

STATE OF SOUTH CAROLINA

ORIGINAL

In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY

Donald B. Hocker, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

COURTNEY MICHELLE WOODARD,

APPELLANT

APPELLATE CASE NO. 2014-000145

RECORD ON APPEAL

SUSAN B. HACKETT
Appellate Defender

ALAN WILSON
Attorney General

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

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

Attorney for Appellant

Attorneys for Respondent

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State of South Carolina

Court of General Sessions

County of Lexington

State

v.

Courtney Michelle Woodard)

Defendant.)

)
)
) Transcript of Record
) 2013-GS-32-1394
)

January 14, 2014
Lexington, South Carolina

B E F O R E :

The Honorable Don Hocker, Judge; and a jury.

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

Suzanne Mayes, Assist. Solicitor
Attorney for the State

Bennett Casto, Assist. Public Defender
Attorney for the Defendant

Erik Drylie, Assist. Public Defender
Attorney for the Defendant

Bethanie K. Patterson
Circuit Court Reporter

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1 (The following proceedings were held January
2 13-16, 2013.)

3 THE COURT: Okay. Solicitor, please call the
4 next case.

5 MS. MAYES: May it please the Court.

6 Your Honor, this is Indictment
7 No. 2013-GS-32-1394, *The State of South Carolina vs.*
8 *Courtney Michelle Woodard*. This indictment is for
9 assault and battery second degree. Your Honor, the
10 State is ready for trial in this case, and the
11 defendant is present and represented by attorney
12 Bennett Casto.

13 THE COURT: Thank you, Solicitor.

14 Ladies and gentlemen of the jury panel, first
15 of all, I remind you that you're still under oath,
16 the oath that you took at the outset of this
17 process. It's time now to go through additional
18 questions to determine whether or not you are
19 qualified and eligible to serve on the trial jury in
20 this case, *State of South Carolina vs. Courtney*
21 *Woodard*. So I ask that you pay close attention to
22 the Court's questions, and as we did previously, if
23 at the conclusion of the Court's questions there are
24 matters that you need to take up with the Court,
25 then we can do so privately in the presence of the

1 court reporter and the attorneys involved. So if
2 you're hesitant for whatever reason to respond to a
3 question or you have a particular concern that you
4 feel like the Court needs to know about before we
5 select the trial jury, then I'll give you an
6 opportunity at that time to speak with me privately.

7 Ladies and gentlemen of the jury panel, is
8 anyone related by blood or by marriage to either the
9 defendant, Michelle Woodard, or Minor 1 [REDACTED] If so,
10 please stand.

11 Does anyone on the jury panel have a close
12 personal or social relationship with either Michelle
13 Woodard, Courtney Michelle Woodard, or Minor 1 [REDACTED]
14 If so, please stand.

15 And I'm going to provide you with a list of
16 potential or possible witnesses in this case. And
17 I'll publish those in a minute. But I will ask you
18 if any of on the jury panel related by blood or
19 marriage to any of the people of the names I will
20 publish in just a second or do any of you have any
21 close personal or social relationship with any of
22 the following people: Jeremiah Adam Spires,
23 Brittany Nicholson, William Freund, Tyler Couch,
24 Kenneth Daniel Shearer, Brian Travis, Caleb Black,
25 Candy Kyzer, Cory Pertz, Amanda Peeples, Shepherd

1 Cary, Brandi Hampton, Nikki Rodgers, Mike Collins,
2 Jason Hentz, Erin Cifferi, Melanie Beddingfield,
3 Gary Hals, Mark Posey, Chelsi Swartz, Phillip
4 Swartz, Colin Piselli, Tiffany Bookhart, Jamie
5 Hendrix, [REDACTED] Heidi Oberg, Kayla Black,
6 Jamie Hendrix, [REDACTED] Anita Waddell,
7 Shepard Cary, Robert Woodard. Any relationship or
8 any close personal or social relationship with any
9 of those individuals? If that applies to you,
10 please stand.

11 At this time I'm going to allow the attorneys
12 to introduce themselves. And I will tell you,
13 ladies and gentlemen, that these attorneys are
14 excellent attorneys and have worked very hard in the
15 preparation of their respective cases and will work
16 very hard in the presentation of their respective
17 cases during the trial of this case.

18 Solicitor?

19 MS. MAYES: My name is Suzanne Mayes. I'm a
20 prosecuting attorney here in the 11th Circuit which
21 includes Lexington County.

22 THE COURT: Mr. Casto?

23 MR. CASTO: Thank you, Your Honor.

24 My name is Bennett Casto. I'm a lawyer here in
25 Lexington, South Carolina. Throughout the trial of

1 the case I'll be joined with another lawyer in my
2 office by the name of Erik Drylie; together we have
3 the pleasure of representing Ms. Courtney Woodard
4 throughout the trial. Thank you.

5 THE COURT: Thank you.

6 Has any member of the jury panel ever been
7 represented by any of the attorneys involved in this
8 case? If so, please stand.

9 Is anyone on the jury panel related by blood or
10 marriage or have a close personal or social
11 relationship with any of the attorneys involved in
12 this case?

13 Has any member of the jury panel formed or
14 expressed an opinion about any issue or matter
15 involved in this case? You're probably asking
16 yourself, well, I don't know anything about this
17 case. Does anyone have any prior knowledge about
18 this case?

19 Is any of the member of the jury panel aware of
20 any bias or prejudice towards either the State or
21 the defendant in this case?

22 The next question I don't think would apply,
23 but I'm going to ask it anyway. Is there any member
24 of the jury panel that was a member of the grand
25 jury which issued the indictment in this case?

1 Is there any member of the jury panel who is a
2 member of or a contributor to any group which has as
3 its primary concern the promotion of law enforcement
4 or victims' rights? These groups would include but
5 certainly not limited to SADD, MADD or CAVE, that
6 acronym standing for Citizens Against Violent Crime.

7 Is there any member of the jury panel who has
8 any religious or moral beliefs which would prevent
9 you from passing judgment on another person while
10 serving as member of the trial jury in this case?

11 (Potential juror raises hand.)

12 THE COURT: Your number and your name, sir?

13 PROSPECTIVE JUROR: 203, David O'Berry. I was
14 the chief information officer for the Southpine
15 Department of Probation, so I was involved a lot in
16 victims and Department of Corrections and all of
17 that. So I was just letting you know.

18 THE COURT: All right. Would prevent you, sir,
19 from being fair and impartial to both the State and
20 the defense?

21 PROSPECTIVE JUROR: No, sir.

22 THE COURT: Thank you very much, sir.

23 Is any member of the jury panel related by
24 blood or marriage or a friend or acquaintance of any
25 member of law enforcement? If so please stand.

1 Okay. We have several.

2 PROSPECTIVE JUROR: I have a cousin that --

3 THE COURT: Your number and your name?

4 PROSPECTIVE JUROR: 185, Donna McCaw. I have a
5 cousin that works for the transport police and I
6 have a brother-in-law that works for highway patrol.

7 THE COURT: All right. Would the fact that you
8 have those relationships, would that prevent you
9 from being fair and impartial to both the State and
10 the defense in this case?

11 PROSPECTIVE JUROR: No, sir.

12 THE COURT: All right. Thank you, ma'am.

13 Yes, ma'am? Your number and name, please.

14 PROSPECTIVE JUROR: 167, Shannon Kyzer. I'm
15 recently divorced from a policeman after 17 years of
16 marriage, and I know a lot of officers.

17 THE COURT: All right. The fact that your
18 former spouse is in law enforcement, would that
19 prevent you from being fair and impartial to both
20 the State and the defense in this case?

21 PROSPECTIVE JUROR: No, sir.

22 THE COURT: Okay. Thank you, ma'am.

23 Yes, ma'am?

24 PROSPECTIVE JUROR: 95, Angela Finnell, just a
25 friend of the deputy in Richland County.

1 THE COURT: The fact that you have a friend who
2 is a deputy, would that prevent you from being fair
3 and impartial to both the State and the defense in
4 this case?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Thank you, ma'am.

7 Yes, sir?

8 PROSPECTIVE JUROR: Your Honor, Juror No. 106,
9 Warren Ganjeshani. I'm the general counsel for the
10 South Carolina Department of Public Safety. I'm a
11 friend with a great many police officers.

12 THE COURT: Would that, sir, prevent you from
13 being fair and impartial to both the State and the
14 defense in this case?

15 PROSPECTIVE JUROR: It would not, Your Honor.

16 THE COURT: All right. Thank you very much,
17 sir.

18 Okay. We've got one that just stood up. I'll
19 take you, sir. Well, let's hold that thought. We
20 have a lady who just stood up.

21 PROSPECTIVE JUROR: My husband works for the
22 Department of Law Enforcement and Security with
23 Federal Service Fort Jackson.

24 THE COURT: Okay. Your number and name?

25 PROSPECTIVE JUROR: I'm sorry. 248, Julie

1 Sexton.

2 THE COURT: Would that prevent you from being
3 fair and impartial to both the State and the defense
4 in this case?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Okay. Thank you, ma'am.

7 Yes, sir?

8 PROSPECTIVE JUROR: Michael Clark, 51. At
9 Goodyear I work on a lot of police cars for the
10 State and stuff like that, and I know a lot of
11 police officers.

12 THE COURT: Okay. Would that prevent you from
13 being both fair and impartial to the State and the
14 defense in this case?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Okay.

17 Yes?

18 PROSPECTIVE JUROR: 255, Maria Shull. My
19 stepfather is a retired Columbia police officer.

20 THE COURT: I can't hear you. Can you speak up
21 a little bit, please, ma'am?

22 PROSPECTIVE JUROR: Maria Shull, 255. My
23 stepfather is a retired Columbia police officer.

24 THE COURT: Okay. The fact that your
25 grandfather is a retired police officer, would that

1 prevent you from being both fair and impartial to
2 both the State and the defense in this case?

3 PROSPECTIVE JUROR: No, sir.

4 THE COURT: Thank you ma'am.

5 PROSPECTIVE JUROR: Stepfather.

6 THE COURT: Oh, all right. Thank you, ma'am.

7 Yes, sir?

8 PROSPECTIVE JUROR: Your Honor, I'm 124, Jason
9 Harbaugh. I was a police officer for ten years,
10 2002 to 2012.

11 THE COURT: All right. But you're not
12 currently a police officer?

13 PROSPECTIVE JUROR: No, sir.

14 THE COURT: Okay. The fact that you were
15 formerly a police officer, would that prevent you
16 from being both fair and impartial to the State and
17 the defense in this case?

18 PROSPECTIVE JUROR: No, sir.

19 THE COURT: Okay. Thank you.

20 PROSPECTIVE JUROR: Again, Your Honor, 203,
21 David O'Berry. Being involved with the CIO and
22 everything, I know many past, present and will-be
23 future police officers as well as the ones working
24 nationally and internationally. So --

25 THE COURT: Okay. Again, sir, would that

1 prevent you from being fair and impartial to both
2 the State and the defense in this case?

3 PROSPECTIVE JUROR: No, sir.

4 THE COURT: Thank you very much.

5 Next question: Has any member of your family
6 or close personal friend ever been the victim of or
7 accused of child abuse? And in connection with that
8 question I'll ask, any member of the jury panel or
9 an immediate family member ever been investigated
10 for or charged with an incident involving child
11 abuse or child neglect? If that applies to you,
12 please stand.

13 Yes, ma'am? Well, we've got two now. I'll
14 take the lady in the back first. Number and name?

15 PROSPECTIVE JUROR: 242, Rita Roston. My
16 children were taken into custody. It was a
17 misunderstanding, because I've gotten my children
18 back.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR: They thought I was not a
21 good parent one time.

22 THE COURT: Okay. The existence of that fact,
23 ma'am, would that prevent you from being fair and
24 impartial to both the State and the defense in this
25 case?

1 PROSPECTIVE JUROR: No, sir.

2 THE COURT: Okay. Thank you, ma'am.

3 Number and name?

4 PROSPECTIVE JUROR: 20, Annie Body. I'm not
5 sure, but I have a stepdaughter that I'm raising
6 some of her children through the DSS because of
7 abuse.

8 THE COURT: Okay. I'm having a -- can you
9 speak up a little bit? I've got your number and
10 your name. But if you could, speak up and tell me
11 that again, please.

12 PROSPECTIVE JUROR: I have a stepdaughter that
13 has -- the children have been taken from her. I'm
14 raising these children through DSS and the court.
15 I'm not sure if that has anything to do with this,
16 but --

17 THE COURT: All right. The fact that you're
18 raising some children that were taken from the
19 stepdaughter, would that prevent you from being fair
20 and impartial to both the State and the defense in
21 this case?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Okay. Thank you, ma'am.

24 Does any member of the jury panel have such
25 strong feelings for or against the allegations or

1 charge in this case that it would prevent you from
2 giving the defendant and the State a fair impartial
3 trial?

4 I'm going to publish at this time the
5 indictment. And let me explain to you, the
6 indictment is not evidence against the defendant in
7 this case. It is actually just the charging
8 document that gets the case from Point A to Point B,
9 which is the trial of this case. But it is not
10 evidence; it's merely allegations which the State
11 must prove beyond a reasonable doubt. But let me
12 publish the indictment to you so you can accurately
13 respond:

14 In the Court of General Sessions convening in
15 2013, the Grand Jurors of Lexington County present
16 upon their oath that Courtney Michelle Woodard did
17 in Lexington County, South Carolina, on or about
18 February 17th, 2013, commit the offense of assault
19 and battery in the second degree by unlawfully
20 injuring another person or offered or attempted to
21 injure another person with the present ability to do
22 so and moderate bodily injury to another person
23 resulted or moderate bodily injury to another person
24 could have resulted, to wit: did inflict physical
25 injuries upon a child, Minor 1 [REDACTED] date of birth

1 [REDACTED], or did participate in offering
2 or attempting to injure the child or did participate
3 or assess in allowing physical injuries to be
4 inflicted upon the child and moderate bodily to the
5 child resulted or could have resulted as a result of
6 multiple physical injuries or blows in violation of
7 Section 16-03-600, Subsection D, South Carolina Code
8 of Laws as Amended.

9 Those are the allegations against the
10 defendant. Any member of the jury panel have such
11 strong feelings for or against the allegations or
12 charge in this case that would prevent you from
13 giving the defendant and the State a fair and
14 impartial trial? If that applies to you, please
15 stand.

16 Has any member of the jury panel been exposed
17 to any kind of news reports regarding this case? If
18 that applies to you, please stand.

19 Does any member of the jury panel know of any
20 reason whatsoever --

21 PROSPECTIVE JUROR: I think I do recognize a
22 post on Facebook attached to Lexington County. I
23 recognize her face. I don't know if that's where
24 it's from or --

25 THE COURT: Okay. Your number and your name,

1 please.

2 PROSPECTIVE JUROR: 185, Donna McCaw.

3 THE COURT: Would that prevent you from being
4 fair and impartial to both the State and the defense
5 in this case?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Does any member of the jury panel
8 know of reason whatsoever why he or she should not
9 serve as a juror in this case with particular
10 emphasis being placed on your ability to be fair and
11 impartial to both the State and the defense?

12 Now anyone who would like to talk with me
13 privately regarding any of the questions that I
14 previously asked or any particular concerns that you
15 may have as serving as a juror in this case? If so,
16 please stand and we'll form a line as we did
17 previously.

18 All right. Seeing none.

19 Does the State have any voir dire questions or
20 any objections or exceptions to the Court's voir
21 dire?

22 MS. MAYES: I beg the Court's indulgence.

23 THE COURT: Sure.

24 MS. MAYES: Nothing from the State, Your Honor.

25 THE COURT: Thank you very much.

1 From the defense, any additional questions or
2 any objections or exceptions to the Court's voir
3 dire?

4 MR. CASTO: None, Your Honor.

5 THE COURT: Okay. Thank you very much.

6 Ladies and gentlemen of the jury panel, the
7 names will be formulated and your name will be
8 called out in just a moment.

9 Let me take this opportunity at this time to
10 introduce you to some of the court staff that you
11 will see in the courtroom whether or not you're
12 selected on the trial jury because you'll have to
13 come back at another time this week. We have an
14 excellent court staff. We have two ladies seated
15 down here who are with the Clerk of Court's office,
16 Hope Frick and Carol Free, and they do an excellent
17 job of managing this courtroom and the proceedings
18 that go on.

19 To my right is Bethanie Patterson. Bethanie is
20 our court reporter. The Circuit Courts of this
21 state are a court of report; we therefore must
22 maintain a record of everything that is done and
23 everything that is said during this whole process,
24 including when we actually start the trial of this
25 case. So she maintains that record for us.

1 Now we have bailiffs, and the bailiffs are in
2 the red coats. And they will be kind of your
3 contact person. If you have a particular concern at
4 any point in time this week, then the bailiffs are
5 the ones that you need to contact so then they can
6 share with the Court whatever concerns that you
7 have. We have D. Garrett who is to my left and
8 Homer Corley to my right and we had a third
9 gentlemen, he's somewhere, Tom Neal, you'll also see
10 him in a red coat. He may be standing, looking in
11 the window.

12 And we have law enforcement personnel Lawrence
13 Bethel who is seated to my right and we have Jesse
14 Spearman who is seated over there close to you, the
15 jury panel. And again, without all of the court
16 personnel, we couldn't function, we couldn't
17 operate.

18 Lastly, but probably, my concern, most
19 importantly, is my law clerk, Lyon Dixler. And he
20 does an excellent job for me. I couldn't do my job
21 effectively without his help.

22 Now, when your name is called out, you'll be
23 asked to come forward, turn and face both of the
24 attorneys. And they will make a determination to
25 whether or not they want you to sit on their jury.

1 Now, if you are not selected by either side, don't
2 take offense to that, don't feel embarrassed, don't
3 feel ashamed. They have a certain method, certain
4 reasons for selecting or not selecting people to
5 serve on their jury. So don't take personal offense
6 to that if that were to happen. Now I understand
7 that we may very well have a second trial later on
8 in the week. So if you're not selected on this one,
9 you may have a good shot at the next trial. So with
10 that said, I'm going to turn everything over to the
11 clerk and have her proceed with jury selection.

12 And five and five; right?

13 MR. CASTO: Yes, sir, Your Honor.

14 THE COURT: Okay. And one and two on the
15 alternates.

16 THE CLERK: As I call your name, please bring
17 your personal stuff with you and come up to the
18 podium.

19 Number 221, James Prather.

20 (Mr. Prather comes forward.)

21 THE CLERK: What say ye for the State?

22 MS. MAYES: Please present the juror.

23 THE CLERK: What say ye for the defense?

24 MR. CASTO: Please excuse Mr. Prather from the
25 trial of this case.

1 THE CLERK: Return to your seat please, sir.
2 Number 118, Wade Grillot.
3 (Mr. Grillot comes forward.)
4 THE CLERK: What say ye for the State?
5 MS. MAYES: Please present the juror.
6 THE CLERK: What say ye for the defense?
7 MR. CASTO: Please seat Mr. Grillot.
8 THE CLERK: Have a seat in the jury box, sir.
9 Number 23, Tiffany Boyette.
10 (Ms. Boyette comes forward.)
11 THE CLERK: What say ye for the State?
12 MS. MAYES: Please present the juror.
13 THE CLERK: What say ye for the defense?
14 MR. CASTO: Please seat Ms. Boyette.
15 THE CLERK: Have a seat in the jury box, ma'am.
16 Number 199, Rhonda Moorner.
17 (Ms. Moorner comes forward.)
18 THE CLERK: What say ye for the State?
19 MS. MAYES: Please present the juror.
20 THE CLERK: What say ye for the defense?
21 MR. CASTO: Please seat Ms. Moorner.
22 THE CLERK: Have a seat in the jury box, ma'am.
23 Number 12, Stuart Barrs.
24 (Mr. Barrs comes forward.)
25 THE CLERK: What say ye for the State?

1 MS. MAYES: Please excuse the juror from the
2 trial of this case.

3 THE CLERK: Return to your seat, please, sir.
4 Number 242, Rita Roston.

5 (Ms. Roston comes forward.)

6 THE CLERK: What say ye for the State?

7 MS. MAYES: Please excuse the juror from the
8 trial of this case.

9 THE COURT: Return to your seat, please, ma'am.
10 Number 14, Kevin Bauknight.

11 What say ye for the State?

12 MS. MAYES: Please excuse the juror from the
13 trial of this case.

14 THE CLERK: Return to your seat, please, sir.
15 Number 20, Annie Bodie.

16 (Ms. Bodie comes forward.)

17 THE CLERK: What say ye for the State?

18 MS. MAYES: Please present the juror.

19 THE CLERK: What say ye for the defense?

20 MR. CASTO: Please seat Ms. Bodie.

21 THE COURT: Have a seat in the jury box, ma'am.
22 Number 114, Travis Gordon.

23 (Mr. Gordon comes forward.)

24 THE CLERK: What say ye for the State?

25 MS. MAYES: Please present the juror.

1 THE CLERK: What say ye for the defense?
2 MR. CASTO: Please seat Mr. Gordon.
3 THE CLERK: Have a seat in the jury box, sir.
4 Number 168, Cathy Labauve.
5 (Ms. Labauve comes forward.)
6 THE CLERK: What say ye for the State?
7 MS. MAYES: Please present the juror.
8 THE CLERK: What say ye for the defense?
9 MR. CASTO: Please seat Ms. Labauve.
10 THE CLERK: Have a seat in the jury box, ma'am.
11 185, Donna McCaw.
12 (Ms. McCaw comes forward.)
13 THE CLERK: What say ye for the State?
14 MS. MAYES: Please present the juror.
15 THE CLERK: What say ye for the defense?
16 MR. CASTO: Please excuse Ms. McCaw.
17 THE CLERK: Return to your seat, please, ma'am.
18 Number 19, Kelly Bleau.
19 (Ms. Bleau comes forward.)
20 THE CLERK: What say ye for the State?
21 MS. MAYES: Please present the juror.
22 THE CLERK: What say ye for the defense?
23 MR. CASTO: Please seat Ms. Bleau.
24 THE COURT: Have a seat in the jury box, ma'am.
25 Number 300, Melanie Zurlo.

1 (Ms. Zurlo comes forward.)

2 THE CLERK: What say ye for the State?

3 MS. MAYES: Please present the juror.

4 THE CLERK: What say ye for the defense?

5 MR. CASTO: Please seat Ms. Zurlo.

6 THE CLERK: Have a seat in the jury box, ma'am.

7 203, David O'Berry.

8 (Mr. O'Berry comes forward.)

9 THE CLERK: What say ye for the State?

10 MS. MAYES: Please present the juror.

11 THE CLERK: What say ye for the defense?

12 MR. CASTO: Please excuse Mr. O'Berry.

13 THE CLERK: Return to your seat, please, sir.

14 Number 237, Travis Rivers.

15 (Mr. Rivers comes forward.)

16 THE CLERK: What say ye for the State?

17 MS. MAYES: Please present the juror.

18 THE CLERK: What say ye for the defense?

19 MR. CASTO: Please seat Mr. Rivers.

20 THE CLERK: Have a seat in the jury box, sir.

21 280, Mohit Vyas.

22 (Mr. Vyas comes forward.)

23 THE CLERK: What say ye for the State?

24 MS. MAYES: Please present the juror.

25 THE CLERK: What say ye for the defense?

1 MR. CASTO: Please seat the juror.

2 THE CLERK: Have a seat in the jury box, sir.

3 Number 65, Angela Cormany.

4 (Ms. Cormany comes forward.)

5 THE CLERK: What say ye for the State?

6 MS. MAYES: Please present the juror.

7 THE CLERK: What say ye for the defense?

8 MR. CASTO: Please seat Ms. Cormany.

9 THE CLERK: Have a seat in the jury box, ma'am.

10 Number 2, Suzanne Adams.

11 (Ms. Adams comes forward.)

12 THE CLERK: What say ye the State?

13 MS. MAYES: Please present the juror.

14 THE CLERK: What say ye for the defense?

15 MR. CASTO: Please seat Ms. Adams.

16 THE CLERK: Have a seat in the jury box, ma'am.

17 Alternates, Your Honor?

18 THE COURT: Yes. Two alternates should be

19 sufficient.

20 THE CLERK: Number 32, Valerie Broom.

21 (Ms. Broom comes forward.)

22 THE CLERK: What say ye the State?

23 MS. MAYES: Please present the juror.

24 THE CLERK: What say ye the defense?

25 MR. CASTO: Please seat Ms. Broom.

1 THE CLERK: Have a seat in the jury box.

2 That will be the alternate, Your Honor.

3 THE COURT: Thank you very much, Madam Clerk.

4 Ladies and gentlemen, congratulations. What
5 I'm going to do is have you retire briefly to the
6 jury room. Mr. Corley will escort you to the jury
7 room. I want you to get acclimated, to see where
8 you'll be spending some time for the next couple of
9 days, and then we'll bring you out with further
10 instructions.

11 Something that you will hear from me now and
12 you'll hear from me say this throughout the trial of
13 this case: You cannot discuss this case among
14 yourselves. When you are released for the end of
15 the day, you will not be permitted to discuss
16 anything about this case with your family members or
17 friends. So that's an instruction that you will
18 hear from me repeatedly. And one final thing before
19 I give you further instructions when you come back
20 out: Some of you may be somewhat apprehensive,
21 somewhat a little scared serving on a jury and
22 something you've never done before. I'm just going
23 to ask that you do something that I do each and
24 every day: Just ask God to give you a little
25 wisdom, a little understanding to get you through

1 this, and you'll be just fine, I'm certain of that.

2 So, Mr. Corley, if you'll take them back to the
3 jury room.

4 (The jury retires to the jury room at 12:16
5 PM.)

6 THE COURT: Any objections or exceptions from
7 the State as to jury selection?

8 MS. MAYES: None from the State, Your Honor.

9 THE COURT: And from the defense?

10 MR. CASTO: No, sir, Your Honor.

11 THE COURT: All right. Thank you very much.

12 All right. Ladies and gentlemen of the jury
13 panel, again, I think we will have probably one more
14 case later on in the week, so you may have an
15 opportunity to be selected. So for those of you who
16 are a little disappointed that you did not get
17 selected, there's still hopefully another chance for
18 you; otherwise, some of you are glad that you did
19 not get selected and you're ready to get back to
20 your work or your family or whatever you customarily
21 do each day.

22 Now, you have been provided with a call-in
23 number. Hold on to that piece of paper, don't lose
24 it, because you're going to be required to call in,
25 Madam Clerk, sometime after 6:00 tomorrow. Correct?

1 THE CLERK: Yes, sir, Your Honor.

2 THE COURT: All right. Anytime after 6:00
3 tomorrow, Tuesday, call that number and it will tell
4 you what you need to do, when to report back. If
5 you lose that number and unable to call or if you
6 forget to call, then you won't know what to do. And
7 we don't want to see anybody, any of you, get into
8 trouble for not doing what you're supposed to do.
9 Okay? With that said, you're free to leave. I hope
10 everyone has a good afternoon and evening.

11 (The remaining members of the jury panel exit
12 the courtroom at 12:18 p.m.)

13 THE COURT: 9:30 in the morning, is that good
14 for you guys?

15 MS. MAYES: Yes, sir. What the State would
16 anticipate is a fairly brief *Jackson v. Denno*
17 hearing probably concerning one witness. That's a
18 brief verbal statement that was made by the
19 defendant at the scene. My estimation is that
20 hearing could take 30, 45 minutes probably at the
21 most. And then we do have some exhibits. I'm not
22 sure if the court reporter prefers to premark those
23 or not, but we do have multiple exhibits for
24 premarking.

25 THE COURT: Okay. Would 9:00 getting started

1 so we can do the *Jackson v. Denno*, is that too
2 early? Because then I'll tell the jury to be back
3 about 9:30. Would you rather start the hearing, the
4 *Jackson v. Denno*, at 9:30 and have the jury come at
5 10:00? What's your preference?

6 MS. MAYES: I think, Your Honor, that we may
7 need more than 30 minutes for the *Jackson v. Denno*
8 hearing and then the exhibits.

9 THE COURT: All right. Well, I'll have the
10 jury come at 10:00, and then let's get started at
11 9:00 then. Is that okay?

12 MS. MAYES: Yes, sir, Your Honor.

13 MR. CASTO: Yes, Your Honor.

14 THE COURT: Okay. If you'll bring the jury
15 back out, please.

16 Is the *Jackson v. Denno*, is that the only
17 pretrial matter we have that you anticipate?

18 MS. MAYES: It's the only one I anticipate,
19 Your Honor, from the State's perspective.

20 THE COURT: How about from the defense?

21 MR. CASTO: Your Honor, we do have some other
22 pretrial matters. There's a 911 tape that we
23 believe that the State will introduce that may or
24 may not need to have portions of that redacted and
25 things of that nature, Your Honor.

1 THE COURT: Let's hold that thought. Let me
2 get the jury out and then we can wrap that up.

3 MS. MAYES: May we approach?

4 THE COURT: Sure.

5 (The jury enters the courtroom at 12:22 PM.)

6 THE COURT: Ladies and gentlemen, we're
7 actually not going to start this trial until
8 tomorrow. So in a just a few moments, I'm going to
9 excuse you for the remainder of the day.

10 Let me just kind of give you a few extra
11 instructions to keep in mind. First of all, it's
12 better practice just to go ahead and leave your cell
13 phones in your car. What happens is a lot of times
14 you have it in your pocketbook, ladies, or pocket,
15 gentlemen, and, you know, you just made a call
16 before you got into the courthouse, forgot to turn
17 it off and here we're going through this trial,
18 lawyers are working real hard and sure in the world,
19 a phone goes off. We just don't want that to
20 happen. Okay? So it's just better practice just to
21 avoid that happening. Just leave your cell phones
22 in your car. If you just insist on having it with
23 you, because some people are glued to their cell
24 phones, if you just have to have it on you, make
25 sure it's off, because I don't want any cell phone s

1 going off in the courtroom, especially while the
2 trial is going on.

3 Always be prompt. When you're instructed to
4 come the start of the day or come back from a lunch
5 break, please be prompt, allow yourself enough time
6 for whatever you're going to do to, allow yourself
7 enough time to be back promptly. Nothing worse,
8 we're all ready to start a trial or start back on a
9 trial, and we're missing a juror. And so we just
10 don't want that to happen, so be prompt.

