

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of General Sessions

Robert E. Hood, Circuit Court Judge

Appellate Case No. 2018-000341

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SC Court of Appeals

THE STATE RESPONDENT.

V.

SHELBY HARPER TAYLOR APPELLANT.

RECORD ON APPEAL
VOLUME 1 OF 2

Emily C. Paavola #77855
900 Elmwood Ave., Suite 200
Columbia, SC 29201
(803)765-1044
Emily@justice360sc.org

John H. Blume #743
Cornell Law School
159 Hughes Hall
Ithaca, NY 14853
(607)255-1030
John@blumelaw.com

ATTORNEYS FOR APPELLANT

Mark R. Farthing, Esquire
SC Attorney General's Office
PO Box 11549
Columbia, SC 29211

ATTORNEY FOR RESPONDENT

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1 State of South Carolina) Court of General Sessions
2 County of Horry) 2015-GS-26-01938

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5 State of South Carolina)
6 vs.) Transcript of Record
7 Shelby Harper Taylor)

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February 5 - 7, 2018
Conway, South Carolina

11

12

BEFORE:

13

Honorable Robert E. Hood, Judge.

14

APPEARANCES:

15

Scott Hixson, Esq.
Cara Walker, Esq.
Attorneys for the State

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Greg McCollum, Esq.
Dean Mureddu, Esq.
Attorneys for the Defendant

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Teresa J. F. Bautz, RPR
Official Court Reporter

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1 (The hearing commenced at approximately
2 11:32 a.m.)

3 THE COURT: Good morning, all right. So one of
4 the first things that I'm going to read this jury list
5 so I can make sure I have the right 40 people in the
6 room; okay? So if I call your name, just say here or
7 present. Victoria Hill?

8 JUROR #176: Here.

9 THE COURT: Carlos Rivera?

10 JUROR #308: Here.

11 THE COURT: David Barr?

12 JUROR #16: Here.

13 THE COURT: Morgan Woolard?

14 JUROR #394: Here.

15 THE COURT: Corrine Breadmore?

16 JUROR #42: Here.

17 THE COURT: Nathaniel Angle?

18 JUROR #10: Here.

19 THE COURT: King Alan Hewitt?

20 JUROR #174: Here.

21 THE COURT: Stephanie Elias -- or Stephen Eliason?

22 JUROR #109: Here.

23 THE COURT: Stephen Oliver.

24 JUROR #270: Here.

25 THE COURT: Karrie Melvin.

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1 JUROR #306: Here.

2 THE COURT: Jacquelyn Schultz-Black? Jacquelyn
3 Schultz? Juror No. 321?

4 (No response.)

5 THE COURT: William Cox?

6 JUROR #82: Here.

7 THE COURT: Suzanne Brooks?

8 JUROR #44: Here.

9 THE COURT: Adam Bourque?

10 JUROR #37: Here.

11 THE COURT: Shelby Waldroup?

12 JUROR #372: Shelley.

13 THE COURT: Shelly. Sorry.

14 JUROR #372: Here.

15 THE COURT: Nicholas Blackmon?

16 JUROR #30: Here.

17 THE COURT: Todd Spiehler?

18 JUROR #342: Here.

19 THE COURT: Mary Courtney?

20 JUROR #80: Here.

21 THE COURT: Dontrea Hazzard?

22 JUROR #168: Here.

23 THE COURT: Leigh Lever?

24 JUROR #218: Here.

25 THE COURT: Franklin Holmes?

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1 JUROR #177: Here.
2 THE COURT: Mark Cholowski?
3 JUROR #70: Here.
4 THE COURT: Dorothy Long?
5 JUROR #223: Here.
6 THE COURT: Douglas English?
7 JUROR #112: Here.
8 THE COURT: Marie Davis-Forester?
9 JUROR #90: Here.
10 THE COURT: Ryan Gamble?
11 JUROR #127: Here.
12 THE COURT: Patricia Crews?
13 JUROR #83: Here.
14 THE COURT: Karen Schecker?
15 JUROR #319: Here.
16 THE COURT: Dewon Huggins?
17 JUROR #182: Here.
18 THE COURT: Beverly Todd?
19 JUROR #358: Here.
20 THE COURT: Jessica Haas?
21 JUROR #153: Here.
22 THE COURT: Charles Brown?
23 JUROR #46: Here.
24 THE COURT: Philip Ulias?
25 JUROR #367: Here.

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1 THE COURT: Kurt Mew?
2 JUROR #242: Here.
3 THE COURT: Gregory Gibson?
4 JUROR #135: Here.
5 THE COURT: Kenneth Rumbaugh?
6 JUROR #317: Here.
7 THE COURT: Eddy Gibson?
8 JUROR #134: Here.
9 THE COURT: Jazzman Putnam?
10 JUROR #295: Here.
11 THE COURT: Madison Raynor?
12 JUROR #303: Here.
13 THE COURT: Linda Tibbert?
14 JUROR #356: Here.
15 THE COURT: Marie Davis-Forester?
16 JUROR #90: Here.
17 THE COURT: Okay.
18 JUROR #90: He called me twice.
19 THE COURT: Sorry if I said your name wrong.
20 JUROR #90: No, you called me twice.
21 THE COURT: Okay. I have a method to my madness.
22 Okay, all right. Did we find Ms. Schultz? All right.
23 Can we call down to see where Ms. Schultz is?
24 DEPUTY: What's the name, first name?
25 THE COURT: Jacquelyn Schultz, hyphen, Black,

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1 juror number 321.

2 All right. Just a couple of housekeeping matters
3 while we're waiting on that juror. If you have a
4 phone, make sure that it's off. If I hear a phone go
5 off, then it will be taken from you. If you actually
6 make it on the jury, you will have your phone on breaks
7 and for meals, but while you're performing jury duty in
8 the jury room, you will not be allowed to keep it.
9 They will take it from you. Okay? But make sure it's
10 off.

11 All right. Where is Ms. Schultz? Okay. All
12 right. Thank you very much.

13 All right, ladies and gentlemen. Good morning.
14 We are on the record in 2015-GS-26-1938. This is the
15 State of South Carolina versus Shelby Harper Taylor.

16 Is the State ready to proceed?

17 MR. HIXSON: We are, Your Honor.

18 THE COURT: And is the Defense ready to proceed?

19 MR. MUREDDU: We are, Your Honor.

20 THE COURT: All right. Mr. Hixson, you may call
21 your case.

22 MR. HIXSON: Thank you, Your Honor. At this time,
23 the State of South Carolina, the State versus Shelby
24 Harper Taylor, Your Honor. The specific indictment
25 we're calling, we have, is attempted murder against

1 Ms. Taylor. I believe you have a copy of the original
2 true bill indictment, and the indictment number, Your
3 Honor, referring to is 2015-GS-26-1938.

4 And in that indictment, Your Honor, we allege that
5 Shelby Harper Taylor did, in Horry County, on or about
6 April 9th of 2015, with an intent to kill her newborn
7 child, date of birth of [REDACTED]/15, attempted to kill said
8 child with malice aforethought, either expressed or
9 implied, in violation of Section 16-3-29, South
10 Carolina Code of Laws, 1976, as amended, Your Honor.
11 Our grand jury true billed that case May 28th of 2015.

12 THE COURT: Thank you very much, Mr. Hixson.

13 Ladies and gentlemen, the State has called its
14 case. There is one indictment in this case. I hold in
15 my hand this indictment. This indictment is not proof
16 of anything, it is not evidence of anything. It is
17 simply the document that gives this Court the authority
18 to hear this case. To this charge, the Defendant has
19 pled not guilty, and she has requested a trial by jury.

20 The indictment in this case alleges -- and, again,
21 these are allegations; this is not proof or evidence --
22 but the indictment alleges attempted murder, that
23 Shelby Harper Taylor did, in Horry County, on or about
24 April the 9th of 2015, with intent to kill her newborn
25 child, date of birth, [REDACTED] of 2015, attempt to

1 kill said child with malice aforethought, either
2 express or implied, in violation of the South Carolina
3 Code of Laws.

4 Now, as I've told you, an indictment is not proof
5 of anything, it is not evidence of anything. It simply
6 gives this Court the authority to hear this case.

7 Now, the Defendant has pled not guilty to the
8 charge and has requested a trial by jury. And so what
9 we're going to do now is we're going to ask you some
10 specific questions about this case. So this morning
11 the questions that I asked you were about your general
12 qualifications to serve.

13 The questions that I'm going to ask you now are
14 about this case specifically, do you know the lawyers,
15 do you know the parties, do you know the witnesses, do
16 you know anything about the case, have you heard
17 anything about the case; questions of that nature.

18 As I told you this morning in qualifications and I
19 will again tell you now, it's absolutely essential and
20 critical that you provide us with truthful answers to
21 the questions that I'm going to ask. Okay? So in that
22 vein, I'm going to have you be sworn in again, so if
23 you will all please rise. And the clerk will now swear
24 you in to tell the truth.

25 Please, Madam Clerk.

1 THE CLERK: Please stand and raise your right hand
2 to be sworn.

3 (WHEREUPON, all jurors were duly sworn.)

4 THE COURT: Is there anybody that does not answer
5 I do or I will, please remain standing. Everyone else
6 that answered in the affirmative, please be seated.

7 Okay. All right. The clerks have all kinds of
8 different oaths. They have oaths for interpreters and
9 oaths for all kinds of people, and so since I'm -- I'm
10 not normally here trying cases, so it's a little bit of
11 a learning curve between office staff and the way the
12 judges do things differently. That's all that was.

13 Okay. So the first thing I'm going to do is
14 introduce the lawyers to you.

15 Mr. Hixson, if you'll please -- and Ms. Walker --
16 y'all please stand up and introduce yourselves and tell
17 them who you are and where you work.

18 MR. HIXSON: Thanks. Hey, everybody. My name is
19 Scott Hixson. I'm the chief deputy solicitor here in
20 the Fifteenth Judicial Circuit, which is Horry and
21 Georgetown Counties, and I directly answer to my boss,
22 the elected solicitor, which is Jimmy Richardson.

23 MS. WALKER: And I'm Cara Walker. I'm one of the
24 assistant solicitors here, and been here for about a
25 year and a half in Horry County.

1 THE COURT: All right. So the question is, is
2 anybody related by blood or marriage, close personal
3 friends with, have any connection to, business,
4 personal, social or otherwise, either with Mr. Hixson
5 or Ms. Walker? If so, please stand.

6 (No response.)

7 THE COURT: All right. Does anybody have any
8 connection to anyone that works at the Fifteenth
9 Circuit Solicitor's Office? Now, the Fifteenth Circuit
10 is Horry County and Georgetown County. Your elected
11 solicitor is Mr. Jimmy Richardson. Does anyone have
12 any connection, business, personal, social, or
13 otherwise, to anyone that works at the Fifteenth
14 Circuit Solicitor's Office? If so, please stand.

15 All right. And tell me your name, sir.

16 JUROR #16: David Barr, No. 16.

17 THE COURT: Okay. Now, we all got to find you
18 before you answer the question. Okay, Mr. Barr?

19 JUROR #16: That's fine.

20 THE COURT: So give me just one second. All
21 right. So Mr. Barr is Juror No. 16. And who do you
22 know?

23 JUROR #16: I can't remember their name, but I
24 sold them a house in the community that I work in.
25 It's one of the solicitors that work here at Horry

1 County.

2 THE COURT: How long ago was that?

3 JUROR #16: Three months ago.

4 THE COURT: And do you even remember their name?

5 JUROR #16: I can't remember the last name.

6 THE COURT: Okay. And would this affect your
7 ability to be fair and impartial?

8 JUROR #16: No.

9 THE COURT: Are you willing to base your decision
10 off the evidence and the law?

11 JUROR #16: Yes.

12 THE COURT: And will you do so?

13 JUROR #16: Yes, sir.

14 THE COURT: Okay. Thank you very much.
15 Tell me your name, sir.

16 JUROR #182: Dewon Huggins.

17 THE COURT: Mr. Huggins. And Mr. Huggins is Juror
18 No. 182. Who do you know, Mr. Huggins?

19 JUROR #182: I know Jimmy Richardson. I know one
20 of the solicitors that prosecuted a case of someone who
21 was -- pretty much assaulted me last year. I know the
22 victim advocate. And that's pretty much it with the
23 Solicitor's Office.

24 THE COURT: And would this affect your ability to
25 be fair and impartial?

1 JUROR #182: Absolutely not.

2 THE COURT: Are you willing to base your decision
3 off the evidence and the law?

4 JUROR #182: Yes, sir.

5 THE COURT: And will you do so?

6 JUROR #182: Yes, sir.

7 THE COURT: Okay. Thank you very much.

8 Now, I usually give this example before I start,
9 and I just forgot this morning. The example I like to
10 give is people at church; okay? So, you know, you go
11 to church with people, and there's some people that you
12 go to church with and you know their phone number,
13 you've been to their house, you've eaten, you know
14 their children, you've gone out with them and had
15 dinner either as couples or friends that you really,
16 really know; right?

17 And then there's that guy at church that you see
18 every single Sunday, you may or may not know his name,
19 but you don't have his phone number, you've never been
20 to his house, but you know, yeah, I go to church with
21 that guy. So even the guy in my second example, kind
22 of the guy I see at church but I don't really know him,
23 if he was involved in this case, I would want you to
24 stand up and tell me. Does that make sense?

25 What we're trying to do is gather as much

1 information as possible in as efficient amount of time
2 as possible. So err on the side of answering my
3 question as opposed to not answering my question. Make
4 sense? Okay.

5 All right. Mr. Mureddu, if you and Mr. McCollum
6 would like to stand up and introduce yourselves and
7 your client.

8 MR. MUREDDU: Thank you, Your Honor.

9 My name is Dean Mureddu. I work with Mr. Greg
10 McCollum. We are Shelby Taylor's lawyers. We have a
11 firm called The Complete Legal Defense Team down in
12 Myrtle Beach.

13 THE COURT: All right. Mr. McCollum, anything you
14 want to say?

15 MR. MCCOLLUM: I'm Greg McCollum, and as Dean
16 said, I'm a lawyer with The Complete Legal Defense
17 Team, and we represent Shelby Taylor. Also present
18 with us who you may see in the courtroom some --
19 Debbie, stand up -- is Debbie Gibbs. She's a paralegal
20 and our firm's administrator, and she may be in here
21 assisting as well.

22 THE COURT: All right. And, Ms. Taylor, if you
23 would please stand up and face the jurors so they can
24 see you.

25 (The Defendant complied.)

1 THE COURT: Thank you very much. Okay. So the
2 question is, is anyone related by blood or marriage,
3 close personal friends with, have any connection to,
4 business, personal, social, or otherwise, either
5 Mr. McCollum or Mr. Mureddu or Ms. Taylor? As to the
6 lawyers, have you ever been represented by them or on
7 the other side of a case from them? If so, please
8 stand.

9 MR. MUREDDU: Your Honor, I --

10 THE COURT: Yes, sir.

11 MR. MUREDDU: I don't want to potentially
12 embarrass, I think it is Ms. Wollard, but I think she
13 looks familiar. I think she was actually an attending
14 nurse for me. I had a little -- not a skin cancer
15 thing, but anyway, that's who it looks like. I figured
16 out of an abundance of caution -- I may be wrong.

17 THE COURT: Okay. Where is Ms. Wollard? Do you
18 remember Mr. Mureddu?

19 JUROR #394: I don't, but I see so many patients.

20 THE COURT: Right. Do you know him personally or
21 have any connection to him?

22 JUROR #394: No, sir.

23 THE COURT: Okay, all right. Thank you very much.
24 Okay.

25 All right. Now, ladies and gentlemen, so one of

1 the things if you make it on this jury that you will
2 hear me repeatedly tell you is a trial judge cannot
3 state or comment on the facts in a case, okay. But
4 you'll hear me explain this very clearly if you make it
5 on a jury. You're in charge of the facts, I'm in
6 charge of the law. I can't tell you what the facts
7 are. You can't tell me what the law is, okay.

8 Now -- but I have to give you a little bit of
9 information about the case to see if you've heard
10 anything about the case or if you know anything about
11 the case or you've heard somebody talking about the
12 case or you think you know what the case is, something
13 of that nature; okay?

14 Now, at this point, these are completely and
15 totally allegations. This is not evidence of anything
16 or proof of anything. But this is an incident that
17 allegedly occurred on or about April the 9th of 2015
18 near the Island Green apartment complex, which I
19 understand is somewhere close to Socastee outside of
20 Myrtle Beach city limits but probably still has a
21 Myrtle Beach address. And it occurred in the early
22 morning hours of April the 9th of 2015.

23 Now, the alleged victim's name in the case is
24 [REDACTED], who would have been a newborn child at
25 that time. So the question is, has anybody heard

1 anything about this case, seen anything about this
2 case, read anything about this case, or have any
3 knowledge about the case or the allegations in any way,
4 shape or form?

5 Okay. Stand up, sir. Tell me your name.

6 JUROR #177: Franklin Holmes.

7 THE COURT: Okay. Mr. Holmes, why don't you come
8 on right up here. And the attorneys may, of course,
9 approach. Come on right up. Come right up here,
10 Mr. Holmes. Okay.

11 JUROR #177: I live about a mile away from Island
12 Green.

13 THE COURT: Yeah.

14 JUROR #177: And I kind of remember that case, but
15 I can't -- you know, I can't really remember what
16 happened.

17 THE COURT: Do you know anything about it other
18 than something happened?

19 JUROR #177: Something happened and that's it.

20 THE COURT: Okay. And have you ever formed or
21 expressed an opinion about anything in the case?

22 JUROR #177: No, nu-uh.

23 THE COURT: Are you aware of any bias or prejudice
24 you may have towards either side?

25 JUROR #177: No.

1 THE COURT: Are you willing to base your decision
2 on what happens here in the courtroom?

3 JUROR #177: Yes.

4 THE COURT: And are you willing to follow the law
5 as I give it to you?

6 JUROR #177: Oh, yeah.

7 THE COURT: Okay, all right. Thank you very much.

8 JUROR #177: All right.

9 THE COURT: Anybody else? All right. Come on up.
10 What's your name, sir? Tell me your name, sir.

11 JUROR #367: Phillip Ulias.

12 THE COURT: All right. Let me find you,
13 Mr. Ulias.

14 JUROR #367: 367.

15 THE COURT: Yes, sir. Come right over here.
16 Okay. Tell me what you know.

17 JUROR #367: I moved here in September of 2014,
18 and I've been reading The Sun News --

19 THE COURT: Right.

20 JUROR #367: -- and watching ABC News.

21 THE COURT: Right.

22 JUROR #367: That's the only thing.

23 THE COURT: Do you know anything personally about
24 the case?

25 JUROR #367: No, absolutely not.

1 THE COURT: Have you formed or expressed an
2 opinion about anything in the case?

3 JUROR #367: No.

4 THE COURT: Are you willing to base your decision
5 on what happens here in court?

6 JUROR #367: Yes.

7 THE COURT: And the law and the facts as they
8 present themselves?

9 JUROR #367: Absolutely.

10 THE COURT: And do you have any bias or prejudice
11 towards either side?

12 JUROR #367: No.

13 THE COURT: Okay. Thank you very much. All
14 right. Anybody else?

15 (No response.)

16 THE COURT: Okay. The next question is, has
17 anybody formed or expressed an opinion about any issue
18 or matter in this case? Has anybody formed or
19 expressed an opinion about any issue or matter in this
20 case?

21 (No response.)

22 THE COURT: All right. The next thing I'm going
23 to do is read you a list of potential witnesses, okay.

24 A JUROR: When you say form or expressed an
25 opinion, I do work in politics so, I mean, I -- on a

1 daily basis, I'm generally writing policy about
2 pro-life and pro-choice. Does that count?

3 THE COURT: No. Just have a seat. Thank you.
4 All right. The next thing I'm going to do is read you
5 a list of potential witnesses and -- that may be called
6 in the case. If you hear a name that you know or you
7 think you know, just go ahead and stand up right where
8 you are.

9 Raymond Price, Jessica DeTray, Jeremy Neely with
10 the Horry County Police Department, Keith Drabick, Ryan
11 Seipt or Siept, Kevin McLean, Denis Lewis, Robbie
12 Caulder, Jeff Cauble, C-A-U-B-L-E, Dr. John Burney at
13 the Conway Medical Center, Weslyn Chickering, Lori
14 Dudley, Amy Stephens with SLED, Doris Yarborough with
15 SLED, Paul Meeh, M-E-E-H, with SLED, Rene Hardwick,
16 Patrick Taylor, Dr. Adedapo Oduwole with Conway Medical
17 Center, Sheila Gunter, Bill Burhans, Renee Hardwick.

18 If I say some of the same names again, I
19 apologize. Patrick Taylor, Angie Harper, Chris Harper,
20 Chris Lilly, Richard Earnest, Samantha Harper, Kayla
21 Harper and Dr. Robert McCarthy.

22 So is anybody related by blood or marriage, close
23 personal friends with, have any connection to,
24 business, personal, social, or otherwise? Basically,
25 do you know any of these people in any way, shape, or

1 form? If so, please stand.

2 Okay. Yes, sir. Tell me your name.

3 JUROR #242: Kurt Mew.

4 THE COURT: All right. And who do you know,

5 Mr. Mew?

6 JUROR #242: Sheila Gunter.

7 THE COURT: Okay. And how do you know her?

8 JUROR #242: I used to go to church with them.

9 THE COURT: Would that affect your ability to be

10 fair and impartial?

11 JUROR #242: No, sir.

12 THE COURT: Are you willing to base your decision

13 off the evidence and the law?

14 JUROR #242: Yes, sir.

15 THE COURT: And will you do so?

16 JUROR #242: Yes, sir.

17 THE COURT: Anybody else?

18 JUROR #242: Jimmy Richardson, I go to church with

19 him now.

20 THE COURT: Okay. And would that affect your

21 ability to be fair and impartial?

22 JUROR #242: No, sir.

23 THE COURT: Are you willing to base your decision

24 off the evidence and the law?

25 JUROR #242: Yes.

000024

1 THE COURT: And will you do so?

2 JUROR #242: Yes, sir.

3 THE COURT: Okay. Tell me your name, sir.

4 JUROR #37: Adam Bourque. 87. I'm sorry; 37.

5 THE COURT: It's Ward?

6 JUROR #37: Bourque.

7 THE COURT: Bourque, okay. There you are, okay.

8 And who do you know, Mr. Bourque?

9 JUROR #37: The SLED agent, Amy.

10 THE COURT: Okay. And would that affect your
11 ability to be fair and impartial?

12 JUROR #37: No, sir.

13 THE COURT: Are you willing to base your decision
14 off the evidence and the law?

15 JUROR #37: Yes, sir.

16 THE COURT: And will you do so?

17 JUROR #37: Yes, sir.

18 THE COURT: Thank you. Yes, sir, your name?

19 JUROR #135: Greg Gibson, Juror 135.

20 THE COURT: Hold on one second. All right,
21 Mr. Gibson. Who do you know?

22 JUROR #135: I'm not quite sure if I know her,
23 Kayla Harper. Does she work -- does it have a -- where
24 she works at, evidence of where she works? Did she
25 work at Lowe's?

1 A JUROR: Lowe's Hardware.

2 JUROR #135: Lowe's home improvement on 410. I
3 worked with her for several years.

4 THE COURT: And you were a manager at Lowe's; is
5 that right?

6 JUROR #135: I was, yeah.

7 THE COURT: And would this affect your ability to
8 be fair and impartial?

9 JUROR #135: No.

10 THE COURT: Are you willing to base your decision
11 off the evidence and the law?

12 JUROR #135: Yes.

13 THE COURT: And will you do so?

14 JUROR #135: I will.

15 THE COURT: Thank you very much, Mr. Gibson. Yes,
16 ma'am, tell me your name.

17 JUROR #372: Shelley Waldroup.

18 THE COURT: All right. Let me find you. Just one
19 second, okay. Shelley Waldroup.

20 JUROR #372: Uh-huh.

21 THE COURT: Okay. And who do you know,
22 Ms. Waldroup?

23 JUROR #372: Dr. Oduwole.

24 THE COURT: Okay. And would this affect your
25 ability to be fair and impartial?

1 JUROR #372: No.

2 THE COURT: Are you willing to base your decision
3 off the evidence and the law?

4 JUROR #372: Yes, sir.

5 THE COURT: And will you do so?

6 JUROR #372: Yes, sir.

7 THE COURT: Thank you, ma'am. Anybody else know
8 any of the witnesses or have any relationship to them?

9 (No response.)

10 THE COURT: All right. Is there anybody in the
11 jury panel who is aware of any bias or prejudice that
12 you may have towards either the State or the Defendant
13 in this case?

14 (No response.)

15 THE COURT: Is there any member of the jury panel
16 who is a member of or a contributor to any group which
17 has as its primary concern the promotion of law
18 enforcement or victims' rights? This would include
19 MADD, SADD, or CAVE or defendants' rights such as The
20 Innocence Project.

21 All right. Stand up. And what's your name?
22 Mr. Angle; is that right?

23 JUROR #10: Right. I'm a member of the ACLU.

24 THE COURT: Okay. Hold on, let me find you.
25 Spell your last name for me.

1 JUROR #10: A-N-G-L-E.

2 THE COURT: Okay. And you're a member of the
3 ACLU. And would this affect your ability to be fair
4 and impartial?

5 JUROR #10: No.

6 THE COURT: Are you willing to base your decision
7 off the evidence and the law?

8 JUROR #10: Yes.

9 THE COURT: And will you do so?

10 JUROR #10: Yes.

11 THE COURT: Thank you. Anybody else?

12 (No response.)

13 THE COURT: Does any member of the jury panel know
14 of any reason whatsoever why he or she should not serve
15 as a juror in this case? What the attorneys and the
16 parties in this case want is 12 people who have no one
17 to reward and no one to punish. They want you to come
18 in, they want you to sit fairly and impartially without
19 any bias or prejudice towards either side. They want
20 you to hear the evidence, determine what the facts are,
21 and then apply those facts to the law.

22 Is there anybody that believes they cannot do
23 that? All right. You need to come on up. Tell me
24 your name, sir.

25 JUROR #46: Charles Brown.

1 THE COURT: Charles, come on up. Tell me your
2 last name.

3 JUROR #46: Brown.

4 THE COURT: Brown, okay.

5 JUROR #46: I don't pass judgment on a person. I
6 had a friend killed four years ago, and they gave him
7 ten years -- her ten years, and she was seen stabbing
8 him and everything. But they will give somebody ten
9 years for selling coke or something. I do not believe
10 in the judicial system.

11 THE COURT: Okay. Just have a seat in the back
12 row.

13 JUROR #46: Thank you.

14 THE COURT: He's out. All right. Any further
15 questions from the solicitor?

16 MR. HIXSON: No, thank you, Your Honor.

17 JUROR #10: I'd like to see the judge, please.

18 THE COURT: Come on up, Mr. Angle.

19 JUROR #10: Thank you, Your Honor. I have
20 spiritual --

21 THE COURT: Shh.

22 JUROR #10: I have spiritual convictions that
23 don't allow me to judge people.

24 THE COURT: Okay, that's fine. You won't be on
25 the jury, but you'll be here all week. Thank you very

1 much.

2 JUROR #10: Okay.

3 THE COURT: Any further voir dire from the State?

4 MR. HIXSON: No, sir, Your Honor.

5 THE COURT: From the Defense?

6 MR. MUREDDU: Nothing, Your Honor.

7 THE COURT: All right. So this is what's going to
8 happen. Your names have been put into a randomly
9 generated list in order, so you are all completely and
10 totally out of order at this point.

11 So if your name is called, what you do is you need
12 to come and stand right up here and face out to your
13 fellow jurors. And then they will ask the State, do
14 they want to seat that person or excuse that person.
15 Then they will ask the Defense, do they want to seat
16 the person or excuse the person.

17 If either side says excuse, just go back to your
18 seat. If both sides say seat or swear the juror, then
19 you'll come right over here to Ms. Danna, and she will
20 show you where to sit. We're going to pick two
21 alternates. Strikes on the first 12 are five and five.
22 Strikes on the alternates are one and two each.
23 Everybody good?

24 MR. HIXSON: Yes, sir.

25 MR. McCOLLUM: Yes, sir.

1 THE COURT: Everybody ready? Okay. You ready,
2 Janet?

3 THE CLERK: Yes, sir.

4 THE COURT: Okay. So if your name is called,
5 bring all your stuff with you; okay?

6 THE CLERK: Okay. Juror No. 127, Ryan Gamble.
7 What say the State?

8 MR. HIXSON: Please present Mr. Gamble.

9 THE CLERK: Defense?

10 MR. MUREDDU: Please swear Mr. Gamble.

11 THE CLERK: All right. Please be seated in the
12 jury box. No. 83, Patricia Crews. What say the State?

13 MR. HIXSON: Please present Ms. Crews.

14 THE CLERK: All right. Defense?

15 MR. MUREDDU: Please swear Ms. Crews.

16 THE CLERK: Please be seated in the jury box.

17 No. 319, Karen Schecker. What say the State?

18 MR. HIXSON: Please present Ms. Schecker.

19 THE CLERK: All right. Defense?

20 MR. MUREDDU: Please swear Ms. Schecker.

21 THE CLERK: Please be seated in the jury box.

22 No. 182, Dewon Huggins. What say the State?

23 MR. HIXSON: Please excuse Mr. Huggins.

24 THE CLERK: You're excused from this particular
25 case. No. 358, Beverly Todd. What say the State?

1 MR. HIXSON: Please excuse Ms. Todd.

2 THE CLERK: All right. You're excused from this
3 particular case. No. 153, Jessica Haas. What say the
4 State?

5 MR. HIXSON: Please present Ms. Haas.

6 THE CLERK: All right. Defense?

7 MR. MUREDDU: Please swear Ms. Haas.

8 THE CLERK: All right. Please be seated in the
9 jury box. No. 367, Phillip Ulias. What say the State?

10 MR. HIXSON: Please present Mr. Ulias.

11 MR. MUREDDU: Please excuse Mr. Ulias from this
12 particular case.

13 THE CLERK: All right. You're excused from this
14 particular case. No. 242, Kurt Mew. What say the
15 State?

16 MR. HIXSON: Please present Mr. Mew.

17 THE CLERK: Defense?

18 MR. MUREDDU: Please excuse Mr. Mew from this
19 particular case.

20 THE CLERK: You're excused from this particular
21 case. No. 135, Gregory Gibson. What say the State?

22 MR. HIXSON: Please present Mr. Gibson.

23 THE CLERK: Defense?

24 MR. MUREDDU: Please swear Mr. Gibson.

25 THE CLERK: All right. Please be seated in the

1 jury box. No. 317, Kenneth Rumbaugh. What say the
2 State?

3 MR. HIXSON: Please present Mr. Rumbaugh.

4 THE CLERK: Defense?

5 MR. MUREDDU: Please swear Mr. Rumbaugh.

6 THE CLERK: Please be seated in the jury box.

7 No. 134, Eddy Gibson. What say the State?

8 MR. HIXSON: Please present Mr. Gibson.

9 THE CLERK: All right. Defense?

10 MR. MUREDDU: Please excuse Mr. Gibson from this
11 particular case.

12 THE CLERK: You're excused from this particular
13 case. No. 295, Jazzman Putnam. What say the State?

14 MR. HIXSON: Please present Ms. Putnam.

15 THE CLERK: Defense?

16 MR. MUREDDU: Please swear Ms. Putnam.

17 THE CLERK: Please be seated in the jury box.

18 No. 303, Madison Raynor. What say the State?

19 MR. HIXSON: Please present Ms. Raynor.

20 THE CLERK: Defense?

21 MR. MUREDDU: Please swear Ms. Raynor.

22 THE CLERK: Please be seated in the jury box.

23 No. 356, Linda Tibbert. What say the State?

24 MR. HIXSON: Please present Ms. Tibbert.

25 THE CLERK: Defense?

1 MR. MUREDDU: Please swear Ms. Tibbert.

2 THE CLERK: All right. Please be seated in the
3 jury box. No. 90, Marie Davis-Forester. What say the
4 State?

5 MR. HIXSON: Please present Ms. Davis-Forester.

6 THE CLERK: Defense?

7 MR. MUREDDU: Please swear Ms. Davis-Forester.

8 THE CLERK: Please be seated in the jury box.
9 No. 112, Douglas English. What say the State?

10 MR. HIXSON: Please present Mr. English.

11 THE CLERK: Defense?

12 MR. MUREDDU: Please swear Mr. English.

13 THE CLERK: Please be seated in the jury box.
14 No. 223, Dorothy Long. What say the State?

15 MR. HIXSON: Please present Ms. Long.

16 THE CLERK: Defense?

17 MR. MUREDDU: Please excuse Ms. Long from this
18 particular case.

19 THE CLERK: All right. You're excused from this
20 particular case. No. 70, Mark Cholowski. What say the
21 State?

22 MR. HIXSON: Please present Mr. Cholowski.

23 THE CLERK: Defense?

24 MR. MUREDDU: Please swear Mr. Cholowski.

25 THE CLERK: All right. Please be seated in the

1 jury box.

2 THE COURT: Two alternate. Strikes will be one
3 and two on each.

4 THE CLERK: No. 177, Franklin Holmes. What say
5 the State?

6 MR. HIXSON: Please present Mr. Holmes.

7 THE CLERK: Defense?

8 MR. MUREDDU: Please swear Mr. Holmes.

9 THE CLERK: All right. Please be seated in the
10 jury box. No. 218, Leigh Lever. What say the State?

11 MR. HIXSON: Please present Ms. Lever.

12 THE CLERK: Defense?

13 MR. MUREDDU: Please excuse Ms. Lever from this
14 particular case.

15 THE CLERK: All right. You're excused from this
16 particular case. No. 168, Dontrea Hazzard. What say
17 the State?

18 MR. HIXSON: Please present Mr. Hazzard.

19 THE CLERK: Defense?

20 MR. MUREDDU: Please swear Mr. Hazzard.

21 THE CLERK: All right. Please be seated in the
22 jury box.

23 THE COURT: All right. Any exception to the jury
24 selection process from the State?

25 MR. HIXSON: The State has none, Your Honor.

1 THE COURT: From the Defense?

2 MR. MUREDDU: None from Defense, Your Honor.

3 THE COURT: Okay. All right. Thank you very
4 much. All right. Ladies and gentlemen, if you are
5 seated in the audience, congratulations, you did not
6 make it on this jury. There is another jury selection
7 process that's going to go on today in a civil case.

8 So I have been instructed by the Clerk of Court
9 that I'm allowed to release you for lunch. And you
10 need to be in the jury assembly or the jury pool
11 room -- is that the room they were in this morning?

12 THE CLERK: Um-hum.

13 THE COURT: Okay. In the jury assembly room at
14 2:30. So you are released for lunch, and you are free
15 to go. You are to be back in the jury assembly room at
16 2:30. Thank you very much.

17 (WHEREUPON, the jury pool exited the courtroom at
18 12:08 p.m.)

19 THE COURT: All right. Ladies and gentlemen, as
20 soon as they get out, if you'll give me five minutes of
21 your time, I'm going to release you for the day; okay?
22 So just give me five uninterrupted minutes, once I get
23 everybody out of the room, and then we will -- then
24 I'll be able to scoot you out for the day.

25 All right. Give me five interrupted minutes, and

1 I'll get you out of here. So here's the plan. I'm
2 going to give you a little bit of information -- about
3 this much; okay? And then I'm going to release you for
4 the day. We have some matters that we need to take up
5 outside of your presence. This happens in literally
6 every single case I've ever tried in my entire life.
7 It's just part of the normal course of how a trial will
8 proceed.

9 And we will start tomorrow morning with opening
10 statements and jump right into the first witness first
11 thing tomorrow morning; okay? All right, so that's the
12 plan.

13 Now -- so what I'm about to do is make sure you
14 know who everybody is and, because you're in this room,
15 the majority of you have probably never been in court
16 before, or you've probably never certainly been jurors
17 before. So I'm trying to help you with who everybody
18 is, okay?

19 So Ms. Danna is over here to your left, in this
20 beautiful red outfit that she has on. All right,
21 she'll be your bailiff. She'll be responsible for you.
22 She'll be bringing you in and bringing you out, making
23 sure you have snacks and things of that nature; okay?
24 She's going to take good care of you this week, and
25 she'll be in charge of you.

1 Now, you will be required to basically turn over
2 your cell phone when you get here. When you get a
3 lunch break or a break at night, you will be given
4 those devices back, but you can't use them in the jury
5 room, you can't use them here in the courtroom; okay?
6 So if you want to leave them in your car, that's fine.
7 But if you bring them up here, they will take them from
8 you and then return them to you for lunch or for
9 overnight; okay?

10 Now, seated right down here to my right is
11 Ms. Terri Bautz, and she is our court reporter. So I
12 like to say that the court reporters are the most
13 important person in the room. They are the only one in
14 the room who is always working. So she is literally
15 taking down every single word we say; okay?

16 So if, during the trial, you hear me tell the
17 attorneys stop talking or sometimes witnesses and
18 attorneys talk at the same time and I'll say "time out"
19 or "shh" or do something to get everybody from stop --
20 to stop talking, that is because she can only take down
21 one voice at a time, and we want her record to be
22 accurate for what happens here in the courtroom.

23 So you will hear me tell the attorneys to slow
24 down. Or some witnesses get on the stand and they talk
25 so fast, you can't see straight, and you'll hear me

1 say, "slow down." I'm not doing that to pick on
2 anybody; I'm doing that so that we can make sure the
3 record of what occurs in here is accurate.

4 So she'll be taking down every single word.
5 She'll be with us this week. So whenever she needs a
6 break, I always take a break because, while I may not
7 be talking or the attorneys may not be talking, she's
8 always doing something and keeping up with what's going
9 on; okay?

10 Now, not with me today but will be with me
11 tomorrow will be my law clerk. Her name is Bailey
12 Davis. She's from Greenville, South Carolina. So she
13 has graduated from law school, taken the bar exam,
14 passed the bar exam, and then she has chosen to spend
15 her first year practicing law working with me. So you
16 will -- she'll sit up here with me, and she'll be here
17 tomorrow.

18 I am the chief administrative judge of all civil
19 cases in my home circuit, which is -- we're on the
20 record -- the worst job in the entire state. So you
21 will constantly see her and I working on other things
22 because, while I'm in the middle of this trial, I'm
23 managing a docket that has about 7,500 cases on it in
24 Columbia, and literally, there's -- there will probably
25 be three to 400 orders waiting on me to sign when I get

1 back next week. So she'll be constantly working on
2 that. She'll be going in and out. That's perfectly
3 normal. But I wanted you to know who she was.

4 And then Ms. Janet is right down here. She's with
5 the clerk's office. She'll be swearing in people and
6 handling the exhibits and things like that; okay?

7 Now, here are your basic rules for between now and
8 tomorrow morning, and then tomorrow morning I will give
9 you more specific rules. Rule number one is this, you
10 are not allowed to talk about this case or anything
11 about it in any way, shape, or form with anyone,
12 including each other.

13 So you can talk about the Patriots. You can talk
14 about the Eagles. You can talk about how Clemson, you
15 know, is in the top 25 in basketball. You can talk
16 about the weather. I don't care what you talk about,
17 but you can't talk about this case in any way, shape,
18 or form with anyone, including each other; okay?

19 Now, I do live in the year 2018, contrary to
20 popular belief, and when you leave here, I know that
21 most of you are going to turn on a cellphone and you
22 are going to call somebody, you are going to text
23 somebody, you are going to check some form of social
24 media, you're going to see what's going on in the
25 world. And all of that relates to communicating with

1 other people, you are able to do, but you are not
2 allowed to talk about this case.

3 And here is why. Because what happens, if you go
4 home, and your roommate's there or your significant
5 other or your spouse, and you say, hey, I'm on this
6 trial. And they say, oh, I know all about that case.
7 Right? Okay. Then you've had an outside influence,
8 and that's what we're trying to prevent.

9 So y'all can talk about anything else you want to,
10 but you can't talk about this case. You can tell
11 people you're on a jury, but you cannot tell them
12 anything about the case. And, likewise, you should not
13 let anybody talk to you about the case. If somebody
14 tries to talk to you about the case, whether it be one
15 of your fellow jurors or somebody at lunch one day, you
16 should tell them, I'm a juror, do not discuss the case
17 with me. And when you come back to court, immediately
18 report it to me; okay? And we're doing that to protect
19 the integrity of the jury process; okay?

20 Now, second rule is this, you are not allowed to
21 watch, read, listen to news -- any type of news media,
22 whether it be on the Internet, whether it be social
23 media, whether it be the TV, whether it be radio,
24 whether it be newsprint paper. There is no media in
25 your life this week, period, end of story. Not up for

1 discussion. You cannot watch the news, you cannot read
2 the news, you cannot look up the news. You cannot
3 follow some kind of news media on your Twitter page or
4 anything else this week. You are to have no news
5 influence in your life in any way, shape, or form this
6 week; okay? All right.

7 Rule number three is, you are not allowed to do
8 any research about this case; okay? So right now, you
9 know essentially nothing about this case, okay. And
10 you've all told us, by the answers to your questions,
11 that you don't know anything about the case. So when
12 you come back tomorrow morning, that's exactly how I
13 want you to be. So you can't go out and do any
14 research or look up something or say, ooh, wouldn't
15 that be interesting.

16 So I tell jurors in wreck trials where two cars
17 get in a collision, don't go by that intersection
18 unless you have to go by it on the way home. And the
19 reason is this, you don't know that what the
20 intersection looks like today is what the intersection
21 looked like on the day of the wreck, okay. So you
22 don't -- I don't want any outside influences available
23 for you to view.

24 So you're not allowed to go do any research. If
25 somebody says a term or somebody says some type of term

1 and you don't know what it means, you can't even go
2 home and get the dictionary and look it up. You can't
3 do any research on any topics raised or on anybody
4 involved in the case in any way, shape, or form.

5 Now, tomorrow morning we will start at 9:30. I
6 like to be efficient. I promise you that I will make
7 the best use of your time. I promise you that if we
8 are not starting on time, it's because we're doing
9 something that I have to do outside of your presence;
10 otherwise, I will tell all the parties I will be here
11 and ready to go.

12 And usually the timeframe for court is we start at
13 9:30, we take a morning break, we take a lunch break
14 between 12:00 and 1:00, we'll take an afternoon break,
15 and then we usually stop each day about 5:00 or 5:30.

16 The general rule on that is this, if we get to 5
17 o'clock and the next witness is short, I'll tell them
18 to go ahead and do it. If we get to 5 o'clock and the
19 next witness is long, I'll go ahead and stop for the
20 day, even if it's 10 or 15 minutes before as opposed to
21 trying to break up a witness.

22 Okay. And let's see, the last thing is this. Do
23 not -- if you see some of the people that are in the
24 courtroom this week and you see them somewhere out, you
25 should have no contact with any of the parties in the

1 case, the lawyers in the case, the witnesses in the
2 case, or anything like that. Everybody should kind of
3 treat you all like you have the flu and stay away from
4 you; okay?

5 So I understand that Horry County is a large
6 county. There's only so many places to eat lunch, I've
7 discovered in my three weeks of court here. So if you
8 see people at lunch, that's perfectly normal, but do
9 not have any contact with them in any way. They aren't
10 even going to say hello to you; okay? I promise you,
11 an innocent good morning or good afternoon or hello
12 seen by the other side is always 100 percent
13 misconstrued; okay?

14 For my two alternates, you-all are very important.
15 I have to seat alternates in cases all the time. So
16 you-all need to be paying attention, and just as you
17 are -- just as if you were a normal juror on the case,
18 and all these rules still apply to you; okay? All
19 right.

20 So anything before I release the jury, Mr. Hixson?

21 MR. HIXSON: No, sir.

22 THE COURT: Mr. Mureddu?

23 MR. MUREDDU: No, sir.

24 THE COURT: Okay, all right. So I want to say
25 this, on behalf of all the -- I know we're just getting

1 started, but on behalf of all the lawyers and the
2 parties in this case, I want to say thank you very much
3 for your service. I know that there are a million
4 other places you could be and things that you could be
5 doing this week, and I understand that. And I have a
6 very healthy respect for that, and I promise to make
7 the best use of your time.

8 This case is very important to both sides, okay.
9 This is their only day in court to resolve this matter,
10 and so this is a very important job that you have this
11 week. And so I ask that you take it that way, and I
12 say thank you. I know that it is a sacrifice, and I
13 know that it is a larger sacrifice for some of you than
14 others, and I want to say thank you for that.

15 And I hope by the end of this, when I'm
16 communicating with you, you understand the importance
17 of your role and responsibility this week and the
18 important part that it plays in how our government and
19 how our country functions. So thank you very much.

20 Ms. Danna, will you show them how to come in and
21 how to go out.

22 BAILIFF: I will.

23 THE COURT: Okay. She'll show you how to come in
24 and go out. We'll see you tomorrow morning at 9:30.
25 Thank you very much.

1 (WHEREUPON, the jury exited the courtroom at
2 12:20 p.m.)

3 THE COURT: All right. We got some pretrial we
4 need to take up; is that right?

5 MR. HIXSON: Yes, Your Honor.

6 THE COURT: All right. Let's go -- let's go
7 eat -- we've been going pretty much all morning -- and
8 then come back, and we can do that.

9 MR. MUREDDU: Can we take up the bond issue? My
10 understanding is we have the bondsman.

11 THE COURT: Okay. All right.

12 Stand up. What's your name?

13 MR. HOLCOMB: Al Holcomb.

14 THE COURT: You swear everything you're about to
15 tell me is the truth?

16 MR. HOLCOMB: Yes, sir.

17 THE COURT: Are you a bondsman?

18 MR. HOLCOMB: Yes, sir.

19 THE COURT: Okay. And what kind of bond is this
20 young lady on?

21 MR. HOLCOMB: She's under a surety bond.

22 THE COURT: Of how much?

23 MR. HOLCOMB: I don't really can remember, Your
24 Honor. I've had so many people, I --

25 MR. HIXSON: I think it's 10,000, Your Honor.

1 THE COURT: Okay. And you had her on bond the
2 whole time?

3 MR. HOLCOMB: Yes, sir. She checks in with me
4 once a week like clockwork.

5 THE COURT: Okay. Has she been any problem?

6 MR. HOLCOMB: No problem.

7 THE COURT: In no way, shape, or form?

8 MR. HOLCOMB: No, sir.

9 THE COURT: Okay. If I agree -- and I'm not
10 saying I will -- but if I do leave her out on bond,
11 will you commit to staying on the bond?

12 MR. HOLCOMB: I will commit to staying on the bond
13 up until the jury goes out for deliberation.

14 THE COURT: Okay, all right. Thank you very much.
15 You can leave, Mr. Holcomb.

16 MR. HOLCOMB: Thank you, sir.

17 THE COURT: All right. We'll take that -- at this
18 point, the jury is not sworn, so she is fine for today
19 and for tonight. But the solicitor's office can think
20 about their position on that, and we can talk about it
21 this afternoon.

22 All right. Now, listen, Ms. Taylor, I don't know
23 you, I've never seen you in my whole life. I'm just
24 telling you, person to person, if I do decide to leave
25 you out on bond and you don't show back up, this case

1 is going to go forward whether you're sitting in that
2 chair or not. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Okay. I mean, whether you're here or
5 not, the case is going forward. And if you are not
6 here -- the way it works is, if you are not here, there
7 will be a warrant issued for your arrest, and if you
8 are convicted -- again, I know about that much about
9 your case, so I'm not saying you are guilty. I'm just
10 saying, if you are convicted, then it will be a sealed
11 sentence, and when you're apprehended, the sentence
12 will be read to you at that time. Do you understand?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Okay. All right. Thank you very
15 much.

16 All right. Let's take a lunch break. It's 12:20.
17 Is 2:00 good for everybody?

18 MR. HIXSON: Yes, sir.

19 THE COURT: 2:00?

20 MR. MUREDDU: Yes, sir.

21 THE COURT: Okay. And do they know -- does the
22 State know what witnesses you need for this afternoon?

23 MR. HIXSON: All we really -- my understanding is
24 Jeff Cauble is the headline witness for the Jackson v.
25 Denno hearing.

1 THE COURT: Okay.

2 MR. HIXSON: And I think it's just pretty much
3 oral arguments relating to -- and we may work that out.

4 THE COURT: Okay. But if we need Cauble here for
5 the Denno?

6 MR. MUREDDU: Yes, sir.

7 THE COURT: Do you need anybody else for the
8 Denno?

9 MR. MUREDDU: No, sir.

10 THE COURT: Okay. All right. 2 o'clock. Thank
11 you very much.

12 MR. HIXSON: Thank you, Your Honor.

13 (WHEREUPON, a luncheon recess was taken at 12:23
14 p.m.)

15 THE COURT: So I got somebody here from WBTW;
16 where is that person? Okay. Horry Independent
17 newspaper.

18 THE DEPUTY: He stepped out.

19 THE COURT: WPDE?

20 THE DEPUTY: He just stepped out.

21 THE COURT: WMBF? Sun News? Okay. Who are you
22 with?

23 REPORTER: WPDE.

24 THE COURT: Is this the last guy? Horry
25 Independent newspaper? Is he out there?

1 THE DEPUTY: Horry Independent? He went to his
2 vehicle, Judge.

3 THE COURT: Okay. So this is how this works.
4 Y'all can have one video camera in here. You can share
5 a feed. No jurors are allowed to be on the news in any
6 way, shape, or form; okay?

7 If you have an iPad or a cellphone or something
8 that you want to take a picture with or you want to
9 take a video with, that's fine as long as I don't hear
10 it. I don't want to hear it going off or hearing any
11 clicking. If you have a camera, that's fine too, as
12 long as I don't hear it. Again, no jurors are allowed
13 to be on anything in any way, shape, or form.

14 Now, here's one thing that will cause me to become
15 very unhappy is I like to start court on time. So if I
16 say 9:30, y'all need to be in here set up, ready to go
17 at 9:30. Walking in with all your equipment at 9:45 is
18 going to cause all your equipment to be outside. So
19 I'm not going to -- we're not going to -- you're not
20 going to -- I'm going to let you come in, but with the
21 big equipment, I'm not -- you can't be disruptive with
22 it. The big equipment needs to be in here and set up
23 before court gets rolling; okay? Everybody got that,
24 everybody good? Okay, all right. That's over with,
25 okay.

1 Okay. We're back on the record in
2 2015-GS-26-1938, State versus Ms. Shelby Taylor. The
3 Prosecution is present, Defense is present, and we're
4 here for the purposes of some pretrial motions. And
5 what do you want to start with?

6 MR. HIXSON: Your Honor, we're fine to start with
7 the Jackson v. Denno hearing, I believe.

8 THE COURT: Okay. Are y'all ready to go forward
9 on that?

10 MR. McCOLLUM: Yes, Your Honor.

11 THE COURT: Okay, all right.

12 MR. HIXSON: Thank you. At this time, The State
13 of South Carolina would call former Detective Jeff
14 Cauble from the Horry County Police Department.

15 THE CLERK: Please raise your right hand and place
16 your left hand on the Bible.

17 JEFF CAUBLE, after being duly sworn, testified as
18 follows:

19 THE CLERK: Please be seated. Please state your
20 full name and spell your last name for the Court.

21 THE WITNESS: Jeff Cauble, C-A-U-B-L-E.

22 DIRECT EXAMINATION

23 BY MR. HIXSON:

24 Q Good afternoon, sir. How are you?

25 A I'm okay.

1 Q Can you please tell this Court what you do for a
2 living.

3 A I actually manage a sport and health club now.

4 Q Okay. And so, at some point in time, were you
5 employed by the Horry County Police Department?

6 A Yes.

7 Q And let's take you back in time a little bit,
8 specifically around the timeframe around April 9th of
9 2015.

10 A Yes, sir.

11 Q Okay. And what was your assignment during that
12 period of time back in 2015?

13 A What was the assignment?

14 Q What was your job with the Horry County Police
15 Department?

16 A Oh, I'm sorry. I was a detective with major
17 crimes.

18 Q Okay. And did you have an opportunity to come to
19 investigate a situation where a young -- a newborn
20 child was found in a dumpster in an apartment complex?

21 A Yes, sir.

22 Q Okay. And since we're not in front of the jury,
23 we're just trying to get to the substance of the
24 statement. Did you have an opportunity around that
25 time period to come into contact with the Defendant in

1 this case, a Ms. Shelby Harper Taylor?

2 A Yes, I did.

3 Q Can you please tell the Court the facts
4 surrounding that interaction.

5 A Yes. A report came out that there was a baby that
6 had been thrown in a dumpster. At that time, my
7 sergeant assigned me the case. We went and did some
8 interviews at the scene itself, and during that time,
9 the -- one of the officers -- I can't remember which
10 one at this point; I've got it here, I'm sure -- but
11 showed us a receipt from Mon Cafe.

12 THE COURT: Would you spell that.

13 THE WITNESS: Mon is M-O-N. And Cafe, C-A-F-E.

14 Q It is a Japanese hibachi-style restaurant?

15 A Yes, sir. Yes, sir. It was dated for the day
16 before the incident.

17 Q Which would have been April 8th?

18 A April 8th, yes, sir. At that time, I went to Mon
19 Cafe and asked for video surveillance of that date and
20 time and -- of the receipt. And it was shown that the
21 Defendant was actually in the Mon Cafe with her, I
22 guess, daughter, I believe.

23 Q And when you say daughter, approximately what age
24 group are we talking about when you say daughter?

25 A Between a year and two years, maybe.

1 Q A baby, no question?

2 A Yes.

3 Q A young child?

4 A Yes, sir, young child. And so I made still
5 pictures of her going into the store. And at that
6 time, it was sent to Sergeant -- and I can't remember
7 now. Do you mind if I look here?

8 Q Yes, sir.

9 A Okay. Sergeant Dennis, I believe it was. And to
10 get it out -- to at least get the photos out to the
11 media.

12 Q Before we go forward, can you just back up just
13 for a second.

14 A Yes.

15 Q Why did you feel the Mon Cafe receipt was
16 probative of what was going on with the child that was
17 found in a trash bin?

18 A The actual trash bag that the child was found in
19 had the receipt in it, had the Mon Cafe paraphernalia,
20 if you will, in it as well. So that's the reason that
21 we wanted to look into this.

22 Q I gotcha.

23 A And so we got the photos out there to the media.
24 And I guess around 7:00, 7:30, we got a phone call that
25 she was at the south precinct.

1 Q And with a pronoun, you're saying she. When you
2 say she, who was that?

3 A The Defendant. And at that time, myself and
4 Detective Seipt responded down there to interview her.

5 Q Okay. When the Defendant -- do you recall if
6 anybody accompanied Ms. Taylor, the Defendant, to the
7 south precinct?

8 A I believe her husband was there and her parents
9 were there as well.

10 Q And just for clarification, do you recall the name
11 of her husband, in case we hear that name throughout
12 the course of the trial?

13 A Let me double-check.

14 Q Just to speed it up, since we're not in front of
15 the jury, is it Patrick Taylor?

16 A Yes, Patrick.

17 Q Okay. Now, let's just kind of clarify something.
18 So at the point that you come in contact with this
19 Defendant, Ms. Taylor, was she in custody in any way?

20 A No.

21 Q How did she arrive there to the south precinct?

22 A On her free will. On her own.

23 Q On her own?

24 A Yes, sir.

25 Q Prior to her arriving, did you know who Shelby

1 Harper Taylor was?

2 A No, sir.

3 Q Please continue. Please continue.

4 A It was at that time that we interviewed her. We
5 basically asked her if she knew why she was there. And
6 she -- I believe she told us at that time that she just
7 saw her picture on the news and wanted to know why her
8 photo was on the news.

9 So it was at that time that we told her what the
10 situation was, that a baby had been found, and that it
11 was found in a dumpster, that it was found in a white
12 trash bag that was tied, and that the --

13 Q And when you say tied --

14 A -- reason that she was --

15 Q I'm sorry. I'm sorry. When you say tied, what do
16 you mean by that?

17 A I mean it was a trash bag that had the red ties at
18 the top, and so it was tied in knots, together.

19 And so we explained to her that the reason she was
20 there is because of the receipt that was found inside.
21 And the reason the photos came out of her is because we
22 knew that she was the one who purchased the Mon Cafe
23 the day before.

24 Q Okay. Now, during the course of this statement,
25 was that memorialized in any way? In other words, was

1 the substance of a statement was recorded, was it
2 handwritten? What was the nature?

3 A It was recorded.

4 Q It was recorded. Was it audio or video recorded,
5 or do you recall?

6 A Audio.

7 Q Audio recorded? Okay. Do you recall if any other
8 officers were present during the course of --

9 A Detective Seipt.

10 Q Detective Ryan Seipt, okay. Let me show you --
11 and I'll talk to more questions with you -- about
12 what's been marked as -- it hasn't been marked yet,
13 so...

14 (WHEREUPON, State's Exhibit No. 3 was marked for
15 identification only.)

16 Q I'm going to show you what's been marked as
17 State's Exhibit 3. Do you recognize that?

18 A Yes, I do.

19 Q And how do you recognize that?

20 A It's got my initials on it.

21 Q Okay. And what is this that I'm showing you?

22 A It's a tape recording of the interview.

23 Q Or a DVD recording?

24 A DVD, yes.

25 Q A digital recording of it?

1 A Um-hum.

2 Q Have you had an opportunity, prior to court and
3 the hearing today, to hear the contents of this DVD?

4 A Yes, sir.

5 Q And is this recording a fair and accurate
6 representation of the interview that you took with the
7 Defendant, Ms. Taylor, on or about April 9th of 2015?

8 A Yes, sir.

9 Q Okay. Now, just follow up a little bit to close
10 the loop so we know we're going to listen to before we
11 ask to publish it, generally speaking, what is the
12 nature of the conversation you had with Ms. Taylor? In
13 other words, was it confrontational, was it heated?
14 What do you feel the nature of it was?

15 A No. We were just following up, actually, asking
16 her questions as to why the baby might have been in her
17 trash.

18 Q Okay. Did you ask Ms. Taylor in the statement if
19 she had been pregnant?

20 A Yes.

21 Q What was her response to that about whether she --

22 A She did not state that she was pregnant.

23 Q Did she deny that she had been pregnant --

24 A Yes.

25 Q -- in this period of time? During the course of

1 this part of the interview, did you provide Miranda
2 warnings of any kind to the Defendant?

3 A No, we did not.

4 Q Okay. And why did you not do that?

5 A She at the time wasn't under arrest. She
6 wasn't -- she was free to go at any point. We were
7 just -- again, just following up on trying to figure
8 out what had happened to this baby.

9 Q Okay. Is this the only statement that's recorded
10 on this disc that you've made with the Defendant,
11 Ms. Taylor?

12 A Yes, sir.

13 Q In other words, at some point in time after this,
14 did you talk to Patrick Taylor?

15 A Yes.

16 Q And at some point in time after talking to
17 Patrick, did Ms. Taylor come back in and you
18 interviewed her then?

19 A Yes.

20 Q Okay. What happened between the first part of the
21 recording that we have had marked as State's-3 and a
22 subsequent interview with Patrick Taylor and then again
23 with Ms. Taylor?

24 A Okay. You're asking what happened -- what was
25 said during Patrick's interview?

1 Q Yes. Not specifics. Just the general theme of
2 what you understand Patrick to have told you.

3 Let me back up and be more direct. At some point
4 in time after the first statement, did your focus of
5 the investigation go to Shelby Taylor as being the
6 Defendant?

7 A Yes, it did.

8 Q And tell us why and tell us about it.

9 A After speaking with her husband and basically
10 asking him the same question, you know, or letting him
11 know the facts is that we found that there was a baby
12 that was thrown away in his trash, that's when his
13 reaction to that statement or question led us to
14 believe that possibly she would have been the person
15 who did this.

