm not sure. And it's
20 scaring me. I'm not going to lie to you. I'm
21 telling you that the simplest thing to do is to go
22 see him. And you still don't have to deal with him
23 right now. I'm telling you that we'll either leave
24 him with the people that you left him with for the
25 last two or three weeks, and/or I'll have him placed

ZINAH JENNINGS

1 in DSS custody -- it's called emergency protective
2 custody -- until Zinah is ready as a mother to get
3 him back. And you're still not working with us on
4 locating him.

5 ZINAH JENNINGS: I didn't call you all, so --

6 INVESTIGATOR THOMAS: Well, you didn't call us,
7 but we're here, baby.

8 ZINAH JENNINGS: -- I don't know what else to
9 do.

10 INVESTIGATOR THOMAS: We're here. All right?
11 And what happens if you continue this pace, it makes
12 us believe that you've done something to your child.

13 ZINAH JENNINGS: You all are not going to
14 believe me.

15 INVESTIGATOR THOMAS: I believe you. All right?
16 I believe you. But what will make you believe me
17 more is let's go to your friend's house, and let me
18 see little man. Let me lay eyes on him. Let me
19 shake his hand. Let me hold him for minute so I can
20 say, "Boy -- "

21 ZINAH JENNINGS: I don't want to see him.

22 INVESTIGATOR THOMAS: All right, you don't have
23 to see him. Just point out the house. You can stay
24 in the car. Okay? You don't have to go in. We can
25 park down the block so he won't see Mommy and so you

ZINAH JENNINGS

1 won't get emotional about it, okay? But I need to go
2 to this house. I need to be able to lay eyes on him.
3 I believe you. I want to believe you. I don't even
4 want to lock you up.

5 ZINAH JENNINGS: I don't care about that.

6 INVESTIGATOR THOMAS: Oh, I -- I know that.
7 You've, you've indicated that a number of times. All
8 right? But I care about your child, and I want to
9 lay eyes on him. We can park a block down the
10 street. I'll walk up the street and knock on the
11 door. The minute I lay eyes on him, look in the
12 house, and make an assessment, we'll get up out of
13 there.

14 So you don't have to see him. If that's a
15 concern is that you think it's going to break you
16 down to see your child right now in the state of mind
17 that you're in, fine. We can do that.

18 Can we not, Bailey?

19 INVESTIGATOR BAILEY: Yeah, we can do that. We
20 can make that deal with you.

21 INVESTIGATOR THOMAS: Let's do this, Zinah.
22 Let's park a block down the street. Point that house
23 out. I'll drive up --

24 INVESTIGATOR BAILEY: Mm-hmm.

25 INVESTIGATOR THOMAS: -- and I'll let Bailey sit

ZINAH JENNINGS

1 back.

2 INVESTIGATOR BAILEY: Mm-hmm.

3 INVESTIGATOR THOMAS: I'll knock on the door,
4 introduce myself, check the house out, and if they
5 say they want to hold onto him, I'll leave him there,
6 and then we'll work something out later with DSS.
7 You still do not have to deal with that right now.
8 You've got a lot on your plate.

9 Come work with me. Let's go ride. You ready?

10 INVESTIGATOR BAILEY: Zinah, I know you say
11 you're not ready, but can we go -- can you take us
12 where the spot is, please?

13 Can you please take us to the spot where you
14 left Amir?

15 INVESTIGATOR THOMAS: Why? I'm -- I'm getting
16 scared here, really.

17 ZINAH JENNINGS: Because I don't want to.

18 INVESTIGATOR BAILEY: Are you worried about
19 them, the people who you left him with, getting in
20 trouble?

21 Okay. Are you worried about yourself getting
22 into trouble?

23 Okay, what are you worried about?

24 ZINAH JENNINGS: Nothing.

25 INVESTIGATOR BAILEY: Okay. What's -- what's

ZINAH JENNINGS

1 the problem?

2 ZINAH JENNINGS: I can't do nothing.

3 INVESTIGATOR THOMAS: What do you mean by that?

4 Explain it to me. We're trying to figure out where
5 your head is and where your heart is. So what do you
6 mean when you say, "I can't do nothing"?

7 ZINAH JENNINGS: There's nothing I can do.

8 INVESTIGATOR THOMAS: Is he gone? Why is there
9 nothing you can do, then?

10 ZINAH JENNINGS: I don't know.

11 INVESTIGATOR THOMAS: What do you mean by that?

12 INVESTIGATOR BAILEY: What does that mean?

13 INVESTIGATOR THOMAS: That could mean a lot of
14 things, and it means different things in my head
15 right now. Tell me what that means, Zinah.

16 ZINAH JENNINGS: There's nothing I can do.

17 INVESTIGATOR THOMAS: Such as?

18 ZINAH JENNINGS: I can't get a job. I can't
19 support myself. I used to be so strong and
20 independent, working two jobs, going to school. And
21 now I don't have nothing. I can't do nothing. I'm
22 worthless.

23 INVESTIGATOR THOMAS: No, no you're not.

24 ZINAH JENNINGS: Nobody wants me.

25 INVESTIGATOR THOMAS: No, no, no, you're not

ZINAH JENNINGS

1 worthless, Zinah.

2 ZINAH JENNINGS: There's nobody who wants me --

3 INVESTIGATOR THOMAS: No.

4 ZINAH JENNINGS: -- and nobody cares.

5 INVESTIGATOR THOMAS: Zinah.

6 ZINAH JENNINGS: There's nobody that cares about
7 me other than (INDISTINCT COMMENT) me. There's
8 nothing I can do. That just hurts.

9 INVESTIGATOR THOMAS: I understand.

10 ZINAH JENNINGS: I've had my own place. I've
11 had my own car. I've bought two cars. I don't have
12 nothing. I done supported myself. Didn't nobody do
13 nothing for me. I can bend over backwards working
14 two jobs. I can do it. I just can't get no job.
15 Won't nobody hire me.

16 INVESTIGATOR THOMAS: It'll come, baby. Listen
17 to me.

18 ZINAH JENNINGS: But it's so stressful. It just
19 make me feel so worthless.

20 INVESTIGATOR THOMAS: You're not worthless.

21 It's not -- you don't ever think about that like
22 that, about yourself. You understand me? Okay?

23 Listen to me. I'm going to tell you right now, God
24 loves you. Look at me. I want you to hear me when I
25 say this to you. Look at me, Zinah. Come on, baby.

ZINAH JENNINGS

1 God loves you. Do you hear me? All right? You are
2 a precious temple. Don't ever think that you're
3 worthless. Do you hear me?

4 ZINAH JENNINGS: Well, I am. I can't help it.

5 INVESTIGATOR THOMAS: You are -- you are a
6 precious temple. Don't let anybody tell you
7 differently. I don't care what man has said that you
8 are worthless. I don't care what person has said
9 that. I don't care what you think in your mind about
10 yourself. That is not true. Do not fall into that.
11 Do not believe that. All right? You will get back
12 on your feet. All right? If you've ever worked
13 before, you'll work again. I promise you that,
14 Zinah.

15 ZINAH JENNINGS: It's not going to happen.

16 INVESTIGATOR THOMAS: If you -- it'll happen.
17 If you had cars before, you will have them again
18 because you know what to do, Zinah, to do these
19 things. You were in school. You know what to do to
20 get in school. All right? You know what to do to
21 work. You've had two jobs. Like you said, you've
22 had two cars. Nobody who's been able to do that can
23 ever say to themselves that their worthless.

24 ZINAH JENNINGS: No.

25 INVESTIGATOR THOMAS: Now, do we have a rough

ZINAH JENNINGS

1 road going right now because you're not working?

2 Yes. Do we have a rough road now because you're not
3 in school? I understand that because you were on a
4 path of a certain caliber, and you've fallen a little
5 bit. But all of us fall.

6 INVESTIGATOR BAILEY: Mm-hmm. Right.

7 INVESTIGATOR THOMAS: We all fall short, Zinah.

8 All right? We all fall short. Not a one of us is
9 where we would love to be right now, not myself, not
10 Bailey, not anybody in this building. But we all get
11 up, baby girl. All right? You can get up. I'm
12 going to always get up.

13 You can fight this, all right? You're in a
14 state of depression right now. Do you understand
15 what depression is, Zinah? Do you understand what
16 that means? All right, when a person is depressed,
17 they feel that they're worthless, they feel that the
18 world is against them, they feel that no one is for
19 them, and they feel they have nothing. All right?

20 ZINAH JENNINGS: But I don't. I don't have a
21 dollar in my name.

22 INVESTIGATOR THOMAS: You have --

23 ZINAH JENNINGS: I don't have nothing.

24 INVESTIGATOR THOMAS: Money, money, money is not
25 value.

ZINAH JENNINGS

1 ZINAH JENNINGS: Money is everything.

2 INVESTIGATOR THOMAS: No, no, no, life is
3 everything. Life, Zinah, is everything. The reason
4 you are here right now, Zinah, is not because of
5 money. It's not because of cars. It's --

6 ZINAH JENNINGS: It's because of my mama.

7 INVESTIGATOR THOMAS: No, it's because --

8 ZINAH JENNINGS: I didn't ask to be here. I
9 never asked to be here.

10 INVESTIGATOR THOMAS: -- it's because of your
11 baby.

12 ZINAH JENNINGS: I didn't never ask to be here.

13 INVESTIGATOR THOMAS: It's life.

14 ZINAH JENNINGS: I don't want to be here.

15 INVESTIGATOR THOMAS: It's life.

16 ZINAH JENNINGS: And she's going to have a baby,
17 and she's so old, and my daddy was old. I don't even
18 know who my daddy is. I ain't never had no man in my
19 life.

20 INVESTIGATOR THOMAS: Zinah, that still doesn't
21 make you --

22 ZINAH JENNINGS: And everything is my fault.

23 INVESTIGATOR THOMAS: -- worthless. It's not
24 your fault.

25 ZINAH JENNINGS: Everything is my fault.

ZINAH JENNINGS

1 INVESTIGATOR THOMAS: No.

2 ZINAH JENNINGS: Fingers always pointing at me.
3 Oh, you didn't do this right. You didn't do that
4 right. I'm not proud of you. You -- you still need
5 to do this, this, this, this, this, that and the
6 third, giving me (INDISTINCT COMMENT) this and this
7 to do. And when it's all done, said and done, and
8 everything is this and this, it's still not enough.

9 INVESTIGATOR THOMAS: I can understand your
10 pressures. Parents pressure. I pressure my
11 children, and I'm certain --

12 ZINAH JENNINGS: I doubt it's not as bad
13 pressure as I've been under.

14 INVESTIGATOR THOMAS: -- I'm certain. I do.
15 Oh, I do. I'm the police, so --

16 ZINAH JENNINGS: I doubt it.

17 INVESTIGATOR THOMAS: -- we magnify a bit; I can
18 tell you.

19 ZINAH JENNINGS: I doubt it.

20 INVESTIGATOR THOMAS: All right? And it
21 happens.

22 ZINAH JENNINGS: I can make all A's, and don't
23 get nothing.

24 INVESTIGATOR THOMAS: And I --

25 ZINAH JENNINGS: I can graduate from high

ZINAH JENNINGS

1 school, and it's nothing. It don't mean nothing.

2 INVESTIGATOR THOMAS: No.

3 ZINAH JENNINGS: It's worthless.

4 INVESTIGATOR THOMAS: It means a lot.

5 ZINAH JENNINGS: A, a high school diploma ain't
6 nothing.

7 INVESTIGATOR THOMAS: It means a lot. Going to
8 -- going to school, going to college, going to work
9 means a lot.

10 ZINAH JENNINGS: It's not worth -- it's does not
11 mean nothing.

12 INVESTIGATOR THOMAS: It does.

13 ZINAH JENNINGS: It's nothing.

14 INVESTIGATOR THOMAS: And understand this.

15 ZINAH JENNINGS: It don't mean that to her.

16 INVESTIGATOR THOMAS: Listen, listen, listen to
17 me, though.

18 ZINAH JENNINGS: I can't make her happy.

19 INVESTIGATOR THOMAS: At a certain point, Zinah,
20 guess what? All right, you got to start trying to do
21 stuff for Zinah, all right, success.