11 You may see the lawyers or maybe some witnesses
12 or whatever connected with the case, you may see
13 them in the courthouse. And if they don't speak to
14 you, that's fine, that's what we want. They're not
15 being rude, they're just following proper
16 instructions. And you're not to speak to them or
17 have any communication with the lawyers or the
18 defendant or the witnesses, so just stay clear.
19 Okay?

20 And lastly -- and I'll tell you this again when
21 we get started with the trial: Don't try to do any
22 independent research on this case. If there's any
23 information out there that you could possibly
24 obtain, don't do it, because as I'll tell you when
25 we get started with this case, you know, it's based

1 solely on what is presented in this courtroom and
2 (not from any outside available source.

3 So with that said, I'm going to excuse you.
4 And we're going to be working on this case, it just
5 doesn't -- the work that we have to do does not
6 require your presence. So you will not need to be
7 here until 10:30 in the morning. Be prompt. I hope
8 you have a great afternoon. Get ready to work
9 because we're going to work you. Okay? So we'll
10 see you in the morning at 10:30.

11 (The jury retires to the jury room at 12:25
12 PM.)

13 THE COURT: Okay. Anything else we need to
14 deal with on the record before we recess? From the
15 State?

16 MS. MAYES: Not on the record, Your Honor.

17 THE COURT: Okay. And from the defense?

18 MR. CASTO: No, sir, Your Honor.

19 THE COURT: Okay. We'll be adjourned until
20 9:30 in the morning to deal with the *Jackson v.*
21 *Denno*, deal with that 911 tape, and any other
22 pretrial matters we need to tend to.

23 MR. CASTO: Thank you, Your Honor.

24 THE COURT: Let me just explain to the
25 defendant that I have the option of -- since we're

1 starting the trial, to revoke your bond and have you
2 placed in custody throughout the entire proceeding.
3 I'm not going to do that. I'm going to allow you to
4 remain out on bond under the same conditions,
5 restrictions, requirements that were in the original
6 bond. I'll tell you, ma'am, and I'm not expecting
7 this to happen, but if you do not appear tomorrow,
8 we will proceed with the trial of your case in your
9 absence. And again, I'm not saying that expecting
10 you not to show up. But I have had defendants in
11 the past, for whatever reason, elect not to appear
12 for the trial. So just understand that if that were
13 to happen, we would proceed forward and try this
14 case in your absence. Okay? Thank you very much.
15 We're off the record now.

16 (Off the record.)

17 THE COURT: Okay. All right. We're on the
18 record in the *State vs. Courtney Woodard* trial. And
19 I understand there's some pretrial matters we need
20 to tend to. So, Solicitor, I'll be glad to hear
21 from you or Mr. Casto, I mean, whatever we need to
22 do and whoever needs to go first.

23 MS. MAYES: I think, Your Honor, as the State
24 had indicated yesterday, we are offering a brief
25 verbal statement that was made at the scene by the

1 defendant, Courtney Woodard. That statement was to
2 Deputy Adam Spires. And we're ready to go ahead and
3 present his testimony at this time.

4 THE COURT: Okay. So we're going to do a
5 *Jackson v. Denno* hearing first; is that correct?

6 MR. CASTO: Yes, sir, Your Honor.

7 THE COURT: Okay. You may proceed.

8 MS. MAYES: The State calls Deputy Adam Spires.

9 JEREMIAH ADAM SPIRES

10 being first duly sworn, testified as follows:

11 THE WITNESS: Yes, ma'am. I do.

12 THE CLERK: Have a seat, please. Speak up loud
13 and clear. State your full name spelling your last
14 on the record, please.

15 THE WITNESS: My name is Deputy Adam Spires,
16 S-P-I-R-E-S.

17 DIRECT EXAMINATION

18 (In Camera)

19 BY MS. MAYES:

20 Q. All right. And, Deputy Spires, I'm going to
21 take you back to February 17th of last year, 2013,
22 and ask you whether or not you were working on that
23 date.

24 A. Yes, ma'am, I was.

25 Q. All right. And what was your particular

1 assignment with the Lexington County Sheriff's
2 Department at that time?

3 A. At that time I was road patrol in the west
4 region.

5 Q. All right. And what type of calls do you
6 respond to as a road officer?

7 A. A variety of calls; anything from domestic
8 violence to civil conflicts, even matters involving
9 traffic accidents.

10 Q. All right. Can you tell us whether or not you
11 were dispatched to Basin Rock Lane on that date?

12 A. Yes, ma'am.

13 Q. And for what purpose?

14 A. We got a call that there was possibly a child
15 having -- in some sort of distress or being abused
16 in some way.

17 Q. Okay. And when you say we got a call, how,
18 specifically, did you receive notice of that?

19 A. I was notified by the police radio by the
20 Lexington County Dispatch Center.

21 Q. Okay. And at that point in time when you
22 received the call by dispatch, can you tell us
23 whether or not your understanding was that this was
24 an active event or incident?

25 A. Yes, ma'am. To my understanding at that point,

1 the child was actively being hurt.

2 Q. Okay. And what happened when you arrived at
3 the location? And specifically what location did
4 you arrive at?

5 A. I arrived at [REDACTED] When I
6 arrived, I was greeted at the door by a Heidi Oberg.
7 I spoke to Ms. Oberg and told her that I needed to
8 come into her residence to insure that the child --
9 her child was okay at that point.

10 Q. And just to clarify, [REDACTED] can
11 you tell us whether or not that was the same
12 residence that you were dispatched to?

13 A. Yes, ma'am, it was.

14 Q. Okay. And what type of dwelling is this?

15 A. It's a mobile home.

16 Q. And you mentioned that when you approached the
17 door, -- did you have to knock on the door or -- tell
18 us how that went about.

19 A. No, ma'am. When I arrived, I walked onto the
20 front porch and Heidi Oberg came out of the front
21 door greeting me as I stepped onto the front porch.

22 Q. Okay. Now, is Heidi Oberg a child or an adult?

23 A. She's an adult.

24 Q. Okay. So you had an adult female approach you
25 exiting the residence as you were approaching the --

1 what you would call the front door?

2 A. Yes, ma'am.

3 Q. And what happened next?

4 A. I spoke to Ms. Oberg, told her that I did need
5 to check on the child. She told me she didn't want
6 me to come into her residence. I explained to her
7 that at that point I did have to come into the
8 residence to check on the child.

9 Q. At this point, this was a child welfare check?

10 A. Yes, ma'am. I believed at that point that
11 there could be someone hurt in the residence, that
12 being a child.

13 Q. All right. And due to those exigent
14 circumstances, you intended to check on the child's
15 wellbeing?

16 A. Yes, ma'am.

17 Q. All right. And what happened next?

18 A. I entered the living room, which is what the
19 front door led into in the residence, I asked --

20 Q. Well, when you entered that front door, who did
21 you observe there in the living room area?

22 A. In the living room area, I observed Courtney
23 Woodard.

24 Q. And that's the defendant in this case, Courtney
25 Woodard?

1 A. Yes, ma'am.

2 Q. Okay. Where was she located in the living room
3 area?

4 A. As I entered the front door, she was to my
5 left-hand side, sitting on a sofa.

6 Q. Okay. And was anyone else in that living room?

7 A. Yes, ma'am. The child was actually located in
8 the living room as well.

9 Q. All right. And what is that child's name?

10 A. The child's name is Minor 1 And Ms.
11 Woodard was actually holding the second child that
12 was in the room, Minor 2

13 Q. All right. And is that child a child that can
14 walk or an infant, if you can describe further?

15 A. The child you're referring to is Minor 2

16 Q. Minor 2 correct.

17 A. No, ma'am. That child was approximately six
18 months of age. It could not walk.

19 Q. Okay. And the other child that you referred
20 to, Minor 1 how old is he, according to your
21 report?

22 A. Five years of age.

23 Q. So they were all in the living room together,
24 is that correct; the defendant, the infant, and the
25 child in question, which is Minor 1

1 A. That's correct.

2 Q. And can you tell us whether or not this living
3 room area that you've described -- where is the door
4 that you saw Ms. Oberg, the codefendant, Heidi
5 Oberg, coming from? Where is that door in relation
6 to this living room?

7 A. As you enter what I'm describing as the front
8 door, when you walk through the front door, you're
9 immediately in the living room area of the house.

10 Q. Okay. So it's all the same room?

11 A. I'm not -- I'm not sure exactly.

12 MS. MAYES: I beg the Court's indulgence.

13 THE COURT: Certainly.

14 BY MS. MAYES:

15 Q. I'm going to show you these two photographs and
16 ask you whether or not you recognize them.

17 A. Yes, ma'am.

18 Q. And who took the photos?

19 A. I took those photos.

20 Q. Okay. And this depicts what location?

21 A. That depicts the living room area of the mobile
22 home at 1225 Basin Rock.

23 Q. All right. And were these photos taken on the
24 incident date?

25 A. Yes, ma'am.

1 Q. Okay. Can you tell us whether they're a fair
2 and accurate representation of the scene on the
3 incident date?

4 A. Yes, ma'am.

5 MS. MAYES: Okay. We would go ahead and mark
6 these at this time for -- as Court's exhibits, Your
7 Honor.

8 THE COURT: Okay. State's exhibits, not Court.

9 MS. MAYES: Okay. We'll mark it as State's
10 Exhibits 1 and 2.

11 (State's Exhibit Nos. 1 and 2 marked for
12 identification.)

13 BY MS. MAYES:

14 Q. Now if you could -- looking at State's Exhibits
15 1 and 2, if you could tell us where the doorway is
16 that you're referring to that you saw Ms. Oberg, the
17 codefendant, exit.

18 A. In number 2, you can actually see the edge of
19 the door right there. That's the doorway that I'm
20 referring to. It's right at the edge of the
21 kitchen/living room area. (Indicating)

22 Q. All right. And the area where you saw
23 Ms. Woodard seated, the defendant?

24 A. She was at the end of the couch nearest to the
25 doorway. (Indicating)

1 Q. All right. And in the other photograph,
2 State's Exhibit 1, where the child was located, Minor 1

3 [REDACTED]

4 A. Minor 1 was located in the small seat that
5 is placed facing the wall near the hallway.

6 Q. This location here? (Indicating)

7 A. Yes, ma'am, that's correct.

8 Q. All right. So when you arrive at a scene like
9 this, what steps do you take routinely to assess the
10 scene and determine whether there are any witnesses
11 or anyone with knowledge of the events?

12 A. Upon arriving on the scene, generally we're
13 going to ask general questions to assess what
14 roles what people played in the events that occurred
15 prior to our arrival.

16 Q. All right. And were you able to do that at
17 this particular scene?

18 A. Yes, ma'am.

19 Q. All right. And upon gaining entry, who did you
20 go to first?

21 A. When I entered the mobile home, my first
22 priority was to asses whether a child was injured at
23 that point. I found Minor 1 sitting in a chair
24 and as first priority, he was given to emergency
25 medical services to be evaluated.

1 Q. All right. Were emergency medical services
2 there on the scene with you?

3 A. Yes, ma'am. They arrived shortly after my
4 arrival.

5 Q. And by the time you were inside the residence
6 and checking on [Minor 1] is a paramedic also there at
7 the scene?

8 A. Yes, ma'am. A paramedic had come through the
9 front door and was actually in the living room with
10 me as I picked [Minor 1] up.

11 Q. All right. And that child then went to who, to
12 which person?

13 A. I gave the paramedic [Minor 1]

14 Q. All right. And what is the next step in trying
15 to determine whether there may be any witnesses
16 present?

17 A. At that time, the only other adult on the scene
18 was Courtney Woodard. So I began speaking to her to
19 evaluate what she had witnessed.

20 Q. All right. And do you have with you a copy of
21 your report about -- which documents that contact
22 with Ms. Woodard?

23 A. Yes, ma'am.

24 Q. Now at this point in time, is Ms. Woodard in
25 custody?

1 A. No, ma'am, she's not.

2 Q. Is she being formally detained?

3 A. No, ma'am, she was not.

4 Q. What, if anything, did you ask her as a general
5 question there at the scene? If you could, refer
6 directly to your notes.

7 A. Yes, ma'am. I'm just trying to make sure --
8 okay. I apologize.

9 I asked Ms. Woodard if she knew why the police
10 would have been called.

11 Q. All right. And what was her response to that?

12 A. She said that **Minor 1** was screaming but she didn't
13 know why anyone would have called the police.

14 Q. All right. And what else did you document?

15 A. She further told me there was nothing else that
16 she could tell me.

17 Q. All right. So there at the scene, the child
18 has been rendered aid, you ask a question to
19 determine whether she knows why the police have been
20 called, and you documented her response as she said
21 **Minor 1** was screaming but she didn't know why anyone
22 would have called the police?

23 A. That's correct.

24 Q. And you further documented that she said there
25 was nothing else she could tell you?

1 A. Yes, ma'am.

2 Q. What happened next?

3 A. At that point we began to just document the
4 injuries that we observed on Minor 1 and also document
5 a rash that we observed to be on Minor 2

6 Q. Okay. That's the infant?

7 A. Yes, ma'am.

8 Q. All right. Now going back to Minor 1 the
9 five-year-old, you mentioned documenting his
10 injuries. Did you have the opportunity to do that
11 yourself?

12 A. Yes, ma'am. I was able to go into the
13 ambulance and take some photographs.

14 Q. All right. Now, were you the only officer at
15 the scene or had you received assistance at some
16 point?

17 A. There were multiple officers at the scene. I
18 believe the second to arrive on the scene was Deputy
19 Nicholson.

20 Q. All right. And ultimately, having observed the
21 child yourself, can you tell us whether or not there
22 was an indication of injury to the child?

23 A. Yes, ma'am.

24 Q. Was that one marking or multiple markings?

25 A. There were multiple markings on Minor 1

1 Q. And can you tell us whether or not that
2 included his face?

3 A. Yes, ma'am. I did observe Minor 1 to have a
4 discolored eye, and he had multiple welt marks on
5 his body.

6 Q. Now, you mentioned the other officers were at
7 the scene. How did y'all go about dividing up or
8 determining who would conduct formal inquiries to
9 other potential witnesses at the scene?

10 A. There were many, many people. This is a mobile
11 home park where the mobile homes are in close
12 proximity. There were a lot of people that had come
13 out of their homes. It would have been very
14 difficult for me to speak to everyone on the scene.
15 I asked Deputy Nicholson if she could begin speaking
16 to people to try to determine what the people in the
17 area had seen or heard.

18 Q. All right. And was Deputy Nicholson able to
19 conduct some interviews with additional witnesses at
20 the scene?

21 A. Yes, ma'am, she was.

22 Q. All right. And that's documented in your
23 report?

24 A. Yes, ma'am.

25 Q. All right. And in addition to that, was there

1 an officer who was actually able to interview Heidi
2 Oberg, the mother of the child?

3 A. Yes, ma'am, that's correct.

4 Q. All right. And, ultimately, what led to
5 Courtney Woodard becoming an actual suspect in the
6 case concerning involvement?

7 A. As we began to speak to witnesses, we came
8 across a young man by the name of Colin Piselli who
9 told us that he actually observed Courtney Woodard
10 assault Minor 1

11 Q. All right. And that was on the incident date?

12 A. Yes, ma'am.

13 Q. All right. And did you also have an
14 opportunity to speak with a Chelsi Swartz or did law
15 enforcement have the opportunity to speak with her?

16 A. Yes, ma'am.

17 Q. All right. And can you tell us whether or not
18 in her statement she indicated that there were two
19 females involved?

20 A. Yes, ma'am. That's correct.

21 Q. She provided a written statement as well?

22 A. Yes, ma'am.

23 Q. All right; concerning her belief that two
24 ladies, I believe, was her wording. Is that
25 correct?

1 A. Yes, ma'am. In her written statement she does
2 indicate there was more than one lady in her
3 residence.

4 Q. All right. And specifically for purposes of
5 this hearing, did she provide information that led
6 to developing Courtney Woodard as a suspect?

7 A. Yes, ma'am, she did.

8 Q. Okay. Were there any statements that she
9 provided in her written statement attributed to
10 Courtney Woodard?

11 A. Yes, ma'am. She specifically says in her
12 written statement, does your mama -- I'm sorry; does
13 your mom hit you like that?

14 Q. That's one of the statements she heard from
15 inside the residence is, does your mom hit you like
16 that?

17 A. Yes, ma'am. That's what she indicates in her
18 written statement.

19 Q. All right. Now, who is the mother of Minor 1

20 [REDACTED]

21 A. Heidi Oberg.

22 Q. All right. So if someone is saying to the
23 child, does your mom hit you like that --

24 MR. CASTO: Objection, Your Honor. I think,
25 you know, with regard to the parameters that we have

1 here, you know, we're really focusing on what my
2 client's statement to law enforcement is. I think
3 we've moved beyond the realm of traditional *Jackson*
4 v. *Denno* territory.

5 THE COURT: Right. The statement at issue
6 here, I assume, is the one once the officer asked
7 the defendant if she knew why police were called and
8 she responded Minor 1 was screaming, didn't know why
9 the police would be called and didn't know anything
10 else to tell. If that is the statement at issue,
11 then I think we're probably going a little bit
12 further than we need to on this particular issue.
13 So I'll sustain the objection made by the defense.

14 BY MS. MAYES:

15 Q. All right. Now, in addition to Chelsi Swartz,
16 can you tell us whether or not there were any
17 additional witnesses that were spoken to?

18 A. Yes, ma'am. There were additional witnesses.
19 I previously mentioned Colin Piselli, there were
20 statements taken from a Tiffany Bookhart, a Phillip
21 Swartz.

22 Q. All right. And based on those statements that
23 were provided by the additional witnesses and the
24 circumstances, was Ms. Woodard developed as a
25 suspect at some point that evening?

1 MR. CASTO: We would object to this as well. I
2 think that we're still heading down that road
3 further removed from traditional *Jackson V. Denno*.

4 MS. MAYES: We're trying to establish when she
5 became in custody.

6 THE COURT: All right. I'll allow that. You
7 may proceed.

8 BY MS. MAYES:

9 Q. Ultimately --

10 THE COURT: On the issue of custody.

11 BY MS. MAYES:

12 Q. Ultimately, was Ms. Woodard taken into police
13 custody there at the scene?

14 A. Yes, ma'am, she was.

15 Q. At what stage did that happen at?

16 A. That happened after speaking to the witnesses
17 on scene and developing there was probable cause for
18 an arrest.

19 Q. Right. Now going back to your initial entry
20 into that residence and your initial observation at
21 the scene, was Ms. Woodard a suspect or in custody
22 at that point?

23 A. No, ma'am, she was not.

24 Q. Deputy Spires, during that initial contact with
25 Ms. Woodard and the initial question that you posed

1 to her, did you threaten her in any way to gain a
2 response?

3 A. No, ma'am.

4 Q. Did you coerce her in any way to gain a
5 response?

6 A. No, ma'am.

7 Q. Did you promise her anything in exchange for a
8 statement or communicating with you?

9 A. No, ma'am.

10 Q. Did she appear to understand the question that
11 you posed to her when you said do you know why the
12 police were called?

13 A. Yes, ma'am.

14 Q. Was she able to communicate a response back to
15 you?

16 A. Yes, ma'am.

17 Q. Based upon your observations, did that
18 communication with you there initially at the scene
19 appear to be free and voluntary on her part?

20 A. Yes, ma'am.

21 MS. MAYES: Nothing further, Your Honor.

22 THE COURT: Mr. Casto, any examination of this
23 witness?

24 MR. CASTO: Yes, sir, Your Honor.

25

1

2

CROSS-EXAMINATION

3

(In Camera)

4

BY CASTO:

5

Q. Just to get a running start here, good morning,

6

Officer Spires. How are you?

7

A. Good.

8

Q. You, as I understand, are the first officer to

9

arrive. Is that correct?

10

A. Yes, sir, that's correct.

11

Q. You arrive and you're wearing -- or you were

12

dressed then similarly to how you're dressed now in

13

court; right?

14

A. Yes, sir, that's --

15

Q. You're readily identified as being a law

16

enforcement officer?

17

A. That's correct.

18

Q. Based on how you're dressed when you showed up?

19

A. Yes, sir. That's correct.

20

Q. You arrive there in your law enforcement

21

vehicle; right?

22

A. That's correct.

23

Q. And it clearly identifies yourself as being a

24

law enforcement officer; right?

25

A. That's correct.

1 Q. And so when you get out of your vehicle, I
2 believe that you go up to the door and then Heidi
3 Oberg opens the door. Is that right?

4 A. That's correct.

5 Q. And then when you go inside just to get a feel,
6 once you walk inside, you're in the living room area
7 of the house; is that right?

8 A. It's the edge of the living room/kitchen, yes,
9 sir.

10 Q. And your first glimpse inside, Heidi Oberg is
11 standing up talking to you because she answered the
12 door; right?

13 A. That's correct.

14 Q. And then, as I understand it, you walk into the
15 door here, there's a couch to your immediate left
16 upon entry; right?

17 A. That's correct.

18 Q. You find Courtney Woodard, as far as -- seated
19 on the couch, seating closest -- on the end closest
20 to the door?

21 A. Yes, sir.

22 Q. And she, as you said, is holding Minor 2 is
23 that right?

24 A. That's right.

25 Q. The baby. And holding it, I guess, right there

1 in her lap; is that right?

2 A. I don't recall what position the baby was in.

3 I recall that she was holding the baby.

4 Q. Holding the baby nonetheless?

5 A. Yes, sir.

6 Q. Now, I believe that you said the first person
7 that you spoke with is Heidi. Is that right?

8 A. That's correct.

9 Q. And did you ask Heidi to, you know, come with
10 you or leave that living room and walk outside or
11 did you -- did you have Heidi just stay inside while
12 you initially spoke with her?

13 A. My initial contact, Heidi had exited the
14 residence. That was the initial conversation and
15 contact with her.

16 Q. Okay. So she was out there on the porch,
17 basically; is that right?

18 A. She came out of the front door as I was coming
19 up onto the porch.

20 Q. I see. Okay. Leaving Courtney inside?

21 A. That's correct.

22 Q. At some point you speak with Heidi. And then,
23 I believe, your focus turns to Courtney; is that
24 right?

25 A. That's correct. I spoke to Heidi and then

1 spoke to Courtney.

2 Q. Okay. And then you come in and Courtney still,
3 you know, while you're speaking with Heidi, she's
4 still sitting in that same spot; isn't that right?

5 A. That's correct.

6 Q. You had gotten a call that there was, you know,
7 a child being hurt. So the nature of the call is,
8 you know, child welfare, so to speak; isn't that
9 right?

10 A. The nature would probably be better classified
11 as an assault, is what we believe; there was an
12 active assault.

13 Q. Okay. And basically -- basically with the
14 nature of that call, you know, Heidi -- when you
15 arrive, you're trying to figure out, right in that
16 instance, what happened; right?

17 A. That's correct.

18 Q. And the idea that Heidi Oberg, the mother of
19 Minor 1 just kind of walk off and leave you, that
20 really isn't an option that Heidi Oberg really could
21 have availed herself of; right?

22 A. I'm not sure I understand your question.

23 Q. In other words, you know, Heidi Oberg, she
24 didn't -- she -- she couldn't have walked off and
25 left and decided not to speak with you; right?

1 A. That's correct. When I arrived on scene, Heidi
2 could not have left.

3 Q. And the same for Courtney; I mean, she wasn't
4 free to go either because you still had some
5 questions for her too; right? She's also there?

6 A. If she made an attempt to leave, she would have
7 been detained.

8 Q. Okay. So she -- right? So she couldn't have
9 left. She would have been detained; right?

10 A. Had she made an attempt to leave, she would
11 have been detained.

12 Q. All right. And basically, as I understand it,
13 just to be sure, she did not make a written
14 statement that day; right?

15 A. That's correct, sir.

16 Q. That you approached her and asked if she --
17 something to the effect could offer any type of
18 information; is that right?

19 A. That's correct.

20 Q. Her reply was something to the effect, well,
21 **Minor 1** was screaming, but I don't know why anybody
22 would have called law enforcement; right?

23 A. Something to that effect, that's correct.

24 Q. Does it -- is it -- do you recall specifically
25 what she said or the gist of it? Is that in your

1 notes?

2 A. On that date I asked her if she knew why the
3 police were called. She told me that [Minor 1] was
4 screaming, but didn't know why anyone would call the
5 police.

6 Q. Okay. And this was while she's, at that point,
7 just seated inside?

8 A. That's correct.

9 Q. And as you had just testified, you didn't --
10 you spoke with several witnesses that came out
11 outside of their homes and offered information to
12 you; is that right?

13 A. To myself and other deputies on the scene.

14 Q. Okay. And do you know if yourself or any other
15 deputies went around to speak with folks who didn't
16 come outside of their homes that day?

17 A. Not to my knowledge.

18 Q. Okay. And so Courtney is sitting there in

19 [Minor 2] [sic] house; is that right?

20 A. That's correct.

21 Q. And was [Minor 2] [sic] husband home or was
22 it -- at the time or no?

23 A. You said [Minor 2] [redacted] is the --

24 Q. I mean -- I'm sorry. Was Heidi's husband home?
25 I'm sorry.

1 A. Not at that time. Heidi's husband was not
2 present.

3 Q. Okay. Basically the question that you asked is
4 to get -- that you asked to Courtney is to get
5 information about what all happened; is that right?

6 A. When I asked -- yes. My question to Courtney
7 was to assess what had happened prior to my arrival.

8 Q. And you -- one of the things you did was go to
9 where **Minor 1** was; is that right?

10 A. That's correct.

11 Q. He's five years old at this time when this
12 happened?

13 A. Yes, sir, that's correct.

14 Q. And developmentally delayed?

15 A. In some capacity, yes.

16 Q. And you observed these marks, you say, on **Minor 1**
17 Were they in -- they were in different stages of
18 healing; is that right?

19 A. That's not correct.

20 Q. All right. Did you see any scabs or bruises
21 that could have happened earlier on **Minor 1** that you
22 recall?

23 A. I don't recall seeing anything that I would
24 have classified as an old injury.

25 Q. Okay.

1 MR. CASTO: I beg the Court's indulgence.

2 No further questions.

3 THE COURT: Anything on redirect on these
4 issues, Solicitor?

5 MS. MAYES: Yes, sir, Your Honor.

6 REDIRECT EXAMINATION

7 (In Camera)

8 BY MS. MAYES:

9 Q. And just to clear up, when Mr. Casto was asking
10 you if she had tried to flee or leave the scene
11 would she have been detained, did that ever happen?

12 A. That never happened.

13 Q. All right. And in general, when you're at a
14 scene trying to assess or locate witnesses, what
15 concern is it to you if someone were to suddenly
16 flee or try to leave the scene?

17 A. That this could be a person that is potentially
18 involved and is a suspect. So at that point, we
19 would want to detain them to ascertain whether they
20 were a witness, a suspect, what their role in the
21 event was.

22 Q. Because of that behavior of suddenly wanting to
23 leave the scene or evade police?

24 A. Yes, ma'am.

25 Q. At any point in time, did that occur with

1 Ms. Woodard?

2 A. No, ma'am.

3 Q. Was she ever verbally advised that she could
4 not leave the scene or that she must remain there?

5 A. She was not advised any of those.

6 Q. Was there ever any attempt by her to get up or
7 leave that would have caused her to be detained?

8 A. No, ma'am.

9 Q. And when you are trying to identify potential
10 witnesses at a scene, why is it important to make
11 verbal contact with them?

12 A. Making the initial verbal contact, that's just
13 a necessary part of evaluating what happened prior
14 to our arrival.

15 Q. Does that include name, address, in case they
16 need to be contacted later by an investigator?

17 A. Yes, ma'am.

18 Q. Can you tell us whether or not that's routine
19 in other similar situations of an on-scene
20 assessment?

21 A. Yes, ma'am. That would be common practice.

22 MS. MAYES: Nothing further.

23 THE COURT: Anything on further cross?

24 MR. CASTO: Very briefly.

25

1

2

FURTHER CROSS-EXAMINATION

3

(In Camera)

4

BY CASTO:

5

Q. When Ms. Woodard was actually detained and let out of that home, at what period in the development of this investigation was that?

6

7

A. I'm not sure I understand your question.

8

9

Q. In other words, when was Ms. Woodard actually detained?

10

11

A. She was detained when she was arrested.

12

13

Q. Okay. And when she was let out of there in the home -- or let out of that home, did she, you know, give anybody problems? Wasn't ugly, boisterous, she was compliant; is that right?

14

15

A. That's correct.

16

17

Q. Okay; didn't give you or any other officer any trouble whatsoever, did she?

18

A. No, sir, not to my knowledge.

19

MR. CASTO: All right. Thank you.

20

THE COURT: Thank you for your testimony, Officer. You can step down.

21

22

(Witness excused.)

23

THE COURT: Anything further on this issue?

24

MS. MAYES: Not on this issue, Your Honor.

25

1 THE COURT: Okay. Let me hear a little bit of
2 argument from both sides, please.

3 MS. MAYES: Yes, sir, Your Honor.

4 From the State's perspective, Your Honor, the
5 sequence of events is that the officer receives an
6 active call concerning possible assault of a child.
7 Upon arrival, he is able to go inside and verify
8 that there is a child present. That child is
9 immediately given to an EMS worker. This is still
10 an active scene where he has been trying to
11 determine who may have knowledge of any of the
12 events that took place there at the residence or any
13 of the events that may have happened concerning the
14 child.

15 At that point, Ms. Woodard is seated right
16 there in the same vicinity as the child. She is not
17 in custody. He questions her as to whether she
18 knows why the police were called, which is a routine
19 general question that would be anticipated to be
20 posed to any potential witness around the area,
21 whether inside the residence, inside another room of
22 the residence, or immediately outside the residence.
23 So he poses that question to her as a potential
24 witness. She gives the response that she could hear
25 **Minor 1** screaming, but she does not know why the police

1 would have been called. And then she indicates she
2 has nothing else that she can tell him.