16 Q Okay. After talking with Patrick, did the
17 Defendant, Ms. Taylor, come back into the interview
18 room?

19 A She did.

20 Q Okay. And tell us about that part of it.

21 A Patrick, I believe, was still in the room at that
22 time, and we let her know at that point that, you know,
23 there's more to this story than basically what she is
24 telling us.

25 He broke down in the room as well at that point,

1 and I believe that's what caused her to go ahead and
2 say, yeah, I had the baby.

3 Q Okay. So at some point in time, in the second
4 interview --

5 A Yes.

6 Q -- while Patrick Taylor was in the room,
7 Ms. Taylor admits that she had a child and placed the
8 child in the dumpster? Is that your understanding of
9 the second statement?

10 A Yes.

11 Q Okay. At some point in time after that, did you
12 Mirandize Ms. Taylor?

13 A We did.

14 Q Okay. And then after the Miranda warnings were
15 given her, did she reiterate the second part of the
16 statement, not the denials but the admission?

17 A Yes.

18 Q Okay. Was that second part of the interview, was
19 that memorialized or recorded in any way?

20 A Yes, it was.

21 Q And with Patrick and the admission with
22 Ms. Taylor?

23 A Yes.

24 Q Okay.

25 MR. HIXSON: Your Honor, at this time, we would

1 try to move State's-3 pretrial, to publish that for the
2 jury. Or, excuse me, publish that for the Court, I'm
3 sorry.

4 MR. McCOLLUM: Obviously, I don't have any
5 objection to him publishing it to the Court.

6 THE COURT: Okay.

7 MR. McCOLLUM: It just threw me off --

8 THE COURT: When he said jury?

9 MR. McCOLLUM: Yes, sir. I think he meant Court.

10 MR. HIXSON: I'm trying to go too fast.

11 MR. McCOLLUM: We would not object to the Court
12 hearing it, Your Honor.

13 (WHEREUPON, State's Exhibit 3 was admitted into
14 evidence.)

15 THE COURT: Okay, all right. Do we have a way to
16 play it?

17 MR. HIXSON: Yes, sir. And that's a good point,
18 Your Honor. Our understanding is there is no order for
19 sequestration; is that correct? I understand the
20 family members are on the witness list, we're happy to
21 have them in here. I just want to make sure we don't
22 have -- we're not both under a sequestration order.

23 MR. MUREDDU: We're not making a motion to
24 sequester.

25 THE COURT: Okay.

1 (WHEREUPON, the audio was played at 2:18 p.m.)

2 (WHEREUPON, State's Exhibit Nos. 4 to 27 were
3 marked for identification only.)

4 Q Detective, you heard that statement. Did you
5 ever -- your voice is nice and loud. That's refreshing
6 for a lot of the statements we hear. Is that a fair
7 and accurate representation of the interview you took
8 with this Defendant on April 9th of 2015?

9 A Yes, sir.

10 Q Now, we mentioned --

11 MR. HIXSON: And, Your Honor, just at this point,
12 that's what we intend to offer, that first part of that
13 interview, unless you want to file one for a complete
14 record outside the presence of the jury so we
15 understand the issues we're kind of dealing with,
16 that's appropriate.

17 Q After you left the room with Ms. Taylor, what did
18 you and the detectives -- what did you do then?

19 A We spoke with her husband at that time.

20 Q Okay.

21 A Brought him in.

22 Q Okay. And, generally speaking, without playing
23 his statement -- we're not offering that, of course --
24 what is the nature of his statement? In other words,
25 were there denials? What is the substance of

1 Mr. Taylor's statement?

2 A Basically, after, you know, we had told him what
3 was found in his trash bag, he said, oh, my god, she
4 did it, I can't believe she did it. Or it was
5 something to that effect.

6 Q That's fine.

7 A And, you know, we asked him at that point, you
8 know, did you know she was pregnant? He said, I had my
9 suspicions. He said, I even asked her at one point,
10 and she denied that she was ever pregnant. But he had,
11 according to him, no idea.

12 So, you know, it was after our interview with him
13 we decided to bring her back in at that point after he
14 said that. And then during that particular time is
15 when -- you know, he was in the room as well, and like
16 I said before, I believe that was what made her break
17 down and actually tell us the truth at that point.

18 Q Yeah. Now, the first interview and the second
19 interview, were those in two separate interview rooms?

20 A It was the same interview room, but she was not
21 present.

22 Q Okay. Two separate times?

23 A She was outside with her family at that point.

24 Q Because there are two separate recordings; is that
25 correct?

1 A Yes, right.

2 Q You had the initial one?

3 A Right, yes.

4 Q Did you say the end of the recording on that one?

5 A Exactly. We started another one with him.

6 Q Now, let me direct your attention to State's-3.

7 We presented that to you earlier, and you authenticated
8 that with your initials. Do you recall the second half
9 of the interview being on that same disc that you had
10 reviewed?

11 A Yes.

12 Q Okay. And it's already in evidence. We would
13 like to play -- we have excluded the part of Patrick,
14 because we don't have a hearsay exception to play
15 Patrick's statement. Just from the point where
16 Ms. Taylor comes back into the room, it's a relatively
17 brief statement.

18 So Your Honor understands, during this point in
19 time, had Ms. Taylor become a heightened subject to
20 your suspicion in this case?

21 A Yes, she did.

22 Q And that's based on Patrick's statement; is that
23 correct?

24 A Well, yes. Even at that point with him still
25 telling us that he did not know that she was pregnant,

1 you know, there was still that doubt there. But it
2 certainly made it, you know, more likely that she was.

3 Q Okay.

4 MR. HIXSON: Your Honor, at this time, we would
5 play State's Exhibit 3. And our intention would be to
6 take that off the disc, based on Your Honor's ruling,
7 to understand when the Miranda invocation was given on
8 this short part.

9 May I publish that to the Court, Your Honor?

10 MR. McCOLLUM: Your Honor, may I be heard briefly?

11 THE COURT: Yes.

12 MR. McCOLLUM: Is it possible for the Court to
13 listen to Patrick Taylor's statement as well? And I
14 can say why I'm asking for that if I need to.

15 THE COURT: Any objection from the State?

16 MR. HIXSON: No. I mean, it would be probative
17 for cross-examination potentially, but --

18 MR. McCOLLUM: I understand they're not offering
19 it in their case in chief. However, I think that the
20 motion that we're making regarding the statement that
21 she gave, the statement that she gave again, I think it
22 is probative for the Court to see the entire process of
23 how this works.

24 MR. HIXSON: And to clarify, Patrick --

25 THE COURT: I thought y'all weren't offering the

1 second part.

2 MR. HIXSON: That's correct.

3 MR. McCOLLUM: Your Honor --

4 THE COURT: I mean, I'll listen to whatever you
5 want me to listen to. My understanding was what we
6 just heard is -- was the only thing that the State was
7 going to offer.

8 MR. McCOLLUM: That's true, Your Honor. It's a
9 little unusual, if you think about it. And when
10 Solicitor Hixson first told me what the strategy was,
11 my initial reaction is, well, that's very good, thank
12 you. I'm very happy about that.

13 But then when I thought further about it, the
14 initial statement of the denials, I think, is very
15 damning for her; okay?

16 THE COURT: Okay.

17 MR. McCOLLUM: It's a little ironic that the part,
18 you know, where she does, you know -- she is given a
19 Miranda warning is the part that they concede or take
20 the position that that's not admissible. The reason
21 it's not admissible is because of all the stuff that's
22 going on. Does that make sense?

23 THE COURT: Yeah.

24 MR. McCOLLUM: So that's why I think -- for the
25 Court to hear the conversation with the husband,

1 because he's not an agent of the State, but he's a part
2 of the State's formula to do this type of
3 interrogation.

4 MR. HIXSON: Let me clarify. Initially -- and we
5 can take testimony, but just to assert to the Court,
6 the initial statement is with Patrick Taylor.
7 Ms. Taylor -- excuse me, the Defendant and Mr. Cauble
8 and Mr. Seipt have the conversation you heard. At the
9 end of it, you hear, I'm going to go talk to Patrick.

10 When he goes to talk to Patrick, Ms. Taylor is not
11 present and Investigator Cauble has a discussion with
12 him. At the end of that, he says, well, let's bring
13 Shelby back in here and talk to her. Patrick Taylor
14 stays in the room. That's when I was going to start
15 the recording because then you hear Patrick and
16 Ms. Taylor talking in the interrogation room, leading
17 up to her admission, and the Court would hear that.

18 If, after that, the Court wants to hear all of
19 Patrick's statement that leads into that, that's fine.
20 I just can't think of any mechanism that that's
21 admissible. It's not a statement of a party opponent.
22 You know, it's not a hearsay exception. It's "I got to
23 call Patrick to have him testify to his statement," so
24 we didn't intend to do that in a Jackson v. Denno
25 hearing.

1 MR. McCOLLUM: Your Honor, look, I understand, and
2 I understand that what I'm saying may seem a little
3 irregular. But I think it's just an interrogation
4 technique, and I think that it would be helpful for the
5 Court to see the entire technique.

6 MR. HIXSON: May we start this and hear this and
7 then revisit after? This is really eight minutes.

8 THE COURT: Sure.

9 MR. HIXSON: It's relatively short.

10 MS. WALKER: It's ten and a half.

11 MR. HIXSON: Ten and a half. I apologize, ten and
12 a half.

13 MS. WALKER: Your Honor, are we good to go?

14 THE COURT: Yes.

15 (WHEREUPON, the audio recording was played at
16 3:12 p.m.)

17 Q Is that the substance of the second part of the
18 interview? It doesn't include you and Patrick's
19 discussion, but once Ms. Taylor came back in --

20 A Yes.

21 Q -- and was in the room with Patrick. And the
22 voice that you heard crying, was that Patrick Taylor's
23 voice that was crying, saying, tell them, tell them,
24 Shelby; is that correct?

25 A Yes.

1 Q Just to summarize, as it relates to the
2 admissibility of the first one -- take you back to the
3 first statement. That's the one we're offering; right?

4 A Right.

5 Q Was Ms. Taylor in custody at that time?

6 A No.

7 Q Did she show up to the police department on her
8 own volition based on the pictures of her on TV?

9 A Yes.

10 Q You heard a lot of conversation about you
11 attempting to solve the crime. Would you consider a
12 suspect in the matter -- or how would you categorize
13 her willingness or her willingness to make a statement
14 voluntarily or leave on her own during that period of
15 time in the first statement?

16 A She was still just a person of interest in that --
17 in the first part of it.

18 Q Okay. And at the time that you left the room and
19 we shut the first recording off; is that correct?

20 A Yes.

21 MR. HIXSON: Your Honor, I have no further
22 questions as it relates to what we're offering for the
23 first statement.

24 THE COURT: Cross?

25 MR. McCOLLUM: Your Honor, are we going to be able

1 to listen to the statement of the -- of her husband,
2 Patrick Taylor?

3 MR. HIXSON: I have a copy of it. But, once
4 again, I'll be happy to play it. Yeah, we didn't
5 authenticate that because we're not offering it, but
6 it's the copy we have. He can hear Patrick. But it's
7 not -- it is what it is. If he wants to play it,
8 that's fine.

9 THE COURT: Do you want me to listen to it? I
10 will.

11 MR. MCCOLLUM: Yes, sir.

12 THE COURT: Doesn't bother me.

13 MR. HIXSON: Do we need foundation on that, I
14 guess? If I'm not moving it, I don't need to put a
15 proper foundation in. Let's just play it, huh?

16 And I guess, if I can, talk to my witness again,
17 even though I was trying to rest to some degree.

18 Q Take a listen to this, Detective -- former
19 Detective Cauble. I'm going to ask you some questions
20 about it, if that's a fair and accurate representation
21 of the interview you remember.

22 THE COURT: Were you present for this?

23 THE WITNESS: Yes, sir.

24 THE COURT: Okay.

25 (WHEREUPON, the audio recording was played at

1 3:26 p.m.)

2 Q Is that you?

3 A Yes, sir.

4 THE COURT: Is that a fair and accurate recording
5 to the point you've heard so far of your interview with
6 Mr. Taylor?

7 THE WITNESS: Yes, sir.

8 THE COURT: Okay. Keep going, go ahead.

9 (WHEREUPON, the audio recording was played at
10 3:26 p.m.)

11 THE COURT: All right. So, for the record, I
12 listened to the interview of Patrick Taylor taken by
13 the Horry County Police Department in between the
14 interviews of Ms. Taylor. So we heard that at the
15 Defense's request.

16 MR. McCOLLUM: Thank you, Your Honor.

17 THE COURT: Cross-examination?

18 MR. McCOLLUM: Yes. Prior to that, Your Honor,
19 there's just a couple of cases I'd like to hand up.

20 THE COURT: Okay.

21 MR. McCOLLUM: State versus Evans, which is South
22 Carolina Supreme Court, 354 S.C. 579. And then there
23 is also State versus Navy, South Carolina Court of
24 Appeals, 370 S.C. 398. And then also a U.S. Supreme
25 Court case, Missouri versus Seibert, S-E-I-B-E-R-T, 542

1 U.S. 600.

2 THE COURT: Thank you.

3 CROSS-EXAMINATION

4 BY MR. McCOLLUM:

5 Q Officer Cauble, how are you today?

6 A I'm okay. I'm all right.

7 Q So you got out of law enforcement?

8 A Yes, sir.

9 Q How long were you in law enforcement originally?

10 A From 2003 to 2015, so...

11 Q 12 years?

12 A Yes, sir.

13 Q And during that time, how many of those years did
14 you spend as an investigator?

15 A I think right at two and a half or three years.

16 Q Okay. And did you do a lot of interrogations
17 during that period of time?

18 A I wouldn't say a lot, but, you know...

19 Q Did you investigate homicides?

20 A Yes.

21 Q Attempted murders?

22 A Yes.

23 Q Special victim kind of crimes?

24 A Yes.

25 Q And when you say a lot, I know that's a relative

1 term. Have you conducted over a hundred --

2 A No.

3 Q -- investigations in terms of questioning people?

4 A No, I wouldn't say that at all.

5 Q Dozens?

6 A You could go dozens, yeah.

7 Q Okay. Seems like we're always running into you.

8 I thought you were -- so you were all -- you know, that
9 you had done a lot of things.

10 Now, in terms of your skill set, do you consider
11 yourself to be a qualified investigator when it comes
12 to talking to somebody and doing an interview?

13 A Sure.

14 Q Okay. Have other people told you that you're
15 quite good at it?

16 A No.

17 Q No one ever said that?

18 A No.

19 Q Okay. Did you ever interview someone and not get
20 some type of incriminating statement?

21 A Sure.

22 Q Okay. In terms of this investigation, the Mon
23 Cafe receipt was extremely important; right?

24 A Um-hum.

25 Q This is State's-1 for identification. You're

1 familiar with that; right?

2 A Yes.

3 Q And I'll come back to that. Because when you
4 first interviewed Shelby Taylor, you asked her about
5 the Mon Cafe and what she ordered. What she said was
6 what's on that receipt in terms of the number of
7 chicken bowls and the price and all that; right?

8 A Yes.

9 Q So that would be described as a very high level of
10 certainty in a criminal investigation; right?

11 A Sure.

12 Q I mean, it's like the pieces of glass matching up;
13 right?

14 A Um-hum.

15 Q And that type of thing, that's a very significant
16 event; right?

17 A Well, it just proved that she was at the Mon Cafe
18 the day before.

19 Q In terms of her identification, at some point you
20 went to -- I think it was Mon Cafe to get video
21 surveillance; right?

22 A Yes.

23 Q And, in fact, the reason you went to Mon Cafe is
24 because you had the receipt which you found as part of
25 the investigation; right?

1 A I didn't find it, no. But another officer did and
2 gave it to me.

3 Q And so by finding the receipt, the receipt has the
4 date and the time of when something was purchased;
5 right?

6 A Right.

7 Q So since all that is mechanized, computerized, and
8 very precise, it was very easy for you to then go to
9 the Mon Cafe and pull the video and see who was walking
10 in and out at that time; right?

11 A Yes.

12 Q And then after you saw the individual, Shelby
13 Taylor, how did you identify her, what steps did you
14 take to identify her?

15 A We put that out. We actually -- like I said
16 before, we put it out for the media to see, because we
17 didn't know at that time who she was.

18 So it wasn't until she actually called and wanted
19 to know why her photo was on TV, that we knew who she
20 was.

21 Q So she called and wanted to know why her photo was
22 on TV?

23 A Yes.

24 Q And you did not talk to her; right?

25 A No.

1 Q But somebody relayed that to you?

2 A It was relayed to Detective Seipt, I believe.

3 Q And then what did Seipt or you do as a result of
4 that?

5 A We were in Conway at the time, at the precinct in
6 Conway, and we were told that she had come to the south
7 precinct that's on Scipio Lane. And at that time, I
8 believe she stated that she wanted to know why her
9 photo was on the news.

10 So they called us when she got there, and we
11 immediately left from Conway and went to the south
12 precinct.

13 Q Had she not called and had they not called you,
14 what would the next step have been?

15 A Not sure, to tell you the truth. We -- you know,
16 the -- we would have probably went ahead and did
17 what -- do what we could have with the baby itself to
18 get all DNA that we could. We would probably go and
19 interview quite a few people at the complex there to
20 see if they knew or saw anything. We would have, you
21 know, investigated all leads that we could that were
22 coming in.

23 Q From the time that you got the call that she was
24 at the police precinct, how long did it take before you
25 arrived there?

1 A 30 minutes.

2 Q And so do you know what she was doing there in
3 that period of time?

4 A No, I really don't. I don't know if she was in
5 the parking lot with her family or if she was inside
6 the precinct itself, waiting.

7 Q When you arrived -- and the south precinct is on
8 Holmestown Road --

9 A Yes, sir.

10 Q -- in Horry County; right?

11 A Right.

12 Q Scipio Lane; right?

13 A Right.

14 Q And in Conway, you said it took 30 minutes.
15 That's about a 14-mile trip; right?

16 A Yeah. Main Street in Conway.

17 Q When you arrived, if you can remember -- I know it
18 was almost three years ago -- do you know where she was
19 at the time you first saw her?

20 A I don't. Maybe in the waiting room, but I'm not
21 sure.

22 Q Was anyone with her, to your recollection?

23 A I really -- no, I don't know that, to be honest
24 with you.

25 Q At some point, you talked to her and asked her to

1 go back to a room at the police station; right?

2 A Yes, sir. And I'm not sure if we were talking --
3 if I talked to her in the parking lot or if she was in
4 the waiting room when I asked her to come back to a
5 room with me.

6 Q And the room at the police station, that
7 precinct -- how many rooms are in the precinct? And I
8 don't mean the -- I'm not talking about the judge's
9 office and the lobby and the clerk's office. I'm just
10 talking about the precinct office.

11 A Six or seven maybe.

12 Q Okay. And was anybody in the precinct, were there
13 all police officers in there?

14 A There were -- yes. There's always an officer
15 inside.

16 Q And the interview room -- describe the interview
17 room. And by that, does it have a one-way mirror?
18 Does it have videotaping equipment there?

19 A No. It's just a table. There was no videotaping
20 equipment.

21 Q Is there a window in the room?

22 A I can't -- I think so, actually.

23 Q And inside the room, what's inside the room; a
24 table and some chairs?

25 A A table and some chairs. Maybe a TV, if I

1 remember correctly.

2 Q And at the time that she was in the interview
3 room, was the precinct house, the police part, the
4 station house, was it open to the public?

5 A It was late, 7 o'clock, so as far as -- no, I
6 wouldn't say that it was open to the public, per se.
7 Anyone could come, there's always an officer at the
8 front office. But I think at that time it was 5:00 or
9 5:30 they go home.

10 So as far as someone, you know, coming up and
11 wanting service at that point, I believe they have to
12 call dispatch at that time.

13 Q Could a normal citizen get inside the building at
14 that time?

15 A No. You would have to have a key to get in.

16 Q Okay. And so she didn't have access to anybody
17 else. She was just with you and Officer Seipt; right?

18 A Yes.

19 Q All right.

20 A In the room, yes.

21 Q And at the time that she started talking to you,
22 at some point you came to realize that either you were
23 positive or extremely likely that she had given birth
24 earlier that day; right?

25 A Not with her talking to me, no. I did not feel

1 that.

2 Q All right. So at some point in the questioning,
3 though, you started bearing down on her pretty early;
4 right --

5 A Pretty early as in when I was talking with her
6 or...

7 Q Yeah. I mean, within -- I mean, within about two
8 minutes, you had talked to her about the Mon Cafe --

9 A Um-hum.

10 Q -- receipt; right?

11 A Right.

12 Q So at that point your suspicions were growing that
13 she was the perpetrator; right?

14 A No, they were not.

15 Q Okay.

16 A At that time, we still -- anybody could have put a
17 child in her bag. So, I mean, we were just trying to
18 get to the bottom of why her bag was -- there was a
19 baby in her bag. We did not know at that time that it
20 was hers.

21 Q At what point did her husband, Patrick Taylor, get
22 to the precinct house?

23 A I don't know, sir, because we were interviewing
24 her. I don't know what time he got there.

25 Q Do you know why he was there?

1 A In support of her, I guess. I don't know, I
2 didn't call him.

3 Q How did you find out that he was there?

4 A I don't know. I don't remember, to tell you the
5 truth. I do not remember how I knew he was there.

6 Q Had someone from your department talked to him
7 earlier that day?

8 A No.

9 Q If he arrived at the precinct house and it was
10 closed and no one could get inside, then he would not
11 be able to get in there; would he?

12 A No, he shouldn't, unless an officer let him in or
13 something. There were other officers there, so...

14 Q So you don't know what he was doing there, and you
15 don't -- so you don't know what he was doing there?

16 A You know, her parents were there. I don't know if
17 they called him and let him know where she was. I
18 don't know.

19 Q All right. At some point, though -- well, there's
20 no question but that once you talked to her, you made a
21 decision to talk to Patrick; right?

22 A Right.

23 Q Right?

24 A Right. When we asked her if she -- if he would
25 tell us the same thing, then that's when we decided

1 that we probably need to talk with him as well.

2 Q And then you made -- you or Seipt or both of you
3 made the decision that you would have him go in and
4 talk to Shelby Taylor to have him convince her or ask
5 her or do something to get her to make an incriminating
6 statement; right?

7 A In listening to everything that has come out
8 today, if you're getting to the point where you think
9 that we probably should have written -- or given her
10 rights earlier, then I should have read her rights
11 after we talked to him. That's when I felt like I
12 should have done that. So, you know, I will admit to
13 that. But up until that point, I did not know she was
14 my suspect.

15 Q In your past experience, when you put somebody on
16 the news like that, does that usually trigger a
17 response for them to come in and talk?

18 A It just depends on the person.

19 Q Depends on who it is?

20 A Yeah.

21 Q How many other suspects or persons of interest did
22 you publish in the news?

23 A Me personally? I don't think I ever did.

24 Q Well, how many other subjects or persons of
25 interest were published in this particular case?

1 A One.

2 Q And how many suspects were there initially in this
3 particular case?

4 A How many suspects?

5 Q Yes.

6 A We didn't know initially. All we had was this
7 receipt to go on, and the person who bought this showed
8 up after she saw her photo on the news. But, again,
9 she was a person of interest, which was told -- which
10 was actually stated by Mr. Seipt or Detective Seipt.

11 Q And you questioned her for about 45 minutes the
12 first time; right?

13 A Yeah. Something like that, yes, right.

14 Q Okay. And at what point did you determine that
15 you believed that she was guilty of this particular
16 offense?

17 A Not until after, like I said, that we had talked
18 with her husband. And even at that point, you know,
19 with him saying, no, I don't think she could do it,
20 there was still doubt.

21 Q In terms of the questioning, then, it seems
22 like -- and you're pretty -- I mean, it seems like
23 you're being not unduly hard on her but that you were,
24 you know, questioning her pretty good; right?

25 A Well, I was interviewing her, yes.

1 Q And in interviewing her, you were using just
2 standard techniques; right?

3 A Right.

4 Q And those techniques are generally designed to --
5 in part of solving a case, are designed to produce
6 conflicting or incriminating statements; right?

7 A No. Basically, I just wanted to know why there
8 was a baby in her trash. I didn't particularly know
9 that it was her. But if she knew someone or she was
10 trying to protect someone, we wanted to know that as
11 well.

12 At no time when I was speaking with her did I feel
13 like that she gave us that undeniable clue that she was
14 the one who had this child.

15 Q How many neighbors of hers were interviewed?

16 A Before this point?

17 Q Yes.

18 A There were three, just the two kids that actually
19 found it and the mom, at that point. When they told me
20 they had the receipt, that's what I went to do
21 immediately. I felt that was very important. So at
22 that time I hadn't interviewed anyone, next-door
23 neighbors or anything like that, at that point.

24 Q You're not saying that your interview was to clear
25 her; are you? The purpose of the interview was not --

1 A I never said that.

2 Q -- to clear her; right?

3 A No, sir. I never said that.

4 Q And you heard the interview; right? I mean, not
5 only conducted it, you heard what we just heard in
6 here; right?

7 A Yes.

8 Q And so you continue to assert that you did not
9 think that she was the suspect or going to be charged
10 in the case until after you talked to her husband?

11 A In listening to this, it was very clear in
12 listening to this, I think, that she was very calm in
13 our interview. Very calm in our interview. So, no, I
14 did not know she was my suspect when I was talking with
15 her.

16 Q There is no question, though, that through your
17 investigation you learned that she had given birth
18 earlier that morning; right?

19 A At that point, when I was talking with her, no, I
20 did not know she had given birth.

21 Q I'm talking about later on after -- once you did
22 your complete investigation.

23 A Yes, sir.

24 Q You know now that she gave birth that morning?

25 A Right.

- 1 Q Sometime prior to 6:00 a.m.; right?
- 2 A Right.
- 3 Q You know that she gave birth alone in her
- 4 apartment in the bathroom; right?
- 5 A Um-hum.
- 6 Q Right?
- 7 A Right, yes, sir.
- 8 Q And you know that she did that without any type of
- 9 medical care; right?
- 10 A I do, yes.
- 11 Q And you know that she did that -- she didn't have
- 12 any narcotics or epidural or anything like that; right?
- 13 A Epidural, no.
- 14 Q She had no medical care whatsoever?
- 15 A No.
- 16 Q Okay. And you also learned that there was, as
- 17 would be expected in a birth, a lot of blood loss and
- 18 that type of thing; right?
- 19 A Yes, sir.
- 20 Q Okay. And you knew that when you were questioning
- 21 her -- that was that night, so it was about 12 hours
- 22 later; right, give or take?
- 23 A Yes, sir.
- 24 Q Maybe a little more. I think it was more like
- 25 9:30; right?

1 A Yes, sir.

2 Q So maybe 14 or 15 hours later; right?

3 A It was, I think, 7:30 when it started, I guess,
4 7:30 or so.

5 Q And you had learned that she had done things all
6 day, like take her daughter to the doctor and go to her
7 mother's house to pick something up and that type of
8 thing; right?

9 A Yes.

10 Q So did it come to your attention that she really
11 had not had any physical rest; right?

12 A Yes.

13 Q And then after you finished the second statement,
14 you arrested her; right?

15 A Yes.

16 Q You handcuffed her; right?

17 A Right.

18 Q You put her in the patrol car and drove around and
19 talked to her family and said that you were charging
20 her or something to that effect; right?

21 A I didn't take her to the hospital, I don't
22 believe.

23 Q You didn't transport her?

24 A I don't think I did.

25 Q Okay. But some officer transported her to the

1 hospital; right?

2 A Yes, sir.

3 Q And that was -- was that Waccamaw Hospital?

4 A Not certain, actually. Was it Conway maybe?
5 Conway Hospital.

6 Q And this was on April the 9th; right?

7 A Right.

8 Q And then she was admitted into the hospital;
9 right?

10 A Yes, sir.

11 Q And then your police report indicates that at some
12 time on the 11th, at least two days later, she was
13 discharged and taken to jail; right?

14 A I believe that's correct, yes, sir.

15 Q So the hospital, after you had interviewed her,
16 after being up all day, having had a baby with no
17 treatment, she was then hospitalized for two days
18 before she was taken to jail; right?

19 A Yes, sir.

20 Q Okay.

21 MR. MCCOLLUM: Thank you, sir.

22 Just one question, Your Honor. Just one moment.
23 Just one thing, Your Honor.

24 Q In terms of the Mon Cafe footage, did you see
25 other people coming and going from Mon Cafe during that

1 brief period of time?

2 A Probably. I know that when I saw the -- when I
3 knew that it was her or that particular time is what
4 they were saying, that that was the person that came in
5 at this time. That's when I stopped it and took the
6 photos and left at that point.

7 So -- but, yes, I'm sure there was other folks
8 that came in and out, but I can't say for sure.

9 Q Right. But if other people that came in and out,
10 which you saw on the video, right, other people came in
11 and out of Mon Cafe on the video; right?

12 A I'm assuming they did, yes, sir.

13 Q But she's the only -- Shelby's the only one --
14 Shelby Taylor is the only one that you zeroed in on --

15 A Yes.

16 Q -- and put on the news?

17 A Yes.

18 MR. McCOLLUM: All right. Thank you, Your Honor.

19 MR. HIXSON: Briefly, Your Honor. Just a little
20 housekeeping matter. Since we played Patrick's
21 statement, I thought I'd mark this as State's-4 for
22 Court purposes only, just have that in the record, Your
23 Honor, if that's appropriate.

24 (WHEREUPON, Court's Exhibit No. 1 was marked for
25 identification only.)

REDIRECT EXAMINATION

1
2 BY MR. HIXSON:

3 Q Let me show you two items that are marked as
4 State's-16 and 17. Take a look at those. I'm going to
5 keep calling you detective out of habit. So,
6 Mr. Cauble, do you recognize those items?

7 A Yes.

8 Q And what are those?

9 A That's the still photos I took from the video
10 surveillance.

11 Q Okay. And so when you're looking for and you're
12 investigating -- is it safe to say, if you're
13 investigating a case that involves a woman that may or
14 may not have put her newborn baby in a trash can, would
15 you be looking for a female that appears to be
16 pregnant --

17 A Yes.

18 Q -- as a potential suspect?

19 A Yes, correct.

20 Q And in your opinion versus -- does she appear,
21 perhaps --

22 A Just my opinion.

23 Q My opinion.

24 A Yes, sir. Possibly.

25 Q All right. And that's for Court's Exhibit now. I

1 guess we can't move it into evidence quite yet, but I
2 want the Court to be aware of it. And those are copies
3 of what you posted online --

4 A Yes, sir.

5 Q -- and in the public sphere to find Ms. Taylor?

6 A That's correct.

7 Q Let me clarify one thing. When Ms. Taylor showed
8 up at the south precinct, she went with her parents; is
9 that correct?

10 A I believe that's how -- yes, sir.

11 Q And did Mr. Taylor go with her also, just to
12 clarify?

13 A I can't clarify that at all.

14 Q Fair enough. That's fair enough.

15 MR. HIXSON: Your Honor, I have no further
16 questions. Just argument.

17 THE COURT: Anything else, Mr. McCollum?

18 MR. McCOLLUM: I would just like to ask the
19 officer a couple of questions, if I may.

20 THE COURT: Okay.

21 MR. McCOLLUM: May it please the Court.

22 RECROSS-EXAMINATION

23 BY MR. McCOLLUM:

24 Q So the individual -- and that's a picture of
25 Shelby Taylor; right?

1 A Yes, sir.

2 Q In the picture, you just testified she appeared
3 pregnant; right?

4 A Yes.

5 Q And is she --

6 A Possibly.

7 Q And she has a baby with her?

8 A Yes.

9 Q And the baby would be the age to wear diapers?

10 A It appears so, yes.

11 Q All right. And when you interviewed her at the
12 station house the next day, the next day from when the
13 video was taken, did she appear pregnant?

14 A Probably not at that point.

15 Q All right, thank you.

16 THE COURT: Anything further for this guy?

17 MR. MCCOLLUM: No, Your Honor.

18 THE COURT: Okay. You can step down.

19 (Witness excused.)

20 THE COURT: Thank you. You got any further
21 witness on this issue?

22 MR. HIXSON: No, Your Honor. That's it as it
23 relates to --

24 THE COURT: All right. Does the Defense have any
25 witnesses on this issue?

1 MR. McCOLLUM: No, Your Honor.

2 THE COURT: Okay.

3 MR. HIXSON: Just argument, Your Honor. We've
4 thrown a lot at you in a short period of time. We're
5 just simply offering the first statement -- the first
6 one that was played into evidence, Your Honor, and
7 specifically because we do concede, and the witness did
8 indicate that, there's no question that this Defendant
9 showed up to court on her own with her parents.

10 THE COURT: Showed up to the precinct.

11 MR. HIXSON: To the precinct station on her own
12 after seeing and asking, why are you guys looking for
13 me? It's a voluntary act. Going there is a voluntary
14 act. Talking to law enforcement is a voluntary act.
15 And, interestingly enough, with the cases Seibert and
16 Navy, those cases offered, all those are inculpatory
17 statements. We're not offering this for an inculpatory
18 statement. It's distinguishable on its facts on this
19 point alone. She doesn't say anything inculpatory
20 across the board.

21 It's mainly relating to a state-of-mind concern
22 about an absolute denial and the existence of malice.
23 We'll talk about malice down the road. But overt
24 attempts to cover up a crime can be circumstantial
25 evidence of malice, and we'll talk about that as it

1 relates to a charge to the jury down the road.

2 But it's not offered for an inculpatory purpose in
3 that it's not facially inculpatory, Your Honor. There
4 is no question, when you hear the series of events
5 concerning a discussion with Patrick, there's no basis
6 for us to ask for Patrick's statement to be admitted.
7 It's not an exception to a hearsay rule. It's not a
8 statement of a party opponent. And as such, we would
9 have to have Patrick testify live in order to do that.
10 And we'll see what happens as the trial goes on, if we
11 have to do that or not, but we're not offering it for
12 that.

13 As a result, when Patrick's in the room helping
14 talk to her about it, I'm concerned what the Court
15 might do down the road. It's a pretty aggressive
16 situation at that point in time, and that's why we're
17 not offering and trying to defend that lack of Miranda
18 up to that point. And, as such, that's the only reason
19 we're offering the first.

20 But I do think it's important for potential
21 cross-examination because we can cross with
22 inadmissible information, depending upon what happens
23 at trial, for Your Honor to be aware of it, that there
24 are a few land mines out there. But we believe that
25 she was -- it was a voluntary statement. It was

1 voluntary at the time it was given. She was not in
2 custody.

3 It was in response to questioning, but the body of
4 the statement itself shows, well, what else could we do
5 to find out? Was any of your friends pregnant? Did
6 any friends come over to your house? Do you know of
7 anything else? What else could it be?

8 And that's throughout the statement to indicate
9 she was not the subject matter. That part of the
10 statement was not a ruse or any kind of misconduct on
11 the part of law enforcement. After they talked to
12 Patrick and came back in is when she was a suspect, and
13 that's why we're not offering those subsequent
14 statements, Your Honor.

15 THE COURT: All right. Mr. McCollum?

16 MR. MCCOLLUM: May it please the Court, Your
17 Honor.

18 THE COURT: Yes, sir.

19 MR. MCCOLLUM: So it's our understanding that the
20 State is offering the first statement, and so we are
21 arguing that that is inadmissible based on the three
22 cases that we've handed up, and I'll explain why.
23 That's State versus Evans, State versus Navy, and also
24 Missouri versus Seibert or Seibert.

25 Your Honor, the Seibert case, they say that the

1 Seibert case tests the police protocol for custodial
2 interrogation that calls for giving no warnings of the
3 rights to silence until the interrogation has produced
4 a confession or some type of incriminating statement.
5 I think they call it -- it even has a name as a
6 technique. The Supreme Court of the United States
7 calls it the question first strategy.

8 So we submit that this is exactly what the
9 question first strategy entails. First of all, Your
10 Honor, we would look at State versus Navy, which is 270
11 S.C. 398. In that case a child had died, the police
12 went out to question somebody, and then what happened
13 is the person who was initially charged ended up going
14 into the police station voluntarily.

15 So he goes to the police station voluntarily, and
16 what happens is his -- his 23-month-old son had died
17 while in his care. So the officer in that case had
18 learned of the autopsy results and the things that had
19 gone on and was actually in contact with the medical
20 examiner or the coroner, had specific information.

21 So, basically, he was taken to the police station,
22 he was questioned. They went through things very much
23 like in this case. The Navy gives an incriminating
24 statement like he knew he knocked the breath out of the
25 child. They go back and they talk to somebody else to

1 get some more information and come back and question
2 him. And then he gives the confession, okay.

3 In that case, there were three statements, one
4 oral and two written. The two written statements were
5 made after Miranda warnings, okay. So what the Court
6 ruled is that, you know, all three statements were
7 excluded, okay, because of the question first strategy
8 which they relied on, the case of -- the Seibert case.

9 THE COURT: But is that -- the first statement in
10 that scenario was inculpatory. He made a statement
11 about hitting the toddler in the back of the head;
12 correct?

13 MR. MCCOLLUM: Yes.

14 THE COURT: Okay.

15 MR. MCCOLLUM: The same thing basically happens in
16 Evans. In Evans, there's a mobile home fire, three
17 children died. The police or the arson investigator
18 talked to Evans briefly. Ten days later, they went to
19 talk, and Evans found out that the police wanted to
20 talk to him, or actually the arson investigators.

21 So Evans then goes to the police station, is
22 talking. The two male officers talk to Evans for some
23 period of time. Evans is distraught. And then once
24 she, you know, starts to beg for some help or
25 something, they go out and talk to another woman, who

1 is a SLED agent, Jennifer Edwards, who is a child --
2 the SLED Child Fatality Division officer. She goes in
3 there, talks to her as well.

4 And so in that case you could say it's two
5 statements or one statement, but in that case as well,
6 the Court suppressed both of them.

7 Now, the reason for their motion, Your Honor, is
8 that we're saying that this is just -- you know,
9 oftentimes, when we look at case law and we look at
10 things that happen in cases, you know, they're not --
11 they're never quite so similar. These are.

12 It's the same -- almost the same fact pattern,
13 same questioning pattern, same issue where she's in a
14 situation where she's -- you know, she's given birth
15 that day without any kind of medical care. She's been
16 up all day, she's traveled around.

17 THE COURT: Now, let's stick to the things that
18 are in evidence at this point, not speculation.

19 MR. McCOLLUM: There's no question but that this
20 is somebody who had given birth earlier that day.

21 THE COURT: There's no evidence that states that
22 this investigator knew that.

23 MR. McCOLLUM: I'm not -- and I'm not necessarily
24 saying --

25 THE COURT: I'm not saying she didn't give birth

1 that day.

2 MR. McCOLLUM: I understand.

3 THE COURT: But I'm saying in the mind of the
4 investigator at the time of the interview, where is the
5 evidence that says -- to make an analogy to the other
6 cases, the coroner's report that this is how the person
7 died or something of that nature, that he knew that
8 Ms. Taylor had given birth that day while he's
9 interviewing her, other than she looks -- I mean, she
10 looks one way in the photo and she may look different
11 then.

12 MR. McCOLLUM: I understand. I was offering that
13 not so much to say that he knew that with absolute
14 certainty. I was saying more that the condition of the
15 person who is talking, the condition, the state of mind
16 of the person that's giving the statement.

17 THE COURT: I understand that.

18 MR. McCOLLUM: Okay. That's why I said that, and
19 also the part about, you know, her going to the
20 hospital.

21 THE COURT: Right.

22 MR. McCOLLUM: Just to give the Court the benefit
23 of the type of condition.

24 THE COURT: I understand. Afterwards, she goes to
25 the hospital.

1 MR. McCOLLUM: Yes.

2 THE COURT: Right.

3 MR. McCOLLUM: So we're simply saying that given
4 this type of situation where she comes in voluntarily,
5 okay, of her own will, she did that because, you know,
6 she was in the news as being a suspect, a person of
7 interest, so that drew her to the police station.

8 She's in the police station. She's going through
9 pretty extensive kind of interrogation questions,
10 questions that are elicited -- that are designed, you
11 know, to cause somebody to confess or to make
12 contradictory statements. She makes several
13 contradictory statements to law enforcement. Later,
14 they then obviously confront her. She makes a
15 confession, then they read the Miranda warnings.

16 The only thing I'm saying, Your Honor, is that
17 that's the same thing that's happened in Evans and
18 Navy. And in Evans and Navy, given the similar
19 circumstances, then the Court suppressed all of the
20 statements, not just the second one.

21 THE COURT: Okay. All right. Mr. Hixson, any
22 response?

23 MR. HIXSON: Just quickly, initial distinguishment
24 is that's a custodial interrogation. There is no
25 evidence of custody of any kind, and a Miranda facially

1 doesn't apply. The record's replete with the
2 voluntariness of her arrival there to exonerate
3 herself. And the interview actually is replete with
4 reference of her being innocent of the charge. Even
5 after Mr. Cauble comes back in and says, people in the
6 neighborhood say you're pregnant. He didn't interview
7 her any more than that, and that's when the interview
8 broke down and stopped.

9 And that's the point where it stops, where he gets
10 information that looks like something is wrong here.
11 So we believe it's voluntary, we believe Miranda
12 warnings weren't required, and it was a voluntary
13 statement. We would move the Court to ask that the --
14 for a finding that the statement is voluntarily made --
15 the first statement, Your Honor.

16 THE COURT: All right. There is a couple of
17 analyses that the Court has to go through in these
18 circumstances in a kind of overall 20,000-foot view. I
19 have to look at the totality of the circumstances which
20 include the factors such as the place of interrogation,
21 the purpose, and the length of the interrogation, and
22 as to whether or not the suspect was free to leave the
23 place of questioning.

24 This is -- the custodial determination is an
25 objective analysis based upon whether a reasonable

1 person would have concluded that he or she was in
2 police custody.

3 In kind of going into the next part of that, the
4 custodial determination is not based upon the
5 subjective views of the suspect or of the interrogating
6 officer but whether or not a reasonable person would
7 have believed themselves to be in custody.

8 I think in -- you know, I would probably say, you
9 know, more than a thousand police interviews I've
10 either seen, been a part of, heard as a judge, handled
11 as a lawyer, in one way, shape, or form, I think, in
12 this case, it could not be clearer that she is not in
13 custody -- for the portion of the statement that the
14 State wants to admit, it could not be any clearer that
15 she was not in custody.

16 She showed up to the police department upon, you
17 know, her family telling her to go or somebody seeing
18 her picture. She was not in handcuffs. She was not
19 deprived of any type of comfort or anything else that
20 she needed.

21 She is one of the calmest people I have ever heard
22 in my life being interrogated for a crime such as this.
23 She is very calm, she is very cool, she is very
24 collected. She is having a perfectly normal
25 conversation with the investigators.

1 At points they are laughing, they are joking. She
2 is able to go through what she did for the day. She's
3 very clear about who the people are in her life and the
4 relationships that she is in. She is very calm. There
5 is no -- one of these cases, and I'm going to -- in
6 Navy's case, the Court gets into this bullying
7 atmosphere that the police created.

8 In the portion -- again, I'm talking about the
9 portion that the State is seeking to admit, which is
10 the first portion, you know, it could not be further
11 from a bullying atmosphere. In Navy, Navy was
12 requesting help -- requesting -- requesting help.
13 There is none of that going on here in any way, shape,
14 or form.

15 In Evans, there is testimony that Evans was
16 mentally disabled at the time that he was aggressively
17 questioned -- I mean, at the time she was aggressively
18 questioned -- I often don't look at the sex of these
19 cases, I'm sorry -- during the fire of their home.
20 Evans was questioned for three hours.

21 Navy was told that the questioning could not wait,
22 that nothing else could -- that nothing else could go
23 on. In Navy, they also had the coroner's autopsy
24 report, so they were going into it. You know,
25 basically, you know, loaded for bear.

1 I think in one of the -- I think one of the
2 telling facts about this questioning scenario that
3 makes it admissible is at the time they do the
4 questioning, they don't have any information as to
5 whose baby it is or really who did it, period.

6 And I think that's the difference in them coming
7 into this investigation and into this questioning.
8 Most of the time when I see these, they come in loaded
9 for bear. There has been some expert, some doctor,
10 some nurse, some DSS worker that said the only person
11 who could have done this was this person, and they go
12 in, and they already have their mind made up.

13 And I think -- I mean, they clearly have this
14 conversation with her, and it's all recorded, you know.
15 Thank God we're all moving towards recorded information
16 so that these things can be preserved.

17 But, I mean, I think that they legitimately go
18 into it with an idea that somebody else could have --
19 that that's not her baby and that they -- I don't
20 mean -- I think it is clear, abundantly clear from the
21 questioning that they don't think that she's a real
22 suspect until they talk to Patrick Taylor. And then,
23 at that time, they should have advised her at that very
24 moment when they brought her back in and doing the
25 thing with Patrick in the room and all that, you know.

1 I mean, if the State had not moved to keep all
2 that out, I would have definitely kept all that out. I
3 would think that would be completely appropriate to
4 keep that out under those scenarios. And I'm not
5 faulting law enforcement, that's just the status of the
6 law as it sits here right now.

7 But I believe that she was not in custody, that
8 she gave that statement freely and voluntarily. She
9 was under no threat, coercion, duress, or anything
10 else. If she was suffering in some way, shape, or form
11 mentally or physically, she did a better job of
12 covering it up than anybody I've ever seen being
13 questioned by -- I mean, I've seen grown men who are
14 Army rangers be questioned by law enforcement that, you
15 know, broke under questioning more than she did.

16 And so I find that that first part of that
17 statement is completely and totally admissible, I find
18 that she was not in custody, and I will deem the first
19 part of that statement to be admissible and allow it to
20 be played for the jury based upon the totality of the
21 circumstances.

22 She was only really questioned for around 50
23 minutes, and she voluntarily showed up to the police
24 department and was having a very calm conversation with
25 them about trying to figure out what happened, so...

1 All right, next issue?

2 MR. HIXSON: Your Honor -- Your Honor, the State
3 filed a motion relating to the exclusion of evidence of
4 diminished mental capacity. We have had substantive
5 conversations about what that means. We have provided
6 the Court a copy of that. I think we provided some
7 authority for that.

8 We did have some discussions pretrial that have
9 Your Honor have an understanding of it, so if Your
10 Honor needs more --

11 THE COURT: I'm up to speed on it.

12 MR. HIXSON: -- questions. Okay. The basis for
13 my --

14 THE COURT: I've read everything that everybody
15 has given me.

16 MR. HIXSON: The basis for my filing the motion is
17 not necessarily to exclude the testimony of the expert,
18 which I think is a contentious issue. It's -- I don't
19 know if there's any other basis for that expert
20 testimony to be provided besides just the mens rea
21 element.

22 THE COURT: Okay.

23 MR. HIXSON: So if there's more there, that's
24 fine. I guess my understanding would be that if I need
25 to withdraw the motion -- because I'm not trying to

1 block the expert testimony, I just want to be aware
2 that if it goes to a jury charge issue or if I'm
3 ejecting for cross-examination that you're talking
4 about inadmissible diminished capacity evidence.
5 Because I can't presume to know everything that the
6 expert is going to testify to.

7 THE COURT: Right.

8 MR. HIXSON: So I'm trying to take a middle-ground
9 approach some. I'm not trying to Santiago -- trying to
10 block the expert completely.

11 THE COURT: Okay.

12 MR. HIXSON: I'm not trying to block the expert.
13 I just want to make sure the law -- that the jury hears
14 that the law of the state of South Carolina, not
15 diminished capacity, which is not the law of the state
16 of South Carolina related to mens rea.

17 THE COURT: Okay.

18 MR. McCOLLUM: May it please the Court, Your
19 Honor.

20 THE COURT: Yes, sir.

21 MR. McCOLLUM: Yeah, we were not -- it was not our
22 intention to ask for a diminished capacity instruction.

23 THE COURT: Charge, okay.

24 MR. McCOLLUM: We are not asking for it.

25 THE COURT: Okay.

1 MR. McCOLLUM: We understand the law.

2 THE COURT: All right. So you're okay with him
3 calling the expert as long as they don't get a
4 diminished capacity charge.

5 MR. HIXSON: Yes. And, you know, as it relates to
6 proffering witnesses and testimony concerning the
7 content of that, I may object contemporaneously with
8 the admission of expert testimony on -- a lot of times
9 experts say they're not doing, but they testify
10 entirely diminished capacity, but they say, that's not
11 what I'm doing.

12 THE COURT: Well, I mean -- and I'm not sure we
13 don't need to do that outside the presence of -- you
14 know, as far as qualifications and for you to hear all
15 the qualifications. Of course, I haven't sat around
16 and studied this issue, so, you know...

17 I did a big case with Munchausen syndrome by
18 proxy, so, you know, if you had said those words to me,
19 I would have been tracking right with you. But I think
20 probably the best thing for the expert is, when we get
21 to that point, let's kind of put things on hold and
22 take that outside the presence and go through the 702
23 factors and the Council factors and all that kind of
24 different stuff.

25 And I'm not saying -- and so, you know, we --

1 we're not -- I'm not hashing all that out in the first
2 time while the jury is sitting in here.

3 MR. McCOLLUM: Thank you, Your Honor.

4 THE COURT: Does that make sense?

5 MR. McCOLLUM: Yes, sir.

6 MR. MUREDDU: I would inquire of the Court, Judge,
7 we discussed this earlier, but I never actually gave
8 the Court a copy of his report. Obviously, the
9 prosecutor has a copy and has had it for several
10 months.

11 I would disagree with him in one aspect in that
12 everything that expert is going to testify to, as far
13 as her state of mind and a specific condition known as
14 transient peripartum psychosis, okay, they're aware of
15 it, it's in there, and he's -- that's what we intend to
16 have him testify about.

17 As the Court is aware, this is -- malice
18 aforethought is an element of the crime. So the mental
19 state of the Defendant, the ability to form malice
20 aforethought, which is required to convict somebody of
21 attempted murder, is -- that's what the expert is going
22 to testify to. I'm sure that the State's going to
23 object to that because it cuts directly into one of the
24 elements of the crime.

25 Quite frankly, I believe that that is the primary

1 issue as to the charge of attempted murder. I think
2 the facts are -- the facts are she birthed the baby,
3 she discarded the baby. It's undisputed, at some point
4 in time, we're working towards a concession of that.

5 THE COURT: Okay.

6 MR. MUREDDU: My understanding of the law is she's
7 charged with attempted murder. The statute says that
8 she should get five lesser-included charges, all the
9 way down to A and B third degree. You've got no injury
10 to the child. So we're looking, I believe, at the end
11 of the day, six possible verdicts that could be
12 rendered by this jury.

13 Certainly we're not happy that they decided to
14 charge her with attempted murder, the assault that
15 includes malice aforethought, but they have. And so
16 that's knowing that there is established science,
17 psychological, mental health science out there that
18 there is a mental disorder, psychological disorder,
19 whatever you want to call it. It has a name, it's not
20 made up. It's a recognized science. That's what we're
21 going into.

22 THE COURT: And I wasn't saying that it was. I
23 was just saying that it wasn't one that, when you said
24 it, it -- it wasn't something I personally experienced
25 in court before.

1 MR. MUREDDU: I understand. Well, and that's
2 why -- look, having said everything that I just said,
3 basically, I guess the point of what I'm saying is
4 would the Court care to --

5 THE COURT: I would like to know -- I would love a
6 copy of the report, so that way I can read it and get
7 up to speed it on and feel like I'm one more -- one
8 degree more informed of what's going on.

9 MR. MUREDDU: I agree. And, Judge, I'll further
10 show my cards. And the reason why I would like a
11 little more definitive guidance is our whole case is
12 based on this. We're going to talk about it in opening
13 statement. We're going to talk about it with the
14 State's witnesses. We're going to talk about it with
15 our witnesses.

16 If at some point in time that I'm going to hear
17 from the Court, hey, this transient peripartum
18 psychosis, can't go there because it is quasi-related
19 to diminished capacity, which we don't recognize in
20 this state, that's going to torpedo the case, Judge. I
21 can't say it any other way.

22 THE COURT: Okay.

23 MR. HIXSON: Well, to be as blunt as I can, either
24 she is sane or she is insane. If she is sane and if
25 she's competent, then she faces the full thrust of the

1 law.

2 Similar to imperfect self-defense in South
3 Carolina, we don't have imperfect self-defense. We
4 don't have a defense that I made a mistake, but I
5 thought I was okay with self-defense and so let me get
6 that charge.

7 If she is sane, she is not entitled to diminished
8 capacity because she is considered to be -- have the
9 same ability to form mens rea as a sane person. Can't
10 say she can't form it legally and fail on the element
11 of a crime because a psychiatrist says that she has an
12 accepted syndrome that is not to the level of insanity.

13 So either she's insane and she gets a charge on
14 guilty but mentally ill. There is no insanity defense.
15 There's no assertion that she is not competent or that
16 she's insane and, as such, diminished capacity is only
17 there to reduce the mens rea to say, yeah, she put him
18 in a bag, but she didn't mean to kill because she can't
19 form the mental intent to kill because she has
20 postpartum depression.

21 It is the same argument by the -- Santiago was an
22 Asperger's syndrome murder case where the doctor wanted
23 to testify the kid had Asperger's, so he can't form the
24 capacity to kill.

25 This case, she has a postpartum issue, according

1 to Defense witness, and as such, she can't form the
2 mental capacity to kill. It is the same thing, exactly
3 the same thing. That's why, in the state of South
4 Carolina, diminished capacity is not accepted.

5 Now, if there was another basis to talk about the
6 expert's report besides what is barred, then I think
7 it's great. I'm not challenging the qualification of
8 the doctor, that the doctor is not an expert in
9 psychiatry, psychology, the background and all that.
10 But that is what State versus Gill and Santiago and
11 their progeny are for, is to bootstrap a mental health
12 argument into a prohibited area.

13 THE COURT: I mean, I don't know how I get around
14 these cases that say diminished capacity is not a
15 defense. They're -- I mean, Gill and Santiago could
16 not be any clearer. In Santiago, they barred -- Judge
17 Goodstein barred the Defense's -- the expert from
18 testimony completely and totally.

19 So tell me, if the expert -- tell me -- help me
20 with the expert's going to say she has got this
21 condition. Is he going to say that she's competent? I
22 mean, does the expert say she's competent?

23 MR. MUREDDU: Judge, as the Court knows, the issue
24 at hand is not whether she's insane or not. It's the
25 mental state at the time of the alleged criminal

1 offense, okay.

2 The transient peripartum psychosis, what it is, is
3 it is a transient as in it is in a -- it's impermanent;
4 okay? It only arises in severe cases of peripartum,
5 postpartum depression. That's basically what we're
6 talking about. It is an extreme variation but one that
7 exists and only appears at a certain time.

8 THE COURT: So is he going to say she doesn't know
9 the difference between right and wrong?

10 MR. MUREDDU: What he's going to say is, in his
11 expert medical opinion, that at the time of the
12 birth -- in and around the time of the birth of the
13 baby that, in his opinion, she was experiencing a
14 psychosis as a result of this disorder. So that's what
15 he's going to say.

16 Now, what does that mean? Just like when the
17 State -- they will spend probably most, if not all, of
18 their time with the witnesses who dealt with Shelby,
19 particularly Jeff Cauble is one of them, about talking
20 about how calm she was, and she was -- the doctors
21 report she was calm, she wasn't upset, she wasn't
22 stressed. And they're going to stress what does this
23 mean. It's expressed if not implied intent of malice.

24 So her -- they're going to be going into her
25 demeanor of being calm rather than being disheveled or

1 disarrayed or very extremely upset.

2 I would say that what we're talking about is
3 analogous to that. This doctor is going to lay the
4 foundation of what it is, when it occurs, what are the
5 conditions where it is most likely to occur, and what
6 the state of mind a person is in if it happens to them.
7 And he's going to give the opinion it happened to her,
8 he's going to tell all the reasons why he drew that
9 conclusion.

10 They can certainly say that he's wrong, but it
11 definitely goes into her intent, her state of mind, her
12 mental capacity, and her ability to form malice or
13 whatever at the time of the crime.

14 THE COURT: But he's not going to say she can't
15 tell the difference between right and wrong.

16 MR. MUREDDU: No, he's not going to say that.

17 THE COURT: Okay. Mr. Hixson?

18 MR. HIXSON: I just don't have any follow-up. I
19 think the issues are joined in that the first page of
20 the report specific -- refers to the issue of baby
21 dumping, that the baby dumping turns to a crime of
22 discarding or leaving alone an extended period of child
23 [sic] with a specific intent to dispose of that child.
24 She is diagnosed with that, and the doctor says that
25 she has the specific intent to commit the crime in the

1 first page of the report.

2 I don't know how else to articulate it anymore
3 other than I do not know what the doctor is going to
4 testify to. I don't want to chill the Defense's
5 ability to put up a case, but I don't want to allow
6 inadmissible evidence in a trial in South Carolina. We
7 don't accept that.

8 So I don't mind if we hear it. The reason I filed
9 the motion prior to trial is a warning shot over the
10 bow to Defense counsel in opening statements so we
11 don't get off on the wrong foot. That's why the timing
12 of my motion.

13 THE COURT: So, I mean, what I -- if you walk this
14 dog to the end of the street, my question is, is
15 Defense counsel going to be standing in front of the
16 jury in closing arguments and saying she's not guilty
17 of attempted murder because she didn't have the mental
18 ability to form the mens rea of malice aforethought,
19 which they're never going to hear the judge say because
20 that's not the status of the law.

21 MR. MUREDDU: Well, two things, judge. I want
22 to -- I'm going to say this so I don't forget about it,
23 to come back to it, is we touched in chambers the
24 timing of this motion, having had months to do this --
25 it was filed on -- 5 o'clock on Friday, on the eve of

1 trial, as eve gets when you've had access to that.

2 Judge, I'll read you the question right here, the
3 money shot, so to speak. Someone experiencing
4 transient peripartum psychosis, as to their state of
5 mind, are they acting maliciously, are they acting
6 sadistically, are they acting wickedly, with evil
7 intent, are they acting with a depraved heart?

8 All of those things that I just went into, when
9 I'm asking the doctor about the state of mind of
10 someone experiencing transient peripartum psychosis,
11 that is how we define the -- of course define malice.

12 THE COURT: Right.

13 MR. MUREDDU: And our position is, is that she was
14 experiencing transient peripartum psychosis, and in
15 that state of mind, she wasn't acting maliciously with
16 malice. And that is where we're going to go to with
17 this witness.

18 The State can argue all the other things. They
19 know what he's going to say, and they can say that he's
20 full of it or it didn't occur here or whatever, but --
21 and, again, having said all of that, Judge, this case
22 has been on the radar for months, and we have
23 actually -- well, I don't want to say this on the
24 record, but there have been negotiations between the
25 State and the Defense as a possible resolution to this

1 case.

2 And to have -- we could have waited until Friday
3 at 5 o'clock and gave a notice that we were going to
4 call an expert and what that was. We didn't do that.
5 And if the Court is going to limit our testimony into
6 the exploration of this recognized medical mental
7 disorder, we would certainly ask for a continuance.

8 THE COURT: Do you want to say anything?

9 MR. HIXSON: Just briefly. I guess what I was
10 trying to do was track a middle ground. State versus
11 Santiago, decided by our Courts, psychiatrist testimony
12 on Defendant's Asperger's disorder was not admissible
13 to establish that the Defendant did not have the
14 requisite mental state to commit murder.