22 ZINAH JENNINGS: Well --

23 INVESTIGATOR THOMAS: And sometimes, your mama
24 might not be happy, all right?

25 ZINAH JENNINGS: That's all I try to do is make

ZINAH JENNINGS

1 her happy, and she ain't never going to be happy.

2 INVESTIGATOR THOMAS: She -- well, that's not --

3 ZINAH JENNINGS: And I always try. Whatever I
4 can do to help her, I do it. Brush her hair, rub her
5 feet, clean her house, mop, vacuum, get on my hands
6 and knees, clean out the whole house, refrigerator,
7 from the back door to the front door, from the
8 upstairs to the downstairs, mop, sweep, everything.
9 She don't care. It's no, it's no, "Oh, you didn't
10 have to do that," or, "Oh, what are you doing today?"

11 "Oh, I'm cleaning your house today." "Oh, I'm
12 washing your car today." "Oh, I'm going to do your
13 hair today." It's all about her.

14 INVESTIGATOR THOMAS: Well, sometimes, sometimes
15 parents don't --

16 ZINAH JENNINGS: She wasn't even watching my
17 baby for me. I had to go get somebody else to watch
18 him. Why can't his own grandmother watch him?

19 INVESTIGATOR THOMAS: I know that's frustrating
20 for you, isn't it?

21 ZINAH JENNINGS: It's very frustrating. It's
22 not -- it's not just me frustrated.

23 INVESTIGATOR THOMAS: Mm-hmm.

24 ZINAH JENNINGS: He is frustrated too. Nobody
25 wants to go from bouncing back and forth from this

ZINAH JENNINGS

1 place to that place and don't have nowhere to go. I
2 can't provide for him. I'm not working. And how can
3 I work if -- if there's nobody to watch him? I don't
4 have close sisters and brothers here to watch him or
5 uncles, aunts and uncles.

6 INVESTIGATOR THOMAS: I understand. Get it off
7 your chest. I want, want to hear this.

8 ZINAH JENNINGS: Well, I'm finished.

9 INVESTIGATOR THOMAS: No, no, no, no. Please
10 continue.

11 ZINAH JENNINGS: I'm finished.

12 INVESTIGATOR THOMAS: Please continue.

13 ZINAH JENNINGS: I just can't believe that for
14 somebody to have seen me and the baby, to call like
15 she ain't even seen us.

16 INVESTIGATOR THOMAS: She's worried about you.

17 (INDISTINCT COMMENT)

18 ZINAH JENNINGS: She needs help.

19 INVESTIGATOR THOMAS: I wanted to let you know
20 this --

21 ZINAH JENNINGS: But all eyes on me, so --

22 INVESTIGATOR THOMAS: I want to let you know
23 this right now.

24 ZINAH JENNINGS: -- hey, I don't even care.

25 INVESTIGATOR THOMAS: I spoke with her today.

ZINAH JENNINGS

1 ZINAH JENNINGS: I don't even care. I don't
2 want to know --

3 INVESTIGATOR THOMAS: No, no --

4 ZINAH JENNINGS: about your conversation with
5 her. I don't want to talk to her, and I don't want
6 to see her.

7 INVESTIGATOR THOMAS: I understand this --

8 ZINAH JENNINGS: I don't care what you all was
9 talking about because she talked to everybody but me.

10 INVESTIGATOR THOMAS: I understand that there is
11 obviously some issues between you and your mother.

12 ZINAH JENNINGS: I don't have nothing to do with
13 it.

14 INVESTIGATOR THOMAS: All right? But the reason
15 we're here now --

16 ZINAH JENNINGS: I know why I'm here.

17 INVESTIGATOR THOMAS: -- is because of your son.

18 ZINAH JENNINGS: I know why I'm here.

19 INVESTIGATOR THOMAS: It's because of your son.

20 ZINAH JENNINGS: And I don't care what she had
21 to say about it, because she didn't do shit for me,
22 and she didn't do nothing for him.

23 INVESTIGATOR THOMAS: Well, let's not worry
24 about her. Let's worry about your son.

25 ZINAH JENNINGS: Well, that's where I got idea

ZINAH JENNINGS

1 of my own, (INDISTINCT COMMENT) on my own. If I want
2 something, I have to go get it. Ain't no go to Mama,
3 ask her, "Can I get an allowance? All this work I'm
4 doing around the house, can I at least get an
5 allowance?"

6 "No."

7 "Well, can I get something for my grades?"

8 "No."

9 "Well, what, what can I get?"

10 "Oh, um, I don't have no money."

11 "Well, I want to get some shoes."

12 "Ah, I can't get you those shoes, but I'll find
13 something for you."

14 So what do I do? Go get a job, and get what I
15 want to get on my own.

16 INVESTIGATOR THOMAS: Okay. I understand. I --
17 you know, I had to do that myself.

18 ZINAH JENNINGS: And I don't -- I didn't never
19 had no daddy to just call and, "Daddy, I want
20 something that --" I don't even know how to talk to a
21 man because I ain't never had a daddy.

22 INVESTIGATOR THOMAS: I understand. I
23 understand. It's frustrating. Now, do you hear what
24 you're saying to me, right?

25 ZINAH JENNINGS: I'm saying I'm not going

ZINAH JENNINGS

1 nowhere.

2 INVESTIGATOR THOMAS: All right, do you hear
3 what you're saying to me? My question to you is do
4 you want the same issues for your son?

5 ZINAH JENNINGS: No.

6 INVESTIGATOR THOMAS: Okay. Great. That's the
7 answer I want to hear. All right? That's the answer
8 I want to hear. Because let me tell you this right
9 now, all right? The way I came up, all right, is
10 very hard in some people's eyes. I have some very
11 strict parents. I can really, really assimilate and
12 associate to what you're talking about. All right?
13 I'm certain that the discipline that you received is
14 not the discipline I received, because I'm older than
15 you. So the discipline techniques used in my day
16 were broomsticks, drop cords, shoes, and other
17 objects that were close by.

18 ZINAH JENNINGS: You had people that love you --

19 INVESTIGATOR THOMAS: Well --

20 ZINAH JENNINGS: -- and people that care about
21 you.

22 INVESTIGATOR THOMAS: Well, it didn't seem like
23 that to me when it was happening, though. You feel
24 me? All right? It didn't seem like that to me when
25 it was happening. Now that I'm an adult, I'm grown,

ZINAH JENNINGS

1 I'm doing my own --

2 ZINAH JENNINGS: I wish somebody would love me
3 like that.

4 INVESTIGATOR THOMAS: Well, it sounds like there
5 is some there. It just sounds like there are some
6 other issues in the house. But, you know, she didn't
7 say, "I'm not going to get it." She just said, "I'm
8 might have to get something else." She said she
9 doesn't have the money.

10 And coming from a very -- I -- now that I'm
11 older and I'm making real money, coming from a poorer
12 family than most of my friends, there was a lot of
13 what you're talking about that I got. I couldn't get
14 the latest Nikes or Converse or whatever the latest
15 shoe was. It was whatever Payless had that looked
16 like it, all right? It was whatever Kmart had that
17 was similar to whatever was in the latest stores that
18 was out there.

19 You have to understand that some, sometimes,
20 particularly a single parent -- I actually had both
21 of mine, but particularly with a single parent, there
22 are restrictions when it comes to finances.

23 Now, I say all that to say this. Now that I
24 have children of my own -- and look at me with this
25 one -- my goal -- and this should be your goal --

ZINAH JENNINGS

1 anything that that I felt that I would like coming up
2 from my parents, I want to ensure that my children do
3 not lack in that. You understand me? Look at me.

4 That is your goal, Zinah. No matter what your
5 struggles. All right? That is your goal is to do
6 what you have to do to ensure that (INDISTINCT
7 COMMENT) does not suffer or feel the way that you
8 felt coming up. No matter how you felt or what have
9 you, you are here. You are alive. God has blessed
10 you, all right? You are an attractive young lady,
11 okay? You are obviously intelligent because you've
12 been in college. You graduated from high school.
13 You've been in college. You are quite articulate.
14 And you can definitely assert yourself to what you
15 mean and what you want to say --

16 ZINAH JENNINGS: Nobody helped me.

17 INVESTIGATOR THOMAS: -- so there are so many
18 qualities there, and I've only known you for 20
19 minutes now.

20 So the stuff that you tell me about your
21 worthlessness, I do not believe and I will not
22 accept, because it's not true. I will not accept
23 that. I also will not accept that you are going to
24 leave your child and not come back for it or leave
25 your child in a place where we cannot locate him. I

ZINAH JENNINGS

1 will not accept that either because I know that's not
2 what you want for your child because that's not what
3 you want for yourself.

4 That's why we're here. I want you to do better
5 by your child than you felt your mother did for you.
6 Wouldn't you want to do that?

7 ZINAH JENNINGS: That's what I've been doing.

8 INVESTIGATOR THOMAS: Is that not the game plan?

9 ZINAH JENNINGS: That's what I've been doing.

10 INVESTIGATOR THOMAS: Is that the game plan?

11 All right. Let's go, and let's get this done, then.
12 Because what you're doing right now is not better for
13 your child. All right? I get that you need a break.
14 I get that even when we go get him, you're going to
15 have a break. I want you to have it. I'm going to
16 check up on you to make sure.

17 I will try to find you -- look at me -- I will
18 try to find you a job. Look at me, Zinah. Look at
19 me. I am so serious. I will try to get you work if
20 that's what you want so you can get your child back,
21 so you can get on track.

22 But what we need to do here now is I need to see
23 that baby. We need to go get him. We need to go see
24 him. And you don't have to be in sight. I don't
25 care about that. I've got to lay eyes on him. All

ZINAH JENNINGS

1 right?

2 And we'll get you some help. We'll get you --
3 I'll try to find you a job. I -- now, it might be
4 McDonald's. It might be Burger King. It might be
5 Kmart.

6 ZINAH JENNINGS: They won't hire me.

7 INVESTIGATOR THOMAS: Huh?

8 ZINAH JENNINGS: They won't hire me.

9 INVESTIGATOR THOMAS: Why?

10 ZINAH JENNINGS: I'm overqualified.

11 INVESTIGATOR THOMAS: They'll hire you. I got -

12 -

13 ZINAH JENNINGS: If you know somebody.

14 INVESTIGATOR THOMAS: -- I got some friends.

15 ZINAH JENNINGS: Yeah, if you know somebody
16 there.

17 INVESTIGATOR THOMAS: I got some friends. As
18 long as you tell me, "Mr. Thomas, I'll work as hard
19 as I can, because I'll appreciate this job that
20 you're getting me. I'll show them that I can do
21 this," I will speak up for you. Do you hear me?

22 I do not ever want to hear a person tell me that
23 they're worthless. I will prove to you differently
24 if you allow me.

25 ZINAH JENNINGS: I can't do nothing.

ZINAH JENNINGS

1 INVESTIGATOR THOMAS: You can do whatever you
2 set your mind to.

3 INVESTIGATOR BAILEY: Mm-hmm. Mm-hmm.

4 INVESTIGATOR THOMAS: You just got to believe,
5 Zinah. You got to believe in things higher than
6 yourself. Now, if you don't believe in Allah, you
7 don't believe in God, believe in something higher
8 than yourself, all right, whatever your religion
9 might be. Have you ever been to church? You have
10 never been to church ever?