3 At that point, the investigation continues.
4 The mother of the child, who he had made initial
5 contact with, is the one who said she didn't want
6 him to come inside and check on the child. She
7 eventually is questioned by officers and developed
8 as a suspect. And as indicated by Deputy Spires,
9 there were then additional witnesses around the
10 scene and area who were able to indicate that there
11 were two females involved, according to their
12 written statements, and his testimony was that they
13 were the only two females present, that being
14 Courtney Woodard and Heidi Oberg. As a result of
15 that, Ms. Oberg and Ms. Woodard were eventually
16 detained at the scene and later arrested.

17 THE COURT: All right. Thank you, Solicitor.
18 Mr. Casto?

19 MR. CASTO: Thank you very much. May it please
20 the Court.

21 Basically, as I understand the testimony that
22 was presented with regard to this statement as it
23 applies to Courtney Woodard, what I heard, you know,
24 was simply this: The officer, dressed like an
25 officer, it's obvious he's an officer, goes up

1 there, he responds to the call. His vehicle that he
2 pulls up in, blatantly obvious it's a law
3 enforcement vehicle. He makes contact with Heidi
4 Oberberg, makes contact with Courtney Woodard, but then
5 that's why we really got into, you know, was
6 Courtney Woodard free to leave? And that is really
7 the touchstone issue with regard to whether somebody
8 is actually, you know, detained.

9 Her being free to leave, that really wasn't an
10 option that Courtney Woodard had. And it's during
11 that moment in time with regard to what the officer
12 testified to that she is asked that question, asked
13 about what happened, which could elicit an
14 incriminating response, and she wasn't Mirandized or
15 anything like that when that went on. We'd ask that
16 it be suppressed, Your Honor.

17 THE COURT: Anything in direct response,
18 Solicitor?

19 MS. MAYES: Yes, sir.

20 The question that Mr. Casto referred to that
21 elicited that testimony -- Mr. Casto's question to
22 the witness was if she made an attempt to leave,
23 would she have been detained? And, of course, that
24 is a hypothetical question because in this case
25 there never was an attempt to flee or leave the

1 scene.

2 THE COURT: All right. Thank you very much.

3 Considering everything that's been presented in
4 this hearing, first of all, the Court deems the very
5 brief statement had been given voluntarily. And not
6 withstanding the officer's testimony that the
7 defendant was not free to leave, I have to go
8 further beyond that to determine whether or not a
9 reasonable person such as the defendant would have
10 believed that she was not free to leave. And I
11 consider where the question took place, that was at
12 the home. The length of the question was very
13 short, so viewing the totality of the circumstances,
14 I'm going to find that she was not in custody, thus
15 requiring Miranda to be given, and I will deny the
16 motion suppress this verbal statement.

17 All right. Now we have an issue concerning a
18 911 tape; is that correct?

19 MR. CASTO: Your Honor, before we reach that
20 issue, if we could approach on another issue.

21 THE COURT: Okay.

22 (Sidebar conference.)

23 (WHEREUPON, the 911 tape was played for his
24 Honor.)

25 THE COURT: Let's just be at ease until we --

1 hopefully we'll hear something shortly.

2 (Off-the-record discussion.)

3 THE COURT: Okay. We're back on the record.

4 And, Mr. Casto, I understand that information is
5 that the witness would be transported tomorrow, so
6 we would no longer -- at least as far as what we
7 know right now, we no longer have an issue
8 concerning the witness at SCDC?

9 MR. CASTO: That's correct, Your Honor. That's
10 our understanding.

11 THE COURT: Okay. All right. Let me -- before
12 we bring the jury out, we need to deal with this 911
13 tape. Let me hear argument on whether or not we're
14 going to admit this tape.

15 And let me just ask the solicitor, is this
16 Swartz lady, is she available? I know she's on your
17 witness list.

18 MS. MAYES: She is available, Your Honor, and
19 she does intend to testify.

20 THE COURT: Okay. All right. So are you
21 wanting to admit the 911 tape in addition to her
22 testimony?

23 MS. MAYES: Yes, sir, Your Honor. We believe
24 the tape records the present-sense impression that's
25 being perceived during the actual event in great

1 detail, and we believe it's a necessary material
2 part of the State's case.

3 THE COURT: Okay. And, Mr. Casto, you
4 object -- or, Mr. Drylie, you object on what basis?

5 MR. DRYLIE: Your Honor, we'd object on hearsay
6 grounds. We actually have a couple issues with the
7 911 tape.

8 It's our position that there's actually three
9 levels of hearsay within the 911 tape; that the 911
10 tape itself is hearsay, it's an out-of-court
11 statement being offered to prove to the truth of the
12 matters asserted that this was going on at this
13 particular time.

14 The witness is available, she's under subpoena,
15 she can testify to what she saw and heard, but it's
16 more like a -- it's a consistent -- previous
17 consistent statement being used to bolster her
18 testimony, because we expect her to testify to the
19 exact same thing. Now, if she were to testify
20 something differently, obviously, it would be a
21 prior inconsistent statement.

22 We're not analyzing this under a proffered
23 analysis or a Sixth Amendment analysis, we're just
24 analyzing it under a hearsay analysis and state that
25 the 911 tape is hearsay.

1 The second argument that we have is that you
2 have a lot of statements -- and I've got them all
3 here that I can tell you -- where the caller states
4 something that she heard verbatim. And so then you
5 have things like, and literally, she's like, do you
6 see that blood? Well, we'd argue that's hearsay
7 within hearsay; the 911 tape is hearsay and then
8 she's repeating something else that she's hearing.

9 And finally, the third level of hearsay that we
10 have in there is the caller actually says twice, and
11 the boy down the street told me he heard her say
12 this, which is a whole new level of hearsay.
13 Obviously when we're talking about hearsay, we start
14 with Rule 801, we look at the exceptions. Our
15 argument would be that it is -- the 911 tape,
16 Suzanne said, was a present-sense impression. Well,
17 we'd argue that it's still just a
18 previous consistent -- prior consistent statement
19 used to bolster their testimony. You know, she's
20 here, she's available, she can testify to that
21 thing.

22 As far as the second level of hearsay that I
23 talked about where she has the verbatim statements,
24 I believe that the solicitor would argue that it's
25 either going to be an admission of a party opponent

1 or a statement against interest. The problem that
2 we have with that is no one knows who said these
3 things. There's two women inside the house; one of
4 them is not a party to this action, Ms. Heidi Oberg.
5 And without being able to say who said it, it
6 wouldn't be an admission of a party opponent.
7 Without being able to say Heidi Oberg is not an
8 unavailable witness -- we just found that out this
9 morning through all of the phone calls, she is
10 available -- for it to be a statement against
11 interest exception, the witness would have to be
12 unavailable. So we'd argue that's a double level of
13 hearsay.

14 And as far as the third level, we'd obviously
15 argue to suppress anything where the caller says,
16 she told me that he heard her say this. And there's
17 two statements that do that; about halfway through
18 the call, the boy who is here with us because we are
19 outside changing a tire, the boy was like, did you
20 guys hear what she said? And I was like, no. And
21 she said, hold his mouth closed. So she's repeating
22 what someone else has said they heard from inside
23 the house. She does that again towards the end of
24 the call saying that the boy told her that the kids
25 were with the other -- were with their father right

1 now which is besides the fact that it's double
2 hearsay and untrue. We'd argue that, first, the
3 whole tape should be suppressed because you have the
4 witness available here to testify. She can testify
5 to what she saw, what she heard. But then we'd
6 argue that the verbatim statements don't fall within
7 a hearsay exemption such as, you know, when the
8 caller is repeating, I heard her say don't break a
9 wall, I heard her say, shut the F up. We'd argue
10 that's double hearsay and we'd argue that the third
11 type of statement is just even more outlandish than
12 that.

13 THE COURT: Thank you.

14 Solicitor, anything in response?

15 MS. MAYES: Yes, sir. As to the statement
16 where there is another person that's being referred
17 to as the boy down the street told me, we'd have no
18 objection to a redaction of that, if that is an
19 issue. However, we believe that the tape is
20 admissible under multiple exceptions: Excited
21 utterance, which it clearly is excited utterance; it
22 is present-sense impression by the very definition
23 of the rule.

24 In addition to that, Your Honor, the State's
25 position is that it is offered against a party

1 opponent, and in this case there are specific
2 statements that are attributed. The State's case
3 alleges that these statement are specifically
4 attributed to the defendant, Courtney Woodard,
5 specifically where she says it's not even her kid
6 because she heard her say, does your mother -- or
7 does your mom hit you like this? And she
8 specifically says there are two female voices.
9 Those voices are interacting. At times they are
10 giving instructions to one another; one says, don't
11 break the wall in response to the statement, does
12 your mom hit you like this.

13 At another point in time, she notes that one of
14 the -- one of the female voices says, throw him at
15 the wall. Your Honor, the State's position is that
16 that statement, throw him at the wall, is clearly
17 two equal participants, one instructing the other.
18 She would not be addressing the child at that point.

19 There is certainly the additional exception to
20 hearsay, which is statements in furtherance of
21 conspiracy. There is no requirement that the
22 defendant actually be charged with conspiracy;
23 simply that theses statements are made during
24 further participation and further action of that
25 conspiracy. And here we have two people equally --

1 or the State's position is that we have two people
2 who are participating in this assault of the child
3 and clearly interacting with each other and giving
4 instructions as they go.

5 Again, the caller says she's hearing these
6 things they were saying. She clarifies at one point
7 that there are two females. She hears one voice and
8 then another voice which she clarified it's not even
9 her kid based on that statement, does your mom hit
10 you like this? She also heard a female voice then
11 say, hold his head down, again, one participant
12 giving instructions to another participant.

13 In addition to those exceptions, Your Honor,
14 under our rules of evidence, we believe it's also
15 admissible because it's non-testimonial in nature.
16 That finding has been upheld both by the South
17 Carolina Supreme Court in *State vs. Ladner* where
18 they address the admissibility of 911 calls and
19 cited back to the use Supreme Court case of *Davis*
20 *vs. Washington*.

21 THE COURT: What cite -- give me the cite,
22 please, Solicitor for the South Carolina case.

23 MS. MAYES: Yes, sir, Your Honor. I'm going to
24 ahead and pass it up at this time.

25 THE COURT: You got a copy? Great.

1 MS. MAYES: Yes, sir.

2 This is *State vs. Ladner*, and the cite on that
3 is 373 SC 103 and 644 SE2d 684, 2007. And in
4 addition, Your Honor, I'm going to pass up the case
5 of *Davis vs. Washington*. *Davis vs. Washington* is
6 the U.S. Supreme Court case that is cited in *State*
7 *vs. Ladner*. And in that *Davis vs. Washington*
8 decision, they actually analyzed why the 911 tape is
9 and can be considered non-testimonial and
10 admissible.

11 In *Davis* it was a situation where the caller
12 was speaking about events as they actually were
13 happening, which is certainly the same scenario that
14 we are facing here. They went on to analyze it with
15 the discussion that it was an ongoing emergency,
16 that the nature of the call was to seek help for a
17 physical threat, and further that any elicited
18 statements were necessary to help resolve the
19 present emergency. And the State's position is that
20 is exactly the scenario that we are looking at here,
21 because the entire nature of the call is to provide
22 assistance and to ascertain the actual nature of the
23 call and the circumstances taking place, and they
24 are described as they are occurring by that witness.
25 And *Davis vs. Washington* is 547 U.S. 813, 2006.

1 THE COURT: Thank you very much.

2 Mr. Drylie.

3 MR. DRYLIE: Yes, Your Honor. Her position
4 would be, all of those cases she just mentioned, the
5 witness is unavailable to testify. And so that
6 distinguishes the situation that we have here. The
7 reason I said specifically we aren't doing this
8 under a Crawford analysis is because those cases are
9 generally cases where either you have the anonymous
10 911 call or you have a call on a CDV where the
11 witness refuses to testify or doesn't show up to
12 court and she isn't going to testify.

13 Here, we have this -- an attempt to bolster a
14 witness that they plan to call as testimony by
15 playing the tape. I mean, there's no argument on
16 our part that she can't get up there and testify and
17 say, hey, I called 911 because I heard screaming, I
18 heard what sounded like someone was beating. And
19 that's what she's going to do.

20 The argument is that the tape is hearsay, it's
21 an out-of-court statement, and that it shouldn't
22 come in because she's here to testify and that it's
23 nothing but a prior consistent statement. And then
24 within that you get hearsay within hearsay. And I
25 think admitting the whole type would take us to --

1 you're going to have Heidi Swartz up there
2 testifying at some point. Admitting the whole tape
3 doesn't allow us to make our hearsay objections to
4 her testimony because if she gets up there and she
5 testifies and she says, I heard someone saying XYZ,
6 obviously, you know, when we hear I heard, we'd
7 stand up and we'd object and we'd be able to
8 analyze, case by case, if there's a hearsay
9 exception. I mean, what we have here is an
10 extremely long 911 tape. It's not just a cry for
11 help; it goes more into that.

12 Further, you know, this is distinguishable from
13 those CDV cases and those cases where you get
14 someone that says, you know, I see a burglary in
15 progress, it's a white man wearing blue jeans. I
16 think it's distinguishable from those when you have
17 an anonymous 911 call. I mean, there's no question
18 that the witness is available. She's here to
19 testify.

20 THE COURT: All right. What I'm going to do,
21 right now I'm going to take it under advisement. I
22 want to get this jury out and get preliminary charge
23 and get opening arguments, and then we can kind of
24 see where we are, timeframe.

25 And, Solicitor, you can kind of determine

1 whether or not -- or at what stage you are wanting
2 to put that 911 tape in, then I can make a ruling on
3 that. So I'm going to take it under advisement.

4 MS. MAYES: Actually, I'll go ahead and advise
5 the Court, Your Honor, of -- our first witness, I
6 believe, would be Nikki Rodgers regarding the 911
7 tape as a business record, that it's maintained as a
8 business record, and about receiving a 911 call. It
9 would be marked for identification at that time.

10 THE COURT: Nikki Rodgers is the 911
11 dispatcher?

12 MS. MAYES: Yes, sir, Your Honor.

13 And Chelsi Swartz, who is available as a
14 witness, just something further on that, Your Honor,
15 yes, she is available as a witness, but the Court's
16 ruling in Davis that it's non-testimonial is
17 important to distinguish it is something other than
18 a prior consistent statement. That -- the defense's
19 position is that, well, it's a prior consistent
20 statement, it's used for bolstering, but the fact
21 that it's non-testimonial in nature makes it
22 different than a prior consistent statement. It's
23 the very circumstances as they are perceived, and we
24 believe on its own stands as an admissible item of
25 evidence. Even through Nikki Rodgers, for example,

1 we believe it would be admissible as a business
2 record, if need be.

3 THE COURT: Well, I'll make rulings shortly.
4 Let's go ahead and, in just a moment, get the jury
5 out and let's get started with that.

6 MR. CASTO: Your Honor, if I may, there's one
7 issue that we would need to take up before the jury
8 is sworn.

9 THE COURT: Okay.

10 MR. CASTO: And we do that not to delay or what
11 have you, but with regard to preservation in the
12 light that -- I believe that the case law is clear
13 that it's appropriate and must be taken up before
14 the jury is sworn, and that is the nature and
15 language of the indictment itself, Your Honor.

16 THE COURT: Okay.

17 MR. CASTO: Specifically, Your Honor, as to
18 that issue, when we look at the indictment itself,
19 we would move to quash this indictment, and the
20 reason is this: The indictment, just for purposes
21 of the record, reads: Courtney Michelle Woodard did
22 in Lexington County, South Carolina, on or about
23 February 17th, commit the offense of assault and
24 battery in the second degree by unlawfully injuring
25 another person or offered or attempted to injure

1 another person with the present ability to do so and
2 moderate bodily injury to another person resulted or
3 moderate bodily injury to another person could have
4 resulted; to wit, did inflict physical injuries upon
5 a child, Minor 1 [REDACTED] date of birth, [REDACTED]
6 [REDACTED], or did participate in offering or attempting
7 to injure the child or did participate or assist --
8 and here's our problem -- in allowing physical
9 injuries to be inflicted upon the child and moderate
10 bodily injury to the child resulted or could have
11 resulted as a result of multiple physical injuries
12 or blows in violation of 16-3-600.

13 The problem that we have with this and the
14 reason that the indictment should be quashed, Your
15 Honor, is because when you look back to the language
16 of the statute itself, assault and battery second,
17 this is an unlawful conduct on a child where there's
18 this duty to report that -- if one allows something
19 to happen, there is a duty to report what they see.
20 But when we look that bare bones and the essential
21 elements of assault and battery second, we don't
22 have any -- any instance in there with regard to
23 allowing something to occur because if that was
24 something that assault and battery included, you
25 know, you would include an example of me walking

1 down the street, I see somebody, you know, in a
2 fight, I don't do anything about it, you know, that
3 wouldn't make me guilty of assault and battery. So
4 ultimately there's an additional way to essentially
5 convict my client, Courtney Woodard, in a manner
6 that's inconsistent or not allowed because it's not
7 an element of the statute, Judge. And that's our
8 issue.

9 THE COURT: Okay. Let me take a look at the
10 statute before I hear from you, Solicitor.

11 Okay. Solicitor, I'll be glad to hear from
12 you.

13 MS. MAYES: Yes, sir. Your Honor, under that
14 particular statute, Subsection D1 of 16-3-600,
15 clearly it covers not just inflicting injuries but
16 offering or attempting to inflict injuries that
17 could result in bodily injury.

18 Here the State's position is that two people
19 were participating or engaged in an act of injuring
20 the child together, that's why it has the language
21 "or did participate or assist in allowing physical
22 injury to be inflicted upon the child." I believe
23 that defense counsel is putting too much weight on
24 the word allow. In this particular situation, I
25 believe it can have multiple or ambiguous meanings.

1 Of course the indictment itself is just a notice
2 document; it's putting them on notice that whether
3 she's physically injuring the child due to her own
4 blows or participating or assisting in another
5 inflicting the physical injury, under this
6 particular statute, she would be covered.

7 THE COURT: What I'm struggling with is, why is
8 it in there? Because if someone allows an assault
9 to happen, that's not assault and battery. So why
10 is it in there? That's what I'm trying to figure
11 out. Why -- when you prepared the indictment,
12 Solicitor, or whoever prepared it, why did that
13 language get in there?

14 MS. MAYES: I believe, Your Honor, that's just
15 an expression or that was the wording chosen to
16 express the participate or assistance in the crime.
17 I would have no objection to "participate or
18 assist" -- I would have no objection in striking
19 "allowing" so that it reads "or did participate in
20 offering or attempting to injure the child," comma,
21 "or did participate or assist in physical injuries
22 to be inflicted upon the child," comma.

23 THE COURT: All right.

24 MS. MAYES: With striking that word entirely.

25 THE COURT: If there -- Mr. Casto, if there is

1 language in the indictment that is -- I'm trying to
2 think of the correct word to use. If there's extra
3 language that really shouldn't be in there, that
4 would not necessarily be a basis to quash it so long
5 as you have received notice of the actual charge and
6 the actual allegations. So if there's additional
7 language that really does not need to be in there,
8 would not the proper remedy be to -- they're not
9 adding to the indictment. Certainly I would not
10 allow an amendment to the indictment by adding
11 additional allegations. But taking allegations
12 away, would that not suffice?

13 MR. CASTO: I beg the Court's indulgence.

14 THE COURT: Yeah. You need to talk with
15 co-counsel?

16 Solicitor, while they're discussing their
17 position, if you could, if you've got a copy of it,
18 actually mark what you suggested and show it to them
19 and we can kind of go from there.

20 MS. MAYES: Yes, sir, Your Honor.

21 MR. CASTO: Your Honor, if I may.

22 THE COURT: Yes.

23 MR. CASTO: It's my understanding that the
24 Solicitor's position is to just strike only the one
25 word, the word allowing. What we'd propose to the

1 Court to -- so that the language is clear, is to
2 strike the portion in the same line as the word
3 allowing appears where it says, or did participate
4 or assist in allowing physical injuries to be
5 inflicted upon the child.

6 The reason is, is because the phrase before
7 that seems to encompass the same thing, and then we
8 jump back in. I think that more closely adheres to
9 the statute. And then we follow it up and jump back
10 in with, and moderate bodily injury to the child
11 resulted or could have resulted.

12 THE COURT: Okay. I think that more -- or at
13 least it appears to me that that more follows the
14 wording of the statute than, Solicitor, your initial
15 proposal. So do you have any problem with that?

16 MS. MAYES: So -- and just to follow along,
17 we're about in the middle and it says, to wit, did
18 inflict physical injury upon a child, Minor 1
19 date of birth, or did participate in offering or
20 attempting to injure the child --

21 THE COURT: The child. And then it would be
22 comma, and then take out "or did participate or
23 assist in allowing physical injuries to be inflicted
24 upon the child. Take that out. Is that what you're
25 proposing?

1 MR. CASTO: Yes, sir, it sure is.

2 MS. MAYES: No objection.

3 THE COURT: Okay. Without objection then, if
4 you will go ahead and -- we will, at some point in
5 time, need to actually take the original and make
6 that necessary correction. So let's not forget
7 about accomplishing that.

8 MR. CASTO: Yes, sir.

9 THE COURT: Okay. Anything else?

10 MR. CASTO: Just briefly, Your Honor, you know,
11 it's so short, we might as well take it up. We'd
12 ask that all the witnesses in the case be
13 sequestered under Rule 615, as to both defense and
14 the prosecution.

15 THE COURT: All right. Solicitor's position on
16 that?

17 MS. MAYES: Your Honor, there is case law to
18 support the exclusion of sequestration when a
19 witness has given a written statement. There are
20 several witnesses in this case who have given
21 written statements about their observations. Chelsi
22 Swartz, Phillip Swartz, and Colin Piselli have all
23 given written statements which have been provided to
24 the defense.

25 THE COURT: Okay. Mr. Casto, your position on

1 that?

2 MR. CASTO: Your Honor, I would just -- out of
3 an abundance of caution, I'm not familiar with that.
4 I would just ask that -- you know, obviously some
5 folks can stay. You know, the chief investigating
6 officer, if there was a -- the nature of this case
7 is a little bit different. But say that there was a
8 victim or what have you. That person may be
9 present. But with regard to the rest, we'd move
10 that they also be sequestered just, you know, as not
11 to color the testimony by anything that they've
12 heard. That's really the risk.

13 THE COURT: Yeah. Is there a particular rule,
14 Solicitor, that if a witness has given a prior
15 written statement that they would not be subject to
16 sequestration?

17 MS. MAYES: Yes, sir. That was a recent
18 decision within the last year. You have a copy of
19 the case. I just don't have it with me right now.
20 If I can have a moment, I can get it.

21 THE COURT: Yes, if there's a case on that.

22 MS. MAYES: This is 694 SE 2d 224 which deals
23 with sequestration of witnesses who have provided
24 previous written statements.

25 THE COURT: Okay. Thank you very much. Let me

1 take a look at this. Everybody be at ease for just
2 a moment.

3 It certainly appears that based on *State vs.*
4 *Carmack* that sequestration, even though that's
5 within the final discretion of the Court, it does
6 certainly allow for those witnesses who previously
7 gave written statements to remain in the courtroom
8 and not be subject to sequestration. I appreciate
9 the solicitor providing this case to me because I
10 was certainly not familiar with it.

11 I am going to only require sequestration or
12 those witnesses who have not given any written
13 statements not given a previous written statement.
14 Certainly lead investigator -- I guess it was the
15 officer who testified earlier can stay and any
16 witnesses who have given a statement can stay as
17 well.

18 MS. MAYES: Okay.

19 MR. CASTO: And just for the record, we have
20 our lead investigator, Mr. Jay Phillips, and he'll
21 stay as well, according to the Court's ruling.

22 THE COURT: Okay. That gentleman in the back
23 there?

24 MR. CASTO: Yes, sir, in the blazer.

25 THE COURT: Okay. All right. Mr. Casto,

1 Solicitor, has requested that their investigator
2 remain as well.

3 MS. MAYES: Your Honor I wouldn't have an
4 objection with that.

5 THE COURT: That's fine.

6 MR. CASTO: The final matter, Your Honor, very
7 briefly, is there were two witness names that were
8 left off our witness list. I think it would be
9 prudent just when the jury comes out to ask them if
10 they know these two individuals, that way it's
11 cleared up before the jury is sworn.

12 THE COURT: Okay. And what are those names?

13 MR. CASTO: James Chris Lorick and --

14 THE COURT: I'm sorry. James what?

15 MR. CASTO: James Chris Lorick, L-O-R-I-C-K.

16 THE COURT: Okay.

17 MR. CASTO: And Mr. Jay Phillips.

18 THE COURT: Okay.

19 MR. CASTO: Thank you, Your Honor.

20 THE COURT: Anything else before we bring the
21 jury out? Anything from the State?

22 MS. MAYES: Nothing from the State, Your Honor.

23 THE COURT: From the defense?

24 MR. CASTO: Nothing, Your Honor.

25 THE COURT: Okay. Let's bring the jury out.

1 please.

2 (The jury enters the courtroom at 11:18 AM.)

3 THE COURT: Let the record reflect that the
4 jury is back in.

5 Good morning. Let me assure you that we've
6 been working on this case. It's not a situation
7 where we've been doing other things and allowing you
8 to remain in the jury room. We had several legal
9 matters that we've been working on with the lawyers.

10 A couple things that we'll need to do is -- if
11 you remember yesterday when I gave you the list of
12 potential witnesses to find out if anybody was
13 related by blood or marriage or if you knew them,
14 had any social relationship with them, inadvertently
15 there were two names left off the list. And I'm
16 going to give you these names at this time: James
17 Chris Lorick and Jay Phillips. And I would ask you,
18 is there any member of the jury either related by
19 blood or marriage to either of those two gentlemen
20 or if you know them or have any sort of personal or
21 social relationship with those two individuals.
22 Would that apply to anyone on the jury?

23 Let the record reflect that no one responded
24 affirmatively to that question.

25 Secondly, I need to appoint a foreperson to the

1 jury. Now let me explain to you that a
2 foreperson -- either a foreman if it's a male or a
3 forelady if it's a female -- their vote does not
4 count any more than all of the other votes from the
5 members of the jury; it's all equal. But we have to
6 have a spokesperson for the jury.

7 Number one, if there's any matters or concerns
8 that the jury has throughout the course of the
9 trial, then we'd need someone to communicate for the
10 jury to the Court. So I need a spokesperson;
11 secondly, I need someone to kind of oversee the
12 activities of the jury. For example, and as I
13 instructed yesterday and will continue to instruct
14 you throughout the course of this trial that you
15 cannot begin your deliberations and cannot begin
16 your discussions concerning any aspect of this case.
17 If that were to happen, of course that would be in
18 violation of my instructions and I would need
19 someone to inform the Court of that, or if you're
20 trying to do some independent research into this
21 case, that sort of thing, then I'd need that
22 reported to the Court as well. So I need someone to
23 oversee the activities of the jury. And lastly,
24 once you begin your deliberations, then we need
25 someone to conduct that and organize those

1 deliberations. So that's the purpose for a
2 foreperson of the jury. Again, I emphasize that
3 their vote counts no more than everybody else's
4 vote.

5 Travis Gordon, I'm appointing you as the
6 foreman of the jury. And you'll always maintain a
7 seat in the front seat right here. Okay? And then
8 the alternate, Valerie Broom, you're in the right
9 seat, you keep that seat because you're the
10 alternate. Now, everybody else, you can sit
11 wherever you'd like. Probably more times than not,
12 most of the juries that I've seen, they just kind of
13 like to sit in the same seats. Kind of like going
14 to church, you know, you always sit in the same pew.
15 You don't have to, that's just entirely left up to
16 you folks of where you sit, other than the foreman
17 there and the alternate there.

18 All right. With that said, Madam Clerk, would
19 you swear this trial jury in, please, ma'am.

20 THE CLERK: Please stand and raise your right
21 hand.

22 THE CLERK: Please respond by I do or I affirm.

23 THE JURY (collectively): I do.

24 (WHEREUPON, the jury was sworn at 11:23 AM.)

25 THE COURT: Thank you very much, Madam Clerk.

1 Ladies and gentlemen of the jury, we're now
2 starting the case of *State vs. Courtney Michelle*
3 *Woodard*.

4 Would you please stand, ma'am. Thank you very
5 much. You may have a seat.

6 Before we begin this trial, I want to tell you
7 that this trial probably will be different from what
8 you might expect. Many people do not have the
9 chance to attend actual court sessions as you're
10 doing now and may think, from watching television or
11 movies or reading books, that trials are always full
12 of high drama, intense action, and riveting
13 circumstances. And while all of these things may be
14 true at times, this trial is not for entertainment;
15 it is a fundamental part of our democracy, a search
16 for the truth, and an effort to make sure that
17 justice is done between the parties before the
18 Court. Searching for the truth and making sure that
19 justice is done is often slow, deliberate
20 repetitive, and the opposite of what you may have
21 seen on television or in movies or have read in
22 books.

23 Mr. Foreman and ladies and gentlemen of the
24 jury, this courtroom is a place of honor dedicated
25 to the protection and preservation of citizens'

1 rights through what many have called the greatest
2 justice system ever created.

3 The attorneys appearing before you are
4 advocates for the parties they represent, but first
5 and foremost they're officers of the court sworn to
6 uphold the integrity and fairness of our judicial
7 system, and to help you in the search for the truth.
8 You should expect them to be professional, competent
9 and ethical in the representation of their clients'
10 interests, and I'm confident that they will be.
11 You're also expected yourselves to be professional,
12 reasonable and ethical. I want to thank you for
13 accepting the important responsibility of jury
14 service and for your contribution today and
15 throughout this trial to our justice system.

16 What I will now say is intended to serve as an
17 introduction to the trial of this case. These
18 remarks are not a charge on the law in this case. I
19 will instruct you on the law applicable to this case
20 at the end of the trial before you retire to
21 consider your verdict. This is merely an
22 explanation of the procedure that we will follow in
23 the trial of this case so that you may better
24 understand what may be happening. I do understand
25 that several have requested that they take notes.