15 So the number one part that I have the problem
16 with is to confront the testimony of the psychiatrist
17 on a disorder that's not -- excuse me, on a doctrine
18 that's not recognized. That is what the jury has to
19 decide. Did she form malice or not? Did she have
20 malice aforethought when she tied a knot in a trash bag
21 and threw it away and then lied about it for the next
22 little bit until, finally, she was apprehended for it?

23 Nothing else is in dispute. It's the only issue,
24 as Mr. Mureddu indicated when he called it the money
25 shot. That's the whole thing. That's the entire

1 trial. Did she form malice when she put her baby in
2 the trash? Is she guilty of attempted murder or did
3 she not form malice to do it? That is the entire
4 thing.

5 And I guess, I don't know, absent barring the
6 counsel from asking the ultimate issues of fact, which
7 go into some other cases that I have relating to their
8 allegations of battered spouse and other things in the
9 memo -- or, excuse me, in the report, I guess it has to
10 be for the Court to ask because that is the entire
11 issue if the counsel --

12 THE COURT: I mean, what it sounds like to me is
13 the Defense counsel is arguing that she's culpable of a
14 lesser offense because of her diminished capacity.

15 MR. HIXSON: And just to sum up also --

16 THE COURT: I mean, is that not right?

17 MR. MUREDDU: Judge, again, we're talking about
18 state of mind, a mental state.

19 THE COURT: Right. I mean -- but, I mean -- and I
20 don't know how I get around this case that says,
21 essentially, Defense counsel is arguing that Santiago
22 was culpable of a lesser offense because of his
23 diminished capacity. However, the diminished capacity
24 defense is not recognized in South Carolina. South
25 Carolina does not recognize this defense; thus, the

1 trial Court did not commit an abuse of discretion when
2 she refused to allow Donna Schwartz-Watts to testify
3 regarding his diminished capacity.

4 I mean, the whole purpose of -- tell me another
5 purpose for the doctor for -- besides -- and of course,
6 we're going to have to proffer all this testimony
7 anyway. We're all talking about it, you know, outside
8 the presence of the doctor, but I mean, all this is
9 going to have to be proffered.

10 But, I mean, what's he going to testify to if
11 he -- what's he going to testify for if he's not going
12 to sit up here and say she doesn't have the ability to
13 form malice aforethought?

14 MR. McCOLLUM: May it please the Court, Your
15 Honor.

16 THE COURT: Yeah.

17 MR. McCOLLUM: And I know that one person is
18 supposed to do this.

19 THE COURT: I don't get upset about those things,
20 so you're fine with me. Y'all jump -- I mean, y'all
21 are her lawyers, whoever wants to talk can talk. You
22 know, that rule -- or whoever created that rule that
23 I've never read that said only person can talk doesn't
24 apply to me.

25 Y'all jump in -- I'm having a conversation with

1 you at this point. So y'all -- whoever wants to jump
2 in, feel free to jump in. You won't offend me in any
3 way, shape, or form, Mr. McCollum, I promise.

4 MR. MCCOLLUM: Thank you, Your Honor.

5 THE COURT: But help me -- do you see what I'm
6 saying?

7 MR. MCCOLLUM: Yes, Your Honor.

8 THE COURT: Help me with where I am.

9 MR. MCCOLLUM: And in terms of -- is there -- do
10 we all agree that our expert is going to testify?

11 MR. HIXSON: I'm not prepared to seed the field.
12 If the only purpose is malice aforethought, then that's
13 the entire thing, and I need to stick with it. I
14 thought there was another basis for the testimony. It
15 wasn't my intention to block all the expert's
16 testimony, but the only reason the expert is going to
17 testify that she can't form an element of a crime in my
18 expert opinion, that's Santiago, and I would have to
19 support my motion.

20 MR. MCCOLLUM: Your Honor, a couple of things.
21 One is that Your Honor's ruled under Jackson versus
22 Denno that the statement's admissible.

23 THE COURT: The first part of her statement.

24 MR. MCCOLLUM: Yes, sir, Your Honor. We also have
25 a right to have the jury determine --

1 THE COURT: The voluntariness of her statement.

2 MR. McCOLLUM: Yes, sir.

3 THE COURT: So, I mean, is the doctor going to be
4 able to shed some light on that?

5 MR. McCOLLUM: I think so, clearly, because of
6 everything that she went through. He examined her.
7 He's done an extensive report on her. He has extensive
8 knowledge of these type of things. He diagnosed her
9 with other disorders. He talks about her state of mind
10 and why she appears so calm. Even Your Honor picked up
11 on that.

12 THE COURT: Right.

13 MR. McCOLLUM: It's completely --

14 THE COURT: It is what it is, yeah.

15 MR. McCOLLUM: It's completely abnormal. And he
16 can explain all of that of what's going on.

17 THE COURT: Okay. Now -- and see, in that
18 scenario, I think you're in a different boat, because
19 my guess is, although I don't know what they're going
20 to do, but my guess is they're going to say she's
21 pretty calm, you know, to just have thrown her baby in
22 a dumpster or whatever, you know.

23 And so when you start going down those roads, I'm
24 tracking with you. I understand. I think what we need
25 to do is we need -- the first thing we need to decide

1 is what are we going to say in opening tomorrow. Let's
2 cross that bridge this afternoon, and I don't need to
3 hear your whole opening; I'm just talking about this
4 issue.

5 And then we just need to block off some time maybe
6 Wednesday afternoon after we do that other hearing to
7 get the doctor in and get him up here, and let's see
8 where he is. Does that make sense? Because if one of
9 the purposes in calling him is to contradict this idea,
10 you know, look how calm she is, she's in there, sitting
11 there denying this and, you know, that kind of thing,
12 you know -- because I can see the State turning the
13 non-inculpatory statements into evidence.

14 I'm not saying they're going to do that; it's just
15 a guess, you know, just from being in the courtroom the
16 majority of my legal career.

17 But -- so I -- if we're moving down that road,
18 that's one thing. I think we just have to be -- I
19 mean, we're going to be walking a fine line, for lack
20 of a better term. But one situation where I don't know
21 that anybody wants to be in is, you know, y'all get to
22 this "she can't form the mental state," and then I
23 never tell the jury that this diminished capacity thing
24 exists.

25 Because it's going to create -- you know, what it

1 does is it creates this huge level of confusion of, the
2 judge didn't tell us any of this was an option, but all
3 those lawyers stood up there and talked about it for 20
4 minutes. So I think we can walk the line; we've just
5 got to walk the line cautiously.

6 MR. McCOLLUM: Your Honor -- and when your clerk
7 arrives maybe sometime tomorrow, if he or she is going
8 to be here, we would like to get a copy of Your Honor's
9 malice charge.

10 THE COURT: Okay. Yeah, sure. And when we leave
11 tonight, everybody write down their e-mails on a little
12 sticky note for me. And then when she gets here in the
13 morning -- and my malice charge changes a lot based
14 upon what county I'm in and what kind of case it is.
15 So a lot of prosecutors have their own things and so it
16 gets tweaked a lot.

17 So I can give you what's in the charge book. I
18 can give you things that I've used before. I'm open to
19 other charges of malice as long as they are in
20 accordance with the law. But, yeah, we can certainly
21 do all that. That's no problem at all.

22 Tell me where -- and I'm not asking you to give me
23 your whole opening statement, but what's the plan for
24 opening about the doctor's testimony?

25 MR. MUREDDU: Judge, I was going to do it, and

1 I've got...

2 THE COURT: And I don't need you to give it all to
3 me.

4 MR. MUREDDU: I've got it, I just have to find it.

5 THE COURT: I mean, this case is coming up on
6 three years old. Everybody needs resolution to the
7 case. We don't need anybody to say anything that would
8 cause a mistrial or anything, not that anybody would do
9 any of that intentionally, I know. I'm not saying that
10 they would.

11 MR. MUREDDU: Well, one of the things I was going
12 to basically say the reason why this happened is
13 because she experienced an episode of transient
14 peripartum psychosis. I was going to say, you're going
15 to hear from a doctor who has been -- is an expert in
16 the field, who's been working in the mental health
17 field for 45 years. He's going to define it. He's
18 going to tell you what its symptoms are. He's going to
19 tell you what conditions are present which make it
20 likely to occur. And he's going to tell you that, in
21 his opinion, that it was present in her case.

22 And he's going to further go into that, you know,
23 this -- this type of thing -- you know, call it baby
24 dumping, call it what you want; we can call it
25 transient peripartum psychosis -- it happens about --

1 on average, about a hundred times a year in the United
2 States alone. It's -- you know, it's an extreme
3 variant of postpartum depression but more severe. I
4 was going to go right into that.

5 THE COURT: Do you want to be heard on that?

6 MR. HIXSON: Just -- I guess, as a central point
7 to concede it somewhat, that discussion isn't bad. The
8 point is, is the testimony on an ultimate issue of
9 fact --

10 THE COURT: Right.

11 MR. HIXSON: -- that is contrary to the law in
12 South Carolina.

13 THE COURT: I think what you just said is fine.
14 You know -- but, you know, there's a difference in
15 saying that and saying she is not guilty of attempted
16 murder because she has this condition. Those are two
17 different things.

18 MR. MUREDDU: Well -- and, well, the doctor is not
19 going to say that.

20 THE COURT: All right.

21 MR. MUREDDU: Nor -- well, I mean, I'm
22 fast-forwarding the closing argument.

23 THE COURT: Right.

24 MR. MUREDDU: Obviously, at some point in time,
25 I'm going to be looking at the jury and saying, she's

1 not guilty of attempted murder.

2 THE COURT: Right, right. And I'm not saying you
3 can't say that. It's just we can't create a fallacy of
4 law that she is -- and, again, I mean, the only thing I
5 know about this case is what I've heard today. I have
6 no history with it at all. I mean, but we can't create
7 a fallacy of law that there's some exception to
8 somebody being guilty because of some diminished
9 capacity that's not -- it's just not recognized in the
10 State.

11 But, you know, I think based kind of -- the way
12 we've kind of massaged through it this afternoon, I
13 think we're fine, and I think you can say what you said
14 in opening --

15 MR. MUREDDU: Okay.

16 THE COURT: -- without kind of, you know, reaching
17 that ultimate issue. But you can lay the foundation
18 for who your expert is and what he's going to testify
19 to, and we want you to listen out for this and listen
20 out for that. And, you know -- I think, you know,
21 explain -- I think the way that -- you know, it's using
22 it as a methodology to explain her behavior and why
23 she's so cool, calm, and collected on the audio and all
24 that kind of stuff. That's a whole different road from
25 a diminished capacity argument.

1 MR. MUREDDU: Well, and certainly, judge -- and I
2 think that you're being -- you understand it's like we
3 want to clear this up because I'm --

4 THE COURT: No, no, no.

5 MR. MUREDDU: I'm not going to try to tank the
6 case.

7 THE COURT: No, I know. In this -- I can only
8 imagine all the different emotions that are going on in
9 the courtroom with the family, many different levels,
10 and the case, you know, it's got a little bit of age on
11 it, and it's a complex case and it has complex issues.
12 I'm not fussing at anybody for that in any way. You
13 know, she's been out on bond and behaving and all that
14 good stuff.

15 So, I mean, I just -- I wanted to get kind of a
16 level playing field so that we're all singing from the
17 same sheet of music in going forward.

18 (Discussion off the record.)

19 MR. MUREDDU: Judge, this is -- we need to make
20 you a copy of this.

21 THE COURT: Okay.

22 MR. MUREDDU: I'd like to do that today.

23 THE COURT: Okay, that's fine.

24 MR. McCOLLUM: I have a copy downstairs, Dean, if
25 you want it.

1 MR. MUREDDU: Yeah, we just want to make sure that
2 he -- because, again --

3 THE COURT: Yeah. I'll wait before I go, and that
4 way, I can read it tonight and be up to speed for
5 tomorrow.

6 MR. MCCOLLUM: Thank you, Your Honor.

7 THE COURT: What else?

8 MR. HIXSON: Two brief things. We requested --
9 like the charge on malice, just so we're talking about
10 it, the Mouzon line of cases.

11 THE COURT: Yes, I'm with you.

12 MR. HIXSON: And depraved heart, those type of
13 things.

14 THE COURT: If y'all have specific stuff you want
15 me to look at, you know, sometime today or tomorrow or,
16 you know, go ahead and e-mail all that stuff to the
17 clerk. And then I'll -- we can send out what we
18 normally charge and so you have that. And we can
19 e-mail all that to you.

20 I like everybody to see that ahead of time and,
21 you know, I charge Victor versus Nebraska, firmly
22 convinced. I always give the new circumstantial
23 evidence charge. I can't remember the name of that
24 case, but there is a new circumstantial evidence
25 charge. I always give that.

1 Most of my charges are, you know, relatively
2 simple and straightforward and out of the book, but we
3 can look at the malice charge. Of course there's no
4 evidence of a deadly weapon.

5 MR. HIXSON: No, sir.

6 THE COURT: So there's no evidence of inferred
7 malice.

8 MR. HIXSON: There's no express malice of any
9 kind.

10 THE COURT: We won't have anything -- any of that
11 kind of stuff in there. But we can -- we can look at
12 the malice charge and, over the next couple days, and
13 see if there's something we can all come to agreement
14 with. Is that fair enough?

15 MR. MUREDDU: Yes, sir.

16 THE COURT: Okay.

17 MR. HIXSON: Absolutely.

18 THE COURT: Okay. What else?

19 MR. MUREDDU: Judge, one -- I don't think we've
20 gotten into lesser included yet, but there is, in this
21 case, a 9-1-1 recording.

22 THE COURT: Okay.

23 MR. MUREDDU: Basically -- and the prosecutor, I'm
24 sure, will correct me if I'm wrong. Basically, as I
25 think we've shared with you a bit, you got two

1 teenagers find the baby in the dumpster. Okay? And
2 the older one sends his younger one to get his mother.
3 Mother comes down, and then people are screaming and
4 yelling, "Call 9-1-1." 9-1-1 is called.

5 So there's about an eight-minute 9-1-1 recording
6 to the police just calling for help. There's
7 screaming, moaning, groaning, extremely inflammatory
8 background noises beyond -- I don't have a problem with
9 anything that the caller said, but you can clearly hear
10 very, very inflammatory, people upset, crying, saying
11 things, et cetera, et cetera.

12 Judge, we would be moving to keep that -- to
13 suppress that evidence. It's, first off, clearly a
14 9-1-1 -- a recording is hearsay on its face. It's not
15 probative of anything. The solicitor is going to call,
16 I'm sure, one or both of the boys and the mother.
17 They're going to call these witnesses, I heard a baby
18 or I heard crying, I found a baby, got my mama, 9-1-1
19 was called, we called for help.

20 THE COURT: Okay.

21 MR. MUREDDU: Certainly, those witnesses can
22 appear in court, testify, et cetera. And but for the
23 -- all of the inflammatory stuff in the background, I
24 don't know that I would have a problem with the 9-1-1
25 call. But it's out there. It's got no probative

1 value.

2 THE COURT: Let's see what their intent is.

3 MR. HIXSON: That's correct, Your Honor. Raymond
4 Price is on one of them, and he is actually fairly
5 calm. The inflammatory thing is people crying, saying,
6 Oh, my god, who would do something like this? The
7 nature of that isn't anything more than when you hear
8 screaming or a home invasion or "my husband's been
9 shot" or something like that. So it's nothing -- it's
10 not -- no improper prejudice, it's not unduly unfair.
11 It's a business record, and the only legitimate
12 argument, I think, would be is it cumulative based on
13 live testimony, and our intention is either/or at this
14 point in time based on the availability of the witness
15 we expect to be here tomorrow morning.

16 THE COURT: Okay. Can somebody e-mail me the
17 recording or give me a copy of it?

18 MS. WALKER: We can do that. Or we can play it
19 now.

20 MR. HIXSON: There are quite a few phone calls, so
21 the only one we're talking about specifically is when
22 Mr. Price is on there.

23 MR. MUREDDU: I think we only have one in our
24 discovery.

25 MR. HIXSON: There is -- well, that's the one

1 you're talking about. There's all -- under one file,
2 and they're separate calls.

3 MR. MUREDDU: I've looked at everything. I've
4 only got one.

5 MR. HIXSON: Well, I'll show it to you right here.
6 Do you want to hear --

7 MR. MUREDDU: Let me ask you this, though:
8 Which -- how many or which do you plan on publishing?

9 MR. HIXSON: Once again, if Raymond Price
10 testifies live, then I probably will not put the 9-1-1
11 call in because he's going to say what he said on the
12 9-1-1 call.

13 THE COURT: Okay.

14 MR. HIXSON: If he is not available, then we would
15 like to offer that statement, basically, as a business
16 record in through the 9-1-1 call. We will know in the
17 morning.

18 THE COURT: Okay. Is that a copy or is that the
19 original?

20 MS. WALKER: No, sir, Your Honor. This is my
21 original.

22 THE COURT: Okay.

23 MS. WALKER: But we could e-mail you, play it now,
24 burn a copy --

25 THE COURT: Why don't you e-mail it to me. E-mail

1 it to me, and I'll listen to it tonight, and then we
2 can talk about it in the morning. And it may be a
3 nonissue because the gentleman is here.

4 MR. MUREDDU: All right.

5 THE COURT: But I'm going to have to hear it for
6 me to make that call. Does that make sense?

7 MR. MUREDDU: Yes, sir.

8 THE COURT: Okay. What else?

9 MR. HIXSON: Oh, as it relates to stipulations
10 concerning DNA, that's just relating to trial
11 scheduling for our purposes with our witness coming in,
12 just -- it relates to that. Only whether or not -- I
13 have the copy of the report. All I was -- we were
14 talking about in chambers and after that was just the
15 DNA report where the Jane Doe at that time is the
16 offspring of Shelby Harper Taylor and all of our
17 witnesses are available. We have to call Ryan Seipt on
18 Thursday morning, is the only convenience; otherwise,
19 we'll put the witnesses up.

20 THE COURT: Okay.

21 MR. HIXSON: But that is what it is.

22 MR. MUREDDU: Judge, the best I can tell you is
23 we're not ready to stipulate that at this moment in
24 time.

25 THE COURT: All right. That's fine.

1 Anything else?

2 MR. McCOLLUM: I don't want to say anything else,
3 Your Honor. I think we've been over a lot. You know,
4 we have talked about the malice. Obviously, we're
5 going to be looking at some lesser includeds. I don't
6 know if we need to go into that right now.

7 THE COURT: No, we don't. But what I would -- you
8 know, just don't lose sight of, as the trial
9 progresses, you've got the -- the sooner y'all get that
10 stuff to me and the stuff you want me to look at or the
11 cases you want me to read, the easier it is for me on a
12 break or lunch or whatever to sit there and do it and
13 process through it, and, you know, get it printed and
14 all that kind of stuff.

15 So, yeah, the sooner you get it to me, the easier
16 I can work through it in my mind, because I like to
17 read stuff that you give me and make sure I'm up to
18 speed on what you're doing. Is that good?

19 MR. McCOLLUM: Thank you, judge.

20 THE COURT: Okay.

21 Now, Ms. Taylor -- all right. Now, I don't know
22 you. Okay? I've never met you in my whole life.
23 Okay? Now, you have shown up for court today. You've
24 been on bond now for almost three years. Okay. I'm
25 going to let you go home tonight. Okay?

1 THE DEFENDANT: Okay.

2 THE COURT: Now, you are to be here tomorrow
3 morning. The Court will start at 9:30. Obviously, you
4 need to be here prior to that. If you do not show
5 tomorrow morning, we're going forward whether you're
6 sitting there or not. Okay?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: If you do not show up, I'll also issue
9 a warrant for your arrest. Do you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Okay. And -- but, you know, we've
12 been through a lot today. You've behaved
13 appropriately. You haven't, you know, done anything
14 crazy in court or given me any kind of impression that,
15 you know, you're not, you know, behaving
16 inappropriately, communicating with your attorneys, and
17 all those kind of things.

18 And so I'm going to let you go home tonight. You
19 need to be back here tomorrow morning. Court will
20 start at 9:30. Be here whatever time your attorneys
21 tell you to be here or be at their office or whatever
22 that may be. And we'll see you tomorrow morning at
23 9:30. Okay?

24 All right. Anything else from the State?

25 MR. HIXSON: No, sir, Your Honor.

1 THE COURT: Anything else from the Defense?

2 MR. MUREDDU: Nothing, Your Honor.

3 THE COURT: Okay. All right. Thank you, guys,
4 very much. Thank you for your hard work today. I'm
5 glad we got through that stuff. And we'll be ready to
6 go at 9:30 tomorrow morning.

7 Oh, just some housekeeping things: Y'all can move
8 about the courtroom as you need to. I know some
9 judges, you know, say you got to stand here or you got
10 to stand there. Y'all can use the podium and move
11 about as you need to. If you need to move somewhere to
12 see something, that's perfectly fine.

13 If you want a witness -- I'm going to assume the
14 witnesses are excused from their subpoena. If you want
15 somebody held under their subpoena, just wave your hand
16 and say let's hold this guy or girl under their
17 subpoena.

18 And, y'all -- I don't get upset when lawyers --
19 you know, people say, "Can we have just a moment to
20 discuss" before you finish with a witnesses. That's
21 perfectly fine. None of that bothers me or upsets me.
22 You know, I'm going to let you try your case and let
23 y'all move about as you need to. You don't need to ask
24 permission to approach witnesses or anything like that.

25 And if you've got something we need to take up

1 outside the jury's presence, just say, you know, judge,
2 we have a legal issue, and I'll send the jury out and
3 we can go through it. Okay? All right? Everybody
4 good?

5 MR. MUREDDU: Yes, sir.

6 MR. McCOLLUM: Yes, sir.

7 MR. HIXSON: Yes, sir. Thank you.

8 THE COURT: Okay. Thank you.

9 (The hearing adjourned at approximately 5:07 p.m.)

10 (The hearing resumed on Tuesday, February 6, 2018,
11 at approximately 9:35 a.m.)

12 THE COURT: All right. Good morning. Thank you
13 very much. Take your seats.

14 Anything we need to take up before we bring the
15 jury in from the State?

16 MR. HIXSON: No, sir.

17 THE COURT: From the Defense?

18 MR. MUREDDU: Nothing from the Defense, Your
19 Honor.

20 THE COURT: Okay. All right. So when the jury
21 comes in, we are to swear them in, the oath you read
22 yesterday.

23 (Discussion off the record between the Court and
24 the clerk.)

25 THE COURT: You ready? Let's bring them in.

1 (WHEREUPON, the jury came into open court at
2 approximately 9:39 a.m.)

3 THE COURT: All right. Good morning, ladies and
4 gentlemen. Welcome back. Thank you very much for
5 being on time. I didn't know that y'all had a nice
6 tradition of bringing breakfast in for the jurors, so
7 they told me that after I had sent y'all out yesterday.
8 So I asked them to get you something, but tomorrow, if
9 you come a few minutes early, they'll have a little bit
10 of something more substantial for you. So I do
11 apologize; that was news to me.

12 Okay. All right. So the first thing that we're
13 going to do this morning is you are going to be sworn
14 in. Now, yesterday, you took a couple of oaths, and
15 those were to tell me the truth in response to my
16 questions. This oath that you're going to take this
17 morning is completely different.

18 The oath that you're going to take this morning is
19 your promise to me, to the parties, to the litigants,
20 to the lawyers, and to each other and to yourself that
21 you will try this case fairly and impartially without
22 any bias or any prejudice to either side. You will sit
23 there fairly and impartially much like a judge, with no
24 one to reward and no one to punish.

25 You will hear the evidence in the case, determine

1 what the facts are, and apply those facts to the law
2 that I will give you at the end of the case. So if you
3 will please rise; the clerk will swear you in for the
4 trial.

5 (WHEREUPON, all jurors were duly sworn.)

6 THE CLERK: Thank you. You may be seated.

7 THE COURT: All right. Thank you very much.

8 Now, before we begin the trial of this case, I
9 thought it might be helpful to explain to you how a
10 trial will work. First, the State, that is the
11 solicitor's office, will be allowed to make an opening
12 statement.

13 Now, opening statements are not evidence. They
14 are simply outlines to help you understand what that
15 party expects the evidence will show. The Defendant
16 may, if she chooses, present an opening statement, but
17 she does not have to, for reasons that I will explain
18 to you in a moment.

19 Now, as I go through this brief, short explanation
20 of the law, I want you to listen for the word
21 "evidence." Okay? So the word "evidence" is a defined
22 term. I'm going to tell you what is evidence and what
23 is not evidence. So listen for that as we process
24 through this first instruction on the law.

25 So following the opening statements, you will hear

1 testimony and evidence in the case. This will consist
2 of testimony from the State's witnesses as well as any
3 physical exhibits which will be introduced into
4 evidence. Following the completion of the testimony,
5 the attorneys will again have an opportunity to make
6 what is called closing statements or closing arguments
7 to you. This is an opportunity for the attorneys to
8 summarize the case from their respective points of
9 view. Again, the opening statements and the closing
10 arguments of the attorneys are not evidence.

11 Following the closing statements by the attorneys,
12 I will instruct you on what the law is in South
13 Carolina as it pertains to the issues that have arisen
14 during the case. When I've completed my instructions
15 to you, you will then be permitted to begin your
16 deliberations in order to reach a verdict.

17 You are now the jury in this case, and I need to
18 take a few minutes to explain to you your duties as
19 jurors and give you some instructions. Again, at the
20 end of the trial, I will give you more detailed
21 instructions, which will go on for probably 30 minutes
22 or more. Okay? And at the end -- those instructions
23 will control your deliberations and the things you must
24 consider at that time.

25 In a nutshell, your duty is this: It is your duty

1 to decide from the evidence what the facts are. You
2 and you alone are judges of the facts. You will hear
3 the evidence, decide what the facts are, and then apply
4 those facts to the law that I will give you at the end
5 of the case. That's how you'll reach a verdict. In
6 doing so, you must follow the law that I give you,
7 whether you agree with it or not.

8 So what is evidence? So evidence will consist of
9 the testimony of the witnesses, documents, or pictures
10 or anything else received into evidence as an exhibit
11 and any facts on which the lawyers agree or anything
12 that I tell you to accept.

13 So sometimes the lawyers say, "We can all agree on
14 the day in question, the sky was blue." So I will tell
15 you, you must accept as a fact in this case that the
16 sky was blue. Okay? And, of course, that's a very
17 simplistic one. That's just an easy way to explain to
18 you.

19 So evidence is the testimony of the witnesses, the
20 documents and the exhibits that are received into
21 evidence, and any facts on which the lawyers agree or
22 anything that I tell you, you must accept. Do not take
23 anything that I say or do during the trial as any
24 indication of what I think the evidence is or what I
25 think your verdict should be.

1 Essentially, there is a line in the courtroom, and
2 where you are, you control the facts, and I control the
3 law. You can't tell me what the law is, and I can't
4 tell you what the facts are unless the parties agree
5 that I can tell you what the facts are. Okay?

6 Now, this is a criminal case, and it's been
7 brought by the State of South Carolina. The State has
8 charged the Defendant with attempted murder. The
9 charge against the Defendant is contained in the
10 indictment. I read the indictment to you yesterday.
11 The indictment is not evidence of anything. It is not
12 proof of anything. It is simply the description of the
13 charge made by the State against the Defendant.

14 The Defendant has pled not guilty to this charge
15 and is presumed innocent unless and until proven guilty
16 beyond a reasonable doubt. Proof beyond a reasonable
17 doubt is proof that leaves you firmly convinced of the
18 Defendant's guilt. A Defendant has the right not to
19 testify and never has to prove innocence or present any
20 evidence at all. The burden of proof is always upon
21 the State of South Carolina.

22 Now, some things that you are going to hear during
23 this trial are not evidence, and you must not consider
24 them as evidence. Number one: The statements and the
25 arguments of the attorneys are not evidence. Number

1 two: The questions and the objections of the attorneys
2 are not evidence. Number three: Anything that I tell
3 you to disregard.

4 So in almost every single case that I try, whether
5 as a lawyer or as a judge, somebody says something and
6 I have to tell the jury or the judge had to tell the
7 jury disregard what that person just said. Okay? And
8 if that happens in this case, you must act as if
9 whatever statement was made or whatever picture was
10 shown, you never saw it. You must not consider it in
11 your consideration of the evidence. Okay?

12 Now, there are two types of evidence which may be
13 presented. Evidence may be direct or it may be
14 circumstantial. Direct evidence is what somebody saw,
15 heard, or did or touched or smelled, something that
16 that person personally knows. Circumstantial evidence
17 is indirect evidence. It is proof of one or more facts
18 from which you can find another fact. You are to
19 consider both direct and circumstantial evidence. The
20 law permits you to give equal weight to both, but it is
21 for you to decide how much weight to give any evidence
22 at all.

23 Now, in this courtroom and throughout this trial,
24 there are rules that govern how we do everything.
25 Okay? Literally from who goes first to who goes second

1 to -- everything that happens in here, there 's a rule
2 for how it works. Okay? So this is my own personal
3 rule book with all my notes and everything in it.

4 Okay?

5 Now -- so here's what happens: When a lawyer asks
6 a question or offers an exhibit into evidence and a
7 lawyer on the other side thinks that it's not permitted
8 by the rules, that lawyer may object. So they'll stand
9 up and they'll say, "Objection. Relevance. Objection.
10 Hearsay," something of that nature. If I overrule the
11 objection, then the question can be answered or the
12 exhibit can be received. If I sustain the objection,
13 the question cannot be answered or the exhibit cannot
14 be received. So whenever I sustain an objection to a
15 question or deny a motion to admit an exhibit into
16 evidence, you must ignore the question or the existence
17 of the exhibit, and you can't guess as to what the
18 answer would have been or what the exhibit would have
19 shown.

20 Now, in every single case I've ever tried in my
21 entire life, there comes a point where certain legal
22 issues arise, and the judge has to make the decision on
23 those issues outside the jury's presence. This happens
24 in every single case. So it will be necessary at times
25 for me to ask for you to leave the courtroom while I

1 discuss legal issues with the attorneys. If this
2 occurs, you should not speculate about what we are
3 discussing or why you were asked to leave the room.
4 This is a procedure that the law requires when certain
5 legal issues arise.

6 There will also be occasions where I ask the
7 attorneys to approach the bench so that I can discuss a
8 legal issue with them in private. I will do this as
9 often as possible so that you will not be required to
10 leave the courtroom more than is absolutely necessary.
11 Again, if I ask the attorneys to step to the bench or
12 if I ask you to leave the courtroom, please don't think
13 that anyone is trying to keep anything from you or hide
14 anything from you. This is simply a procedure used by
15 all lawyers in all courts to determine and to decide
16 legal questions.

17 Now, so to decide the facts of the case, you may
18 have to decide which witnesses to believe and which
19 witnesses not to believe. We call this the credibility
20 of witnesses. Here are the rules: You can believe
21 everything a witness says, you can believe none of what
22 a witness says, or you can believe part of what a
23 witness says. In deciding which witnesses to believe,
24 you may consider a number of factors which you are not
25 limited to, but these are just some common factors you

1 can consider: What was the witness's ability to see,
2 hear, or know what he or she testified to? How good
3 was the witness's memory? What was the witness's
4 demeanor while they were on the witness stand and
5 testifying? Does the witness have an interest in the
6 outcome of the case or do they have any motive or bias
7 or prejudice? Was the witness contradicted by anything
8 he or she said or wrote before the trial or by other
9 evidence you believe? How reasonable was the witness's
10 testimony when considered in light of the other
11 evidence that you believe?

12 The bottom line is this, ladies and gentlemen:
13 You judge people's credibility every single day, and
14 you really don't even understand that you're doing it.
15 Okay? And, you know -- and I give you the best example
16 in my house. The best example in my house happens
17 right before you get on the school bus and I say to the
18 two small children, "Did you brush your teeth?" Right?
19 Okay. And at that moment, as that child answers, I
20 judge their credibility. Right? Maybe it's the way
21 their breath smells. Maybe it's the food I see in
22 their teeth. Maybe it's the fact that one likes to
23 brush their teeth and one doesn't. But I judge that
24 person's credibility, and you do that every single day.

25 And when you came in this morning, no one asked

1 you to leave your common sense at the metal detector.
2 Right? So you bring your common sense with you.
3 That's why they picked you, because they believe in
4 you. And so don't leave your common sense, you know,
5 somewhere other than the jury room. You bring your
6 common sense with you here in court and use it to
7 determine the credibility of witnesses.

8 Now, here are some basic rules which I gave you
9 yesterday, but I'm going to stress to you again. Until
10 I advise you, you are not allowed to discuss this case
11 with anyone, including each other. That means each
12 other, friends, family members, and anyone involved in
13 the case. This includes discussions face to face and
14 by telephone, e-mail, text message, blog, Facebook,
15 Twitter, any other type of social media that I don't
16 even know what it is, you can't use it to discuss this
17 case with anyone in any way, shape, or form.

18 You may not use the computer or a cellphone or any
19 other type of electronic device to get or send
20 information about this case. During your breaks for
21 meals or overnight, you're allowed to use your phones,
22 but you may not use them to get or send information
23 about the case. This includes information about a
24 party, a witness, an attorney, or a court officer.

25 You are not allowed to watch any news accounts

1 about the case. You are not allowed to do any research
2 on any topics raised or any topics that you think might
3 be helpful. You can't go home tonight and say, I'd
4 really like to know this, so I'm going to go look it
5 up. Okay? And those are your basic rules. You are
6 not allowed to watch any news reports about this case.
7 This includes newspapers, Internet, radio, or
8 television. You must not consider anything you have
9 read or heard about the case outside of the courtroom,
10 whether before or during the trial.

11 Now, there is news media on this case. While you
12 were not here yesterday, I had a very long conversation
13 with them and outlined the rules. Okay? And their
14 rules are this: The rules are that you are not allowed
15 to be on the news in picture, in camera, in video, or
16 anything else in any way, shape, or form. Okay? And I
17 promise you that if anybody in the news media violates
18 that, I will not only put the person who did it in
19 jail; I will put the owner of the news station in jail.
20 Okay?

21 You have a right -- they have a right to be here,
22 and under our court rules, the rules, they are allowed
23 to be here, and this is a public courtroom, and I
24 understand that, but they are not allowed to put you on
25 the news or video you or take a picture of you in any

1 way, shape, or form. Okay? They are not going to be
2 disturbing to our process. They are going to be -- act
3 as if they're not even here so that you can focus on
4 the case and the lawyers and the witnesses. Okay?

5 Now, once the case is submitted to you, you must
6 discuss it only in the jury room with your fellow
7 jurors. The attorneys and the parties in this case
8 have been advised that they are not to talk to you in
9 any way, shape, or form. So if you see anyone involved
10 in the case and they don't say hello, they're not being
11 unfriendly; they're just following my rules. It is
12 important that you keep an open mind and not decide any
13 issue in this case until all of the evidence has been
14 presented, the parties have made their closing
15 arguments, and I have told you what the law is in this
16 case.

17 It is your responsibility to determine the guilt
18 or the innocence of the Defendant, and your verdict
19 must be based solely on the evidence that is presented
20 in this trial and on the law that I give you at the
21 close of the case.

22 All right. Now, a couple of things that jurors
23 often ask: Number one: Are we allowed to take notes?
24 I do not allow note-taking. Okay? The main reason is
25 this: When you start taking notes, you stop listening.

1 Reason number two is this: Your notes are not an
2 accurate record of what occurred here. The only true
3 record of what occurs lies with the court reporter.
4 Okay? So that's why I don't allow notes. This case
5 isn't going to be so complicated that you're going to,
6 you know, need to have notes.

7 The second thing is my two alternates need to sit
8 in these two seats. Okay? And when we take our
9 morning break, you-all need to elect a foreperson
10 amongst yourselves. That person doesn't get paid any
11 extra. That's a joke. Okay? My one joke failed this
12 morning. That person doesn't get paid any extra, and
13 their vote doesn't count any more. They're just in
14 charge of communicating with me about things that go
15 on. Okay? So when we take a break, elect that person,
16 and then where the gentleman with the gray sweater is,
17 whoever is the foreperson needs to sit right there.
18 Everyone else can sit wherever they want to. Okay?

19 All right. Any exception to the charge from the
20 State?

21 MR. HIXSON: No, sir.

22 THE COURT: From the Defense?

23 MR. MUREDDU: Nothing from Defense, Your Honor.

24 THE COURT: All right. Ladies and gentlemen, you
25 have done a good job of giving me your undivided

1 attention. If you will please give your undivided
2 attention to the attorneys.

3 All right. Ms. Walker?

4 MS. WALKER: Yes, sir, Your Honor.

5 THE COURT: All right. The floor is yours.

6 OPENING STATEMENT BY THE STATE

7 MS. WALKER: Taking out the trash is one of the
8 most mundane and common things that we do in our lives.
9 It's the process of sorting through stuff in your
10 house, whether it's in the refrigerator or elsewhere,
11 and deciding what is no longer useful, what needs to be
12 discarded and removed from your life. It could be the
13 box of tissues that your kid used last week when she
14 had the flu; it's now time to get rid of that. Or the
15 Domino's box in the bottom of your refrigerator with
16 leftover pieces of crust; no need for that anymore,
17 that goes into the trash.

18 And so a lot of times, we deal with our trash
19 without even thinking about it because it is, it's
20 discarding things that are no longer useful from our
21 lives. And that's why, on April the 9th, 2015, when
22 Raymond Price's mother asked him and his older brother
23 to take out the trash in the apartment complex where
24 they were staying, they probably didn't think anything
25 of it. Just another chore for teenage kids to do.

1 So Raymond and his brother took the bag and headed
2 towards the garbage dump. It's one of those communal
3 dumpsters that apartment complexes often have. So
4 Raymond and his brother were making their way towards
5 the dump, and they started to hear a noise that sounded
6 unusual to them; it drew their attention. And,
7 immediately, they took note of the noise but continued
8 walking closer to the dumpster.

9 As they got to the dumpster, the noise had not
10 stopped. They thought that perhaps there was a puppy
11 or a kitten, something trapped inside the dumpster. It
12 was clear from the noise that, whatever it was, was
13 calling out, using what it had to ask for help. And so
14 Raymond and his brother acted very bravely, and the two
15 of them sprung into action once they decided that it
16 was something that needed help.

17 The two of them jumped inside of the metal
18 dumpster, fished through the garbage, searching for the
19 source of the noise. And when they found the bag, they
20 found the bag that contained the source of the noise,
21 and they jumped out of the dumpster and appraised what
22 they saw. And, unfortunately, they did not see a
23 puppy, they did not see a kitten or any other kind of
24 animal, other than a human baby. There was a baby, a
25 live baby, crying inside a plastic garbage bag.

1 So Raymond and his brother immediately tore open
2 the bag and started running for help. They were able
3 to get help. They got their mother to come and assist
4 them. Some people called 9-1-1, and the process began
5 to start to save that baby's life, which, luckily, did
6 happen.

7 But for the bravery of those two boys, perhaps
8 that wouldn't have happened, and upon hearing these
9 facts, the set of events, the first question that
10 naturally comes to people's minds might be who on earth
11 did this? Who put the baby in a trash bag and sealed
12 up the knot at the top and carried that bag full of
13 common household trash and a human being to the
14 dumpster and threw it away, leaving it for dead?

15 And, folks, the answer to that question is: The
16 Defendant, Shelby Taylor. Shelby Taylor is the woman
17 who gave birth to that baby several hours before the
18 boys found it. Shelby Taylor is the woman who
19 formulated a plan to end the life of her newborn baby.
20 Shelby Taylor is the one who acted -- took extreme
21 action to snuff out the life of her baby by placing it
22 inside the plastic bag, tying a knot at the top,
23 placing her into the garbage bin in the parking lot of
24 an apartment complex and leaving her there.

25 And, folks, that's the reason why we're here this

1 week. Shelby Taylor's actions are why she is charged
2 with attempted murder. And in order for us, my
3 co-counsel and I, to prove that set of facts to you,
4 we're going to put up several witnesses. We're going
5 to present several pieces of evidence for you so that,
6 at the end of this trial, you can all unanimously agree
7 that Shelby Taylor is guilty of attempted murder.

8 So some of the people you're going to hear from,
9 you're going to hear from Raymond Price. He was one of
10 the boys who found the baby in the dumpster. You're
11 going to hear from him exactly what he saw that day,
12 what he heard, what he experienced firsthand. And
13 you're also going to hear from multiple members of law
14 enforcement and first responders. You're going to hear
15 from Captain Drabick. He's a veteran paramedic with
16 the Horry County Fire and Rescue and was one of the
17 first responders who attended to the baby. He provided
18 hand -- you know, one-on-one care to the baby as she
19 was found on-scene and also as she was transported to
20 the hospital to receive further care.

21 You're also going to hear from Detective Neely.
22 Detective Neely was one of the first responding police
23 officers onto the scene. And Detective Neely plays a
24 really, really crucial role in this case, as everybody
25 does. But the reason why his bit is in some ways more

1 crucial is this. Seems pretty benign, but this is a
2 receipt from the Mon Cafe, and it's dated April
3 the 8th, 2015. This receipt, as I said, dated for the
4 day before the infant was found in the garbage, was
5 found inside the bag with the baby. And this receipt
6 is what law enforcement used to then go to the Mon Cafe
7 and obtain surveillance footage from that transaction
8 and ultimately determine that Ms. Taylor was a person
9 of interest because she was the person who was seen in
10 the Mon Cafe on the surveillance footage associated
11 with that receipt that was found inside the tied bag
12 with the baby.

13 So that receipt was crucial in beginnings to
14 develop the investigation. Once this receipt was found
15 and the surveillance footage was obtained, photographs
16 from that surveillance footage were released to
17 different media sources, looking for this person of
18 interest. And in an interesting set of events,
19 Ms. Taylor actually heard from different people that
20 her photograph was on the news, and she reached out
21 voluntarily to law enforcement, inquiring about why on
22 earth her picture is on the news. And this was the day
23 the investigation all started unfolding, which was the
24 day that the baby was found.

25 And so Shelby Taylor actually reached out to law

1 enforcement and voluntarily came to the precinct and
2 met with two investigators. And that's going to be an
3 interesting part that you guys are going to get to
4 hear. You're going to hear the recorded statement that
5 Shelby Taylor provided to law enforcement in that
6 questioning. And what's really interesting about that
7 statement is all the denials. Shelby Taylor is a woman
8 who we know now had given birth several hours before
9 and concealed that pregnancy, and, yet, she denies,
10 denies, denies in her statement. She tells the
11 officers how much she does want another baby, but it
12 couldn't be now, had to be in five years. Right now
13 was not part of she and her husband's plan.

14 You're also going to hear her say that she would
15 maybe adopt this baby if she could. If she could
16 financially afford it, she would possibly adopt this
17 baby. You hear her deny multiple times having been
18 pregnant at any point immediately prior to this baby
19 being found. So, as part of that interview, Jeff
20 Cauble, who was one of the chief investigators on this
21 case, gained more information, and he ultimately was
22 the one who decided to charge Shelby Taylor with the
23 crime of attempted murder.

24 You'll also hear from Jeff Cauble. You'll hear
25 from him what other pieces of information he was able

1 to obtain and why he ultimately did pursue these
2 charges. And then you're going to hear from several
3 medical personnel. You're going to hear from a doctor
4 who actually treated Shelby at the hospital. You're
5 going to hear from this doctor about the postnatal care
6 that he did give her. You're going to hear from him
7 that, yes, in fact, she was pregnant and had recently
8 given birth.

9 You're also going to hear from a social worker who
10 had an interview with Ms. Taylor in the hospital. And
11 these are all going to be crucial pieces of evidence
12 for you to hear and understand in order to build the
13 big picture and link together how it is that Shelby
14 Taylor was charged with attempted murder. And at the
15 end of all of this, at the end of our witnesses, we're
16 also going to present a couple of witnesses from South
17 Carolina Law Enforcement Division. They are the ones
18 who basically did the paternity and maternity test on
19 the baby. And you're going to hear from them -- and
20 the results that they found from that DNA analysis --
21 that, in fact, Ms. Shelby Taylor is the biological
22 mother of that baby.

23 So we've got a lot of information that's going to
24 be coming at you throughout the course of this trial,
25 but every single bit of it is important and crucial;

1 otherwise, we wouldn't be sharing it with you. But
2 what is most crucial to understand going into this and
3 keeping in your mind throughout is that we are, in
4 fact, here because of her actions. We are here
5 because, on April the 9th, after several hours after
6 giving birth to her baby, she gathered the plan,
7 gathered the intention to kill her child, and she
8 executed this plan by putting the newborn in a bag of
9 common waste, household trash, put her in the bag,
10 sealed the baby's fate at the top by tying the ties and
11 walking from her apartment down to the community
12 dumpster and leaving her there for dead, intending for
13 the baby to die there. And that's why, at the
14 conclusion of this trial, I'm confident each of you
15 will be able to return the correct verdict of guilty
16 for attempted murder.

17 THE COURT: All right. Thank you very much,
18 Ms. Walker.

19 All right. Mr. Mureddu?

20 MR. MUREDDU: Thank you, Your Honor. May it
21 please the Court.

22 OPENING STATEMENT BY THE DEFENSE

23 MR. MUREDDU: Folks, this is a very emotional
24 case. And when the event occurred, a decision was
25 made. This is an evil act by an evil person. Case

1 closed. And I get that. It's not lost on me as to why
2 that decision was made. But it's not that simple.

3 Shelby Taylor is literally the girl that lives
4 next door to you. She is somebody's daughter, she's
5 somebody's granddaughter, she's somebody's sister.
6 She's never been in trouble before. She doesn't use
7 drugs. She's never, in her life, harmed another
8 person. Why? Why would something like this happen?

9 There is a psychological disorder called transient
10 peripartum psychosis. Now, most of us have heard of
11 postpartum depression. This is an extreme variation of
12 that. This is why that happened. It happens about a
13 hundred times a year in the United States alone.

14 Now, you're going to hear from a doctor who is an
15 expert in this field, Dr. Robert McCarthy. Now,
16 Dr. McCarthy is not some hired gun that we've flown in
17 from someplace like California and paid tens of
18 thousands of dollars to say what he's going to say. He
19 lives in Myrtle Beach. He's been treating folks in the
20 Myrtle Beach area for -- since 1994. He's been an
21 expert in the field of mental health for 45 years.
22 That's almost as long as I've been alive, not quite.

23 Dr. McCarthy is going to explain transient
24 peripartum psychosis. He's going to describe to you
25 its symptoms. He's going to tell you the conditions

1 that exist that make it likely to occur. More
2 importantly, he's going to testify that it was present
3 in Shelby's case.

4 Now, out of all the jurors, we picked you. We
5 picked you because we believe that you can set aside
6 and not get overwhelmed by the emotion in this case.
7 We believe that you're going to listen, we believe that
8 you will use your powers of reason, and we believe that
9 you'll render a fair verdict in this case, a verdict.
10 That's the reason why you're here, is to render a
11 verdict.

12 The word "verdict" itself comes from a Latin word,
13 and that word means to speak the truth. What is the
14 truth in this case? One truth is what actually
15 happened is what they say happened. But there is a
16 second truth. There is more to this case than that.
17 It's not that simple.

18 If you want to find the truth in this case, it
19 won't be found if you allow yourself to be overwhelmed
20 by the emotion of it all. The answers will be found
21 through the power of reason. Transient peripartum
22 psychosis was present in this case. To ignore it, to
23 deny it, to dismiss it as some type of made-up mumbo
24 jumbo, that's just not the truth. It's not justice.

25 THE COURT: All right. Thank you very much,

1 Mr. Mureddu.

2 All right. Is the State ready to call their first
3 witness?

4 MR. HIXSON: Yes, sir.

5 THE COURT: All right. You may call your first
6 witness.

7 MS. WALKER: Your Honor, the State calls Raymond
8 Price.

9 THE COURT: All right. Come on forward,
10 Mr. Price.

11 RAYMOND PRICE, after being duly sworn, testified
12 as follows:

13 THE CLERK: Please state your full name and spell
14 your last name for the Court.

15 THE WITNESS: Raymond Price, P-R-I-C-E.

16 DIRECT EXAMINATION

17 BY MS. WALKER:

18 Q Raymond, how are you doing today?

19 A Good. How are you?

20 Q Good. Do you go by Raymond or Ray?

21 A Ray.

22 Q Ray?

23 A Yes, ma'am.

24 Q Okay. Stick with Ray then. So, Ray, do you know
25 why you're here today?

1 A Yes, ma'am.

2 Q Okay. And why do you think you're here today?

3 A Because me and my brother found an infant in the
4 garbage can.

5 Q Okay. And do you remember approximately when this
6 was?

7 A The time of the day was probably about 2 o'clock.

8 Q Okay. And was it in April 2015?

9 A Yes, ma'am.

10 Q Okay. And so how about you give me a little bit
11 of a story about how this happened. What did your
12 mother ask you to do?

13 A Okay. So my mother asked me and my brother to
14 take out the trash. And we didn't want to at the time.
15 We waited about an hour to take out the trash. So
16 whenever we took out the trash, me and my brother, we
17 went down there. We put the trash in the bucket. We
18 started to hear a noise. I thought it was a cat. We
19 heard it again. So my brother got in on one side; I
20 got in on the other side. We started searching through
21 the garbage.

22 Q And by "got in," do you mean into the metal
23 dumpster?

24 A We got into the dumpster, yes.

25 Q Okay.

1 A We got into the dumpster. We started searching
2 through the garbage. We found a bag with the baby's
3 face pressed up against the bag. So my brother pulled
4 out the bag, and we ripped it open.

5 Q Okay. And so tell me a little about the bag.
6 When you found it, was it tied shut?

7 A Yes.

8 Q Okay. Do you remember at all what color the bag
9 was?

10 A It was a white bag with a blue tie.

11 Q Okay. And so, tell me again, could you see the
12 baby through the bag?

13 A Yes, you could.

14 Q Okay. And I'm just going to show you a couple
15 pictures. If you could, please, these are State's
16 Exhibit -- what's been marked for identification
17 purposes -- 27, 25, 23, and 26. Does that picture look
18 familiar to you?

19 A Yes, it does.

20 Q Okay. And could you tell me what that is?

21 A That's the dumpster.

22 Q Okay. And is that a fair and accurate
23 representation of what it looked like in April?

24 A Yes, it is.

25 Q In 2015?

- 1 A Yes.
- 2 Q Okay. And what about this picture? What's this
3 of?
- 4 A That was inside of the dumpster.
- 5 Q Okay. And is this what it looked like when you
6 guys jumped in?
- 7 A Yes, ma'am.
- 8 Q Okay. And that was State's Exhibit 25. And this
9 is State's Exhibit 23. Can you tell me what that is?
- 10 A That's the bag that we got the baby out of.
- 11 Q Okay. And how can you tell it's the bag you got
12 the baby out of?
- 13 A The blue tie.
- 14 Q And does it look like -- were all of those items
15 inside the bag?
- 16 A Yes, ma'am.
- 17 Q Okay. And do you remember there being those items
18 in the bag with her?
- 19 A Yes, ma'am.
- 20 Q That was State's Exhibit 23. And what about this
21 one? What does that reflect?
- 22 A Afterwards, whenever the baby was taken out of it.
- 23 Q Okay. Is that the contents of the bag as you
24 remember them?
- 25 A Yes. Other than the shirt that I took off.

1 Q Oh, okay. So that black shirt?

2 A The black shirt, yes.

3 Q Is that your shirt?

4 A Yes, ma'am.

5 Q Why was it there?

6 A Because I took it off so my mother can clean off
7 the baby.

8 Q Okay. Okay. And that was State's Exhibit 26.

9 MS. WALKER: And, Your Honor, I would ask
10 permission to publish these to the jury at this time.

11 THE COURT: Any objection?

12 MR. MUREDDU: No objection, Your Honor.

13 THE COURT: Okay. Do you want to move it into
14 evidence?

15 MS. WALKER: Yes, Your Honor.

16 THE COURT: All right. So State's 23, 25, 26, and
17 27 -- are those the right numbers?

18 MS. WALKER: Yes, Your Honor.

19 THE COURT: -- are admitted without objection.
20 You got it? Okay. You may publish.

21 (WHEREUPON, State's Exhibit Nos. 23, 25, 26, 27
22 were admitted in evidence.)

23 THE COURT: So, ladies and gentlemen, in every
24 trial -- it doesn't matter what county I'm in --
25 lawyers handle pictures and things like that

1 differently. Some of them will put them on boards like
2 this and show them to you. Some will hand them to you
3 and let them pass them around. Some will show them to
4 the witness, they'll never show the jury. But whatever
5 they do, the evidence -- the pictures like this that
6 are admitted into evidence will be back with you in
7 your jury room for deliberations. So if you don't feel
8 like you've had enough time to look at it now, during
9 your deliberations, the items that get admitted as
10 evidence will be with you so you can have more time
11 with them. But I'll let the lawyers do it however they
12 want to.

13 So you may publish, Ms. Walker.

14 MS. WALKER: Thank you, Your Honor.

15 This is the photograph that Raymond has just
16 identified as the dumpster where the baby was found.
17 And this is what he said was inside the dumpster where
18 they jumped.

19 BY MS. WALKER:

20 Q Is that correct? Inside the dumpster?

21 A Yes, ma'am.

22 MS. WALKER: And then these two are of the
23 ripped-open bag where she was found. And this one is a
24 different angle but shows --

25 Q Could you point to me which shirt it is that was

1 yours?

2 A This one right here with the orange on it.

3 Q Okay. So, Raymond, when you guys found the bag, I
4 know you said it was tied shut.

5 A Yes.

6 Q Was there anything that you two either added or
7 took out of that bag?

8 A No.

9 Q So when law enforcement got there, was the bag as
10 you had found it?

11 A Besides the shirt, yes.

12 Q Okay.

13 MS. WALKER: Beg the Court's indulgence.

14 THE COURT: Yes, ma'am.

15 Q And do you remember where this happened?

16 A It was in Island Green Apartments.

17 Q Okay. And is that here in Horry County?

18 A Yes.

19 Q Okay. And so, after you found the bag and ripped
20 it open and all that, what did you do next?

21 A I went upstairs to the apartment to get my mother.

22 Q Okay. And what did you tell her or what happened?

23 A I told her there was a baby in the trash.

24 Q Okay.

25 A And she came downstairs. And then I think it was

1 Melissa that called 9-1-1.

2 Q Okay. Were you there when law enforcement came?

3 A Yes, I was.

4 Q Okay. And were you there when the paramedics
5 came?

6 A Yes.

7 Q Okay. Have you had any other dealings with this
8 case beyond that day?

9 A No, ma'am.

10 Q Okay. If you would, please answer any questions
11 that Mr. Mureddu may have.

12 MR. MUREDDU: Judge, we have no questions of this
13 witness.

14 THE COURT: Okay. Thank you very much. Have a
15 nice day.

16 (Witness excused.)

17 THE COURT: All right. Call your next witness.

18 MS. WALKER: And, Your Honor, may Mr. Price be
19 released from his --

20 THE COURT: Sure.

21 MR. MUREDDU: No objection to that.

22 THE COURT: Okay. I'll assume witnesses are
23 released from their subpoena. If somebody wants them
24 held, just -- y'all just need to let me know, and that
25 will be fine. Okay.

1 Who's next?

2 MR. HIXSON: Keith Drabick.

3 KEITH DRABICK, after being duly sworn, testified
4 as follows:

5 THE CLERK: State your full name and spell your
6 last name for the Court.

7 THE WITNESS: Keith Drabick. D, as in dog, R-A-B,
8 as in boy, I-C-K.

9 DIRECT EXAMINATION

10 BY MR. HIXSON:

11 Q Good morning, sir. How are you?

12 A Good. How are you?

13 Q I think you probably have an idea, but we'll share
14 with the jury anyway: What do you do for a living?

15 A I am a paramedic for Horry County Fire and Rescue.
16 I currently hold the rank of captain, and I am assigned
17 now to the training division.

18 Q All right. So how long have you been doing that
19 for?

20 A I started my public service career in 1986.

21 Q All right. So '86, I bet that means that you were
22 working for Horry County Fire and Rescue around
23 April 9th of 2015; is that correct?

24 A That is correct.

25 Q Okay. And did you have an opportunity to respond

1 to a call around the Island Green area in Horry County,
2 and specifically in reference to an infant child that
3 was found in that location?

4 A Yes, sir.

5 Q Please tell us about that.

6 A We received the call at approximately 1447, I
7 believe, for a report of a child found in a dumpster.
8 At that point, I was a lieutenant on Engine 20, which
9 is located on Scipio Lane, five miles or so from the
10 location. We responded along with our medic unit. I
11 got there first in the engine where I found the infant
12 still in the trash bag being attended to by some of the
13 civilians.

14 Q So spend a little time describing the scene that
15 you saw. What did you take in when you got there?

16 A It is pretty chaotic. There was a lot of people
17 wandering around. Several people gathered around the
18 dumpster area. As I approached the dumpster area -- I
19 exited the fire truck, walked over to the dumpster
20 area, had some of my other guys that were with me grab
21 the equipment off the truck, approached over to the
22 bag. There was a lady in the area of the bag and the
23 young gentleman that was here before me, Mr. Price.

24 I went up to the bag where I found the infant with
25 the umbilical cord still attached to the placenta in the

1 garbage bag. Lots of food and common household trash
2 about the baby's face. A lid from a canned good -- a
3 sharp lid was on the baby. I proceeded to move some of
4 the stuff off the baby, cleared the airway for the
5 baby. The baby was alive. The baby was breathing.
6 Not really making any purposeful noises or purposeful
7 movements. I proceeded to open up my equipment and
8 remove what we call an OB kit. It's an obstetrical kit
9 that's used for childbirth.

10 From that kit, I removed a bulb syringe, and I
11 proceeded to clear out the airway of the infant. After
12 I cleared out the airway and made sure that the airway
13 was patent, I then proceeded to cut the umbilicus,
14 which is part of our standard procedure. I put my
15 clamps in place, and I used the scalpel, and I cut the
16 umbilicus. I removed the placenta at that time from
17 the bag and placed it in the bag that my obstetrical
18 kit came in, set it off to the side, proceeded to pick
19 up the baby.

20 I had had somebody -- one of the neighbors run and
21 get me a clean towel from their house. They come down,
22 I wrapped the baby in the towel, and continued to
23 monitor the baby and stimulate the baby and provide
24 care for the baby. Our ambulance arrived, one of the
25 other paramedics that was working the ambulance that

1 day. I got into the back of the ambulance, still
2 maintaining care of the child, Sat on the stretcher.
3 They strapped me in as I held the baby, and we
4 transported the baby to Waccamaw Hospital, caring for
5 it.

6 Q Very nice. Just as a matter of detail --

7 A Sure.

8 Q -- your run report on that --

9 A Yes.

10 Q -- you put a timeline on this. So what time did
11 you show as arriving as your run report?

12 A Let me switch to the time section.

13 Q Or at least to the best of your recollection.

14 A The best of my recollection, the medic unit
15 arrived -- the first set of patient vitals we recorded
16 were at 1447.

17 Q Okay. So 2:47 p.m.?

18 A 2:47 p.m., sir.

19 Q On April 29th.

20 A On April 29th? April 9th.

21 Q Excuse me. April 9th. I'm sorry.

22 A 4/09/2015.

23 Q Okay. So the first medical care she gets --

24 A The first medical care she got would have been --

25 Q 2:49?

1 A -- a couple of minutes prior to that, upon my
2 arrival. The medic unit, if I remember correctly --
3 and I'm not a hundred percent sure -- was returning
4 from another call, so they were not in-house with us.

5 Q So it's safe to say roughly 2:30 is the first time
6 someone's attending to her?

7 A 2:30, 2:40. Yeah, somewhere in there.

8 Q That's fair enough. Take a look at these. These
9 were already admitted into evidence. And I'm referring
10 to several photographs: 27, 26, 23, and 25. Just take
11 a look at them all at once, see if you recognize that.
12 And that's the scene that you responded to?