11 ZINAH JENNINGS: Mm-mm.

12 INVESTIGATOR THOMAS: Not even as a little
13 child? Have you ever been told to pray? Has your
14 grandma -- I know your grandma has told you to pray.

15 ZINAH JENNINGS: And my mother did.

16 INVESTIGATOR THOMAS: Your mom told you to pray?
17 There's a lot in prayer. Do you understand me? It
18 takes time, but they get answered. You've got to
19 believe in something higher than yourself sometime to
20 find yourself. And I believe in something higher
21 than myself. And when I'm feeling down, when I'm
22 feeling like too much is on my shoulders, I pray.

23 And I don't just pray for myself. I pray for
24 other people. I'm going to pray for you tonight when
25 we leave. I'm going to pray for your child. I've

ZINAH JENNINGS

1 already prayed. I prayed before I got here. Look at
2 me. Zinah? Look at me. I prayed before I got here,
3 all right? I prayed to God that he would touch your
4 heart and allow you to show us where this baby is.

5 And I believe he is going to do that. I believe
6 he is going to touch your heart. And we're going to
7 ride out, and we're going to see Amad (sic), and if I
8 have to take him and put him in DSS, God will guide
9 our hand in that, or if we leave him there, he will
10 guide our hand in that. I have that strong a belief
11 that if that baby is living and healthy that that
12 will be done.

13 Now, my problem is I am unsure because of your
14 reactions if he's living and healthy. And that
15 scares me. But you tell me that he is. Is that
16 right? Is that correct? You're not answering. Is
17 that baby healthy, Zinah? Or has some harm come to
18 him? Because that's my greatest fear right now.

19 You're not going to answer that? Or are you
20 praying right now?

21 what do you think we should do right now, Zinah?

22 ZINAH JENNINGS: Lock me up.

23 INVESTIGATOR THOMAS: why? what if I don't want
24 to lock you up?

25 ZINAH JENNINGS: I don't have nowhere to go.

ZINAH JENNINGS

1 INVESTIGATOR THOMAS: Is that why you want to
2 get locked up, to give you somewhere to go?

3 INVESTIGATOR BAILEY: Is that why you called and
4 walked down here today -- tonight?

5 INVESTIGATOR THOMAS: Because you don't have
6 anywhere else?

7 INVESTIGATOR BAILEY: I think there were -- I
8 think it was a little bit more than that, Zinah.

9 (INDISTINCT COMMENT) I think you came down here
10 because you wanted to speak with me to let me know
11 that the information you'd given me the other day
12 wasn't entirely accurate, and you wished you had gone
13 to meet me at 3:00 the other day. Is that right?

14 Did you forget to meet with me, or you just
15 decided not to? Because remember, you did promise,
16 and I believed you, that you would be there. I
17 believed that you were going to meet me there. And I
18 did wait. And I waited until about 7:00 that night,
19 waited for you to come by.

20 You still have my card? Where's it at?

21 ZINAH JENNINGS: Mm, I don't know.

22 INVESTIGATOR BAILEY: Okay, so --

23 ZINAH JENNINGS: I would have called you, but I
24 didn't have no phone.

25 INVESTIGATOR BAILEY: You didn't have a phone?

ZINAH JENNINGS

1 Did you know what the address was? Did you intend on
2 going, or you didn't want to meet with me?

3 ZINAH JENNINGS: I did, but I (INDISTINCT
4 COMMENT).

5 INVESTIGATOR BAILEY: How much time do you think
6 I spent trying to track down this person who you
7 claimed you left the child with? Hm? How much time
8 do you think other members of my squad spent trying
9 to track down this person, trying to figure out --
10 find out where he's at?

11 Zinah, I told you the other night, Sergeant
12 Thomas and I, we work with the Special Victims Unit.
13 Do you know what types of crimes we investigate? Did
14 I tell you? Do you know that I put all that on hold
15 because now my mission is to locate ^{Child} So other
16 missing person cases, other assaults, domestic
17 violence cases have been put on hold because this is
18 my number one mission, to locate ^{Child} and -- and
19 that will continue. That will continue, hopefully
20 not much longer than tonight, but if need be will
21 continue this weekend, next week, the week after.
22 This may go on months or years. We will continue to
23 search and try to locate Amir. And we will log a lot
24 of hours, man-hours, and there will be other people
25 working with me, other agencies.

ZINAH JENNINGS

1 You know, I've already reached out to the
2 Atlanta police, and my plan tomorrow is to reach out
3 to the police department in Charlotte-Mecklenburg and
4 get with their missing person division to speak with
5 them and ask for their assistance going forward.
6 We've been in contact with SLED today, and we've
7 asked for their assistance regarding this particular
8 situation.

9 when you walked in tonight at the precinct,
10 those officers behind the glass, they knew who you
11 were. Everyone in the police department knows who
12 you are. It's gotten, it's gotten -- it's not a
13 minor thing. This is big. This is very big. We
14 would like to, we would like to -- it's big now.
15 After a few words from you, though, it could be -- go
16 back to being a minor situation for us. But right
17 now, it's pretty big.

18 Obviously, I don't normally work during the day,
19 but I came out from my house to meet with you a
20 couple days ago, and I've done it again tonight, away
21 from my family. But I'm willing to spend all night,
22 if need be, here talking with you to try to figure
23 out ^{Child} and his location, to try to determine what's
24 occurred.

25 (INDISTINCT AUDIO)

ZINAH JENNINGS

1 (DOOR OPENS AND CLOSES)

2 INVESTIGATOR BAILEY: And now that he's left,
3 let me let you know this. I'm not -- what you're
4 telling me about your mom, I'm not surprised one bit,
5 okay? You know, I've spent -- did she tell you that
6 we've spoken on the phone a few times? And I spent
7 some time with her today. I know exactly what you're
8 talking about, okay?

9 Don't think that we're taking anyone's side. We
10 certainly are not. It would be fine with me if,
11 going forward in this particular situation, I don't
12 speak to her or, if you wanted, you again. That's
13 just fine if you don't want to talk again. In fact,
14 we're not even obligated to tell your mother what's
15 going on with you. Sh -- she doesn't know there's a
16 warrant for your arrest. She doesn't have a right to
17 all that information, okay?

18 She doesn't have a right to know where we go and
19 pick up Amir, who you left Amir with. She doesn't
20 have a right to know that, okay? And I'm not going
21 to mention her again.

22 Now, I do know this, that I did speak with your
23 -- Ms. Denise. That's your stepsister, right?

24 ZINAH JENNINGS: My half-sister.

25 INVESTIGATOR BAILEY: Oh, I'm sorry. How are

ZINAH JENNINGS

1 you related to her?

2 ZINAH JENNINGS: We have the same daddy.

3 INVESTIGATOR BAILEY: Is she a nice person? Do
4 you get along with her?

5 ZINAH JENNINGS: Mm-hmm.

6 INVESTIGATOR BAILEY: I spoke to her multiple
7 times on the phone the last couple days. I don't
8 know if she told you.

9 ZINAH JENNINGS: Mm-mm, but I just talked to her
10 yesterday.

11 INVESTIGATOR BAILEY: What did she tell you?

12 ZINAH JENNINGS: She said she was going to send
13 me some money.

14 INVESTIGATOR BAILEY: Okay. Did she?

15 ZINAH JENNINGS: I don't know.

16 INVESTIGATOR BAILEY: Oh. How -- how was she
17 going to send the money? Through mail or Western
18 Union?

19 ZINAH JENNINGS: She said she was going to go
20 online and send it.

21 INVESTIGATOR BAILEY: Oh. She was -- was she
22 helping you out when you were living in, in Atlanta?

23 ZINAH JENNINGS: I was living with her.

24 INVESTIGATOR BAILEY: Yes, ma'am. Southwest
25 side?

ZINAH JENNINGS

1 ZINAH JENNINGS: Southwest?

2 INVESTIGATOR BAILEY: Of Atlanta. What part of
3 Atlanta were you staying in?

4 ZINAH JENNINGS: Um, Decatur.

5 INVESTIGATOR BAILEY: Okay. Are you sure, or
6 you're just not completely sure where you were at?

7 ZINAH JENNINGS: I don't remember.

8 INVESTIGATOR BAILEY: Okay.

9 Well, she seemed like a very nice lady. It was
10 good to talk with her. And I spoke to (INDISTINCT
11 COMMENT).

12 Your cousin in Charlotte, do you get along with
13 her? It's not your cousin. It's your mom -- what is
14 that -- your mom's cousin?

15 ZINAH JENNINGS: Mm-hmm.

16 INVESTIGATOR BAILEY: You get along with her?
17 No? Okay. All right.

18 If you don't mind me asking, why did you leave
19 Atlanta?

20 ZINAH JENNINGS: Because my mother came.

21 INVESTIGATOR BAILEY: And did what? Ruined
22 things, or --

23 ZINAH JENNINGS: She came, and she tried to take
24 my son. And I told her that I wasn't going to let
25 him go with her --

ZINAH JENNINGS

1 INVESTIGATOR BAILEY: Mm-hmm.

2 ZINAH JENNINGS: -- because she just came out of
3 the blue.

4 INVESTIGATOR BAILEY: Mm-hmm.

5 ZINAH JENNINGS: That -- I mean, I didn't want
6 her to take him.

7 INVESTIGATOR BAILEY: And you hadn't mentioned
8 it tonight, but is that one of your worries, that
9 your mom will take Amir?

10 ZINAH JENNINGS: Well, I just -- I don't agree -
11 - we don't agree a lot. And the other thing was she
12 has friends he could stay with, and --

13 INVESTIGATOR BAILEY: Mm-hmm.

14 ZINAH JENNINGS: I just want him to be put, stay
15 put. I don't want him --

16 INVESTIGATOR BAILEY: Right.

17 ZINAH JENNINGS: -- going all over the place --

18 INVESTIGATOR BAILEY: And you don't --

19 ZINAH JENNINGS: -- just because she has to
20 work, and she has her side job, and she has this and
21 that to do, and she has parties and all of that.

22 INVESTIGATOR BAILEY: Mm-hmm.

23 I'm thinking you'd rather ^{Child} be staying
24 somewhere that's completely isolated from your mom.

25 ZINAH JENNINGS: Well, when she came to Atlanta,

ZINAH JENNINGS

1 her and my sister were trying to do something. I
2 don't know what they were trying to do.

3 INVESTIGATOR BAILEY: Mm-hmm.

4 ZINAH JENNINGS: But I ended up leaving that
5 night.

6 INVESTIGATOR BAILEY: Do you understand what I'm
7 saying, though, that we're not going to, we're not
8 going to stop tonight? We're going to continue to
9 search for him? I don't know if you care or -- care
10 about what we do or care about the time we spend.
11 But I'm ignoring other -- other cases, other people's
12 issues, other people reporting crimes.

13 And you know we're stretched thin here in
14 Columbia. We're stretched real thin. But this is
15 it. This is my number one concern, and it's Sergeant
16 Thomas's number one concern. And the last couple
17 days, it has been -- multiple other investigators
18 have been involved. And now we've gotten other
19 agencies involved. So we're not going to, we're not
20 going to stop.

21 Do you need some water?

22 What is your fear?

23 ZINAH JENNINGS: I don't have no fear.

24 INVESTIGATOR BAILEY: What -- what is your fear
25 about telling us what to do, how to find him?

ZINAH JENNINGS

1 ZINAH JENNINGS: I don't want you all to know.

2 Like I said, I didn't call you all.

3 INVESTIGATOR BAILEY: But Zinah, it's a bit odd
4 that you haven't, you haven't been in touch with
5 whoever has him for several weeks. You would concede
6 that, right?