1 You're not permitted to take any notes during the
2 course of this trial.

3 Now, the defendant is charged by an indictment
4 filed in this court, charged with assault and
5 battery in the second degree. The elements of this
6 charge will be explained to you later. But I want
7 to emphasize once again, and I did so yesterday,
8 that the indictment is simply the charge by which
9 the case is brought into court, and it is not in any
10 sense evidence of the allegations it contains.

11 The defendant has pled not guilty to this
12 indictment. The State, therefore, has the burden of
13 proving each of the elements of the indictment
14 beyond a reasonable doubt, and it will be your duty,
15 Mr. Forman and ladies and gentlemen of this jury, to
16 decide whether the State has met that burden. That
17 determination will be made at the end of the case.
18 Your purpose as jurors is to find and determine the
19 facts. You are the sole judge of the facts. If at
20 any time I make any comment regarding the facts, you
21 must disregard it. You are to determine the facts
22 from the testimony you hear and the other evidence
23 introduced in court. It is up to you to determine
24 the inferences which you feel may properly be drawn
25 from the evidence. It is especially important that

1 you perform your duty of determining the facts
2 diligently and conscientiously, because ordinarily
3 there is no way to correct an erroneous
4 determination of the facts by a jury.

5 On the other hand and with equal emphasis, the
6 same law that makes you the judges of the facts
7 makes me the judge of the law. The law as given by
8 Court is the only law you may consider. You must
9 accept and follow it even though you may disagree
10 with it. I cannot tell you what the facts are and
11 you cannot disagree with me about what the law is or
12 should be. Your job is to take the law as I give it
13 to you and apply it to the facts as you find them
14 from the testimony of the witnesses and any other
15 evidence that is introduced. After doing that you
16 will render your verdict, a verdict under the solemn
17 oath that you just took as jurors. Until I tell you
18 that may begin to deliberate, you must not discuss
19 this case with anyone including your fellow jurors,
20 friends, family members, and anyone involved in this
21 case.

22 The attorneys and the parties in this case have
23 been advised that they are not to talk to you at
24 all. So if you see anyone involved in this case and
25 they do not speak, they're not being rude, they're

1 just following instructions. It works both ways:

2 You don't talk to them, they don't talk to you.

3 During your deliberations you may only discuss
4 the case in the jury room with your fellow jurors
5 because they have seen and heard the same evidence
6 you have; however, you must not discuss this case
7 with anyone else until you have returned a verdict
8 and the case is at an end.

9 You must decide this case based solely on the
10 evidence presented here in the courtroom. This
11 means that during the trial you cannot conduct any
12 independent research on your own concerning the
13 facts in this case, the law involved in the case, or
14 the people or the attorneys involved in the case.

15 Now, during this trial, do not read, listen to
16 or watch any news reports about the case, if there
17 are any. I don't know if there would be any or not.
18 But you're not to consider anything that would be on
19 the television, newspapers, and the like.

20 It is your duty -- if you become aware of
21 another juror's violation of these instruction, then
22 you are to inform the Court immediately. It is
23 important that you keep an open mind and not decide
24 any issue in this case until all of the evidence has
25 been presented and the parties have made their

1 closing arguments to you and I have instructed you
2 on the law in this case. It's your solemn
3 responsibility to determine the guilt or the
4 innocence of the defendant, and your verdict must be
5 based solely on the evidence as it is presented to
6 you in this trial and on the law as I instruct you
7 during and at the close of the trial.

8 Now, there may be times where one of the
9 lawyers may make an objection to something in the
10 case or may state that they have a legal matter to
11 take up with the Court, and consequently I may have
12 to have you retire to the jury room so I can deal
13 with that particular matter with the lawyers. We're
14 not trying to hide anything from you, but it may
15 require the Court discussing some of the facts with
16 the lawyers concerning that particular legal matter
17 or particular point of law. So with that said then,
18 I don't want to influence you at all concerning the
19 facts of the case because, again, you are the sole
20 judges of the facts in this case based upon the
21 evidence that is presented.

22 In determining what the true facts are in the
23 case, you must decide whether or not the testimony
24 of the witnesses is believable. It will be my
25 responsibility to rule as a matter of law as to

1 whether certain testimony is admissible or not. But
2 once the testimony is admitted, whether or not you
3 believe it is solely for you to determine.

4 In deciding whether or not to believe a
5 witness, you have the right to consider the interest
6 of any witness, the bias of any interest, the
7 prejudice of any witness, the opportunity for the
8 witness to have seen the matters and things about
9 which the witness may testify, and the way the
10 witness acts on the witness stand. You have a right
11 to consider anything that is in the record that will
12 help you evaluate the testimony of the witnesses.
13 That means that it is your duty to pay very close
14 attention to these witnesses, to observe the
15 witnesses, to listen to the witnesses, and pay close
16 attention to the attorneys and also to the Court.

17 Don't let your thoughts wander. Give strict
18 attention to the testimony in this case so that at
19 the end of all the testimony, after the arguments of
20 counsel and the charge on the law by the Court, you
21 will then be in a position to determine what the
22 true facts are and to apply the law to those facts
23 and thus render a verdict.

24 In order to preserve everyone's rights, I'll
25 first ask the Solicitor, any objections or

1 exceptions to the Court's preliminary charge?

2 MS. MAYES: None from the State, Your Honor.

3 THE COURT: And from the defense?

4 MR. CASTO: No, sir Your Honor.

5 THE COURT: Thank you very much.

6 Now, Mr. Foreman, ladies and gentlemen of the
7 jury, the lawyers will make their opening arguments
8 to you. These arguments are not evidence in the
9 case; it's only a statement of what they believe the
10 case is about and their respective positions in the
11 case. So pay very close attention to these fine
12 attorneys that we have in this case today.

13 Solicitor, you may proceed, ma'am.

14 MS. MAYES: May it please the Court.

15 What this case is really about is broken trust.

16 Because in this case, a young child, five years
17 old -- his name is Minor 1 he's special needs.

18 Minor 1 was physically assaulted by the people
19 that he should be able to trust the most to protect
20 him, two adults in his own home. One of those
21 adults is this defendant, Courtney Woodard; the
22 other adult also charged was Heidi Oberg. Heidi
23 Oberg was Minor 1 mom.

24 You'll hear evidence and testimony that on this
25 particular day, which was last February, February

1 17th, 2013, here in the Basin Rock Lane area of
2 Lexington County, about 5:00 on a Sunday afternoon,
3 Courtney Woodard was at the home of her acquaintance
4 Heidi Oberg. And you'll hear testimony that things
5 got terribly out of hand with the acts committed by
6 these two defendants.

7 During that afternoon, Minor 1 was virtually
8 terrorized and tortured in his own home. This went
9 on for an extended amount of time to the point that
10 neighbors could hear the child being assaulted.
11 Neighbors could hear that two adult females were
12 participating in this child's assault. And those
13 neighbors together made the decision that they had
14 to notify law enforcement.

15 You'll hear testimony in this case from one of
16 those neighbors, Chelsi Swartz, she was just 19.
17 Knowing that child was in severe physical distress
18 and hearing blows and booms over and over in that
19 home, she called 911 and was able to get rescue to
20 Minor 1 rescue in the form of this officer, Deputy
21 Adam Spires, as well as other members of the
22 Lexington County Sheriff's Department who responded
23 to that scene to assist Minor 1

24 You'll hear testimony that when they arrived at
25 the scene and got inside, this defendant, Courtney

1 Woodard, is sitting right there in the living room,
2 in the same room that little Minor 1 was. Also in that
3 room or exiting that room and coming out the front
4 door to meet the officer was the mother of Minor 1
5 -- again, also charged, but she's not part of
6 this trial -- and that is Heidi Oberg.

7 You'll hear testimony that when this officer
8 and EMS made contact with that child and ultimately
9 he's transported to an ambulance, that child was
10 covered in marks and bruises. And you will see
11 evidence of that. And when I say marks and bruises,
12 I don't mean a scrape on the knee or a scrape on the
13 back or a scratch on the face; I mean this child had
14 black eyes, this child is covered in marks in a way
15 that is unimaginable that any human being could
16 inflict on anyone else.

17 But in this particular case, those injuries
18 were inflicted on a vulnerable helpless
19 five-year-old special-needs child. And you'll hear
20 that Minor 1 is really limited in his ability to
21 communicate. Ultimately, he's hospitalized, treated
22 at Palmetto Health Richland, and removed from the
23 care of his mother Heidi Oberg. This defendant
24 Courtney Woodard was charged with participating in
25 the events that took place that day, and you'll hear

1 exactly how and to what degree she was involved in
2 this. You'll hear that the very room she's sitting
3 in, pieces of stick the State alleges are used as an
4 instrument to inflict injuries upon Minor 1 are
5 removed just feet away from her; broken stick right
6 there in that living room.

7 The law in this case is actually very simple.
8 It's called assault and battery second degree. And
9 that covers any infliction of injuries, but not just
10 the infliction of injuries, but even offering or
11 attempting to inflict those injuries. For example,
12 somebody takes a swing. They may not actually
13 strike that person, but if they're offering or
14 attempting, then they fall under the statute as
15 well. And the second part of the statute is not
16 only the offering or attempting to inflict physical
17 injury, but that it be moderate bodily injury. Now
18 that's sort of a fancy word that our legislature
19 came up with.

20 But what moderate bodily injury means is an
21 injury beyond just the surface of the skin that
22 could have resulted. The State is not required to
23 prove that it did result, but that it could have
24 resulted. And in this particular case, you'll hear
25 testimony that the type of injuries that were

1 inflicted upon **Minor 1** were certainly with the degree
2 of blunt-force trauma that can injure an organ
3 system such as the skeletal system resulting in a
4 fracture, injury to the eyes, injury to the head,
5 injury to any part of the soft body organs below the
6 surface of the skin. So that's a description of the
7 law, which you will hear at the end of the case a
8 much more detailed description that is provided by
9 Your Honor. But something to keep in mind. Again,
10 the State does not have to prove that any serious or
11 moderate bodily injury occurred; simply that it
12 could have occurred because of the infliction of
13 these injuries.

14 Finally, ladies and gentlemen, I want to
15 address a statement that you'll hear during the
16 course of this trial that was actually made by
17 Courtney Woodard. You'll hear the circumstances
18 under which police arrived; there, clearly a child
19 is in distress to the point that neighbors are aware
20 of it. But when officers arrive and ask Courtney
21 Woodard, do you know why police are called, her
22 response is, no, **Minor 1** was screaming, but I have no
23 idea why anyone would have called the police.
24 Again, ladies and gentlemen, keep in mind her
25 involvement in this case, what she's trying to cover

1 up, specifically her own culpability and involvement
2 to make a statement like that as if she didn't know
3 or couldn't comprehend the degree to which **Minor 1** was
4 being abused and assaulted that day.

5 After all is said and done, I submit the State
6 will meet its burden of proof abundantly, and that
7 is proof beyond a reasonable doubt, that Courtney
8 Woodard participated in assault and battery second
9 degree by inflicting injuries or offering or
10 attempting to inflict injuries that could have
11 resulted in moderate bodily injury to **Minor 1**

12 Thank you.

13 THE COURT: Thank you, Solicitor. Mr. Casto?
14 Mr. Drylie?

15 MR. DRYLIE: I made a mistake, I hurt my love
16 **Minor 1** I hit him with a switch. Those words were
17 uttered by Heidi Oberg shortly after she was taken
18 into custody. The evidence that's going to be
19 presented in this trial is going to show that
20 Courtney Woodard is not guilty of assault and
21 battery. Now, the case that the State is going to
22 present to you is tragic, it's sad, and it's
23 deplorable. You're going to see pictures on the
24 screen up there and they're going to tug at your
25 heartstrings, and we know this. You're going to be

1 asking yourselves, how can anyone do that to a
2 little kid, why would anyone do that to a little
3 child? We don't have the answer for how, we don't
4 have the answer for why, but the most important
5 question that we're asking throughout this trial is
6 who hurt **Minor 1** And the evidence that's going
7 to be presented suggests that it was Heidi Oberg and
8 not Courtney Woodard.

9 February 17th, 2013 started as a very normal
10 day for Ms. Courtney Woodard. At some point that
11 afternoon she went down to her neighbor's house.
12 Her neighbor was Heidi. She had two children; **Minor 1**
13 who is five and **Minor 2** who is six months old.
14 During that afternoon they were watching TV, they
15 were hanging out. You're going to hear testimony
16 that for that afternoon, the main thing that
17 Courtney Woodard is doing is she's holding the baby
18 **Minor 2**

19 At some point during that afternoon, **Minor 1** began
20 misbehaving. He began say words that no child
21 should say, he was cursing. Now, Heidi took **Minor 1** --
22 the evidence is going to show that Heidi took **Minor 1**
23 to the back to discipline him. What she did was not
24 discipline. Don't get me wrong. I'm not saying
25 that and I'm not making any excuse for what Heidi

1 Oberg did to **Minor 1** What she did was flat out and
2 out child abuse. And you're going to see pictures
3 of that and they're going to be graphic. However,
4 Courtney Woodard was in the other room watching the
5 six-month-old baby. You're going to hear testimony
6 to that fact, you're going to hear testimony that
7 when Heidi Oberg was taken into custody, she stated,
8 I made a mistake --

9 MS. MAYES: Objection to hearsay at this stage,
10 Your Honor.

11 THE COURT: Okay. Well, again, I've instructed
12 the jury that this is not evidence, that this is
13 just a statement -- argument of respective
14 positions.

15 You may proceed.

16 MR. DRYLIE: She said, I made a mistake, I hurt
17 my son **Minor 1** What she didn't do was say that
18 Courtney Woodard did a single thing to her son at a
19 time when she was scared and at a time when she
20 would have been looking for a way out. Not only did
21 she make that statement on that day, but you're
22 going to hear testimony that four to five days later
23 she met with DSS and she emphatically repeated that
24 Ms. Courtney Woodard did not do anything to my son,
25 that it was me, I made a mistake, I hit my son **Minor 1**

1 with a switch.

2 Now, the neighbors heard a commotion that day,
3 they called 911 and you're going to hear their
4 accounts. You're going to hear the accounts from
5 the officers who showed up, and the accounts from
6 the EMS personnel. The only account we have of what
7 occurred inside that house comes from Ms. Courtney
8 Woodard and Ms. Heidi Oberg; everyone else is
9 outside or showed up later.

10 You're also going to hear accounts from other
11 neighbors who say that it was not uncommon to hear
12 screaming coming from that house and that they had
13 heard it earlier in the day well before Ms. Woodard
14 was even over there. The two ladies inside of that
15 house said the exact same thing: Heidi took **Minor 1**
16 into the back, Courtney was on the couch holding
17 **Minor 2** Heidi not only said it once, she said it
18 twice. Now, that is the exact account we have of
19 what happened inside that house.

20 The evidence that's going to be presented is
21 going to show that Courtney Woodard is not guilty of
22 assault and battery. Now, throughout this trial I'm
23 going to let you know a couple things. At various
24 times you're going to see myself and Mr. Casto over
25 there, and we're going to have to make objections.

1 We're going to have to ask people questions, and
2 they might seem tough. None of that is out of
3 indifference as to what happened to Minor 1 on
4 that day. Courtney, stand up for me. It's to make
5 sure that this young lady over here, Ms. Courtney
6 Woodard, gets a fair shot at her trial.

7 In closing I want to tell you a quick story.
8 Before I went to law school, I actually had a really
9 unique experience. I got to work in an orphanage
10 for a couple years. Now, I remember after I was
11 there for a couple months two little girls showed up
12 to the orphanage. They were three and four years
13 old, they weighed 9 and 11 pounds respectively.
14 They had been abused; they had cigarette burns on
15 their body, they were emaciated. And I remember the
16 feelings that I felt when I was there and how I
17 wanted more than anything for the people responsible
18 to come to justice. That's what we're talking about
19 here today, because anything more than bringing the
20 people to responsible to justice is vengeance, and
21 that's not what our criminal justice system is
22 designed to do. Heidi Oberg has said that she hit
23 her son Minor 1 and that Courtney Woodard did not.

24 At the close of this case we're going to ask
25 you to return a verdict which speaks the truth of

1 this case, and that is that Ms. Courtney Woodard
2 over there is not guilty of assault and battery.

3 THE COURT: Thank you, Mr. Drylie.

4 Can I see the lawyers up here just a moment,
5 please.

6 MR. CASTO: Yes, sir.

7 THE COURT: Ladies and gentlemen of the jury,
8 we're going to take a little earlier lunch break
9 than what we'll normally take. I've got some things
10 I've got to deal with concerning this case. So
11 we're going to go ahead and recess for lunch now.
12 You need to be back here promptly at 1:15. And
13 again I remind you not to discuss this case amongst
14 yourselves, don't discuss it with anyone you may
15 come in contact with during your lunch break. So
16 we'll see you back here at 1:15. Have a good lunch.

17 (A luncheon recess transpired.)

18 THE COURT: Okay. We're back on the record.
19 And before we bring the jury out, I have considered
20 very carefully the arguments made, very capable and
21 excellent arguments made by both sides concerning
22 this 911 tape and whether or not I am to allow the
23 admissibility of the tape. And I have determined
24 that I will allow the admissibility of the 911 tape
25 with the redaction of a couple statements made by

1 the caller where he said she said, and that's
2 already been or is in the process of being
3 accomplished. I believe that it passes a hearsay
4 argument by virtue of it being a present-sense
5 impression and excited utterance by the caller. And
6 we found -- we came across a case that was not in
7 South Carolina -- South Carolina does not have a lot
8 of case law on this -- but another state.
9 And because it is an excited utterance,
10 present-sense impression, it does not constitute
11 improper bolstering of this witness. And in
12 addition, I believe it would fall under the Business
13 Records Act for the 911 folks to testify for it to
14 come into evidence at that point in the trial. So
15 with all of that said, I'm going to allow it into
16 evidence with the appropriate redaction.

17 Anything further from the State or the defense
18 before we bring the jury out?

19 MS. MAYES: No, sir, Your Honor.

20 MR. CASTO: No, sir, Your Honor.

21 THE COURT: Thank you very much.

22 Let's bring the jury out, please.

23 (The jury enters the courtroom at 1:31 PM.)

24 THE COURT: Let the record reflect that the
25 jury is back in.

1 Solicitor, you may proceed.

2 MS. MAYES: The State calls Nikki Rodgers.

3 NIKKI RODGERS

4 being first duly sworn, testified as follows:

5 THE CLERK: Once you're seated, state your full
6 name spelling your last on the record, please.

7 THE WITNESS: Nikki Rodgers, R-O-D-G-E-R-S.

8 DIRECT EXAMINATION

9 BY MS. MAYES:

10 Q. All right. And, Ms. Rodgers, if you could,
11 give us some information about yourself. Where are
12 you currently employed?

13 A. Lexington County 911.

14 Q. All right. Can you tell us a little bit about
15 Lexington County 911 specifically? What kind of
16 facility is that?

17 A. We are an emergency communications facility for
18 Lexington County. We dispatch for the Sheriff's
19 Department, Lexington County EMS, Lexington County
20 Fire Service, the Coroners Office, Animal Control,
21 Public Works, anything that's needed on an emergency
22 scene in Lexington County.

23 Q. All right. Now, how long have you been with
24 Lexington County Communications?

25 A. Twenty years.

1 Q. All right. And, specifically, what is your job
2 responsibility there?

3 A. I'm the Lexington County communications
4 coordinator for all emergency services in the
5 dispatch center. I'm pretty much like the
6 department head. I do anything from the budgets to
7 scheduling to training to actually answering the
8 phones if we're shorthanded, that sort of thing.

9 Q. Now, does the Lexington County Communications
10 Center preserve calls that are on the 911 system?

11 A. We do. That's another one of my
12 responsibilities. I'm considered the keeper of the
13 records for 911. We keep 911 recordings for 90
14 days. And then the call logs or the call reports,
15 we keep them on a computer system also.

16 Q. All right. And if you could, pull that
17 microphone in front of you down a little bit more.

18 A. Okay. Is that better?

19 Q. It is.

20 A. Okay.

21 Q. All right. Now, you mentioned that the calls
22 are preserved. Also, specifically, is a log
23 maintained of the dates and times of these specific
24 calls?

25 A. It is.

~

1 Q. And does that include the time that units are
2 dispatched out to an address?

3 A. It does. It contains everything from the time
4 the call is received all the way to the time the
5 call is dispatched to the units and their on-scene
6 time, their clear time, those types of information.

7 Q. Now, specifically in this case, can you tell us
8 whether or not certain records were requested
9 concerning a call for assistance on February 17th of
10 2013 at the location of [REDACTED] in
11 Lexington County?

12 A. Yes, ma'am. We received a call on the 17th of
13 February at 17:01, which is 5:00 p.m., requesting
14 assistance.

15 Q. Okay. I'm going to stop you right there. And
16 you have with you today the call log concerning that
17 event?

18 A. Yes. The call report, yes.

19 Q. How did that call come in? Was it just a
20 regular call or did it come in through a specific
21 line?

22 A. It was a wireless call on 911.

23 Q. And that date again is 2/17/2013?

24 A. Correct.

25 Q. And the address needing assistance?

1 A. Was [REDACTED]

2 Q. All right. And specifically the time that it
3 came through on 911 in which the call -- I guess you
4 would classify it as call received.

5 A. The call was received and the call-taker
6 initiated the call at 17:01:27.

7 Q. And when you say 17:01, that's military time?

8 A. Yes, ma'am.

9 Q. All right. And what time is it for a lay
10 person such as myself?

11 A. That would be 5:01 p.m.

12 Q. 5:01 p.m.?

13 A. Correct.

14 Q. All right. And what was the general nature of
15 the call?

16 A. This was an assault call.

17 Q. All right. And based on the information that
18 was made available to your dispatcher and to the
19 call-taker, can you tell us whether or not a unit of
20 the Lexington County Sheriff's Department was
21 dispatched to that location?

22 A. Yes. We dispatched the Lexington County
23 Sheriff's Department, and that was dispatched at
24 17:05, which is 5:05 p.m.

25 Q. All right. That's what time you actually

1 requested that a car go out; correct?

2 A. Correct.

3 Q. And does your log note the time that the first
4 deputy or first officer arrived on the scene?

5 A. It does. The first unit that arrived on the
6 scene arrived at 17:16, which is 5:16 p.m.

7 Q. 5:16 p.m.?

8 A. Correct.

9 Q. All right. So approximately 15 minutes from
10 the time that it was first received there at the 911
11 call center and then 5:16 being the time that they
12 arrived there at the scene and that being [REDACTED]

13 [REDACTED] correct?

14 A. Yes, ma'am.

15 Q. Can you tell us whether or not your dispatcher
16 or your call-taker remained on the line with the
17 caller from that time period of 5:01 to 5:16 p.m.?

18 A. They did.

19 Q. Okay. And for what purpose did the dispatcher
20 remain on the line with the person making the call?

21 A. Whenever we receive a call that is active or an
22 in-progress type call, not something that has
23 already occurred previously in the past -- if it's
24 an active ongoing call which is a priority call
25 which causes the officers to respond in an emergent

1 manner which is considered code with lights and
2 sirens, the dispatchers will remain on the line to
3 obtain additional information as the officers or the
4 field personnel -- EMS, fire units, whatever it may
5 be -- are responding to the scene.

6 Q. All right. And you used the term active. Can
7 you tell us whether or not the call was active
8 between 5:01 p.m. and 5:16 p.m.?

9 A. This was active. The call-taker indicates that
10 they could actually hear information going on from
11 the -- or was receiving information from the caller
12 that it was active, and that's what they advised the
13 units while they were en route.

14 Q. All right. And can you tell us whether or not
15 that's ordinary or routine in that situation?

16 A. That's standard operating procedures.

17 Q. Now, do your records note the name or first
18 name of the caller?

19 A. The caller's name was Chelsi.

20 Q. So on this particular date, that call was made
21 by a caller with the name Chelsi; correct?

22 A. Correct.

23 MS. MAYES: I beg the Court's indulgence.

24 THE COURT: Certainly.

25 BY MS. MAYES:

1 Q. Ms. Rodgers, can you tell us whether there were
2 additional units that responded?

3 A. There were multiple units that responded. Do
4 you want me to list the numbers or...

5 Q. Well, if you have an idea of how many units
6 responded.

7 A. Let's see. Looks like three units responded.

8 Q. All right. And in addition do you have any
9 record there in the log as to whether or not EMS, or
10 Emergency Medical Services, was also dispatched?

11 A. EMS was also dispatched to this location.

12 Q. All right. And y'all use the same
13 communication center for both?

14 A. Yes, ma'am.

15 MS. MAYES: Nothing further.

16 THE COURT: Cross-examination?

17 MR. DRYLIE: Yes, Your Honor.. Just one second.

18 CROSS-EXAMINATION

19 BY MR. DRYLIE:

20 Q. How are you doing today, Ms. Rodgers?

21 A. I'm good. Thanks.

22 Q. You've been the director of 911 Communications
23 for quite some time; correct?

24 A. Yes, sir.

25 Q. Okay. You've had the opportunity to testify in

1 court like this several times?

2 A. Yes, sir.

3 Q. Okay. It's not really that uncommon for
4 neighbors hearing a commotion to call 911, is it?

5 A. That's typical.

6 Q. Okay. And sometimes when neighbors call 911
7 they don't exactly have all of the facts; is that
8 correct?

9 A. We only take whatever information they're
10 giving us and pass that on to the responders.

11 Q. And so sometimes they don't always have all of
12 the facts when they call?

13 A. I only give -- or the dispatchers are only
14 instructed to give the information. It's the
15 officers' job, once they get there, to figure out
16 whether it's factual or not.

17 Q. Okay. But sometimes it's not; correct?

18 A. I would assume so.

19 Q. Okay.

20 MR. DRYLIE: I beg the Court's indulgence.

21 THE COURT: Sure.

22 MR. DRYLIE: No further questions.

23 THE COURT: Anything on redirect, Solicitor?

24 MS. MAYES: No, sir, Your Honor.

25 THE COURT: Okay.

1 Thank you for your testimony, ma'am. You may
2 step down.

3 MS. MAYES: We'd ask that the witness be
4 excused.

5 THE COURT: Sure. You're excused.

6 Any objection?

7 MR. DRYLIE: No objection, Your Honor.

8 THE COURT: Call your next witness.

9 MS. MAYES: The State calls Chelsi Swartz.

10 CHELSI SWARTZ

11 being first duly sworn, testified as follows:

12 THE WITNESS: Yes.

13 THE CLERK: Once you're seated, state your full
14 name spelling your last on the record, please.

15 THE WITNESS: My name is Chelsi Swartz,
16 S-W-A-R-T-Z.

17 DIRECT EXAMINATION

18 BY MS. MAYES:

19 Q. Ms. Swartz, can you tell us a little about
20 yourself? Where are you currently employed?

21 A.) During the week I work as a two-year-old
22 teacher at Lexington Day School and on weekends I
23 work first shift at Waffle House as a grill
24 operator.

25 Q. All right. So you're currently holding down

1 two jobs?

2 A. That, I am.

3 Q. All right. And how old are you right now?

4 A. I'm 20.

5 Q. I want to take you back to last year, February
6 17th, 2013. Where were you residing at that time?

7 A. I was at my parents' house in -- inside. And
8 whenever Colin got my attention, I came outside.
9 And then that's when I placed the phone call.

10 Q. All right. And I need to stop you right there
11 and ask you a little bit more detail. The
12 microphone that is in front of you, if you could,
13 pull it just a little closer to your face.

14 All right. Now, you said you were at your
15 parents' house. What is that address?

16 A. [REDACTED].

17 Q. All right. And you mentioned [REDACTED]
18 [REDACTED]. The incident location in this particular case
19 is [REDACTED] In what proximity is the
20 incident location to your parents' home?

21 A. Maybe 25 feet away, if that. They're very
22 close together. It's a trailer park, so everybody
23 is basically on each other's back.

24 Q. All right. And you were actually residing
25 there at that location on this particular incident

1 date?

2 A. I was.

3 Q. I'm going to show you two exhibits and ask you
4 whether or not you recognize what's shown in the
5 exhibit. First of all, I'm going to show you this
6 exhibit and ask you whether or not you recognize
7 what's shown in that photograph.

8 A. That's the trailer beside my parents' house.

9 Q. All right. Is that the [REDACTED]
10 that location?

11 A. Yes, ma'am.

12 Q. And can you tell us whether or not this
13 photograph is a fair and accurate representation as
14 it appeared on the incident date?

15 A. Yes.

16 Q. Okay. That particular home has remained there
17 at that location throughout this time?

18 A. It has. Nothing has changed.

19 Q. This would be State's 3 for evidence, Your
20 Honor.

21 THE COURT: Okay. Any objection from the
22 defense?

23 MR. CASTO: No, sir.

24 Your Honor.

25 THE COURT: Without objection, this will be

1 State's No. 3 into evidence.

2 (State's Exhibit No. 3 admitted into evidence.)

3 BY MS. MAYES:

4 Q. All right. I'm also going to show you this
5 photograph and ask you whether or not you recognize
6 the location depicted in this photograph.

7 A. I do.

8 Q. And I believe this is a satellite photograph.
9 What specifically do you recognize in this
10 photograph?

11 A. My car.

12 Q. And you see your car in this photograph?

13 A. Yes, ma'am.

14 Q. Is your residence visible?

15 A. Yes.

16 Q. Is the residence located at [REDACTED]

17 [REDACTED] visible?

18 A. You can see the roof, but that's about it.

19 Q. Can you see the location of proximity between
20 those two residences?

21 A. Yes.

22 Q. Can you tell us whether or not this is a fair
23 and accurate representation of the overall scene
24 there at Basin Rock Lane?

25 A. It's good. Yes.

1 MS. MAYES: This will be State's Exhibit 4 for
2 evidence, Your Honor.

3 THE COURT: What says the defense?

4 MR. CASTO: No objection, Your Honor.

5 THE COURT: All right. Without objection, it
6 will be State's No. 4 into evidence.

7 (State's Exhibit No. 4 admitted into evidence.)