13 A That appears to be the dumpster that we responded
14 to. 26 holds the contents of the bag in which I found
15 the infant.

16 Q Okay. Is that consistent with the detritus and
17 stuff that you removed from the newborn and food
18 particles and canned goods?

19 A Yeah. It -- initially, when I walked up, I had
20 thought that it was possibly a -- maggots on the
21 child's face. I subsequently found or believed it to
22 be rice at this point or some type of grainy or
23 noodle-type substance. Removed it.

24 The canned good lid is here in this picture.

25 Q Can you point to that?

1 A Yes, sir. The silver lid there (indicating).

2 Q All right.

3 A And I remember the box of diapers in there as
4 well.

5 Q Let me grab that last one.

6 A Yes, sir.

7 Q So you didn't go in the dumpster?

8 A No. I have no recollection of that, sir.

9 Q And take a look at that one while I show the jury
10 this one. Is that the can lid you're talking about?
11 That's right there?

12 A Yes. This picture, which is 28, this would be the
13 wrapper from the obstetrical kit that I removed from my
14 equipment, opened up, took my equipment out of the
15 sterile obstetrical kit, used the equipment to remove
16 the placenta from the child, cut the umbilicus,
17 suctioned the nose and such. And these kits come with
18 a paper-type blanket that I also used to wrap, and then
19 the towel from the neighbor is used to warm, but I
20 placed the placenta in there as the -- add some
21 containment, sterility to it.

22 MR. HIXSON: Okay. And I've handed the witness
23 State's-28.

24 Q That's a fair and accurate representation of the
25 scene that you saw?

1 A Yes, sir.

2 MR. HIXSON: We'd move 28 into evidence, Your
3 Honor.

4 THE COURT: Just 28?

5 MR. MUREDDU: No objection.

6 THE COURT: Just 28?

7 MR. HIXSON: Just 28, Your Honor.

8 THE COURT: 28 is admitted without objection.

9 (WHEREUPON, State's Exhibit No. 28 was admitted in
10 evidence.)

11 MR. HIXSON: May I publish this, Your Honor?

12 THE COURT: You may.

13 BY MR. HIXSON:

14 Q And this -- for us laypersons, us non-paramedics,
15 that's afterbirth, basically?

16 A That's correct, sir.

17 Q And that's the sterile bag that you placed it in
18 to preserve it?

19 A Correct. That bag is sterile prior to opening the
20 equipment that's kept in there. It's kept sterile.
21 It's dated with an expiration date.

22 Q Okay.

23 MR. HIXSON: Beg the Court's indulgence just one
24 moment.

25 THE COURT: Yes, sir.

1 Q Now, after you took this young lady to the -- let
2 me talk about her physical condition a little bit.

3 A Sure.

4 Q You indicated -- do you have any idea about oxygen
5 levels or how close to suffocation or anything like
6 that, in a tied-up garbage bag, this child was? Would
7 you be able to answer that question given your role as
8 a first responder?

9 A In my -- it would be purely speculation. I could
10 tell you that the --

11 MR. MUREDDU: Objection, Your Honor. He just said
12 it's speculation, and he's not qualified to give an
13 answer like that.

14 MR. HIXSON: That's fine. I'll ask a general
15 question, then, related to non-expertise.

16 Q Did you feel like this infant was in need of
17 emergency care to prolong this infant's life?

18 A Absolutely.

19 Q Let's talk about -- do you have any idea, as to
20 your role in the fire and rescue agency, as to what
21 Daniel's Law is?

22 A No, sir.

23 Q Specifically, I'm going to ask you --

24 MR. MUREDDU: Objection, Your Honor. May we
25 approach?

1 THE COURT: Sure.

2 (WHEREUPON, a bench conference was held off the
3 record in the presence of the jury but out of the
4 hearing of the jury.)

5 Q Let me be precise when I ask this question. All
6 right?

7 A Okay.

8 Q Where are you -- at the time this was going on,
9 you're stationed at a particular location, I assume?

10 A Correct.

11 Q Was your fire station in close proximity to the
12 response location where you went to?

13 A Yes.

14 Q About how far away do you think that was?

15 A Five miles or less.

16 Q Okay. And is there anything, as it relates to
17 children or potentially unwanted children, is there
18 any -- is your station called a particular thing for
19 that purpose?

20 A We -- our station, along with every station in
21 Horry County that is staffed, is designated as a safe
22 place, a safe place for someone to drop off children in
23 such a case that they can no longer take care of them
24 or don't want them or anything of that nature. Yes, we
25 are designated. It's placarded on the front door of

1 every station with a sticker.

2 Q So you can -- a parent can drop off an unwanted
3 child?

4 MR. MUREDDU: Objection, Your Honor. Leading.

5 THE COURT: Rephrase your question.

6 MR. HIXSON: Yes.

7 Q Describe in more detail what you mean by "a safe
8 place," what that means.

9 A If a parent, guardian, caregiver can no longer
10 provide for that child, no longer can take care of that
11 child, no longer wants that child, they can bring that
12 child to the firehouse, give that child to us, and
13 without any questions, anything, we will take control
14 of that child and turn that child over to the proper
15 authorities, whether it be Social Services -- we'll,
16 obviously, notify the police department right away and
17 our supervisors.

18 Q Okay. And is there an age limits as it relates
19 to -- up to some particular age? Are you aware of
20 that?

21 A I'm not aware of the age, no.

22 Q Okay. And you indicated that that's publicly
23 displayed with placards on the fire station?

24 A Yes, sir. It's a yellow triangle with a black
25 outline of a triangle with, I believe, the figure of an

1 adult and a child in black on that yellow sticker. It
2 says "safe place."

3 Q Okay. And I think you testified earlier it's less
4 than five miles from the incident location?

5 A Yes.

6 Q Okay. Let's just go back and close the loop for
7 the jury.

8 A Sure.

9 Q You indicated, I think, you ran -- you took care
10 of the child to the hospital?

11 A Correct.

12 Q You turned her over to more advanced medical care?

13 A I turned her over specifically to an RN at
14 Waccamaw Hospital by the name of Stephanie and a
15 Dr. Brian Gibson in Room 2 of Waccamaw ER.

16 Q And then let's just close your testimony out. Was
17 that the extent of your involvement in the case? Did
18 you offer any more care? Or tell us about --

19 A No, I haven't offered any more care to that child.
20 I have seen that child twice since then. Once, the
21 caregivers for the child brought her by the firehouse,
22 and I was working. And once, we -- the station and the
23 department was invited to attend a birthday party for
24 that child and to thank us for what we had done, and we
25 attended that. That was, I believe, at Socastee Park.

1 Outside of that, I've had no interaction or anything
2 else with the child.

3 MR. HIXSON: Thank you for your service. I have
4 no further questions.

5 THE COURT: All right. Cross-examination.

6 MR. MUREDDU: Thank you, Your Honor. May it
7 please the Court.

8 THE COURT: Yes, sir.

9 CROSS-EXAMINATION

10 BY MR. MUREDDU:

11 Q Captain, do you know how long between the 9-1-1
12 call was placed that y'all arrived?

13 A No, sir, I do not. I don't have those times in
14 front of me.

15 Q Can't estimate? I mean --

16 A Nope.

17 Q Five minutes? Ten minutes?

18 A I have no idea, sir.

19 Q All right. Well, let me ask you this: I'm
20 hearing from your testimony, did you say that when you
21 arrived that the child was in the trash bag in the
22 dumpster?

23 A Not in the dumpster, sir, no. The child was in
24 the trash bag outside of the dumpster, still in the
25 trash bag.

1 Q In the trash bag?

2 A Yes, sir.

3 Q Okay. So what that would suggest, then, that when
4 the child was found and 9-1-1 was called, that all the
5 people around just left the child in the trash bag.

6 Are you sure about that?

7 A Yes, sir. I'm a hundred percent positive about
8 that.

9 Q You're sure that that child, from the moment it
10 was found, was not held by the bystanders, was not
11 attended to? They found it, they ripped open a trash
12 bag, and they just left it there until --

13 A To the best of my knowledge, yes. Whether the
14 child was picked up or not before I got there and
15 placed back in the bag, I couldn't tell you. When I
16 got there, I moved the garbage -- the common trash off
17 of the child and took care of the child and picked up
18 the child.

19 Q Okay. But you heard the testimony of young
20 Raymond, didn't you?

21 A I did.

22 Q Okay. So the trash bag and the child were taken
23 out of the dumpster; right?

24 A That's correct.

25 Q So, clearly, the child and the trash had been

1 moved before you got there?

2 A That's correct.

3 Q All right. So you made a big emphasis about there
4 was a can that was on the child's face.

5 A That's correct.

6 Q The bag had been moved.

7 A Sure it had. I'm not disputing that.

8 Q Okay. Just want to cover that.

9 MR. MUREDDU: Thank you. No further questions.

10 MR. HIXSON: Briefly, Your Honor.

11 THE COURT: Okay.

12 REDIRECT EXAMINATION

13 BY MR. HIXSON:

14 Q In preparation for trial like this, are certain
15 instructions given to laypersons on the scene by your
16 emergency dispatch on how to handle the situation?

17 MR. MUREDDU: Objection, Your Honor. He would be
18 testifying to what somebody else, maybe 9-1-1, told the
19 other bystanders. He's not qualified to answer what
20 may have been told to bystanders as far as what to do.

21 MR. HIXSON: Your Honor, I'm just asking about
22 policy procedure, and Mr. Mureddu opened the door as it
23 relates to the conduct.

24 THE COURT: You can ask him about the policy. You
25 can't ask him as to what actually happened. He

1 wouldn't be the person to testify to that if it was
2 some kind of communication. But you can ask him what
3 their procedures should be.

4 MR. HIXSON: I agree with -- thank you, Your
5 Honor.

6 THE COURT: Okay.

7 BY MR. HIXSON:

8 Q Are -- in the fire service in Horry County, are
9 emergency dispatchers trained, to some degree, in your
10 understanding, to deal with crisis situations?

11 A Absolutely.

12 Q And to help instruct laypersons on what to do
13 until the fire station service gets there?

14 A Absolutely.

15 Q Do you know if that was done in this case?

16 A I believe EMD procedures were followed. And
17 that's emergency medical dispatch procedures.

18 Q Okay.

19 A They're all trained to that level. They have a
20 certain series of cards that they must follow per each
21 call and ask certain questions and provide certain
22 direction.

23 Q And is it your understanding it would be the
24 policy to instruct laypersons --

25 MR. MUREDDU: Your Honor, objection again. We're

1 getting into speculative testimony. The point of the
2 solicitor's thing is he's trying to establish that
3 whoever was on the phone told the people not to move
4 the baby. There is no evidence.

5 THE COURT: Slow down with the speaking
6 objections. Your objection is overruled.

7 You can finish the question.

8 MR. HIXSON: I have no further questions.

9 THE COURT: Okay. Any recross?

10 MR. MUREDDU: None, Your Honor.

11 THE COURT: Thank you. All right. Thank you,
12 Captain. Have a nice day.

13 THE WITNESS: Thank you, Judge.

14 (Witness excused.)

15 THE COURT: Call your next witness.

16 MR. HIXSON: May we approach briefly, Your Honor?

17 THE COURT: Of course.

18 (WHEREUPON, a bench conference was held off the
19 record in the presence of the jury but out of the
20 hearing of the jury.)

21 JEREMY NEELY, after being duly sworn, testified as
22 follows:

23 THE CLERK: Please be seated. And please state
24 your full name and spell your last name for the Court.

25 THE WITNESS: Okay. Jeremy Neely, N-E-E-L-Y.

DIRECT EXAMINATION

1
2 BY MS. WALKER:

3 Q Hey there, Detective Neely. How are you doing
4 today?

5 A Doing well, ma'am.

6 Q Are you aware of why you're here today?

7 A I am.

8 Q Okay. And did you have an opportunity to respond
9 to a call on April the 9th, 2015, for a child being
10 found in a dumpster?

11 A I did. I was the first uniformed officer to
12 arrive on scene.

13 Q Okay. And so once you arrived on scene, what did
14 you do?

15 A I arrived just prior to or basically
16 simultaneously with the captain that just previously
17 testified.

18 Q Okay.

19 A As I approached the dumpster that's been
20 identified, the child was laying on the ground. I saw
21 the child laying on the ground. She was inside of what
22 appeared to be a ripped-open trash bag. There were
23 several articles of trash both on and around the child
24 as well as blood and what appeared to be afterbirth of
25 some sort. I noticed that the umbilical cord was still

1 attached. There were people around. It was warm that
2 day so there was somebody -- I remember somebody
3 fanning the baby, trying to possibly keep her cool. I
4 immediately bent and checked for vitals, trying to
5 determine if the child was alive at that point. I
6 didn't know.

7 Q And were you able to confirm that?

8 A I was. She was breathing. Her eyes -- actually,
9 she did look at me. She wasn't making -- she wasn't
10 making, like, noises, like talking -- like, you know,
11 like child noises, but you could tell that she was
12 making sound and that she was alive. Excuse me.

13 Q It's all right. So I'm going to just show you, as
14 you said, what's already been presented just so that
15 you can authenticate what you saw that day. Just to be
16 clear, is that the dumpster that you responded to?

17 A It is.

18 Q Okay. And that's State's Exhibit 27, which has
19 already been introduced into evidence. And this,
20 Exhibit 23, what does that show?

21 A That is the trash bag and the trash where the
22 child was found.

23 Q Okay. And so where was she when you responded,
24 when you got there?

25 A When I responded, she was lying amongst the trash

1 within that bag.

2 Q Okay. Okay. And that was Exhibit 23. And what
3 is this?

4 A That's further contents of the bag --

5 Q Okay.

6 A -- of trash, as well as the -- there was some
7 bloody, I assume, cloth of some kind.

8 Q Okay. And at what point was the baby moved from
9 the trash pile?

10 A The captain, who previously testified, arrived, as
11 I said, almost simultaneously with me.

12 Q Okay.

13 A Once he arrived, he immediately began providing
14 first aid, at which point, you know, we were kind of
15 getting people back away from the child. And that was
16 when EMS removed the child from the bag and took her to
17 the unit.

18 Q Okay. And did you do any special inventory of the
19 contents of the trash bag?

20 A Other than, as I arrived on-scene or saw the child
21 in the trash, obviously, my job is law enforcement. So
22 once we were assured that the child was getting the
23 proper care as far as medically, you know, we kind of
24 switched gears a little bit and trying to figure out,
25 you know, what's going on.

1 Q Okay.

2 A At which point I started to recognize what type of
3 trash. Based on my experience, people will throw away
4 anything without giving it a second mind.

5 Q Okay.

6 A And a lot of times, that can lead to further
7 information in a case.

8 Q And did it in this case?

9 A It did. Part of the -- the first thing I noticed
10 was there was what appeared to be Chinese food.

11 Q Okay.

12 A That was -- I just noticed it because, you know,
13 it was all over the place. Once the baby was removed,
14 I observed what -- I initially was trying to find some
15 sort of mail, something with an address that could lead
16 back.

17 Q Okay.

18 A I observed what appeared to be a receipt. Once I
19 saw the receipt, I gave it a further look. I saw that
20 it had a time stamp on it, and it was for the Mon Cafe
21 on Beaver Run Boulevard in Surfside Beach.

22 Q Okay. And I would like to show you what's been
23 marked as State's Exhibit 1. Can you tell me what that
24 is?

25 A That is the receipt that I located in the trash

1 bag where the child was found.

2 Q Okay. And are you certain this is the same
3 receipt?

4 A I am.

5 Q Okay.

6 MS. WALKER: Your Honor, the State would like to
7 move Exhibit 1 into evidence.

8 THE COURT: Any objection?

9 MR. MUREDDU: No objection, Your Honor.

10 THE COURT: All right. State's Exhibit No. 1,
11 admitted without objection.

12 (WHEREUPON, State's Exhibit No. 1 was admitted in
13 evidence.)

14 BY MS. WALKER:

15 Q And I'd also like to show you --

16 THE COURT: Hold on.

17 Q And I'd like to show you what's been marked as
18 State's Exhibit 19. What is that?

19 A It appears to be a photograph of the receipt you
20 just showed me.

21 Q Okay. So is it enlarged in any way or --

22 A A little bit.

23 Q Okay. But is it still a fair and accurate
24 representation of the original receipt?

25 A Yes.

1 MS. WALKER: Okay. And, Your Honor, the State
2 wishes to move State's Exhibit 19 into evidence as
3 well.

4 MR. MUREDDU: No objection, Your Honor.

5 THE COURT: State's No. 19, admitted without
6 objection.

7 (WHEREUPON, State's Exhibit No. 19 was admitted in
8 evidence.)

9 MS. WALKER: Okay. And, Your Honor, permission to
10 publish to the jury.

11 THE COURT: Of course.

12 MS. WALKER: And as the judge said, y'all will
13 have this back in the jury room.

14 BY MS. WALKER:

15 Q So can you tell me whether there -- I believe you
16 already mentioned it, but whether there is any sort of
17 a time stamp on that.

18 A I can.

19 Q And what is that?

20 A The time stamp is for 4/8/2015 at approximate --
21 or, excuse me, 4:25:25 p.m. in the afternoon.

22 Q Okay. And so once you had that information, what
23 did you do?

24 A At that point, obviously, we were attempting to
25 secure the crime scene. I knew that was going to be

1 something of note as far as evidentiary-wise. So I
2 made sure that it didn't go anywhere. Once Crime Scene
3 arrived on-scene, I informed them of the receipt. I
4 also informed the detectives, once they arrived
5 on-scene, the lead detectives in the case, I had
6 known -- I informed them that I had located the receipt
7 and that I knew from prior investigations that Mon Cafe
8 had a good surveillance video feed.

9 Q Okay.

10 A Something that some businesses don't have. So I
11 told them that they might want to take a look at that
12 and it might lead them to who the trash belonged to.

13 Q Okay. And did you have any other involvement with
14 this case?

15 A No, I did not.

16 MS. WALKER: Okay. Beg the Court's indulgence.

17 THE COURT: Yes, ma'am.

18 Q So, Detective Neely, after Ms. Taylor was
19 arrested, were you able to determine whether any calls
20 for domestic violence had been received --

21 MR. MUREDDU: Objection, Your Honor. May we
22 approach?

23 THE COURT: Sure.

24 (WHEREUPON, a bench conference was held off the
25 record in the presence of the jury but out of the

1 hearing of the jury.)

2 THE COURT: All right. Cross-examination.

3 MR. MUREDDU: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. MUREDDU:

6 Q Just quickly, Detective. I just want to clear up
7 one more point. Did you fill out the police report
8 when you -- contemporaneous with your investigation in
9 this case?

10 A I did not.

11 Q Okay. It's common for police to fill out police
12 reports contemporaneous with the case; is it not?

13 A It is.

14 Q Okay. I want to hand you Jeff Cauble's report. I
15 would like for you to just review it, and I'd like to
16 ask you some questions about it. I'm really just going
17 to cover what I've got highlighted, but I want to give
18 you time to review that.

19 A Okay.

20 Q Did you interview folks as part of your
21 investigation?

22 A I did.

23 Q Did you interview Jessica DeTray, who is Ryan
24 Price's mother?

25 A I spoke briefly with the mother. More in-depth

1 with the two brothers.

2 Q Okay. Now, that report, without saying exactly
3 what's in it, that report indicates that she was
4 interviewed --

5 A Yes.

6 Q -- specifically with what she did concerning the
7 baby when she was called to the scene by her son;
8 right?

9 A Yes.

10 MR. HIXSON: Your Honor, just -- I'd object. Is
11 he crossing him on some other witness's report?

12 MR. MUREDDU: Uh-huh.

13 MR. HIXSON: I would object to -- you can ask for
14 personal knowledge, but he can cross Jeff Cauble when
15 he testifies.

16 THE COURT: That's right.

17 Q Did you interview Jessica DeTray?

18 A I spoke with Ms. DeTray.

19 Q Okay. Did she indicate to you that she had
20 handled the baby?

21 A Not that I -- the extent of what I remember of
22 Ms. DeTray's statement was that she did not have a
23 phone and she ran into the golf course to get someone
24 to call 9-1-1. Other than that, I don't know.

25 Q Isn't that what Raymond actually said?

1 A I believe that's what the mother said. I could be
2 mistaken. Like I said, I spoke briefly with her. I
3 did not do a formal interview with her.

4 Q Cauble investigated the case; right?

5 A Yes.

6 Q You're familiar with the investigation?

7 A Yeah.

8 Q All right. Does the investigation reveal that she
9 handled the baby before 9-1-1 responders got there?

10 A Nothing that I know of my portion of the
11 investigation would state that.

12 Q All right. Thank you.

13 THE COURT: Redirect?

14 MS. WALKER: Nothing, Your Honor.

15 THE COURT: All right. Have a good day.

16 (Witness excused.)

17 THE COURT: All right. Ladies and gentlemen,
18 we've been going for about an hour and a half. We're
19 going to take our break.

20 Now, we're about to take our first break, so let
21 me remind you that you are not allowed to discuss this
22 case with anybody and that includes each other. Y'all
23 can talk about the weather, you can talk about
24 Valentine's Day, you can talk about the Super Bowl, or
25 you can talk about the stock market or whatever you

1 want to, but you can't talk about this case in any way,
2 shape, or form. Okay? You made a promise to me, you
3 made a promise to the parties, you made a promise to
4 the lawyers, you made a promise to each other, and you
5 made a promise to yourself that you will adhere to
6 that. So do not talk about the case and do not allow
7 anybody to talk with you about the case. Okay?

8 And we're taking about a 10-, 15-minute break. Do
9 not discuss the case. You are to keep an open mind.
10 Now, I promise you, I will tell you that to the point
11 where you will think I have lost my mind about "do not
12 talk about the case," but it's absolutely critical and
13 essential. And make sure on this break that you pick a
14 foreperson so when you come back out. Okay? All
15 right. Thank you very much.

16 Everyone else, remain seated.

17 (WHEREUPON, the jury exited the courtroom at
18 10:57 a.m.)

19 THE COURT: All right. We're going to take a
20 break. Now that I have my law clerk, I will send out
21 that malice charge via e-mail on this break. Instead
22 of her cutting -- I'm just going to leave the inference
23 part in there. Just know we're taking out the
24 inference part about deadly weapon. So y'all can look
25 at it and play with it and see what it's like.

1 MR. MUREDDU: Your Honor, I think, for
2 housekeeping purposes, we haven't -- the jury is now
3 sworn. I don't know that you have specifically ruled
4 on Shelby's ability to --

5 THE COURT: Right now, I'm going to let her stay
6 where she is. She doesn't need to go in custody. Let
7 me make it to the end of the day, and then I'll make a
8 decision by the end of the day on whether or not she
9 needs to go in custody.

10 MR. MUREDDU: Can she move about the courthouse?

11 THE COURT: Yes.

12 MR. MUREDDU: Thank you, Your Honor.

13 THE COURT: Okay. And then I'll hear from the
14 State at the conclusion of the day as to their
15 position. At this point, she's shown up, she's on
16 time, she's behaving appropriately, she's
17 participating, she's -- you know, she was fine all day
18 yesterday. She didn't present any problems or any
19 issues all day yesterday. So I'll -- you know, let me
20 kind of watch things throughout the day, and then I'll
21 hear from the State by the end of the day. But for the
22 purposes of these breaks and lunch, she can, of course,
23 move about as she needs to. And she knows that if she
24 doesn't come back, the case is going forward. So I've
25 advised her of that at length. Okay?

1 MR. MUREDDU: Thank you, Your Honor.

2 MR. HIXSON: Your Honor, I have a quick
3 housekeeping matter. The disc that we used for the
4 Jackson v. Denno hearing that Jeff Cauble
5 authenticated, that has two separate files on it.

6 THE COURT: Right.

7 MR. HIXSON: It has the file that's admissible and
8 the file that's not admissible, and at the break, we
9 would like to make sure we get that correct one on one
10 because we didn't want it going back to the jury room.

11 THE COURT: Perfect.

12 MR. HIXSON: So it's been -- I'd like to take that
13 out of here, if you're good with it, and I'll show it
14 to counsel.

15 THE COURT: That's perfectly fine. Let's make
16 sure the one that's in evidence only has the portion of
17 the statement that's coming in on it and nothing else.

18 MR. HIXSON: And that's the one I intend to play
19 when he testifies so we all hear exactly what's on it.

20 THE COURT: Perfect.

21 Is that good?

22 MR. MUREDDU: Yes, sir, Your Honor.

23 THE COURT: Okay. And you can help him with that?

24 COURT REPORTER: Yeah, he knows where it is.

25 THE COURT: Okay. All right. We'll be in recess.

1 (WHEREUPON, a brief recess was taken at
2 11:00 a.m.)

3 (WHEREUPON, the jury came into open court at
4 approximately 11:21 a.m.)

5 THE COURT: All right. Welcome back, ladies and
6 gentlemen. Thank you very much.

7 And State may call their next witness.

8 MR. HIXSON: At this time, the State would call,
9 excuse me, Jeff Cauble.

10 THE COURT: All right. Please come forward and be
11 sworn, Mr. Cauble.

12 JEFF CAUBLE, after being duly sworn, testified as
13 follows:

14 THE CLERK: Please be seated. Please state your
15 full name and spell your last name.

16 THE WITNESS: Jeff Cauble, C-A-U-B-L-E.

17 DIRECT EXAMINATION

18 BY MR. HIXSON:

19 Q Good morning, sir. How are you?

20 A Fine.

21 Q Can you please this tell jury what you do for a
22 living.

23 A Currently, I manage a health club.

24 Q Okay. And so, at some point in time, were you
25 employed by the Horry County Police Department?

1 A Yes, sir.

2 Q About how long ago -- how long did you work for
3 the Horry County Police Department?

4 A From 2003 to 2015, so right at 12 years.

5 Q Okay. So, 2015, were you working for the Horry
6 County Police Department on April 9th of 2015?

7 A Yes, sir.

8 Q And what was your duty assignment during that
9 time?

10 A I was a detective with the major crime unit.

11 Q Okay. And what is the major crime unit?

12 A We investigate just that, major crimes, murders,
13 attempted murders, rapes, criminal sexual conduct with
14 kids. All the bad stuff.

15 Q And so were you working April 9th of 2015?

16 A Yes.

17 Q Okay. And did you have an occasion to be called
18 out to a scene in the Island Green apartment complex
19 somewhere kind of around Enterprise Road/Socastee area
20 of Horry County?

21 A Yes.

22 Q Please tell us about that.

23 A It was April 9th, as he said. It was around
24 2:30 p.m. that we were called out to the scene. The
25 situation was that an infant, a newborn child, was

1 found in a dumpster. And so we were called to go
2 investigate. So it's our job to go out and speak with
3 the investigating officers, speak with any witnesses,
4 and then investigating leads that we get from that.

5 While we were there, Sergeant -- or he was a
6 corporal -- Neely -- Lance Corporal Neely, I think, at
7 that point showed us a receipt that he had found in the
8 bag that the baby was put in with. And from that
9 point, we decided to take that receipt, which was a Mon
10 Cafe receipt, and -- which was tagged for the day
11 before, which was 4/8/15, and it had a time stamp of
12 4:25 p.m. on it. So I knew that, when I went to the
13 Mon Cafe, that that's the time and date that I was
14 looking for on the video surveillance.

15 Q Let me interrupt you just for a second. Just for
16 a second.

17 Did you, in fact, go to the Island Green location?

18 A I did.

19 Q Okay. Just so we're talking about the same thing,
20 State's-27, do you recognize that?

21 A That's the dumpster, yes, sir.

22 Q That's the scene that you responded to?

23 A Yes, sir.

24 Q Okay. All right. And let me show you a couple
25 items, which have been marked as State's Exhibit 1 and

1 State's Exhibit 19. Just take a look at those and see
2 if you recognize those.

3 A Yes, sir. That's the Mon Cafe receipt.

4 Q And what is State's-19?

5 A That's the blown-up copy of it.

6 Q Easier to read?

7 A Yes, sir.

8 Q Okay. Let's start from there. I think you were
9 at the point you said that you got on-scene with
10 Corporal Neely. And he gave that to you, I believe?

11 A Yes, sir.

12 Q And then you acted on it?

13 A Yes, sir.

14 Q So please tell us some more.

15 A When I got to Mon Cafe, I got, I believe it was
16 the manager. We reviewed the video. I told them
17 exactly the time that I was looking for. They were
18 able to fast-forward right to that time, at which point
19 I saw the Defendant walk in with her child. The child
20 at the time, she was a small child. And I believe she
21 was carrying the child. And so at that point --

22 Q Let me clarify something.

23 A Yes, sir.

24 Q Are we referring to a newborn child?

25 A No.

1 Q How old was the child that you saw?

2 A In between a year to two years old.

3 Q Okay.

4 A At that point, I decided to go ahead and take two
5 still photos of the person who came in and purchased
6 the Mon Cafe at that time, because we knew she would be
7 a person of interest in the case.

8 MR. HIXSON: May I approach the witness with
9 what's been marked as State's Exhibit 16 and 17?

10 THE COURT: All right.

11 Q Can you take a look at those?

12 A Yes, sir.

13 Q Do you recognize those?

14 A Yes, sir.

15 Q And what are they?

16 A That's the photos that were taken from the video.

17 Q Okay. And is this exhibit a fair and accurate
18 representation of the photographs you took from the
19 surveillance video in the Mon Cafe on April 9th of
20 2015?

21 A Yes, it is.

22 MR. HIXSON: May I publish these, Your Honor?

23 THE COURT: Any objection?

24 MR. MUREDDU: No objection, Your Honor.

25 THE COURT: 16 and 17 admitted without objection.

1 (WHEREUPON, State's Exhibit No. 16 and 17 were
2 admitted in evidence.)

3 BY MR. HIXSON:

4 Q So after you took the still photographs of -- I
5 think you described at that point in time a person of
6 interest?

7 A Yes.

8 Q What do you mean by that?

9 A Just that. She -- since this receipt was found in
10 the same trash bag as the baby, this person had to be a
11 person of interest in the case that may be able to tell
12 us what happened.

13 Q Okay. So once you got these, then what did you
14 do?

15 A We then decided that it would be best if we could
16 get them out to the media to release it. So we sent
17 the two photos to Lieutenant Dennis to get them for
18 media release at that time.

19 Q And who is Lieutenant Dennis?

20 A He was a lieutenant with Horry County Police
21 Department.

22 Q Did he serve a role as a public information
23 officer?

24 A Yes, he was a public information officer.

25 Q Okay. Did, in fact, Lieutenant Dennis do that?

1 A Yes, he did.

2 Q Tell us about that. What happened after that?

3 A After that, I -- I'm not really sure exactly what
4 time it got released, but according to the report here,
5 approximately 7:40, we received a phone call from the
6 south precinct on Scipio Lane.

7 Q Okay. And let's just clarify, just for the
8 purposes -- are you looking at a report that you wrote
9 contemporaneously with your investigation?

10 A Yes.

11 Q And would that refresh your recollection of the
12 events of three years ago for testimony today?

13 A Yes, sir.

14 Q Okay.

15 A Okay. At that time, we received a phone call
16 stating that the Defendant was at the south precinct,
17 wanting to know why her photos were on TV. So it was
18 at that time that myself and Detective Seipt left. We
19 were at Conway -- the Conway precinct on Main Street.
20 We left immediately and went to talk with her.

21 Q Okay. When was the first time that you came in
22 contact with Ms. Taylor?

23 A When we got there.

24 Q Okay.

25 A At the south precinct.

1 Q Do you know whether or not she came to the south
2 precinct with anybody?

3 A I know that her parents were there. I don't know
4 if she came with them or not, but she was -- her
5 parents were there.

6 Q Okay. Was anybody else affiliated with Ms. Taylor
7 there at the south precinct also or showed up at the
8 south precinct?

9 A Her husband did as well.

10 Q Okay. What is her husbands's name?

11 A Let me double-check. I can't remember his name
12 for some reason. Patrick. Patrick Taylor.

13 Q Patrick Taylor. Okay. Well, then, please tell us
14 about the nature of your conversation that you had with
15 Ms. Taylor.

16 A We basically just wanted to know if she knew
17 anything about the case. We -- like I said, when she
18 showed up, she just wanted to know why her photos were
19 on the news.

20 Q Did she tell you how she found out about the
21 photos?

22 A I think maybe she said her grandmother had called
23 her or something or someone had told her that her photo
24 was on the news.

25 Q Someone had told her --

- 1 A Yes.
- 2 Q -- that they saw her photo on the news?
- 3 A Right.
- 4 Q And she reacted accordingly?
- 5 A Right, exactly.
- 6 Q Very good.
- 7 A So we began interviewing her, talking with her,
- 8 letting her know the situation. And she was very calm
- 9 during the investigation -- or not investigation,
- 10 during the interview. And she denied having any
- 11 knowledge or anything about the case or why a baby
- 12 would be in her trash.
- 13 Q Okay. Who was present during the course of that
- 14 interview?
- 15 A It was myself, Shelby Taylor, and Detective Seipt.
- 16 Q Okay. And you mentioned the south precinct. For
- 17 those that aren't terribly familiar, where is the south
- 18 precinct in Horry County?
- 19 A It's off of Scipio Lane.
- 20 Q Is that the Holmestown Road --
- 21 A Yeah, off of Holmestown Road, yes, sir.
- 22 Q -- area?
- 23 A Yes, sir.
- 24 Q And it's a substation; is that safe to say?
- 25 A Yeah.

1 Q And what would you consider the feeling in the
2 room? You know, was it confrontational? Was it
3 cordial? What was your --

4 A No, it was very cordial. We were just speaking
5 with her.

6 Q Okay. Was that interview memorialized in any way?
7 Was it written? Recorded? What --

8 A It was recorded.

9 Q Okay.

10 A Audio recorded.

11 Q Audio recorded. Okay.

12 A Um-hum.

13 Q Let me show you what's been marked as State's
14 Exhibit 3. Let me ask another question before I
15 introduce this. At that point in time, was she under
16 arrest or in custody in any way?

17 A No, she was not.

18 Q Okay. As a matter of fact, did you do anything
19 initially to contact Shelby Taylor to come to the
20 police station?

21 A No, I did not.

22 Q But that call was a surprise to you?

23 A Yes, it was.

24 Q Okay. So, as such, did you read her Miranda
25 warnings since she was not in custody or --

1 A No, I did not.

2 Q -- a suspect at that time?

3 A No, sir.

4 Q Okay. And let me show you what's been marked as
5 State's Exhibit 3. See if you recognize this.

6 A Yes, sir. It's a DVD disc, a CDR disc of the
7 interview.

8 Q Okay. And how do you know that's what it is?

9 A It's has my initials and the date on it.

10 Q And so you reviewed this?

11 A Yes.

12 Q And the recording on this disc, is this a fair and
13 accurate recording or representation of the interview
14 that you had with Ms. Shelby Taylor at the substation
15 on Scipio Lane on April 9th of 2015?

16 A Yes, it is.

17 MR. HIXSON: We would like to publish this for the
18 jury, Your Honor.

19 MR. McCOLLUM: May it please the Court, Your
20 Honor.

21 THE COURT: Yes, sir.

22 MR. McCOLLUM: Subject to court rules, we'd make a
23 contemporaneous objection based on the matters we took
24 up earlier.

25 THE COURT: All right. Your objection is noted

1 for the record. I understand the objection that you're
2 making. My ruling upon it is the same.

3 MR. McCOLLUM: Thank you, Your Honor.

4 MR. HIXSON: May we publish, Your Honor?

5 THE COURT: Yes, sir.

6 (WHEREUPON, State's Exhibit No. 3 was admitted in
7 evidence.)

8 THE COURT: All right. So now the goal is that
9 you-all can hear this. So if somebody can't hear
10 something, wave your hand at me. Okay?

11 MS. WALKER: Sorry about that.

12 THE COURT: That's okay.

13 Go ahead, Ms. Walker.

14 (WHEREUPON, the audio recording was played at
15 11:34 a.m.)

16 MR. MUREDDU: Your Honor, before questioning
17 resumes, there is a matter that we need to take up.

18 THE COURT: Okay. All right.

19 Ladies and gentlemen, do not discuss the case.
20 Keep an open mind. We are going to take a lunch break.
21 We're not going to take it right now. Give me just a
22 few minutes, and I'll be right back with you. Go back
23 to your jury room and give me just a few minutes. Do
24 not discuss the case. Keep an open mind. Thank you.

25 (WHEREUPON, the jury exited the courtroom at

1 12:22 p.m.)

2 MR. MUREDDU: Judge, I anticipate that the
3 solicitor, when he begins to question Detective Cauble,
4 is going to cover and ask -- cover the part where
5 the -- the Daniel's Law issue, for lack of a better
6 word. Now, if you listen to that recording, Cauble
7 leaves the room to make that phone call, and he's out
8 for almost 20 minutes, so Shelby is in there with
9 Detective Seipt. And Seipt is continuing to question
10 her. Obviously, the jury's heard it. It's in
11 evidence.

12 But it's Seipt who's having the discussion with
13 Shelby about Daniel's Law, and if you listen to exactly
14 what they said, Seipt gives about a minute-and-a-half
15 dissertation on what Daniel's Law is, what you can do,
16 those type of things. Shelby's response is very
17 minimal. But he was not present during that
18 conversation. Okay? And just like Detective Neely
19 couldn't testify earlier as to what Cauble did in his
20 investigation where Cauble determined that the baby was
21 moved before, Neely wasn't allowed to testify, Cauble
22 wasn't present during the conversation with Seipt where
23 that went down. I can't cross-examine him and, like,
24 point out, for instance, whether you did about a
25 minute-and-a-half monologue on Daniel's Law before she

1 even chimed in. He can't answer that because it wasn't
2 with him. So I can't cross-examine him about that
3 point.

4 So my motion is -- or what I'm saying is is for
5 them to question him about what she knew about Daniel's
6 Law and that topic would be improper because he wasn't
7 even in the room at the time. It's hearsay. And --
8 but more importantly, I can't cross him on that because
9 he's going to say, Hey, I wasn't -- I don't know, you
10 know.

11 MR. HIXSON: I agree; I was not going to ask him
12 that question. She says that she knows about Daniel's
13 Law in the report from the psychiatrist, so we'll talk
14 about that in cross-examination, because she said she
15 knew about Daniel's Law at the time but not with this
16 witness.

17 MR. MUREDDU: I just don't want to -- and the
18 second thing that he may cover -- again, he was out of
19 the room -- about a comment that she made about, "I
20 would adopt the baby if I could," again, he wasn't
21 there. I would ask that not be covered with this
22 witness as well. The jury's heard it anyway, but it
23 just -- he wasn't in the room. I would ask that topic
24 not be covered with him that as well.

25 MR. HIXSON: I'm not going to do that. I think

1 the 45-minute statement stands for itself. I'm just
2 going to -- I'm going to mention Patrick and I'll talk
3 about the substantive statement and try to wrap it up
4 with the DNA stipulation.

5 THE COURT: Okay.

6 MR. MUREDDU: That's all, Your Honor. Thank you.

7 THE COURT: Bring them back in.

8 (WHEREUPON, the jury came into open court at
9 approximately 12:26 p.m.)

10 THE COURT: All right. Welcome back. Thank you
11 very much. Sorry about the short break.

12 And, Mr. Hixson, you may continue with your direct
13 examination.

14 MR. HIXSON: Thank you, Your Honor. Getting close
15 to lunch here, so I'll try to wrap it up, Judge.

16 BY MR. HIXSON:

17 Q So you heard the recording. You sat here through
18 it and listened to it all, and that's a fair and
19 accurate representation of that interview?

20 A Yes, sir.

21 Q Is that correct to say? At the end of that
22 interview, I believe you made a comment -- and I think
23 you testified earlier -- just trying to jump ahead --
24 that Patrick Taylor, her husband, did come to the
25 police station along with her parents and were there --

1 outside the interview room, but were there during that
2 period of time?

3 A Yes, sir.

4 Q I think that the way that the interview ended, you
5 said, Well, I'm going to ask some questions of Patrick.
6 Did you, in fact, do that?

7 A We did.

8 Q Okay. And I don't want to talk about any of the
9 nature of the conversation; the rules have a problem
10 with that. Based on your conversation with Patrick
11 Taylor, did you go to the marital home of Patrick and
12 Shelby Harper Taylor to look for evidence of any kind?

13 A Yes.

14 Q And let me show you what's has been -- has not
15 been marked yet.

16 (WHEREUPON, State's Exhibit No. 29 was marked for
17 identification only.)

18 Q In order to go into a private home of a suspect or
19 something like that, can you just walk in the door or
20 do you have to have some kind of legal process to allow
21 you to do that?

22 A You have to have permission from the owner in
23 order to do that or a warrant.

24 Q I was going ask, if you don't get permission, what
25 recourse do you have if someone says, "No, you can't

1 come into my house"? If you have probable cause, what
2 do you do?

3 A We have to go see a judge and try to get a warrant
4 to get into the home.

5 Q A search warrant?

6 A Yes, sir.

7 Q Did you get a search warrant for that home in this
8 case?

9 A We did not.

10 Q And why not?

11 A He gave us permission to go into his home.

12 Q Okay. And when you say "he," who --

13 A Patrick Taylor.

14 Q Okay. And do you memorialize that in any way?

15 A No.

16 Q In other words, if someone gives consent and they
17 say, Hey, you can search my car or you can search my
18 house if you want to, do you do something to record
19 that consent?

20 A Yes. We have to have written consent.

21 Q Okay. Let me show you what's been marked as
22 State's-29 and see if you recognize that. What is
23 that?

24 A That is a Horry County Police Department Consent
25 to Search Form.

1 Q Okay. And what location was the --

2 MR. MUREDDU: Judge, we would stipulate the
3 consent to search was given on the residence.

4 THE COURT: Okay.

5 MR. HIXSON: And that means 29 is coming in
6 without objection?

7 MR. MUREDDU: Let me see what -- I'll stipulate
8 to -- let me see what you got there.

9 Yep.

10 THE COURT: 29 is in without objection.

11 (WHEREUPON, State's Exhibit No. 29 was admitted in
12 evidence.)

13 MR. HIXSON: May I publish 29, then?

14 THE COURT: You may.

15 MR. HIXSON: I still need to make sure the jury
16 knows what this is, though, Judge.

17 THE COURT: Sure, I understand that.

18 BY MR. HIXSON:

19 Q Just to tell the jury, I don't have to lay a
20 foundation. That's what that means.

21 A It's a Horry County Police Department Consent to
22 Search form. It's signed by Patrick Taylor, giving us
23 permission to enter his home at 500 Fairway Village
24 Drive, Apartment 8-G, on April 9th, at, it looks like
25 11:00 p.m., 2015. He printed his signature and then he

1 gave his signature, and I witnessed it.

2 MR. HIXSON: May I publish this to the jury, Your
3 Honor?

4 THE COURT: You may.

5 Q So, in essence, this says, Go in there and look
6 around and see what you can find.

7 A Yes, sir.

8 Q Did you, in fact, go into the marital home of
9 Shelby Taylor and Patrick Taylor?

10 A We did.

11 Q And did you search that home for anything of
12 evidentiary value?

13 A We did.

14 Q Did you find anything and collect anything that
15 you thought was of evidentiary value in this case?

16 A We did.

17 (WHEREUPON, State's Exhibit No. 30 was marked for
18 identification only.)

19 Q Let me show you a series of photographs.

20 MR. HIXSON: Specifically, Your Honor, I'm
21 referring to State's-4, State's-5, State's-6,
22 State's-7, State's-8, State's-10 -- it's probably out
23 of order -- State's-10, State's-11. Forgive me, Your
24 Honor; making a mess of your courtroom.

25 Let me make sure I got those numbers, ma'am.

1 Throwing stuff around. What was that up to, ma'am?

2 COURT REPORTER: What was your new number?

3 This --

4 MR. HIXSON: I'll start over.

5 COURT REPORTER: Sorry.

6 MR. HIXSON: State's-4, State's-5, State's-6,
7 State's-7, State's-8, State's-10, and State's-11.

8 Okay?

9 Q Just take a look at those. Just look at them all
10 at once -- you don't have to say anything -- and I'll
11 ask you a group question, just to move things along.

12 Okay? Do you recognize these?

13 A Yes, sir.

14 MR. HIXSON: Your Honor, we showed this to counsel
15 pretrial.

16 Just to make sure there's still no objection,
17 you're good?

18 MR. MUREDDU: Yeah.

19 MR. HIXSON: Okay.

20 Your Honor, at this time, we'd like to move --
21 authenticate. Do you want me to move these in without
22 objection?

23 MR. MUREDDU: No objection to the introduction of
24 those by the State, Your Honor.

25 THE COURT: 4, 5, 6, 7, 8, 10, 11?

1 MR. HIXSON: Yes, sir.

2 THE COURT: Admitted without objection.

3 (WHEREUPON, State's Exhibit Nos. 4, 5, 6, 7, 8, 10
4 and 11 were admitted in evidence.)

5 BY MR. HIXSON:

6 Q I'm going to show you what's been marked as
7 State's-4 and -5. They are in evidence so we don't
8 have to authenticate them. Can you tell us what those
9 photos show?

10 A What appears to be blood stains in the carpet.

11 Q And is that in the Taylor residence?

12 A Yes, it is.

13 Q Okay. I'll show you 6, 7, 8. See if you
14 recognize those. And you just take a look for a second
15 and let me publish.

16 MR. HIXSON: May I publish, Your Honor?

17 THE COURT: Of course.

18 Q Did you come across, while you were in the
19 apartment taking a look around, did you discover
20 laundry facilities of any kind?

21 A Yes.

22 Q And what kind of laundry facility? Washer and
23 dryer?

24 A Just the washer and dryer, yes, sir.

25 Q Was there anything in the washer and dryer?

1 A There were clothes in the washer and dryer.

2 Q Anything else in -- beyond clothes?

3 A A sheet. I believe it was the sheet that was in
4 there as well.

5 Q Okay. How about what is marked as State's
6 Exhibit 7, do you recall?

7 A Yes. That would be the mats to the bathroom, I
8 believe it was.

9 Q And those were recovered in the washing machine --

10 A Yes, sir.

11 Q -- of the residence?

12 A Yes, sir.

13 Q Were they all cleaned?

14 A Yes.

15 MR. HIXSON: I'm going to show the jury 7, 8, and
16 6.

17 Q And these were in the washing machine when you
18 recovered them?

19 A Yes, sir.

20 Q And, finally, State's-10 and -11. What is that?

21 A Again, it's a photo of the carpet that appears to
22 be blood stains in it.

23 Q Okay. And State's-11?

24 A That's a photo of the bathroom floor.

25 Q Were the bath mats in the bathroom at that time?

1 A They are not.

2 Q When you searched the bathroom area, did you find
3 any blood of any kind in the bathroom?

4 A No, sir.

5 Q How would you characterize that? Did it appear to
6 be cleaned? Disheveled?

7 A It appeared to be clean.

8 Q Did it -- when you were there, did it smell of any
9 cleaning products or anything like that that made you
10 feel it was freshly cleaned?

11 A I can't testify to that. I can't --

12 Q Fair enough. Fair enough. Also in the recording
13 that you talked about, you mentioned DNA testing
14 several times. In a case like this where you're
15 dealing with suspects and known suspects, would it be
16 part of your investigative process to get DNA swabs for
17 comparison of some kind?

18 A Yes, sir.

19 Q Tell us about that, and did you do that in this
20 case?

21 A We did. We felt like that that was the best way
22 to eliminate Ms. Taylor from this crime.

23 Q Okay. And what would the process be if you're
24 dealing with a child; in other words, a paternity test?
25 Do you recover samples from different individuals in

1 order for comparison?

2 A As far as?

3 Q Would you get one from the suspect mother?

4 A Yes.

5 Q Did you do that in this case?

6 A Yes.

7 Q With the suspect father?

8 A We didn't --

9 Q Patrick Taylor. Did you swab --

10 A I don't know if we swabbed Patrick Taylor or not.

11 I can't remember.

12 Q Okay. Let me -- and then, ultimately, did you get

13 a result from State Law Enforcement Division --

14 A Yes, sir.

15 Q -- concerning the paternity of --

16 A Yes, sir.

17 Q -- Patrick?

18 Okay. Let me show you what's been marked as

19 State's Exhibit 30.

20 MR. HIXSON: And, Your Honor, we have entered into

21 a stipulation relating to this.

22 THE COURT: All right.

23 MR. HIXSON: And that is stipulate to the

24 authenticity of the DNA report and don't require the

25 SLED chemist to come or the analyst to testify to that.

1 THE COURT: Okay. Is that correct, Mr. Mureddu?

2 MR. MUREDDU: That's correct, Your Honor.

3 THE COURT: Okay. Thank you.

4 BY MR. HIXSON:

5 Q What is that? Do you recognize that?

6 A South Carolina Law Enforcement Division. It's a
7 forensic service laboratory report.

8 Q Okay. And can you read what the submission's in
9 that SLED actually tested?

10 A Buccal swab from Patrick Taylor, buccal swab from
11 Shelby Harper, and swab from Jane Doe, which, at the
12 time, was the baby.

13 Q Okay. And so was there a conclusion to the
14 comparison on whose offspring Jane Doe is?

15 A During the results, it says the DNA profile
16 developed from Jane Doe is consistent with being from
17 an offspring of Patrick Taylor and Shelby Harper.

18 Q Okay.

19 MR. HIXSON: Your Honor, we'd move State's 30 into
20 evidence.

21 THE COURT: All right. Admitted without
22 objection?

23 MR. MUREDDU: No objection, no.

24 (WHEREUPON, State's Exhibit No. 30 was admitted in
25 evidence.)

1 Q So DNA matches mom and dad and baby?

2 A Yes, sir.

3 MR. HIXSON: Beg the Court's indulgence.

4 Your Honor, I have no further questions.

5 THE COURT: All right. Ladies and gentlemen, it's
6 about 12:40. We're going to go ahead and break for
7 lunch.

8 So I will tell Investigator Cauble in front of
9 you: Investigator, you're not allowed to discuss your
10 testimony with anyone in any way, shape, or form.
11 You're not allowed to discuss anything about this case
12 with anyone. You are allowed to go eat lunch and do
13 the normal things that people do.

14 When we start back at 2 o'clock, when we start
15 back, you need to be seated right there, and we'll go
16 straight into his cross-examination. Okay?

17 Now, I'm about to release you-all for lunch, and
18 as I've told you before, you are not allowed to discuss
19 this case with anyone in any way, shape, or form. You
20 are to keep an open mind about this case. We're in the
21 very early stages of the case, and you are not to form
22 any opinions or express any opinions about this case.
23 You are also not allowed to allow anybody to talk with
24 you about the case. You are allowed to go and enjoy
25 your lunch and enjoy this day. Do not do any research.

1 Do not do any communication about the case. Do not
2 have any contact with anybody involved in the case or
3 any parties or any witnesses. You made that commitment
4 to me, you've made that commitment to the lawyers,
5 you've made that commitment to the parties, you've made
6 that commitment to each other, and you've made that
7 commitment to yourself that you will not do that.

8 You will also not watch, read, listen to, or view
9 any type of news media about this case in any way,
10 shape, or form. We will see you back here at 2
11 o'clock, ready to go. We'll jump right into
12 Investigator Cauble's cross-examination, and the case
13 will continue on. Thank you very much for your hard
14 work this morning. We'll see you back at 2 o'clock.

15 Everyone also remain seated. Thank you.

16 (WHEREUPON, the jury exited the courtroom at
17 12:40 p.m.)

18 THE COURT: All right. Thank you,
19 Investigator Cauble. You can step down.

20 Anything further from the State before we break?

21 MR. HIXSON: No, sir.

22 THE COURT: From the Defense?

23 MR. MUREDDU: Nothing, Your Honor.

24 THE COURT: All right. Let me see all of the
25 media people up here.

1 All right. Court's in recess. Thank you.

2 2 o'clock. 2 o'clock.

3 (WHEREUPON, a luncheon recess was taken at
4 approximately 12:41 p.m.)

5 THE COURT: Is the State ready to proceed?

6 MR. HIXSON: Yes, Your Honor. I believe we
7 have --

8 Please answer any questions, Mr. Cauble -- excuse
9 me. We'll wait until the jury comes in and I'll say
10 that. Yes, sir.

11 THE COURT: Defense ready?

12 MR. MUREDDU: Defense is ready, Your Honor.

13 THE COURT: Okay. Let's bring them in.

14 (WHEREUPON, the jury came into open court at
15 approximately 2:05 p.m.)

16 THE COURT: All right. Welcome back. Thank
17 you-all very much for being on time. We're in the
18 cross -- we're about to start the cross-examination of
19 Investigator Cauble.

20 Mr. Mureddu or Mr. McCollum?

21 MR. MUREDDU: Thank you, Your Honor. May it
22 please the Court.

23 THE COURT: Yes, sir.

24 CROSS-EXAMINATION

25 BY MR. MUREDDU:

1 Q Mr. Cauble, do you know what transient peripartum
2 psychosis is?

3 A No, I don't, no, sir.

4 Q Okay. Now, did you consult with any mental health
5 doctors before you charged Shelby with attempted
6 murder?

7 A No, sir, I didn't.

8 Q All right. And she was actually arrested and
9 charged with attempted murder short -- not long after
10 that interview we listened to --

11 A Yes, sir.

12 Q -- that night? Okay. And she was transported to
13 the hospital?

14 A Yes, by transport, yes, sir.

15 Q She was given a physical evaluation by the
16 doctors?

17 A Um-hum.

18 Q Okay. She was also given a mental evaluation by
19 the doctors?

20 A Yes, I believe the report states that.

21 Q Okay. All right.

22 But -- and she signed a consent for the release of
23 all of her medical records; did she not?

24 A Yes, I believe that's in there, too.

25 Q Okay. But you never consulted with any mental

1 health professionals at all before you charged her with
2 attempted murder?

3 A No, sir.

4 Q Okay.

5 A Not before she was charged, no, sir.

6 Q Okay. Now, the charge of attempted murder, one of
7 the elements to that actual charge of attempted murder
8 is malice aforethought, isn't it?

9 A Right.

10 Q Now, do you know what Shelby's state of mind was
11 when she actually delivered the baby?

12 A No, sir, I don't.

13 Q All right. You -- likewise, you don't know what
14 her state of mind was when she discarded the baby?

15 A True.

16 Q Okay. All right. And, as you said before, you
17 don't have any knowledge or understanding or any
18 training with the mental disorder transient peripartum
19 psychosis?

20 A No, sir.

21 MR. MUREDDU: Your Honor, I have no further
22 questions.

23 THE COURT: Redirect?

24 MR. HIXSON: No, sir.

25 THE COURT: All right. Thank you, Investigator

1 Cauble. You may step down.

2 And the State may call its next witness.

3 (Witness excused.)

4 MR. HIXSON: State would call Dr. John Burney.

5 THE COURT: All right. Please come forward and be
6 sworn, sir.

7 DR. JOHN BURNEY, after being duly sworn, testified
8 as follows:

9 THE CLERK: Please state your full name and spell
10 your last name.

11 THE WITNESS: So my full name is John Marcel James
12 Burney. Last name is B, as in boy, U-R-N-E-Y.

13 THE COURT: Oh, I'm sorry. Go ahead.

14 Normally, the lawyers ask me for permission before
15 they start. I was telling Bailey to do something, so I
16 apologize.

17 Go ahead, Ms. Walker. I apologize. My mistake.

18 MS. WALKER: Just double-checking.

19 DIRECT EXAMINATION

20 BY MS. WALKER:

21 Q Dr. Burney, how are you doing today?

22 A Good. And yourself?

23 Q I'm doing all right. So what is your current
24 occupation?

25 A So I'm an OB/GYN for Healthcare Partners of South

1 Carolina in Conway.

2 Q Okay. And what does your job entail? What do you
3 do a daily basis?

4 A So I provide prenatal care for pregnant women. I
5 also do annuals and physicals and pap smears and
6 gynecologic care for women as well.

7 Q And do you ever provide any postnatal care?

8 A Yes.

9 Q Okay. And just a little bit about your
10 experience. How long have you been a doctor?

11 A Well, I've been practicing here in South Carolina
12 for the last four years at Healthcare Partners. I've
13 been an OB/GYN for the last six years.

14 Q Okay. All right. And did you have an opportunity
15 to ever treat the Defendant in this case, Ms. Shelby
16 Harper Taylor?

17 A Yes. I treated her when she arrived at the
18 hospital.

19 Q Okay. And do you have any recollection of what
20 day that would have been?

21 A Well, according to my records, April the 10th of
22 2015.

23 Q Okay. And what was the nature of your care of
24 Ms. Taylor?

25 A So she was brought into the hospital for

1 evaluation. She had said that she had some bleeding
2 after a delivery. I was told that she had a delivery,
3 and I was to examine her and make sure that she was
4 okay. And I examined her after vaginal delivery of an
5 infant.

6 Q Okay. And what did you find when you examined
7 her?

8 A So she was first seen in the ER, and they did an
9 ultrasound, which showed that she had, like, a uterus
10 that was the size that should be postpartum, after
11 having a baby, and that there was some retained clots
12 within the womb. I examined her, and on physical exam,
13 the uterus was at the level of the belly button, the
14 umbilicus, which is in accordance with having -- the
15 way it should be postpartum, after having a baby.

16 Q Okay. And when you say -- and, I'm sorry, I don't
17 know your field very well, but when you say
18 "postpartum," are you meaning after giving birth
19 sometime in the not-so-distant past?

20 A Correct.

21 Q Okay. And could you give, like, a timeframe to
22 that, approximate?

23 A Within a day. I mean, you know, I'm not sure what
24 day she actually had the baby, but, you know -- but I
25 saw her as, you know, once she was arrested and once

1 she was brought to the hospital.

2 Q Okay. And --

3 (Cellphone ringing.)

4 THE COURT: Stop for just a second.

5 Whose phone is that? Take it. Give him the
6 phone. Anybody else's phone goes off, it's \$250 to get
7 it back. Go ahead, Ms. Walker. I apologize.

8 BY MS. WALKER:

9 Q So you examined her and determined that possibly
10 sometime within the past 24 hours she had given birth?

11 A That's correct.

12 Q Okay. And you mentioned that there was a tear and
13 some hemorrhaging. Was there any sort of a procedure
14 that was required to attend to those issues?

15 A Yes. So they had done an ultrasound when she came
16 into the ER because she had some bleeding after
17 delivery. And since the delivery wasn't witnessed by a
18 physician, the delivery of the baby or the placenta,
19 the ultrasound showed that there was some retained
20 clots within the womb, within the uterus, and so I
21 decided to do a D&C to remove those clots because if I
22 did have her discharged to the prison, you know, no one
23 would really be able to assess her bleeding, and I
24 didn't want her to have heavy bleeding in the prison
25 without medical.

1 Q All right. And you mentioned a D&C. What does
2 that stand for?

3 A So that's dilation and curettage. It's where --
4 if -- where we dilate the cervix, which is the entrance
5 to the uterus, entrance to the womb, and also do a
6 scrape or curettage of the womb to remove anything that
7 may be left within the uterus that could cause
8 bleeding. And that was the indication for the
9 procedure so that she wouldn't have excess bleeding in
10 an unsupervised or at least unmedically supervised
11 environment.

12 Q Okay.

13 MS. WALKER: Beg the Court's indulgence. One
14 moment.

15 THE COURT: Yes, ma'am.

16 Q And when you performed your exam of Ms. Taylor,
17 was there anything that indicated that she had
18 experienced above-normal trauma in her womb or uterus
19 or vaginal area that would indicate that there was
20 higher trauma than normal with her birth?