7 Did they tell you what your charge is? Do you
8 want to know?

9 (DOOR OPENS AND CLOSES)

10 INVESTIGATOR BAILEY: She doesn't want to know
11 what her charge is.

12 INVESTIGATOR THOMAS: Zinah.

13 ZINAH JENNINGS: Hmm?

14 INVESTIGATOR BAILEY: That's -- that -- why
15 don't you want to know what your charge is?

16 ZINAH JENNINGS: I don't care what it is.

17 INVESTIGATOR THOMAS: She just wants a break.
18 She wants -- she wants to rest, right? Is that
19 right? I just -- and I want you to know this because
20 I want you to understand how serious this is about to
21 become.

22 I heard my captain there. He on a murder. And
23 a murder is one of the heaviest balls that we have in
24 investigations. And some dude just got shot in the
25 Olive Gardens parking lot, okay? So everybody is

ZINAH JENNINGS

1 here. All my (INDISTINCT COMMENT) are here. I just
2 so happened to hear the voices of them, and that's
3 why I stepped out for a minute.

4 Now, I explained to them what we have. I said
5 we have a lovely young lady in here who is just very
6 frustrated with things that are going on in her life
7 right now. She has apparently dropped her child off
8 with associates just to get a breather.

9 And I'm in here with Investigator Bailey, and
10 we're just trying to convince her to cooperate with
11 us so we can lay hands on the child, see the child,
12 and possibly take the child to DSS if need be, or
13 even leave him with the people if need be.

14 Okay? My concern is that the child's well-being
15 is -- that his best interest, and that no real harm
16 has come to the child.

17 Now, let me tell you what happened with their
18 eyes. Their eyes lit up about this big, all of them,
19 captain, lieutenant, lieutenant, and the "oh, shit"
20 factor kicked in. They were like, "Thomas, we got to
21 lay eyes on that baby. We got to get that baby."
22 All right?

23 Now, what they want to do if you continue at
24 this rate is they want to put a picture of your baby
25 on the news, nationally, all right? Broadcasting,

ZINAH JENNINGS

1 "Have you seen this child? If you have this child,
2 you need to come to the Columbia Police Department or
3 face charges for being in the possession of this
4 child. This child is missing."

5 You have -- have you ever heard of an Amber
6 Alert? All right, an Amber Alert is where a child
7 has been abducted, taken, or kept, and we are in
8 pursuit of locating that child. That goes
9 nationally. My captain is saying, "I want to even
10 look at that. I even want to look into an Amber
11 Alert if necessary so that we locate this child. I
12 want to go nationally, and I want you in here 8:00,
13 8:30 in the morning so we can get started on it."

14 Now, I'll tell you the truth. I have no
15 problems, I'm certain Bailey has no problems with all
16 of that. But I don't think we need to do that,
17 Zinah. Look at me. Tell me we don't need to do
18 that. Tell me I don't need to get another 20
19 investigators out, I don't need to get CNN, NBC, ABC,
20 all these other TV channels broadcasting your baby
21 across the TV, along with your photo, saying, "The
22 mother dropped this child off to an unknown location.
23 If you have this child, turn the child in."

24 Do we have to do that? Don't make us do that.
25 I don't think we have to do that. I think we can

ZINAH JENNINGS

1 handle this tonight. We can get it done tonight. I
2 just need to see the child. I don't want to involve
3 anybody else. I definitely don't want to arrest
4 anybody else. I don't even want to arrest you,
5 really. I want to make sure that baby is healthy and
6 alive. Can we do that tonight? Can we go and make
7 sure?

8 Because I don't want to put this baby on CNN. I
9 don't want to put you on CNN. I don't want to put
10 your name out there like that. I don't want to put
11 you on ABC, CBS, whatever the damned channels are. I
12 don't want to put you on an Amber Alert and your baby
13 on an Amber Alert when I know you know where he is.
14 That should not be necessary.

15 You are the mother. If anybody should give a
16 damn about not doing that, it would be the mother.
17 If anybody should care about let these officers see
18 my child and see that I did nothing to my child so
19 that I don't embarrass myself and my family or
20 anything like that, or put my baby out there like
21 that -- because I'm going to have to go get pictures
22 of your baby and put a number of pictures up there so
23 whoever has the child know, Oh, shit, we need to
24 bring the baby in.

25 Let's not do that. I don't believe that's

ZINAH JENNINGS

1 necessary. Can we get past that? Zinah, can we get
2 past that, baby girl? Let's get past that. Let's
3 go. Like I said, you don't have to go to the door.
4 You don't have to even be seen. But I have to see
5 the baby.

6 Let's go take a ride. Come on. Don't make me
7 go through all this. Don't make me put that baby on
8 the TV like that when I know I don't have to, when
9 I'm looking at the person, the one person, or the one
10 of a few people who could tell me exactly where that
11 baby is.

12 ZINAH JENNINGS: Why don't you ask my mother?

13 INVESTIGATOR THOMAS: Your mom doesn't know.

14 ZINAH JENNINGS: She do.

15 INVESTIGATOR THOMAS: Your mom doesn't know.

16 I'm asking you. You are the mother. If your mom
17 know, you tell me, then I'll check with her too.

18 ZINAH JENNINGS: Yeah, you need to ask her.

19 INVESTIGATOR THOMAS: I'm asking you, Zinah.

20 You're the one saying you dropped off. Your mom
21 didn't say she dropped off. You're saying you
22 dropped him off. So where is he?

23 Let's go. I'm ready to go. I want to see this
24 baby. I do not want to put an Amber Alert out. I
25 don't think I need to. I do not want to plaster that

ZINAH JENNINGS

1 baby all over the TV. I don't believe I need to do
2 that. I don't think it's necessary, not when I'm
3 talking to the one person who, this whole interview,
4 has said, "I know where my baby is. I know where
5 he's at."

6 So to me it doesn't make sense to put SLED, FBI,
7 county, Lexington County, or whatever other branches
8 of law enforcement that deal with missing persons or
9 go nationally with an Amber Alert when I'm looking at
10 the person who supposedly loves her child, is just a
11 little frustrated with her child, but knows where the
12 child is. That does not make sense to me.

13 You understand where I'm coming from with that?
14 Zinah? Do you understand where I'm coming from with
15 that, baby girl? Can we now go and let me lay eyes
16 on the baby? And we'll deal with whatever we got to
17 deal with you and anything else later. But I want to
18 see this child. That is the most important thing
19 right now.

20 And, in fact, it would actually supersede this
21 murder because this guy who got killed is a grown-ass
22 man. People are more concerned with babies than they
23 are grown people who do bad things and make mistakes.
24 So it will supersede him. And that's a murder.

25 Can we go and take this ride, Zinah? Let's not

ZINAH JENNINGS

1 do this Amber Alert. Let's not get all over the
2 television. That's not necessary. I know it's not
3 necessary because you hold the answer right here,
4 right now.

5 INVESTIGATOR BAILEY: I know that's not what you
6 want.

7 INVESTIGATOR THOMAS: I'm going to put your
8 cuffs in front of you so we can get ready to ride.
9 You ready?

10 (INDISTINCT AUDIO)

11 INVESTIGATOR THOMAS: You got your handcuffs?

12 INVESTIGATOR BAILEY: (INDISTINCT COMMENT)

13 INVESTIGATOR THOMAS: You ready to go?

14 (INDISTINCT COMMENT)

15 (INDISTINCT AUDIO)

16 INVESTIGATOR THOMAS: Zinah? I'm showing you,
17 by doing this --

18 INVESTIGATOR BAILEY: A little bit of courtesy.
19 All right?

20 INVESTIGATOR THOMAS: -- that --

21 INVESTIGATOR BAILEY: Now, Zinah --

22 INVESTIGATOR THOMAS: -- it's not about locking
23 Zinah up.

24 INVESTIGATOR BAILEY: That's right.

25 INVESTIGATOR THOMAS: All right? I'm putting

ZINAH JENNINGS

1 them so you're comfortable.

2 INVESTIGATOR BAILEY: Trust me, I would -- we
3 don't enjoy putting anyone in jail. We definitely
4 would not enjoy putting you in jail. Let's -- let's
5 go and take a standup. Let's take a ride --

6 INVESTIGATOR THOMAS: Come on with us.

7 INVESTIGATOR BAILEY: -- and show us where the
8 child is.

9 INVESTIGATOR THOMAS: Show us where this young
10 man's at. You're trembling and shaking, so I know
11 (INDISTINCT COMMENT).

12 INVESTIGATOR BAILEY: Hm? No, it's not too
13 cold. You got a nice jacket, and we got a warm car.

14 INVESTIGATOR THOMAS: Plenty of heat.

15 INVESTIGATOR BAILEY: Yeah, and we don't need to
16 go outside for but a few seconds.

17 INVESTIGATOR THOMAS: You're going to be warmer
18 than me because I'm going --

19 INVESTIGATOR BAILEY: Mm-hmm.

20 INVESTIGATOR THOMAS: -- to be the one knocking
21 on the door.

22 INVESTIGATOR BAILEY: Mm-hmm.

23 INVESTIGATOR THOMAS: I just don't think that
24 it's necessary for an Amber Alert and all this TV
25 broadcasting when I'm talking to Mom --

ZINAH JENNINGS

1 INVESTIGATOR BAILEY: Mm-hmm.

2 INVESTIGATOR THOMAS: -- who knows where the
3 baby's at. Don't do that. Don't do that to your
4 baby. Don't do that to the people that's trusted you
5 and want to hold the baby for you until you come
6 back. Don't do that to them. Don't do that to
7 yourself.

8 All right, you are a good mother. You are
9 concerned about the well-being of your child, and you
10 are concerned about taking care of your child.
11 That's why you worried about work. That's why you
12 worry about your education. You're worried about
13 being the person that you used to be.

14 INVESTIGATOR BAILEY: Uh-huh.

15 INVESTIGATOR THOMAS: And you want to do right
16 by your child. Is that not right, Zinah? Let's go
17 do it, then. Come on. You ready to take this ride?

18 INVESTIGATOR BAILEY: We go -- Zinah, we got all
19 night. Come on.

20 INVESTIGATOR THOMAS: Take my hand. Come on.

21 ZINAH JENNINGS: I'm not going.

22 INVESTIGATOR THOMAS: Well, are you going to at
23 least tell us where this baby is at so I don't have
24 to do all this broadcasting?

25 INVESTIGATOR BAILEY: Zinah, I'll write it down

ZINAH JENNINGS

1 right now. Go ahead.

2 INVESTIGATOR THOMAS: You can do this. Again,
3 this is about your baby's health and well-being and
4 to show us that the baby is healthy and that nothing
5 has happened to this child. And you keep telling me,
6 "I did not hurt my baby." You keep telling me, "I
7 did nothing wrong." You keep telling me, "I dropped
8 him off." But I need you to prove it to me. And the
9 only way you can prove it is I've got to see Amar
10 (sic). I've got to see him. We've got to ride out.
11 We've got to ride out.

12 INVESTIGATOR BAILEY: Where am I going? Where
13 are we going?

14 INVESTIGATOR THOMAS: Help us. Help us see the
15 baby.

16 INVESTIGATOR BAILEY: Go ahead. Go ahead,
17 Zinah.

18 ZINAH JENNINGS: I'm not going.

19 INVESTIGATOR BAILEY: No, just go ahead. Let us
20 know.

21 INVESTIGATOR THOMAS: Don't do this to yourself,
22 your family, and anybody that's helping you with this
23 baby. Don't make this a public issue when it's a
24 private issue. It is an issue with Zinah needing to
25 get herself together. That's what this is. This is

1 Zinah being tired. This is Zinah being frustrated.
2 This is Zinah feeling depressed. All right? This is
3 Zinah feeling worthless, but she is not.

4 All right? But this is not (INDISTINCT
5 COMMENT). This is not (INDISTINCT COMMENT). This is
6 not an issue that it should be put out there --

7 INVESTIGATOR BAILEY: Right, that's right. This
8 is -- oh --

9 INVESTIGATOR THOMAS: -- because of a personal
10 situation with yourself. This is not something that
11 should endanger people who are trying to look out for
12 you by watching your child for you.