8 BY MS. MAYES:

9 Q. Now with this in evidence, Chelsi, I'm going to
10 go ahead and point it this way.

11 A. Okay.

12 Q. And you've identified this as the location,
13 which is [REDACTED]

14 A. Yes, ma'am.

15 Q. All right. Now if you could, just step down
16 just briefly. This is State's Exhibit 4. You
17 mentioned before that you recognize your vehicle --

18 A. Yes.

19 Q. -- in this photograph.

20 A. Yes.

21 Q. Where is your vehicle?

22 A. Right there. (Indicating)

23 Q. All right. And the incident location, which is
24 the [REDACTED] is located where?

25 A. Right here. (Indicating)

1 Q. And that's the rooftop that you were referring
2 to?

3 A. Yes, ma'am.

4 Q. Now, where is the roadway, I guess, that -- the
5 most common roadway?

6 A. Right here.

7 Q. And how is your cell phone reception in this
8 area?

9 A. I have to step into the road to place a phone
10 call, and to send text messages I have to go on this
11 side of the trailer over here. And we have, like,
12 where you grow a garden for, like, tomatoes in the
13 house, so I go in there. If I don't, then I get no
14 reception, because once you come into the
15 neighborhood, you go down into a hill.

16 Q. All right.

17 A. So there's no reception.

18 Q. All right. And what about in the roadway?

19 A. I have to maintain in this portion of the road.
20 (Indicating)

21 Q. All right. And I'm going to ask you to go
22 ahead return to your seat.

23 That location at [REDACTED] pretty
24 much your next door neighbor; is that fair to say?

25 A. Yes, ma'am.

1 Q. Have you ever seen the occupants of that
2 residence before, prior to that date of February
3 17th?

4 A. The only time that I ever seen the mother of
5 the children that was from the house is when she was
6 pregnant and she and her son -- she would drag him
7 behind her as they would walk up and down the road.
8 Whether it was cold, hot, raining, he never wore
9 proper clothes either, like no shoes, sometimes he
10 wasn't in a shirt. And she'd always be pushing an
11 old-timey stroller in front of her. And after she
12 had the baby, I never seen her.

13 Q. All right. But when you recall seeing her
14 previously, she was pregnant?

15 A. Yes, ma'am.

16 Q. All right. And you recall seeing her with a
17 little boy?

18 A. Yes, ma'am.

19 Q. Okay. And it's your understanding that he
20 resided that at residence?

21 A. Yes, ma'am.

22 Q. On that date of February 17th, 2013, what, if
23 anything, unusual occurred that day that raised your
24 attention?

25 A. Well, we were told to come outside to hear the

1 ruckus going on next door. So --

2 Q. Let me stop you right there. You say, we were
3 told to come outside. But let me ask it a different
4 way.

5 Did someone bring to your attention that there
6 was an even outside?

7 A. Yes..

8 MR. CASTO: Objection; hearsay.

9 THE COURT: Sustained..

10 You can just testify that as a result of a
11 conversation, you went outside. And then you can go
12 from there.

13 MS. MAYES: Yes, sir, Your Honor. And I'll
14 rephrase that.

15 THE COURT: Okay.

16 BY MS. MAYES:

17 Q. Where were you initially?

18 A. In the living room.

19 Q. Okay. Eventually, did you go outside?

20 A. I did. I stepped on the porch and I heard a
21 child screaming and crying and crying. And while I
22 was listening, I could hear two different voices
23 conversating over the kid screaming, therefore they
24 were yelling basically at each other, but not at
25 each other. They were yelling together, like in

1 conversation. So at that point I ran inside, got my
2 phone, and then stepped into the road to call 911.

3 Q. All right. And you mentioned that -- when you
4 went outside, was there someone else out there?

5 A. There was two other people out there with me.

6 Q. Who were the two other people?

7 A. My brother Phillip Swartz and Colin something
8 with a P.

9 Q. Piselli?

10 A. Yes.

11 Q. Now, your brother Phillip Swartz, did he also
12 reside at that residence?

13 A. He did -- oh, no. Sorry. He actually lived
14 with his girlfriend at another place, but they were
15 at our house playing the game.

16 Q. All right. And I believe -- was there also a
17 toddler that he had with him that day?

18 A. Yes. He had his son who wasn't yet a year old.

19 Q. Okay. And did the toddler remain inside or go
20 outside?

21 A. Yes, ma'am. He remained inside with my friend
22 Tiffany.

23 Q. All right. So you also had a friend Tiffany
24 there who was watching the toddler?

25 A. Yes.

1 MR. CASTO: Objection to the leading.

2 THE COURT: Okay. Try to rephrase, Solicitor.

3 MS. MAYES: Yes, sir, Your Honor.

4 BY MS. MAYES:

5 Q. So when you're outside, I believe your
6 testimony was your brother Phillip Swartz is outside
7 and Colin Piselli is outside.

8 A. Yes.

9 Q. Specifically, where were y'all outside and for
10 what purpose?

11 A. I was -- at first I was standing on the porch
12 and Colin was beside the steps and Phillip was at
13 Tiffany's car changing her back left tire. And that
14 was -- I park like this and she parks like this, so
15 maybe about five feet away from the road.

16 (Demonstrating)

17 Q. All right. And whose vehicle was it that
18 needed the tire change?

19 A. Tiffany's.

20 Q. All right. And who was working on the car?

21 A. Phillip Swartz.

22 Q. All right. So just to get an idea of the
23 scene, Phillip is there repairing the tire on
24 Tiffany's car. You're outside?

25 A. Yes, ma'am.

1 Q. And is there -- is there a way you can estimate
2 how long you may have heard the noises from inside
3 that residence prior to going to get your phone?

4 MR. CASTO: Objection; speculation.

5 THE COURT: Repeat the question again,
6 Solicitor. Don't answer, Madam Witness, until I
7 hear the question again.

8 MS. MAYES: Yes, sir, Your Honor.

9 BY MS. MAYES:

10 Q. To the best of your knowledge, how long did you
11 hear something going on in the trailer at 1225 Basin
12 Rock prior to you going to get your phone?

13 THE COURT: Go ahead and answer.

14 I think she rephrased it.

15 MR. CASTO: Yes, sir.

16 A. In between three and five minutes.

17 Q. All right. When you went to get your phone,
18 what happened next?

19 A. I got my phone, I stepped into the road.
20 Phillip remained working on the tire. And Colin was
21 in between me and Phillip, so he was like five feet
22 away from me, five feet away from Phillip. I called
23 the -- I called 911 and then I started describing
24 everything I heard from that point on.

25 Q. All right. And when you called 911, can you

1 tell us whether or not you gave your name, Chelsi?

2 A. I did.

3 Q. All right. So the call received at 5:01 p.m.
4 was from whom?

5 A. From me.

6 Q. All right. And you mentioned you were in the
7 roadway.

8 A. Yes.

9 Q. I'm going to ask you a little bit more about
10 that. Looking here at State's Exhibit 4, can you
11 tell us approximately where you would have been
12 located or depict as best you can the location you
13 would have been at during the general timeframe of
14 this call?

15 A. I was right about there. (Indicating)

16 Q. All right. Now, while at this location, can
17 you tell us whether or not you could hear noise from
18 inside the incident location?

19 A. Oh, most definitely.

20 Q. I'm going to ask you a little bit more about
21 that. Could you specifically hear voices?

22 A. I could.

23 Q. And could you also hear other sounds?

24 A. I -- I could.

25 Q. What, if any, other sounds did you hear in

1 addition to voices?

2 A. Big, loud booms, crying, screaming, slaps. I
3 heard slaps like I was standing right beside whoever
4 hit whoever.

5 Q. And you mentioned booms. Did you hear one boom
6 or more than one boom?

7 A. Multiple booms through the entire phone call.

8 Q. Can you tell us whether or not any of the
9 voices that you heard were female voices?

10 A. They were only female voices.

11 Q. And can you tell us whether or not you heard
12 one or more than one?

13 A. I heard two --

14 MR. CASTO: Objection; speculation.

15 THE COURT: I think she can testify if she
16 could distinguish between the voices. And I think
17 she's already testified just a few minutes ago that
18 she heard two different voices. So I'll overrule
19 the objection.

20 You may proceed.

21 MS. MAYES: Yes, sir, Your Honor.

22 BY MS. MAYES:

23 Q. Were you able to distinguish more than one
24 female voice?

25 A. Yes, ma'am.

1 MS. MAYES: I beg the Court's indulgence.

2 THE COURT: Sure.

3 MS. MAYES: Your Honor, if I may approach the
4 witness.

5 THE COURT: Sure.

6 BY MS. MAYES:

7 Q. I'm going to show you an audio CD and ask you
8 whether or not you recognize anything on the CD.

9 A. My initials.

10 Q. All right. And what are your initials?

11 A. C.S.

12 Q. And who placed them there?

13 A. I did.

14 Q. Prior to placing your initials on the audio CD,
15 can you tell us whether or not you had an
16 opportunity to listen to the 911 call that you
17 placed to Lexington County dispatchers on February
18 17th?

19 A. Yes, I did.

20 Q. Can you tell us whether or not this is a fair
21 and accurate representation of your 911 call?

22 A. It is very accurate.

23 MS. MAYES: I will go ahead, Your Honor, and
24 mark this as State's Exhibit 5.

25 THE COURT: Okay. What says the defense?

1 MR. CASTO: Is she marking it or moving it into
2 evidence?

3 THE COURT: I took it to mean she was moving it
4 into evidence, but I don't want to speak for the
5 Solicitor.

6 MS. MAYES: May we approach, Your Honor?

7 THE COURT: Certainly.

8 (Sidebar conference.)

9 THE COURT: Okay. The 911 CD will be admitted
10 into evidence, subject to all previous objections
11 and exceptions made by the defense.

12 MR. CASTO: Yes, sir. Any and all, just to
13 flesh that out on the record, on the face, every
14 argument we've raised at pretrial, Your Honor.

15 THE COURT: Exactly. All of that is -- you're
16 protected.

17 MR. CASTO: Thank you, Your Honor.

18 MS. MAYES: Court's exhibit, Your Honor, and
19 State's Exhibit, I believe, 5.

20 (Court's Exhibit No. 1 admitted into evidence.)

21 (State's Exhibit No. 5 admitted into evidence.)

22 THE COURT: Yes.

23 MR. CASTO: For appellate purposes, we place
24 our objection on the record and we understand the
25 Court's ruling is that it is allowed, but our

1 objection is noted for the record for preservation
2 issues.

3 THE COURT: Certainly. Right. Right.

4 MR. CASTO: Thank you, Your Honor.

5 THE COURT: Yes, sir.

6 BY MS. MAYES:

7 Q. Chelsi, during the course of this 911 call, can
8 you tell us whether or not you're the person that
9 remained on the line until 5:16?

10 A. I am.

11 Q. Can you tell us whether or not you had any
12 opportunity to continue to hear things from [REDACTED].

13 [REDACTED]

14 A. The entire time I was on the phone, I heard
15 different stuff. Like, it didn't just -- this
16 happened and this happened; there was a series of
17 events that happened during the entire time I was on
18 the phone with dispatch until the cop showed up.

19 Q. Can you tell us whether or not you had the
20 opportunity to relay that to the dispatcher?

21 A. I did. I told her everything I heard as soon
22 as I heard it.

23 Q. And this was while you were perceiving those
24 events?

25 A. Yes.

1 MS. MAYES: Your Honor, at this time the State
2 would ask to publish.

3 THE COURT: Okay. And since the CD is in
4 evidence, the court reporter will not need to make a
5 record.

6 As it's being played, you will not need to make
7 a record of everything that's said in the CD since
8 it's in evidence.

9 (WHEREUPON, the 911 tape was played for his
10 Honor and the jury.)

11 THE COURT: Let me see the lawyers back up here
12 for just a quick second.

13 MR. CASTO: Yes, sir.

14 (Sidebar conference.)

15 BY MS. MAYES:

16 Q. Now, Ms. Swartz, you are relaying information
17 as this goes on. Were you always outside? Were you
18 ever inside during the course of this 5:01 to
19 5:16 p.m. call?

20 A. No, ma'am. I couldn't go inside or I would
21 lose reception.

22 Q. So you remained in the vicinity of this
23 residence; is that correct?

24 A. Yes, ma'am.

25 Q. At one point during that call you stated it's

1 not even her kid. What was the reason you made that
2 statement?

3 MR. CASTO: Objection.

4 A. I --

5 THE COURT: And the basis for your objection?

6 MR. CASTO: Speculation.

7 THE COURT: Well, let's see what she says, why
8 she made it, and then if I feel like she's
9 speculating, then I'll strike it from the record.
10 But I'll overrule your objection at this time.

11 You may proceed.

12 A. Because I wasn't sure who was in the house. I
13 don't know my neighbors, I'm not one to get to know
14 my neighbors, so I didn't want to accuse somebody of
15 doing something if they wasn't the one doing it. So
16 that is why I said I don't know who's inside, I'm
17 not sure if it's their mother or not.

18 Q. All right. Specifically when you made the
19 statement it's not even her kid, what was the reason
20 you made that statement?

21 A. I'm not exactly sure.

22 Q. Was there a statement that you heard being
23 made? Specifically --

24 A. I'm not --

25 Q. -- what --

1 A. -- exactly sure.

2 Q. Was there a statement that you heard being
3 made?

4 A. Oh, I said that --

5 MR. CASTO: Objection; hearsay.

6 THE COURT: Okay. Based on what she's
7 testified -- I mean, what she stated on the 911, is
8 that your question, Solicitor?

9 MS. MAYES: Yes, sir, Your Honor.

10 THE COURT: Okay.

11 I'll overrule it.

12 MR. CASTO: Yes, sir.

13 A. Because when the comment was made, does your
14 mother hit you like this, I, therefore, said, I'm
15 pretty sure that's not his mother, because I don't
16 see why she would talk in third person to her kid.

17 MS. MAYES: I beg the Court's indulgence.

18 BY MS. MAYES:

19 Q. Now, did you remain there at the scene when law
20 enforcement arrived?

21 A. I did until every single last one of the cops,
22 EMS and whoever ever showed up left.

23 Q. All right. Were you able, from where you were
24 standing, to visualize the door of that residence?

25 A. I could not see the door, but I could see

1 straight in through the window in the kitchen.

2 Q. All right. And when you refer to the window in
3 the kitchen, can you tell us whether or not -- based
4 on the best of your knowledge on that particular
5 date, was the window open or closed?

6 A. It was open and the blinds were pulled open
7 also.

8 Q. All right. And looking at this photograph,
9 which is State's Exhibit 3, which window would that
10 be?

11 A. That would be the very first one right there.
12 (Indicating)

13 Q. Okay. So on the particular incident date, that
14 window was open?

15 A. Yes, ma'am.

16 Q. Did you ever observe anyone else go into that
17 residence during this entire event?

18 A. No, ma'am.

19 Q. Did you ever witness anyone come out of that
20 residence during that entire event and prior to law
21 enforcement getting there?

22 A. No, ma'am.

23 Q. Once law enforcement arrived, can you tell us
24 whether or not you spoke with them?

25 A. Yes. I did.

1 Q. You provided your name?

2 A. I did.

3 Q. And did you share with them the information
4 that you have made available today?

5 A. Yes.

6 MS. MAYES: I beg the Court's indulgence.

7 THE COURT: Sure.

8 MS. MAYES: Nothing further of the witness at
9 this time, Your Honor.

10 THE COURT: Okay.

11 Cross-examination from the defense?

12 MR. CASTO: I beg the Court's indulgence.

13 THE COURT: Sure.

14 CROSS-EXAMINATION

15 BY MR. CASTO:

16 Q. Chelsi, how are you today?

17 A. I'm as good as it gets. How are you?

18 Q. Fine. Basically you said on direct that you
19 didn't see what was going on inside that residence;
20 isn't that right?

21 A. That is correct.

22 Q. That you didn't actually see what was going on
23 inside Heidi's home that day.

24 A. Right.

25 Q. Now you just said on direct that you couldn't

1 see the door; right? Is that right?

2 A. Right.

3 Q. And you know that the window was open; right?

4 A. Right.

5 Q. But you couldn't -- you didn't see anything
6 through the open window as to what was going on;
7 isn't that right?

8 A. I could see into the house and at one point in
9 time when she -- when the dispatch lady asked me and
10 I, like, was looking into the window, I could see
11 somebody sitting on the couch. Other than that, see
12 nothing.

13 Q. Okay. Somebody sitting on the couch though;
14 right?

15 A. That's correct.

16 Q. And now you just testified you never went
17 inside Heidi's house that day?

18 A. Right. Never before ever, still haven't.

19 Q. That was my next question. Never went in there
20 before; right?

21 A. No, sir.

22 Q. Okay. In fact, you didn't even know Heidi;
23 isn't that right?

24 A. That's correct. I did not --

25 Q. Never been introduced to Heidi?

1 A. Nope.

2 Q. Didn't know what her voice sounded like; right?

3 A. Nope.

4 Q. Didn't know Courtney either; right?

5 A. Huh-uh.

6 Q. Never met Courtney?

7 A. Nope.

8 Q. Didn't know what her voice sounded like --

9 A. Sure didn't.

10 Q. -- isn't that right?

11 A. No, sir.

12 Q. Okay. While you're listening -- and you said
13 on direct, while you're listening to these noises,
14 you didn't know who was doing what; is that right?

15 A. That's correct.

16 Q. And that's because you couldn't see inside the
17 home; right?

18 A. Right.

19 Q. You know, specifically, you said on direct, you
20 spoke about, you know, you just reported whoever was
21 hitting whoever. Isn't that what you said?

22 A. That is correct.

23 Q. And there were times -- when we listened to the
24 tape, there were times when you were listening you
25 didn't even know how many kids were in the home;

1 right?

2 A. Nope.

3 Q. Okay. Now, this was in the afternoon of
4 February 17th, 2013; right?

5 A. This was?

6 Q. Last February.

7 A. Uh-huh.

8 Q. And there were things and there were times when
9 you couldn't even really make things out at all
10 going on inside the home; correct?

11 A. As soon as they turned the music up, all I
12 could hear was laughing. You could hear -- you
13 could make out two different voices communicating
14 with each other, but you couldn't make out what they
15 were saying and you could make out that there was
16 cries coming from the house.

17 Q. And, you know, one of the things that you said
18 on direct was that at one time you heard one person
19 yelling and another person, you couldn't hear them.
20 You said it sounded like they were in a room; right?

21 A. Right.

22 Q. And a lot of this you already said, but
23 basically because the music was playing, that sort
24 of drowned out, you know, even more things that was
25 going on. Is that a fair statement?

1 A. There at the end, yes.

2 Q. All right. And over and over throughout your
3 911 call, you use the term the lady this, the lady
4 this; isn't that right? Isn't that what we heard?

5 A. Yes.

6 Q. At one point you make reference about you heard
7 the word highchair being used; right?

8 A. Yes.

9 Q. Okay. And you're sure that's what you heard;
10 right?

11 A. I couldn't honestly say if that's exactly what
12 it was, it being almost a year ago.

13 Q. Okay. Would it surprise you to learn there was
14 no highchair in the house?

15 A. No. I seen a picture. And when you listen to
16 what I said, at first I said car seat, and then I
17 was corrected and was -- and she asked me if I said
18 high seat and I said yes.

19 Q. Okay. Now, earlier -- well, all of this
20 happened that afternoon; right?

21 A. Yes.

22 Q. And you actually live next door?

23 A. Uh-huh.

24 Q. Walk me through -- before all this happened in
25 the afternoon, before you heard all this, walk me

1 through what you were doing that day. Start from --
2 if you remember, start from the morning and go to
3 midday.

4 A. So I went to work from 7:00 a.m. till 2:00 p.m.
5 As soon as I got off, I met my best friend Tiffany
6 at her Waffle House. She also worked 7:00 a.m. to
7 2:00 p.m. We then got together, drove to my house,
8 we changed, took Tiffany's car, left mine, and we
9 went to the flea market. We went shopping, we got
10 something to eat, and then we came back to my house
11 where we had went inside and Phillip and Colin were
12 in there with my nephew, Phillip's son. He was
13 crawling on the floor and Phillip and Colin were
14 playing the Xbox. And me and Tiffany went to my
15 room, I started packing my stuff because I was then
16 going to stay the night with her, and just -- we
17 were going to ride to work together the next
18 morning. So Phillip went outside to get something
19 out of his vehicle and he came back in and he said,
20 Tiffany, do you realize your tire is flat?

21 Q. Well, if I could stop you there. It sounds
22 like you brought us up through -- just so I
23 understand, up through at least 2:00 p.m., and then
24 there were some activities going on in between that;
25 is that right?

1 A. Uh-huh.

2 Q. Okay. And then, you know, bringing us up to
3 what you just testified to on direct; right?

4 A. Uh-huh.

5 Q. Okay. You said that -- so you weren't there --
6 to be clear with the first part of what you said,
7 you worked from 7:00 a.m. to 2:00 p.m. that day?

8 A. Correct.

9 Q. Tell me again, where did you work?

10 A. At Waffle House.

11 Q. At Waffle House. Okay.

12 A. The unit number is 965, to be exact.

13 Q. Okay. And you said that you -- while you had
14 never met Heidi, you'd seen Heidi?

15 A. Yes. She would always walk in the middle of
16 the road, whether a car was coming or not, she did
17 not move. And then she'd chuckle every time you
18 would have to swerve around her and her son and the
19 empty car seat.

20 Q. She'd walk in the middle of the road when cars
21 were coming?

22 A. Yes.

23 Q. Heidi's the mother of Minor 1 right?

24 A. Yes. It's not very unusual that -- whether it
25 be Heidi or one of the other neighborhood kids

1 playing in the road, they always thought it was
2 funny to stay in the road until you came to a
3 complete stop. So it wasn't very unlikely that
4 anybody would move out of our way. They always were
5 in the road.

6 Q. Well, the other thing that you said on direct
7 was that other times you'd kind of see Heidi, you
8 know, dragging -- you know, you used the term
9 dragging, I believe, this young boy behind her; is
10 that right?

11 A. That's correct.

12 Q. And that's her son, Minor 1

13 A. Yes.

14 Q. Minor 1 summer, winter, you saw times where that
15 was going on and he wasn't appropriately dressed
16 outside; right?

17 A. Right.

18 MR. CASTO: I beg the Court's indulgence.

19 THE COURT: Sure.

20 MR. CASTO: No further questions.

21 THE COURT: Any redirect from the State?

22 MS. MAYES: Yes, sir, Your Honor.

23 REDIRECT EXAMINATION

24 BY MS. MAYES:

25 Q. Now, Mr. Casto was asking you about the music

1 being played. To the best of your recollection, was
2 music played during the entire course of that 15
3 minutes you were waiting on law enforcement to
4 arrive?

5 A. No, ma'am, not until the end of the call --
6 close to the end of the call.

7 Q. Okay. And that's the first time you heard
8 music?

9 A. Yes, ma'am.

10 Q. And you also made reference to another room.
11 At what point did you make that reference?

12 A. Right before the music was turned up, I could
13 hear one of them -- you could definitely tell from
14 obviously standing already out there for ten-odd
15 minutes and the noise being as loud as it was before
16 the music was turned on, and then you could hear a
17 door shut and one lady and a kid crying and you
18 could tell it in a closed room. And then music was
19 turned on. And when I said after that on -- to the
20 dispatch lady that I could then hear laughing and
21 cutting up, they had come back into the living room,
22 but the music was on, and I couldn't exactly make
23 out what they were saying.

24 Q. All right. And your observations were based on
25 your recollections as they were heard?

1 A. Yes.

2 Q. Now, Mr. Casto asked you about the lady --
3 about your statement on there when you said the
4 lady, referring to the lady. How, if at all, were
5 you able to determine two female voices?

6 A. When the comment -- there was a couple comments
7 that were made that you could tell one voice was
8 communicating with another voice indicated to me
9 there was two different females in the room
10 together, both of their voices of which do not sound
11 alike. So when one lady said, do you like when your
12 mom hits you like that, and the other one laughed,
13 you could then tell there's two different ladies in
14 the room.

15 Q. Did it appear to you they were conversing
16 together?

17 A. Oh, yes. One of them said, hold his mouth
18 shut, while the other one said, throw him against
19 the wall, throw him at the wall. And then you
20 heard, don't break the wall.

21 MS. MAYES: Nothing further.

22 THE COURT: Recross?

23 MR. CASTO: I beg the Court's indulgence.

24 THE COURT: Sure.

25

1

2

RE CROSS-EXAMINATION

3

BY MR. CASTO:

4

Q. Just briefly, you said -- you've kind of taken

5

us through the day's events. You worked till 2:00.

6

What time, approximately, do you think that you made

7

it back to your house that day after work?

8

A. In between the hour of 4:00 and 4:30.

9

MR. CASTO: Okay. No further questions.

10

THE COURT: Thank you for your testimony,

11

ma'am. You may step down.

12

(Witness excused.)

13

MS. MAYES: The State calls Phillip Swartz.

14

PHILLIP SWARTZ

15

being first duly sworn, testified as follows:

16

THE CLERK: Once you're seated, state your full

17

name spelling your last on the record, please.

18

THE WITNESS: Phillip Swartz, S-W-A-R-T-Z.

19

DIRECT EXAMINATION

20

BY MS. MAYES:

21

Q. Mr. Swartz, if you could, tell us a little bit

22

about yourself. How is it that you are related to

23

the previous witness in this case, Chelsi Swartz?

24

A. She's my sister.

25

Q. And the residence that's located there beside

1 [REDACTED] I believe the testimony
2 already on the record is that is the residence of
3 your parents?

4 A. Yes, ma'am.

5 Q. All right. And I'll need you to pull that
6 microphone a little bit closer to your face.

7 A. All right.

8 Q. Okay. Now, on this particular occasion, who do
9 you recall being at your residence prior to Chelsi
10 Swartz making the call for 911 assistance?

11 A. It was me and Colin. We was playing the Xbox.

12 Q. All right. And you're referring to Colin
13 Piselli?

14 A. Yes, ma'am.

15 Q. And there's also been a reference to a Tiffany.
16 Where was Tiffany located?

17 A. She came with my sister when she arrived.

18 Q. And y'all were at your parents' residence?

19 A. Yes, ma'am.

20 Q. And at some point in time, did you go outside
21 of your parents' residence?

22 A. Yes, ma'am. I believe I went outside to go get
23 my cleats because we was about to go play football
24 because we play every Sunday.

25 Q. All right. And this was a Sunday afternoon?

1 A. Yes, ma'am.

2 Q. And what happened next?

3 A. I went outside, I noticed Tiffany's tire was
4 flat, so I let them know. Then Tiffany told me she
5 had a spare, so I told her I would put it on for
6 her. Then when I walked back outside to put it on
7 for her, I heard a commotion. I told Colin to go
8 get my sister and call the police, and that's when
9 she called.

10 Q. All right. So at that point you and Colin and
11 Chelsi were all outside?

12 A. Yes, ma'am.

13 MR. CASTO: Objection to the leading.

14 THE COURT: Rephrase.

15 MS. MAYES: Yes, sir, Your Honor.

16 BY MS. MAYES:

17 Q. How many of you were outside at that point?

18 A. Me, Colin and Chelsi.

19 Q. What specifically did you hear, Mr. Swartz?

20 A. I just heard a baby screaming and the lady is
21 like, please shut him up and the other one is like,
22 I'm trying. And, like, it sounded like a bunch of
23 jumping around in the house.

24 MR. CASTO: Objection, Your Honor; hearsay.

25 MS. MAYES: I can rephrase that, Your Honor.

1

2 BY MS. MAYES:

3 Q. When you say it sounded like, let me ask you
4 this: Were you hearing any noises in addition to
5 voices?

6 A. Yes, ma'am; crying and screaming.

7 Q. Okay. And what if any other type of noises?

8 A. Cursing.

9 Q. Now, can you tell us whether or not, based upon
10 your observations, there was one female or more than
11 one female in the residence?

12 A. It sounded like two.

13 Q. In addition to voice sounds, can you tell us
14 whether or not there was any indication of harm to
15 someone in the residence?

16 A. Yes, ma'am.

17 MR. CASTO: Objection; calls for speculation.

18 THE COURT: Let's lay a little bit better
19 foundation for that question, if you can. And it
20 may very well call for speculation.

21 MS. MAYES: Yes, sir.

22 BY MS. MAYES:

23 Q. In furtherance of a foundation, did you hear
24 noises in addition to voices?

25 A. What do you mean?

1 Q. In addition to vocal sounds.

2 A. Screaming.

3 Q. You testified previously -- or mentioned
4 previously, jumping around. What are you referring
5 to?

6 A. Sounded like a kid getting slammed up against a
7 wall.

8 Q. You were hearing those noises or noises of that
9 type from what location?

10 A. The vehicle where I was changing the tire at
11 which is approximately 25 to 30 feet from that
12 trailer.

13 MS. MAYES: Nothing further.

14 THE COURT: Cross-examination?

15 MR. CASTO: Yes, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. CASTO:

18 Q. Basically your testimony is this -- is much
19 like the first witness in that you just heard things
20 but you didn't see things; isn't that right?

21 A. Yes, sir.

22 Q. Basically -- now let me ask you this: That
23 window, did you notice if it was open or shut?

24 A. No, sir. I didn't go over there. I instantly
25 got my sister because, honestly, I wanted to go and

1 get the child and bring him to my house.

2 Q. Okay. But in other words, my question was, you
3 didn't notice that that window was open or shut?

4 A. No, sir.

5 Q. And you hear what you describe as commotion
6 going on; isn't that right?

7 A. Yes, sir.

8 Q. Okay. And so, you can't say for sure
9 specifically each and every event and what was going
10 on with every single sound that you heard, can you?

11 A. No, sir, because I was trying to change a tire
12 at the same time.

13 Q. You were doing something else; right?

14 A. Yes, sir.

15 Q. Okay. Now, you -- did you know who lived in
16 that house?

17 A. No, sir.

18 Q. Didn't even know. Had you seen who all lived
19 in the house?

20 A. Yes, sir. I know it was a white lady with two
21 children, one was an infant and one was a toddler,
22 and the father was a Mexican which never came home,
23 which I only seen his red Dodge at the house maybe
24 twice a week.