21 A No. No.

22 Q Okay.

23 A Just, you know, she did have the appearance that
24 she had had a baby. The uterus was enlarged. It was,
25 like, a 20-week size, the way that it should be after

1 you have a baby.

2 Q Okay.

3 A The vagina was actually intact, after reviewing my
4 notes. But that can also, you know, happen even with a
5 normal delivery, supervised.

6 Q Okay. So observing her uterus and all of the
7 other parts that are necessary to giving birth to a
8 baby, is there anything you could tell observing those
9 parts to indicate that this baby would have been full
10 term, or is that something you could have determined
11 from looking at that?

12 A Well, I mean, the size of the uterus was 20 weeks
13 after delivery. It was at the level of the belly
14 button. Usually, that indicates that it was a
15 full-term pregnancy. If it was less than that, it
16 would be lower -- the uterus after delivery would be
17 much lower.

18 Q Interesting. Okay. And did you learn anything
19 else about the circumstances of the delivery that then
20 led you to refer Ms. Harper to -- or Ms. Harper Taylor
21 to speak with a social worker at the hospital?

22 A Well, yes. As, you know -- I mean, she was
23 brought to the hospital in the custody of the officers,
24 and so I referred her to the psychiatrist and to social
25 work to make sure that there wasn't anything that I had

1 missed that was psychological or social of that nature.

2 Q Okay. And beyond the procedures and the
3 information you've provided, did you provide any other
4 care to Ms. Taylor?

5 A No. I was only allowed to -- I mean, I was the
6 physician that was on-call that night, and so I was the
7 one that saw her when she was brought into the hospital
8 and then provided care for her while she was in the
9 hospital, and she was discharged into the custody of
10 the officers. And then beyond that, I didn't have any
11 further contact with her.

12 Q Okay. And when you mentioned discharge, were you
13 the physician who would have signed off on that
14 discharge?

15 A Yes.

16 Q And was she ultimately discharged from your care?

17 A Right, yes. She was discharged after two days, I
18 believe. I saw her, we did the D&C. I observed her
19 for a day to make sure that she didn't have any
20 additional bleeding that was beyond the norm after
21 having a vaginal delivery. I gave her RhoGAM because
22 she was Rh-negative to protect her, and she was
23 discharged by postpartum day 2.

24 Q Okay. And would you please educate me on what
25 RhoGAM is?

1 A So RhoGAM is like an antibody for people that are
2 Rh-negative. Her blood type was Rh-negative. Since I
3 didn't know the blood type of the father, we give those
4 patients RhoGAM. And I didn't know the blood type of
5 the baby either. But we give those patients RhoGAM at
6 delivery to protect them from being immunized against
7 an Rh-positive fetus or Rh-positive infant. So if the
8 baby had been Rh-positive, it would protect her from
9 forming antibodies to the Rh-positive factor.

10 Q Okay. All right. Thank you. And I don't have
11 any other questions, but please answer anything that
12 Mr. Mureddu may have.

13 A Yes.

14 MR. MUREDDU: No questions of this witness.

15 THE COURT: Okay. Thank you very much. Have a
16 nice day.

17 THE WITNESS: Okay.

18 (Witness excused.)

19 THE COURT: All right. Call your next witness.

20 MR. HIXSON: Thank you. Weslyn Chickering.

21 WESLYN CHICKERING, after being duly sworn,
22 testified as follows:

23 THE CLERK: Please be seated. And if you will
24 state your full name and spell your last name for the
25 Court.

1 THE WITNESS: My name is Weslyn Lack Chickering,
2 C-H-I-C-K-E-R-I-N-G.

3 DIRECT EXAMINATION

4 BY MR. HIXSON:

5 Q Good afternoon, ma'am. How are you?

6 A I'm good. Thank you.

7 Q Could you please tell this jury what you do for a
8 living.

9 A Right now, I'm the general manager for Lack's
10 Beach Service.

11 Q And have you always done that? And, specifically,
12 let's get back around to April 9th of 2015.

13 A April 9th of 2015, I was the social worker at
14 Conway Medical Center.

15 Q Okay. And what does that role entail? What would
16 your job description be on a daily basis when you go to
17 work?

18 A Anything and everything. I was the social
19 worker/lead discharge planner, so basically, I would
20 see every patient to ensure a safe discharge plan, to
21 address any abuse or neglect concerns, all the way from
22 unborn children to death and dying, across the
23 lifespan.

24 Q Very good. So let's just zero right in on around
25 April 10th of 2015.

1 A Yes.

2 Q Were you working that day?

3 A Yes, sir.

4 Q And did you have an opportunity to come into
5 contact with the Defendant in this case, a Ms. Shelby
6 Harper Taylor?

7 A I did.

8 Q Could you tell this jury about what gave rise to
9 you coming in contact with this Defendant.

10 A The -- I got a consult through a nursing
11 assessment, actually. And, basically, when the nurse
12 meets with the patient on admission, they can go
13 through a list of criteria of different issues that we
14 may need to address. And the suspected abuse and
15 neglect box was checked, and Dr. Burney did ask that I
16 see the patient.

17 Q So did you, in fact, follow up and see the
18 patient?

19 A I did.

20 Q Could you just give us kind of a visual of what
21 that setting is like and what you did prior to having
22 the discussion with Ms. Taylor.

23 A I received my referral. Due to the excitement of
24 the issue at hand, I went ahead and saw her
25 immediately, reviewed the chart, spoke with the nurse.

1 Knocked on the door, met with the patient. There was a
2 police officer in the room, and he did excuse himself.
3 So the patient and I met alone.

4 Q And so you're alone in kind of a private setting?

5 A We're alone in a hospital room, yes.

6 Q Is that pretty therapeutically typical --

7 A Yes.

8 Q -- to have a one-on-one situation?

9 A For this particular issue, yes.

10 Q Okay. When you say "this particular issue," what
11 do you mean?

12 A We -- I was consulted to speak to the patient
13 about suspected abuse or neglect, so I wanted the
14 patient to feel safe enough to let me know if there
15 were issues that needed to be addressed.

16 Q Okay. And was the patient -- in that situation,
17 was she responsive to your questions? Did you guys
18 have a good conversation?

19 A We had a good -- yes.

20 Q Okay.

21 A When I would ask questions, they were very basic
22 answers, but I did get answers.

23 Q Okay.

24 A Yes.

25 Q And what is your primary focus? What is the

1 action line that you want to get from the patient for
2 you to make a decision about her discharge status after
3 your discussion? What are you trying to determine?

4 A Patient safety.

5 Q Safety. Whether -- if the patient is discharged
6 from the hospital, is she going to be safe to go
7 wherever she's going?

8 A Yes. And I knew that, at this time, that this is
9 a little bit of a different circumstance, that the
10 patient would probably not be returning to the home.
11 But I still considered it exactly the same, as I needed
12 to ensure her safety.

13 Q Okay. And so what kind of questions do you ask a
14 patient and what questions did you ask Ms. Taylor
15 specifically -- generally and specifically to assess
16 that concern?

17 A I think, as a social worker, everything that --
18 confidentiality is a big issue with the things that we
19 discuss. So I did want the patient to know that,
20 unfortunately, with the surroundings of this issue, we
21 probably were not going to be -- we weren't going to be
22 able to enforce confidentiality. But I wanted to let
23 her know that, as an employee of the hospital, I was a
24 patient advocate, so I was actually advocating for her
25 safety.

1 Asked who she lived with, if that person that she
2 lived with was hurting her. She mentioned that she had
3 another child. I asked where that child was that day.
4 She said she was with her mother. I asked her
5 specifically, "Do you feel safe at home?" And the
6 answer was yes.

7 Q Yes. So did you ask her specifically if there was
8 any abuse in the household that would make it unsafe
9 for her to go home?

10 A "Is anyone hurting you in your home?"

11 Q And the answer was?

12 A "No."

13 Q Okay. Did she indicate -- I guess, did you --
14 during the course of your evaluation to determine
15 whether you can safely recommend that she be
16 discharged, do you take notes or do you record that
17 information in any way to help refresh your
18 recollection about the conversation?

19 A I do not. But I make practice that, as soon as I
20 leave a room, I go to a computer to document.

21 Q Okay, okay. So that would be the documentation
22 that you have of the conversation, I guess,
23 memorializing what that is?

24 A It would have been in the medical record.

25 Q Okay. Specifically, I'd like to direct your

1 attention -- and let me show you -- I'm not trying to
2 put that document in evidence yet. I just want to
3 refresh your recollection, if you need it. Did she
4 express to you any particular concerns about lack of
5 family support or anything like that in the
6 conversations with you?

7 A No. In fact, I believe, in my notes -- give me
8 two seconds to read it to make sure I'm...

9 That she does have a good support system.

10 Q Okay.

11 A And that was following that her mother was keeping
12 her child that day.

13 Q Okay. And also, specifically above that, just --
14 I want -- to your recollection, did she give any
15 indication about her husband living with her and
16 whether or not he would ever hurt her, do you recall
17 what she said about that?

18 A Specifically that -- hold on -- that he would
19 never hurt her.

20 Q Okay. Were you confident in the responsiveness
21 and the nature of the answers the Defendant was giving
22 you? Do you think she was being forthright with you?

23 MR. MUREDDU: Objection, Your Honor. That's
24 asking whether you believe her or not.

25 MR. HIXSON: I'll withdraw that question. I don't

1 want to improperly bolster.

2 THE COURT: That question is withdrawn.

3 MR. HIXSON: Thank you.

4 Q Based on the conversation you had with this
5 Defendant --

6 A Um-hum.

7 Q -- and when you left the room, what recommendation
8 did you make concerning her discharge?

9 A To Dr. Burney, my recommendation was that, in
10 terms of suspected abuse or neglect, I did not pick up
11 on anything, but I also knew that a psychiatrist was
12 going to come and see the patient later that day to
13 handle any mental health issues. So I was very focused
14 on my one particular issue that I was consulted on.

15 Q Okay. So on your particular issue, you're
16 satisfied that you would be releasing her into a safe
17 environment, not into an abusive relationship?

18 A Yes.

19 MR. HIXSON: I have no further questions, Your
20 Honor.

21 THE COURT: Cross?

22 MR. MUREDDU: Thank you, Your Honor. May it
23 please the Court.

24 THE COURT: Yes, sir.

25 CROSS-EXAMINATION

1 BY MR. MUREDDU:

2 Q How do you say your name?

3 A "Wes-lin."

4 Q Ms. Weslyn?

5 A Yes.

6 Q All right. I've got a copy of your report -- or a
7 report. It says that you -- and I think you
8 testified -- you let Shelby know that she was going to
9 be meeting later, after you, with the psychiatrist;
10 right?

11 A Yes.

12 Q And one of the things you indicated in here was
13 you prompted her to be open with him.

14 A Yes.

15 Q All right. Now -- and what you do, if there is
16 abuse in any given patient, oftentimes they don't tell
17 you the truth, do they?

18 A Exactly.

19 Q Oftentimes they conceal the abuse, don't they?

20 A Um-hum.

21 Q Okay. That's why you want to prompt them, try to
22 get some trust to -- because you know frequently,
23 evidence of abuse or reports of abuse are not given; is
24 that right?

25 A Yes.

1 Q In your experience.

2 A In this particular case, I'm a patient advocate.
3 If she did not want to confide in me, I wanted to
4 prompt her to confide in someone.

5 Q But just in cases in general, it's quite common --

6 A For abuse to --

7 Q -- that somebody will -- a female will conceal or
8 anybody will conceal abuse that they're receiving?

9 A Yes, sir.

10 MR. MUREDDU: Okay. No further questions.

11 THE COURT: Redirect?

12 MR. HIXSON: No, sir.

13 THE COURT: All right. Thank you, ma'am. Have a
14 nice day.

15 (Witness excused.)

16 THE COURT: You may call your next witness.

17 MR. HIXSON: May I approach, Your Honor?

18 THE COURT: Of course.

19 (WHEREUPON, a bench conference was held off the
20 record in the presence of the jury but out of the
21 hearing of the jury.)

22 THE COURT: All right. The next witness is
23 supposed to be here at 2:30, and they may be running
24 just a couple of minutes behind, so we're going to take
25 a break. Do not discuss the case. Keep an open mind.

1 As soon as that witness gets here, I'll bring you right
2 back out and we'll jump right back into it. Okay?

3 Sometimes gauging how long witnesses take for
4 anybody involved in a case is next to impossible
5 because you don't always -- you don't always -- there's
6 too many different factors. So they do their best to
7 try to tell them what time to be here. So this won't
8 be a long break. As soon as the next witness gets
9 here, I'll bring you back out. Don't talk about the
10 case. Keep an open mind. We'll see you back in just a
11 few moments.

12 Everyone else remain seated. Thank you.

13 (WHEREUPON, the jury exited the courtroom at
14 2:28 p.m.)

15 (WHEREUPON, the jury came into open court at
16 approximately 2:32 p.m.)

17 THE COURT: Fastest break ever. I apologize.
18 That's just the way trials work. Sometimes those
19 things happen. All right. Now you may call your next
20 witness.

21 MS. WALKER: Dana Kiser.

22 THE COURT: All right. Ms. Kiser, please come
23 forward and be sworn.

24 DANA KISER, RN, after being duly sworn, testified
25 as follows:

1 THE CLERK: Please be seated.

2 THE COURT: What's this woman's name?

3 MS. WALKER: Dana Kiser.

4 THE COURT: She's not on the list.

5 MS. WALKER: Oh.

6 MR. HIXSON: Can we approach, Your Honor?

7 THE COURT: Oh, yeah.

8 (WHEREUPON, a bench conference was held off the
9 record in the presence of the jury but out of the
10 hearing of the jury.)

11 THE COURT: All right.

12 Is anybody related by blood or marriage, close
13 personal friends with, have any connection to -- say
14 your name, ma'am.

15 THE WITNESS: Dana Kiser.

16 THE COURT: -- Dana Kiser in any way, shape, or
17 form? Anybody know her, seen her, ever been treated by
18 her, have anything to do with her? No one is raising
19 their hand. Okay. All right.

20 You may proceed. We'll put the objection on the
21 record later. Go ahead.

22 THE WITNESS: My name is Dana, D-A-N-A, Osborne,
23 Kiser, K-I-S-E-R.

24 DIRECT EXAMINATION

25 BY MS. WALKER:

1 Q Ms. Kiser, how you are doing this afternoon?

2 A Fine. Thank you.

3 Q Thank you for being here. What was your
4 occupation in April of 2015?

5 A I was the director of women's services for
6 Tideland Health Waccamaw.

7 Q Okay. And what kind of a professional background
8 do you have or did you have for that job?

9 A As a registered nurse and a nurse leader for the
10 organization.

11 Q Okay. And approximately how long had you worked
12 in the nursing field?

13 A I had been with Tideland Health and in that field
14 for 12 years.

15 Q And are you now retired?

16 A I am.

17 Q Okay. And would you have any recollection of a
18 baby who, at the time, was known as Baby Girl Taylor
19 coming into your facility around April the 10th --
20 April 9th or 10th, 2015?

21 A I do.

22 Q Okay. And if I asked you if you recall what the
23 weight of that baby was, would you be able to recall
24 that off the top of your head?

25 A No, ma'am, not without the record.

1 Q If I show you this, would it recall your
2 recollection -- refresh your recollection?

3 A Yes, ma'am. This is Tideland's Health
4 documentation from our nursery documentation.

5 Q Okay. And would you please tell me what the
6 weight of the baby was.

7 A The weight is 8 pounds 4.6 ounces.

8 Q Okay. And would that be consistent with a viable
9 full-term baby?

10 A That's a determination by the physician.

11 Q Okay.

12 A But that -- yes, that would be a determination for
13 the physician, but eight pounds is a suitable weight
14 for a full-term infant.

15 MS. WALKER: Okay. I don't have any questions.
16 If you would please answer any that Mr. Mureddu has.

17 THE WITNESS: Certainly.

18 THE COURT: Cross --

19 MR. MUREDDU: No questions, Your Honor.

20 THE COURT: Okay. Thank you very much, ma'am.
21 You may step down.

22 (Witness excused.)

23 THE COURT: All right. You may call your next
24 witness.

25 MR. HIXSON: Your Honor, at this time the State

1 rests, Your Honor.

2 THE COURT: All right. Ladies and gentlemen, the
3 State has rested its case. I have some issues of law
4 that I have to take up outside of your presence. You
5 are still not allowed to discuss your case. You are
6 still to keep an open mind about the case, and we'll be
7 back with you in just a few moments. Thank you very
8 much.

9 Everyone else, remain seated.

10 (WHEREUPON, the jury exited the courtroom at
11 2:38 p.m.)

12 THE COURT: All right. Motions?

13 MR. MUREDDU: Your Honor, first, I would, just for
14 housekeeping, I don't -- obviously, that witness was
15 short. We don't have -- we don't need to be heard on
16 that witness.

17 THE COURT: Okay. Thank you.

18 MR. MUREDDU: All right.

19 Your Honor, at this time, we would move for a
20 directed verdict. I understand that some of these
21 issues are oftentimes questions of fact for the jury. I
22 would argue that there is no evidence to support the
23 element of malice, which is a requirement of -- one of
24 the elements of attempted murder. So based on that
25 ground, the lack of any evidence that supports an

1 indication of malice, direct or otherwise, we think is
2 lacking, and, therefore, we would move for a directed
3 verdict of not guilty. Thank you.

4 THE COURT: All right. Mr. Hixson?

5 MR. HIXSON: Your Honor, I'd just draw the Court's
6 attention to -- let's focus on the malice issue. I
7 think, as it relates to the element of the crime, we
8 certainly know that Baby Jane Doe Taylor -- ultimately,
9 later on, we know the name [REDACTED] Taylor -- is a
10 person. The question is an unlawful killing of a --
11 attempted unlawful killing of a person with malice
12 aforethought, either express or implied. We believe
13 the effort -- the Court will focus on the malice
14 element because it subsumes everything else, and that
15 is and a willful, intentional act.

16 The testimony is clear that this was a conscious
17 individual having birth and making a decision on her
18 own to place it in a situation to remove it from any
19 effort of help, and finally, literally, tying the knot
20 on it and secreting that child away to the point that
21 no one else would be in a position to help that child.

22 I'll draw your attention to the malice elements in
23 Ballington, Your Honor. That's 346 S.E. [sic] 262.
24 Specifically, in that case, Your Honor, our Supreme
25 Court or Court of Appeals, usually, shows that evidence

1 that the Defendant attempted to cover up the crime or
2 how the crime occurred was circumstantial evidence,
3 indicating a wicked or depraved spirit. So that's one
4 the reasons the statement was initially provided to
5 provide another basis for malice besides just a Mouzon,
6 wicked and depraved heart. So we'd rely on the
7 statements made to detectives, repeatedly given an
8 opportunity. Your Honor heard 45 minutes and some
9 times of vast silence when the substantial opportunity
10 to correct the record to avoid that problem. Under
11 Ballington, we believe that is circumstantial evidence.
12 That alone is enough to submit this case to the jury.

13 The Mouzon standard, Your Honor, that's by our
14 Supreme Court. That's 234 [sic] S.E. [sic] 655.
15 Malice does not necessarily import ill will towards an
16 individual who is injured but signifies, rather, than a
17 generally malignant recklessness of the lives and
18 safety of others or a condition of mind which shows a
19 heart regardless of social duty and fatally bent on
20 mischief.

21 We believe we've absolutely surpassed the Mouzon
22 standard of a wicked or depraved heart, not ill will
23 towards young child. If anything, actually a stale
24 will towards the specific individual, but malignant
25 recklessness of the life of the newborn child, and we

1 believe we have certainly carried our burden. Mouzon
2 and its progeny established that as a recognized malice
3 standard in South Carolina. For those reasons, Your
4 Honor, and any other questions Your Honor needs, we
5 believe we've carried our burden, and we'd ask to have
6 that submitted to the jury.

7 THE COURT: Mr. McCollum?

8 MR. MCCOLLUM: Your Honor, with the Court's
9 permission, may I add something to that?

10 THE COURT: Of course.

11 MR. MCCOLLUM: In looking at the malice standard
12 in anticipation of Your Honor's jury instructions, I
13 was looking at State versus King, which is the South
14 Carolina Supreme Court case which came out, looks like,
15 October 25th, 2017. Looks like an appeal from Judge
16 Nicholson in Charleston. I had sent it to Baily. I
17 haven't had a chance to ask her if she received it or
18 reviewed it yet. But one of the things -- and this
19 would apply to the jury instruction request later, too,
20 Your Honor. One of the things that the Court does is,
21 in affirming the Court of Appeals reversed an attempted
22 murder charge in a shooting with a pistol where someone
23 attempted to kill a cab driver, I think. But the Court
24 goes through this, you know, because we had assault and
25 battery with intent to kill and we had common law

1 ABHAN, and we codified it, and there was all these
2 different jury instructions back and forth. And the
3 Court really settles it, and they say, Considering the
4 legislative history as a whole, we conclude that
5 Section 16-3-29, which is the attempted murder statute,
6 they say is not a codification of the ABIK. Okay?

7 We find the General Assembly expressly repealed
8 the offense of assault and battery with intent to kill
9 and purposefully created the new offense of attempted
10 murder, which includes a specific intent to kill as an
11 element. Accordingly, we agree with the Court of
12 Appeals that the trial judge erred in charging the jury
13 that a specific intent to kill is not an element of
14 attempted murder. And then they go on to say that
15 cannot be deemed harmless.

16 Now, it's a fairly extensive opinion, and as part
17 of it, they go to a case out of state, and it's the
18 case of that they cite -- it looks like it's from
19 Nevada, Keys versus State, which is 766 P.2d 270. But
20 in that, apparently, they -- our Supreme Court felt
21 like that they had the same problem in Nevada and maybe
22 in other states. So one of the things that they did
23 here is they quote extensively from Keys, and one of
24 the things they say is that attempted murder can be
25 committed only when the accused acts are accompanied by

1 express malice, malice in fact. Then though go on in
2 the quote to underline, One cannot attempt to kill
3 another with implied malice because there is no such
4 criminal offense as an attempt to achieve an unintended
5 result, and attempt by nature is a failure to
6 accomplish what one intended to do. Attempt means to
7 try, means to -- an effort to bring about a desired
8 result; thus, one cannot attempt to be negligent or
9 attempt to have the general malignant recklessness
10 contemplated by the legal concept implied malice.

11 So certainly the case that they cite really
12 repudiates implied malice. And they go on to say, One
13 cannot be guilty of attempted murder by implied malice
14 because implied malice does not encompass the essential
15 specific intent to kill. And then, briefly, it goes on
16 and says -- talks about express malice.

17 So, you know, this is a quoting of the Nevada
18 case. All right? And our case, you know, ends with a
19 ruling, at least as to the attempted murder and malice,
20 that basically the trial judge in that case in
21 Charleston erred in charging the jury that a specific
22 intent to kill is not an element of attempted murder.
23 But I think it goes a little farther, too, and gets
24 into this issue of implied malice. And for purposes of
25 the motion for directed verdict, I would just add that,

1 in terms of the specific intent, and also it appears
2 that the implied malice or the negligence standard
3 would not be appropriate.

4 The other thing, too, is the Court talks about
5 briefly that, while it seems odd that an attempt
6 statute would be -- would require more -- would require
7 more of an intent, they go on to say that, whatever the
8 case may be, that they ruled that that's the truth,
9 that it's actually, in some ways, there's -- the
10 attempted murder requires more of a specific intent
11 than a murder case which could result -- come about by
12 other forms of implied malice. So I would add that for
13 the Court's benefit. I don't know if Mr. Hixson has a
14 copy of this case. I had e-mailed it to your law
15 clerk.

16 THE COURT: Yeah, I was puzzled by King the day
17 that I read it and still trying to figure out what it
18 says other than specific intent to kill and then an
19 attempted murder case is required. But they don't go
20 through -- so does that mean you give an implied malice
21 charge or not?

22 MR. HIXSON: My understanding of King, what I've
23 offered from the beginning, is pretty common sense.
24 Once our kind of common law morphed to assault and
25 battery with intent to kill was eliminated through the

1 statutory construction of the lesser-included attempted
2 murders. Then the distinction between lesser includeds
3 is malice aforethought. And so the King opinion, the
4 State's position is it makes sense. You know, now it's
5 very clear. If you try to kill somebody but the person
6 lives, it's attempted murder. But the malice element
7 is the same. It's specific intent to kill. And we
8 concede that -- not concede it; that's the law in South
9 Carolina. It is what it is.

10 To get to that decision, the Court pontificates
11 quite a bit with persuasive authority from other
12 jurisdictions, and it's also clear that our Supreme
13 Court has supported four different types of -- not
14 different types of malice. I think the proper charge
15 is it's not different types, it's different ways to get
16 there. In other words, we all agree that there can be
17 so -- some conduct that is so incredible, almost like
18 the pre-Belcher use of deadly weapon-type situation,
19 that it's clear that malice can be inferred by the
20 conduct, and the conduct of putting a newborn, a
21 helpless individual, in a trash can is an example of
22 someone that our court, under the Mouzon theory, has
23 established is appropriate. It's the law in the state
24 of South Carolina that malice does not necessarily
25 import ill will.

1 So it's true that they quote in the Nevada court
2 in talking about specific intent, but it doesn't change
3 the types of malice. Malice is still under the body of
4 murder case law and attempted murder case law. That's
5 the position that the State would take.

6 THE COURT: All right. At this point, the
7 standard before the Court at this point is Rule 19,
8 which is the criminal rule of procedure for directed
9 verdict, and the evidence that's -- supposed to take
10 the evidence in the light most favorable to the
11 nonmoving party, which would be the State, and I am to
12 consider the existence of the evidence and not the
13 weight of the evidence, and at this point, I believe,
14 based upon the testimony of the officers and the child
15 who found the baby and the paramedic and the medical
16 professionals and based upon her statement, that there
17 is enough evidence, considering the existence of it and
18 not the weight of it, for the case to go forward for a
19 jury determination on attempted murder.

20 Okay. Where are y'all with putting up witnesses?
21 Do y'all have people ready to go? Yes? No? Maybe?

22 MR. McCOLLUM: We really -- I guess, based on the
23 stipulations that we have with the Solicitor, we
24 thought the State's case would carry through today. I
25 don't think we're in a position to put up witnesses.

1 We may be able to get in that position if we need to.

2 In terms of tomorrow, I had a discussion with
3 Solicitor Hixson about -- because I understand the
4 Court's schedule. You have something which I guess
5 will take the balance of the afternoon tomorrow?

6 THE COURT: It's a death penalty hearing, so it
7 will probably take a couple of hours.

8 MR. McCOLLUM: Okay. And Mr. Hixson and I
9 discussed this, and we -- he posited that maybe we
10 should start in the morning, put up our witnesses and
11 possibly even finish the case Thursday. But we didn't
12 get a chance to ask Your Honor.

13 THE COURT: Okay. None of these lay witnesses
14 that y'all have can testify today?

15 MR. McCOLLUM: Well, if you want us to call some
16 witnesses, maybe we could just take a recess and let us
17 see what we can do.

18 THE COURT: I mean, it looks like a lot of these
19 people are family members. Stepmother, sister, uncle,
20 grandmother, father, mother. I mean, there's only one
21 expert on your witness list.

22 MR. McCOLLUM: That's correct.

23 THE COURT: Okay. All right. Let's go ahead and
24 advise her of her rights.

25 All right. Ms. Taylor, stand up for me. Okay?

1 And raise your right hand.

2 SHELBY HARPER TAYLOR, after being duly sworn,
3 testified as follows:

4 THE COURT: How old are you?

5 THE DEFENDANT: 26.

6 THE COURT: And how far did you go in school?

7 THE DEFENDANT: I went to high school.

8 THE COURT: Did you graduate?

9 THE DEFENDANT: Yes.

10 THE COURT: Okay. Good. Do you have any
11 schooling beyond that?

12 THE DEFENDANT: I have one year of college.

13 THE COURT: Okay. And where did you do that?

14 THE DEFENDANT: Horry Technical College.

15 THE COURT: All right. So you read, write, and
16 understand the English language okay?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you understand me okay?

19 THE DEFENDANT: Yes.

20 THE COURT: Okay. Are you under the influence of
21 any alcohol or drugs right now?

22 THE DEFENDANT: No, sir.

23 THE COURT: And I'm going to go over your rights
24 with you. Okay? So at any point in time, if you don't
25 understand something I say, you just let me know.

1 You're not going to bother me or offend me or upset me.
2 The purpose of this is for you and I to have a
3 conversation so that I can make sure that you
4 understand what your rights are; okay?

5 THE DEFENDANT: Okay.

6 THE COURT: All right. Now, at this time, I'm
7 going to explain some of your rights to you. If you do
8 not understand anything that I say, just let me know.
9 If you want me to explain anything in more detail, just
10 let me know. Do you understand me?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Okay. Now, we've reached the stage of
13 the trial where you may present your defense. You have
14 the right to claim the protections that are given to
15 you by the Fifth Amendment to the Constitution of the
16 United States. This amendment states in part that no
17 person shall be compelled in any criminal case to be a
18 witness against himself.

19 What this means is that you cannot be required to
20 testify in this case. You have the right to testify on
21 your own behalf; however, no one can make you testify.
22 This is a personal right, and no one can waive or give
23 it up except for you. All right?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: So if you decide to testify, then

1 you'll be subject to the same rules that govern other
2 witnesses, and you may be examined and cross-examined
3 on any relevant issue in this case.

4 Now, she has no criminal history; is that right?

5 MR. HIXSON: Nothing that's impeachable.

6 THE COURT: All right. Now, so if you decide to
7 testify, this decision on your part must be made
8 freely, voluntarily, and intelligently with the
9 knowledge and protections given to you by the Fifth
10 Amendment and the consequences of your decision to
11 testify. So if you decide not to testify, I will tell
12 the jurors that they cannot give the fact that you did
13 not testify any consideration whatsoever and that there
14 is to be absolutely no prejudice to you because you did
15 not testify. It is left entirely up to you whether or
16 not you testify. You may talk with your attorneys,
17 your family, or anyone else, but the final decision is
18 yours. Okay? Now, do you understand what I've
19 explained to you so far?

20 THE DEFENDANT: Yes, sir. Yes, sir.

21 THE COURT: Okay. And prior to today, have you
22 and your attorneys talked about this issue?

23 THE DEFENDANT: Yes.

24 THE COURT: Okay. And you don't need to tell me
25 what those conversations are, but this isn't a new

1 concept that I'm explaining to you; is that right?

2 THE DEFENDANT: Right.

3 THE COURT: Okay. And do you have questions about
4 what I've explained to you?

5 THE DEFENDANT: No, sir.

6 THE COURT: Do you understand all you've got to
7 say is, "Judge, I didn't understand that," or, "Can you
8 explain it a little bit more," and I'll be happy to
9 explain it more. Do you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And do you want me to explain anything
12 else to you?

13 THE DEFENDANT: No.

14 THE COURT: Okay. And do you want to talk to your
15 lawyers more at this time before answering the
16 question?

17 THE DEFENDANT: No.

18 THE COURT: Okay. And do you wish to testify in
19 this case?

20 THE DEFENDANT: Yes.

21 THE COURT: Okay. All right. Thank you very
22 much.

23 All right. How long do y'all need -- it's
24 3 o'clock -- to get set up?

25 MR. MUREDDU: 20 minutes, Your Honor.

1 THE COURT: All right. I'm going to tell the jury
2 we're going to be on a 20-minute break, and we'll start
3 back in 20 minutes. Thank you very much.

4 (WHEREUPON, a brief recess was taken at 2:55 p.m.)

5 THE COURT: All right. Is the State ready?

6 (WHEREUPON, the jury came into open court at
7 approximately 3:24 p.m.)

8 THE COURT: All right. Ladies and gentlemen,
9 welcome back. Sorry about the extended break.

10 Now, the State has rested its case. Now, as I
11 told you in the beginning, the Defendant does not have
12 to put on a case. They do not have to prove anything
13 because they are -- she is presumed to be innocent, and
14 the burden of proof lies with the State to prove her
15 guilt beyond a reasonable doubt, but the Defendant may,
16 if she chooses, present a case.

17 And Mr. Mureddu or Mr. McCollum, do you wish to
18 call any witnesses?

19 MR. MCCOLLUM: May it please the Court, Your
20 Honor.

21 THE COURT: Yes, sir.

22 MR. MCCOLLUM: At this time, the Defense calls
23 Shelby Taylor.

24 THE COURT: All right. Come on forward,
25 Ms. Taylor.

1 SHELBY HARPER TAYLOR, after being duly sworn,
2 testified as follows:

3 THE CLERK: Please be seated. Please state your
4 full name and spell your last name for the Court.

5 THE DEFENDANT: Shelby Harper Taylor, T-A-Y-L-O-R.

6 DIRECT EXAMINATION

7 BY MR. MCCOLLUM:

8 Q All right, Shelby. I want to ask you some
9 questions. Okay?

10 A Okay.

11 Q And I need for you to speak into the mic and
12 answer -- you know, try to say yes or no. Okay?
13 Sometimes we say "uh-huh" or "yeah," stuff like that,
14 so we -- try to remember to speak where you don't nod
15 your head. Okay?

16 A Yes.

17 Q So, in other words, don't talk like we always
18 talk. Just answer -- you know, use words.

19 A Yes, sir.

20 Q How old are you?

21 A 26.

22 Q And you understand that you're on trial here for
23 attempted murder; right?

24 A Yes, sir.

25 Q And you understand that you're on trial for

1 attempted murder for trying to harm your newborn child;
2 right?

3 A Yes.

4 Q Okay. And I want to go ask you a couple questions
5 about where you're from and your family and that sort
6 of thing. Okay?

7 A Yes.

8 Q Yes?

9 A Yes.

10 Q All right. And did you grow up in Horry County or
11 in the Myrtle Beach area?

12 A Yes, I grew up in Horry County.

13 Q And so you were actually born here?

14 A Yes.

15 Q Born in one of the hospitals here?

16 A Yes, Grand Strand.

17 Q You were born in Grand Strand Hospital?

18 A Yes.

19 Q And what year was that?

20 A 1991.

21 Q And who are your parents?

22 A Angie Harper and Chris Harper.

23 Q Are they here today?

24 A Yes.

25 Q They're here in the audience over here with the

1 other friends and family of yours?

2 A Yes. Yes.

3 Q Are all those people over there, your friends and
4 family, here to support you?

5 A Yes.

6 Q Do you know all of them by name?

7 A Yes.

8 Q Where did you go to elementary school?

9 A St. James Elementary.

10 Q And then after that where did you go? What's
11 next, middle school?

12 A Yes. St. James.

13 Q And then what happens after that? You went to
14 high school?

15 A Yes.

16 Q What high school did you go to?

17 A St. James High School.

18 Q And did you graduate from there?

19 A Yes.

20 Q What year did you graduate?

21 A 2010.

22 Q Okay. And how did you do in school?

23 A Okay.

24 Q All right. And do you have any brothers or
25 sisters?

- 1 A I have a sister.
- 2 Q What is her name?
- 3 A Samantha Harper.
- 4 Q And how old is she?
- 5 A 20.
- 6 Q Is she here today?
- 7 A Yes.
- 8 Q Is she married?
- 9 A No.
- 10 Q Does she have any children?
- 11 A No.
- 12 Q As you're here today, are you married?
- 13 A Yes.
- 14 Q And what's your husband's name?
- 15 A Patrick Taylor.
- 16 Q Is Mr. Taylor -- is he in the courtroom?
- 17 A Yes.
- 18 Q Can you point him out for us?
- 19 A He's in the back.
- 20 Q On the back row in the red shirt?
- 21 A Yes.
- 22 Q Okay. When did you get married?
- 23 A October 13th, 2013.
- 24 Q Was your daughter, [REDACTED], already born then?
- 25 A No.

- 1 Q And you have a daughter, [REDACTED]; right?
- 2 A Yes.
- 3 Q How old is she?
- 4 A She's four.
- 5 Q She's four. Where does she live?
- 6 A She lives with him and his parents, I believe.
- 7 Q All right. So describe -- what kind of wedding
- 8 ceremony did you have? Was it a big wedding?
- 9 A No, it was a small wedding.
- 10 Q Where was it?
- 11 A On Scipio Lane.
- 12 Q Okay. And then is Patrick's -- obviously,
- 13 Patrick's mother and father and those people are your
- 14 in-laws; right?
- 15 A Yes.
- 16 Q What's Patrick's mother's name?
- 17 A Sherry Taylor.
- 18 Q Sherry?
- 19 A Um-hum.
- 20 Q Is she present? Do you see her?
- 21 A I don't believe so.
- 22 Q Have you seen her here?
- 23 A No.
- 24 Q Okay. In terms of -- did you have a good marriage
- 25 or not?

1 A It was okay.

2 Q It was okay. Did you feel connected to your
3 husband and to -- did you feel connected to your
4 husband?

5 A Yes.

6 Q In your statement, I think you said that he was a
7 good husband; is that true?

8 A No.

9 Q All right. Were there ever things that he ever
10 did to you to harm you?

11 A Yes.

12 Q All right. And did you report those things?

13 A No.

14 Q To your knowledge, did anybody ever find out about
15 those things?

16 A Now, yes.

17 Q Okay. Well, prior to the date three years ago
18 when you gave birth, was anybody -- for example, was
19 Patrick's mother aware that there was maybe some abuse
20 or some controlling behavior?

21 A No.

22 Q Did you take steps to cover that up?

23 A Yes.

24 Q Now, in terms of your baby girl, [REDACTED], how old
25 is she now?

1 A She's four.

2 Q She's four years old. How old was she when your
3 baby, [REDACTED], was born?

4 A 16 months old.

5 Q So how old was she when she got pregnant -- when
6 you got pregnant?

7 A I was 21.

8 Q And did you try to hide your pregnancy from your
9 family?

10 A No, not that one.

11 Q All right. I'm talking -- let's switch now with
12 Baby [REDACTED]. Did you hide that pregnancy from your
13 family?

14 A Yes.

15 Q Did you get any kind of prenatal care?

16 A No.

17 Q Did your husband have an opinion about whether or
18 not you should have another baby?

19 A He didn't want us to at the time, no.

20 Q And do you know why?

21 A No.

22 Q What kind of mother were you to [REDACTED]?

23 A I was a good mom.

24 Q When you were pregnant with [REDACTED], did you seek
25 medical care?

- 1 A Yes.
- 2 Q Did you have prenatal care?
- 3 A Yes.
- 4 Q Did your family know that you were pregnant?
- 5 A Yes.
- 6 Q Did you give birth to her in the hospital?
- 7 A Yes.
- 8 Q What hospital was she born at?
- 9 A Waccamaw.
- 10 Q Were you on any birth control or trying not to
- 11 have a baby?
- 12 A With [REDACTED]?
- 13 Q Yes.
- 14 A No.
- 15 Q Were you concerned about getting pregnant?
- 16 A No. It wasn't a thought.
- 17 Q Did Patrick want to have another baby?
- 18 A I believe not at the time, no.
- 19 Q Did he say things like that he did not want to
- 20 have another baby?
- 21 A Yes.
- 22 Q During the time that you were married to Patrick
- 23 and you had your daughter, [REDACTED], were there times
- 24 that you were cut off from your family?
- 25 A Yes.

1 Q Were there times when you didn't communicate with
2 them?

3 A Yes.

4 Q Were there times that you avoided them?

5 A Yes.

6 Q Did they try to reach out to you?

7 A Yes.

8 Q And would you let them in, so to speak? Would you
9 let them have contact with you?

10 A No.

11 Q And do you know why?

12 A No.

13 Q Were you trying to hide things from them?

14 A No.

15 Q Have you ever been in any type of trouble?

16 A No.

17 Q On the night that -- and you gave birth to [REDACTED]
18 in your apartment; right?

19 A Yes.

20 Q And was that at Island Green?

21 A Yes.

22 Q Did you know you were going to give birth that
23 night?

24 A No.

25 Q When you went to bed that night, did you have a

1 thought that you were going to have a baby at home?

2 A No.

3 Q On that particular evening -- in terms of the
4 apartment, how many bedrooms are in the apartment?

5 A It was just the one bedroom.

6 Q A one-bedroom apartment. And who lived in the
7 one-bedroom apartment?

8 A Just me, [REDACTED], and Patrick.

9 Q You and [REDACTED]?

10 A And my husband.

11 Q And where -- describe your bed. Did you sleep in
12 the same bed with Patrick?

13 A Yes.

14 Q What size bed was it?

15 A It was a full, I believe.

16 Q And where did [REDACTED] normally sleep?

17 A In her crib, in our room.

18 Q So she was in her crib?

19 A Um-hum.

20 Q In the bedroom?

21 A Um-hum.

22 Q And how many bathrooms are in your apartment?

23 A Just one.

24 Q Where is the bathroom door? Does it open into
25 your bedroom or does it open into another room in the

1 apartment?

2 A It just opens up into our hallway.

3 Q And how far is the bathroom door from the bedroom
4 door?

5 A Not far at all.

6 Q At some point during the night, did you get up to
7 go to the bathroom?

8 A Yes.

9 Q And why was that?

10 A Because I was having some pain in my stomach, so I
11 kept getting up.

12 Q How many times do you think you got up?

13 A 50-plus.

14 Q Over and over?

15 A Yeah.

16 Q Was [REDACTED] awake?

17 A No.

18 Q Was your husband, Patrick, awake?

19 A No.

20 Q Did you ever attempt to wake your husband,
21 Patrick?

22 A A little bit, yes.

23 Q And is he a heavy sleeper?

24 A It depends.

25 Q At any time during the night -- well, when you

1 would get up, would you turn a light on?

2 A I had a light on in the bathroom.

3 Q And you kept that light on continuously?

4 A Yes.

5 Q Was that normal?

6 A No.

7 Q Did you sleep on the side of the bed that [REDACTED]
8 was on?

9 A Yes.

10 Q And is that closer or further from the door from
11 where Patrick was sleeping?

12 A It's further from the door.

13 Q What time did you go to bed that night, if you can
14 remember?

15 A I believe 10 o'clock.

16 Q Did Patrick go to bed at the same time?

17 A No. He went to bed earlier.

18 Q Earlier. At what time did you start getting up to
19 go to the bathroom?

20 A I believe it was like maybe 2:00.

21 Q 2:00 a.m.?

22 A Yes.

23 Q And what were you experiencing when you would go
24 into the bathroom at 2:00 a.m.?

25 A Just pain.

1 Q Where was the pain?

2 A In my lower stomach.

3 Q Did you know that you were having a baby?

4 A No.

5 Q How could you not know that?

6 A Because with [REDACTED], I mean, they broke my water
7 and everything, and I didn't really experience that
8 kind of pain.

9 Q So the pain was more intense this time?

10 A Yes.

11 Q And why didn't you wake up your husband and tell
12 him that you were in severe pain?

13 A Because I was scared.

14 Q What were you scared of?

15 A Him.

16 Q I'm sorry?

17 A Scared of him.

18 Q You were scared of him. Now, you had a phone;
19 right?

20 A Yes.

21 Q And you had friends' and family's number. You
22 could have called somebody; right?

23 A Yes.

24 Q If you thought you were in pain, you could have
25 called 9-1-1; right?

1 A Yes.

2 Q At some point, did your water break in terms of
3 being pregnant?

4 A Yes.

5 Q Where were you when that happened?

6 A On the bed.

7 Q In the bedroom -- in the bed with your husband?

8 A On the bed in the bedroom.

9 Q And what did you do after that happened?

10 A I went to the bathroom.

11 Q About what time was that, if you can remember?

12 A I think it was 4:00 maybe.

13 Q Were you in pain?

14 A Yes.

15 Q Did you take any medication?

16 A No.

17 Q Did you have any painkillers or anything to help
18 you?

19 A No.

20 Q Were you making noise? Were you screaming or were
21 you quiet?

22 A I was kind of quiet.

23 Q Were you being quiet intentionally?

24 A No.

25 Q Was that difficult to go through?

- 1 A Yes.
- 2 Q How long did this continue?
- 3 A Like two hours.
- 4 Q Eventually, did you give birth?
- 5 A Yes.
- 6 Q Was there a lot of bleeding?
- 7 A Yes.
- 8 Q Did you get -- was there blood in the bathroom?
- 9 A Yes.
- 10 Q Was there blood on the bath mat?
- 11 A Yes.
- 12 Q Was there blood all over you and all over the
- 13 toilet?
- 14 A Yes.
- 15 Q At some point -- now, you know at that point, you
- 16 know you had a baby; right?
- 17 A Yes.
- 18 Q You've had -- this is your second child. What did
- 19 you do? Did you wake your husband up?
- 20 A No.
- 21 Q Did you call anybody?
- 22 A No.
- 23 Q What were you thinking?
- 24 A I honestly wasn't -- nothing.
- 25 Q Did you think you were in some type of trouble?

1 A No.

2 Q Did you take the baby -- what about the umbilical
3 cord? Was the umbilical cord attached to the baby?

4 A Yes.

5 Q What about the placenta and the afterbirth? Did
6 it come out?

7 A Yes.

8 Q Did you have any clothes on? What were you
9 wearing?

10 A I think I was wearing a nightgown.

11 Q And then did you go and wake up Patrick?

12 A No.

13 Q Was he still asleep?

14 A Yes.

15 Q Did you take the baby and put it in a bag and take
16 it and discard it in the dumpster?

17 A Yes.

18 Q What floor is your apartment on?

19 A The second.

20 Q The second floor?

21 A Um-hum.

22 Q So did you go outside the door of your apartment?

23 A Yes.

24 Q You're wearing your gown?

25 A I believe so, yes.

- 1 Q And you walked down the stairs?
- 2 A Yes.
- 3 Q And you placed your baby in the dumpster?
- 4 A Yes.
- 5 Q And were you tired?
- 6 A Yes.
- 7 Q Were you exhausted?
- 8 A Yes.
- 9 Q Were you able to walk and do that under your own
- 10 power?
- 11 A Uh-hum.
- 12 Q Did you have any difficulty walking back up the
- 13 stairs to go back to your apartment?
- 14 A Yes.
- 15 Q When you went back in the apartment, what did you
- 16 do?
- 17 A [REDACTED] was waking up and then he had to get up.
- 18 Q So when you went back in, your 16-month-old
- 19 daughter was waking up?
- 20 A Yes.
- 21 Q And did you get her up?
- 22 A Yes.
- 23 Q Did you feed her?
- 24 A Not at the time, no.
- 25 Q What did Patrick do?

- 1 A He got up and got ready to go to work.
- 2 Q At some point before he got up, did you take
- 3 efforts to clean up the bathroom?
- 4 A A little bit, yeah.
- 5 Q Put stuff in the laundry? Put the towels and
- 6 stuff in the washer?
- 7 A Yes.
- 8 Q Yes?
- 9 A (Nodding.)
- 10 Q Did you take the bath mat, put it in the washing
- 11 machine?
- 12 A I believe so, yes.
- 13 Q So was that stuff cleaned up before Patrick went
- 14 in the bathroom?
- 15 A Yes.
- 16 Q Were you trying to hide that from him?
- 17 A A little bit, yes.
- 18 Q What about the bed? Was there amniotic fluid in
- 19 the bed?
- 20 A I believe so.
- 21 Q And blood? Was there blood on the sheets?
- 22 A Yes.
- 23 Q Did you and Patrick have any discussion about
- 24 that?
- 25 A No.

1 Q On that day, at some point, did you -- did [REDACTED]
2 have a doctor's appointment?

3 A Yes.

4 Q Did you take [REDACTED] to the doctor?

5 A Yes.

6 Q And where was the doctor's office?

7 A On Glenns Bay.

8 Q And did you drive your car to take your daughter
9 to the doctor's office?

10 A Yes.

11 Q And what was the purpose of going to the doctor?
12 Was she sick?

13 A She just had a regular check-up.

14 Q So, after all of this, you took your 16-month-old
15 to her well baby check-up?

16 A Yes.

17 Q And you had done that continuously since she was
18 born?

19 A Yes.

20 Q And that she -- was she okay?

21 A Yes.

22 Q Was she fine?

23 A Yes.

24 Q Did you do anything else that day?

25 A I went to my mother's house.

- 1 Q Did you talk to your mother?
- 2 A No. She wasn't home.
- 3 Q Was anyone there?
- 4 A No.
- 5 Q At some point, did you see yourself on the news?
- 6 A Yes.
- 7 Q Or did someone tell you that you were on the news?
- 8 A My grandma called my mom, and my mom called me.
- 9 Q That day, after giving birth, doing the things
- 10 that you did, did you get any rest?
- 11 A I believe that morning I did.
- 12 Q And you continued to care for your 16-month-old
- 13 daughter?
- 14 A Yes.
- 15 Q And, at some point, you went to the police
- 16 station; right?
- 17 A Yes.
- 18 Q And you went and went to talk to the police;
- 19 right?
- 20 A Yes.
- 21 Q And did you deny that you had done this?
- 22 A Yes.
- 23 Q And why was that?
- 24 A Because I was in denial.
- 25 Q When you went to the police department, had you

1 had any medical care?

2 A No.

3 Q And you had been up -- had you been up all night?

4 A Yes.

5 Q And when the police -- at some point, the police
6 arrested you; right?

7 A Yes.

8 Q And did they handcuff you?

9 A Yes.

10 Q And did they put you in a patrol car?

11 A Yes.

12 Q And where did they take you?

13 A Conway Hospital.

14 Q They took you from Socastee, Holmestown Road, down
15 there near -- on Scipio Lane and they drove you to
16 Conway Hospital; right?

17 A Yes.

18 Q And you were admitted to Conway Hospital?

19 A Yes.

20 Q And you had a medical exam there; yes?

21 A Yes.

22 Q And were you in the hospital for two days?

23 A I believe so, yes.

24 Q When you went to the police station, where was

25 [REDACTED] ?

1 A [REDACTED], I believe, was actually with my stepmom.

2 Q When you were at the -- I want to go back to the
3 hospital for a minute. When you were at the hospital,
4 were you handcuffed while you were in the hospital?

5 A No. Not in my room, no.

6 Q You weren't handcuffed to the bed?

7 A No.

8 Q Was there a police officer outside your door?

9 A Yes.

10 Q And when you were released from the hospital, did
11 you leave the hospital or were you handcuffed and led
12 out of the hospital?

13 A I was handcuffed and led out the door.

14 Q And taken to jail?

15 A Right.

16 Q Have you seen [REDACTED], your daughter, since this
17 happened?

18 A No.

19 Q Are you able to see her?

20 A No.

21 Q Are you court-ordered not to see her?

22 A Yes.

23 Q Have you seen the baby, [REDACTED], since this
24 happened?

25 A No.

1 Q Are you able to see her?

2 A No.

3 Q At some point, did you start seeking -- well,
4 during the pregnancy, did you ever seek any kind of
5 medical treatment?

6 A No.

7 Q Did you ever seek any kind of medication or mood
8 stabilizers or anything?

9 A No.

10 Q Get any kind of hormonal therapy?

11 A No.

12 Q Since this happened and since you got out of jail,
13 have you started seeing a counselor?

14 A Yes.

15 Q What is her name?

16 A Diane Winchester.

17 Q And when you first started seeing her, did you see
18 her biweekly?

19 A Yes.

20 Q And how often do you see her now?

21 A I see her once a month.

22 Q And why do you not see her as frequently?

23 A Well, I don't have insurance and it's really
24 expensive.

25 Q How much -- why do you not have insurance?

- 1 A Because I turned 26.
- 2 Q So your insurance expired?
- 3 A Right.
- 4 Q And do you know how much Ms. Winchester charges
- 5 for a session?
- 6 A \$100.
- 7 Q In addition to going -- so you've been going to
- 8 counseling for three years just about?
- 9 A Yes.
- 10 Q Do you think that that's helped you understand
- 11 this better?
- 12 A Yes.
- 13 Q In addition to seeing your counselor, Diane
- 14 Winchester, did you also go to be examined by
- 15 Dr. Robert McCarthy?
- 16 A Yes.
- 17 Q And how often did you see Dr. McCarthy?
- 18 A I think it was over a period of three weeks.
- 19 Q So you went repeatedly?
- 20 A Yes.
- 21 Q And did he conduct a diagnosis of you?
- 22 A Yes.
- 23 Q Shelby, would you consider this a planned
- 24 pregnancy?
- 25 A It was unplanned.

1 Q Did you feel any pressure from other people or
2 negative comments regarding the pregnancy or possibly
3 being pregnant or getting pregnant?

4 A Yes.

5 Q Did you feel that you were responsible and able to
6 care for an infant or did you feel overwhelmed?

7 A I felt responsible to care for one.

8 Q For whatever reason, did you think that you lacked
9 family support?

10 A Yes.

11 Q Is that true?

12 A Not now, no.

13 Q But you thought that?

14 A I thought that at the time, yeah.

15 Q Did you have any financial struggles?

16 A Yes.

17 Q Did you and Patrick believe that you were not
18 financially secure enough to have another child?

19 A Yes.

20 Q Did you ever think that, if you became pregnant,
21 that your husband might leave you?

22 A Yes and no.

23 Q In terms of what you think now, are you sorry for
24 what you did?

25 A Very.

1 Q Do you regret it?

2 A Yes.

3 Q Do you understand why you did it?

4 A No.

5 Q If you had a chance to go back in time, would you
6 seek medical help and seek your family's help?

7 A Yes.

8 Q Did you ever think something like this would
9 happen to you?

10 A No.

11 Q Did you ever -- are you scared?

12 A Very.

13 Q Are you concerned that you'll never see your
14 children again?

15 A Yes.

16 Q Is that hard to live with?

17 A Yes.

18 Q Do you think that you've inflicted pain on other
19 people?

20 A Yes.

21 MR. HIXSON: Your Honor, I object. A little
22 indulgent, but we have to deal with issues at trial. I
23 understand it's a lot of victim impact testimony, but
24 the witness's personal feelings aren't an issue in the
25 trial. I've let a lot go in, but we're starting to

1 talk about future, dangerous, and a lot of stuff.

2 THE COURT: Okay.

3 MR. HIXSON: I certainly would object to how
4 somebody feels.

5 MR. MCCOLLUM: I'm wrapping it up, Your Honor.

6 THE COURT: Okay.

7 Q Did you ever see yourself in here in this kind of
8 situation?

9 A No.

10 Q All right, Shelby. Those are all the questions
11 that I have. Okay? Please answer any questions the
12 prosecutor may have. Okay? Thank you.

13 THE COURT: Cross?

14 Do you need some water, ma'am?

15 THE WITNESS: I'm okay.

16 MR. HIXSON: Do you want to get a drink of water,
17 take a breath for a second?

18 THE COURT: Is there a cup up there?

19 MR. HIXSON: Yeah, I'll get you some.

20 THE COURT: Okay.

21 MR. HIXSON: Here you go.

22 THE WITNESS: Thank you.

23 MR. HIXSON: You're welcome. Just take a breath
24 for a second. You all right?

25 THE WITNESS: Yeah.

CROSS-EXAMINATION

1
2 BY MR. HIXSON:

3 Q Ms. Taylor, we hadn't met before, but it's great
4 to see that you do have tremendous family support.
5 It's really nice to see somebody with you to the end.
6 Is that safe to say?

7 A Yes.

8 Q So let's just talk a little bit about some of the
9 changes that have occurred during the course of this,
10 on the run up to a pregnancy until your discussions
11 with law enforcement until leading into what now is a
12 trial on the merits of your case. Okay?

13 A Okay.

14 Q And, specifically, I guess, your testimony today
15 about Patrick being an abuser. Okay? Because the jury
16 just got an opportunity, during the course of you
17 saying that you weren't pregnant and that you didn't
18 have a child, got to hear you say, I'd tell Patrick if
19 I was pregnant; Patrick's a good guy. Isn't that true
20 you said that?

21 A Yes.

22 Q Okay. As a matter of fact, I think you were
23 present at the time that Nurse Chickering -- she's a
24 social worker -- after the reports came forward and the
25 officers interviewed Patrick and said, Oh, my

1 goodness -- and, as a matter of fact, as you indicated,
2 Patrick is here in the courtroom today. And you told
3 those nurses there was no abuse at home. Isn't it true
4 that this is not an abusive situation? Isn't that what
5 you told Weslyn Chickering, as well as the folks that
6 were diagnosing you at the time of trial --

7 A Yes.

8 Q -- to try to help you?

9 As a matter of fact, isn't it true that you told
10 Dr. Oduwole during the course of your psychiatric
11 evaluation at the hospital, to make sure that you were
12 safe, "There's no abuse. I have great family support.
13 Patrick's not abusive." Isn't that true?

14 A Yes.

15 Q Let's get into a little more detail about that.
16 Okay? I just want to ask you to make sure that you
17 confirm some of the statements that you had given, and
18 let's just kind of be clear. After you were medically
19 examined to make sure that you're healthy that you're
20 okay, that you're not going to have any problems
21 because of the child, kind of the medical part of
22 stuff, and then, actually, you talked to Social Worker
23 Chickering to make sure that, if you were discharged,
24 you're going to be safe; isn't that true?

25 A Yes.

1 Q And then you talked to -- it's a mouthful --
2 Adedapo Oduwole. He was a psychiatrist at the hospital
3 to talk to you to see how you're doing, since it's an
4 odd fact pattern about putting your baby in a trash
5 can. That doesn't happen everyday; safe to say?

6 A Yes.

7 Q Okay. And do you recall telling him that the
8 patient is married, that this husband didn't even know
9 that the patient had any conception, and that the
10 patient had been hiding the pregnancy from the husband
11 and other family members? Isn't that true, you talked
12 with Dr. Oduwole about that?

13 A Yes.

14 Q For the past nine months -- so for nine months,
15 you had not told your husband or your family members
16 about that; is that true?

17 A Yes.

18 THE COURT: Yes, sir?

19 Okay, go ahead.

20 MR. HIXSON: Okay?

21 THE COURT: Yeah.

22 Q Okay. Specifically, when Dr. Oduwole is talking
23 to you at that time, which would have been April 10th
24 of 2015, "The patient has no significant history of
25 psychiatric illness." Isn't that true?

1 MR. McCOLLUM: Your Honor, I object. I don't
2 think this is a question. I think he's reading the
3 psychiatrist's report.

4 THE COURT: Okay.

5 MR. McCOLLUM: I think he's reading the doctor's
6 observations of the patient.

7 THE COURT: I think your line of questioning is
8 permissible, but I think you need to rephrase the way
9 you're asking the questions as opposed to reading from
10 the report.

11 MR. HIXSON: Yes, sir. I will make sure that I'm
12 quoting her statement she made to Dr. Oduwole, not his
13 observations. I agree with you.

14 THE COURT: Okay.

15 Q Okay. Isn't it true that you disclosed to
16 Dr. Oduwole that you didn't have any past history of
17 physical or mental illness?

18 A Yes.

19 Q Okay. I'll save that for later. Okay. And so
20 that interview, that discussion with a psychiatrist at
21 the hospital was on April 10th of 2015; is that right?

22 A Yes.

23 Q Okay. And so I know that you had just testified
24 to the jury that you had been undergoing psychiatric
25 treatment and help for this from the time of

1 Dr. Oduwole's assessment up until -- I guess your
2 testimony was you are currently under -- receiving some
3 help; isn't that right?

4 A Yes.

5 Q Okay. I'd like to bring your attention to
6 May 16th of 2016, so almost a year after you had that
7 conversation with Dr. Oduwole. Okay? By that time,
8 the charges had been pending against you for a little
9 over a year and a half; isn't that right?

10 A Yes.

11 Q Okay. And then isn't it true that the
12 recommendation, or at the request of your defense
13 counsel, you went to seek an assessment by McCarthy and
14 Associates, a psychiatrist here in Myrtle Beach; isn't
15 that right?