13 And
14 I know that's not what you want to do. You just want
15 a break.

16

17 Look at me, Zinah. Do you hear what I'm saying?

18

19 the only thing we really want is to
20 make sure your baby is healthy, breathing, and in a
21 safe environment. That's all we really, really want.

22 We don't want Zinah. We want Zinah to be in
23 school. We want Zinah to work. We want Zinah to
24 feel better about herself. But most of all, we want
25 to make sure that the baby is breathing, living, and

ZINAH JENNINGS

1 safe. And we don't to make this a national issue.

2 INVESTIGATOR BAILEY: We don't want to be
3 knocking on doors all over South Carolina, Georgia,
4 North Carolina, people you know, bothering people
5 like we did today. That hopefully will end tonight.
6 We won't have to bother anybody else that you know.
7 Because we will find -- we will find and we will locate
8 every single person that you've had an encounter
9 with.

10 ZINAH JENNINGS: --What did my sister say?

11 INVESTIGATOR BAILEY: Which sister?

12 ZINAH JENNINGS: My sister.

13 INVESTIGATOR THOMAS: In Atlanta?

14 INVESTIGATOR BAILEY: What do you mean what did
15 she say? About what?

16 ZINAH JENNINGS: Anything. I didn't even -- I
17 just talked to her yesterday.

18 INVESTIGATOR BAILEY: Mm-hmm.

19 INVESTIGATOR THOMAS: We know.

20 ZINAH JENNINGS: And I didn't even know that she
21 had been in contact with you.

22 INVESTIGATOR BAILEY: Well, you went to go see
23 her in the last couple weeks, right?

24 ZINAH JENNINGS: No, I hadn't --

25 INVESTIGATOR BAILEY: When is the last time you

ZINAH JENNINGS

1 saw her?

2 ZINAH JENNINGS: Thanksgiving.

3 INVESTIGATOR BAILEY: Okay. Did you go to see
4 her since Thanksgiving? You haven't been down --
5 down there to see her?

6 INVESTIGATOR THOMAS: Well, she recalls you
7 coming down like a week ago --

8 INVESTIGATOR BAILEY: Mm-hmm.

9 ZINAH JENNINGS: Mm-mm.

10 INVESTIGATOR THOMAS: -- or so.

11 INVESTIGATOR BAILEY: Mm-hmm.

12 ZINAH JENNINGS: It wasn't no week ago.

13 INVESTIGATOR BAILEY: It was a couple weeks ago.
14 You went down there, and you did not have Child and
15 she became concerned, and she asked you where Child
16 was, and you told her, you told her a story. Am I
17 right?

18 ZINAH JENNINGS: I don't remember.

19 INVESTIGATOR BAILEY: Please, Zinah. Think.
20 Think, please.

21 ZINAH JENNINGS: I just want --

22 INVESTIGATOR BAILEY: Let's --

23 ZINAH JENNINGS: -- to know what she said.

24 INVESTIGATOR BAILEY: What do you mean what she
25 said? What do you think she said? Do you have a

ZINAH JENNINGS

1 guess?

2 ZINAH JENNINGS: No.

3 INVESTIGATOR THOMAS: What should she have said?

4 ZINAH JENNINGS: I just -- I don't know if she
5 called you all or not.

6 INVESTIGATOR BAILEY: Mm-hmm. Well, tell me.
7 What do you think she said?

8 INVESTIGATOR THOMAS: Outside of being worried
9 about you. She is worried about you, if that's what
10 you mean, and she's worried about the baby. But you
11 called her last night, didn't you?

12 ZINAH JENNINGS: Yeah, I called her yesterday.

13 INVESTIGATOR BAILEY: She's very supportive of
14 you, now.

15 INVESTIGATOR THOMAS: She's (INDISTINCT COMMENT)

16 --

17 INVESTIGATOR BAILEY: I'll tell you that.

18 INVESTIGATOR THOMAS: Yeah.

19 INVESTIGATOR BAILEY: She's very supportive of
20 you. She's on your side. That's why any time you
21 say that, that no one loves me, no one cares about
22 me, I --

23 ZINAH JENNINGS: She's the only one that answer
24 the phone.

25 INVESTIGATOR BAILEY: -- I knew --

ZINAH JENNINGS

1 ZINAH JENNINGS: That's why I call her.

2 INVESTIGATOR BAILEY: Mm-hmm.

3 ZINAH JENNINGS: Because my mama don't answer.

4 INVESTIGATOR BAILEY: Right, so you call your
5 sister.

6 INVESTIGATOR THOMAS: Your sister loves you.

7 INVESTIGATOR BAILEY: Mm-hmm.

8 INVESTIGATOR THOMAS: And when we first made
9 contact with her, she was like, "Oh, they're fine."

10 INVESTIGATOR BAILEY: Mm-hmm.

11 INVESTIGATOR THOMAS: "She'll bring the baby to
12 you. You just got to make contact with her, and
13 everything is going to be all right."

14 INVESTIGATOR BAILEY: Mm-hmm.

15 INVESTIGATOR THOMAS: And we believed it.

16 INVESTIGATOR BAILEY: She assured me that you
17 were a -- would be 100, 1000 percent cooperative and
18 we -- this would be something that would be a
19 nonissue.

20 INVESTIGATOR THOMAS: That's why we're so
21 shocked right now.

22 INVESTIGATOR BAILEY: Right. And the next thing
23 I know, I'd be knocking on your mother's door, being
24 like, "Hey, ma'am, stop, stop bothering us."

25 Obviously, that's a totally different story

ZINAH JENNINGS

1 because you're not a hundred percent cooperative, and
2 you've misled me, and you misled the officer who
3 worked your car accident the other day.

4 ZINAH JENNINGS: What car accident?

5 INVESTIGATOR BAILEY: You --

6 ZINAH JENNINGS: My car wreck?

7 INVESTIGATOR THOMAS: Mm-hmm.

8 ZINAH JENNINGS: How did I mislead him?

9 INVESTIGATOR THOMAS: Do you remember --

10 ZINAH JENNINGS: He asked me for my ID. I was
11 on stretcher. Somebody called him. Next (INDISTINCT
12 COMMENT) --

13 INVESTIGATOR BAILEY: Mm-hmm.

14 ZINAH JENNINGS: I was on a stretcher.

15 INVESTIGATOR BAILEY: Mm-hmm.

16 ZINAH JENNINGS: I pointed like this to my bag -

17 -

18 INVESTIGATOR BAILEY: Mm-hmm.

19 ZINAH JENNINGS: -- and he got my ID.

20 INVESTIGATOR BAILEY: Okay.

21 ZINAH JENNINGS: And that's when I found out
22 about me being missing.

23 INVESTIGATOR BAILEY: Mm-hmm. Okay.

24 ZINAH JENNINGS: I didn't see no officer. I
25 didn't talk to an officer.

ZINAH JENNINGS

1 INVESTIGATOR BAILEY: Mm--hmm.

2 INVESTIGATOR THOMAS: Who told you that you were
3 missing?

4 ZINAH JENNINGS: I overheard it when I was
5 getting in the ambulance.

6 INVESTIGATOR BAILEY: Did he --

7 INVESTIGATOR THOMAS: Do you remember him asking
8 you where your baby was? Do you remember anybody
9 asking you that?

10 ZINAH JENNINGS: I don't remember them asking me
11 anything. I had a concussion.

12 INVESTIGATOR THOMAS: Okay. So, so you could
13 have been a little bit out of whack because of your
14 accident at the time?

15 ZINAH JENNINGS: Mm-hmm, but I remember hearing
16 something about we have a missing person's report out
17 on me.

18 INVESTIGATOR BAILEY: Mm-hmm.

19 INVESTIGATOR THOMAS: Okay. All right.

20 INVESTIGATOR BAILEY: Do you remember what he
21 looked like?

22 ZINAH JENNINGS: Who?

23 INVESTIGATOR BAILEY: The officer.

24 ZINAH JENNINGS: I didn't see a officer.

25 INVESTIGATOR BAILEY: You didn't see him?

ZINAH JENNINGS

1 ZINAH JENNINGS: They were asking me where is my
2 ID. I just pointed to my bag --

3 INVESTIGATOR BAILEY: Mm-hmm. Mm-hmm.

4 ZINAH JENNINGS: -- and I guess he found my ID.

5 INVESTIGATOR BAILEY: Okay.

6 ZINAH JENNINGS: I didn't talk to no officer.

7 INVESTIGATOR BAILEY: well, okay, let me -- let
8 me illuminate you onto the conversation that you and
9 him had. He asked you where your son was, and you
10 said, "I don't have a son."

11 ZINAH JENNINGS: Mm.

12 INVESTIGATOR BAILEY: And there are witnesses to
13 him asking that and you saying that. It's not coming
14 from just him.

15 INVESTIGATOR THOMAS: Do you remember that?

16 INVESTIGATOR BAILEY: I -- it -- Zinah, is it
17 poss -- do you concede that it's possible that you
18 gave that answer?

19 ZINAH JENNINGS: I mean, I was in a car wreck.

20 INVESTIGATOR BAILEY: Yes, ma'am.

21 ZINAH JENNINGS: I had a concussion.

22 INVESTIGATOR BAILEY: No, why would you have
23 said --

24 ZINAH JENNINGS: (INDISTINCT COMMENT)

25 INVESTIGATOR BAILEY: why would you have said

ZINAH JENNINGS

1 that? Why would you have said, "I don't have a son?"

2 ZINAH JENNINGS: I'll say that in my son's face.

3 I'll call him my nephew in his face --

4 INVESTIGATOR BAILEY: Mm-hmm. Mm-hmm.

5 ZINAH JENNINGS: -- because of how he'll be
6 acting sometimes.

7 INVESTIGATOR BAILEY: Oh, trying to make him
8 think that --

9 ZINAH JENNINGS: I don't want to claim him.

10 INVESTIGATOR BAILEY: Okay. And then, and then
11 the officer asked you where the -- again, where your
12 son was, and you said he was, he was in Atlanta.

13 ZINAH JENNINGS: I don't know.

14 INVESTIGATOR BAILEY: Mm-hmm.

15 ZINAH JENNINGS: I don't even remember an
16 officer. I just remember getting on a stretcher.

17 They put me on a stretcher. They asked me --

18 INVESTIGATOR BAILEY: Mm-hmm.

19 ZINAH JENNINGS: -- what hospital I wanted to go
20 to. I said Providence.

21 INVESTIGATOR BAILEY: Mm-hmm.

22 ZINAH JENNINGS: They said they couldn't take me
23 to Providence, and I ended up at Richland.

24 INVESTIGATOR BAILEY: Mm-hmm.

25 ZINAH JENNINGS: I was there for about --

ZINAH JENNINGS

1 INVESTIGATOR BAILEY: Mm-hmm. Mm-hmm.

2 ZINAH JENNINGS: -- two or three hours, and --

3 INVESTIGATOR BAILEY: Well, what does that have
4 -- let me -- (INDISTINCT COMMENT) wait -- that
5 doesn't has -- have anything to do with what I was
6 just asking.

7 ZINAH JENNINGS: I don't remember talking to no
8 officer.

9 INVESTIGATOR BAILEY: But -- right.

10 ZINAH JENNINGS: I don't even remember seeing no
11 police car.

12 INVESTIGATOR BAILEY: Well, you -- but he
13 remembers you.

14 ZINAH JENNINGS: I hit -- I hit the pole.

15 INVESTIGATOR BAILEY: Mm-hmm.

16 ZINAH JENNINGS: Somebody was already outside.
17 They called.

18 INVESTIGATOR BAILEY: Mm-hmm.

19 ZINAH JENNINGS: The ambulance came in like two
20 minutes.

21 INVESTIGATOR BAILEY: Mm-hmm. Well, he
22 remembers you. He remembers speaking to you, and he
23 remembers what your answer was. And then he asked
24 you again, and then you said he was in Atlanta. And
25 then I met you a few days later, and you gave me a

ZINAH JENNINGS

1 completely different story.