25 Q. You said he never came home?

1 A. Like, I guess he worked a lot.

2 Q. Did you know the names of the people that
3 actually lived in the house that you're talking
4 about?

5 A. No, sir. Never met them in my life.

6 Q. Okay. So, you know, again, you're not really
7 sure exactly what their voices sound like, one
8 versus the other, exactly, are you?

9 A. No, sir.

10 Q. Did you ever see any instances of Heidi, Minor 1
11 mom, you know, walking down the middle of the road?

12 A. Yes, sir.

13 Q. You did?

14 A. (Nods head.)

15 Q. Tell me about that. What did that look like?

16 A. It looked pretty pathetic because she was
17 pushing a stroller and she'd never have him in the
18 stroller. It's pretty much like -- it looked like
19 he didn't know how to walk that good and she'd just
20 pretty much just drag him along.

21 Q. Can you think of any really good reason why she
22 was out in the middle of the street?

23 A. It's a bad neighborhood. I ain't going to lie.
24 There's a lot of meth heads and stuff in that
25 neighborhood. And I'm not saying she is, because I

1 don't know her.

2 Q. Okay. Now, all this what you describe as
3 commotion, you hear that in the afternoon. And you
4 live at the house next door; right?

5 A. No, sir.

6 Q. You don't live there?

7 A. No, sir.

8 Q. Okay. Well, what time did you arrive over
9 there at the house next door?

10 A. I was probably over there around probably 3:00,
11 because I went over there because I was actually
12 going to have my parents watch my son while we went
13 and played football at 7:30.

14 Q. Okay. So, you know, got there around 3:00,
15 weren't there earlier that day?

16 A. Yes, sir.

17 Q. Okay. If something had gone on earlier that
18 day before 3:00, you wouldn't have been around to
19 hear it; correct?

20 A. No, sir.

21 Q. All right.

22 MR. CASTO: I beg the Court's indulgence.

23 THE COURT: Certainly.

24 MR. CASTO: No further questions. Thank you.

25 THE COURT: Any redirect of this witness,

1 Solicitor?

2 MS. MAYES: No, sir, Your Honor.

3 THE COURT: You can step down, sir. Thank you
4 for your testimony.

5 Do we have that other witness we discussed at
6 sidebar?

7 MS. MAYES: Not at this time Your Honor.

8 The State calls Colin Piselli.

9 COLIN PISELLI

10 being first duly sworn, testified as follows:

11 THE WITNESS: Yes, ma'am.

12 THE CLERK: Have a seat. Once you're seated,
13 state your full name spelling your last on the
14 record, sir.

15 THE WITNESS: My name is Colin Piselli,
16 P-I-S-E-L-L-I.

17 DIRECT EXAMINATION

18 BY MS. MAYES:

19 Q. Colin, how old are you?

20 A. Seventeen.

21 Q. You're 17 years old. Back on this particular
22 incident date, which we've already discussed was
23 February 17th, 2013, how old were you then?

24 A. Sixteen.

25 Q. I'm going to take you back to that time when

1 you were 16 years old. How is it that you knew the
2 Swartz family?

3 A. It was through my uncle and then I started
4 playing football with Phillip. And ever since then,
5 we kind of got close.

6 Q. And on this particular Sunday afternoon, which
7 is February 17th of last year, did you have the
8 opportunity to actually go over to the residence?

9 A. To the Swartz's?

10 Q. Yes.

11 A. Wait. What time?

12 Q. On February 17th?

13 A. Oh, yes, ma'am.

14 Q. Okay. And on that date, what do you recall, if
15 anything, that was unusual?

16 A. When we went outside to, like, go change the
17 tire -- well, when Phillip was, I was out there with
18 him. And I started hearing, like, thumps in the
19 house and I heard a kid starting to cry. Like, it
20 wasn't, like, no, you know, crying because he was
21 hit, it was like a kid crying for his life. And
22 finally I was like -- Phillip told me to go in the
23 house to go get Chelsi because, you know, the kid
24 was screaming for his life.

25 Q. Okay. And how close was that residence where

1 you heard, as you put it, a child screaming for his
2 life to where y'all were?

3 A. About 20, 25 feet.

4 Q. All right. And you were in the process of
5 doing what up to that point where you began hearing
6 that?

7 A. We were changing a tire.

8 Q. Changing the tire on Tiffany's car?

9 A. Yes, ma'am.

10 Q. And at any point in time did you have an
11 opportunity to hear any type of adult voice from
12 inside the residence?

13 A. Yes, ma'am.

14 Q. What do you recall in that regard?

15 A. I remember one woman saying --

16 MR. CASTO: Objection; hearsay.

17 THE COURT: Sustained.

18 Q. Let me ask you another way.

19 Do you know how many adult voices you heard?

20 A. Two.

21 Q. Were you present when Chelsi actually called
22 911?

23 A. Yes, ma'am.

24 Q. All right. And were you outside or inside a
25 residence when Chelsi was making the call to 911?

1 A. I was outside.

2 Q. All right. And during the course of that 15
3 minutes, Colin, did you ever have the opportunity to
4 approach the residence here, what is shown in
5 State's Exhibit 3?

6 A. Yes.

7 Q. All right. And for what purpose did you
8 approach or go towards that residence?

9 A. I went to go see -- like, go to see if I could
10 see anything going on.

11 Q. All right. I'm going to show you what is
12 State's Exhibit 4. This is a satellite photo.
13 Where were you watching from?

14 A. Right between here. (Indicating)

15 Q. All right. And I need you to speak up. I know
16 it's difficult to look at an exhibit and also speak
17 into the microphone.

18 A. I was right where, like, halfway, like, where
19 the houses were on the road where you can, like, see
20 through the window.

21 Q. All right. Now you made a reference to the
22 window. On this particular occasion, February 17th
23 of last year, was the window to the residence open
24 or closed?

25 A. It was open.

1 Q. I'm going to show you two photographs and ask
2 you to take your time and look at the photographs.

3 A. Yes. Oh --

4 Q. Before you answer, I'm going to ask you a few
5 questions. Okay?

6 A. Yes, ma'am.

7 Q. Had you ever -- you mentioned that you were
8 friends with Phillip Swartz. But had you also ever
9 lived at that particular mobile home park on Basin
10 Rock Lane?

11 A. I wasn't at the time, but I did before.

12 Q. All right. And during the course of you living
13 there, can you tell us whether or not you ever were
14 familiar with the resident of that location, [REDACTED]

15 [REDACTED] which is Heidi Oberg and her son

16 [REDACTED] Minor 1

17 A. Yes.

18 Q. All right. And how is it that you or anyone
19 else in your family had known or been acquainted
20 with them?

21 A. My little brother would go over to Heidi's
22 house because of Courtney's son; they were, I guess,
23 best friends or something.

24 Q. All right. Let me stop you right there. You
25 say Courtney. You're referring to who?

1 A. Her. (Indicating)

2 Q. Okay; to the defendant, Courtney Woodard. All
3 right. Now can you tell us whether or not Courtney
4 Woodard also resided in this mobile home park?

5 A. Can you say that again?

6 Q. All right. Courtney Woodard, the defendant,
7 can you tell us whether or not she also lived in the
8 area?

9 A. Yes.

10 Q. Do you know how many mobile homes are in that
11 mobile home park? And if you don't know, that's
12 okay.

13 A. I'd say maybe a good 20 to maybe 35, 30.

14 Q. All right. And prior to this particular
15 incident date, just to kind of take you back, you
16 had met Courtney Woodard?

17 A. Yes.

18 Q. And you mentioned that your little brother was
19 acquainted with her son.

20 A. Yes.

21 Q. And you mentioned also that you had met Heidi
22 Oberg.

23 A. Yes.

24 Q. Where had you ever met Courtney before?

25 A. When we first moved into, like, the

1 neighborhood, her son would, like, come up the road
2 and he would, like, meet my little brother and,
3 like, they would go back to his grandparents' house.

4 Q. Okay. So did you know Courtney Woodard by
5 sight?

6 A. Yeah, because I used to hang out with her
7 niece.

8 Q. And did you know Heidi Oberg by sight? You
9 would be able to recognize her, is what I mean.

10 A. Yeah.

11 Q. Okay. So on this particular date had you ever
12 been at Heidi Oberg's house before for any reason?

13 A. Only once or twice.

14 Q. Okay. And you were familiar with what her
15 house looked like?

16 A. Only the living room and kitchen.

17 Q. All right. Do you recognize what is shown in
18 this photograph?

19 A. That's the window out by the road.

20 Q. All right. And can you tell us whether or not
21 that's a fair and accurate representation of the
22 same place that it would have appeared on the
23 incident date?

24 A. Yes. Well, the windows were open.

25 Q. Okay. So this picture is a fair and accurate

1 representation except the windows were open when you
2 saw it; correct?

3 A. Yes.

4 Q. Now, were there any kind of insignia or decals
5 on the windows?

6 A. The only thing that was on there was the
7 address.

8 Q. Okay. Now I'm going to show you another
9 photograph and ask you if you recognize that.

10 A. Yes.

11 Q. And what is shown in this photograph?

12 A. The kitchen with the window open.

13 Q. Okay. And when you say the kitchen with the
14 window open, you're referring to Heidi Oberg's
15 residence?

16 A. Yes, ma'am.

17 Q. Is this the same window that's depicted in this
18 photograph?

19 A. Yes, ma'am.

20 Q. Is this photograph with the window open a fair
21 and accurate representation of how you recall it
22 specifically on the date of February 17th of last
23 year?

24 A. Yes.

25 MS. MAYES: Your Honor, at this time we would

1 offer these exhibits. I believe this would be
2 State's 6 and 7.

3 THE COURT: What says the defense?

4 MR. CASTO: No objection, Your Honor.

5 THE COURT: Okay, 6 and 7 for the State will
6 admitted into evidence. Will 6 be the picture of
7 the outside or the inside?

8 MS. MAYES: Your Honor, State's 6 and 7 are
9 both -- let me rephrase that. State's 6 is the
10 exterior.

11 THE COURT: Okay..

12 MS. MAYES: And as for the other photograph,
13 State's Exhibit 7, if we could substitute the larger
14 photograph.

15 THE COURT: Okay.

16 MS. MAYES: It is the same one that's been
17 identified.

18 THE COURT: That would be the interior.

19 MS. MAYES: Interior, yes, sir, Your Honor.
20 State's 6 and 7.

21 (State's Exhibit Nos. 6 and 7 admitted into
22 evidence.)

23 BY MS. MAYES:

24 Q. Now taking a look at State's Exhibit 7 which is
25 in evidence, prior to admission of this particular

1 exhibit, you spoke about a window being open on the
2 incident date. What window are you referring to?

3 A. The one nearest to the road.

4 Q. Can you show us that -- do you recognize that
5 window in this photograph?

6 A. Yes.

7 Q. Where is it located?

8 A. In the kitchen.

9 Q. Can you point to it?

10 A. (Indicating)

11 Q. All right. And the decal that you mentioned
12 that shows the address is located where?

13 A. Right there. (Indicating)

14 Q. All right. What if anything were you able to
15 observe, Mr. Piselli?

16 A. From the window?

17 Q. Correct.

18 A. When Chelsi was on the phone and Phillip was
19 still changing the tire, I went up closer to the
20 window to get a better view and I could see Courtney
21 sitting in a chair and Heidi was in the living room.
22 And I could see the little boy between them getting
23 pushed around and, like, he was getting pushed
24 towards the wall and I could hear, like, if you
25 don't shut up, I'm going to hit you like a man

1 and --

2 MR. CASTO: Objection, Your Honor. That's
3 hearsay.

4 THE COURT: Okay.

5 MR. CASTO: Motion to strike.

6 THE COURT: Well -- and I'll sustain and I'll
7 strike. You're going to need to see if he can
8 identify who did that or said that.

9 MS. MAYES: Yes, sir, Your Honor.

10 BY MS. MAYES:

11 Q. Let me go back to your previous testimony.
12 Prior to that date, which is February 17th, 2013,
13 had you ever met or had contact with Courtney
14 Woodard before?

15 A. Yes.

16 Q. Had you ever seen or had contact with Heidi
17 Oberg before?

18 A. I seen her before, never had contact.

19 Q. All right. Do you recognize both of those
20 women?

21 A. Yes.

22 Q. Did you recognize the women in that mobile
23 home?

24 A. Yes.

25 Q. Those women were who?

1 A. Courtney and Heidi.

2 Q. And where was the child?

3 A. The child was between them.

4 Q. Now that child, had you ever seen him before?

5 A. Yes, I have.

6 Q. Do you know whether or not he lived at the
7 residence?

8 A. Yes, he did.

9 Q. What if anything did you observe Courtney do?

10 A. I saw her sit in a chair and I saw her -- she
11 was the first one to push him. And then as he got
12 up, Heidi came in and pushed him, like, towards the
13 wall.

14 Q. All right. Can you tell us whether or not --
15 and don't tell us what was being said. But can you
16 tell us whether or not the adult females were
17 communicating?

18 A. Yes.

19 Q. Were you there when law enforcement arrived?

20 A. Yes, ma'am.

21 Q. Did you have the opportunity to meet with the
22 law enforcement officer?

23 A. Yes.

24 Q. And did you provide the information that you've
25 shared with us today?

1 A. Yes.

2 Q. And specifically as to Courtney Woodard?

3 A. Yes, ma'am.

4 Q. Did you cooperate and provide a statement?

5 A. Yes, ma'am.

6 Q. Now, leading up to today's date, which is an
7 actual court date, I'm going to ask you whether or
8 not last week you were contacted by anyone on behalf
9 the defendant, Courtney Woodard.

10 A. Yes.

11 Q. Specifically, last week, approximately January
12 8th?

13 A. Yes.

14 Q. One day last week?

15 A. Wait. What?

16 Q. One day last week?

17 A. I think it was -- it was the Wednesday because
18 I had church that night.

19 Q. All right. Now, how is it that you were
20 contacted by someone on behalf of the defendant?

21 A. My friend's mom, she works for something for
22 the district or something, and I was given a number
23 and a name by a name of Chris Lorick. So I called
24 it and -- yeah.

25 Q. Okay. So you called the number that was given

1 to you?

2 A. Yes, ma'am.

3 Q. And that number was given to you by a friend's
4 mother?

5 A. Yes, ma'am; by Kelly Brown.

6 Q. And when you called that number, did that
7 person ask you any questions about the case?

8 A. Yeah. He asked me if I knew anything more than
9 from my statement. So I told him no and -- yeah.

10 Q. All right. How did you feel about talking to
11 that person?

12 A. Very uncomfortable.

13 MR. CASTO: Objection; relevance.

14 THE COURT: Okay. What's the relevance,
15 Solicitor?

16 MS. MAYES: Well, may we approach, Your Honor?

17 THE COURT: Sure.

18 (Sidebar conference.)

19 THE COURT: Okay. The previous objection is
20 sustained.

21 MR. CASTO: We move to strike, Your Honor.

22 THE COURT: Move to strike as far as any
23 testimony from this witness as to how he felt by
24 being contacted or talking with that particular
25 individual.

1

2

BY MS. MAYES:

3

Q. All right. And, Mn. Piselli, during that

4

particular incident date, February 17th, 2013, did

5

you ever see anyone else go into that residence

6

during that timeframe that you were hearing these

7

sounds and Chelsi Swartz was making the call?

8

A. No.

9

Q. Did you ever see anyone else come out of that

10

residence during that timeframe?

11

A. No.

12

Q. Were you present ultimately when law

13

enforcement arrived?

14

A. Yes.

15

Q. And when Ms. Woodard was brought out of the

16

residence?

17

A. Yes.

18

Q. And Ms. Oberg was brought out of the residence?

19

A. Yes.

20

Q. Were there any other females there?

21

A. No.

22

MS. MAYES: Nothing further.

23

THE COURT: Cross-examination?

24

MR. CASTO: Yes, sir.

25

1

2

CROSS-EXAMINATION

3

BY MR. CASTO:

4

Q. Colin, how are you?

5

A. Pretty good. You?

6

Q. Good.

7

Today you said that you looked through that
window and that you saw some things going on inside;
isn't that right?

10

A. Yes, sir.

11

Q. And this is back on February 17th of last year;
isn't that right?

12

13

A. Yes, sir.

14

Q. And specifically what I'd like to do -- you've
already testified as to what you said that you saw
then; right?

16

17

A. Yes.

18

Q. Basically I want to take you back to last week.
You understand?

19

20

A. Yes.

21

Q. And you said on direct that you did receive a
phone call from a Mr. Chris Lorick; right?

22

23

A. Yeah.

24

Q. You talked to him?

25

A. Yeah.

1 Q. And he talked to you?

2 A. Yeah.

3 Q. And that you admit that you received that phone
4 call; correct?

5 A. Yeah.

6 Q. Basically, this was over the phone, so you
7 never saw Mr. Lorick in person, did you?

8 A. Never met the man.

9 Q. Did -- never met him, never encountered him in
10 an interview room or anything like that; right?

11 A. Yes, sir.

12 Q. And you talked to him about what all happened;
13 correct?

14 A. Yeah.

15 Q. And during that conversation with Mr. Lorick,
16 there you said you could not actually see what was
17 going on inside that residence; correct?

18 A. Not really because I felt like he was asking me
19 more -- if I knew more about the statement.

20 Q. I mean, specifically my question to you was,
21 during that conversation with Mr. Lorick, you said
22 that you could not actually see what was going on in
23 that residence.

24 A. I don't think he worded it like that now.

25 Q. But I'm asking you what you said. You -- do

1 you admit or deny that you said you could not
2 actually see what was going on inside the residence
3 that day?

4 A. I deny that.

5 Q. Okay. Do you admit or deny that during that
6 same conversation with Mr. Lorick last week, you
7 said you were unsure who was cursing and striking
8 the child?

9 A. No, because I knew who was doing it.

10 Q. My --

11 A. And I did tell him, because I said it was
12 Courtney and Heidi.

13 Q. Respectfully, my question to you was, do you
14 admit or deny that just last week --

15 A. I deny that.

16 Q. Okay. If I could finish, do you admit or
17 deny -- in fairness to you, do you admit or deny
18 that during that same conversation you said that you
19 were unsure who was cursing and striking the child?

20 A. I deny that.

21 Q. Okay. Do you admit or deny that upon being
22 asked several times by Mr. Lorick that you said you
23 never actually saw anything inside the residence
24 during the time that this went on?

25 A. I deny that too.

1 Q. Okay. And do you admit or deny that you said
2 that you wished that you had seen, but you couldn't
3 make out what was taking place?

4 A. I deny that.

5 Q. And -- okay. Phillip didn't see anything that
6 day, did he?

7 A. No, because he was changing a tire.

8 Q. Okay. He didn't see anything though, did he?

9 A. No.

10 Q. Chelsi didn't see anything that day, did she?

11 A. No, because she was on the phone. But she did
12 say that she saw the living room.

13 Q. Okay. She saw the living room; right?

14 A. Yeah.

15 Q. All right. Now, with this and with this
16 background, you said that at one point that you
17 lived in this neighborhood yourself; right?

18 A. Yeah.

19 Q. And tell me again. As I understand it, you
20 weren't living there at this time; is that right?

21 A. No, I wasn't living there.

22 Q. But after February of 17th of last year, that
23 you were living there; right?

24 A. Yes.

25 Q. So you're familiar with, you know, that

1 neighborhood there and thereabouts; correct?

2 A. Yeah. I lived there for a couple of years.

3 Q. But now you're not living there anymore; is
4 that -- that's my understanding?

5 A. Yes, sir.

6 Q. Okay. Earlier -- well, let me ask you this:
7 What time of day did you get over there to the
8 Swartz house?

9 A. Probably 3:00 to 3:30.

10 Q. You weren't there any earlier than 3:00, were
11 you?

12 A. No.

13 Q. Okay. So anything that could have happened
14 earlier in that day, you wouldn't know whether that
15 happened or not?

16 A. No.

17 Q. Because you weren't there. You weren't present
18 until 3:00?

19 A. Yeah.

20 Q. And you can't speak to what happened before
21 3:00?

22 A. Yeah.

23 Q. Okay.

24 MR. CASTO: I beg the Court's indulgence.

25 THE COURT: Sure.

1

2

BY MR. CASTO:

3

Q. After -- just a couple more questions.

4

After you spoke with Mr. Lorick last week, did

5

you speak with anyone else at all with regard to

6

your testimony today?

7

A. No. The only people I talked to is April and

8

her. (Indicating)

9

Q. Who -- who are you referring to?

10

A. These -- or I know her. I don't know who April

11

is.

12

Q. Okay.

13

A. Like, I know who she is, but I've never seen

14

her.

15

Q. Point them out sitting at the table.

16

A. Them two. (Indicating)

17

Q. Okay. Thank you, Colin.

18

A. Yes, sir.

19

THE COURT: Anything on redirect?

20

MS. MAYES: Yes, sir, Your Honor.

21

REDIRECT EXAMINATION

22

BY MS. MAYES:

23

Q. April Bane, an investigator, has contacted you

24

as well?

25

A. Yes, ma'am.

1 Q. On behalf of the Solicitor's Office?

2 A. Yes, ma'am.

3 Q. Now I want to follow up just a little more
4 about some of the questions that Mr. Casto was
5 asking you. And he's asking you specifically about
6 a phone call that you got last week from someone on
7 their behalf, and that is a Mr. Lorick.

8 A. Yes.

9 Q. All right. He asked you whether you ever made
10 the statement that you couldn't see inside at all.

11 A. Yes.

12 Q. Can you explain that?

13 A. What do you mean?

14 Q. Can you explain what your conversation was?

15 A. When I called Mr. Lorick he was asking me a lot
16 of stuff which he was putting it in words that
17 probably, like -- they were confusing me. So I
18 really couldn't explain anything to him. So it was
19 a very short conversation. So...

20 Q. Did you provide anything in writing to him?

21 A. What do you mean?

22 Q. A written statement, for example?

23 A. He mentioned something about it but, you know,
24 I felt like he was saying if I knew any more than I
25 wrote, I guess.

1 Q. All right. I'm going to have you explain that
2 a little bit more. If you knew anything more. What
3 are you referring to when you say, if you knew
4 anything more?

5 A. He was just asking a lot of questions that I
6 really couldn't, you know, make it through.

7 Q. All right. Anything more than your original
8 statement to law enforcement, is that what you're
9 referring to?

10 A. Yes, ma'am.

11 Q. Have you had a chance to review your original
12 statement to law enforcement since you've been here
13 today?

14 A. Yes, ma'am.

15 Q. And was the statement you made on the incident
16 date?

17 A. Yes, ma'am.

18 Q. Can you tell us whether or not your memory or
19 recollection, ability to recollect, would have been
20 clearer on that particular date, the date of the
21 incident, or last week?

22 MR. CASTO: Objection; bolstering.

23 A. Wait --

24 THE COURT: Wait a minute.

25 Sustained.

1

2 BY MS. MAYES:

3 Q. Can you tell us whether or not you felt like
4 there was anything more to add other than what you'd
5 already told police on February 17th, 2013?

6 A. No.

7 Q. Okay. And specifically when Mr. Lorick asked
8 you was there was anything else that you saw, what
9 was your response?

10 A. I didn't know anything else besides what I
11 wrote in my statement.

12 MS. MAYES: Nothing further.

13 THE COURT: Recross?

14 MR. CASTO: I beg the Court's indulgence.

15 No further questions for this witness.

16 THE COURT: Okay. You may step down. Thank
17 you for your testimony.

18 Ladies and gentlemen, we're going to take an
19 afternoon break, about a 15-minute break. So if you
20 will retire to the jury room, I will remind you and
21 so instruct that you not discuss this case, any
22 aspect about the case, anything that you've heard
23 today about this case among yourselves. We'll get
24 you back in about 15 minutes.

25 We'll be in recess.

1 (A recess transpired.)

2 THE COURT: All right. We're back on the
3 record. And based upon a sidebar conference I had
4 with the lawyers, to make sure that the record is
5 complete, the State is going to recall Nikki Rodgers
6 who is the 911 coordinator to make sure all of the
7 necessary questions and answers are established on
8 the record concerning admitting the 911 CD into
9 evidence under the Business Records Act. Even
10 though I think it was acknowledged by counsel that
11 that was maybe partly covered, but we need to make
12 sure that the record is complete. So I'm allowing
13 or actually instructing the State to recall Nikki
14 Rodgers for that sole purpose.

15 And I understand that the witness is here,
16 Solicitor.

17 MS. MAYES: Yes, sir, Your Honor.

18 THE COURT: All right. Let's get the jury back
19 out first.

20 (The jury enters the courtroom at 3:36 PM.)

21 THE COURT: Let the record reflect the jury is
22 back in.

23 Solicitor, you may proceed.

24 MS. MAYES: The State calls Nikki Rodgers.

25 THE CLERK: Still under oath, Your Honor?

1 THE COURT: Yes.

2 NIKKI RODGERS

3 having been previously sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. MAYES:

6 Q. Ms. Rodgers, you testified previously in this
7 case about your role in the 911 communications
8 center; correct?

9 A. Yes, ma'am.

10 Q. And can you tell us whether or not 911 audio
11 data is maintained as part of your routine course of
12 business at the Lexington County Communications
13 Center?

14 A. Yes, ma'am. We record all of our radio
15 traffic, our 911 telephone calls, and it's kept on
16 file for 90 days.

17 Q. And is that done so in the regularly conducted
18 -- as a regularly conducted business activity?

19 A. Yes, ma'am.

20 Q. Is it the regular practice of your business?

21 A. It is.

22 Q. Or in this particular case, government agency?

23 A. Yes.

24 Q. And in this particular case, did you have an
25 opportunity to listen to the 911 audio connected

1 with this address and this date?

2 A. I did.

3 Q. And I'm going to show you a marked exhibit.

4 And how is it that you recognize, if at all, this
5 particular audio CD?

6 A. It has my initials on it.

7 Q. All right. And your initials are?

8 A. N.R.

9 Q. All right. And, ultimately, do you know if any
10 copies were provided of such?

11 A. When we receive requests, the standard practice
12 is to provide the 911 call report, which is a paper
13 document, and the 911 call.

14 Q. So additional copies may be made of the
15 original; is that correct?

16 A. Correct.

17 Q. And can you tell us whether or not your
18 providing that particular data compilation is done
19 and was done in this case in compliance with the
20 routine course of business?

21 A. It is. We do that on every day, multiple times
22 a day, for a lot of calls.

23 MS. MAYES: Nothing further Your Honor.

24 THE COURT: Anything from the defense?

25 MR. DRYLIE: No questions, Your Honor.

1 THE COURT: Madam witness, was the recording
2 done simultaneously with the actual transaction or
3 event that was occurring?

4 THE WITNESS: It was automatically stored on
5 our recording equipment which is on the county
6 network. And it is stored automatically for 90 days
7 and then it's recorded over. At some point during
8 that 90-day process a request was submitted to our
9 department, and we recorded it for the Court.

10 THE COURT: Thank you very much for your
11 testimony. You may step down.

12 Call your next witness, Solicitor.

13 MS. MAYES: Yes, sir. The State calls Deputy
14 Adam Spires.

15 JEREMIAH ADAM SPIRES

16 being first duly sworn, testified as follows:

17 THE WITNESS: Yes, ma'am, I do.

18 THE CLERK: Once you're seated, state your full
19 name spelling your last on the record, please.

20 THE WITNESS: Deputy Adam Spires, S-P-I-R-E-S.

21 DIRECT EXAMINATION

22 BY MS. MAYES:

23 Q. Deputy Spires, where are you employed and in
24 what capacity?

25 A. I'm a deputy at the Lexington County Sheriff's

1 Department.

2 Q. All right. And how long have you been with the
3 Sheriff's Department?

4 A. Approximately 14 or 15 months.

5 Q. All right. And during that time, specifically,
6 what type of duties or responsibilities were you
7 assigned?

8 A. At the time of the incident that we're here for
9 today, I was a patrol officer.

10 Q. What kind of general duties do you have as a
11 patrol officer?

12 A. Responding to calls for service to include
13 domestic problems, civil problems, even traffic
14 problems.

15 Q. Now, on this particular occasion, how did you
16 receive the call for assistance at [REDACTED]

17 [REDACTED]

18 A. It came from Lexington County Communications
19 over the police radio.

20 Q. All right. And when you talk about it coming
21 over the police radio, are you pretty much asked to
22 go straight to the location?

23 A. Yes, ma'am.

24 Q. All right. Can you provide more information
25 about that?

1 A. When the call came out, it was -- came out to
2 me that there was a problem at 1225 Basin Rock
3 and --

4 MR. CASTO: Objection; hearsay.

5 THE COURT: Okay. Sustained.

6 You can testify what you did as a result of any
7 call or information that you received.

8 BY MS. MAYES:

9 Q. And, Officer, I'm not asking for any specific
10 information. But in general, what was the nature of
11 the call or type of call?

12 A. The nature was an assault.

13 Q. All right. And what's your general practice
14 when you're arriving at a location like that?

15 A. General practice is to assess if there was an
16 assault and if anyone is in need of medical care.

17 Q. Okay. And who was actually the first officer
18 on the scene?

19 A. I was.

20 Q. All right. Now, there's been previous
21 testimony in this case that the call was received at
22 5:01 p.m. and then the first unit on the scene was
23 5:16 p.m. Can you tell us what time you have noted
24 as your arrival?

25 A. I don't have it noted as specifically the

1 arrival, but I believe that is the correct time.

2 Q. All right. And your specific knowledge is that
3 you were the first officer on the scene?

4 A. Yes, ma'am.

5 Q. And, in fact, did you beat EMS there?

6 A. Yes, ma'am.

7 Q. Okay. And describe to us, if you could, what
8 exactly took place once you arrived there at the
9 scene.

10 A. When I rived at the scene, I walked up towards
11 the front door at 1225 Basin Rock. I was met at the
12 front door by Heidi Oberg who's the mother of Minor 1

13 [REDACTED] She met me at the front door, I could smell
14 a strong odor of alcohol coming from her breath,
15 explained to her that I was there because we had a
16 problem -- or, excuse me, had a call that there was
17 a problem and potentially a child being harmed, told
18 her I needed to go inside the residence to check on
19 the welfare of the child.