16 A Yes.

17 Q So more than a year had gone by, and in
18 preparation for a day before a jury, there was a
19 clinical assessment for you concerning a baby dumping
20 syndrome; is that safe to say?

21 A Yes.

22 Q And I'd like to specifically ask you, is it
23 true -- specifically referring to page 4, I guess -- I
24 guess I'll ask the question first -- that you did go to
25 counseling for one month after your arrest but then

1 discontinued at your own -- on our own behalf; that you
2 got some treatment, but then you, on your own, isn't it
3 true that you stopped going on your own, that you
4 terminated the treatment prematurely because you
5 weren't working? Isn't it true that you couldn't
6 afford it and you stopped treating -- you stopped
7 receiving treatment one month after arrest, which would
8 have been May of 2015, and then a year later, you come
9 back and you tell your forensic psychiatrist that puts
10 in a report, that's what you told him; isn't that true?

11 A I don't remember that.

12 Q Okay. Did you discontinue treatment one month
13 after your arrest?

14 A Of seeing him or seeing --

15 Q Seeing your -- I don't know who you were seeing,
16 but you told your psychiatrist, one year later, that
17 you stopped seeking treatment a month later -- a month
18 after you were arrested.

19 A I don't remember ever saying that.

20 Q I'll cross him on that. Okay. But there's no
21 question you just testified that you've been receiving
22 treatment this entire time?

23 A Yes. Yes.

24 Q Okay. All right. Let's talk about specific
25 things that you're referring to. As it relates to any

1 substantive abuse, have you ever called the police or
2 anybody or said that, "Patrick is beating me," or
3 there's a problem and come ask for help? Have you ever
4 called the police?

5 A No.

6 Q Okay. And I think that's what you testified to,
7 there was no outcry for it.

8 A Right.

9 Q Okay. But you did tell the police that Patrick
10 was a good guy?

11 A Yes.

12 Q Okay. Okay. Let's talk for a second about
13 whether or not there was any plan involved in this.
14 Okay? You had a previous child; that's true?

15 A Yes.

16 Q [REDACTED]; is that what you call her?

17 A Yes.

18 Q So, at some point in time during the gestation
19 period with this child, you had to come to know that
20 you were pregnant at some point in time?

21 A Yes.

22 Q Okay. Did you -- I understand and I'm treading
23 lightly. Okay? I think you testified earlier that the
24 first child wasn't planned with Patrick. As a matter
25 of fact, you and Patrick weren't married at the time;

1 isn't that true?

2 A Yes.

3 Q And then you, ultimately, I think it was on your
4 statement, chose to get married and provide a family
5 for the first child; is that true?

6 A Yes.

7 Q Isn't it true that you told Dr. McCarthy that you
8 received a fair amount of pressure and friction from
9 your family and criticism, I guess, about having the
10 first child out of wedlock?

11 A Yes.

12 Q Is that safe to say? And, specifically, isn't it
13 true that you told Dr. McCarthy, "I got lectured on the
14 first child, and I'm going to get one more," referring
15 to the second child, "if they found out"?

16 A Yes.

17 Q That you're going to get a lecturing the second
18 time. And that, specifically, isn't it true that you
19 told Dr. McCarthy that your plan was to finish your
20 degree and get your babies back and move on; that's
21 what your goal through the treatment was, that your
22 goal was to get your babies back?

23 A Yeah.

24 Q Okay. Let me point out a question to you that you
25 answered and ask if you recall your answer to this that

1 you gave Dr. McCarthy. And he specifically -- isn't it
2 true that you answered -- that you told Dr. McCarthy
3 during your forensic analysis that you knew that there
4 is a law in the state of South Carolina that provides
5 that mothers that don't want their infants can drop
6 them off, that you acknowledged that you knew that,
7 that you could take them to a hospital without penalty
8 or consequences; isn't that true?

9 A I knew that after. I was told that in the
10 interview.

11 Q So at the time of this interview, you say that you
12 didn't know it at the time of birth but you know it
13 now?

14 A I know it now, yes.

15 Q Okay. Let me ask a couple other questions for a
16 little bit. So during the course of this gestation
17 period, on the run up to it, every time you realized
18 that you were pregnant, isn't it true that you made a
19 conscious decision to not tell your husband or your
20 family?

21 A I was in denial that I was pregnant.

22 Q Oh, I understand that. But you actively did not
23 tell all the family support that you have and your
24 husband that you weren't pregnant?

25 A Right.

1 Q Isn't that true?

2 A Yes.

3 Q And so at the time that you have a child on
4 April 9th of 2015 -- and I think it's remarkably brave
5 to be able to be quiet, but the being quiet is part of
6 a plan for nine months; isn't that true? For nine
7 months of silence, to remain silent for a few more
8 hours, you were able to do that, weren't you?

9 A I don't know.

10 Q Okay. I'll calm down here in a second. Let me
11 ask you a couple more questions. Okay? You heard your
12 recorded statement, and in that statement, you maintain
13 for about 45 minutes that you never had a child. But
14 you also said, "I would love to adopt that child" --
15 "If I could, I would adopt it." Isn't that true?

16 A Yes.

17 Q And you also expressed concern, isn't it true,
18 about the financial situation in your family, that it
19 is a hardship? Isn't that true that Patrick goes to
20 work at 6 o'clock in the morning six days a week and
21 comes back about 6:00 at night, and it's a financial
22 difficulty, it's a struggle; isn't that true?

23 A Yes.

24 Q Do you recall talking to Dr. McCarthy and
25 specifically telling him that Patrick wanted -- that

1 you told him that you wanted to remain a stay-at-home
2 mom but Patrick continues to insist that you go back to
3 work?

4 A Yes.

5 Q And, in fact, I think you said -- isn't it true
6 that you told him that, "Daycare is so expensive, I'd
7 be working for nothing, so what's the point?"

8 A Yes.

9 Q And, in fact, I think you mentioned that your
10 intention was to have another child maybe in five years
11 and that it be a boy; isn't that true?

12 A Hopefully, yeah.

13 MR. HIXSON: Beg the Court's indulgence just for a
14 moment.

15 THE COURT: Sure.

16 MR. HIXSON: I have no further questions, Your
17 Honor.

18 THE COURT: All right. Redirect?

19 MR. MCCOLLUM: Briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. MCCOLLUM:

22 Q Shelby, in terms of having a plan, did you have
23 any way of knowing when the child would be born?

24 A No.

25 Q So you could have been -- you could have been

1 anywhere when you went into labor; right?

2 A Right.

3 Q Is this something that you planned to do?

4 A No.

5 Q You gave the statement to the police; right?

6 A Yes.

7 Q And were you truthful with the police?

8 A Not at the time, no.

9 Q When the psychiatrist talked to you about possible
10 feelings of abuse or neglect or being controlled, were
11 you truthful with the psychiatrist?

12 A Yes.

13 Q You were?

14 A Yes.

15 Q Okay. The doctor that examined you at the
16 hospital --

17 A Oh, no, I was not. Sorry.

18 Q The doctor that examined you at the hospital, how
19 much time did he spend with you?

20 A The one at the hospital?

21 Q Yeah.

22 A Not long.

23 Q Was it an hour?

24 A Maybe. Yeah, maybe even less than that.

25 Q Had you ever known him before?

1 A No.

2 Q Did he tell you that he was there to help you?

3 A Yes.

4 Q Did he tell you that he was a psychiatrist?

5 A Yes.

6 Q And did he talk to you about abuse and how that
7 affects people?

8 A Yes.

9 Q All right. Is there any reason why you just held
10 that back or didn't disclose that?

11 A I was protecting my husband at the time.

12 MR. McCOLLUM: Thank you. That's all I have, Your
13 Honor.

14 MR. HIXSON: Can I recross on one issue?

15 THE COURT: Yes, sir.

16 RECROSS-EXAMINATION

17 BY MR. HIXSON:

18 Q All right, Miss. You can't have it both ways now.
19 You were interviewed by two psychiatrists and law
20 enforcement, and for a year you deny any abuse; isn't
21 that true? For a year you deny any abuse to Cauble, to
22 the hospital folks; you deny it to a psychiatrist the
23 day after you dump that baby; isn't that true?

24 A Yes.

25 Q All right. And so a year after that, you go to a

1 hired psychiatrist, and you tell him the truth in
2 preparation for trial; isn't that true? Is that not
3 what you just testified to?

4 A Yes.

5 MR. HIXSON: No further questions.

6 THE COURT: All right. Thank you, ma'am. You may
7 step down.

8 (Witness excused.)

9 THE COURT: Do you have somebody else you want to
10 do this afternoon?

11 MR. MUREDDU: Yes, Judge.

12 THE COURT: Okay. And y'all approach real quick.
13 Sorry. Give me one second.

14 (WHEREUPON, a bench conference was held off the
15 record in the presence of the jury but out of the
16 hearing of the jury.)

17 (Discussion off the record.)

18 MR. MUREDDU: Your Honor, we would call Angie
19 Harper to the stand, Shelby's mom.

20 THE COURT: All right. Come on up, ma'am, and
21 please be sworn.

22 ANGIE HARPER, after being duly sworn, testified as
23 follows:

24 THE CLERK: Please state your full name and spell
25 your last name.

1 THE WITNESS: It's Angelea Harper, H-A-R-P-E-R.

2 DIRECT EXAMINATION

3 BY MR. MUREDDU:

4 Q Angie, tell the jury -- I think it's obvious, but
5 what's your relationship to Shelby?

6 A She's my oldest daughter.

7 Q Now, how old was Shelby when she and Patrick first
8 got together?

9 A She had dated him off and on, but it was probably
10 19, 20.

11 Q Okay. All right. Now, about how long were they
12 together before she got pregnant with [REDACTED]?

13 A Solidly together maybe six, eight months.

14 Q Okay. Now, was her pregnancy with [REDACTED], was
15 that planned?

16 A No.

17 Q Okay. Were they married at the time?

18 A No.

19 Q When did they get married? Shortly after?

20 A October, yes. She was...

21 Q Shortly after they discovered the pregnancy?

22 A Yes, sir.

23 Q Now, how old was Shelby when [REDACTED] was born?

24 A 21.

25 Q Okay. And, obviously, [REDACTED] is a girl?

1 A Yes.

2 Q Okay. Now, let's talk about the pregnancy with
3 [REDACTED]. Okay? Now, how did that unplanned pregnancy
4 affect yours and Shelby's relationship, the one with
5 [REDACTED]? How did you react?

6 A I wasn't happy because I wasn't pleased with her
7 relationship with Patrick to begin with. So, as a
8 mother, everything flashed in front of me about the
9 fact that she had quit school. You know, they were
10 living with other people. You know, they couldn't
11 afford to even have their own place, and here they're
12 going to bring a baby in this world, you know, that
13 without everything that they -- you know, not set up
14 the way that -- you know, nothing ever goes right, but
15 it just wasn't -- they weren't ready for that kind of
16 thing. And I wasn't pleased with the way Patrick
17 treated my daughter.

18 Q Okay. So it would be fair to say, then, based on
19 what you're saying, is you were disappointed with her
20 and the choices that she had made?

21 A Yes.

22 Q All right. That's fair. Okay. Now, did you make
23 it known to her or was it obvious to her?

24 A I did. I mean, yeah. I mean, as her mother, I've
25 always, you know, told her how I felt. Of course, I

1 like to feel down in my heart that she knows how much I
2 support her and that we would be there anyway, but I
3 mean, yes, immediately, it was complete disappointment
4 because I'm seeing her whole future and what I knew
5 she -- it was, Oh, I'll go back to school. And I
6 thought, No, you won't. I just -- she's my daughter,
7 and I just knew her. You know, she wouldn't do the
8 things that I had wanted for her life at that point
9 with someone that --

10 Q But you expressed those feelings?

11 A Yes, I did. I did. But it was with love, and
12 she -- you know, with the feeling that she would always
13 know that we were there for her.

14 Q But were they negative comments?

15 A Yes, they were. Yes. And that is from me and her
16 father and you know...

17 Q So --

18 A Yes.

19 Q She knew how you felt?

20 A Yes, sir.

21 Q You mention her father. Were others in the
22 family --

23 A Yes.

24 Q -- also, did they feel the way that you feel
25 today?

1 A Yes, sir.

2 Q Did they make the same expressions?

3 A Yes.

4 Q Was it obvious to her that -- how the family felt?
5 Was the family saying things to make it obvious?

6 A Yes, sir.

7 Q Now, let's talk a little bit about her
8 relationship specifically with Patrick. How would you
9 describe their relationship, Patrick's and Shelby's?

10 MR. HIXSON: Your Honor, I would object to that.

11 THE COURT: I'm sorry?

12 MR. HIXSON: I'm just objecting to --

13 THE COURT: I missed the question. What's the
14 question?

15 MR. MUREDDU: I asked her how she would describe
16 the relationship between Shelby and Patrick.

17 THE COURT: Okay. The objection is what?

18 MR. HIXSON: Just concerning about opinion
19 testimony versus what she perceives or doesn't
20 perceive, rather than opinion testimony on volatile or
21 whatever or loving or whatever it might be.

22 THE COURT: She can't speculate. She's got to
23 testify to something that she knows.

24 Q What you actually witnessed -- I'm sorry. Were
25 you around? Did you spend some time around her? Was

1 she and Patrick together in your presence?

2 A Yes.

3 Q I mean, holidays?

4 A Occasionally, yes.

5 Q Okay. All right. So let's talk about what you
6 witnessed. Was it good? Was it bad? What did you
7 see?

8 A It was bad. She -- I think she told me sometime
9 in April that she was pregnant, and it was about a
10 month later that they had got in a huge argument and
11 she moved home with me. And --

12 Q They split up?

13 A Yes. They -- yes. And he continually called, and
14 at that point I was more concerned about an unborn
15 baby. She wasn't eating, she was upset, and my concern
16 was with that. But him and her were just going back
17 and forth, and he was just cussing her. And I could
18 hear it, and I'd say, "Please just hang up the phone."
19 You know, just -- you can't do this.

20 Q You witnessed all this?

21 A I witnessed all this, and I heard him saying,
22 "Tell your mother to shut the F up. This is none of
23 her business," that type of thing. And so I just --
24 and she's just very easygoing, and she was so -- she
25 loved him so much that she just excused, you know, the

1 way he acted. And she stayed for a couple more weeks
2 -- well, no, actually, he had come to my house wanting
3 his ring back. And I walked out to the end of my
4 driveway, because I was in fear of her being alone with
5 him. And he about took the door off the car of the
6 person he was with, slammed it really hard, and got
7 right here, and he goes, "Why the hell are you out
8 here?"

9 MR. HIXSON: Your Honor, I'm happy to hear this,
10 but object. This is relating to hearsay information
11 from the witness.

12 MR. MUREDDU: Judge, this is personal knowledge.

13 MR. HIXSON: It's hearsay.

14 Q Without saying what -- without repeating word for
15 word what he said --

16 THE COURT: Objection sustained. You're not
17 allowed to say what he said, ma'am.

18 THE WITNESS: Okay.

19 Q I think you're describing a very heated
20 confrontation.

21 A Right. I was only out there for --

22 Q Profanity was used --

23 A Yes, profanity --

24 Q -- by him?

25 A Yes. And I was just worried because he's a very

1 big guy and he's a very -- I mean, even as an adult
2 woman, I was a bit feared myself, but I was protecting
3 my daughter.

4 Q Okay. All right. All right. Now, was -- as a
5 husband, was he a good provider to the family? Were
6 they --

7 A Well, I mean, he certainly went to work every day.
8 He works with his father, to my knowledge, in
9 construction, and he did go to work every day. As far
10 as a provider, yes, he did provide. She didn't work.
11 But, you know, Shelby didn't have much of an education
12 besides, you know, high school. So we knew whatever
13 job she was, wasn't going to, you know, give a whole
14 lot, so she didn't work in the beginning because babies
15 are expensive --

16 MR. HIXSON: Your Honor, I'd object. Is this
17 victim impact testimony? It's just narrative, almost
18 expert testimony on the foundation of an opinion.
19 These are broad themes, and they're not the element of
20 the crime charged.

21 THE COURT: All right. Ladies and gentlemen, step
22 back to your jury room. Do not discuss the case.
23 We'll be back with you in just a moment.

24 (WHEREUPON, the jury exited the courtroom at
25 4:20 p.m.)

1 THE COURT: All right. What's the objection?

2 MR. HIXSON: It's 402 relevance, Your Honor.

3 THE COURT: Yeah. What's this got to do with --

4 MR. MUREDDU: Judge, I gave you a copy of the
5 report as --

6 THE COURT: Okay. The report's not in evidence.

7 MR. MUREDDU: I understand that.

8 THE COURT: And the doctor hasn't testified.

9 MR. MUREDDU: May I be heard?

10 THE COURT: Sure.

11 MR. MUREDDU: Okay. What I want to do is lay a
12 foundation for what was going on in her life, a
13 history, known scientific risk factors leading to
14 transient peripartum psychosis, abuse and possible
15 abandonment by the spouse, rejection, lack of support
16 by the family, financial struggle, et cetera.

17 I'm getting into -- she knows -- she has personal
18 knowledge about this person's life, that marriage,
19 whether or not they were financially secure or not,
20 which is one of these things. I mean, we can get into
21 the doctor, but what I'd rather not have is, you know,
22 the Solicitor saying, well, you're just relying on
23 Shelby's word for these things being true; whereas, we
24 have objective evidence that all of these things that
25 existed in that marriage were true. I'm laying the

1 foundation for that.

2 THE COURT: Okay. But she's up here on a soapbox
3 going three miles off the train in response to your
4 questions.

5 MR. MUREDDU: Well, I'd be happy if you'll let me
6 lead her.

7 THE COURT: You've led her enough. The leading --
8 he hasn't been objecting to the leading. There's
9 plenty of leading going on, but she's not answering the
10 questions directly. She's answering the question and
11 then going off on her own personal opinions as to --
12 you know, I don't know. She needs to answer the
13 questions directly, not take an answer and use it as
14 her opportunity to say whatever she thinks or feels
15 about the situation. She needs to testify as to what
16 she saw or what she heard, not her guessing as to
17 whether or not they are -- I don't know how she can
18 testify as to whether or not they're financially
19 stable. She doesn't live with them. She wasn't living
20 with them. She has no knowledge as to how much money
21 he makes. She was -- the daughter wasn't even working,
22 and they had a small child. I mean, how can she
23 testify as to whether -- I mean, that's like asking my
24 parents am I financially stable but they don't live
25 with me and they don't live in the same house as me.

1 MR. MUREDDU: But, Judge, I think she just
2 testified that he worked for, I think, her husband.

3 THE COURT: I know.

4 MR. MUREDDU: May I continue my examination, Your
5 Honor?

6 MR. HIXSON: My concern additionally is, the
7 foundational information under 702 is subject to
8 cross-examination. The interviews with ma'am are in
9 the doctor's report.

10 THE COURT: Yeah, I know.

11 MR. HIXSON: The doctor's report can testify to
12 the foundation as a basis of his opinion, but this is
13 uncross-examinationable, if that's even a word -- sorry
14 for that -- to allow opinion testimony concerning --
15 that they thought they were stressed out, when the
16 reading off the narrative of what the doctor is going
17 to testify to, to make sure they hit every element,
18 when it's in the report itself. That's the basis for
19 my objection is 402 relevance. The doctor can testify
20 to that. She can testify to what she saw.

21 THE COURT: Yeah, she doesn't need to -- she's up
22 here giving us her opinion, which she can't do.

23 MR. MUREDDU: If I asked her -- I apologize.

24 THE COURT: Now, listen, Mr. Mureddu, I've got a
25 lot of patience. Okay?

1 MR. MUREDDU: Yes, sir.

2 THE COURT: What I'm not going to allow is you to
3 back-talk me. Okay? You understand?

4 MR. MUREDDU: Yes, sir.

5 THE COURT: Okay. Now, I sent the jury out of the
6 room so we can deal with this issue, and I -- I mean,
7 it takes a lot for me to lose my temper, but I'm not
8 going to allow you to back-talk me. Okay?

9 Now, what is the questions that you want to ask
10 her?

11 MR. MUREDDU: If I were to ask her a question, did
12 they ever have to borrow money, would that be relevant,
13 Your Honor?

14 THE COURT: Yes, that would be relevant. What she
15 can't do is she can't give her opinion about their
16 relationship. She's not -- opinion testimony is not
17 allowed. She can testify as to what she knows. If she
18 had to loan Shelby money, that's perfectly -- that's
19 evidence of them having -- that may be evidence of them
20 having financial issues, that may be evidence of -- I
21 know plenty of people who are lawyers who borrow money
22 from their parents because they want to have the right
23 kind of purse and the right kind of shoes and the right
24 kind of watch. So, I mean, that's not direct evidence
25 of a financial struggle.

1 But, yeah, I mean, the problem is she's not
2 sticking to the question. I'm going to allow you to
3 ask your questions. I understand why you're going
4 where you're going with her, but she doesn't need to be
5 giving her opinion. You with me?

6 MR. MUREDDU: Yes, sir.

7 THE COURT: Okay. All right. Bring them back in.
8 You understand what I'm saying, Ms. Harper?

9 THE WITNESS: Yes, sir.

10 THE COURT: I'm not fussing at you. You've never
11 been in court before. You don't know these things.
12 I'm just -- there's rules on how all these things work,
13 and we're trying to keep things within those
14 parameters. Okay?

15 THE WITNESS: Yes, sir.

16 THE COURT: Okay. Thank you.

17 (WHEREUPON, the jury came into open court at
18 approximately 4:26 p.m.)

19 THE COURT: All right. Welcome back, ladies and
20 gentlemen.

21 Mr. Mureddu, you may continue.

22 MR. MUREDDU: Thank you, Your Honor. May it
23 please the Court.

24 THE COURT: Yes, sir.

25 BY MR. MUREDDU:

1 Q Did you ever witness anything with Patrick
2 regarding drugs or alcohol abuse on his behalf?

3 A Well, yes and no.

4 Q Can you explain that, please.

5 A Well, when we got my daughter's car back after
6 everything happened, we -- they only had one car, which
7 was my daughter's car, and he took her car. He had her
8 car for about two weeks. And when we got it back, my
9 brother -- it wasn't ever in good shape, and she wasn't
10 going to be driving too much, so my brother had --
11 excuse me, my brother -- we were taking it to my
12 brother to repair, and then we were going to try to
13 sell it, and we found -- I found -- we found many pills
14 in the car and also some crushed pill up on the
15 dashboard.

16 Q Crushed-up pills?

17 A Um-hum.

18 Q Was Shelby ever involved in drugs?

19 A Absolutely not.

20 Q Patrick had the car?

21 A Yes.

22 Q Now, do you have any personal knowledge about
23 whether or not he was ever involved with a female other
24 than Shelby?

25 MR. HIXSON: Your Honor, objection on relevance on

1 Patrick. I don't understand the relevance. 402
2 relevance, Your Honor.

3 THE COURT: All right. Sustained.

4 Q As far as [REDACTED], Shelby's daughter, did you
5 witness Shelby mothering the child, caring for the
6 child?

7 A Yes.

8 Q All right. Do you think she provided proper care?
9 Do you think she was a good mother?

10 A Oh, definitely.

11 Q Did you ever witness her abuse or neglect the
12 child?

13 A No, sir.

14 Q Did you have any knowledge of the child being
15 abused or neglected by the mom?

16 A No.

17 Q I think Shelby testified to this, but what, if any
18 does she have, involvement in [REDACTED] now in her life?

19 A None at all.

20 Q Is that because of court order?

21 A Yes, sir.

22 Q Do you get to see [REDACTED]?

23 A Yes, we do.

24 Q We -- who is "we"?

25 A Any of the rest of your family. I mean, my --

1 Chris, her father, and I are able to see them with
2 proper -- I mean, we call or text and ask to see them.

3 Q Okay. But you have involvement?

4 A Yes, definitely.

5 Q Now, when Shelby got arrested surrounding this
6 case, what happened to the relationship -- is she still
7 with Patrick? What happened between that relationship?
8 Where is she now? What's going on there?

9 A She spoke to him a few times right after that, but
10 no, she immediately won't -- when we went to the
11 courthouse, you know, when she was arraigned, she's
12 been at my house ever since.

13 Q So they're not together as a couple?

14 A No, not at all.

15 Q She lives with you?

16 A She does.

17 Q Okay. Before this happened, had Shelby ever been
18 in any legal trouble?

19 A Oh, god, no.

20 Q Have you ever seen her to be abusive to family
21 members?

22 A No.

23 Q Friends?

24 A No.

25 Q Children?

1 A No.

2 Q Any cruelty to animals? Anything of that nature?

3 A Not at all.

4 Q Before this, have you ever witnessed her harm
5 anyone in any way?

6 A No.

7 MR. MUREDDU: Thank you, Angie. I have no further
8 questions.

9 THE COURT: Cross?

10 MR. HIXSON: Yes, sir.

11 CROSS-EXAMINATION

12 BY MR. HIXSON:

13 Q Hi, ma'am. You all right?

14 A Hi.

15 Q Just a couple of questions a little bit as it
16 related to, I guess, your knowledge of the goings-on
17 between Patrick and Shelby.

18 A Okay.

19 Q And, specifically, I think it became pretty
20 obvious in your earlier discussion that you didn't
21 approve of Patrick.

22 A Right.

23 Q And you were disappointed in an out-of-wedlock
24 birth with [REDACTED]; isn't that safe to say?

25 A Yes.

1 Q You made that apparently pretty well known. And
2 so the point -- isn't it safe to say that at the point
3 that there was an argument on the phone between you and
4 Patrick, and he's basically saying, "Let me talk to my
5 wife," isn't it reasonable to believe that he's
6 probably not that big of a fan of you either, if you
7 feel that aggressively badly against Patrick; isn't
8 that safe to say?

9 A Well, if I could clarify, he was talking to my
10 daughter on the phone, and I'm in the background going
11 "Please get off the phone, you're stressed, you have a
12 baby in your stomach, I'd like you to get off," and I
13 could hear him screaming.

14 Q Baby in her stomach? When is that: The first or
15 second one?

16 A The first one.

17 Q Okay. And then, specifically, I guess, the
18 question I have relating to -- even through all of
19 that, even throughout all the abuse that Patrick Taylor
20 is inflicting on Shelby, you just testified that the
21 mama loved him.

22 A That what? I'm sorry. I didn't hear you.

23 Q That she said during the fight that she still
24 loves him.

25 A Oh, sure. Well, not now. I mean, you know, at

1 that time, yes, she was, very much.

2 Q Just what you testified to is all I'm asking.

3 A Right.

4 Q And then kind of -- I understand -- let me back
5 up. And you're here in support of your daughter?

6 A Absolutely.

7 Q And you love her to death?

8 A Absolutely.

9 Q Do you recall meeting with Dr. McCarthy in
10 preparation for her evaluation for testimony at trial?
11 Do you recall --

12 A Do I remember going there?

13 Q And you specifically being interviewed by
14 Dr. McCarthy.

15 A Yes, I do.

16 Q Okay. And do you recall, just answering questions
17 from Mr. Mureddu, was Shelby a good mom for [REDACTED] and
18 your answer was "definitely"?

19 A Um-hum.

20 Q Do you recall talking to Dr. McCarthy and telling
21 him something different than that?

22 A No.

23 Q Okay. And I'll specifically bring to your
24 attention -- isn't it true that you told this
25 psychiatrist that, you told him that your daughter told

1 you she was only three months' pregnant right up until
2 the time she gave birth to the first child, and that
3 you told the doctor that [REDACTED] had absolutely no
4 relationship --

5 MR. MUREDDU: Your Honor, can he only ask one
6 question?

7 THE COURT: All right. Rephrase your question.

8 Q Isn't true that you told the psychiatrist, in
9 preparation for this litigation document, that, "Shelby
10 told me she was three months' pregnant with the first
11 child all the way up until the time she was born." And
12 that's the first child, [REDACTED]. That's what you told
13 the doctor?

14 A I'm really confused at what you're asking me.
15 Really, I'm just trying to understand what you're
16 saying.

17 Q Okay. I'll start -- I apologize.

18 A Okay.

19 Q I'm really not trying to trip you up.

20 A Okay.

21 Q I promise. It's about getting to the truth. I'm
22 setting up the question. On direct examination, you
23 answered Dean Mureddu's question.

24 A Uh-hum.

25 Q And Dean asked you, "Is Shelby a good mom?"

1 A Right.

2 Q And you said, "Definitely." "Definitely." But on
3 May 16th, or a little prior to that, 2016, do you
4 recall being interviewed by the psychiatrist,
5 Dr. McCarthy?

6 A Yes.

7 Q Okay. Do you recall having a background interview
8 with him in which you told him a lot of background
9 about Shelby and Patrick?

10 A Right.

11 Q Okay. And during the course of that interview,
12 isn't true that when asked, was she a good mother, in
13 that setting, you told him, that, quote, "Shelby had
14 absolutely no relationship with her first daughter."
15 And, in fact, she told you she was three months'
16 pregnant up until the point she was nine months'
17 pregnant and had the baby. Isn't that true that's what
18 you told Dr. McCarthy?

19 A No, I did not.

20 Q So this report is incorrect?

21 A There was some things that I pointed out to my
22 lawyers early on that that -- that Dr. McCarthy had
23 worded wrong or something. And I did bring that to
24 their attention, that there were some things that
25 weren't -- that he didn't hear me clearly on. But I

1 don't even remember seeing that part. I knew at four
2 months that my daughter was pregnant with her daughter.

3 Q So you didn't -- so this report has mistakes in
4 it?

5 A That -- yes, that part does, yes, it does.

6 MR. HIXSON: I have no other questions.

7 THE COURT: All right. Redirect?

8 REDIRECT EXAMINATION

9 BY MR. MUREDDU:

10 Q Is it not true that after this -- you saw
11 Dr. McCarthy after the arrest, sometime after the
12 arrest; right?

13 A Yes.

14 Q And from the moment of the arrest, Shelby had
15 absolutely no relationship with [REDACTED] from the moment
16 of arrest?

17 A From the moment of arrest, yes, sir.

18 Q Right. Okay. And you're telling the doctor that
19 she's got absolutely no relationship with [REDACTED]?

20 A Okay, yes. Definitely. I'm sorry.

21 Q Is that what you meant --

22 A Yes.

23 Q -- when you told the doctor --

24 A Yes. I just -- I honestly -- it's been so long
25 since I've seen that report, I had no idea what he was

1 even meaning. I had known about her pregnancy from
2 three months on with [REDACTED], the whole time. I knew
3 when she was due. We knew everything.

4 Q Okay. But would it be fair to say that the
5 reason -- well, I mean, she hasn't been able to see her
6 since the arrest?

7 A Sure.

8 Q And you saw the doctor -- this doctor --

9 A Right.

10 Q Is that what you meant?

11 A Yes.

12 Q Okay. Now, the prosecutor has vehemently
13 challenged the abuse of Patrick. Let me ask you this:
14 Did you ever see Shelby with injuries about her body?

15 A Yes.

16 Q What did you see --

17 A She had a black eye.

18 Q -- while they were together?

19 A She had a black eye.

20 Q All right. Do you know how she got that black
21 eye?

22 A She told me --

23 Q Without -- you can't say that. So you don't know
24 how she got the black eye?

25 A No.

1 Q Okay. All right. Did you ask her about the black
2 eye?

3 A Yes.

4 Q Okay.

5 MR. MUREDDU: No further questions.

6 MR. HIXSON: Just briefly, Your Honor.

7 RECROSS-EXAMINATION

8 BY MR. HIXSON:

9 Q And you can't answer that question because that's
10 a statement of a party opponent. That's a hearsay
11 exception. So you can say anything that she said; you
12 can't just say anything that the non-defendant said.

13 So at the time that you saw a black eye,
14 concerning -- did she tell you where it came from at
15 the time that you saw the black eye?

16 A At the time that I saw it, yes.

17 Q And what did she tell you, then, it came from?

18 A She said that her nine-month-old daughter threw a
19 toy at her --

20 Q Okay.

21 A -- and it made that big of a black eye.

22 Q That big of a black eye?

23 A Um-hum.

24 Q Because it's discussed in this report as well.

25 And so you stand by the fact that, besides that, that

1 you told counsel that there are mistakes in this report
2 and brought it to counsel's attention prior to trial;
3 isn't that correct, what you just testified to?

4 A Yes, but it was things about my husband and I, not
5 about her.

6 Q Okay.

7 MR. HIXSON: No further questions.

8 THE COURT: Okay. You can step down.

9 THE WITNESS: Thank you.

10 THE COURT: Thank you.

11 (Witness excused.)

12 THE COURT: All right. Ladies and gentlemen,
13 we're going to go ahead and stop there for the evening.
14 We've been going all day, and y'all have done a good
15 job of staying with us and staying awake and paying
16 attention. So we're about to take a break for the
17 evening. At this point in time, I want to remind you
18 of your promise to me, your promise to the parties,
19 your promise to the lawyers, your promise to each
20 other, and your promise to yourself that you will not
21 discuss this case with anyone in any way, shape, or
22 form; you will not do any research about this case in
23 any way, shape, or form; you will not watch, read,
24 listen to, or follow any type of news reports about
25 this case in any way, shape, or form.

1 We're going to start tomorrow morning at 9:30, and
2 we'll be ready to go at that time. If you want to come
3 a few minutes early, Ms. Danna may have something for
4 you to snack on. I do have -- for scheduling purposes,
5 I do have another hearing completely and totally
6 unrelated to this case tomorrow afternoon, so depending
7 on where we are in the case, we may or may not have
8 tomorrow afternoon off. I'll be able to give you some
9 more instructions about that as the morning progresses.
10 Okay? So thank you very much. I appreciate your
11 service.

12 Everyone else remain seated while they are
13 released for the evening.

14 (WHEREUPON, the jury exited the courtroom at
15 4:40 p.m.)

16 THE COURT: Anything from the State before we
17 break?

18 MR. HIXSON: No, sir.

19 THE COURT: From the Defense?

20 MR. MUREDDU: Nothing, Your Honor.

21 THE COURT: All right. Thank you very much. 9:30
22 mañana.

23 MR. MUREDDU: And Shelby actually reminded me, do
24 we have --

25 THE COURT: Oh, yeah, okay. Very good. Thank you

1 very much. I'm going to let the -- does the State want
2 to take an official position on her staying out?

3 MR. HIXSON: We concur with everything you've
4 said. There's no indication that she's --

5 THE COURT: All right. Ms. Taylor, your behavior
6 during this trial has been exemplary. Your case has
7 been pending for almost three years. You've had
8 absolutely no issues on bond. Your bondsman agreed to
9 stay on your bond. Your behavior here in court and
10 throughout this trial has been exemplary. I've dealt
11 with defendants who do all kinds of crazy things in
12 court, things that most people can't even imagine.

13 So I'm going to allow you to remain out on bond
14 and go home tonight. Once we get to the point where
15 closing arguments are over and the jury begins
16 deliberating, you know, I'll let you stay in the
17 courtroom, but if that ends up going overnight, I will
18 take you into custody at that point because the
19 bondsman stated that that was as long that he would
20 stay on the bond.

21 But your behavior has been fine. You've been
22 here, you've been on time, you've been appropriate.
23 Your behavior's been appropriate. Your family's
24 behavior has been appropriate. And so I believe, based
25 upon all those circumstances and the fact that your

1 case has been pending for almost three years and you've
2 attended all your court appearances and you have
3 retained lawyers, you have an expert coming in the
4 morning, y'all have a lot invested in this case, so I
5 will allow you to stay out on bond tonight.

6 Again, if you don't show up tomorrow, you know,
7 the case will go forward without you, but I believe
8 that you're kind of in a unique situation, and I
9 normally don't do that, but I will let you do that
10 under these circumstances.

11 THE DEFENDANT: Thank you.

12 THE COURT: Okay? All right.

13 MR. MUREDDU: Thank you, Your Honor.

14 THE COURT: Thank you very much. Thank you-all
15 for reminding me of that. I appreciate it. I had a
16 note -- and I don't know where it's gone -- to remind
17 myself of that. Thank you for reminding me.

18 (The hearing adjourned at approximately 4:43 p.m.)

19 (The hearing resumed on Wednesday, February 7,
20 2018, at approximately 9:36 a.m.)

21 THE COURT: Okay. Thank you very much. Good
22 morning. Take your seats.

23 All right. State ready to go?

24 MR. HIXSON: We are, Your Honor. We have a couple
25 matters before the jury comes out.

1 THE COURT: Okay. Go ahead.

2 MR. HIXSON: I just want -- at this point in time,
3 my understanding, and correct me if I'm wrong, I think
4 we're probably moving into the point where we receive
5 testimony from defense counsel's expert, probably
6 getting close to be called next.

7 MR. MUREDDU: Close.

8 MR. HIXSON: Nonetheless, I just wanted to renew
9 my objection, I would say, or my motion that I filed
10 pretrial. Maybe renewing it is not quite the way of
11 saying it. Bring it to the Court's attention that it
12 was the State's understanding that we were not trying
13 to exclude, pursuant to Santiago, the testimony of the
14 expert because there was another basis for the
15 testimony, something other concerning voluntariness or
16 something else. But if it gets into the point that
17 we're once again talking about diminished capacity and
18 we're specifically asking ultimate questions, and that
19 is, what is the mental state of this Defendant, we --
20 that is violative of state law, we object to that.
21 It's similar in a DUI trial for someone to change the
22 blood alcohol content and the Defense arguing, in South
23 Carolina, the blood alcohol content is .18, and that's
24 absolutely not the law of the State of South Carolina.
25 It's intentionally misleading to the jury, and it's

1 violative of four point -- 402 and 403.

2 I want Defense to put their case up, but as the
3 prosecutor of the State of South Carolina, I really
4 can't let a falsity go on that the law is not what the
5 law is, and I have to object to that. I just wanted to
6 bring it up to the attention of the Court. I usually
7 try not to object much, but I will be compelled to
8 object if we get into diminished capacity, which is not
9 recognized in South Carolina.

10 THE COURT: All right, Mr. Mureddu.

11 MR. MUREDDU: Judge, one of the things that I'm
12 going to attempt to do today is to be very careful when
13 we get to the doctor's ultimate diagnosis and opinion
14 as to her actions. I can tell you this: Basically, my
15 plan is to qualify him as an expert, to go through what
16 he actually did in his examination of her, all the
17 psychological testing, brain scans, et cetera.

18 THE COURT: Okay.

19 MR. MUREDDU: I'm then going to cover what is --
20 what is postpartum depression, what is peripartum
21 depression, what is transient peripartum psychosis,
22 what the symptoms are. Now, again, I'm just in general
23 now.

24 THE COURT: I'm with you.

25 MR. MUREDDU: Okay. And then what are the life

1 factors, circumstances which can lead to this disorder.

2 Okay?

3 THE COURT: Okay.

4 MR. MUREDDU: And then, lastly, then, I will go
5 into, okay, you examined her. You know, what are your
6 opinions/conclusions as far as, you know -- well, I'm
7 going to try to limit it to, Judge, you know, it's
8 like, for instance, it's like they've made, you know,
9 how she was behaving: Calmly versus erratic -- you
10 know --

11 THE COURT: Emotional.

12 MR. MUREDDU: Emotional. Those --

13 THE COURT: At least that's an example, right.

14 MR. MUREDDU: Those type of bearings. It's like,
15 you know, is that -- those type of state of minds. Are
16 those how those factors affected, that's state of mind
17 of her. And, I guess, again, when we get into what his
18 ultimate diagnosis is, he's going to say that in his
19 expert medical opinion, that she was experiencing the
20 syndrome, the transient peripartum psychosis.

21 Now, as to elements of crime, I'm going to try to
22 stay away from those, and from what I understand, that
23 would be when the objections, I imagine, will come
24 raining in --

25 THE COURT: Okay.

1 MR. MUREDDU: -- if he believes or if the Court
2 believes I've crossed the line.

3 THE COURT: All right.

4 MR. HIXSON: That's correct. And just to preview
5 a little bit, we will challenge the doctor's
6 qualifications. We understand he's only a licensed
7 counselor, not a Ph.D. in psychiatry.

8 THE COURT: I'll let you voir dire him and all
9 that good stuff, yes. We'll go forth in its normal
10 course of business.

11 MR. MUREDDU: But, Judge, I don't think that we're
12 going to start --

13 THE COURT: I think your logic of how you're
14 progressing through makes sense, and that general
15 outline helps me follow so I can -- and I know it's
16 hard to believe that judges are always paying
17 attention, but I really am always paying attention.
18 And so that will help me track through it as to, okay,
19 this is kind of where he is now; this is where he's
20 going next. And so -- and I'll have my radar up. But,
21 I mean, if you need to object, you know, just stand up
22 and object. And even if it's something we need to stop
23 and send the jury out, you know, we can stop and send
24 the jury out without it being a big production, and we
25 can handle it and take care of it and proffer what we

1 need to proffer and come back and do those things.

2 MR. MUREDDU: Okay.

3 THE COURT: Okay?

4 MR. MUREDDU: There is one other matter, Judge.
5 Counsel is aware. I've got two visual aids --

6 THE COURT: Okay.

7 MR. MUREDDU: -- which cover the definition of
8 transient peripartum psychosis and known clinical risk
9 factors that lead to that. He's seen them.

10 THE COURT: Okay.

11 MR. MUREDDU: I intend to use them, like, on the
12 podium.

13 THE COURT: Okay.

14 MR. MUREDDU: I'm old school. I don't do
15 PowerPoint.

16 THE COURT: That's fine with me.

17 MR. MUREDDU: And the State has reviewed those.

18 THE COURT: Okay. And are we doing another
19 witness before the doctor?

20 MR. MUREDDU: I believe that we are, Judge.

21 THE COURT: Okay.

22 MR. McCOLLUM: I was going to recall one witness.

23 THE COURT: Okay. Who is that?

24 MR. McCOLLUM: Angie Harper.

25 THE COURT: Okay. What's the State position on

1 that?

2 MR. HIXSON: I'll defer to the Court. If it's
3 some other matter that we haven't --

4 THE COURT: I mean, is it going to be some other
5 matter?

6 MR. HIXSON: -- question her on the basis for
7 the --

8 MR. McCOLLUM: No. It has to do with the
9 allegation that was made that she, Shelby, had no
10 relationship with her daughter, [REDACTED]. And it's just
11 basically a question of the pronoun "she." If the
12 doctor's report had written and put a name in there, it
13 would have been clear. So it won't take long. I just
14 want to go through that as to what happened.

15 MR. HIXSON: All I would say about that is the
16 witness denied that. I didn't follow up with questions
17 on it and said she was a good mom, and I don't intend
18 to cross the doctor as it relates to [REDACTED]
19 relationship with her mother. I accepted that answer
20 as correct, and to the point the witness, I thought,
21 was pretty adamant about there are mistakes in this,
22 and that's not true. And I can't attack her
23 collaterally with any other collateral matters, so I
24 think the answer -- it's not materially misleading to
25 the jury. The witness specifically said she has a good

1 relationship, she's a good mother, and that is not true
2 what's in that report.

3 MR. MUREDDU: Judge -- I'm sorry.

4 MR. HIXSON: Go ahead.

5 MR. MUREDDU: As the Court is aware, I tend to get
6 spirited. I'm struggling with being relaxed. I didn't
7 know Mr. McCollum was going to do that, but there was
8 one thing I was going to bring to the Court's
9 attention, and this is the reason why I think we need
10 to recall that witness.

11 Basically, Judge, the Solicitor used the doctor's
12 report when he was cross-examining Shelby --

13 THE COURT: Right.

14 MR. MUREDDU: -- and Angie. Okay? And he
15 misstated, made material misstatements about what was
16 contained in the report. Now -- and with that
17 specifically, I want to find it first and then I'll --

18 MR. HIXSON: I got it right here, Dean. You can
19 read it.

20 THE COURT: What page do you want me to go to?

21 MR. HIXSON: It's page 6. And I'll read word for
22 word. And it is a confusing sentence, and let the
23 Court hear it word for word. It says, quote, "During
24 the first" --

25 THE COURT: Hold on.

1 MR. HIXSON: I apologize, Your Honor.

2 THE COURT: I mean, I've read this entire report.
3 It took me probably over an hour of my life. But there
4 is a lot words on page 6, so what paragraph?

5 MR. MUREDDU: Judge, I would rather read it, if
6 that's okay, just so --

7 MR. HIXSON: That's fine. Page 6, the third
8 paragraph up from the bottom, Judge.

9 MR. MUREDDU: Okay. Here's what is written.
10 "During the first pregnancy." Now, what we're talking
11 about is the pregnancy with [REDACTED]. "Patient's
12 mother," who is Angie, "said her daughter claims she
13 was just three months' pregnant right up until [REDACTED]
14 was born and that she had absolutely no relationship
15 with her daughter during this time."

16 Now, the "she" is -- "she" is Angie, had
17 absolutely no relationship with her daughter. Her
18 daughter is Shelby. So, basically, what Angie told the
19 doctor was, Look, when she was pregnant with her first
20 child, I didn't have any relationship with her.

21 Now, what the Solicitor said on the record was he
22 said, "Didn't you tell the doctor that Shelby had no
23 relationship with her daughter"? That's the alle- --
24 that's what he was saying the report says, and it
25 doesn't say that.

1 MR. HIXSON: That is what I questioned her about.
2 That is what I questioned her about because I misread
3 the statement, too. And what I first said, "Isn't it
4 true that Shelby kept telling you," Mom, "that she was
5 only three months' pregnant?" And she kept saying that
6 right up until the time the first baby was born, is
7 what my first question was.

8 MR. MUREDDU: That's fair.

9 THE COURT: That's a fair question.

10 MR. HIXSON: And the second was, "And that she
11 didn't have any relationship with the daughter." I did
12 misread the "she," meaning Shelby, not Mom to Daughter,
13 but Shelby to the -- I did misread that because it's an
14 awkwardly written sentence. But having said that, if
15 the Court wants to recall to clarify that, that's fine.
16 But Mom did deny and said, No, that's not true; she was
17 a good mom. I don't how she knows that when she's not
18 reconciled with it, but maybe after the fact they
19 reconciled and everything is okay then. But during the
20 course of the pregnancy, she said she didn't have
21 contact. That's true. I did misread it and asked
22 thinking that Mom didn't have contact -- that Shelby
23 didn't have contact with [REDACTED] when Mom didn't have
24 contact with Shelby, apparently, according to the
25 doctor's report. That is true.

1 So if the Court's wants to recall the witness and
2 have Mom say --

3 THE COURT: I mean, I thought she cleared it all
4 up.

5 MR. MUREDDU: Well, Judge -- and again, if I
6 may --

7 THE COURT: I mean, I think the story from the mom
8 at this point to the jury is they weren't happy with
9 Patrick, they weren't happy with how they treated
10 Patrick. He went to work every day. Found pills in
11 the car. Shelby is not involved in drugs. She saw
12 Shelby parent [REDACTED], and Shelby did a good job. Never
13 saw her harm [REDACTED]. The parents get to see [REDACTED]
14 now. Shelby lives with her now. Shelby has no history
15 of violence. The mom didn't approve of Patrick. The
16 mom was not happy about pregnancy number one. And
17 there are some incorrect statements in Dr. McCarthy's
18 report. And they knew everything about [REDACTED] even
19 her due date, and were involved in her life.

20 So what is she going to add this morning?

21 MR. MUREDDU: Well, Judge --

22 THE COURT: Whoever wants to. I don't care.
23 Whoever wants to talk is no matter to me.

24 MR. MUREDDU: What the Solicitor said to Angie is,
25 "You told the doctor that Shelby didn't have anything

1 to do with her daughter."

2 THE COURT: Right. And she denied that.

3 MR. MUREDDU: All right. But I would be satisfied
4 with a curative instruction that, when the Solicitor
5 indicated -- said the report said that Angie told the
6 doctor that Shelby didn't have anything to do with the
7 daughter, that that was a misstatement of the report.
8 That's the point that I want to make. That's a
9 complete misstatement of the report.

10 He's going to be challenging today the truth of
11 this report, and he's already, wrongly so, created in
12 the jury's mind, Look, this report is not right. Well,
13 the report is right; he just misstated what the report
14 said. He said the report says --

15 THE COURT: Whoa, Whoa, Whoa. That's a broad
16 generalization. I will allow her to be called for the
17 purpose of the fact that -- I mean, it's so -- we're
18 talking about this weirdly shaped issue.

19 So she's going to come up here and say that the
20 time period in question in the paragraph -- paragraph 6
21 is during Shelby's first pregnancy, while she was
22 pregnant with Sophia. During this time, according to
23 the doctor, the mother said Angie had no relationship
24 with Shelby and that they didn't reconcile until [REDACTED]
25 was born. I mean, I don't know how you can have a

1 relationship with a child, meaning Shelby and [REDACTED],
2 that isn't even conceived yet. I mean, the idea is
3 even kind of a foreign concept.

4 I'll allow her to be recalled, but I'm going to
5 allow her to be cross-examined again, of course.

6 MR. HIXSON: I don't mind necessarily entering
7 into a stipulation because the truth is the truth. I
8 thought it was intentional because --

9 THE COURT: Well, I mean, the problem with that
10 statement, Mr. Hixson, is Angie Harper has testified
11 opposite from what's in the report.

12 MR. HIXSON: I understand.

13 THE COURT: She's directly contradicted the
14 report. So the truth is the truth. At this point, I
15 don't know what the truth is. Apparently, she told
16 Dr. McCarthy she had no relationship with Shelby. She
17 sat up here on the witness stand and said they knew
18 everything about the baby. They knew when the baby was
19 born, and they were actively involved in her life,
20 which is different than what the report says. So let's
21 just put her back on the witness stand and whatever she
22 says, she says. I mean, I don't know how to, you know,
23 deal with it other than that. I usually don't allow
24 people to recall, but in this instance, I'll allow her
25 to be recalled for a very limited purpose.

1 We're not going to rehash all of her testimony,
2 but she can explain -- I mean, I don't know how, in
3 this paragraph -- I mean, the record is clear or the --
4 Angie Harper was clear that Shelby was a good mom to
5 Sophia. I mean, she said it multiple times. She said
6 she parented her well. She watched her parent her
7 well. She saw her. She never saw her do any harm to
8 her or never saw any type of negative behavior or
9 actions or neglect or abuse, neglect, anything in
10 regards to the way Shelby treated [REDACTED]. I mean, you
11 can recall her, I guess, to get her to say that one
12 more time, but...

13 MR. HIXSON: Your Honor, just as a clarification
14 for an intentional misrepresentation --

15 THE COURT: I don't think anybody intentionally
16 misrepresented anything. I've read this report enough
17 to where -- I mean, the use of pronouns and the use of
18 words and the use of "he" and "she" throughout this
19 thing, I mean, I can see how the -- I don't think
20 anybody with the intentional purpose of -- I mean, the
21 sentence is confusing. It just is. And you got to --
22 I mean, you got to read around it to figure out exactly
23 what they meant. But -- so I don't think anybody
24 intentionally did anything. But I'll allow her to be
25 recalled so y'all can clarify that issue. That's fine.

1 MR. MUREDDU: Okay. I agree, Judge. Just one
2 thing -- and, again, I'm not saying it was intentional,
3 but one of the -- when we get to the doctor, he's going
4 to be using the report, and there may be times when I'm
5 going to object. And if that objection is he's -- he
6 is misstating what's in the report, I don't want to
7 draw the Court's ire, if I make an objection like that.

8 THE COURT: Well, I mean --

9 MR. MUREDDU: That's what I should have done
10 yesterday.

11 THE COURT: Right. And dealing with Angie Harper
12 is one thing because she didn't write the report.

13 MR. MUREDDU: Yes, sir.

14 THE COURT: So, you know, your -- and I understand
15 why Mr. Hixson cross-examined her on it. I would have
16 cross-examined her on it, too. She gives a statement
17 to the doctor that, at this point, is partially
18 inconsistent with the testimony that she gave in here
19 in court. So, I mean, I would have crossed -- but with
20 the doctor, it's a different thing.

21 I mean, he's going to have his report with him.
22 So if Mr. Hixson misquotes the report, then the doctor
23 needs to say, That's not what the report says, or
24 that's not accurate. I don't know that we need an
25 objection every time. That's what redirect is for, and

1 that's why you have an expert.

2 MR. MUREDDU: Okay. Again, I just --

3 THE COURT: Yeah. I mean, there's a difference in
4 Angie Harper because she doesn't have the report. She
5 doesn't know what the doc- -- I mean, she may have read
6 it, she may have seen it, but she hadn't sit there and
7 studied it and memorized it and created it and all
8 those different things.

9 And, I mean, we all remember the childhood game
10 where you told somebody something and told somebody
11 something else, and by the time it makes it back
12 around, it's something different. But, you know, with
13 the doctor, I mean, he needs -- I mean, if you're
14 quoting from the report, just tell him where he is and
15 so he can look at it and see, just like we would if we
16 were in a deposition almost. You know, we would refer
17 somebody to this page and this paragraph and look at
18 this and read along with me and that kind of thing.
19 But, I mean, I expect you to cross-examine him on the
20 report.

21 MR. HIXSON: Additionally, Your Honor, also for
22 clarification, what I thought that Defense Counsel was
23 trying to do is, if there's an existence of peripartum
24 depression in the first child, the likelihood in a
25 second child is much higher. And so I thought they

1 were trying to establish that she wasn't a good mom the
2 first time, and that makes this one more likely. And,
3 actually, the inverse was what Counsel was trying to do
4 and to say she -- there is no peripartum depression
5 with the first one, and that means it's much less
6 likely in the second one. So I wasn't -- I thought I
7 was keeping up to speed with that, but, apparently,
8 that was not Counsel's strategy.

9 THE COURT: All right. I'll allow her to be
10 recalled, but we're not going to rehash all of her
11 testimony. We're going to narrow in on the point we
12 need to narrow in on, and then we can move on from
13 there.

14 MR. McCOLLUM: The way I was going to do that,
15 Judge, is that, you know, she discovered her daughter
16 was pregnant, I think, in April --

17 THE COURT: Now, which time?

18 MR. McCOLLUM: When she had her first child.

19 THE COURT: With [REDACTED]. Okay.

20 What she said yesterday is they knew in about
21 three months.

22 MR. McCOLLUM: Yeah.

23 THE COURT: Right? Okay. Which, you know, when I
24 hear that, I think that's perfectly normal. I mean,
25 the first time I had a child, we waited until about two

1 or three months. I mean, you may have told your mama a
2 little bit sooner than you told the whole world, but,
3 you know, those first two or three months are
4 complicated and they're complex and things can happen,
5 and it's normal to, you know, kind of release that
6 information about that time, especially to loved ones.

7 When I heard that, I didn't read any negative into
8 that at all. You know, I thought, you know, well,
9 that's perfectly normal. They let the mama know, and
10 Mama said I knew when [REDACTED] due date was, and that's
11 the type of normal information you share. So, you
12 know, I'm going to let you go back into it.

13 MR. McCOLLUM: And I was going to go into, you
14 know, Shelby moved back in with her parents.

15 THE COURT: Right.

16 MR. McCOLLUM: That's when the phone calls and the
17 arguments -- that's when she decided, after a couple of
18 weeks, to move back in with her husband.

19 THE COURT: Right.

20 MR. McCOLLUM: And that's when she had no contact
21 with her parents again. That's when Shelby. And then
22 they learned of her wedding on Facebook. She got
23 married in October.

24 THE COURT: Okay.

25 MR. McCOLLUM: They were still estranged until the

1 baby, [REDACTED], was born in December.

2 THE COURT: Okay.

3 MR. McCOLLUM: And that's when they reconciled.

4 THE COURT: All right. I'll let you flesh all
5 that out.

6 MR. McCOLLUM: Thank you.

7 THE COURT: All right. Let's bring them in.

8 (WHEREUPON, the jury came into open court at
9 approximately 9:57 a.m.)

10 THE COURT: All right. Welcome back, ladies and
11 gentlemen. We had some issues we had to take up this
12 morning outside your presence, so I do apologize for
13 the delay. I take full responsibility for that.

14 And, Mr. McCollum, would you like to call your
15 next witness?

16 MR. McCOLLUM: May it please the Court.

17 THE COURT: Yes, sir.

18 MR. McCOLLUM: Your Honor, at this time, the
19 Defense recalls Angie Harper.

20 THE COURT: All right. Come on back up,
21 Ms. Harper.

22 And we're going to swear you in again. Okay?

23 ANGIE HARPER, after being duly sworn, testified as
24 follows:

25 THE CLERK: Please be seated.

RECALLED DIRECT EXAMINATION

1
2 BY MR. MUREDDU:

3 Q Go ahead and state your name again.

4 THE COURT: Say your name again, ma'am.

5 THE WITNESS: It's Angelea Harper, H-A-R-P-E-R.

6 THE COURT: Thank you very much, Ms. Harper.

7 Q Ms. Harper, you testified yesterday; correct?

8 A Yes.

9 Q And there was some question about something that
10 was in Dr. McCarthy's report. Remember that?

11 A Yes.

12 Q Okay. So I just want to ask you some questions.
13 Just listen to my question, and just if you could just
14 answer the question, that's what I want you to do.

15 A Okay.

16 Q Okay? When did you learn that Shelby was pregnant
17 with her first daughter, [REDACTED]?

18 A She called me sometime in the middle of April of
19 2013.

20 Q And then you learned that she was pregnant?

21 A Yes.

22 Q And at the time that you learned that she was
23 pregnant, was she living with you?

24 A No.

25 Q Was she living with Patrick?

1 A Yes.

2 Q And where was she living with Patrick?

3 A They were living in a trailer with, I think, a
4 single guy.

5 Q At some point, did Shelby move back home with you?

6 A Yes, she did. Sometime around May.

7 Q And did she live with you for some period of time?

8 A That's when they were arguing a lot. It was
9 anywhere from two weeks to a month.

10 Q And when Shelby had moved back in with you at your
11 home, was Patrick living in the home as well?

12 A No.

13 Q And did Patrick call her?

14 A Yes.

15 Q And were there occasions when he called when you
16 were home?

17 A Yes.

18 Q And how would you describe the conversations that
19 they had?

20 A That is when they had split up and he had come and
21 got her ring and all that stuff, and it so volatile,
22 and I was more concerned about her pregnancy and her
23 eating and, you know, she was upset all the time.

24 Q At some time, at some point, did Shelby make a
25 decision to move back in with Patrick?

1 A She did.

2 Q And where did they live when they moved back in
3 together?

4 A Then they moved in with his parents.

5 Q With Patrick's --

6 A Patrick's parents; I'm sorry.

7 Q -- mother and father?

8 A Yes, sir.

9 Q When Shelby moved back in with her mother --
10 excuse me. When Shelby moved back in with Patrick's
11 mother, did you and Shelby have a normal relationship
12 where you communicated with each other?

13 A Not really.

14 Q Okay.

15 A Not really. She -- I mean, I would talk to her
16 occasionally, but at that point, she had kind of
17 chosen -- you know, I had had my say.

18 Q Would it be safe -- would you describe that you
19 were estranged from her at that time?

20 A Yes.

21 Q At some point -- well, at that time, prior to
22 October, were Shelby and Patrick married?

23 A They were married in October of that same year.

24 Q And did you go to the wedding?

25 A No. We weren't invited.

1 Q And when did you learn of the wedding?

2 A We had heard -- I think it might have been on
3 Facebook, too, but we had other people -- none of my
4 family members but friends of -- a friend of Shelby's
5 had called and had gotten an invitation.

6 Q And what month was [REDACTED] born?

7 A December.

8 Q Did you have a normal relationship with Shelby
9 from the time that she got married until [REDACTED] was
10 born in December?

11 A No, not then.

12 Q At some point, did you reconcile with Shelby?

13 A The day [REDACTED] was born, we had seen it on
14 Facebook, and my husband and my ex-husband at the time
15 and my daughter, Samantha, and I, we all went to the
16 hospital.