2 ZINAH JENNINGS: Well, I don't remember talking
3 to no officer.

4 INVESTIGATOR BAILEY: Do you remember talking to
5 me a couple days ago?

6 ZINAH JENNINGS: At my mother's house?

7 INVESTIGATOR BAILEY: Yes, ma'am.

8 ZINAH JENNINGS: Mm-hmm.

9 INVESTIGATOR BAILEY: What did you tell me?

10 ZINAH JENNINGS: I remember what I told you.

11 INVESTIGATOR BAILEY: What did you tell me?

12 ZINAH JENNINGS: I told you that my son was all
13 right.

14 INVESTIGATOR BAILEY: And he was --

15 ZINAH JENNINGS: And he was fine.

16 INVESTIGATOR BAILEY: -- with who?

17 ZINAH JENNINGS: With his daddy.

18 INVESTIGATOR BAILEY: Mm-amm, with -- and what
19 name did you give to me?

20 ZINAH JENNINGS: I told you his daddy's name.

21 INVESTIGATOR BAILEY: What was that name that
22 you told me?

23 ZINAH JENNINGS: Ernest.

24 INVESTIGATOR BAILEY: Mm-hmm. Ernest what?

25 ZINAH JENNINGS: His name is Ernest.

ZINAH JENNINGS

1 INVESTIGATOR BAILEY: Mm-hmm. Did you remember
2 his last name?

3 ZINAH JENNINGS: Ernest Robinson.

4 INVESTIGATOR BAILEY: Mm-hmm. And that was
5 fabricated?

6 ZINAH JENNINGS: No.

7 INVESTIGATOR BAILEY: Where did you get that
8 name?

9 ZINAH JENNINGS: His father's name was Ernest
10 Robinson.

11 INVESTIGATOR BAILEY: Whose father's name?

12 ZINAH JENNINGS: My son.

13 INVESTIGATOR BAILEY: Okay. Is that who you
14 dropped the child off with?

15 ZINAH JENNINGS: Mm-hmm.

16 INVESTIGATOR BAILEY: And where does he live?

17 ZINAH JENNINGS: I don't know.

18 INVESTIGATOR BAILEY: What do you mean you don't
19 know? Did you -- did you meet him somewhere, or --

20 ZINAH JENNINGS: No.

21 INVESTIGATOR BAILEY: Mm-hmm. Who is Ernest
22 Robinson?

23 ZINAH JENNINGS: Mm, my father's son --

24 INVESTIGATOR BAILEY: You know what --

25 ZINAH JENNINGS: -- son's father.

ZINAH JENNINGS

1 INVESTIGATOR BAILEY: Go -- no. No, no. Ella -
2 - expand on that. Who is Ernest Robison?

3 ZINAH JENNINGS: Mm, nobody (INDISTINCT
4 COMMENT).

5 INVESTIGATOR BAILEY: Right. Does he exist? Is
6 -- is -- does the baby's dad have a different name,
7 and you're just not telling us his real name?

8 ZINAH JENNINGS: Honestly, I don't know who that
9 is --

10 INVESTIGATOR BAILEY: Right.

11 ZINAH JENNINGS: -- but there's a possibility
12 that Ernest is the father.

13 INVESTIGATOR BAILEY: Mm-hmm.

14 INVESTIGATOR THOMAS: Then why did you tell
15 Investigator Bailey that that's who you dropped him
16 off with?

17 ZINAH JENNINGS: Because that's where he is.

18 INVESTIGATOR THOMAS: And this location is off
19 of Garners Ferry Road is what you told us (INDISTINCT
20 COMMENT) the other night. Is that right?

21 ZINAH JENNINGS: Mm-hmm.

22 INVESTIGATOR THOMAS: So this is -- this the
23 same location that you're saying you dropped him off
24 to? Does Ernest have kids?

25 ZINAH JENNINGS: Mm-hmm.

ZINAH JENNINGS

1 INVESTIGATOR THOMAS: He does have kids?

2 ZINAH JENNINGS: He has three girls.

3 INVESTIGATOR BAILEY: Who does he live with?

4 ZINAH JENNINGS: His mother.

5 INVESTIGATOR BAILEY: What's his mom's name?

6 ZINAH JENNINGS: I don't remember.

7 INVESTIGATOR BAILEY: Where did he graduate from
8 school?

9 ZINAH JENNINGS: Dreher.

10 INVESTIGATOR BAILEY: Dreher? What year?

11 ZINAH JENNINGS: 2005.

12 INVESTIGATOR BAILEY: Right, that's when --
13 that's not true.

14 ZINAH JENNINGS: Well, if he didn't graduate, I
15 thought he did.

16 INVESTIGATOR BAILEY: Right.

17 ZINAH JENNINGS: I graduated --

18 INVESTIGATOR BAILEY: No, he didn't go to Dreher
19 at all.

20 ZINAH JENNINGS: He did go to Dreher. That's
21 where I met him, at Dreher. Okay.

22 INVESTIGATOR THOMAS: And how old is Ernest?

23 INVESTIGATOR BAILEY: Maybe I'm looking at the
24 wrong age range. How old is he? When did he -- when
25 did he supposedly graduate?

ZINAH JENNINGS

1 INVESTIGATOR THOMAS: Is he younger than you or
2 older than you?

3 INVESTIGATOR BAILEY: What does he look like?

4 INVESTIGATOR THOMAS: Has Ernest ever been
5 arrested for anything in Columbia that you know of?
6 Zinah? Has Ernest ever been arrested? Hm? Yes or
7 no? That you know of?

8 Did she give you a date of birth at that time?

9 INVESTIGATOR BAILEY: Hm-mm. Hm-mm. Just said
10 he graduated in 2005 from Dreher.

11 INVESTIGATOR THOMAS: When is Ernest's birthday,
12 Zinah? Do you know?

13 INVESTIGATOR BAILEY: Zinah, is that Ernest? Is
14 that him?

15 Is that him?

16 INVESTIGATOR THOMAS: (INDISTINCT COMMENT) Is
17 that Ernest right there, Zinah? (INDISTINCT COMMENT)

18 (INDISTINCT AUDIO)

19 INVESTIGATOR BAILEY: (INDISTINCT COMMENT)
20 Ernest, right?

21 INVESTIGATOR THOMAS: No.

22 INVESTIGATOR BAILEY: Zinah, can you -- can you
23 show us a little bit of respect and -- I think we
24 deserve a little bit -- and let us know that --

25 INVESTIGATOR THOMAS: Are you the one whose

ZINAH JENNINGS

1 (INDISTINCT COMMENT) with Ernest there? Take a look
2 for me. Who do you think --

3 INVESTIGATOR BAILEY: Is that him right there,
4 that guy right there?

5 INVESTIGATOR THOMAS: Is this Ernest, Zinah?
6 What about this gentleman right here?

7 INVESTIGATOR BAILEY: Which one of those two
8 those Ernests has said they know you? Uh-huh. Would
9 you like to at least know that? All right.

10 Zinah, is there a spot where I can go, and we'll
11 leave you here, I can go and locate Amir?

12 Please, I don't want to be -- I don't want to be
13 looking for him any longer, any longer than is
14 necessary.

15 INVESTIGATOR THOMAS: And I don't want to have
16 him plastered all over the TV --

17 INVESTIGATOR BAILEY: Right.

18 INVESTIGATOR THOMAS: -- if we don't have to.

19 And I really don't think we have to. I just don't
20 think that will be necessary when we have the primary
21 source of information sitting right here in front of
22 us, his loving and caring mother.

23 So is the information you gave Investigator
24 Bailey true? Is Ernest Robinson where your son is
25 right now, the person you believe is his father? Is

ZINAH JENNINGS

1 that true, or did you fabricate that just to throw us
2 off?

3 No response?

4 INVESTIGATOR BAILEY: Zinah, it's not going to
5 be -- I'm not going to be upset. It's -- it's not
6 the first time. It happens pretty frequently. I'm
7 not going to be angry. I'm not going to -- I don't
8 think anyone's going to be upset. I understand.

9 I understand why you, uh, I understand why you
10 said it, and I understand why you said it again
11 tonight, and it doesn't -- it doesn't bother me. It
12 bothers me a little bit to know that you don't care
13 about what you do and what happens with your son.

14 INVESTIGATOR THOMAS: Or yourself.

15 INVESTIGATOR BAILEY: Yeah, because I, I don't
16 know if you know this, but -- you haven't been to our
17 jail before, right?

18 ZINAH JENNINGS: Hm?

19 INVESTIGATOR BAILEY: You -- have you been to
20 our jail? You haven't been to jail. Have you ever
21 been to jail at all? You've never been in jail.
22 Okay. Have you ever been in trouble with the police?
23 Did you get in trouble in any other state besides
24 South Carolina?

25 No, so you've never been in trouble. Speeding

ZINAH JENNINGS

1 ticket? I just looked at your driver's record, and
2 you did get one ticket.

3 ZINAH JENNINGS: It wasn't for speeding.

4 INVESTIGATOR BAILEY: What was it for?

5 ZINAH JENNINGS: Reckless endangerment or
6 something.

7 INVESTIGATOR BAILEY: When was that?

8 ZINAH JENNINGS: 2009.

9 INVESTIGATOR BAILEY: Oh, okay. You got any
10 other tickets? Hm? Just that one? Because I got
11 your driving record right here. Did you get your
12 license straightened out?

13 ZINAH JENNINGS: From the car wreck?

14 INVESTIGATOR BAILEY: No, from the -- you didn't
15 get -- did you get a ticket for the car wreck?

16 ZINAH JENNINGS: Mm-mm.

17 INVESTIGATOR BAILEY: You didn't? --Are you sure?

18 ZINAH JENNINGS: I don't know.

19 INVESTIGATOR BAILEY: Do you want to know?

20 Do you understand why we're doing what we're
21 doing? Do you understand why you're here tonight?

22 Do we need to continue to look for Child
23 Because you're going to tell us tonight if we need to
24 continue to look for him or not. It will be your
25 decision. It's not going to my decision. It's not

ZINAH JENNINGS

1 going to be your mother's decision. It's not going
2 to be anybody else's decision but yours.

3 (TIME LAPSE)

4 Is ^{Child} in Columbia, or do we need to look
5 somewhere else, like Augusta or Atlanta?

6 INVESTIGATOR THOMAS: Has she said anything
7 (INDISTINCT COMMENT)?

8 INVESTIGATOR BAILEY: Negative, negative. She
9 wants us to continue looking for him, continue to
10 knock on doors, continue to bother people whom you
11 know.

12 INVESTIGATOR THOMAS: Zinah, let me ask you
13 this. What would it take to get you to ensure that
14 your baby is safe so that we can end this before it
15 gets convoluted? What -- what do you need right now?
16 Because that's -- my concern is two things right now,
17 the baby and making sure that he's healthy. That's
18 it.

19 But I'm also trying to figure out why would you
20 even withhold that, sitting in this room now, this
21 time in the morning when it's a very simple solution.
22 I'm, I'm trying to understand that and comprehend
23 that as a man who has children, and I'm trying to put
24 myself in your situation.

25 You're frustrated, upset, feeling hopeless,

ZINAH JENNINGS

1 feeling depressed, and so forth, but I can still not
2 fathom knowing that all of this would almost go away
3 if I just tell these people where my baby is so they
4 can see that he's healthy. I, I just can't
5 understand that unless something foul has happened to
6 the child and that dropping him off somewhere is just
7 merely a lie, and that's why you can't take us,
8 because there's nowhere to take us because he is not
9 living, is the only thing I can come up with.