20 Ms. Oberg told me she didn't want me to go in
21 the home. I explained to her that I did have to go
22 in the home and check on the child at that point
23 because I had the exigent circumstances, that I had
24 to make sure that the child was okay.

25 Once I entered the home, I asked Heidi where

1 the child was. She pointed to a chair in the living
2 room that was facing the wall. And I approached the
3 chair, which was positioned on the other side of the
4 living room from the door that I entered, and I
5 found Minor 1 sitting in the chair. I observed
6 Ms. -- Minor 1 to be whimpering at the time. I could
7 see his chest was moving up and down very rapidly
8 and immediately noticed that there was blackening
9 beginning around his right eye. I was able to get
10 down on one knee and get Minor 1 to come over to me.

11 At that point, EMS arrived on the scene and I
12 was able to hand Minor 1 over to the EMS workers to
13 take him out of the residence to be evaluated. At
14 that point, Heidi, she began to explain to me that
15 Minor 1 falls on things and that's how he got the marks
16 that were on him, the blackening eye, the -- for
17 lack of a better term -- whip marks that were all
18 over his skin that I could see was over a large
19 portion of his body.

20 Q. Was anyone else in that room?

21 A. Yes, ma'am. When I entered the front door,
22 there was a couch directly to the left, and
23 Ms. Courtney Woodard was sitting in that couch in
24 that living room.

25 Q. Was that the same room that Minor 1 was in?

1 A. Yes, ma'am, that is the same room he was in.

2 Q. And is that the same general area that Heidi
3 Oberg was exiting through the front door as you
4 approached the residence?

5 A. Yes, ma'am, that's correct.

6 Q. Did you have the opportunity to take photos
7 while you were at the scene on this particular
8 incident date?

9 A. Yes, ma'am.

10 Q. And did you collect those photos as part of the
11 law enforcement investigation?

12 A. Yes, ma'am, I did.

13 Q. I'm going to show you a photograph and ask you
14 whether or not you recognize what's in it.

15 A. Yes, ma'am. I recognize that photo.

16 Q. All right. And how is it that you recognize
17 it?

18 A. If you were to walk in the front door and look
19 directly to the left, that would be what you would
20 see in Ms. Oberg's residence. That's the living
21 room.

22 Q. All right. Is this a fair and accurate
23 representation of the scene as you photographed it
24 on that night?

25 A. Yes, yes, ma'am.

1 Q. And as you found it on that night?

2 A. Yes, ma'am.

3 MS. MAYES: This would now be State's Exhibit 8
4 for evidence.

5 THE COURT: Okay. And what says the defense?

6 MR. CASTO: We've seen it and we have no
7 objections, Your Honor.

8 THE COURT: All right. Without objection, it
9 will be number 8 for the State into evidence.

10 (State's Exhibit No. 8 admitted into evidence.)

11 BY MS. MAYES:

12 Q. All right. Deputy Spires, if you could come
13 down momentarily, I'm going to ask you specifically
14 about these two photos which are in evidence,
15 State's Exhibit 7 and State's Exhibit 8.

16 Let's start with State's Exhibit 7. What is
17 shown in this photograph?

18 A. That's the kitchen in Ms. Heidi Oberg's
19 residence.

20 Q. Okay. And can you tell us whether or not this
21 photograph was also among the photos that you took
22 on the incident date?

23 A. Yes, sir. That photo was taken by me on the
24 incident date.

25 Q. In this particular photograph, the window is

1 open. Can you tell us whether or not that is how
2 you found the scene?

3 A. Yes, ma'am, that's how it was.

4 Q. Now, moving from the kitchen, what is the
5 proximity of that kitchen to the area shown in
6 State's Exhibit 8?

7 A. If you were to walk in the front door, this
8 picture would be what you would see directly to your
9 left. The previous picture of the kitchen is what
10 you would see to the right-hand side.

11 Q. Can someone standing in the kitchen area see
12 into this room?

13 A. Yes, ma'am.

14 Q. And specifically in this room, where is the
15 doorway located that you first gain entry?

16 A. It's right beside the couch. You come in and
17 the doorway is right at the split where the kitchen
18 and living room meet.

19 Q. All right. Where would it be on this
20 particular photo? I realize it's not in the photo,
21 but --

22 A. Down here. (Indicating)

23 Q. Down to that area?

24 A. Yes, ma'am.

25 Q. And where was Heidi Oberg coming from when you

1 approached the residence?

2 A. She came out of the front door which is the
3 door -- the door I'm referring to is right here
4 beside this couch. (Indicating)

5 Q. All right. Where was the defendant Courtney
6 Woodard located when you first gained entry to the
7 residence?

8 A. Sitting right here on this nearest cushion on
9 the couch. (Indicating)

10 Q. Where was Minor 1

11 A. Minor 1 was sitting in this chair facing the wall.
12 (Indicating)

13 Q. Now, in that particular photograph, that chair
14 is facing the wall. Can you tell us whether or not
15 that's how you found it at the scene?

16 A. Yes, ma'am. That's how it was when I arrived.

17 Q. You may return to your seat.

18 Now, in addition to State's Exhibits 8 and 7,
19 which we just looked at and they're already in
20 evidence, I'm going to show you some additional
21 photographs and ask you if you recognize those.

22 A. Yes, ma'am, I recognize these.

23 Q. All right. How so?

24 A. One is a picture depicting the kitchen in
25 Ms. Oberg's residence, another is depicting the

1 cabinet sink area as it leads into the living room,
2 and the third is a picture of the floor near the
3 coffee table and the couch with a piece of a broken
4 stick in it.

5 Q. All right. Now, were these photos also taken
6 on the incident date?

7 A. Yes, ma'am.

8 Q. Are they a fair and accurate representation of
9 the scene as you discovered it?

10 A. Yes, ma'am.

11 MS. MAYES: Your Honor, this would be State's
12 9, 10 and 11 for evidence.

13 THE COURT: What says the defense?

14 MR. CASTO: No objection, Your Honor.

15 THE COURT: Without objection 9, 10, 11 would
16 be State's exhibits into evidence. 9 is -- describe
17 the photo.

18 MS. MAYES: Yes, sir, Your Honor. 9 is
19 interior kitchen.

20 THE COURT: Okay.

21 MS. MAYES: 10 is interior kitchen and living
22 room.

23 THE COURT: Okay.

24 MS. MAYES: And 11 is interior living room
25 floor.

1 THE COURT: Okay.

2 (State's Exhibit Nos. 9, 10 and 11 admitted
3 into evidence.)

4 BY MS. MAYES:

5 Q. Now, when you gained entry to the residence and
6 you discover the child seated at that location, what
7 happened next?

8 A. I picked **Minor 1** up. And at that point, EMS had
9 arrived on scene. I immediately handed **Minor 1** over to
10 the EMS workers to be taken out to the ambulance to
11 be evaluated because I could see that he had
12 injuries on his body.

13 Q. All right. Where specifically did you observe
14 injuries to **Minor 1**

15 A. First thing I noticed was **Minor 1** had a blackened
16 right eye. And when he stood up I could see that
17 his legs had red marks that -- again, best term I
18 can think of is a lash marks on his legs.

19 Q. And you mentioned that EMS was also at the
20 scene. How close in time were they to you?

21 A. My best guess would be approximately a minute.

22 Q. Okay. So when you actually were in the living
23 room approaching the child who was seated in the
24 chair facing the wall, was EMS in the process of
25 also entering the residence?

1 A. I picked **Minor 1** up and when I turned the EMS
2 worker was in the living room, had walked into the
3 residence.

4 Q. All right. And did you have any conversation
5 with **Minor 1** at that point?

6 A. No, ma'am. I don't recall him saying anything.

7 Q. All right. And you noted that he was
8 whimpering?

9 A. That's correct.

10 Q. How would you describe his demeanor at that
11 point?

12 A. The boy was -- is -- as was just said, was
13 whimpering. I could tell he was breathing rapidly.
14 To put it frankly, the boy appeared scared to me, he
15 was upset.

16 Q. And once you gave him to the EMT or to the
17 paramedic, what did you do next?

18 A. At that point, I asked Ms. Heidi Oberg to come
19 out of the residence with me and speak to me.

20 Q. So you actually had individual contact with
21 Heidi Oberg at that point?

22 A. Yes, ma'am. Myself and Ms. Oberg walked
23 outside.

24 Q. All right. Now I want to get a little bit of
25 information about what happened when you first

1 arrive at a scene and you're trying to determine
2 whether there might be any witnesses, whether there
3 might be anybody that could provide information.

4 How do you normally go about doing that?

5 A. When we arrive on scene, in many cases we don't
6 know who is who. We know that there's a call for
7 service and that someone needs help, and we don't
8 know who our suspects are, we don't know who our
9 witnesses are many times, and such was the case here
10 at Basin Rock.

11 I knew that we had a crime, or I felt at that
12 point, because the boy had physical manifestations
13 of injury on his person, but I was investigating at
14 that point to find out who was our suspect and who
15 were our witnesses.

16 Q. All right. At that point had you had an
17 opportunity to listen to the 911 call, for example?

18 A. No, ma'am.

19 Q. All right. Or even meet with any of the
20 witnesses such as Chelsi Swartz, Phillip Swartz,
21 Colin Piselli, any of the neighbors at that point?

22 A. No, ma'am.

23 Q. All right. And who specifically was inside
24 that residence when you arrived?

25 A. There were four people. It was Heidi Oberg,

1 Courtney Woodard, Minor 2 who was six months
2 of age, and Minor 1 who was five years of age.

3 Q. So two adult females, a five-year-old and a
4 six-month-old; correct?

5 A. Yes, ma'am.

6 Q. Can you tell us what, if any, contact you had
7 with Courtney Woodard, the defendant?

8 A. I'm sorry. I didn't hear the --

9 Q. All right. Could you describe your contact
10 with Courtney Woodard, the defendant, once you
11 entered the residence?

12 A. Yes, ma'am. When I entered the residence, she
13 was sitting on the couch directly to the left of the
14 door that I entered.

15 Q. All right. And what, if anything, did you ask
16 or follow or attempt to follow up on?

17 A. Once Heidi was taken from the residence --

18 MR. CASTO: Objection. We wish to renew or
19 objection raised pretrial with regard to this
20 testimony.

21 THE COURT: So noted for the record, Mr. Casto.

22 MR. CASTO: Thank you.

23 THE COURT: Yes, sir.

24 BY MS. MAYES:

25 Q. Following that objection, I'm going to re-ask

1 the question.

2 What, if any, contact did you have specifically
3 with the defendant, Courtney Woodard, once you
4 entered the residence?

5 A. Once Heidi Oberg was taken out, I re-entered
6 the residence and I asked Courtney to provide a
7 written statement to me and she -- she refused. I
8 asked her if she knew why the police had been
9 called. She told me that --

10 MR. CASTO: Your Honor, we renew our objection,
11 just to place that on the record, as to this line of
12 questioning.

13 THE COURT: Yes. Yes.

14 BY MS. MAYES:

15 Q. And her response when you asked her if she knew
16 why the police had been called?

17 A. Her response when I asked her if she knew why
18 the police had been called, she told me that Minor 1
19 had been screaming but she didn't know why anyone
20 would call the police.

21 Q. All right. Minor 1 had been screaming but she
22 didn't know why anyone would call the police?

23 A. Yes, ma'am, that's correct.

24 Q. And what happened next?

25 A. Courtney told me that there was nothing else

1 that she could tell me.

2 Q. All right. So in followup to that statement
3 she says there's nothing else she can tell you?

4 A. Yes, ma'am, that's correct.

5 Q. So at this point, had you gained any additional
6 information from other witnesses?

7 A. No, ma'am.

8 Q. All right. So at that point was Heidi Oberg
9 even a suspect at that point?

10 A. Was Heidi Oberg a suspect?

11 Q. I'm sorry. I'm sorry. Was Courtney Woodard a
12 suspect at that point?

13 A. No, ma'am. At that point, she was not a
14 suspect.

15 Q. All right. But you had determined that she had
16 no more information as a witness that she could
17 provide; correct?

18 A. Yes, ma'am, that's correct.

19 Q. What happened next?

20 A. At that point I went ahead and documented,
21 through photography, injuries that **Minor 1** had
22 sustained over his body and also took pictures of
23 the six-month-old child, **Minor 2** who had a rash that
24 covered -- a majority of her body was covered in a
25 severe rash that was, again, very severe.

1 And from there myself and other deputies that
2 had arrived on scene began taking written statements
3 from witnesses that were in the trailer park as many
4 of them had come out and were in the streets and
5 were talking to us at that point.

6 Q. All right. And did you have an opportunity to
7 have other deputies and officers assist with
8 interviewing various people there at the scene?

9 A. Yes, ma'am, that's correct. Specifically I
10 know Deputy Nicholson did take multiple written
11 statements from our witnesses, and I know that
12 Sergeant Caleb Black was speaking to Heidi Oberg.

13 Q. And can you tell us whether or not that
14 included Phillip Swartz, who we've heard from today,
15 as being one of the people interviewed to provide a
16 statement?

17 A. Yes, ma'am, that's correct, he was.

18 Q. What about Chelsi Swartz?

19 A. Yes, ma'am, she was.

20 Q. What about Colin Piselli?

21 A. Yes, ma'am, he was.

22 Q. And you mentioned that various people came
23 outside. Do you know whether or not there was also
24 a Ms. Hendrix who was interviewed?

25 A. Yes, ma'am, there was a -- yes, ma'am, there

1 was a Jamie Hendrix.

2 Q. All right. And was there also a child by the
3 name of Matthew J. interviewed?

4 A. Yes, ma'am, that's correct.

5 Q. And these are all people familiar with the
6 area?

7 A. Yes, ma'am.

8 Q. You mentioned that Caleb Black with the
9 Sheriff's Department actually interviewed Heidi
10 Oberg; correct?

11 A. That's correct.

12 Q. What was the purpose of his contact with her?

13 A. I spoke to her previously and she essentially
14 did not tell me the truth, we knew that she wasn't
15 telling me the truth, so Sergeant Black asked if I
16 had any issue with him speaking to her to see if she
17 would tell him the truth. I told him certainly not.
18 And he spoke to Ms. Oberg and was able to get her to
19 tell him the truth.

20 Q. All right. You mentioned you had taken
21 photographs of Minor 1

22 A. Yes, ma'am.

23 Q. Where was he located when you took photographs
24 of him?

25 A. He was in the ambulance.

1 Q. Did you provide those photographs to
2 Investigator Caleb Black at any point?

3 A. I don't recall if I showed them to Sergeant
4 Black.

5 Q. All right. And ultimately he went back and
6 re-interviewed Heidi Oberg following her initial
7 statement to you; correct?

8 A. Correct. While we were on scene, he did.

9 Q. As a result of the statement that she made to
10 Investigator Caleb Black, can you tell us whether or
11 not Heidi Oberg was identified as a person involved
12 in the assault of Minor 1

13 A. Yes, ma'am, she was.

14 Q. And ultimately was she detained and arrested?

15 A. Yes, ma'am, that's correct.

16 Q. Now, you mentioned that various other witnesses
17 were interviewed at the scene. What led to Courtney
18 Woodard being developed as a suspect?

19 A. In speaking to Chelsi Swartz, she told us that
20 there were multiple women inside the residence that
21 were cursing at this child, so that led us to
22 believe there were two women in the residence. And
23 then in speaking to Colin Piselli, Colin Piselli
24 told me that --

25 MR. CASTO: Objection, Your Honor; hearsay.

1 MS. MAYES: Yes, sir, Your Honor.

2 BY MS. MAYES:

3 Q. Without repeating what anyone else said to you,
4 once you obtained information from the various
5 witnesses at the scene, can you tell us whether or
6 not Courtney Woodard was identified as a suspect?

7 A. Yes, ma'am, she was.

8 Q. And ultimately was she detained and arrested?

9 A. Yes, ma'am, she was.

10 Q. And charged with assault and battery second
11 degree?

12 A. That's correct.

13 Q. Now, the photographs that you mentioned of **Minor 1**
14 and the infant, **Minor 2** I'm going to go ahead and
15 show you those for identification. And at this time
16 I'm going to ask you about photos that you may
17 specifically recognize.

18 A. Yes. I recognize those photos.

19 Q. And how so?

20 A. Those are photos that were taken of the
21 children while in the ambulance at the incident
22 location.

23 Q. All right. And can you tell us whether or not
24 they're a fair and accurate representation of your
25 observations that night?

1 A. Yes, ma'am, they are.

2 MS. MAYES: At this time, Your Honor, this
3 would be State's 12, 13, 14, 15, all pictures of
4 Minor 1 and 16, a photograph of Minor 2

5 THE COURT: Okay. 12 to 15, photos of Minor 1
6 and 16, Minor 2

7 What says the defense?

8 MR. CASTO: No objection to any of these.

9 THE COURT: All right. Without objection, they
10 will be marked as State's 12-15 as photos of Minor 1
11 and 16 as photo of Minor 2

12 (State's Exhibit Nos. 12-16 admitted into
13 evidence.)

14 MS. MAYES: Your Honor, if we may publish at
15 this time?

16 THE COURT: Certainly.

17 (Photographs published to the jury.)

18 BY MS. MAYES:

19 Q. Now, Deputy Spires, you mentioned that there
20 was a stick on the floor in one of the photographs.
21 How, if at all, did the stick become a relevant part
22 of the investigation?

23 A. It was pretty obvious to me that Minor 1 had been
24 beaten with a stick. He had lashes on his body,
25 they were very severe. The entire living room floor

1 was littered with little pieces of wood that had
2 broken off as the stick was breaking multiple times
3 as they were beating the child with it so hard that
4 it was breaking the stick.

5 Q. Were you able to actually make those
6 observations yourself?

7 A. Yes. I saw the sticks in the living room,
8 kitchen area. I collected them. And many of the
9 photos, just due to the resolution, it's -- it
10 really doesn't do it justice. You can see in a
11 couple that I zoom in. But a majority of the living
12 room floor was littered with little pieces of wood
13 that had just broken off of the sticks as Minor 1 was
14 being beaten.

15 Q. Those photos you have with you right now, can
16 you tell us whether or not you recognize those?

17 A. Yes, ma'am, I recognize these pictures.

18 Q. How so?

19 A. These are pictures of what I was just
20 discussing, the sticks and the pieces of the sticks
21 from the incident location.

22 Q. All right. And one more, if you recognize this
23 document.

24 A. Yes, ma'am. I recognize this picture.

25 Q. What is depicted in that photograph?

1 A. This is the area in front of the front door as
2 you enter the residence that is the dividing point
3 between the living room and the kitchen in Heidi
4 Oberg's residence.

5 Q. All right. And is that a fair and accurate
6 representation of the scene as you found it?

7 A. Yes, ma'am.

8 Q. All right.

9 MS. MAYES: This would be all three State's
10 exhibits of the scene, Your Honor, for evidence.

11 THE COURT: The three photos or four?

12 MS. MAYES: This would be three, Your Honor,
13 and then the fourth is not of the scene but is of
14 the items collected as evidence.

15 THE COURT: All right. What says the defense?

16 MR. CASTO: No objection, Your Honor.

17 THE COURT: All right. Without objection, 17,
18 18 and 19 of the scene, State's exhibits into
19 evidence.

20 (State's Exhibit Nos. 17, 18 and 19 admitted
21 into evidence.)

22 BY MS. MAYES:

23 Q. And then once you left the scene, can you tell
24 us whether or not that evidence was provided to the
25 sheriff's department?

1 A. Yes, ma'am, it was.

2 Q. All right. Actually collected that scene by
3 who?

4 A. It was collected by me.

5 Q. All right. And turned over to the sheriff's
6 department as evidence?

7 A. Yes, ma'am.

8 Q. And can you tell us what is depicted in this
9 photograph?

10 A. In this picture are the three larger pieces of
11 the stick that I had initially found. I laid them
12 on a box in my trunk and took a picture due to
13 lighting conditions.

14 Q. All right. And that's prior to transporting
15 them to the evidence room?

16 A. Yes, ma'am.

17 MS. MAYES: And this would be State's 20 for
18 evidence, Your Honor.

19 THE COURT: All right. What's the position of
20 the defense?

21 MR. CASTO: Without objection.

22 THE COURT: All right. Without objection, it
23 will be number 20 for the State into evidence.

24 (State's Exhibit No. 20 admitted into
25 evidence.)

1

2 BY MS. MAYES:

3 Q. Deputy Spires, during the course of your
4 involvement there at the scene, did you find pieces
5 of that broken stick in any location other than the
6 living room area?

7 A. There were pieces in the living room area. As
8 you can see in some of the photos, the living room
9 and kitchen are an open area. I believe there were
10 some small pieces that were in the edge of the
11 kitchen area in front of the front door. Yes.

12 Q. All right. I'm going to show you State's
13 Exhibit 17.

14 A. Yes, ma'am.

15 Q. Is that what you're referring to?

16 A. Yes, ma'am. You can see a piece of stick.
17 It's actually the living room. There's smaller
18 pieces that, due to the resolution, really aren't
19 showing up. And then in another photo, it's
20 actually zoomed in. That's just one of the shreds
21 of the stick that had come loose and fallen at the
22 kitchen border. Yes, ma'am, that was -- I recognize
23 that. That was another shred of stick that had
24 broken loose from one of the main ones.

25 Q. All right. What happened after you

1 photographed Minor 1 in the ambulance?

2 A. EMS determined that the children needed to be
3 taken to the hospital and evaluated. I believe they
4 were transported over to Richland.

5 Q. All right. And did you actually go to Palmetto
6 Health Richland or was another officer assigned to
7 do that?

8 A. I believe there was an investigator that went
9 over there to follow up on it.

10 Q. All right. Do you know whether additional
11 photographs were taken pursuant to the investigation
12 at that location?

13 A. Yes, ma'am. I believe there were photographs
14 taken at the hospital.

15 Q. All right. Now, there was testimony in this
16 case about a 911 call being requested as data in the
17 routine course of business as part of this
18 investigation. Who made that request?

19 A. I did. I made the request from the Lexington
20 County Communications Center to get the audio CD for
21 evidence for today.

22 Q. All right. And specifically just in a general
23 question about the location, Basin Rock Lane where
24 this occurred, can you tell us whether or not that
25 is within the jurisdiction of Lexington County?

1 A. Yes, ma'am. It's Lexington County in the Red
2 Bank area.

3 Q. And do you have with you any notations as to
4 what time you would have ultimately departed the
5 scene?

6 A. If I'm reading this correct, I cleared from
7 that scene at 7:19 p.m.

8 Q. All right. So 7:19 p.m. you leave, so you were
9 there approximately two hours. And during the
10 course of that time, were you present when Courtney
11 Woodard was actually detained and taken into
12 custody?

13 A. You turned away from me. I didn't hear.

14 Q. Were you present at the scene when Courtney
15 Woodard was actually detained and take into custody
16 that evening?

17 A. Yes, ma'am.

18 MS. MAYES: Nothing further.

19 THE COURT: Cross-examination?

20 MR. CASTO: Yes, sir, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. CASTO:

23 Q. Officer, something that you said on direct was
24 that you initially made contact with the mother,
25 Heidi Oberg; is that right?

1 A. When I arrived on scene, she was the first
2 person I made contact with, that's correct.

3 Q. And specifically, eventually, after you had
4 arrived on scene that you had initiated a
5 conversation with Ms. Heidi Oberg; isn't that right?

6 A. We had a conversation when I was on the scene,
7 yes.

8 Q. And at some point, I think, you know, with
9 regard to asking her about what happened and based
10 on the nature of that conversation, you didn't
11 believe that she was being truthful with you when
12 she spoke with you about that; right?

13 A. If you're referring to later in the
14 investigation after she was Mirandized outside the
15 mobile home, that's correct, I did not believe she
16 was truthful.

17 Q. Yes, exactly that point, you didn't believe she
18 was truthful?

19 A. Yes, sir.

20 Q. And then enter -- is it Officer or Investigator
21 Caleb Clack?

22 A. Sergeant Caleb Black.

23 Q. Sergeant Black. He's one of the officers that
24 arrived after yourself and some other officers;
25 right?

1 A. Yes.

2 Q. He, I think, goes up and touches base with you
3 essentially; right?

4 A. Yes, sir.

5 Q. You inform him about your conversation with
6 Heidi; right?

7 A. That's correct.

8 Q. And then he goes and speaks with Heidi;
9 correct?

10 A. Yes.

11 Q. And I believe that you state that the nature of
12 that conversation was -- you said on direct is when
13 Caleb -- officer -- excuse me, Sergeant Black,
14 that's when he got a truthful statement from Heidi;
15 isn't that right?

16 A. That's correct.

17 Q. And the statement that she said was -- Heidi
18 admitted that she hit her son; right?

19 A. Could you repeat the question, please?

20 Q. The statement that Heidi made to Officer Black
21 is that Heidi admitted that she hit her own son,

22 **Minor 1** correct?

23 A. I don't know what exactly she said to him. I
24 wasn't standing there to hear specifically what she
25 said.

1 Q. But, essentially, Heidi admitted that she hit
2 Minor 1 with a stick; correct?

3 A. According to what Sergeant Black wrote in a
4 supplemental report, that's correct.

5 Q. And basically, as a result of that, Heidi is
6 arrested at that point; right?

7 A. Yes, sir.

8 Q. She's charged; right?

9 A. Yes, sir.

10 Q. She's taken into custody; correct?

11 A. Yes, sir.

12 Q. And eventually she pleads guilty to this; isn't
13 that right?

14 A. Yes, sir.

15 Q. And, in fact, you were present when she did
16 admit her guilt in front of a judge; correct?

17 A. No, sir.

18 Q. You were not present at that hearing?

19 A. No, sir, I was not.

20 Q. But you know that she has plead guilty?

21 A. I've been told, that's correct.

22 Q. I want to take you back and you -- to what you
23 were saying Heidi that referred to is that -- the
24 gist of what she said was that she had made a
25 mistake with regard to what she did to Minor 1 right?

1 A. I don't recall Heidi telling me that.

2 That's --

3 Q. With regard to what she said to Sergeant Black.

4 A. Oh, I don't know what she said to Sergeant
5 Black.

6 Q. Okay. But nonetheless, the essence of that
7 conversation, she admitted to hitting her son with a
8 stick?

9 A. Per his -- what he wrote in his supplemental
10 report, it would appear so.

11 Q. Okay. Now, I want to take you back to when you
12 first arrived. You were the first officer there, as
13 we've established; right?

14 A. Yes.

15 Q. And when you walk in -- you know, this is
16 almost silly to do so. But let's pretend there's
17 just an imaginary door right here. You would
18 obviously enter from right here, and if that person
19 was to look to their left, this is what you'd see;
20 right? Is that a fair statement?

21 A. Yes, sir.

22 Q. Okay. And you saw Courtney sitting right here
23 on this end of the couch, as you said, closest to
24 the door?

25 A. That's correct.

1 Q. Because the door, as we said, is right here?

2 A. Yes, sir.

3 Q. And -- okay. And there's this seat right here
4 where you found **Minor 1** right?

5 A. That's correct.

6 Q. Okay. Now, when you walk in and you see
7 Courtney sitting in that seat, she's holding **Minor 2**
8 right?

9 A. Yes, sir.

10 Q. And **Minor 2** is the infant baby; is that right?

11 A. Yes, sir.

12 Q. And holding **Minor 2** in her lap; right?

13 A. I don't remember specifically what position,
14 but she was holding the child in a way that didn't
15 catch my attention, what would be considered a
16 normal way.

17 Q. She was holding the baby in a normal way?

18 A. Yes.

19 Q. In other words, she had the child?

20 A. Yes, sir.

21 Q. And you say that when you go in and you first
22 speak with Heidi, Heidi doesn't seem to want you
23 there; correct?

24 A. That's correct.

25 Q. It's at that same, you know, first few words to

1 Heidi that you detect an odor of alcohol coming from
2 Heidi?

3 A. That's correct.

4 Q. And now you see **Minor 1** sitting in that little
5 seat. Specifically, that seat is like a car seat,
6 isn't it?

7 A. I believe so.

8 Q. And literally he's -- he's not out there facing
9 the living room, he's just, you know, car seat, he's
10 just turned around, and he's just -- in front of him
11 is just the wall; isn't that right?

12 A. Yes, sir.

13 Q. Okay. And, obviously, as you said on direct,
14 didn't move any furniture around. That picture is
15 just like you found it; right?

16 A. As best as I recall, yes, sir.

17 Q. So you go over to where **Minor 1** is; right?

18 A. That's correct.

19 Q. And, you know, stating the obvious, I mean,
20 while you're there, you don't witness yourself, you
21 don't see anybody, you know, physically hit **Minor 1**
22 while you're there; right?

23 A. I did not.

24 Q. And, you know, what I'm getting at is
25 everything that you learned about the case, you

1 know, is basically done through asking questions to
2 folks that have been around; correct?

3 A. Through our investigation, that's correct.

4 Q. Okay. Specifically in the same thing, you
5 didn't learn about any type of disturbance from that
6 same address, [REDACTED] in the morning
7 hours of that same day. Did you hear anything about
8 that?

9 A. No, sir.

10 Q. No. Part of what you do is you talk to
11 witnesses. And you said on direct that folks had
12 come outside; right?

13 A. That's correct.

14 Q. And that you spoke with them; right?

15 A. Yes, sir.

16 Q. And did you go and speak with -- did you go up
17 to another neighbor's house that didn't come outside
18 and make any attempt to speak with them?

19 A. There's probably, my best guess, 100 mobile
20 homes in that park. So, logistically, it wouldn't
21 have been probable to knock on every door.

22 Q. On that particular street right there?

23 A. We, at that time, had many, many witnesses in
24 the street. And if I'm understanding your question
25 right, did we beat on every door in that area? I

1 don't believe so, no.

2 Q. Okay. Your first encounter of **Minor 1** now, what
3 is **Minor 1** wearing when you first see him? Do you
4 recall what he had on?

5 A. I recall he had on shorts because I know I was
6 able to see lash marks on his legs. Past that, I
7 don't remember specifically, no.

8 Q. Okay. And specifically in speaking about these
9 marks that you see on **Minor 1** they appear to be fresh
10 marks; is that correct?