17 Q So in regard to Dr. McCarthy's report, the
18 statement that, "She had no relationship with her
19 daughter," the "She had no relationship with her
20 daughter," that's you, Angie, had no relationship?

21 Answer out --

22 A Yes.

23 Q With Shelby?

24 A Right.

25 Q That's what that was --

1 A Right. During that period, yes.

2 Q Okay. Thank you.

3 A And I truly misunderstood what you asked me
4 yesterday. I just --

5 Q Just talk to me, not him.

6 A I'm sorry.

7 Q Okay. Thank you. Thank you for clearing that up.

8 MR. MUREDDU: Your Honor, I don't have any more
9 questions for this witness.

10 THE COURT: Okay. All right.

11 MR. MUREDDU: Please answer any questions the
12 Solicitor may have.

13 MR. HIXSON: I have no questions, ma'am.

14 THE COURT: Okay. Thank you very much,
15 Ms. Harper.

16 THE WITNESS: Thank you.

17 THE COURT: You may step down.

18 (Witness excused.)

19 THE COURT: All right. You may call your next
20 witness.

21 MR. MUREDDU: Your Honor, at this time, we would
22 call Dr. Robert McCarthy.

23 THE COURT: All right. Come on up, Mr. McCarthy.

24 DR. ROBERT MCCARTHY, after being duly sworn,
25 testified as follows:

1 THE CLERK: Please be seated. Please state your
2 full name and spell your last name for the Court.

3 THE WITNESS: Pardon?

4 THE CLERK: State your full name and spell your
5 last name for the Court.

6 THE WITNESS: Okay. My name is Dr. Robert
7 McCarthy.

8 DIRECT EXAMINATION

9 BY MR. MUREDDU:

10 Q Dr. McCarthy, where do you currently work and at
11 what occupation is it?

12 A Pardon?

13 Q What do you do for a living?

14 A Oh, okay. I'm the executive clinical director of
15 private practice in Myrtle Beach, South Carolina.

16 Q Is that work in the mental health field?

17 A Yes.

18 Q Okay. Now, was Shelby, at some point in time, one
19 of your patients?

20 A Yes.

21 Q Okay. What exactly -- how did Shelby become one
22 of your patients? What exactly did you do in your
23 treatment of Shelby? Tell the jury, please.

24 THE WITNESS: Your Honor, as a licensed mental
25 health clinician, I'm bound by the laws of

1 confidentiality unless otherwise ordered.

2 THE COURT: All right.

3 MR. MUREDDU: Your Honor, he has concerns that
4 confidentiality -- he is of the opinion you have to
5 order -- to say that it's okay for him to talk.

6 THE COURT: All right. Ms. Taylor, do you waive
7 your confidentiality agreement with Dr. McCarthy?

8 THE DEFENDANT: Yes.

9 THE COURT: Okay. All right. You may answer the
10 questions, Dr. McCarthy.

11 Thank you, Ms. Taylor.

12 Q You did a review of Shelby's case?

13 A Yes.

14 Q Okay. What would you call that? Just briefly,
15 not the details. What did you actually do?

16 A A comprehensive forensic evaluation.

17 Q Okay. All right. Now, let's talk about why you
18 would be qualified to give an opinion to this jury here
19 today. Tell the jury what professional degrees that
20 you have, collegiate or otherwise.

21 A I have a bachelor's degree in psychology, a Master
22 of Arts degree in clinical psychology, a Ph.D. in
23 psychology, and I have done numerous training on a
24 postgraduate level.

25 Q Okay. So, basically, bachelor's, master's, and

1 Ph.D. in psychology?

2 A Yes.

3 Q Okay. Let's talk about -- and I may be strolling
4 you down memory lane, but have you ever worked or
5 discussed your work at hospitals, behavioral
6 institutions, or anything of that nature? Let's go
7 back to your work in the field as, let's say, a staff
8 psychologist.

9 A Yes, I have.

10 Q When is the first time you did that?

11 A 1974 to 1977, I was a staff psychologist at the
12 Orange County Community Mental Health Center.

13 Q Okay. Let me back you up.

14 Did you work as a staff psychologist at Letchworth
15 Development Center before that?

16 A Yes. Prior to that, um-hum.

17 Q About what year was that when you were working at
18 Letchworth as a staff psychologist?

19 A That's correct.

20 Q About what year was that?

21 A It was 1972 to 1973.

22 Q Okay.

23 A And then from 1973 to 1974 I worked at Barnett
24 Memorial Hospital Center.

25 Q As?

1 A A staff psychologist.

2 Q Okay. I think, then, you mentioned Orange County.
3 Can you go back through that again. Were you a staff
4 psychologist there?

5 A Yes. And from 1976 to 1977, I was the director of
6 a behavioral modification unit in a psychiatric center.

7 Q Okay. Let me stop you right there. So,
8 basically, in the early '70s, you worked as a staff
9 psychologist at Letchworth Development Center, at
10 Barnett Memorial Hospital, and at Orange County
11 Community Health Center. All three of those, you were
12 a staff psychologist then?

13 A That's correct.

14 Q Okay. Now, I think you were going into where you
15 went from being a staff psychologist to more of a
16 supervisory role. Describe that. Once your career as
17 a staff psychologist began to progress, if you would go
18 through that, please.

19 A From 1977 to 1984, I was a supervising
20 psychologist at the Goshen Secure Center, which is a
21 forensic facility for maximum security.

22 Q Okay. Let me stop you right there. Okay. So you
23 said a supervising psychologist. So were there other
24 psychologists that you were working above and
25 supervising?

1 A Yes.

2 Q So a team; would that be fair to say?

3 A Yes.

4 Q And this is where, again, as a supervisor?

5 A At the Goshen Secure Center in Goshen, New York.

6 Q Okay. Have you worked as a supervising
7 psychologist at any other hospitals, clinics, or
8 anything of that beyond Goshen? What did you do after
9 Goshen, I guess is what I'm trying to say.

10 A Yes. From 1984 to 1988, I was a supervising
11 psychologist at another forensic facility called Tryon
12 Secure Center in Johnstown, New York.

13 Q Okay. What was your next position in the field of
14 mental health or psychology after that?

15 A After that, I was the program coordinator and
16 supervisor from 1988 to 1990 of the Mobile Mental
17 Health Team, and the function of that team was to do
18 forensic consultation with all of the courts in the
19 ten-county area surrounding Albany, New York.

20 Q So you're talking about court. So this ten-county
21 forensic evaluation team, that had something to do with
22 the criminal justice system?

23 A Yeah.

24 Q Can you explain that?

25 A Totally with the criminal justice system.

1 Q What types of work or what were you doing in that
2 field?

3 A At that point, we were doing mostly consultation
4 for the court and prosecutors as part of the New York
5 State legal system.

6 Q Okay. Were you doing forensic reviews of cases,
7 treating patients?

8 A Yes. Forensics and mental health evaluations.

9 Q All right.

10 A And, also, we specialized in sex offender
11 evaluation.

12 Q Now, let's go into -- again, I'm continuing with
13 your expertise in the field. Have you published
14 scholarly articles, peer-review articles during the
15 course of your career in the mental health field?

16 A Yes, I have.

17 Q All right. Could you put a number on how many
18 peer-review scholarly articles that you've published in
19 your career for the field of mental health?

20 A Numerous. I have the --

21 Q More than 20?

22 A 20, 30.

23 Q Okay. Did any of these scholarly articles and
24 this training deal with areas in depression or things
25 of those nature?

1 A Yes, as well as forensic evaluation.

2 Q Okay. Do you hold any professional licenses or
3 board certifications in the field of mental health or
4 forensics or anything of that nature?

5 A Yes, I do.

6 Q And if you do, could you go through them, please.

7 A And I'm a licensed professional counselor in the
8 state of South Carolina.

9 Q That's right now; right?

10 A Pardon?

11 Q Right now?

12 A Yes.

13 Q Okay.

14 A Yes. And I'm board certified, certified clinical
15 mental health counselor, which is the expert credential
16 in mental health in the field of counseling and the
17 standard for being in private practice.

18 When I did this evaluation, I was a
19 board-certified fellow of the American College of
20 Forensics Examiners, a master therapist with the
21 American Psychotherapy Association, and emeritus of the
22 American Board of Medical Psychotherapy and
23 Psychodiagnosticians, a board-certified PTSD clinician
24 with the American Psychotherapy Association. I'm a
25 fellow in PTSD with the American Academy of Experts in

1 Traumatic Stress. I'm also credentialed as a master
2 addiction counselor by the National Board for Certified
3 Counselors. I'm a certified clinical mental health
4 counselor with the National Board for Certified
5 Counselors, a board-certified fellow of the American
6 Association of Integrated medicine, a board-certified
7 fellow in neurofeedback with the Biofeedback
8 Certification International Alliance. I'm board
9 certified in biofeedback with the Biofeedback
10 Certification International Alliance. I'm also a QEG
11 tech of the Quantitative Electrocochleography Board and
12 a National Certified Custody Evaluator with the
13 Professional Academy of Custody Evaluators.

14 Q Okay. I want to briefly go back. Well, have you
15 ever been qualified to testify as an expert in the
16 mental health field in court before?

17 A Yes, I have.

18 Q Once? Dozens? Hundreds?

19 A No. Probably, in the course of my career, well
20 over a hundred times.

21 Q Okay. Have you ever actually given expert
22 testimony for the prosecution in cases?

23 A Yes. I've testified for both prosecution and
24 defense attorneys.

25 Q Okay.

1 MR. MUREDDU: Your Honor, at this time, I would
2 move to have Dr. McCarthy qualified as an expert in the
3 field of mental health.

4 THE COURT: Mental health in general?

5 MR. MUREDDU: Yes, sir.

6 THE COURT: All right. Voir dire?

7 MR. HIXSON: Yes, sir.

8 VOIR DIRE EXAMINATION

9 BY MR. HIXSON:

10 Q Good morning, Doctor. How are you?

11 A Good. Thank you.

12 Q I think it's pretty apparent that you clearly have
13 qualifications related to be a mental health counselor
14 and working in a counselor environment. So what I'm
15 going to focus on is your education as it relates to
16 being whether or not you're a psychiatrist, and
17 specifically a forensic psychiatrist, enough to
18 specifically make medical psychotic diagnoses for this
19 purpose. So that's the focus of my questions.

20 So let's talk about your education again for a
21 second. I think, if I got it right -- and my
22 understanding is that you have a bachelor's degree in
23 the mental health field, and you have a Master of Arts
24 in psychology, not psychiatry; is that correct?

25 A That's correct.

1 Q And then you have a Ph.D. and that your Ph.D. is
2 in psychology as well; is that correct?

3 A Yes, that's correct.

4 Q Okay. And looking at your --

5 A With a specialization in clinical inquiry.

6 Q Okay. Don't have a degree in it but a
7 specialization in it; that's safe to say?

8 A Yes. Some graduate schools grant the degree in
9 the specialization; others give it as a historical
10 tradition in psychology with a major in whatever you
11 specialize in.

12 Q Okay. Very good. And I have no question that you
13 have a significant record in counseling and you've gone
14 a lot of great work, and there's no question about
15 that. The question is, I'm basically challenging your
16 qualification to give a forensic diagnosis. Are you
17 familiar with the cautionary page in DSM-5 about the
18 use of a diagnostic tool -- forensic diagnostic tool
19 for nonqualified clinicians or counselors; that it is a
20 medical personnel document, not a clinician or a
21 counseling document? Are you familiar with the
22 cautionary page?

23 A I'm not sure I know what you're referring to.

24 Q Let me see if I can refresh your recollection.

25 Are you familiar with DSM-5?

1 A Yes.

2 Q I know that your report talked about it quite a
3 bit. And let me bring your attention to page 25. And
4 I'm sure, under your opinion, that you offered -- has
5 some substantial discussion. See if you recognize
6 that. And I can --

7 MR. HIXSON: Your Honor, I'm pointing the witness
8 to a learned treatise, that's DSM-5. It's a learned
9 treatise exception. And, specifically, I'm referring
10 the witness to the cautionary statement for forensic
11 use of Diagnostic Statistical Manual, Edition 5.

12 Q And see if you can refresh your recollection on
13 that, and I'll ask you a couple questions.

14 A I'm not sure -- what are you referring to on this
15 page?

16 Q Do you know what the purpose of that warning page
17 in that manual is?

18 A Oh, yes, yes.

19 Q Okay. And what is the purpose of that warning
20 page?

21 A Yeah. Well, that's to make sure people have the
22 background to do what they're doing.

23 Q Right. And on the bottom paragraph, doesn't that,
24 in fact, tell you, if you're not qualified, if you're
25 not a psychiatrist or if you're not an M.D., don't be

1 using this for diagnosing psychotic disorders; that's
2 left up to someone with an M.D., not a counselor?

3 A No. If you look at this last paragraph, it says,
4 "Use of the DSM-5 to assess for the presence of mental
5 disorder by nonclinical and nonmedical." I'm a
6 clinical licensed and board-certified professional with
7 extensive training and background in forensics.

8 Q Counseling, not diagnosis. You're --

9 A No.

10 Q -- a great counselor, but you're not a --

11 A No, counselors -- state-licensed and
12 board-certified professional counselors are qualified
13 to provide DMS-5 diagnosis.

14 Q Including psychotic episodes that are --

15 A That's correct.

16 Q -- organic in nature?

17 A That's correct. In fact, a number of years ago,
18 to make sure there was no problem with that, the South
19 Carolina Board implemented a requirement that
20 prospective licensees had to have six months with
21 people exhibiting severe psychopathology in their
22 training so that that wouldn't be an issue.

23 Q Okay. I understand your answer. I understand
24 your answer. Excuse me.

25 And as you talk about -- and we'll get back to

1 that in a second. I just want to talk about some --
2 you have written quite a bit. I think the last one was
3 '94; is that right?

4 MS. WALKER: '99.

5 Q '99? And see if some of the titles that we're
6 talking about, that you wrote about, is -- in '99,
7 "Behavioral Medicine Hypnosis in Cardiovascular
8 Disease." I think you wrote "Creative and
9 Complimentary Custody Decision Assessment." You wrote
10 an article about recordkeeping, "An Expedient
11 Solution."

12 A Um-hum.

13 Q I think you wrote about --

14 THE COURT: You need to answer yes or no, please.
15 Doctor -- Doctor, you need to answer yes or no. Don't
16 say "um-hum."

17 THE WITNESS: Okay, yes.

18 THE COURT: Thank you.

19 Q I think in '92 you wrote about hypertension and
20 blood pressure measurement?

21 A Yes.

22 Q You also wrote an article in '90 about diagnosing
23 multiple sclerosis?

24 A Yes.

25 Q And your time working in New York, I think in '91,

1 you wrote a comprehensive forensic evaluation system
2 for counseling for the New York State Journal, so it's
3 a counseling article.

4 A Well, it was on conducting clinical forensic
5 evaluations of people who have committed crimes.

6 Q Okay. And that was written in the State Journal
7 for Counseling and Development; right?

8 A That's correct.

9 Q Also, looks like you worked for developing a
10 statewide classification system for criminal offenses
11 and gradings, unpublished manuscript, I guess, in '84,
12 I guess is what the --

13 A Yes.

14 Q It looked like you had an article in the American
15 Journal of Hypnotherapy in '88. Also talk about
16 hypnosis in working with delinquent youth?

17 A That's correct.

18 Q Wrote an article about counseling AIDS victims?

19 A Yes.

20 Q Okay. Looks like you wrote an article about -- in
21 the Journal of Hypnotism concerning -- "Mommy Sees the
22 Light"; I don't know what's that about. And finally,
23 in '90, it looks like you wrote about hypnosis in
24 cardiovascular disease.

25 A Yes.

1 Q Do any of those articles have anything to do with
2 the medical evaluation, rather than just a counseling
3 evaluation, but the medical evaluation of a psychotic
4 transient disorder? Does any of those have anything to
5 do with that?

6 A Yes. Well, they're not separable. All licensed
7 mental health clinicians, with the proper training,
8 education, and background in forensics can do a
9 forensic evaluation and provide a DSM-5 diagnosis.

10 Q In contradiction to the cautionary page?

11 A No, it's not contradicting. It says nonclinical.
12 All the people that we're talking about, there were six
13 licensed mental health professions in South Carolina,
14 and all of them are clinical healthcare professionals.

15 Q You're exactly right. And you're licensed as a
16 counselor, not as a clinician.

17 A In mental health.

18 Q That's okay. Well --

19 A Mental health counseling is clinical mental health
20 work.

21 Q I understand that, but your report is a forensic
22 consultation. You're diagnosing disease or --

23 A That's correct.

24 Q -- defect in your report, and that's outside your
25 qualifications.

1 A No, it's not.

2 Q Okay.

3 MR. HIXSON: Your Honor, I think we know where we
4 kind of stand here. We would object to the wide range
5 of the mental health field that the Defense has offered
6 this witness up to. We believe he's an expert in
7 mental health counseling. We believe he is not
8 qualified to render an opinion on a forensic medical
9 diagnosis that's contained in his report that he has
10 generated.

11 He is an expert in mental health counseling,
12 there's no question. He never testified that he was an
13 expert or has ever been qualified as an expert in
14 psychotherapy forensics, which DSM-5 says requires a
15 medical diagnosis of an organic problem. So we would
16 object to the range in which he's offered to qualify in
17 his testimony.

18 MR. MUREDDU: Judge, we and as the doctor
19 disagrees with the way that he reads that DSM-5.

20 THE COURT: All right.

21 MR. MUREDDU: It's an either/or.

22 THE COURT: Okay. Ladies and gentlemen, step back
23 to your jury room. We'll be back with you in just a
24 few moments. Do not discuss the case.

25 (WHEREUPON, the jury exited the courtroom at

1 10:22 a.m.)

2 THE COURT: Okay. So I don't understand why he's
3 qualified as an expert in such a broad area. That's
4 what I'm confused about.

5 MR. MUREDDU: Well, Judge --

6 THE COURT: I mean, mental health? I mean...

7 MR. MUREDDU: Judge, as the doctor had
8 reservations about waiving confidentiality, what I want
9 to qualify him on and I think that he is qualified in
10 is in the field of psychology, recognizing he's an
11 expert in the field of diagnosing depressions, treating
12 depressions, specific depressions such as postpartum
13 depression, peripartum depression, which are all major
14 depressions. He has extensive training in that. He's
15 had extensive professional work history in that.

16 Transient peripartum psychosis is a variation and
17 an acting out -- a thing that generates out of and
18 accompanies major depressions and depression episodes.
19 If they become so extreme, they can go into psychosis.
20 So, basically, that's what his testimony is going to be
21 in and...

22 THE COURT: Mr. Hixson?

23 MR. HIXSON: I agree that he's an expert as a
24 counselor, and the role of a counselor is taking the
25 diagnostic tool from a psychiatrist to say, Treat this

1 person in this manner. And then the treatment program
2 by the counselor is the one that executes that
3 treatment plan.

4 That's what the cautionary statement -- I'll let
5 the Court review it, but it's basically just a warning
6 to all -- everyone involved in the legal and mental
7 health field: Be careful of using this tool because
8 it's not just a Lego set where you plug A, B, C, and
9 that gets D. It cautions -- it warns you to use this
10 document for other purposes than it's intended for.

11 THE COURT: Let me see it.

12 MR. MUREDDU: I would like to be heard on that.

13 THE COURT: (Reviewing documents.) Okay.

14 THE WITNESS: Your Honor, could I say something
15 that might be clarifying?

16 THE COURT: Please.

17 THE WITNESS: What's being proposed is a model
18 from the late '50s and 1960s when everyone worked under
19 psychiatrists. Starting in the early '70s, all the
20 mental health professions began to get independent
21 licensure, which meant that they could function without
22 the auspices or direction of a psychiatrist and make
23 their own diagnosis and provide treatment. And that's
24 the model that continues in the mental health fields.
25 So that all the six licensed mental health professions

1 in South Carolina, representatives of those fields, are
2 all with the appropriate education, training, and
3 credentials qualified to render independent and
4 autonomous forensic evaluations, if they're so
5 qualified, on any situation.

6 THE COURT: Let me see the book again. I'm sorry.

7 MR. MUREDDU: Judge, can I say one thing briefly?

8 THE COURT: Sure.

9 MR. MUREDDU: The Solicitor is basically putting
10 forth to the Court that for somebody to give this
11 testimony, they have to be a psychiatrist. Well, that
12 book doesn't say that, and that's a misstatement of the
13 law, that's a misstatement of what that book is. And I
14 think the doctor clarified that the cautionary warning
15 was you could either be a licensed clinician, as he is,
16 or a psychiatric doctor. So what's being put before
17 the Court as to whether he could testify, that you have
18 to be a medical doctor/psychiatrist, that's not --
19 that's just not right.

20 THE COURT: All right. So we agree that you're
21 not a medical doctor; correct?

22 THE WITNESS: Well, that's correct.

23 THE COURT: Okay, hold on. Stay with me.

24 All right. So are you clinical? That's the
25 question.

1 THE WITNESS: Yes. I'm a licensed and
2 board-certified mental health clinician.

3 THE COURT: Okay. And tell me how you are
4 clinical. What does "clinical" mean?

5 THE WITNESS: Clinical means any of the licenses
6 that are recognized, independent mental health
7 professions. So a psychiatrist is just one of those.
8 Psychologist is another. Marital and family therapists
9 are another. Licensed professional counselors are
10 another. Psychiatric nurses with a master's or Ph.D.
11 and so forth.

12 THE COURT: So which one of those are you?

13 THE WITNESS: I'm a licensed and board-certified
14 professional counselor.

15 THE COURT: Okay. And so tell me how you've been
16 trained to -- what training you have received to be
17 able to make a diagnosis based upon the DSM-5.

18 THE WITNESS: Yes. In psychology programs, the
19 focus is on diagnosis and treatment planning with DSM-5
20 disorders. All the representatives of the major health
21 organizations, including the American Counseling
22 Association and the American Mental Health Counselors
23 Association, served on those subcommittees that wrote
24 DSM-5. So they contributed to it, and all of them were
25 part of that process. And any wording in DSM-5 does

1 not exclude any of those discipline representatives.

2 THE COURT: Okay. I don't think what you just
3 said answered my question.

4 THE WITNESS: Okay. I'm sorry, what --

5 THE COURT: My question is: Tell me how you have
6 been sufficiently trained as a clinical person to be
7 able to make a diagnosis.

8 THE WITNESS: I have degrees in clinical
9 psychology, in clinical inquiry on a Ph.D. level.
10 That -- all of that graduate training. Then you get
11 supervision in the field when you're first starting
12 out. You work under other clinicians, forensic
13 clinicians. I also served on the Governor's Committee
14 for Sexual Offending and Addiction in the State of New
15 York as a forensic clinician when I was part of that
16 ten-county team.

17 I've taken many courses. I've served on three
18 national executive advisory boards of major mental
19 health organizations in my career. And at the time of
20 this evaluation, I was a board-certified fellow of the
21 American College of Forensic Examiners. That's an
22 elected position. You can't apply for that. You're
23 appointed by your professional peers as someone who's
24 made a noteworthy contribution to the field of forensic
25 evaluations.

1 THE COURT: All right. So what's the objection?

2 MR. HIXSON: I believe the scope of the
3 qualification is my major problem. He's an expert in
4 counseling, no question about that. The question is,
5 is the offered, the proffered testimony, the
6 conclusions reached in this forensic report reach
7 beyond his qualifications; that he says at the time of
8 the offense this person was suffering from code 300.4,
9 which is intermittent psychiatric problems based on
10 dissociative or intensive -- excuse me -- depression.
11 Specifically, the diagnosis on the conclusion pages of
12 the doctor's report -- I apologize, Your Honor --

13 MS. WALKER: 17.

14 MR. HIXSON: Postpartum depression. This
15 transient peripartum psychosis with psychotic features,
16 with intermittent psychotic features, all those -- if
17 you hear the term "psychotic," that means it's a
18 diagnosis with organic medical problems, and that
19 diagnosis is by a medical doctor generally.

20 Now, the peripartum discussion says there may not
21 have to be psychotic features, but the point being, if
22 you're going so far as to be so committed to that, we
23 believe that's outside the scope of his qualifications.
24 He can testify to clinical impressions, general
25 clinical impressions, general ideas, but to go so far

1 as to say this is to a reasonable degree of medical
2 certainty and testify to that, we -- our objection is
3 it's outside the scope of his expertise.

4 Now, how he is offered in such a wide range,
5 mental health field, that it's so wide that you can't
6 really object to that, but the basis is -- the
7 conclusions and the opinion, if reached on that board,
8 is outside the scope of his expertise.

9 THE COURT: Well, I thought we weren't going to
10 get to that issue anyway.

11 MR. HIXSON: No, no, no. I mean, he says he will
12 diagnose her with transient peripartum psychosis. That
13 is the conclusion, and it's probative in this case. He
14 diagnoses her as battered spouse syndrome, diagnoses
15 her as a victim of domestic violence, as suffering from
16 PTSD from Patrick Taylor beating her, is part of the
17 diagnosis as well. But he diagnosed her as PTSD due to
18 abuse. But that isn't probative. And the baby-dumping
19 conclusion -- and the baby dumping gets there by saying
20 she is suffering from transient peripartum psychosis.

21 THE COURT: All right.

22 MR. MUREDDU: Judge, just because he says that
23 doesn't make it so. I don't know what I can respond to
24 that. I'm listening to the doctor shake his head as
25 he's rattling off that to be able to testify to

1 something, you have to be a medical doctor. That's --
2 I think that has been asked and answered that that is
3 not correct.

4 THE COURT: Well, can we not narrow his field of
5 expertise about mental health in general?

6 MR. McCOLLUM: May I?

7 THE COURT: Sure.

8 MR. McCOLLUM: May it please the Court?

9 THE COURT: Yeah.

10 BY MR. McCOLLUM:

11 Q Dr. McCarthy, in order to produce the report that
12 you produced based on your clinical work with a
13 patient, what area of practice is that that you would
14 be testifying about?

15 A That's clinical mental health and forensics.

16 Q And are you qualified to give an opinion in that
17 area?

18 A Yes. Yes.

19 MR. McCOLLUM: Your Honor, at this time, we move
20 to have him qualified as an expert in the field that he
21 stated.

22 THE COURT: And that's clinical what?

23 THE WITNESS: Yes.

24 THE COURT: Say it again.

25 THE WITNESS: Yes.

1 THE COURT: Say what the area is again.

2 THE WITNESS: Oh. Most people who testify in
3 forensics were originally mental health clinicians that
4 then furthered their scope of practice and expertise.

5 THE COURT: Most people that testify in forensics
6 in front of me are medical doctors.

7 THE WITNESS: That's what I've done. No, that's
8 not true at all.

9 BY MR. McCOLLUM:

10 Q Dr. McCarthy --

11 MR. McCOLLUM: I'm going to repeat the question,
12 please. May it please the Court?

13 THE COURT: In South Carolina, the majority of
14 people that come in this court and tell me somebody has
15 a forensic diagnosis are medical doctors.

16 THE WITNESS: Well, I can't speak to that. All I
17 can tell you is --

18 BY MR. McCOLLUM:

19 Q Dr. McCarthy --

20 THE COURT: What area do you believe you're
21 qualified in? Clinical what? Counseling?

22 THE WITNESS: I'm a board-certified clinical
23 mental health counselor by the National Board of
24 Certified Counselors.

25 THE COURT: Oh, my god. Ask him the question

1 again, Mr. McCollum.

2 MR. MCCOLLUM: Thank you, Your Honor.

3 Q Dr. McCarthy, in terms of the area of practice,
4 what area of practice qualifies you to draw a
5 conclusion which you drew from the report regarding
6 your patient, Shelby Taylor? What area of practice
7 qualifies you to give the opinion?

8 A Well, being a certified clinical mental health
9 counselor alone would qualify me to render that
10 diagnosis.

11 Q And have you given testimony in the past regarding
12 clinical forensic evaluations?

13 A Yes, many times.

14 THE COURT: In South Carolina?

15 THE WITNESS: Yes. Numerous times in South
16 Carolina.

17 THE COURT: In what courts?

18 THE WITNESS: In this court.

19 THE COURT: Circuit court?

20 THE WITNESS: The Horry County court system,
21 um-hum.

22 THE COURT: So you want him qualified as an expert
23 in the area of what?

24 MR. MCCOLLUM: Clinical forensic evaluations
25 regarding mental health and state of mind.

1 THE COURT: State of mind?

2 MR. McCOLLUM: Your Honor, I'm sorry. I had it
3 right the first time. All right? I apologize.

4 I want him qualified -- I'm asking that he -- I
5 don't -- he says he's qualified in clinical forensic
6 evaluations, and that's what I'm asking the Court to
7 consider him as an expert in.

8 THE COURT: All right. Mr. Hixson?

9 MR. HIXSON: I don't have an objection as it
10 relates to clinical evaluation. I have an objection to
11 what's going to come after that, which is state of
12 mind, which is not the law in the state of South
13 Carolina.

14 MR. McCOLLUM: All right. I withdraw that, Your
15 Honor.

16 THE COURT: Yeah, we're out of that.

17 MR. HIXSON: And I would object to the ultimate
18 conclusions, and that's -- if Your Honor allows him to
19 testify as an expert, that's fine. I understand.
20 Because I think he is an expert in counseling. But I
21 will, during the course of direct examination, object
22 to the ultimate conclusions of law, and maybe we'll
23 hear it from there.

24 THE COURT: Okay. So we're going to deem him an
25 expert in the area of clinical forensic evaluations and

1 counseling. I believe he's got the sufficient
2 education, training, and experience based upon a
3 bachelor's degree, a master's degree, a Ph.D., he's a
4 board-certified clinical mental health counselor, he's
5 a licensed professional counselor, he's a
6 board-certified fellow of forensic examiners, he's a
7 master therapist, he's a board-certified posttraumatic
8 stress disorder clinician and posttraumatic stress
9 disorder expert, and he's had numerous jobs throughout
10 his life where he was working as a staff psychologist,
11 a supervising psychologist at a forensic facility,
12 another supervising psychologist of a forensic
13 facility, the program coordinator of a mobile mental
14 health clinic that did forensic evaluations, and based
15 upon that, I will allow him to be qualified as an
16 expert in the area of clinical forensic evaluations and
17 counseling.

18 Anything else, Mr. McCollum?

19 MR. MCCOLLUM: How do you want to handle that? Do
20 you want to state that as a conclusion to the jury?

21 THE COURT: Yeah, I will. When they come back in,
22 I'm going to tell them that.

23 MR. MCCOLLUM: So we don't have to ask him
24 anything; you're going to do that?

25 THE COURT: You're welcome to -- this is the way

1 this works. I've determined from the purpose of 701 or
2 702, whichever one of those rule it is, that he's
3 qualified based upon education and/or experience to
4 give his opinion. So I'm going to tell the jury -- I
5 have this thing that I always read.

6 MR. McCOLLUM: Okay. All right. That was my
7 question, Your Honor.

8 THE COURT: But I want to answer your question
9 fully. So I'm going to tell them, you know, normally,
10 people can't give opinions. There's an exception:
11 This person is going to be qualified. But in the jury
12 charge, the jury charge says they can disregard an
13 expert's opinion completely.

14 So if y'all want to go back through other things
15 or go through some of the things that we have covered
16 outside the presence of the jury as to his
17 qualifications, you're welcome to do that. Make sense?

18 MR. McCOLLUM: Yes.

19 THE COURT: Okay. All right. Let's go get them.

20 MR. McCOLLUM: Thank you, Your Honor.

21 THE COURT: Yep.

22 (WHEREUPON, a brief recess was taken at
23 10:42 a.m.)

24 (WHEREUPON, the jury came into open court at
25 approximately 10:55 a.m.)

1 THE COURT: All right. Welcome back, ladies and
2 gentlemen. I apologize for the delay, and I accept
3 responsibility for that so don't take that out on the
4 parties. That was something that I needed to do.

5 So, normally, when a witness testifies, a witness
6 is not allowed to give their opinion. Normally, when
7 someone testifies, they have to testify as to what they
8 saw, they heard, they did, they touched, they sensed by
9 smell, something of that nature.

10 There is an exception under the rules. When
11 someone is qualified because of education or
12 experience, that person is permitted to give their
13 opinions in certain areas if I qualify them in that
14 way.

15 So Dr. McCarthy will be qualified as an expert in
16 the area of clinical forensic evaluations and
17 counseling. He will be allowed to give opinion
18 testimony in that area.

19 Now, that does not mean that you have to accept
20 his opinion, but it is evidence for you to use in any
21 way that you see fit and give it the weight and the
22 credibility that you believe is appropriate, as you are
23 required to do with each and every witness that appears
24 before you.

25 All right. Mr. Mureddu.

1 MR. MUREDDU: Thank you, Your Honor. May it
2 please the Court.

3 THE COURT: Yes, sir.

4 CONTINUING DIRECT EXAMINATION

5 BY MR. MUREDDU:

6 Q Doctor, you heard the Court just qualify you as an
7 expert in the area of clinical forensic evaluation. Do
8 you agree with that?

9 A Yes.

10 Q Okay. And that's actually what you did in
11 Shelby's case. You did a clinical forensic evaluation
12 of the entire case; is that right?

13 A That's correct.

14 Q Okay. Let me go through -- let's talk about
15 specifically what you did in this clinical evaluation.
16 I would like to talk about what your case review
17 consisted of. Okay?

18 Now, did you review various documents that
19 materially bear on this case? For instance, you
20 reviewed the Horry County Police report investigation?

21 A Yes, I did.

22 Q So you reviewed the Horry County criminal case
23 file?

24 A Yes.

25 Q All right. That was lengthy?

1 A Yes.

2 Q Okay. Now, there's been some testimony about
3 Shelby seeing another counselor, Dr. Winchester, I
4 believe. Did you review the counseling documents and
5 all of the documentation of Dr. Winchester's in her
6 treatment of Shelby?

7 A Yes, I reviewed those as well.

8 Q Okay. What about medical reports? Did -- they
9 took her to Conway Hospital. Did you review those
10 documents?

11 A Yes. I reviewed all 72 pages of the Conway
12 medical folder.

13 Q Okay. That would be nurses' notes, doctors'
14 notes?

15 A As well Dr. Oduwole's consultation.

16 Q Okay. Now, so that's -- Dr. Oduwole, that's the
17 psychiatrist that saw Shelby?

18 A Yes.

19 Q So you reviewed his reports?

20 A Yes.

21 Q Okay. All right. So you reviewed all the
22 relevant documents that you knew to exist in this case;
23 is that fair to say?

24 A That's correct.

25 Q All right. Now, let's talk about your treatment,

1 your actual treatment of Shelby. Did you do interviews
2 with what I'll call all of the parties involved? Who,
3 out of Shelby and her family, did you interview and how
4 extensive was it?

5 A Yes. I met with Shelby numerous times. My
6 face-to-face involvement with everyone came to ten
7 hours. And I interviewed the patient as well as her
8 mother. And the last session, I spent with the entire
9 family.

10 Q Okay. Now, when you were interviewing Shelby and
11 her mother and the family, how far back did you go?
12 Did you just limit it to what happened the day of or
13 did you go well beyond that?

14 A No, well beyond that. When we do a comprehensive
15 forensic evaluation, we begin with an extensive case
16 history that goes back to someone's birth and get a lot
17 of developmental information, all the way up to and
18 including anything that's happened in the present.

19 Q So a live history; would that be fair to say?

20 A Yes.

21 Q And is that important to know all of these things
22 in order to get to the root of the matter?

23 A Yes, absolutely. Because the end result is often
24 a summation of contributions to people's lives over the
25 duration of it.

1 Q Okay. Okay. So you reviewed a bunch of
2 documents, you did extensive interviews with Shelby,
3 her mother, family members?

4 A Yes.

5 Q Okay. Let's talk about some of the psychological
6 tests or battery of standardized tests. What type of
7 testing modalities did you use in doing your clinical
8 evaluation?

9 A Yes. When we do a forensic evaluation, we use a
10 range of tests, and the two most important is that
11 forensic evaluation include both objective tests and
12 projective tests so that you can compare the difference
13 in data and information you get.

14 In addition, we then did some detail tests that
15 were follow-ups from the general information we
16 elicited to clarify things and make sure that our
17 information and conclusions were accurate.

18 Q Okay. So would it be fair to say you did a large
19 battery of various --

20 A Yes.

21 Q -- tests? Okay. I'll -- they're in your report.
22 The WHODAS 2.0 test, would that be one?

23 A Yes.

24 Q Can you -- I think you have a list there. I see a
25 Shipley-2 intelligence test.

1 A Yes.

2 Q About how many of those standardized psychological
3 testing things did you do -- did you perform?

4 A I personally did all of the tests that are listed
5 there, and I'm qualified to do a range of tests.

6 Q All right. Looks to me like about eight different
7 of these standardized type of tests?

8 A That's correct.

9 Q Okay. Now, what's the nature of these things?
10 Are they prepared by experts in the field? I mean, how
11 did something like a Rorschach inkblot test or a Bordin
12 test or an IVA-2 test, where do those come from? I
13 mean, what are they?

14 A Okay. Some of them are IQ tests. Some of them
15 are personality tests. Some of them are
16 characterological assessments, and some are educational
17 in nature to validate a learning disability that this
18 patient had.

19 Q Okay. Are these tests, are they designed so, I
20 mean, really, for lack of a better word, the patient,
21 you know, to try to -- so they can't fake you out or
22 something like that?

23 A Yes, yes, absolutely.

24 Q I mean, independently --

25 A All standardized tests have what they call

1 validity scales, and validity scales are basically
2 paper-and-pencil lie detectors. So it tells the
3 clinician whether the person is being overly negative,
4 overly positive, or tending to fall within the range of
5 what most people who are truthful do.

6 Q So do the tests, are they kind of like an
7 objective criteria so you're not just relying on what
8 an individual's telling you?

9 A No.

10 Q They are that or they're not?

11 A They were reliable, and I didn't see any gross
12 contraindications to the results of these exams being
13 illegitimate in any way.

14 Q I guess what I'm getting at, are the tests kind of
15 to try to get an objective measure of what it is you're
16 hearing --

17 A Yes.

18 Q -- and what the data means?

19 A Yes.

20 Q Okay. Now, along with the eight or so
21 psychological -- the battery of standardized testing,
22 did you consult the MCMI-3 study prepared by
23 Dr. Caldwell?

24 A Yes.

25 Q Tell them a little bit about Dr. Caldwell and why

1 you would do that and what it means.

2 A Right. In all of the years that I've been
3 testifying in the field of forensic psychology, the
4 Caldwell report is typically the one that's brought to
5 court. The Caldwell report represents the highest
6 standard in MMPI-2 analysis. Dr. Caldwell is
7 considered by most people to be the leading expert in
8 the MMPI-2 in the world.

9 Q All right. And to, I guess, ultimately treat --
10 diagnose Shelby's condition, it's important that you
11 use Caldwell's --

12 A Yeah. All of these tests contribute, and the way
13 that I come to a conclusion is I look at all this
14 information, including the results of a brain scan that
15 we did, and we put all that information together.

16 Q Let me get into that, if I can stop you there a
17 minute.

18 A Okay.

19 Q So did you do the MPI-2 study with -- prepared by
20 Dr. Millon?

21 A Yes.

22 Q All right.

23 A And the MCMI-III, the person who standardized that
24 test, was actually, up until the most recent, the head
25 of the DSM manuals since they started from the

1 beginning.

2 Q Okay. Let me -- I'm getting ready to move to the
3 brain scan, but let me sum up so we can kind of keep
4 all this information. So you reviewed the Horry County
5 criminal case file?

6 A Yeah.

7 Q Okay. You reviewed Shelby's psychologic- -- her
8 counselor, she saw those documents, the hospital
9 reports, psychological -- the psychiatrist's report?

10 A Um-hum.

11 Q Okay. Comprehensive interview with the family and
12 Shelby?

13 A Yes.

14 Q Is that right? Okay. So we were just talking
15 about your large battery of psychological testing,
16 standardized testing.

17 A Yes.

18 Q Now, you mentioned brain scans. Tell us about
19 that. Did you do brain scans and brain mapping in this
20 case?

21 A Yes. The Quantitative Electroencephalogram is the
22 most advanced EEG test that's given, and it compares a
23 person's brain with the norms and looks at what's out
24 of line, what isn't out of line, and tells us whether
25 things are out of line in an overactive or underactive

1 direction. And the patterning we get on the final
2 three-dimensional maps have diagnostic significance.

3 Q Okay. So that's the qEEG?

4 A Yeah.

5 Q What about the brain mapping? Is that the
6 sLORETA? What exactly is that? Did you do that?

7 A Yeah. Well, we put a cap on the patient's head,
8 and it looks at the 20 major brain regions and --

9 Q So tell me why that you felt that, along with all
10 the other stuff that you did, that --

11 A Okay. The qEEG provides us with an assessment of
12 brain function and dysfunction. It gives us an
13 extremely comprehensive understanding of the individual
14 that we're working with.

15 Q Okay. So that's helpful, then, in reaching an
16 ultimate diagnosis or conclusion in a case?

17 A Yes. It adds the dimension of all the neurology
18 involved in the patient.

19 Q Okay. Okay, Doctor. I want to move along to the
20 psychological disorder of transient peripartum
21 psychosis. What can you tell us about that and the
22 circumstances surrounding that, in general?

23 A Yes. Postpartum depression is really just a major
24 depression that's complimented by the biological and
25 situational aspects of pregnancy. And there are

1 psychotic features when the psychotic dimension is
2 diagnosed.

3 Q Okay. What I want you to do is -- just tell me
4 when you can see this, Doctor.

5 A Yes, sir.

6 Q Do I need to move it back? Can you see what's on
7 this?

8 A I'm fine.

9 MR. HIXSON: Your Honor, I have an objection.
10 Just quickly.

11 THE COURT: Okay.

12 MR. HIXSON: Did the doctor prepare that, or did
13 counsel prepare that for the doctor?

14 THE WITNESS: I didn't -- I had nothing to do with
15 it.

16 MR. MUREDDU: This information came directly from
17 the report, Judge.

18 MR. HIXSON: I don't mind it if he authenticates
19 it before he's prompted. That's fine if he
20 authenticates it, but if he's prompted by a litigation
21 document, I have an objection to that until he
22 testifies to it.

23 THE COURT: Well, he needs to testify to all that.

24 Q Could you see this, though? I'll get to that in a
25 second.

1 MR. MUREDDU: Court's indulgence, Your Honor.

2 Q Okay. Let me start out, Doctor, explain to the
3 jury, if you could, define what postpartum depression
4 is.

5 A Well, peripartum depression is a depression that
6 significantly intensifies during the month prior to
7 delivery.

8 Q Now, let me stop you right there. You said
9 "peripartum."

10 A Right.

11 Q I said "postpartum." Okay. Let's -- probably a
12 good starting point is let's differentiate between the
13 two. Is there significant difference or is it just
14 meaning before/after? Explain that.

15 A Yeah. Technically, there are three terms that are
16 of significance in postpartum depression. Prenatal
17 refers to anything from conception to birth, peripartum
18 refers to approximately the month prior to delivery and
19 several months thereafter, and postpartum refers from
20 the time of birth, subsequent.

21 Q Okay. So when I say "peripartum" as opposed to
22 "postpartum," just that -- when we're talking
23 "peripartum" before, post, after?

24 A Yes.

25 Q Okay. Are the -- is the depression -- the

1 symptoms, et cetera, are they -- is it virtually
2 identical?

3 A Yes.

4 Q Just we're talking about peripartum, they occur
5 before. Postpartum, they occur after. Is that --

6 A Yes. It's just temporally where they occur in the
7 pregnancy and the time thereafter.

8 Q Okay. Now, peripartum depression, postpartum
9 depression, are they a classification of just a major
10 depression in general? Describe how that works.

11 A Yes. They're an extension of major depression.
12 So major depression and postpartum depression basically
13 share features except one is related to the
14 conception/pregnancy/birth process, and the other is
15 related to other situations.

16 Q Okay. So when we get into peripartum and
17 postpartum depressions, is one of the distinctions, is
18 it not, as far as you're talking about a pregnant
19 woman?

20 A Yes.

21 Q All right. So -- and involved in pregnancy
22 hormones. How does the hormonal pregnancy thing come
23 into play, either amplify or not the depression? How
24 does that work?

25 A Well, physicians will refer to a hormonal storm

1 that's associated with all pregnancies and deliveries,
2 even in normal circumstances. But in postpartum
3 depression, that can be more severe than for most
4 people who deliver.

5 Q What about peripartum also?

6 A Yes. Hormonal factors are --

7 Q This hormonal storm can occur before, peripartum,
8 after --

9 A Yes, based on all the changes that are occurring
10 in a woman's body, uh-hum.

11 Q Okay. So if I'm hearing you correctly -- and
12 please chime in if I'm not getting this right -- we've
13 got a major depression; okay? And then a specific
14 version of that that pregnant women can experience:
15 Peripartum and postpartum depression?

16 A Yes.

17 Q Is that correct?

18 A Yes.

19 Q Okay. And which take into effect the hormones --
20 I think you called it a storm of hormones. Can that,
21 in its extreme form -- peripartum, postpartum -- can
22 that bring about what ultimately I was beginning to ask
23 you about, which is peripartum psychosis?

24 A Yes. It's a major contributing factor.

25 Q Okay. Now, how would you define -- and I have it

1 up on the board, but I'll go ahead and let you define
2 it. Let's just take the words "transient peripartum
3 psychosis."

4 A Okay.

5 Q Break that down. The "transient" part, what's
6 that about?

7 A "Transient" means it's acute, it's short-lived,
8 it's not chronic. It can occur within a very brief
9 period of time and then resolve itself.

10 Q Okay. "Peripartum," I think we covered that, but
11 please cover it again.

12 A Yes. It's that time in the month or so before
13 delivery and the several months thereafter.

14 Q Okay. And the psychosis, transient peripartum
15 psychosis, how would you define that?

16 A The psychosis part of that for many women involves
17 chaos and confusion on a cognitive level. So they
18 become disoriented, they become illogical, they become
19 irrational, and then they can engage in behaviors that
20 they ordinarily wouldn't do.

21 Q Okay. I think you covered some of the symptoms,
22 but I'm -- extreme agitation?

23 A Yes.

24 Q Okay. I think you said --

25 MR. MUREDDU: Your Honor, at this time, I would

1 like to refer to that. I think he's covered,
2 basically, everything that's on that visual aid.

3 THE COURT: I haven't seen it, so I don't know.

4 All right. That's fine.

5 MR. MUREDDU: May I?

6 THE COURT: Yes.

7 MR. MUREDDU: Thank you, Your Honor.

8 Q Can you see that?

9 A Yes.

10 Q Can everybody else see this? Okay.

11 So not to be redundant but to recap, okay, we're
12 talking about transient peripartum psychosis, which
13 ultimately you give an opinion on as to whether it was
14 present or not in Shelby's case.

15 A Yes.

16 Q Ultimately. Okay. But, now, let's go through the
17 symptoms again. Somebody who is suffering or
18 experiencing transient peripartum psychosis, could you
19 go through the symptoms again about what their state of
20 mind is, what's going on with the woman experiencing
21 that?

22 A Basically, they become panic stricken. They
23 become overwhelmed. They become extremely depressed or
24 dysphoric. They start thinking in an irrational way.
25 They contemplate things that they ordinarily might

1 contemplate but wouldn't consider acting on, but in
2 that state, seems like something that they would do.

3 Q Okay. Now, transient peripartum psychosis, in
4 general, is this something that happens frequently?
5 Rarely? About how often do you --

6 A Well, the thing that's important, in preparation
7 for this evaluation, we did an extensive Internet
8 medical research search. We always do that as we
9 prepare for these evaluations.

10 MR. HIXSON: Your Honor, I'm going to object to
11 hearsay if we're referencing the Internet as a source
12 of a learned treatise on transient peripartum
13 psychosis. We'd object to Internet research on this
14 syndrome.

15 MR. MUREDDU: Judge, I would submit he's an expert
16 in the field. I think that he can determine where he
17 gets his research materials and such like that. I
18 realize the Solicitor is trying to trivialize it, but I
19 would think the doctor should be heard if he has
20 knowledge about how often this event occurs.

21 THE COURT: Well, it needs to be something beyond
22 an Internet search.

23 Q Doctor, do -- you know what, I want to go back to
24 your -- have you -- you talked about earlier, when we
25 were qualifying you as an expert, that you worked at

1 various secure centers. Is that a kind word of saying
2 prison?

3 A Yes, that's correct.

4 Q Have you -- in your work history, have you
5 personally dealt with individuals and encountered
6 individuals who have experienced this disorder and the
7 consequences?

8 A Yes.

9 Q Can you elaborate about how many times you've seen
10 that and what you -- what you know about its rate of
11 occurrence based on your working in the field?

12 A Yeah. This is a very rare thing. Anyone, in the
13 course of their career, probably only sees a handful,
14 even forensic clinicians. Only two of these cases
15 occur in every state about -- on an annual basis. So
16 there's only about a hundred cases of disposing of
17 infants nationwide on an annual basis.

18 Q Okay. And when you worked in New York in the
19 criminal justice system, you actually encountered a
20 few?

21 A Yes. I worked with several women who had been
22 incarcerated for that.

23 Q Okay. Now, you're talking about the rareness or
24 the commonality of it. Are there certain known risk
25 factors that can lead to this or possibly make it more

1 likely to occur?

2 A Yes. There is a range of social, cultural, and
3 emotional factors that all contribute as a
4 constellation to what ultimately impacts someone.

5 Q Tell me what are -- and that will be my next
6 visual aid that I'll put up. What are some of the
7 known scientifically derived clinical risk factors that
8 might lead to a peripartum psychosis episode?

9 A Well, women who engage in this behavior feel
10 pressured in a negative way, that they are either
11 perceiving or aware that other people will not react to
12 their pregnancy in a positive fashion. So they
13 anticipate rejection and negativity; that, a lot of
14 times, these women have had extensive relationship or
15 marital conflict, they anticipate the loss of one of
16 those relationships. And, also, situational variables
17 like financial struggles can contribute --

18 Q Okay.

19 A -- to this disorder in a woman's final decision.

20 Q What about the pressure surrounding the ultimate
21 care and responsibility of the child? Is that one of
22 them?

23 A Sure. They feel this is going to be their burden
24 and not something that will be shared with other
25 people.

1 Q So if we have somebody who is dealing with
2 peripartum depression and these known risk factors that
3 you just rattled off are present within the individual,
4 what is likely or what -- put two and two together for
5 me.

6 A Those are all the known scientific risk factors
7 associated with what's technically called baby dumping.

8 Q All right. What about as far as the risk factors
9 leading to -- are they also risk factors leading to the
10 likelihood of a transient peripartum psychosis
11 occurrence?

12 A Yes.

13 Q Do they increase the chances, I guess is what I'm
14 saying?

15 A Yes. And the overwhelming number of women who are
16 arrested for this offense have that diagnosis.

17 Q Okay.

18 MR. MUREDDU: Court's indulgence.

19 THE COURT: Yes, sir.

20 MR. MUREDDU: Judge, I would also -- the Solicitor
21 has seen this. I'd like to go through this with him.
22 I think it's what he testified to as the known risk
23 factors.

24 THE COURT: Okay.

25 MR. MUREDDU: Thank you, Your Honor.

1 MR. HIXSON: As long as a foundation is in there
2 for it.

3 THE COURT: I think he just said all that.

4 MR. HIXSON: Yep.

5 Q Doctor, this is what you just went through. Would
6 you agree that you just testified to that these are the
7 known risk factors that can lead to transient
8 peripartum psychosis?

9 A Yes, as well as genetic predisposition.

10 Q Okay. Now, let me talk a little bit without
11 specifically getting into Shelby's diagnosis. I want
12 to go through something. In your investigation and
13 your forensic review of her case, was it your
14 understanding this was an unplanned pregnancy?

15 A Yes.

16 Q Okay. And in interviewing Shelby and her family
17 members, was this present in her case: Being pressured
18 by negative comments or inquiries regarding her getting
19 pregnant?

20 A Yes, it was.

21 Q Okay. In your interview with her and her
22 situation and her family, was she basically -- was she
23 basically the person ultimately responsible for the
24 care of the child?

25 A Yes, she felt she would be.

1 Q And did you conclude or did -- was the evidence
2 there that she was overwhelmed by this ultimate
3 responsibility?

4 A Yes.

5 Q Okay. Now, you interviewed her family, her
6 mother, her father, other family members, and her. Did
7 you determine or conclude that she was dealing with
8 rejection from them because of these unplanned
9 pregnancies and that situation?

10 A Yes.

11 Q Was it related to you that there were some
12 financial struggles that she dealt with?

13 A Yes.

14 Q All right.

15 A They revolved around her not wanting to work, to
16 be a stay-at-home mom, and her spouse wanted her to get
17 employed.

18 Q Okay. Now, did she relate to you that -- let's
19 forget about the abuse for a minute, but she had
20 concerns that she would be abandoned by him if -- was
21 potential abandonment by her spouse, in her mind,
22 present in this case?

23 A Yes. They had substantial conflict around another
24 woman that her husband was communicating and talking
25 about.

1 Q Okay. And did she report to you that she had
2 suffered abuse from him during the course of the
3 marriage?

4 A Yes, she did.

5 Q Okay. And I think we got to this earlier, but did
6 you come to the conclusion that she, or through your
7 evaluation, learn that she was suffering from or
8 involved in a major depression and even a peripartum
9 depression? Was that present?

10 A Yes.

11 Q All right. So, in general, these factors are
12 known risk factors just in general that can lead any
13 individual, female, to -- they could be a catalyst to a
14 transient peripartum psychosis event occurring; is that
15 right?

16 A Yes.

17 Q And they were all present in her case?

18 A That's correct.

19 Q Okay.

20 MR. MUREDDU: Court's indulgence.

21 THE COURT: Yes, sir.

22 Q Now, let me ask you this: The fact that this
23 wasn't Shelby's first child, as far as peripartum
24 depression and transient peripartum psychosis, does
25 that have any bearing on whether it would be likely to

1 occur with the birth of a second child or could it be
2 just as likely with any child somebody could have?

3 A It can be related to the initial pregnancy.

4 Q I guess what I'm getting at is if someone were to
5 argue, Well, she's had a baby before so that would make
6 this more or less likely to occur, would that be a fair
7 statement or would that be inaccurate?

8 A It's what happens and occurs during that first
9 pregnancy that would be the answer to that. In
10 Shelby's case, there was some conflict between she and
11 her mother around Shelby not being able to fulfill
12 goals, and that escalated to the point where, if I
13 remember correctly, they hadn't spoken for a period.

14 Q Okay.

15 A And then after her first child was born, they
16 resolved things and got back together and communicated.

17 Q But I guess what I'm getting at is, because she
18 has had a child before, would that somehow lessen the
19 chance that she could have an extreme event in a birth
20 of a second child?

21 A Not necessarily.

22 Q Okay. Now, let's talk about her age and it's in
23 relation to kind of that same question. Could this --
24 could this transient peripartum psychosis, could that
25 happen to any pregnant woman regardless of age?

1 A Yes, it could.

2 Q Okay. So age isn't really a factor in the
3 likelihood of this occurring?

4 A Not that clinical syndrome, but it is a factor in
5 baby dumping.

6 Q Okay. Now, the fact that Shelby lied about her
7 pregnancy, does that -- to police, to family members --
8 does that negate any of this science or any of the --
9 how does that bear on your diagnosis and what you
10 understand to have happened?

11 A Yes. It may have actually contributed to it in
12 that the denial was so extensive that, even when it
13 became physically obvious that she was likely pregnant,
14 that she was still telling people she wasn't. So there
15 was a reality-testing issue involved.

16 Q What about her own denial? Is that --

17 A Well, that's -- she was denying to the point where
18 it was no longer rational or logical.

19 Q All right. So after the event occurred and when
20 she's being questioned by the police, continuing to
21 lie, continuing to deny, is that somehow in conflict or
22 is it possibly consistent with this syndrome, for lack
23 of a better word?

24 A Yeah. No, it's not in conflict with it and can be
25 consistent, where it just reflects an extension of the

1 denial that she had from early stages of the pregnancy.

2 Q So it's almost childlike reasoning. Just deny,
3 deny, it will go away. It's little more than that, I
4 would say, but...

5 A Yes. And I would like to just add something about
6 the first pregnancy.

7 Q Oh, go ahead.

8 A There was a time in her first pregnancy where she
9 was taken to the hospital, disoriented and totally
10 cognitively confused and unable to think. And at the
11 time, doctors attributed that to another disorder that
12 she had, but it could have been a precursor of what
13 occurred in the second pregnancy.

14 Q Now, I want to refer specifically to a part of
15 your report. Do you have a copy of your report?

16 A Yes.

17 Q I can't tell you what the page it's on because it
18 goes into your conclusions. Next page. So if -- to
19 your knowledge, Shelby saw -- she dealt with the police
20 in questioning, to your knowledge; right?

21 A Yes.

22 Q Shortly after this. She was then arrested, taken
23 to the hospital?

24 A Yes.

25 Q Seen by nurses?

1 A Yes.

2 Q Seen by, I think, an OB/GYN doctor?

3 A Yes, sir. You're talking about the Conway Medical
4 Center?

5 Q Yes, yes.

6 A Yes.

7 Q Seen by a social worker?

8 A Yes.

9 Q A psychiatrist?

10 A Yes.

11 Q Okay. And I'm referring to your report about if
12 she's calm, she's not freaking out, she's not
13 hysterical, is that somehow inconsistent, or what do
14 you make of that, somebody, after the fact, being
15 questioned being perfectly calm and not hysterical?

16 A Because of everything that went on in her body
17 biochemically and everything that had led up to this,
18 it's not unusual for a person to be numb and to be
19 unresponsive or nonresponsive or only of limited
20 responsiveness.

21 Q Okay. To be able to, after the fact, even after
22 this traumatic event, maintain your ability to reason
23 and even lie --

24 A Yes.

25 Q -- and deny, is that inconsistent somehow with

1 this psychological disorder?

2 A No.

3 Q Can you elaborate on that? Why isn't it?

4 A Well, because people remain in denial. There was
5 a level of denial throughout her whole pregnancy before
6 and after that just continued until sometime subsequent
7 to the arrest.

8 Q So behaving that way, continuing to deny, as you
9 say, that's consistent with this?

10 A Yes.

11 Q Okay. Not inconsistent?

12 A I wouldn't see that as a contraindication, no.

13 Q Okay. I'd like to now get to your actual
14 diagnosis in this case. In your expert opinion, did
15 Shelby experience transient peripartum psychosis in
16 this case?

17 A Yes, she did.

18 Q What do you base that on?

19 A On everything that we have, from the documents we
20 read to the thoroughness of our clinical evaluation and
21 all the information with interviews, both she and her
22 family members.

23 Q All right. So it is your opinion she experienced
24 that in the birth of Baby [REDACTED]?

25 A Yes, with everything we did and know.

1 Q Okay. Now, I think that you've talked about -- so
2 you're saying it's present in her case, and you're
3 talking about -- we've gone through the symptoms.

4 In your expert opinion, your review of this case,
5 were -- did those symptoms present -- were they present
6 in her case?

7 A Yes.

8 Q Now, there has been some suggestion as to planning
9 out certain things, premeditations. In general, now, a
10 person experiencing transient peripartum psychosis, are
11 they able to or --

12 MR. HIXSON: Your Honor, I would object as it
13 relates to testimony concerning mental state.

14 THE COURT: Sustained.

15 Q Let's talk about the behavior of someone with
16 transient peripartum psychosis and the actual disposal
17 of the child.