10 I, I just cannot fathom any other reason why you
11 would sit here and not cooperate with us

12

13 when all

14 you really have to do is take us and show us that
15 your child is healthy, unless that is not the case.
16 And I'm really starting to drift into that arena,
17 that you got tired of dragging him around with you,
18 and something happened. And --

19 INVESTIGATOR BAILEY: That's -- and, and Zinah,
20 if that's the case, we're still going to try to get
21 you help.

22 ZINAH JENNINGS: If that's her concern, she need
23 help.

24 INVESTIGATOR THOMAS: Oh, well, I'm -- okay, I
25 want to make it clear. I want to make it clear right

ZINAH JENNINGS

1 now, because I think you're a big confused. All
2 right, your mother has nothing to do with anything
3 right now. All right? This is all law enforcement
4 right now. Do you understand that? This is not
5 about your mother, Zinah, and if you are withholding
6 this information thinking that you're hurting your
7 mother, that is not the case, all right?

8 So please put that out of your mind. It's got
9 nothing to do with your mother. It's got everything
10 to do with your son. Mom has nothing to do with
11 anything right now. Again, when I first came in
12 here, I told you our concern was, at one time, both
13 of you all because both of you all were missing. So,
14 like, Oh, Lord, hope nothing happened. Hope
15 everybody's all right.

16 And then you wreck your car, booyah, you appear.
17 Okay, well, mom's good, so baby's probably fine.
18 Let's see what she's done with the baby. Where is
19 the baby?

20 And once --- when we talked your sister, your
21 sister was like, "Oh, yeah, the minute you all talk
22 to her, she'll tell you where the baby is at. You
23 know, Zinah and the baby's going to be fine. She's
24 fine. The baby's fine."

25 So we were like, Cool. All we got to talk to

ZINAH JENNINGS

1 mama, and we can clear this case out and go to the
2 other 20 missing persons that we have that we're
3 looking for, but they're older than this 18-month-old
4 -- this 18-month child.

5 Now, the very thing we thought was going to be
6 simple has become one of the most complex things
7 because we're now looking at one of the missing
8 persons who is here. And all we need to know is
9 where is the other missing person, which is her
10 child. Has nothing to do with grandma. Has nothing
11 to do with mama. It has everything to do with law
12 enforcement trying to ensure that the baby is safe.

13 Are you understanding that, Zinah? That's where
14 we are with this. Mom has nothing to do with it.
15 She can't help in any way. She can't hurt in any
16 way. It's about the child. And I'm not sure if you
17 understand that or not. Do you understand that?
18 Acknowledge if you understand that or not.

19 Do you understand that, Zinah?

20 INVESTIGATOR BAILEY: Zinah, are you listening?
21 Do you know what we're saying? (INDISTINCT COMMENT)

22 It's not about your mom. It's about your child.

23 INVESTIGATOR THOMAS: All of this.

24 Where did they tow your car, Zinah?

25 INVESTIGATOR BAILEY: Did you get your stuff out

ZINAH JENNINGS

1 of your car yet?

2 INVESTIGATOR THOMAS: Are you shutting down? I
3 don't understand. I see you working vigorously on
4 your nails, so obviously your nails are definitely
5 more important than what we're talking about here.

6 Where did they tow your car to, Zinah? Do you
7 recall?

8 INVESTIGATOR BAILEY: Did they tow your car?

9 INVESTIGATOR THOMAS: Was it totaled?
10 You got paperwork you need (INDISTINCT COMMENT)?

11 INVESTIGATOR BAILEY: It's downstairs. They're
12 filling it out.

13 INVESTIGATOR THOMAS: All right.

14 INVESTIGATOR BAILEY: Anything else you want to
15 say? You want to talk more tomorrow? Is that okay?
16 Zinah, we're going to stop talking to you now, and
17 we're going to talk to you more tomorrow. Would you
18 like that?

19 INVESTIGATOR THOMAS: You want to get some
20 sleep?

21 INVESTIGATOR BAILEY: You want to think about
22 things, and then we'll talk to you tomorrow? We'd
23 love to locate Amir tonight, but you want to talk
24 tomorrow, and we'll talk more about it? And get some
25 sleep tonight?

1 You, you said earlier that you're a selfish
2 person. Yes, it would be a little selfish for you to
3 go to sleep tonight and speak to us tomorrow, but
4 that's fine. Is that what you want?

8 (INDISTINCT AUDIO)

11 (INDISTINCT AUDIO)

12 (TIME LAPSE)

13 2:14:37

14 INVESTIGATOR THOMAS: (INDISTINCT COMMENT) lay
15 down in your cell. And I'm going to hope that, in my
16 prayers, that God can soften your heart and take some
17 of that anger out that you have for your mother and
18 bring the love that you have for your son so that we
19 can end this in, hopefully, a positive mode.

20 Because obviously, your heart is hardened right
21 now, and I just cannot -- I still can't fathom why
22 you are what you are right now unless something bad
23 has happened to that boy. And I'm feeling quite
24 disturbed right now, to be honest. (INDISTINCT
25 COMMENT)

ZINAH JENNINGS

1 (TIME LAPSE)
2 2:20:10
3 (DISTANT CONVERSATION)
4 (INDISTINCT AUDIO)
5 UNIDENTIFIED MALE SPEAKER: (INDISTINCT COMMENT)
6 show up. It's a stupid damn thing, really. But
7 whatever.
8 (DISTANT CONVERSATION)
9 (INDISTINCT AUDIO)
10 2:21:35
11 INVESTIGATOR THOMAS: (INDISTINCT COMMENT) have
12 you ever done drugs, Zinah?
13 I'm just asking. You ever smoke marijuana or
14 anything stronger?
15 So you just -- have you -- have you just
16 completely stopped talking to me now? Hm?
17 (TIME LAPSE)
18 (INDISTINCT AUDIO)
19 (DISTANT CONVERSATION)
20 (TIME LAPSE)
21 2:34:15
22 INVESTIGATOR THOMAS: Are you ready?
23 INVESTIGATOR BAILEY: Hm?
24 INVESTIGATOR THOMAS: Are you ready?
25 ZINAH JENNINGS: I have a question.

ZINAH JENNINGS

1 INVESTIGATOR THOMAS: What's your question?

2 ZINAH JENNINGS: Will the police still be
3 looking for me?

4 INVESTIGATOR BAILEY: Hm?

5 INVESTIGATOR THOMAS: No, but we will still look
6 for your baby.

7 ZINAH JENNINGS: Okay.

8 INVESTIGATOR THOMAS: We know where you are.
9 You're going to be in jail.

10 INVESTIGATOR BAILEY: What happened to your eye?
11 That's from the accident? Do you mind if I look at
12 it? Was it bruised a couple days ago?

13 (INDISTINCT AUDIO)

14 INVESTIGATOR THOMAS: Anything else you want to
15 tell me about the baby before you leave here? I'm
16 very interested.

17 Zinah? Is there is anything you would like to
18 tell me before you leave me? All right, we'll bring
19 you back out tomorrow if you need to sleep on some
20 stuff. But I really want to find your child.

21 (INDISTINCT COMMENT)

22 INVESTIGATOR BAILEY: How long you going to be
23 down in the jail, Zinah? I wouldn't -- if I were
24 you, I wouldn't chat with (INDISTINCT COMMENT) other
25 people about what's going on, because you know it's

1 been --

2 Wait, and we'll talk tomorrow, okay? Stand up.

3 Come on. Put your hands on your head. Put -- put
4 your hand behind your back.

5 It's going to be a little tight. It's not going
6 to be comfortable, but he'll try to get you down
7 there as soon as possible.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

ZINAH JENNINGS

1

2

3

4

5

6

2:42:21

7

(End of media file.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

ZINAH JENNINGS

1 CERTIFICATE OF REPORTER

2 I, Deborah L. Dusseljee, Registered Professional
3 Reporter and Notary Public for the State of South Carolina
4 at Large, do hereby certify:

5 That the foregoing transcription was transcribed
6 under my direction by Jesika Brooks; that the foregoing
7 transcription as typed is a true, accurate and complete
8 record of the transcript of the media file named on the
9 title page of this to the best of my ability.

10 I further certify that I am neither related to nor
11 counsel for any party to the cause pending or interested
12 in the events thereof.

13 Witness my hand, I have hereunto affixed my official
14 seal this 5th day of July, 2012, at Columbia, Richland
15 County, South Carolina.

16

17

18

19

20 _____
Deborah L. Dusseljee, RPR

21 Notary Public

22 State of South Carolina at Large

23 My Commission expires:

24 June 4, 2017

25

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF GENERAL SESSIONS
FIFTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
v.)
ZINAH DAMARIS JENNINGS,)
Defendant.)

MOTION TO QUASH WARRANT

Warrant No. K-690460

Comes now Zinah Damaris Jennings ("Defendant" or "Ms. Jennings"), by undersigned counsel, pursuant to U.S. Const. Amendments 5 and 14; S.C. CONST Art. I, § 12, S.C. Code Ann. §17-19-10; and, the S.C. Rules of Criminal Procedure, and moves this Honorable Court for an Order dismissing the charges brought against Ms. Jennings under S.C. Code §63-5-70; quashing Warrant No. K-690460; and, directing Defendant's immediate release from custody as the warrant is not legal. The motion is based on the following, to wit:

1. There is no allegation nor evidence in the case legally sufficient to entitle the prosecution to a conviction of violation of S.C. Code §63-5-70, in that there is no allegation of fact, nor substantial evidence that a crime was committed as alleged in Warrant No. K-690460 ("Warrant").

2. The Warrant does not state any facts alleging the necessary elements of a violation of S.C. Code §63-5-70¹ by Ms. Jennings with regard to her child. It does not state that any harm whatsoever has come to the Defendant's child. The Warrant does not allege: (1) that Ms. Jennings took any act which placed the child at unreasonable risk of harm; (2) that she did or caused another to do harm to the child; nor, (3) that she willfully abandoned the child.

¹ (A) It is unlawful for a person who has charge or custody of a child, or who is the parent or guardian of a child, or who is responsible for the welfare of a child as defined in Section 63-7-20 to: (1) place the child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety; (2) do or cause to be done unlawfully or maliciously any bodily harm to the child so that the life or health of the child is endangered or likely to be endangered; or (3) wilfully abandon the child." S.C. Code Ann. § 63-5-70

2012 MAY 7 11:01
FILED
RICHLAND COUNTY
CLERK OF COURT
JENNINGS

3. The gravamen of the charge, as stated in the Warrant, is that Ms. Jennings has refused to cooperate with law enforcement investigations into suspected criminal activity by Ms. Jennings – in other words, she is charged with exercising her Constitutional right not to be compelled to incriminate herself. The Warrant alleges that she "is willfully withholding information that would implicate the Def[endant]".

5. As a result, Ms. Jennings, has been in custody since December 24, 2011, in violation of her U.S. Const. 5th and 14th Amendment rights to procedural and substantive due process of law, as follows:

- (a) She is being detained² by the State under the auspices of the facially defective Warrant described herein;
- (b) She is currently charged and prosecuted for a felony³ for which she could receive up to ten (10) years in prison; and,
- (c) Her detention and prosecution amount to penalties for exercising her U.S. and S.C. Constitutional right not to be "compelled in any criminal case to be a witness against [her]self". U.S. Const. Am. 5; S.C. CONST Art. I, § 12

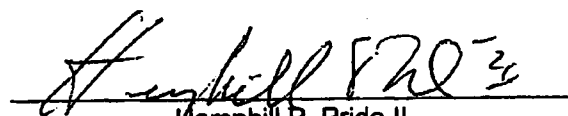
WHEREFORE, the Defendant prays that the Honorable Court will grant a hearing on this motion; allow testimony in support; and, issue an Order dismissing the charge brought against her for

² Ms. Jennings is detained subject to what is for her an unreachable bond amount, \$150,000.00.

³ "The following offenses are Class E felonies and the maximum terms established for a Class E felony, not more than ten years, as set forth in Section 16-1-20(A), apply: ...63-5-70 Unlawful neglect of child or helpless person by legal custodian; 63-5-70(a) Causing harm to a child" S.C. Code Ann. § 16-1-90

violation of S.C. Code §63-5-70; dismissing Warrant No. K-690460; and, directing Defendant's immediate release from custody.

Law Office
of
HEMPHILL P. PRIDE II, LLC


Hemphill P. Pride II
Post Office Box 4529
Columbia, South Carolina 29240-4529
(803) 256-8015
hppride@bellsouth.net

ATTORNEY FOR DEFENDANT

May 16, 2012.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

CERTIFICATE OF SERVICE

I, the undersigned do hereby certify that all counsel and/or parties in this action were served with a copy of the pleading(s) herein below specified by mailing a copy of the same by United States mail, postage prepaid, to the following address(es):

PLEADING: Motion to Quash Warrant

PARTY: Dolly Justice Garfield, Esq.
Assistant Solicitor for the Fifth Judicial Circuit
OFFICE OF THE SOLICITOR
Post Office Box 192
Columbia, South Carolina 29202

Johanna C. Dingalt
Johanna C. Dingalt

Columbia, South Carolina

May 16, 2012.

RICHLAND COUNTY
FILED
2012 MAY 17 AM 11:31
JEANETTE W. McBRIDE
C.C.P. & G.S.

1777

WITNESSES

(S) INV. BAILEY – Columbia Police
Department

ARREST WARRANT NUMBER

K690460

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

MAY 10 2012

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012GS4002067

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

MAY TERM 2012

87

THE STATE

vs.

ZINAH DEMARIS JENNINGS

**Indictment for
CHILD - UNLAWFUL CONDUCT
TOWARDS A CHILD**

SC Code: 63-05-0070

CDR Code: 2481

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on MAY 9, 2012, the
Grand Jurors of Richland County present upon their oath:

UNLAWFUL CONDUCT TOWARDS A CHILD

That ZINAH DEMARIS JENNINGS did in Richland County on or between
November 24, 2011 through December 24, 2011, while having charge or custody,
or being the parent or guardian, or being responsible for the welfare of the minor
child, ^{Child} JENNINGS, place the child at unreasonable risk of harm affecting
the child's life, physical or mental health, or safety; or did unlawfully or
maliciously cause or cause to be done bodily harm to the child so that the life or
health of the child was endangered or was likely to be endangered; or did willfully
abandon the child, in violation of Section 63-5-70, S. C. Code of Laws, 1976, as
amended

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


DAN JOHNSON, SOLICITOR

1779

WITNESSES

(S) INV. BAILEY – Columbia Police
Department

ARREST WARRANT NUMBER

K690460

ACTION OF GRAND JURY

TRUE BILL

Jill Koenigs
Foreperson of Grand Jury
Date: JUL 19 2012

VERDICT

[Signature]
Foreperson of Petit Jury
Date: 7/19/12

DOCKET NO. 2012GS4002067

AMENDED
The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

MAY TERM 2012

87

THE STATE
vs.

ZINAH DEMARIS JENNINGS

Indictment for
UNLAWFUL CONDUCT TOWARDS A
CHILD

SC Code: 63-05-0070
CDR Code: 2481

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on MAY 9, 2012, the
Grand Jurors of Richland County present upon their oath:

UNLAWFUL CONDUCT TOWARDS A CHILD

That ZINAH DEMARIS JENNINGS did in Richland County on or between
September 1, 2011 through December 24, 2011, while having charge or custody,
or being the parent or guardian, or being responsible for the welfare of the minor
child, Child JENNINGS, place the child at unreasonable risk of harm affecting
the child's life, physical or mental health, or safety; or did unlawfully or
maliciously cause or cause to be done bodily harm to the child so that the life or
health of the child was endangered or was likely to be endangered; or did willfully
abandon the child, in violation of Section 63-5-70, S. C. Code of Laws, 1976, as
amended

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


DAN JOHNSON, SOLICITOR

ARREST WARRANT

K-690460 1136050

STATE OF SOUTH CAROLINA

County/ Municipality of
COLUMBIATHE STATE
against

ZINAH DEMARIS JENNINGS

Address: LADY STREET
COLUMBIA SC 29203

Phone: SSN:
 Sex: Race: Height: 5 07 Weight: 140
 DL#: Agency ORI# SC0400100
 Prosecuting Agency: CITY OF COLUMBIA
 Prosecuting Officer: BAILEY INV. C.D./A. SPEARS
 Offense: UNLAW CONDOC TOWARD CHILD
 Offense Code: MAC
 Code/Ordinance Sec: 63-5-70

This Warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☒ Municipality of
 COLUMBIA. The accused
 is to be arrested and brought before me to be
 dealt with according to law.

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to
 defendant Zinah Demaris Jennings
 on 12 30 2011

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City of Columbia
 Municipal Court
 811 Washington Street
 Columbia, SC 29201

STATE OF SOUTH CAROLINA

County/ Municipality of
COLUMBIA

AFFIDAVIT

Personally appeared before me the affiant INV. C.D. BAILEY who
 being duly sworn deposes and says that defendant ZINAH DEMARIS JENNINGS
 did within this county and state on 12/24/2011 violate the criminal laws of the
 State of South Carolina (or ordinance of County/ Municipality of COLUMBIA)
 in the following particulars: UNLAW CONDOC TOWARD CHILD 63-5-70
 DESCRIPTION OF OFFENSE:

I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts:

OCCURRING WITHIN COLUMBIA, CTY OF RICHLAND, THE DEF BEING THE MOTHER
 AND PRIMARY CAREGIVER OF 5 YO JENNINGS AGE ONE, HAS PURPOSELY LIED TO
 LAW ENFORCEMENT SEVERAL TIMES REGARDING THE WHEREABOUTS OF PII TELL
 -ING OFFICER MILLER ON 12/24/2011 SHE DID NOT HAVE A CHILD, THEN SAID
 THE CHILD WAS IN ATLANTA WITH HER AUNT, THEN ON 12/28/2011 TELLING
 THE AFFIANT THE CHILD WAS AT THE REISDENCE OF ERNEST ROBINSON HAVING
 LEFT HIM THERE BECAUSE SHE NEEDED A BREAK. THIS AFFIANT TRAINING EX-
 PERIENCE AND INVESTIGATION OF THE FICTICIOUS ROBINSON RESIDENCE HAS

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of
COLUMBIA

Affiant's Address

COLUMBIA SC 29201

Affiant's Telephone

5453500

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
 on 12/24/2011 defendant ZINAH DEMARIS JENNINGS
 did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of COLUMBIA) as set forth below:

DESCRIPTION OF OFFENSE: UNLAW CONDOC TOWARD CHILD 63-5-70

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
 defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
 the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 12/29/2011

Signature of Issuing Judge

Judge Code: 2012

Notarization Recorder

ORIGINAL

Judge's Address CITY OF COLUMBIA, SC

MUNICIPAL COURT, P.O. BOX 644 29202

Judge's Telephone

Issuing Court:

☐ Magistrate☒ Municipal☐ Circuit☐ Circuit

2012 JAN 13 AM 11:52
 JENNIFER W. GIBBIE
 RICHLAND COUNTY
 #1 JUSTICE SQUARE

K690460

UNLAW CONDUCT TOWARD CHILD 63-5-70

Name JENNINGS, ZINAH DAMARIS

Address (1) LADY STREET

Address (2)

City/State/Zip COLUMBIA SC 29203

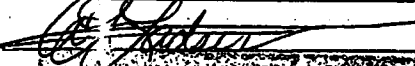
F B 5'7 1 140

Sex R Hgt Wgt

HAS LED HIM TO BELIEVE ERNEST ROBINSON DOES NOT EXIST AND ^{Child} IS NOT AT THE RESIDENCE IN ATLANTA. THEREFORE THIS AFFIANT BELIEVES THE DEF IS WILLFULLY WITHHOLDING INFORMATION THAT WOULD IMPLICATE THE DEF OR OTHERS IN THE HARM THAT HAS BEFALLEN ^{Child} BASED UPON ^{Child} AGE HE WOULD REQUIRE INTENSE SUPERVISION AND CARE AND THE DEF IS UNABLE OR UNWILLING TO ESTABLISH THAT THIS CHILD WHO WAS SOLELY IN HER CARE IS ALIVE AND HEALTHY. ADMISSION BY THE DEF AND FAMILY ESTABLISH THAT ^{Child} HAS NOT BEEN SEEN BY DEF NOR ANY KNOWN FAMILY MEMBERS SINCE DECEMBER 6, 2011.

Sworn to and subscribed before me

On 12/29/2011

 L.S.

Signature of Issuing Judge
Ministerial Recorder

Judge Code: 403003

CITY OF COLUMBIA

MUNICIPAL COURT

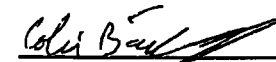
PO BOX 644

COLUMBIA, SC 29202

Signature of Affiant:

Affiant's Address

Affiant's Telephone



#1 JUSTICE SQUARE

COLUMBIA SC 29201

545-3519

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT FORMPage 1 of 1Date: 12/27/11 Time: 1915 Place: City of ColumbiaI am Zinah A. Jennings My birthday is April 2nd 1989

My address and phone number are: _____

I am giving this statement concerning _____

to Inv. C. D. BAILEY who has identified himself as Investigator with CPD

Q. Where is Amir?

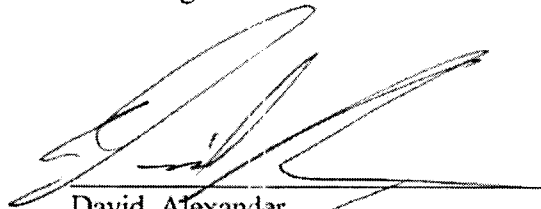
A. Amir is with his father Ernest Robinson. I dropped him off on Dec 16, 2011. He is safe and happy.

Sworn and subscribed to me this
27 day of December 2011
Inv. C. D. BAILEY 20374
NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 11-16-2020ISI X Zinah A. Jennings
ISI __________ received a copy of this statement consisting of 1 pages
from Inv. C. D. BAILEY ISI X

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

December 8th, 2014



David Alexander
Appellate Defender

RECEIVED

DEC 8 2014

SC Court of Appeals

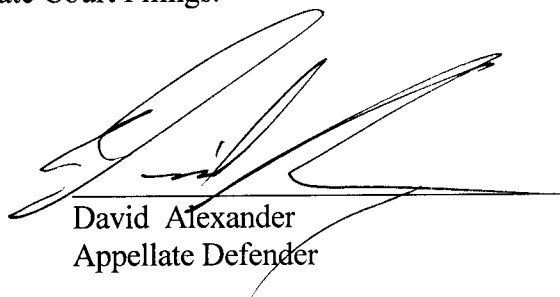
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

December 8th, 2014



David Alexander
Appellate Defender

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

ATTORNEY FOR APPELLANT

RECEIVED

DEC 8 2014

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

R. Knox McMahon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ZINAH DAMARIS JENNINGS,

APPELLANT

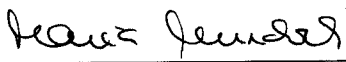
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon William M. Blich, Jr., Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 8th day of December, 2014.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 8th day of December, 2014.

 (L.S.)

Notary Public for South Carolina
My Commission Expires: July 3, 2023.

RECEIVED
DEC 10 8 2014
SC Court of Appeals