18 MR. MUREDDU: Court's indulgence.

19 Q Somebody experiencing and in the throes of
20 transient peripartum psychosis, are they acting
21 maliciously?

22 MR. HIXSON: Just going to object. That's a
23 characterization of mental state.

24 THE COURT: Sustained.

25 Q Is their behavior rational?

1 A No, it's bizarre.

2 Q Is it logical?

3 A Illogical, irrational, bizarre.

4 Q Can it be delusional?

5 A Yes.

6 Q Let me be clear and please tell this jury: Your
7 review of this case: Reviewed the police report,
8 reviewed all the hospital documents, battery of
9 testing, extensive family history, brain scans, brain
10 mapping, is your opinion that, in Shelby's case, your
11 expert opinion that she was experiencing an episode of
12 transient peripartum psychosis?

13 A Yes.

14 MR. MUREDDU: Please answer any questions the
15 Solicitor has.

16 THE COURT: Cross-examination.

17 MR. HIXSON: Thank you, sir.

18 CROSS-EXAMINATION

19 BY MR. HIXSON:

20 Q How are you, sir? Do you need a drink of water?
21 Are you okay?

22 Do you need a drink of water? Are you okay?

23 A I didn't hear.

24 Q I apologize. Don't worry about it; okay? Let's
25 just get, I guess, some fundamental concepts related to

1 being an expert specifically in your field.

2 Can't we all, I guess, agree that, in order to
3 develop an effective expert opinion, that more
4 information is better than less information?

5 A That's correct.

6 Q That's true? Let me put it in truisms: That
7 accurate information is more important than inaccurate
8 information in order for you to be the best in your
9 field that you can be; is that safe to say?

10 A Within limits.

11 Q Is there ever a limit to accurate information?

12 A In other words, you can still come to a valid
13 conclusion even if a hundred percent of information you
14 have is not accurate.

15 Q Well, I agree with that. We'll get to that part
16 first. I guess what I'm trying to get to is that we
17 can all agree that the accuracy is pretty important in
18 this case?

19 A Yes.

20 Q And, specifically, I just wanted to bring to your
21 attention with the accuracies -- do you stand by the
22 accuracy of your report?

23 A Yes.

24 Q The basic fundamental information. And I'm
25 specifically drawing your attention to Shelby Taylor's

1 date of birth. She was born [REDACTED] of 1991; is
2 that correct?

3 A Yes.

4 Q And that makes her 23 years old at the time of the
5 offense, 24 at the time of your evaluation; isn't that
6 correct?

7 A That's correct.

8 Q Well, you cite her as 21 years old at the top of
9 your evaluation. Top of the page in the masthead, it
10 says she's 21. Right out of the gate, you missed her
11 by two years. Actually, three.

12 A I think --

13 Q We'll just chalk that up to a scrivener's error.

14 A Her date of birth is [REDACTED]/91?

15 Q Right. I won't do the math. It's 23. She's 24
16 when you talked to her.

17 A Okay.

18 Q She was three years older than you had --

19 A Okay.

20 Q So let's talk about some of the other areas in
21 this report; okay? Isn't it true, I guess, as a
22 fundamental idea, I think under Rule 702, it's
23 appropriate for me to talk about the basis for your
24 opinion. And I think you've talked to Mr. Mureddu
25 specifically about the documents that you reviewed that

1 allowed you to come to the conclusion that you come to.
2 And I guess that's the question I'm asking you: Isn't
3 it true that we want to have more information rather
4 than less information; isn't that safe to say?

5 A To some extent.

6 Q To some extent. Okay. So it's pretty important
7 for you to review contemporaneous records? In other
8 words, you did review in the course of your
9 evaluation --

10 A Yes.

11 Q -- Dr. Oduwole. He's an M.D. psychiatrist.

12 A That's correct.

13 Q He's actually a medical doctor that works --

14 A Yes, I know Dr. Oduwole.

15 Q Okay, okay. And I am proud of your
16 accomplishments. Don't get me wrong. But he's a
17 medical doctor, a step up as related to his
18 qualifications to review this patient?

19 MR. MUREDDU: Your Honor, I'm sorry to -- we have
20 a matter. Can we approach, please?

21 THE COURT: Sure.

22 (WHEREUPON, a bench conference was held off the
23 record in the presence of the jury but out of the
24 hearing of the jury.)

25 THE COURT: Your objection is overruled.

1 MR. HIXSON: Thank you.

2 Q So, I think -- let me just talk about a couple
3 other things, and we'll talk about that report in a
4 second.

5 So I think counsel had talked about validity
6 scales, I think, which you indicated in your testimony
7 that you reviewed -- used that to confirm the accuracy
8 of the testing that you used. In other words, it's
9 normal forensic or counseling -- you know, mental
10 health thing --

11 A Yes.

12 Q -- to use some method to determine whether or not
13 the data or the answer that you're ending up with is
14 accurate?

15 A Yes.

16 Q Is it valid or not; right?

17 A Yes.

18 Q So if you are going to interview folks -- the
19 Defendant, the defendant's mom, the defendant's
20 family -- in formulating your opinion, and you wanted
21 to validate the accuracy of that subjective
22 information; in other words, if I know I'm going to
23 trial and I'm saying this is what happened to me --

24 A Yes.

25 Q -- wouldn't it be effective to validate that

1 testimony by talking to Patrick or talking to Patrick's
2 family or somebody to offer information that would be
3 contra --

4 A Validate --

5 Q -- to validate that?

6 A Yes. There are numerous ways to validate things,
7 and one of the ways you can validate things is give
8 psychophysiological measures of assessment that people
9 don't have control over.

10 Q Um-hum.

11 A So one of the things that she took was the test
12 for what's called paradoxical temperature increase.
13 Paradoxical temperature increase is a psychobiological
14 measure of PTSD.

15 Q Okay. Let me just cut you off for a second. I
16 just want to know if you picked up the phone and called
17 the guy she says that's been beating her for the past
18 two years. Did you talk to him?

19 A No, I did not.

20 Q Okay.

21 A But I did talk to her mother and family about it.

22 Q Okay. And that's important. That's half the
23 story, right?

24 A Yes, yes.

25 Q Let's talk about -- specifically, let's clarify

1 this and lay the foundation correctly to make sure
2 we're clear. I believe you already testified -- and,
3 as a matter of fact, isn't it true, in your report, you
4 say under Rule 702 that you specifically relied on the
5 medical records from Conway Hospital, Conway Medical
6 Center; you specifically relied on the nurses' notes,
7 72-plus pages, voluminous reports; I believe you
8 testified earlier you relied on Horry County Police
9 records, eight pages, plus others in formulating your
10 opinion.

11 A Yes.

12 Q Okay. And specifically in that packet of
13 information was a consultation report by Dr. Oduwole.
14 He's a psychiatrist, an M.D. And I want to see if you
15 reviewed this in formulating your report. And you said
16 that you did.

17 A Yes.

18 Q Okay.

19 MR. MUREDDU: Your Honor, could he have a copy of
20 the doctor's report while he's being questioned about
21 it?

22 THE COURT: If he needs it.

23 MR. MUREDDU: Would you like a copy?

24 THE WITNESS: Yes, please.

25 MR. HIXSON: Okay.

1 Q I would love to have you read it. If you want to
2 read it, that will be great. Not that you haven't
3 before. I'll give you a moment to get oriented with
4 it.

5 I'm going to ask you some questions specifically
6 past psychiatric history. That is the second paragraph
7 on Dr. Oduwole's report. Okay? So let's make sure
8 we're on the same page before we get confrontational.
9 Okay? So this report was written April 10th of 2015;
10 isn't that correct?

11 A (Shaking head affirmatively.)

12 COURT REPORTER: Is that yes, sir?

13 Q Okay. That's one day after the birth of the
14 child; correct?

15 THE COURT: You need to answer, please.

16 Doctor, you need to answer out loud.

17 THE WITNESS: Oh, I'm sorry. Yes.

18 Q We agree that this was written one day after --

19 A Yes.

20 Q -- the birth of the child. And isn't it true that
21 your report was written 14 months after?

22 A Yes.

23 Q In other words, May 16th of 2016?

24 A Yes.

25 Q So one day after Ms. Taylor put her baby in a

1 trash can, she told a psychiatrist -- the patient --
2 the psychiatrist says the patient has no significant
3 past history of psychiatric illness. And you are aware
4 of that as you formulated your opinion; is that
5 correct?

6 A Yes.

7 Q Okay. Also --

8 A I know where Dr. Oduwole said that.

9 Q That's right. That's what I mean. That's the
10 basis for your opinion.

11 A Right.

12 Q She specifically reports to you -- reports to
13 Dr. Oduwole and you reviewed it for your opinion that
14 she has always been a very happy person. She's not
15 depressed and she has never taken any antidepressants
16 before. That was the clinical impression at that time;
17 is that correct?

18 A That's correct.

19 Q Okay..

20 A That he got.

21 Q That's what she told him. I draw your attention
22 to the report that you relied on in forming your
23 opinion on the next page, sir. And that's "Family
24 History." Under "Family History" -- it's on the next
25 page if you'd like to see if you contest that or you

1 relied on that in formulating your opinion.

2 In this, Dr. Oduwole states that the patient says
3 she denies any history of abuse. She denies any
4 history of physical, emotional, or sexual abuse by
5 anyone. Were you aware of that when you formulated
6 your opinion?

7 A Yes, yes.

8 Q Okay. One of the reasons I'm specifically talking
9 about this is I would like to refute point by point --
10 we have substantial evidence that each one of these
11 points in Dr. Oduwole's report aren't present. So
12 let's keep going. Okay?

13 So when don't have any abuse, by Dr. Oduwole. We
14 don't have any sexual abuse. No psychiatric problems.
15 Let's talk about the next one: Mental status
16 evaluation. It's in the same report you relied on to
17 form your opinion.

18 A Yes.

19 Q Okay. She tells Dr. Oduwole, "She appears to have
20 good attention and concentration." Okay?

21 A Um-hum.

22 Q "She denies any psychotic symptoms. She has no
23 symptoms of mania." And follow along right here and
24 see if you agree with this, "Her mood is very depressed
25 at this time because of the situation she has found

1 herself in. She is very sad at this time but denies
2 any depressed mood."

3 A Well, I don't see where it says "based on the
4 situation she's in." He just said that the mood is,
5 obviously, very depressed, very tearful, and quite
6 emotional.

7 Q Okay. I'll show you right here. Do you want the
8 highlighted copy? "Mood is very depressed at this time
9 because of the situation that she found herself in."

10 A Okay.

11 Q See it? This is the one I want to talk about
12 here: Confusion. One day after an M.D. says, "She
13 appears to be cognitively intact with good attention
14 and concentration. She is able to follow commands.
15 She responds to questions appropriately. The only
16 diagnosis of psychiatric symptoms that she reported at
17 this time is nightmares because of what she did."

18 A Um-hum.

19 Q Okay. And you are aware of all of that --

20 A Yes.

21 Q -- when you write a report one year later to say
22 that she's confused, that she's irrational --

23 A Yes.

24 Q -- that she's agitated --

25 A Yes.

1 Q -- that she's anxious. She is anxious because of
2 what she did.

3 MR. MUREDDU: Argumentative, Judge. Objection.

4 A That's what Dr. Oduwole said.

5 THE COURT: Sustained.

6 Q No, this is what you said.

7 THE COURT: Ask a question.

8 MR. HIXSON: Thank you, Your Honor. I apologize.

9 Q Okay. Did you have an opportunity to review the
10 nursing notes?

11 A Yes.

12 Q I'll bring your attention to this. I'm not trying
13 to trap you. That's in black and white.

14 A Um-hum.

15 Q Okay. At the time of her intake, she denies
16 injuries from another and says -- you considered this
17 and when you said that you relied on this for your
18 opinion, that she appears in no apparent distress;
19 she's comfortable but her behavior is flat.

20 A Yes.

21 Q Isn't that safe to say? Wouldn't you agree that
22 is kind of clinically in contradiction to extreme
23 agitation?

24 A That can be transient.

25 Q Okay. Let's talk about transient.

1 A A lot of what was observed in the hospital can
2 actually be an extension of this, but -- because
3 Dr. Oduwole is a hospital psychiatrist. And the main
4 focus of this evaluation, when you read all the notes,
5 was to determine whether she was suicidal or homicidal
6 and could or could not leave the hospital. He did not
7 do an in-depth comprehensive forensic evaluation. This
8 was a clinical evaluation of short duration just to
9 determine whether a patient's okay for discharge.

10 Q You're exactly right. That is exactly what you
11 said in your report.

12 A Yes.

13 Q I'm going to question that. That's one of the
14 conclusions you put in your report. As a fundamental
15 point, Dr. Oduwole works for a healthcare, and,
16 specifically, Conway Medical Center. He doesn't work
17 for anybody else. He's not hired by -- isn't it true
18 that he's not hired by defense counsel, he's not hired
19 by the victim's family, defendant's family. He's not
20 hired at all?

21 A That's correct.

22 Q This patient came in the door -- and you're a very
23 learned person. I don't want to be insulting. He's a
24 medical doctor, and as a psychiatrist --

25 A Yes, but also --

1 Q -- and you are an expert in --

2 A He also works at numerous places, including The
3 Lighthouse, Grand Strand, and other places.

4 Q That's right. I'm sorry.

5 Let me just bring a couple other little points out
6 of the -- the point of my -- let me make sure I'm
7 clear. The point of my cross-examination on
8 Dr. Oduwole's report is that you knew this information,
9 you took that into account when you came with a
10 clinical diagnosis of all these factors --

11 A Yes.

12 Q -- and you ignore all of this.

13 A I didn't ignore it.

14 Q Because to use a validation scale is directly
15 contradictory -- it can't be both --

16 MR. MUREDDU: Your Honor, I'd object. He's
17 arguing with the witness.

18 Ask a question, please.

19 A Yeah, it is not at all uncommon for busy
20 psychiatrists to talk to people and come to a
21 conclusion or make observations that is inconsistent
22 with an in-depth comprehensive forensic evaluation.

23 Q Fair enough. Fair enough.

24 In the course of your -- let's talk about some of
25 the findings in your report, some of the other

1 information that you had and you took into account when
2 you wrote this. And I'll specifically refer you to the
3 interview with the Defendant's mother. Okay?

4 Do you recall -- and I'll refer you to the page of
5 your report. I believe it is page 7. And it's the
6 sixth paragraph down.

7 A Page 7? Yes, sir.

8 Q Page 7, sir.

9 A Okay.

10 Q That some of the information that you considered
11 was the fact that her mother told you that Shelby was,
12 quote, "naive, immature, and a bad liar"?

13 A Yes.

14 Q Okay. Also, as it relates to the normalcy of the
15 family life, that your understanding was -- and that's
16 the last one above your clinical analysis -- that the
17 patient's mother indicated to you there's nothing more
18 shocking than what's happened here in her previous life
19 prior to this. There wasn't any more shocking incident
20 than -- nothing more shocking than what's happened
21 here. Is that what you mean by that sentence?

22 A Right. That was the mother's reaction.

23 Q Yes. I'm just trying to see what the major
24 depressive incident was, if the most depressing
25 incident in your opinion is, according to the

1 information that you got, was this is the worst thing
2 that's happened so far.

3 A Well, that's partly denial on the mother and on
4 the family's part. Going back, Shelby has suffered
5 from what's called persistent depressive disorder.
6 Persistent depressive disorder is a low-grade
7 depression. It used to be called dysthymia in DSM-IV.
8 It's primarily not biological in the early beginning.
9 And it goes back to, in her family, the conflict
10 involving her parents that ultimately wound up in their
11 divorce. So she's had a low-grade depression most of
12 her life --

13 Q Okay.

14 A -- that then exacerbated into a major depression
15 which predisposed her to being overwhelmed during this
16 delivery.

17 Q Okay. I understand that. Let me draw your
18 attention to page 20, on the 20th page. As you relied
19 on Dr. Oduwole's concern over, "There doesn't appear to
20 be any psychotic issues" -- well, you read his report.
21 You know exactly what he says.

22 On point 18, on the bottom, you write that, "There
23 are presently situational contributions to the
24 patient's mental status, for she is on a high-level
25 state of distress awaiting trial and prosecution for

1 attempted murder."

2 A Yes.

3 Q All right. Isn't that consistent -- precisely
4 consistent with Dr. Oduwole's opinion when he says
5 there's no prior psychosis but she's stressed out now?

6 A No. That's -- that's only consistent with what it
7 says, not that she wasn't psychotic then. Anyone
8 awaiting trial and prosecution for anything is going to
9 be in a state of high distress, usually.

10 Q Yes, sir. I'd also like to draw your attention,
11 then, to 19 and touch on a few more points and sit
12 down.

13 On page 19, you discuss the vulnerability factors
14 to suffer from this mental disease -- or it's not a
15 disease; it's a disorder. Isn't it true that, in your
16 report you say, "Peripartum depression is a combination
17 of factors." Okay? Do you see what I'm talking about
18 in your report?

19 A Yes.

20 Q And the contributing factors are fatigue, and this
21 would be in a mother that had a child; if you're
22 married and have a child, it's a husband and wife
23 situation; is that safe to say? If you're married and
24 have a support system for that?

25 A Um-hum.

1 Q So factors are fatigue, sleep deprivation,
2 anxiety, awareness of increased responsibility, and
3 lack of partner support all play a critical role in
4 this diagnosis. And that's what that says?

5 A As risk factors contributing, yes.

6 Q Are you aware of a single newborn couple, husband
7 and wife, that do not have every single one of those
8 factors: Fatigue, sleep deprivation, anxiety? I'm a
9 parent now, and my husband isn't doing enough to take
10 care of the baby?

11 A There's a lot of parents who don't have those
12 symptoms. Some parents are delighted, elated, happy,
13 optimistic, proud.

14 MR. HIXSON: Beg the Court's indulgence just for a
15 moment.

16 Q One final question. Let me make sure I
17 understand, you know, the features associated with your
18 specific diagnosis.

19 Persistent depressive disorder. And had to exist
20 for two years prior to; right? So if you interviewed
21 them one year after, the persistent depressive disorder
22 has to --

23 A No, no. Actually, persistent depressive disorder
24 for her started in her childhood.

25 Q Okay.

1 A And extended -- was intensified during high school
2 when she had a lot of academic problems and so forth.

3 Q And I just, if you can help, I had -- I got every
4 other nomenclature that you used, but this transient
5 nature of this psychotic episode, I can't find it in
6 DSM-5. Where is the transient nature that you assigned
7 to this that it somehow could exist and then disappear
8 at will almost? Where is the transient diagnosis in
9 DSM-5?

10 A Right. It's part of the post -- the
11 peripartum/postpartum depression nomenclature and
12 explanations.

13 Q Well, with peripartum onset, can you find that?

14 A Well...

15 Q That's peripartum onset for what you diagnosed her
16 for, and there's no transient nature to it. It doesn't
17 just go away.

18 A Psychosis can be transient or persistent.

19 Q Is that in there?

20 A And that's -- yeah, with psychotic features.

21 Q That's not transient features. If you're
22 psychotic, you're there. You don't just get arrested
23 and it goes away.

24 A No, you commit another one. I've worked in
25 hospitals where people were psychotic, given medication

1 and treated or not had anything done, and their
2 psychotic symptoms dissipated and then came back
3 several days later. It has to do with brain chemistry.

4 Q I'm going to be very polite and respectful to you.
5 I'm sure that's true, but it's not in DSM-5. And your
6 testimony was DSM-5, 300.4, has transient peripartum
7 psychosis. And the transient nature is not listed in
8 DSM-5 under that.

9 A Yes, it's in the literature.

10 Q Okay. Fair enough. Literature.

11 A It's in the medical literature and it is in DSM-5.

12 MR. HIXSON: I have no further questions, Your
13 Honor.

14 THE COURT: Redirect?

15 MR. HIXSON: Nothing further, Your Honor.

16 THE COURT: Okay. Thank you, sir. You can step
17 down.

18 (Witness excused.)

19 THE COURT: You may call your next witness.

20 MR. MUREDDU: Your Honor, at this time the Defense
21 rests.

22 THE COURT: Okay. All right, ladies and
23 gentlemen. At this point in time, the Defense has
24 rested its case. I have an issue of law that I have to
25 take up outside of your presence. We're not going to

1 break for lunch just yet. We're going to take a short
2 break, and I'll be back with you in just a few moments
3 as far as plans for the rest of the day. Okay? So do
4 not discuss the case, keep an open mind, and I'll be
5 back with you in just a few moments.

6 (WHEREUPON, the jury exited the courtroom at
7 12:03 p.m.)

8 THE COURT: Where are you on reply?

9 MR. HIXSON: We're good.

10 THE COURT: You're not going to call any? Okay.
11 All right. Like I said, we're going to do that other
12 hearing at 1:00?

13 MR. HIXSON: Yes, sir.

14 THE COURT: So let's do this. I'm going to bring
15 them back in here and release them for the day, tell
16 them to come back at 9:30 tomorrow morning, and then we
17 can do motions at that point in time; they'll be gone.
18 And then we can -- we either got to talk about jury
19 charges at the end of the day or talk about jury
20 charges before I start that other hearing.

21 MR. HIXSON: An e-mail by counsel in the next
22 hearing, they were flexible to somewhat a degree. In
23 other words, I don't think it would bother them if it
24 was pushed back an hour or so.

25 THE COURT: Okay. Let's bring them back in here,

1 and I'm going to get rid of them for the day and tell
2 them to come back at 9:30 tomorrow. Fair enough?

3 MR. MUREDDU: Thank you, Your Honor. Fair enough.

4 THE COURT: All right. Let's go ahead and bring
5 them back in real quick.

6 (WHEREUPON, the jury came into open court at
7 approximately 12:07 p.m.)

8 THE COURT: All right. This is only going to be
9 real quick, so just grab a seat.

10 All right. So here's what we're going to do. The
11 Defense has rested its case. The State is not calling
12 any reply witnesses. So the only thing left for us to
13 do is to give the closing arguments and for me to tell
14 you what the law is, and then you'll be allowed to
15 begin deliberating. Okay?

16 I have a hearing that is set for this afternoon
17 that has been set on a case that has nothing to do with
18 this case that's permanently assigned to me that has
19 people coming in from literally all over the state to
20 participate in, and it will take all afternoon.

21 So what we're going to do is we're going to break
22 for the day, because I'm going to send you home right
23 now. You're not allowed to talk about the case.
24 You're not allowed to form any opinion on the case.
25 You're not allowed to do any research on the case.

1 You're not allowed to watch any news media about the
2 case. You're not allowed to let anybody talk to you
3 about the case.

4 When you come back tomorrow morning, I want you
5 just like you are right now. The attorneys will have
6 an opportunity to come before you and make closing
7 arguments. I still have to tell you what the law is in
8 South Carolina as it pertains to the issues that have
9 arisen in the case, and then you will be allowed to
10 begin your deliberations. And doing it in the morning
11 is good. Everybody comes in fresh, we do them, and
12 then no one feels like there's any time constraints.
13 Okay?

14 So you're not allowed to discuss the case. You're
15 not allowed to do any research. You're not allowed to
16 watch the news or read or listen to the news. And when
17 you come back tomorrow morning, I want you just like
18 you are right now, well rested and ready to go. Thank
19 you for your hard work today. We're going to start
20 tomorrow morning at 9:30, and we will see you then.
21 Thank you very much. Have a nice day.

22 Everyone else, remain seated.

23 (WHEREUPON, the jury exited the courtroom at
24 12:09 p.m.)

25 THE COURT: All right. Motions?

1 MR. McCOLLUM: May it please the Court?

2 THE COURT: Yes, sir.

3 MR. McCOLLUM: Your Honor, at this time, the
4 Defense would renew its motion for a directed verdict,
5 also renew all objections previously made, and renew
6 all motions previously made.

7 THE COURT: Okay. And your motions are noted for
8 the record, and I believe you've raised them at the
9 appropriate time, and my ruling upon them is the same
10 based upon the existence of the evidence and not the
11 weight of the evidence in the light most favorable to
12 the non-moving party. The motion for directed verdict
13 is hereby denied.

14 Okay. When do y'all want to talk about charges?
15 Do you want to do it now? Do you want to go to lunch
16 and do it? What you want to do?

17 MR. McCOLLUM: You have that other hearing at
18 1:00?

19 THE COURT: Well, they can wait. I mean...

20 MR. HIXSON: I think in the morning --

21 THE COURT: I mean that with all due respect.

22 MR. HIXSON: SCDC is late, usually, too, so...

23 THE COURT: SCDC is usually late and all that kind
24 of stuff, so...

25 MR. McCOLLUM: I think that it may be somewhat

1 lengthy, so I would -- maybe it's better if we do it in
2 the morning.

3 THE COURT: No, we're not doing it in the morning.
4 We're doing it right now or after lunch.

5 MR. MCCOLLUM: Oh, okay. I'm sorry.

6 THE COURT: I plan on having this charge crafted
7 by the time I leave here today.

8 MR. MCCOLLUM: All right. Well, whatever the
9 Court's pleasure, whenever you want to do it.

10 THE COURT: All right. Well, let's go ahead and
11 do it.

12 All right. Let's start with -- I'm going to go
13 through the charge, because I know y'all are not
14 familiar with my charges, so you know what I normally
15 say. And once we get a finalized charge, I will e-mail
16 everybody a copy so that you know exactly what I say
17 and what I don't say so it doesn't -- hold on one
18 second.

19 (Discussion off the record.)

20 THE COURT: So I start with a paragraph that says,
21 The indictment charges the Defendant with the crime of
22 attempted murder. I remind you the fact that the
23 Defendant was arrested, charged, and indicted is not
24 evidence, simply the document that contains the charge
25 against the Defendant.

1 I then go into the duties of the jury and the
2 trial judge. It's my responsibility to preside over
3 the trial of the case, rule on the evidence. You're to
4 consider only the competent evidence before you. I
5 have the additional duty to charge you the law in this
6 case. You have to take the law as I give it to you
7 whether you like it or not. You're the sole and
8 exclusive judge of the facts. I can't tell you what
9 the facts are. Don't infer from anything I've done as
10 to what I think the facts are and what I think your
11 verdict should be.

12 Let's see. There's not multiple defendants so
13 take out "multiple defendants."

14 I then go into the presumption of innocence. I go
15 in, It's an important rule of law that no matter what
16 the seriousness of the charge may be, she is presumed
17 innocent. They have to prove evidence -- by evidence
18 that satisfies you beyond a reasonable doubt. It's
19 like a robe of righteousness. It's not a mere legal
20 theory. It's a substantial right.

21 I then explain reasonable doubt. I use Victor
22 versus Nebraska. Take the other language out of there.
23 That's the wrong one. Yeah, that's the right one. I'm
24 sorry.

25 Proof that leaves you firmly convinced of the

1 defendant's guilt. There are very few things in this
2 world that we know with absolute certainty. So on and
3 so on.

4 Okay. And then I go into what is not evidence. I
5 tell them statements and arguments of the attorneys,
6 questions and objections, those are things that are not
7 evidence. I then go through direct and circumstantial
8 evidence. I give the new circumstantial evidence
9 charge. Then I go through the credibility of the
10 witnesses. You can believe all, some, or none; it's
11 your duty to determine this.

12 I then go through an expert witness and the things
13 that they can consider in evaluating an expert witness.
14 And then -- okay. And then so take out failure of the
15 Defendant to testify.

16 All right. Then I go through statement of the
17 Defendant, a statement is alleged to have been made.
18 They have to determine whether or not it was made
19 voluntarily and freely, that kind of thing.

20 And then I go through intent. In order to
21 establish criminal liability, criminal intent is
22 required. There is no way medical science can dissect
23 a person's brain, all this stuff that we've reading for
24 30 or 40 years. It's a mental state, a conscious
25 wrongdoing. Okay.

1 Then at that point in time I will insert the
2 charges. We'll come back to that. And then at the
3 end, I do this. I tell them they have a duty to
4 deliberate, they have a duty to discuss the case in a
5 calm, thorough, and courteous manner, listen to each
6 other's views and points of views, and to talk about it
7 and discuss it and to do it deliberately. That means
8 you're not in a big hurry; don't be in a big hurry
9 here. This case is very important to both sides. They
10 all have to be in the room to deliberate. Your verdict
11 must be unanimous.

12 And then I will have a verdict form, which we're
13 in the middle of creating right now, that tells them --
14 that gives them the options for a verdict.

15 So any objection to any of that before we get to
16 the complicated stuff?

17 MR. HIXSON: No, sir.

18 MR. MCCOLLUM: Not from the Defense, Your Honor.

19 THE COURT: Okay. All right. So let's start with
20 the crimes charged. What's the State's position on
21 lesser includeds?

22 MR. HIXSON: Your Honor, as you're aware, State
23 versus Smith stands for the proposition that
24 lesser-included offenses can only be charged if there
25 is some evidence of the existence of the

1 lesser-included offense. In this case, there is no
2 existence of any of the lesser-included offense. The
3 facts, as it relates to the placing of the baby in the
4 trash bag were conceded to, basically. That is what
5 happened, I think were the words used.

6 There is no evidence to moderately harm the child.
7 There is no evidence of any other nature of trying to
8 harm the child, just to place -- you know what the
9 facts are. There's no evidence of lesser-included
10 offense under State v. Smith.

11 THE COURT: Okay. Do you want to be heard on
12 that? What's y'all's position on lesser included?

13 MR. McCOLLUM: Your Honor, our position is that
14 the statute, obviously, 16-3-600, goes through and
15 specifically delineates that each one of these levels
16 of assault, without naming them all, is a
17 lesser-included offense of the greater. We can talk
18 about specific evidence and the inferences from that
19 evidence if I need to.

20 THE COURT: How do I get around this Middleton
21 case, I guess is my question, where, in Middleton, the
22 guy was -- the two victims in Middleton's case, they
23 were shot at five to seven times. One victim had a cut
24 from a broken glass; that was her only injury. The
25 other victim was not injured in any way. Judge

1 Buckner -- e-mail me that -- Judge Buckner refused to
2 charge -- they were charged -- the Defendant was
3 charged with attempted murder. He shot at them from
4 one car to another car five to seven times. He was
5 charged with attempted murder, and Judge Buckner
6 refused to charge any lesser included as to the victim
7 that said he was not injured. As to the victim that
8 said she was injured, he did charge a lesser included,
9 and the Supreme Court said he should have charged all
10 the degrees of assault and battery. I don't know how I
11 get around that.

12 MR. HIXSON: I thought that's a transferred intent
13 case, Your Honor, where the intent to do ill will
14 against the shooting --

15 THE COURT: No. The words "transferred intent"
16 are not in that case. I read it last night.

17 MR. HIXSON: My understanding of it was it was
18 because one person was cut with a glass but one is the
19 intended victim, and that's why there's a difference.
20 But that's the only way I would distinguish
21 specifically. But it still stands for the proposition
22 that there is no -- is there any evidence that, if the
23 facts as presented, that Ms. Taylor put her baby in
24 with the intent to do minor bodily injury? Is there
25 any intent of sexual misconduct?

1 THE COURT: Assault and battery of a high and
2 aggravated nature. So where is the evidence that she
3 injured another person and great bodily injury to
4 another person resulted? Mr. McCollum?

5 MR. MCCOLLUM: Does the Court deem that that has
6 to be present? Because in our argument --

7 THE COURT: There has to be some evidence that a
8 great bodily injury to another person occurred or the
9 act is accomplished by means likely to produce death or
10 great bodily injury.

11 MR. MCCOLLUM: Well, I think clearly that's the
12 State's case.

13 THE COURT: I mean, how is Section B of that not
14 met based upon the facts?

15 MR. HIXSON: As it relates -- I would assume that
16 great bodily injury is a likely consequence of putting
17 the baby in the trash can.

18 THE COURT: Yeah. I mean, I would assume that act
19 is accomplished by means likely to produce death or
20 great bodily injury.

21 MR. HIXSON: Yes, I think so.

22 THE COURT: Okay. All right. So assault and
23 battery first degree says, "A person commits the
24 offense of assault and battery in the first degree if
25 the person unlawfully injures another person and the

1 act either" -- of course we don't have any
2 nonconsensual touching here; obviously, that wouldn't
3 apply -- "occurred during the commission of a robbery,
4 burglary, kidnapping or theft." That doesn't apply.
5 They define "private parts," which wouldn't apply.

6 And then it says if -- Section 2 says, "If a
7 person offers or attempts to injure another person with
8 the present ability to do so, and the act is
9 accomplished by means likely to produce death or great
10 bodily injury." How is that?

11 "Great bodily injury means bodily injury which
12 causes the substantial risk of death or which causes
13 serious, permanent disfigurement," blah, blah, blah,
14 blah, blah.

15 How does that, "Offers or attempts to injure
16 another person with the present ability to do so and
17 the act is accomplished by means likely to produce
18 death or great bodily injury," how does that not apply?

19 MR. HIXSON: I think that does -- is likely to
20 cause death or serious bodily injury.

21 THE COURT: I really don't understand the
22 difference between ABHAN and assault and battery first
23 degree, do you?

24 Now, assault and battery second degree says the
25 same thing, which says, "The moderate bodily injury

1 results or moderate bodily injury to another person
2 could have resulted." What about that, Mr. McCollum?

3 MR. MCCOLLUM: I think that, you know, in these
4 kind of cases, Your Honor, there are situations where
5 the babies die. They are situations where the babies
6 are found in critical condition. There are situations
7 where the baby is dehydrated and suffers temporary
8 injuries. So, you know, I think those moderate bodily
9 injuries maybe happened in this case or, you know,
10 certainly could have happened.

11 THE COURT: What about that, Mr. Hixson?

12 MR. HIXSON: There is no evidence of moderate
13 bodily injury. Either she's fine and she didn't --

14 THE COURT: No, no. I'm not saying that
15 there's -- there's obviously no evidence that moderate
16 bodily injury occurred, but the statute says, "Moderate
17 bodily injury could have resulted."

18 MR. HIXSON: I guess, absent being rescued, I
19 don't know how moderate bodily injury could have
20 occurred either -- if we waited a couple hours or if
21 they waited a couple hours to find her and she was more
22 dehydrated. But as it relates to evidence of -- it's
23 evidence of moderate injury, same as minor injury.
24 There is no moderate or minor. Either it's an
25 attempted act to kill or the act would have likely

1 caused. But I don't know how to moderate -- I don't
2 know how there's evidence of trying to partially hurt
3 the child but not completely hurt the child.

4 THE COURT: In a bag that's tied shut.

5 MR. HIXSON: Right.

6 THE COURT: And it's a newborn.

7 MR. HIXSON: Yes.

8 THE COURT: Being put in a trash can.

9 THE COURT: Right.

10 MR. HIXSON: There is no moderate. It is or it
11 isn't. I understand the assault likely to cause death,
12 like firing a weapon and missing and they're completely
13 fine, but the mechanism, you know -- anyway, Your Honor
14 understands the State's position.

15 THE COURT: What about it, Mr. McCollum?

16 MR. MCCOLLUM: Your Honor, this is an
17 extraordinary statute. I think the intent is very
18 clear. Again, it says that it is a lesser-included
19 offense. I don't know why you would chop it off at
20 that level. I understand why --

21 THE COURT: Because if there's no facts -- if
22 there's no evidence in the record to support it, then
23 the law does not allow me to charge it.

24 MR. MCCOLLUM: In a situation where the child is
25 placed where the child was placed, certainly, if

1 moderate bodily injured occurred, it would have
2 certainly been foreseeable and likely. It, obviously,
3 has to do with the intervening acts of somebody hearing
4 the child or rescuing the child, but it's certainly
5 different than the intentional killing of the child by
6 strangling the child or some other horrible means.
7 It's is it likely to have happened? Yes, depending on
8 the circumstances once the child was left alone.

9 THE COURT: I'm listening.

10 MR. HIXSON: I just happened to think of a way of
11 doing it. The major stepdown from attempted murder and
12 the assault and battery ABHAN in the first is, of
13 course, the malice aforethought aspect of malice isn't
14 required. But if we're going to do a jury charge that
15 relates to the conduct of the Defendant, it's her
16 conduct that determines whether moderate bodily injury
17 was intended or not. Was she improperly touching
18 somebody, which is simple assault and battery?

19 There was nothing in evidence that indicates that
20 Shelby Taylor intended to unlawfully cause moderate
21 bodily injury. She intended to either -- well, as
22 alleged, to terminate the life of that child. There is
23 no evidence that she intended to just partially -- like
24 leaving the baby outside someone's door in a dehydrated
25 and -- but it was saved. It is all in, and there's

1 no -- the malice is fine with the lesser includeds, but
2 when you get down there, there is no -- the evidence
3 shows the intention was to unlawfully harm the child,
4 and the harm would have caused death or serious bodily
5 injury. And there is no moderate bodily injury under
6 our fact pattern, from the Defendant's perspective, not
7 from the rescuer's perspective.

8 THE COURT: Anything else, Mr. McCollum?

9 MR. MCCOLLUM: I would say that, you know, it's a
10 little bit unusual because you have a newborn and a
11 mother. So, in general, you would say that, you know,
12 the mother -- it's not an unwarranted touching, but I
13 think certainly it would be possible or feasible to say
14 that, you know, once she gathered the child up, okay,
15 and placed the child in the bag and took those steps to
16 dispose of the baby, that that is an unwanted touching.
17 You know, that's nothing consensual about that.

18 I know the child, you know, isn't at the age of
19 consent, but certainly, you know, if somebody observed
20 that, okay, or if her husband got up or somebody saw
21 that and they said, you know, "What are you doing?"
22 You're trying to put a baby in the trash bag. Then, at
23 that point -- you know, I don't know, maybe it would be
24 an attempted murder charge, maybe it would be something
25 else, but the evidence would be, well, she took the

1 child in a way that violates the law, it's an
2 unwarranted touching, and that cannot happen. She
3 seemed to have some bad intent, I don't know what was
4 wrong with her, but that would be an unwarranted
5 touching. That would be my response, Your Honor.

6 THE COURT: Okay. Let's talk about this attempted
7 murder charge. All right. So we have this case, State
8 versus King, and I went back and read it last night,
9 because my memory of it wasn't as simple as Mr. Hixson
10 made it seem.

11 What this case says from the State Supreme Court
12 in October of 2015, it says clearly what is
13 indisputable is that attempted murder is a specific
14 intent crime. That's not in dispute. In the statute,
15 it says, "Intent to kill with malice aforethought,
16 either express or implied." The Court of Appeals never
17 gets into whether "either express or implied," and the
18 Supreme Court here attempts to get into that issue.
19 And they go into this thought process that it is
20 impossible to attempt an unintended result. And they
21 go into this Nevada case from 1998, Keys versus State,
22 where the Nevada court holds that you can't imply
23 malice or infer malice in a specific intent crime. The
24 Nevada court says clearly -- this is a direct quote
25 from the South Carolina case quoting the Nevada case --

1 "One cannot be guilty of attempted murder by implied
2 malice because implied malice does not encompass the
3 essential specific intent to kill." They say,
4 "Attempted murder is the performance of an act or acts
5 which tend, but fail, to kill a human being when such
6 acts are done with express malice; namely, with the
7 deliberate intention unlawfully to kill."

8 And then the Court goes through this lengthy,
9 lengthy, lengthy history of ABIK and general attempt
10 and the Omnibus Crime Bill and all these things. And
11 then they go, basically, include the section with a
12 footnote where they suggest to the General Assembly to
13 reevaluate the language following malice aforethought
14 as to the inclusion of the word "implied malice,"
15 because it is arguably inconsistent with a specific
16 intent crime. And then they directly quote the Nevada
17 case again saying you can't attempt to kill another
18 person with implied malice because there is no such
19 criminal offense as an attempt to achieve an unintended
20 result.

21 So I'm open to suggestions on what the malice
22 charge and the specific intent charge says and what it
23 shouldn't say. I've read the Nevada case, it's Keys
24 versus the State of Nevada, 104 Nev. 736,
25 December 1988, Supreme Court of Nevada. In Keys, one

1 man was shot. That conviction was fine. The second
2 man had a gun pointed at him and pulled the trigger
3 twice and the gun failed to fire and the gentleman
4 escaped. They made a specific request for specific
5 intent to kill. The Court didn't give it. They said
6 that's wrong. And then they go into this discussion of
7 the idea that you can imply malice in a specific intent
8 crime is, you know, basically almost like a falsity.

9 So what's the State's position on what should be
10 charged with malice?

11 MR. HIXSON: I think, specifically, if you're
12 dealing with the existing charges, I think the Court's
13 standard charge is malice is -- express or implied
14 malice is not two separate types of malice, to start
15 with.

16 THE COURT: Right.

17 MR. HIXSON: It's two ways to prove the existence
18 of malice.

19 THE COURT: Right.

20 MR. HIXSON: It's an evidentiary feature, not a
21 mens rea feature. In other words, maybe the problem is
22 the term "implied," like Belcher, inference versus an
23 implication. But there is no question -- I think it's
24 probably irrefutable that, in a murder case, you can
25 use the circumstantial evidence leading up to a crime

1 without an expressed "I'm going to kill you" to use
2 that to show the existence of malice was there at the
3 time the crime occurred. Preparation for -- and, you
4 know, you get an idea of what we're going to talk about
5 as it relates to malice in this case.

6 So -- and I understand in Mouzon -- and it's
7 probably a good thing to do is to shy away from general
8 malignant recklessness, to not use that term, and the
9 charge the State would request would be, "Malice does
10 not necessarily import ill will towards an individual
11 injured but signifies, rather, a condition of mind
12 which shows a heart regardless of social duty and
13 fatally bent on mischief."

14 It is difficult to imagine that the Court and our
15 legislature would intend to have a lesser standard for
16 murder -- you kill a human being and you can use
17 express or implied malice, but if you don't kill them,
18 you can't use implied malice; you have to use the word
19 "I'm going to kill" and then do it.

20 And I do understand the Court's concern. You
21 can't attempt to do something you wouldn't intend to
22 do, but that seems like it goes to the recklessness
23 mens rea rather than -- in other words, there's only a
24 handful of criminal cases that we can actually use
25 recklessness and that is, you know, child endangerment

1 and things like that where you -- or felony reckless
2 homicide.

3 So I can understand the Court shying away from
4 that you didn't say, "I'm going to attempt to kill
5 him." You can imply it through recklessness. I
6 understand that concern. But it can't be the case that
7 you can't use circumstantial evidence to show malice.
8 And so if that's called express malice or implied
9 malice, I think the problem is the term "implied," not
10 the evidence that's used to show that malice exists at
11 the time, you know, the fatal blow is struck. And we
12 have no problem -- obviously, have no problem
13 eliminating the recklessness nature, to not wade into
14 that problem, because I think that is a substantive
15 problem.

16 THE COURT: Mr. McCollum?

17 MR. MCCOLLUM: I think that -- I'm not sure if I
18 have this completely right, but on -- in the case we're
19 discussing, State v. King, there's some discussion of
20 this, I believe -- I think this is where I found it, on
21 page 11 down there under -- looks like the third
22 paragraph from the bottom.

23 THE COURT: Give me the -- where it is in the
24 case.

25 MR. MCCOLLUM: Page 12. Okay, yeah. It's page

1 12, I think, at the top where they talk about, you
2 know, the attempted murder statute actually having more
3 of an element --

4 THE COURT: Yeah, I agree with that, yeah. I said
5 that.

6 MR. McCOLLUM: And they talk about Foust and those
7 things, but they say, while it may be strange, that's
8 what they said. That's what the legislature passed.

9 THE COURT: I mean, the attempted murder charge
10 that's in the book right now says it does not require
11 specific intent to kill. And that is, obviously, an
12 incorrect statement of the law. So, I mean, the idea
13 that I'm going to say that, I'm not going to kill you,
14 that's not going to be coming out of my mouth. I mean,
15 I'm going to have to say there has to be a specific
16 intent to kill by, you know, with malice aforethought,
17 either express or implied, which is exactly what the
18 statute says.

19 The issue is how does inferred or implied malice
20 get defined? It will not be defined by a deadly
21 weapon, which is, obviously, not an example in this
22 case that meets the facts. And I don't know that it
23 can be defined by any type of recklessness or
24 unintentional behavior. But, I mean, it's clear that
25 attempted murder -- I'm going to have to tell them

1 attempted murder is a specific intent crime.

2 MR. McCOLLUM: And we're asking for that,
3 obviously.

4 THE COURT: Yeah, I'm going to do that.

5 MR. McCOLLUM: In terms of the implied malice or
6 malice can be inferred, is that the same thing, implied
7 and inferred?

8 THE COURT: You know, you can infer malice from
9 the use of a deadly weapon. You can imply malice based
10 upon the circumstances shown to have existed
11 surrounding the offense.

12 MR. HIXSON: It's basically a circumstantial
13 evidence charge. Very rarely in any case do you have,
14 "I'm going to kill him," and they go do it. You have
15 to say, you got a gun, you went over, drove over to her
16 house, kicked the door in. You know, all those things
17 show that they intended the act that they did. And
18 that's an evidentiary ruling, not a mens rea ruling.

19 MR. McCOLLUM: You know -- and maybe the
20 circumstantial evidence charge clarifies that.

21 THE COURT: Well, the circumstantial evidence
22 charge is very pro-defendant. Do you want me to read
23 it to you?

24 MR. McCOLLUM: Not if it's pro-defendant.

25 THE COURT: The way the circumstantial -- I mean,

1 Rockwise spent his entire adult life getting the
2 circumstantial evidence charge changed, and it is
3 charged, but, you know, it's basically all the
4 circumstances must add up. If one of them doesn't add
5 up to prove this issue, then you can find reasonable
6 doubt based on that. I mean, that's a very -- I'm
7 doing that off the top of my head. I'm not reading it.

8 MR. McCOLLUM: That was the old version.

9 THE COURT: No, that's the new version. Yeah, the
10 new version -- here, let me just -- it will be easier
11 just for me to read it.

12 MR. McCOLLUM: I don't need to hear it, Your
13 Honor.

14 THE COURT: It will make me feel better. Hold on.

15 MR. HIXSON: It's the law of the land, Judge.
16 That's it. That's the one.

17 THE COURT: What it says is circumstantial
18 evidence is -- they can be -- "Crimes may be proven by
19 circumstantial evidence. The law makes no distinction
20 between the weight and the value to be given to either
21 direct or circumstantial; however, to the extent that
22 the State relies on circumstantial evidence, all of the
23 circumstances must be consistent with each other, and
24 when taken together, point conclusively to the guilt of
25 the accused beyond a reasonable doubt. If these

1 circumstances merely portray the defendant's behavior
2 as suspicious, the proof has failed. The State has the
3 burden of proving the Defendant guilty beyond a
4 reasonable doubt. This burden rests with the State
5 regardless of whether they rely on direct evidence,
6 circumstantial evidence, or some combination of the
7 two."

8 So there is a -- that circumstantial evidence,
9 which, two or three years ago, wasn't even in there,
10 has really been beefed up or made stronger.

11 All right. Anything else on the charges?

12 MR. McCOLLUM: The only thing, Your Honor -- and,
13 obviously, we go into great lengths to make sure you
14 get this right. Just for the record, we object to the
15 inferred malice on the same grounds that we think it's
16 implied malice, relying on State versus King.

17 THE COURT: Okay. All right. Here's what I'm
18 going to do. So I'm going to charge attempted murder.
19 I'm going to charge ABHAN. I'm going to charge assault
20 and battery first degree. I'm not charging assault and
21 battery second degree or assault and battery third
22 degree. I understand that the statute says that those
23 are lesser includeds, but based upon the facts that are
24 now before this Court, I mean, the facts, essentially,
25 are not in dispute at this point in time. She has

1 admitted that she was pregnant, that she birthed a
2 child, that she put the child in the trash, that she
3 tied the bag, and that she put the bag in the dumpster
4 and left the baby there and went about her normal daily
5 routine, everything from napping in the morning to
6 taking her older child to the doctor to going to visit
7 her mother in the afternoon.

8 I do not believe that there is any factual
9 scenario that can be contemplated where that could have
10 been an attempt to commit a moderate bodily injury. If
11 the child was left outside of a door or in some other
12 scenario beside -- and the other thing that I'm taking
13 into consideration in that ruling is the age of the
14 child. There is -- this was a child that was brand --
15 I don't know how to say it other than brand new. She
16 admitted that she had the child and immediately set out
17 upon this behavior, prior to her husband and her other
18 child waking up. She also admitted that she put the
19 baby in the trash can. She also admitted that she went
20 back in the house to do what she could do prior to the
21 husband waking up to conceal any evidence that anything
22 had occurred.

23 I just don't know a scenario, you know, where
24 you -- a brand-new newborn baby who is minutes old is
25 put in a trash bag, and the bag is tied, where an

1 assault and battery second degree or an assault and
2 battery third degree factual scenario can ever play
3 out, even taken out to their wildest contemplations.
4 That's just foreign in my mind, and I think that the
5 evidence -- I mean, I understand her case, and I
6 understand their point of view.

7 And the issue is the existence of the evidence,
8 and the existence of the evidence at this point is the
9 State's case which, you know, she admitted on the stand
10 that basically everything that the State thought that
11 happened, happened. And I just don't know a factual
12 scenario where an assault and battery second degree or
13 an assault and battery third degree can even be
14 logically contemplated under the law. And so I will
15 charge attempted murder. I will charge specific
16 intent. I will charge ABHAN. I will charge assault
17 and battery in the first degree.

18 Once we finish this other hearing, I'm going to
19 spend some time crafting the malice charge to make sure
20 that it does -- and I think, when I read these cases,
21 and I sat there and read these cases over and over
22 again last night with everything in the room off -- and
23 sometimes that's just what I have to do to be able to
24 process through them. I think the biggest issue is the
25 Court continues to say and to quote that it is

1 impossible to an attempt an unintended result. So as I
2 think about implied malice, it cannot be something to
3 do with recklessness or malignant recklessness. That
4 type of stuff has got to come out of the malice charge.

5 I think that's where the rubber really meets the
6 road, is that you can't -- it can't be some form of
7 general disregard or malignant recklessness. You can't
8 have an intent. It's impossible to attempt an
9 unintended result, and it's the unintended result. I
10 think you can still have a dark and depraved and evil
11 heart that is based upon intentional conduct in the
12 facts as they played them out in the courtroom without
13 getting into an unintended result or an unintentional,
14 excuse me, result.

15 MR. HIXSON: To bring up one point I forgot.

16 THE COURT: Yes.

17 MR. HIXSON: Just relates to the charges.

18 I had mentioned a couple of days ago about State
19 versus Ballington, and I wanted to request that
20 relating to review that for a malice charge. In
21 Ballington -- I have the copy for the Court. In that,
22 the specific holding of that is that the husband spent
23 quite a bit of time lying about the circumstances
24 surrounding his wife's death to law enforcement. And
25 the Court in Ballington said that malice may be

1 inferred from efforts by the Defendant to lie to police
2 to cover up the crime, that that evidence was
3 appropriate for the prosecution to use to infer there
4 was malice by trying to cover up the crime.

5 Specifically, they refer to State versus Arnold in
6 that and State versus Judge. And in that case,
7 Judge -- it would maybe help the Court -- Judge defined
8 malice as a wicked condition of the heart, a wicked
9 purpose, a performed purpose to do a -- a performed
10 purpose to do a wrongful act. And that was based on
11 attempt by the Defendant to mislead police as to who
12 committed the crime as one indicator of the presence of
13 malice, so...

14 THE COURT: All right. Pass those up.

15 MR. HIXSON: And then Mouzon -- I'm sure the Court
16 already knows Mouzon, but I have a copy.

17 THE COURT: Yeah, pass all those up. I don't have
18 good access to a printer, so...

19 MR. McCOLLUM: Should I say anything about
20 Ballington now?

21 THE COURT: If you want to, yes.

22 MR. McCOLLUM: The only thing I'd say, Your Honor,
23 is it's a 2001 case, Court of Appeals. The issue
24 before the Court is that you've got that King case,
25 which is very specific as to this charge. And there's

1 nothing subsequent to that. And it's a South Carolina
2 Supreme Court opinion that the Court has relied on up
3 to this point.

4 THE COURT: Okay. I'll read both of these. And
5 then once we finish up this other hearing this
6 afternoon, I will -- I'm going to craft something, and
7 then I'll send it out to everybody so that everybody
8 can see it, so that no one is caught off guard. Okay?

9 MR. HIXSON: Yes, sir.

10 THE COURT: All right. Now, my mind is blank at
11 this moment because I've been thinking about the King
12 thing so much. So how are closing arguments going to
13 work?

14 MR. McCOLLUM: Your Honor, before you go to that,
15 may I just put something on the record?

16 THE COURT: Sure, yes.

17 MR. McCOLLUM: Because I don't think it's been
18 clear that I've requested the statute. I respect Your
19 Honor's ruling on the jury instruction.

20 THE COURT: Right.

21 MR. McCOLLUM: Just for the purposes of the
22 record, I would just say that the Defense is requesting
23 a lesser-included offense on all the assault and
24 battery types under 16-3-600; specifically, the Defense
25 has asked the Court to charge as a lesser-included

1 offense that section, subsection (D)(1), which is
2 assault and battery in the second degree, and citing
3 specifically subsection (3) where the statute says
4 assault and battery in the second degree is a
5 lesser-included offense of assault and battery in the
6 first degree, as defined, assault and battery of a high
7 and aggravated nature, as defined, and the section of
8 attempted murder, as defined.

9 THE COURT: Okay.

10 MR. McCOLLUM: Additionally, Your Honor, we're
11 also going one step further and asking, under the same
12 statute, 600, we are specifically asking that the Court
13 instruct the jury regarding assault and battery third
14 degree, subsection (E)(1), which is assault and battery
15 in the third degree. Also noting in subsection (3) of
16 that statute, assault and battery in the third degree
17 is a lesser-included offense of assault and battery in
18 the second degree, assault and battery in the first
19 degree, assault and battery of a high and aggravated
20 nature, and attempted murder.

21 So, respectfully, Your Honor, we are asking for
22 those instructions. We understand the Court's ruling.
23 We're not trying to argue with the Court's ruling.

24 THE COURT: I don't think you are.

25 MR. McCOLLUM: But I just want the record to be

1 clear that we have asked for those instructions, Your
2 Honor.

3 THE COURT: And you sure you don't want me to
4 charge those other two?

5 MR. HIXSON: I'm pretty sure.

6 THE COURT: Okay. If you change your mind, let me
7 know.

8 MR. HIXSON: Well, on the second and third?

9 THE COURT: Yeah.

10 MR. HIXSON: No, sir.

11 THE COURT: Okay. All right. So I haven't read
12 State versus Beaty in a month, so remind me of how
13 closing arguments work now since they put up a case.

14 MR. HIXSON: Counsel put in evidence, so I --
15 unless -- a lot of times in the circuit, we've been
16 saying, Do you want to close on the law or do you want
17 me to come back to close on the law? So open -- and I
18 get a rebuttal at the end because he put evidence in.

19 THE COURT: Are you requesting that they open in
20 full?

21 MR. MUREDDU: Yes.

22 THE COURT: Okay.

23 MR. MUREDDU: Yes, sir, Your Honor.

24 THE COURT: So the State closes in full, the
25 Defense is allowed to give a closing argument, and the

1 State is allowed to reply --

2 MR. HIXSON: Yes.

3 THE COURT: -- to something that the State said in
4 their closing -- that the Defense said in their
5 closing.

6 MR. HIXSON: So two bites at the apple instead of
7 one.

8 THE COURT: Yeah.

9 Okay. Any questions about that?

10 (Discussion off the record.)

11 MR. MUREDDU: We agree with that, Your Honor.

12 THE COURT: All right. So the State's going to
13 close in full, the State -- the Defense will give their
14 closing argument in full, and then the State will be
15 allowed to reply to something that the Defense says in
16 rebuttal. Is that the way everybody agrees?

17 MR. HIXSON: Yes, sir.

18 MR. MUREDDU: Yes, sir.

19 THE COURT: And, Ms. Taylor, I thank you for being
20 here on time today. And, again, today your behavior
21 was exemplary and there were not any issues or
22 problems, so I'm going to allow you to stay out.

23 Now, tomorrow morning, once closing arguments are
24 over and I've done the charge, you know, what I want to
25 do -- I don't know that we need to take her in custody

1 and take her in the back, but she can kind of -- as
2 long as she stays in here and doesn't leave, and then
3 if we make it to lunch and just depending on how far we
4 make it, we will need to take you into custody
5 tomorrow. But, you know, as far as the morning goes,
6 of course, I'd never let the jury see you in any
7 handcuffs or anything like that.

8 THE DEFENDANT: Okay. Thank you.

9 THE COURT: But make sure you have the things that
10 you need with you. Okay?

11 THE DEFENDANT: All right.

12 THE COURT: And then so it's ten till 1:00. Let's
13 start that death penalty hearing at 2:00.

14 (WHEREUPON, the hearing concluded at approximately
15 12:50 a.m.)

16 (End of Transcript of Record)

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1 CERTIFICATE OF REPORTER
2

3 STATE OF SOUTH CAROLINA)
4 COUNTY OF HORRY)

5
6 I, TERESA J.F. BAUTZ, Official Court
7 Reporter for the Fifteenth Judicial Circuit of the
8 State of South Carolina, do hereby certify that the
9 foregoing is a true, accurate and complete Transcript
10 of Record of the proceedings had and evidence
11 introduced in the trial of the captioned case, relative
12 to appeal, in the Court of General Sessions for Horry
13 County, South Carolina, on the 23rd day of May, 2018.

14
15 I FURTHER CERTIFY that I am neither of
16 kin, counsel nor interest to any party hereto.

17
18
19 S/Teresa J. F. Bautz

20 TERESA J.F. BAUTZ, RPR
21 Official Court Reporter
22
23
24
25

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF HORRY) 2015-GS-26-01938

STATE OF SOUTH CAROLINA,)

Plaintiff,)

Transcript of Record

vs.)

February 8, 2018

SHELBY HARPER TAYLOR,)

Defendant.)

B E F O R E:

Honorable Robert E. Hood
Horry County Courthouse
Conway, South Carolina

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

Scott R. Hixson, Esquire
Cara J. Walker, Esquire
Attorney for Plaintiff

Dean M. Mureddu, Esquire
M. Greg McCollum, Esquire
Attorney for Defendant

TAKEN BY:

Dixie C. Eubank
Circuit Court Reporter

PREPARED BY:

Kay H. Richardson
Circuit Court Reporter

000470

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FEBRUARY 8, 2018

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No.

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(No exhibits were marked or admitted on February 8, 2018)

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1 **(FEBRUARY 8, 2018)**

2 (REPORTER'S NOTE: The following takes place outside the
3 presence of the jury.)

4 BY THE COURT:

5 THE COURT: All right. Good morning everybody. I know
6 there's a lot of people in here so I wanted to kind of explain
7 the delay. I do my best to run things as efficiently as
8 possible. All the lawyers and all the court staff including
9 me were all here probably before 9 o'clock this morning, and
10 the court reporter that we've had all week is sick. She was
11 sick last night, she was sick again this morning. And she
12 decided to come in any way and she looked at me and she said,
13 if I get up and leave in the middle of the arguments, I just
14 want you to know I'm sick. And so I said, well, let's go
15 ahead and see if there's another court reporter available.
16 So, Ms. Dixie, who has been a court reporter for a few years
17 came in. She had to drive all the way in from Murrells Inlet,
18 so that's what the hour-long delay has been, her getting in
19 and then getting set up. So, I sincerely apologize to
20 everybody. Some -- as much as I like to think I'm in control
21 of things, some things are out of my control.

22 So, the first thing we need to deal with this morning is
23 a juror. So, can you go ask Mr. Danna to bring in Juror
24 Number 135, please?

25 BAILIFF: Yes, sir.