11 A. What I perceive to be fresh, yes.

12 Q. In other words, you didn't see any marks
13 whatsoever on **Minor 1** that appeared to you to be in
14 different stages of healing?

15 A. I don't recall seeing any old wounds on **Minor 1**
16 no.

17 Q. Okay. But if there were old marks, likely they
18 would have been coupled there with the fresh marks
19 and you would have seen them; right?

20 A. I don't recall seeing any old injuries on **Minor 1**
21 I'm not going to tell you there weren't any. But I
22 don't recall seeing any old injuries on **Minor 1**

23 Q. Specifically once you come in, and just to
24 state the obvious again, you had an opportunity to
25 observe the condition that this home is in, didn't

1 you, I mean, just upon going in and seeing what you
2 saw; right?

3 A. Yes, sir.

4 Q. And suffice it to say that this home is not
5 well kept, is it?

6 A. I've certainly seen better kept homes.

7 Q. I mean, specifically, there's garbage and trash
8 all over the counter area and all this stuff. I
9 mean, this is what you -- this is what you saw,
10 isn't it?

11 A. That is what I saw.

12 Q. In this home of Heidi's, you walked back into
13 the back bedroom and you see a room that had toys in
14 it, correct, that you recall?

15 A. I don't recall what was in the other rooms of
16 the house.

17 Q. Well, specifically do you know if Minor 1 even had
18 a bed of his own in that home?

19 A. I don't recall, I don't.

20 Q. Okay. To recap, you learned through your
21 investigation that Heidi lived there along with her
22 husband; correct?

23 A. That's correct.

24 Q. His name is Miguel Martinez; right?

25 A. I remember it's a Mr. Martinez. I'm looking

1 now. I don't recall the first name. I believe
2 Miguel was it.

3 Q. Well, Mr. Martinez, nonetheless?

4 A. Her husband, Mr. Martinez, yes.

5 Q. And did you or any other officer -- did you
6 have a chance to speak with Mr. Martinez -- well,
7 did they have a chance to speak with Mr. Martinez
8 about this incident?

9 A. I believe Deputy Nicholson did speak to
10 Mr. Martinez.

11 Q. And is his primary -- his primary language, I
12 believe, is Spanish; is that right?

13 A. That's correct.

14 Q. Okay. And as you said, he was questioned by
15 law enforcement; right?

16 A. I don't know that he was questioned, but I know
17 that Deputy Nicholson did have an opportunity to
18 speak to him.

19 Q. Okay. In other words, they did have a
20 conversation at least with him?

21 A. Yes, sir.

22 Q. Now, as I understand, he was never charged with
23 a crime of any sort, was he?

24 A. No, sir.

25 Q. Okay. And since he's the husband or father

1 figure, if he, you know, saw child abuse going on in
2 that home, he would have a duty to report that,
3 wouldn't he?

4 A. That's correct.

5 Q. I mean, since he's the parent, he's held to a
6 different standard that if he knew of abuse but he
7 didn't do anything about it, he could be charged as
8 well; right?

9 A. Correct.

10 Q. But he wasn't charged, was he?

11 A. No, sir.

12 Q. All right.

13 MR. CASTO: I beg the Court's indulgence.

14 THE COURT: Sure.

15 MR. CASTO: No further questions.

16 THE COURT: Anything on redirect, Solicitor?

17 MS. MAYES: Yes, sir, Your Honor.

18 REDIRECT EXAMINATION

19 BY MS. MAYES:

20 Q. Just to clarify, the Miguel Martinez that
21 Mr. Casto was asking you about, did you have any
22 information or evidence linking him to the events of
23 that day of February 17th?

24 A. No, ma'am. We don't believe he was at that
25 incident location at that time.

1 Q. And based upon your investigation, did you
2 actually take any statements from Heidi Oberg in
3 writing?

4 A. Yes, ma'am, I did.

5 Q. All right. The second statement that you
6 provided to Caleb Black, another investigator, were
7 you present for that?

8 A. I was still at the incident location; wasn't
9 standing directly there, but I was still on scene.

10 Q. So you weren't present for the statements she
11 made to Caleb Black?

12 A. No, ma'am.

13 MS. MAYES: Nothing further.

14 THE COURT: Anything on recross?

15 MR. CASTO: Just briefly.

16 RECROSS-EXAMINATION

17 BY MR. CASTO:

18 Q. You spoke with Ms. Heidi Oberg initially, the
19 nature off that conversation, you didn't think she
20 was telling you the truth; right?

21 A. That's true.

22 Q. And then eventually she speaks with Caleb
23 Black, and the nature of that conversation, she is
24 truthful at that point about what happened?

25 A. Yes, sir.

1 MR. CASTO: Nothing further.

2 THE COURT: Okay. You can step down, sir.

3 Thank you for your testimony.

4 (Witness excused.)

5 THE COURT: Anybody else?

6 MS. MAYES: Yes, sir, Your Honor. The State
7 calls Jason Hentz.

8 JASON HENTZ

9 being first duly sworn, testified as follows:

10 THE WITNESS: I do.

11 THE CLERK: Once you're seated, state your full
12 name spelling your last on the record, please.

13 THE WITNESS: Michael Jason Hentz, H-E-N-T-Z.

14 DIRECT EXAMINATION

15 BY MS. MAYES:

16 Q. And where are you employed and in what
17 capacity?

18 A. I'm a captain with Lexington County EMS.

19 Q. And how long have you been an EMS worker?

20 A. Since 1990.

21 Q. Now, specifically, what type of certification
22 do you have with EMS?

23 A. I'm a State-certified paramedic, hold
24 certifications in advanced cardiac life support,
25 pediatric advanced life support, pediatric education

1 for pre-hospital provider trauma courses.

2 Q. All right. As a paramedic, how many years have
3 you worked specifically going to calls to aid
4 various citizens in Lexington County?

5 A. I was certified as a paramedic in March of '92,
6 so about 20 years.

7 Q. So approximately 20 years?

8 A. Yes, ma'am.

9 Q. During the course of that 20 years, have you
10 had the opportunity to respond to any calls that
11 involve children?

12 A. Yes, ma'am.

13 Q. And specifically child abuse?

14 A. Yes, ma'am.

15 Q. I'm going to take you to the incident date of
16 February 17th, 2013 and ask you whether you have any
17 records with you today regarding your response in
18 that particular call.

19 A. I do. I have my patient care report, Sergeant
20 Cifferi's patient care report, and the CAD data, the
21 CAD reports.

22 Q. All right. And specifically what time did you
23 arrive on the scene, Captain Hentz?

24 A. Arrived on scene at 17:15 -- or 17:17, excuse
25 me.

1 Q. 17:17?

2 A. Yes, ma'am.

3 Q. Okay. There's been testimony thus far that 17
4 is military for 5. Correct?

5 A. Yes, ma'am.

6 Q. So 5:17, one minute after the first law
7 enforcement unit arrives on the scene; correct?

8 A. Yes, ma'am.

9 Q. What happened once you got there? What did you
10 do first?

11 A. Once I entered the residence, I encountered an
12 officer holding the child in question. I, of
13 course, took the child from him, started to do an
14 assessment on him and actually removed him from the
15 residence and took him to the ambulance.

16 Q. All right. So you walk into the residence and
17 then removed the child from the officer. Was that
18 Deputy Spires?

19 A. I believe so.

20 Q. All right. And for what purpose did you take
21 the child from the deputy?

22 A. Mostly so we could assess him and remove him
23 from the environment that he was in.

24 Q. And what happened next?

25 A. We took him outside to the ambulance, I started

1 doing a head-to-toe survey looking at his different
2 types of injuries.

3 Q. All right. And what did you observe?

4 A. He had multiple abrasions and bruises to his
5 back, arms, legs, with some tenderness. He was
6 awake, alert, nonlabored respirations. He had some
7 swelling noted to his head, multiple abrasions noted
8 across the back with what appears to be old and new
9 bruising, multiple abrasions and bruising to both
10 arms. Some of the bruises are nearly
11 circumferential. He has multiple abrasions and
12 bruising to both legs, and during exam, patient will
13 turn his head and cringe closing both eyes whenever
14 you reach for him.

15 Q. All right. Let me stop you right there. Who
16 prepared that report?

17 A. I did.

18 Q. What, if anything, is significant about your
19 notation that the patient would turn his head and
20 cringe?

21 A. It -- being with a child --

22 MR. CASTO: Objection; speculation.

23 THE COURT: All right. Wait a minute now.

24 All right. The question was, what is
25 significant about him observing the child turn his

1 head and cringe. Was that the question?

2 MS. MAYES: Yes, sir, Your Honor.

3 THE COURT: Okay. And your objection is
4 calling for speculation?

5 MR. CASTO: Yes, Your Honor.

6 THE COURT: Well, I mean, this is a
7 certified -- of course he has not been declared an
8 expert at this point in time, but he does have
9 training in paramedic emergency care services. I'm
10 going to allow it at this time. Maybe lay a little
11 foundation in support of his opinion as to that, if
12 you would, Solicitor.

13 MS. MAYES: Yes, sir, Your Honor. And we're
14 prepared to go further in terms of his
15 qualifications.

16 BY MS. MAYES:

17 Q. Specifically, you mentioned your training in
18 paramedic --

19 A. Yes, ma'am.

20 Q. -- services.

21 How frequently do you renew training and
22 certifications?

23 A. Our certification cards such as ACLS, PALS and
24 PIP are required to recertified every two years.

25 Our paramedic certifications are recertified every

1 three years.

2 Q. You mentioned PALS. What does PALS stand for?

3 A. Pediatric Advanced Life Support.

4 Q. And how long have you been certified in
5 pediatric advanced life support?

6 A. I believe '95 when it rolled into Columbia.

7 And at that time I also became a an instructor for
8 PALS and did some teaching throughout the Midlands.

9 Q. That's in the field of pediatric advanced --

10 A. Yes, ma'am.

11 Q. -- life support?

12 And can you tell us whether or not you've been
13 trained and certified in that field in excess of
14 five years?

15 A. Yes, ma'am.

16 Q. And have you been practicing it in the ordinary
17 course of your experience out on the road in
18 treating patients?

19 A. Yes, ma'am.

20 Q. And, specifically, that deals with pediatric
21 services such as children?

22 A. Yes, ma'am.

23 MS. MAYES: Your Honor, at this time the State
24 would offer Captain Jason Hentz as an expert in the
25 field of paramedic services.

1 THE COURT: Defense have any examination of
2 this witness as to qualifications only?

3 MR. CASTO: I beg the Court's indulgence.

4 THE COURT: Sure.

5 MR. CASTO: Your Honor, with regard to his
6 qualifications as paramedic services, you know,
7 specifically I hadn't heard anything with regard to,
8 you know, taking care of children or anything like
9 that, Your Honor. So if we can keep the scope to
10 just paramedic services, we don't have an objection
11 to that.

12 THE COURT: All right.

13 Lawyers, come up for just a second.

14 (Sidebar conference.)

15 THE COURT: Ladies and gentlemen of the jury,
16 we need to take a matter up with the attorneys
17 outside of your presence. I don't anticipate this
18 to be very long. I've also been instructed that
19 this will probably be our last witness for the day.
20 So if you'll just go back to your jury room. Again,
21 I instruct you not to discuss anything about this
22 case among yourselves. We'll get you back out here
23 very shortly.

24 (The jury retires to the jury room at 4:47 PM.)

25 THE COURT: Okay. Solicitor, at this time

1 we're going to take in-camera testimony from this
2 witness. And I think probably it would be prudent
3 to cover any areas that you are seeking his opinion
4 on and then see if we have any objections from the
5 defense, and we'll go from there with it.

6 MS. MAYES: Yes, sir, Your Honor.

7 DIRECT EXAMINATION

8 (In-Camera)

9 BY MS. MAYES:

10 Q. Now, specifically, based on your training and
11 experience in paramedic services, can you tell us
12 what is the first step in treatment of a child who
13 may have sustained blunt-force trauma?

14 A. For us, as we approach a child, especially
15 small children because of the way they react to
16 strangers is, you form a general impression from a
17 distance as you're approaching them. You start your
18 assessment with a toe-to-head, which is reverse from
19 an adult. In an adult, you start at the head and
20 face and work your way down; children, you start
21 with the feet and work up.

22 As it progresses along, we can -- if we deem it
23 necessary and the child is cooperative enough and if
24 we're -- head trauma, spinal trauma, we would place
25 them in the spinal immobilization precautions which

1 would be your typical neck collar, place them on a
2 ridged board, and place head rolls beside them. But
3 like I say, they have to be very cooperative because
4 we don't want them withdrawing away from us or
5 pulling around -- or pulling away from us because
6 you can actually do more harm to them by physically
7 restraining them than just by letting them sit still
8 calmly.

9 Q. I'm going to show you State's Exhibits 12, 14,
10 13 and 15 and ask you if you recognize what is shown
11 in those photographs.

12 A. Specifically anything you're questioning or --

13 Q. Yes. Who is shown in those photographs?

14 A. Oh, this would be Mr. -- or young Mr. Oberg.

15 Q. All right. And ultimately did you have the
16 opportunity to examine the child with his shirt
17 lifted up or without clothing?

18 A. We raised his shirt so we could view his back
19 and his belly.

20 Q. I'm going to show you this photograph and ask
21 you if you recognize it.

22 A. Yes, sir.

23 Q. How so?

24 A. We actually took, I think, a similar picture in
25 the -- I had the sheriff's department take a similar

1 picture in the back of the truck when we raised his
2 shirt.

3 Q. All right. And can you tell us whether or not
4 that is consistent with the injuries you observed --

5 A. Yes, ma'am.

6 Q. -- on the patient that night?

7 A. It is.

8 MS. MAYES: And at this time, Your Honor, this
9 would be for identification. I believe it's State's
10 21.

11 THE COURT: For ID only.

12 (State's Exhibit No. 21 marked for
13 identification.)

14 BY MS. MAYES:

15 Q. Now, based on your training and experience for
16 paramedic services, what are your initial steps for
17 treatment when you see a child with this type of
18 injury?

19 A. One of the most important things for us is
20 to -- if we think it's nonaccidental trauma is
21 remove the child from the environment, get them to a
22 safe place.

23 Q. All right. And based upon your observations
24 that night, your notes of your exam and photos that
25 you've identified, can you tell us whether or not

1 there was any evidence that the patient may have
2 sustained blunt-force trauma?

3 A. Yes, ma'am. The bruising, of course, to the
4 back and especially around his eyes, and a lot of it
5 is new and old type bruising. So...

6 Q. All right. And specifically when you talk
7 about bruising around the face area, can you tell us
8 whether or not that can ultimately cause an injury
9 requiring treatment to an organ system such as the
10 eye?

11 A. To the eye and to the brain itself. One of the
12 things when we especially see bruising along both
13 eyes, we have to -- we take into consideration what
14 can be a base or a skull fracture or a fracture at
15 the base of the skull.

16 Q. All right. And what about any other organ
17 systems such as the skeletal system?

18 A. With the bruising, of course, along the arms,
19 legs, circumferential bruising, we have to worry
20 about underlying fractures, marks across the back,
21 any -- we have to worry about spinal fractures
22 themselves or injuries to the nerves. And then when
23 you get to his lower back, your kidneys lie very
24 close in that area, so you have to worry about some
25 renal damage.

1 Q. And as a result of your training and
2 experience, what was the next step in treatment for

3 Minor 1

4 A. He cooperated somewhat. Like I said, when we
5 reached for him, he would cringe and pull away. So
6 we decided the best thing was to allow him to sit
7 quietly on the stretcher. And then he was taken to
8 Palmetto Health Richland to the children's hospital
9 which is also our level one trauma center for the
10 area.

11 MS. MAYES: That is the State's proffer, Your
12 Honor.

13 THE COURT: You're not planning to ask the
14 question about the turning of the neck, which I
15 think kind of prompted this in-camera examination of
16 this witness? I'm certainly not trying to tell you
17 what how to -- what to examine your witness on, but
18 I know that area was what prompted this to begin
19 with.

20 MS. MAYES: Yes, sir, Your Honor.

21 BY MS. MAYES:

22 Q. You mentioned in your previous response about
23 the fact that when you -- during the exam, the
24 patient turned his head and cringed closing both
25 eyes. What, if anything, did that indicate to you?

1 A. To me that would indicate a fear response.
2 He's either afraid of the strangers that are
3 handling him or he's afraid we're going to hurt him.

4 MS. MAYES: That is the State's proffer, Your
5 Honor.

6 THE COURT: All right.
7 Any cross-examination?

8 MR. CASTO: Just briefly.

9 CROSS-EXAMINATION

10 (In-Camera)

11 BY MR. CASTO:

12 Q. What was it about those bruises that --
13 specifically with the ones that appear to be old,
14 what communicated to you that that was old bruising?

15 A. Just the coloration. The bruises tend to
16 follow a color pattern. As they heal, they start
17 out a reddish purple and get lighter green and
18 deeper looking.

19 Q. Different colors, different stages of healing?

20 A. Yes, sir.

21 Q. And the new bruises, what communicated to you
22 that they were new?

23 A. The -- some of the -- just the brightness of
24 them, the extreme bright red. It's kind of hard to
25 see in some of the pictures. But they just appeared

1 to be fresh injuries.

2 Q. And fresh with regard to, you know, in the last
3 few hours versus the last --

4 A. That, I can't tell you.

5 Q. -- week or two?

6 You can't --

7 A. No.

8 Q. That's tough to speak to; correct? Could have
9 been that afternoon, earlier that day, you don't
10 know?

11 A. Right.

12 Q. In all of your paramedic services that you
13 provide are really just to take precaution because
14 you don't know the extent of the injury --

15 A. Exactly.

16 Q. -- is that right?

17 A. The only thing that we can treat is what we see
18 and what we perceive to be wrong with it.

19 MR. CASTO: No further questions.

20 THE COURT: Okay. I will allow this witness to
21 give his testimony before the jury as to what he's
22 testified to in-camera. I believe that he is
23 certainly qualified to offer the testimony that he
24 has done so in-camera.

25 Let's bring the jury out, please.

1 (The jury enters the courtroom at 4:56 PM.)

2 THE COURT: Let the record reflect the jury is
3 back in.

4 Solicitor?

5 MS. MAYES: I believe the last question posed
6 of the witness concerned his qualifications, and at
7 that time the State had offered him as an expert in
8 the field of paramedic services.

9 THE COURT: And so found to be an expert in
10 that area.

11 DIRECT EXAMINATION

12 BY MS. MAYES:

13 Q. Now, based upon your training and experience,
14 Captain Hentz, can you tell us what your initial
15 steps for treatment are when you find a patient who
16 may have sustained blunt-force trauma?

17 A. The -- again, as -- dealing with a child, we
18 form a general impression as we approach the child.
19 The -- with the blunt-force trauma with children or
20 trauma with children, you want to handle them as
21 gently as you can. If they will allow you to
22 immobilize them, we will immobilize them. If they
23 pull away from us or resist, you can actually do
24 more harm or more damage to them by physically
25 restraining them to a backboard.

1 Q. All right. Now, the photos that are already in
2 evidence, can you tell us whether or not that is how
3 **Minor 1** appeared in the back of the ambulance when you
4 met with him?

5 A. Yes, ma'am.

6 Q. And conducted that exam?

7 A. Uh-huh.

8 Q. Now in addition there's another photo that's
9 only marked for identification at this time that
10 depicts the patient with his shirt up. Were you
11 able to make an observation concerning those
12 injuries as well?

13 A. We did in the back of the ambulance.

14 Q. And does your report contain any findings
15 relating to what you observed on his back?

16 A. Has multiple abrasions noted across his back
17 with what appears to be new and old bruising.

18 Q. All right. So the new and old bruising is a
19 reference to what you observed on the back?

20 A. Yes, ma'am.

21 Q. Now, specifically in your report you previously
22 noted that swelling was noted. I'm going to ask you
23 about the face. Do you have a photograph depicting
24 his face?

25 A. Yes, ma'am.

1 Q. And, particularly, can you tell us whether or
2 not there's any indication of fresh injury to the
3 face area?

4 A. He has bruising around both eyes and it looks
5 like on his -- I can't tell if that's dirt or
6 bruising on his cheeks.

7 Q. Does that include swelling around the eyes?

8 A. It looked -- the picture looks like maybe the
9 bridge of his nose might be swollen. In the report
10 we did note what appeared to be swelling to his
11 head.

12 Q. All right. Now, when a patient has sustained
13 what may be blunt-force trauma to an organ system
14 such as the eye, what is the appropriate step for
15 treatment?

16 A. To keep them calm, keep them still. You don't
17 want to cause their intraocular pressures to
18 increase. If you agitate them, when children cry,
19 their eye pressures increase. So the big thing is
20 to keep them calm and still.

21 Q. Is further treatment necessary?

22 A. Immediately, no. It can be, but the long-term
23 once they get to the hospital and assess them in the
24 hospital.

25 Q. All right. Now, based upon your observations

1 of Minor 1 in totality, arms, legs, back, did you
2 address the abdomen? Arms, legs, back and face
3 area?

4 A. Yes, ma'am. We checked --

5 Q. Based on the totality of those findings and
6 your training and experience, can you tell us
7 whether or not injury -- it could result in injury
8 requiring treatment to an organ system such as the
9 skeletal system?

10 A. Yes, ma'am. If he has any underlying
11 fractures, especially with the arms or extremities
12 with the circumferential bruising, you have to worry
13 fractures, underlying fractures to his arms, also to
14 his spine and to his face with the bruising around
15 his face.

16 Q. And can you tell us, based upon your training
17 and experience, whether or not such trauma could
18 result in an injury requiring treatment to an organ
19 system such as the nervous system?

20 MR. CASTO: Objecting; speculation.

21 THE COURT: Well, the question was asked as to
22 the skeletal system without an objection, so I'll
23 allow it. I'll overrule the objection.

24 A. Can you repeat the question, please?

25 MS. MAYES: Yes, sir, Your Honor. This was

1 specifically to the nervous system.

2 BY MS. MAYES:

3 Q. The brain --

4 A. With the injuries to his back and to his
5 face -- to his face specifically with the bruising
6 around the eyes, we have to worry about basilar
7 skull fractures which can cause problems or injuries
8 to the brain itself. When children are violently
9 pushed or shaken, you see it especially in little
10 babies, you have what's called a coup contrecoup
11 injury where the brain actually sloshes forward and
12 sloshes back, because you do have a small amount of
13 space between the brain and the bone itself.

14 Q. So based upon your training and experience, you
15 refer for further treatment?

16 A. Yes, ma'am.

17 Q. And he was ultimately taken to what location?

18 A. Palmetto Health Richland Children's Hospital.

19 Q. Now, you noted previously of his response or
20 reaction during the course of the exam. If you
21 could share with us exactly what you noted in your
22 report.

23 A. His response to it, he spoke very little, only
24 stated that he hurt and that he was hungry.

25 Q. All right. Did you ever observe this child to

1 speak in a full sentence?

2 A. No, ma'am.

3 Q. So he was able to say two words; hurt and
4 hungry?

5 A. (Nods head.)

6 Q. And that's in response to what are you actually
7 doing get -- what are you actually doing to evoke
8 that response from the child and --

9 A. A typical question, especially with a child who
10 can generally answer for themselves, or an adult is,
11 you know, are you hurting anywhere, is anything in
12 particular hurting, does this hurt if you touch
13 them.

14 Q. And he was only able to give a single-word
15 response?

16 A. Uh-huh.

17 Q. Now, what was his physical reaction during the
18 course of the exam?

19 A. He would cringe closing both of his eyes and
20 turn his head away from us.

21 Q. Based upon your training and experience, what,
22 if anything, did that indicate to you?

23 A. Indicates fear or that he's afraid we're going
24 to hurt him.

25 MS. MAYES: I beg the Court's indulgence.

1 THE COURT: Sure.

2 BY MS. MAYES:

3 Q. So you were able to provide initial treatment
4 there in the ambulance prior to Palmetto Health
5 Richland?

6 A. The treatment that he received in the ambulance
7 other than the looking at his injuries was very
8 minimal to keep him calm and keep him still. In
9 Sergeant Cifferi's report, she did the physical exam
10 and allowed the sheriff's department to obtain some
11 photos of him, recorded his vital signs. And it's
12 just supportive care. There's no, you know,
13 outright bleeding or anything that needed to be
14 controlled, so it was more of a transport.

15 Q. All right.

16 MS. MAYES: Nothing further.

17 THE COURT: Cross-examination.

18 MR. CASTO: Yes, sir, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. CASTO:

21 Q. You said that you -- when you saw Minor 1 that you
22 saw both new bruising and old bruising; is that
23 right?

24 A. What appears to be new and old bruising.

25 Q. Okay. And basically, you know, particularly

1 with the old bruising, you know, what about what you
2 saw communicated to you that that was old bruising?

3 A. Just the coloration. Bruising tends to go from
4 brighter to darker. If you get a bruise on your
5 elbow or your knee, by the time it's healed, it's
6 yellowish-green.

7 Q. Okay. So the different colors, you know,
8 different stages of healing; is that a fair
9 statement?

10 A. Yes, sir.

11 Q. Okay. And with regard to, you know, the marks
12 that appeared to be fresher to you; is it possible
13 to say, well, this mark happened within this hour
14 versus earlier that morning? Is it with any
15 certainty?

16 A. No, not from my training.

17 Q. Okay. When you first saw Minor 1 -- and, you
18 know, my understanding of what you do is -- as a
19 paramedic is you basically secure someone before
20 transporting them to, you know, the hospital. Is
21 that right?

22 A. Yes, sir.

23 Q. And so there's kind of a battery of things and
24 there's just a checklist of things that you look at,
25 that you see, that you observe; isn't that right?

1 A. There's a -- we have different standing orders
2 for different things. As a paramedic we do a lot of
3 the same skills that nurses and physicians do within
4 that first 15 minutes; we start IVs, we give them
5 medications, depending on the severity of the
6 injuries for the patient.

7 Q. Tell me this: You know, when you look at a
8 child versus an adult, you know, the way that you
9 check them out, is it -- is it different?

10 A. Yes, sir. For children you start with a
11 toe-to-head survey, where adults is more focused;
12 you're having to put your hands completely on them
13 and survey their whole body, you start at their
14 head. And the reason why we do that is, children,
15 they have stranger anxiety, so we want to observe
16 them from a distance and start our assessment at
17 their feet -- feet and legs and actually, you know,
18 let them become more comfortable with us with time.

19 Q. And that's because, you know, you're taught in
20 your training that children have an -- you know, a
21 fear or anxiety to just strangers; right?

22 A. Yes, sir.

23 Q. And that's why you do it like that; isn't that
24 right?

25 A. Yes, sir.

1 Q. Okay. And, you know, when he turns his head
2 and he cringes, he's looking away, could that have
3 been -- you know, what are the possible reasons that
4 he could have done that?

5 A. It could be from the fear of a stranger
6 interacting with him or he's afraid that we were
7 going to hurt him.

8 Q. Okay. Because he didn't know who you were;
9 right?

10 A. Right.

11 Q. Now, when you saw him, just the main stuff, you
12 know, no -- you said on direct you didn't encounter
13 bleeding, any of that sort, with regard to Minor 1 is
14 that right?

15 A. Yes, sir.

16 Q. He appeared alert; is that right?

17 A. He's awake and alert with nonlabored
18 respirations.

19 Q. Okay. In other words, nonlabored respirations,
20 he can breathe on his own and there doesn't seem to
21 be any problem in that area; right?

22 A. Correct. He's breathing at a normal rate,
23 rhythm and character.

24 Q. Okay. And if you detected or thought that
25 there might have been any, you know, severe injury

1 to the head and neck, I mean, that collar would have
2 gone on and you would have secured him --

3 A. As long as he did not withdraw away from us.
4 If he would let us, basically, do what we needed to
5 do with him, then -- I mean, if they withdraw or
6 pull away from treatment, especially with
7 immobilizing him, you can do more harm by mobilizing
8 him than by not.

9 Q. Okay. And going back to the bruising, one
10 thing that I left out, just specifically with the
11 bruises, you can't directly look at a bruise and say
12 it happened at an exact time; isn't that --

13 A. No, sir, I cannot.

14 Q. And you had an opportunity as responding to
15 this call at EMS to go inside the residence, didn't
16 you?

17 A. Yes, sir.

18 Q. And in your notes you describe the residence as
19 very cluttered; right?

20 A. Yes, sir.

21 Q. With multiple items on the floor?

22 A. Yes, sir.

23 Q. That the patient, or in this case, Minor 1 room
24 did not have a bed but what appeared to be a lawn
25 chair with multiple toys on the floor; isn't that

1 right?

2 A. Yes, sir.

3 Q. Okay.

4 MR. CASTO: I beg the Court's indulgence.

5 BY MR. CASTO:

6 Q. When you saw Minor 1 he was wearing a shirt
7 because, I think, you had to pull it up to observe
8 what you saw; isn't that right?

9 A. Yes. He had on a blue T-shirt.

10 MR. CASTO: Nothing further.

11 THE COURT: Redirect?

12 MS. MAYES: Yes, sir, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. MAYES:

15 Q. To clarify Mr. Casto's question to you about
16 your notation about new and old bruising, what part
17 of the body are you referring to?

18 A. See on his back there's the different
19 coloration of bruising? Also, his legs, there
20 appear to be some different type or different
21 colorations, bruising and some scabbing. And then
22 on his face, especially when you look at his
23 forehead, it appears to be different colorations.

24 Q. All right. And what, if any, evidence of fresh
25 bruising is noted in those same photographs?

1 A. The -- across his back, which would be, I
2 guess, Exhibit 21, you can see the bright redness,
3 they almost look raw. And to his left knee, the
4 same thing, it looks like it's actually a wound and
5 to his left arm.

6 Q. All right. And when we talk about the face,
7 did you have concerns of a fresh injury to the face?

8 A. With the bruising around his eyes, one of the
9 signs of a basilar skull fracture is bruising around
10 the eyes. You get what's called raccoon eyes and
11 it's actually a fracture in the base of a skull.

12 Q. All right. And for example, a boxer in the
13 ring, he's starting to swell and have discoloration
14 of the eyes while still in the ring?

15 A. Uh-huh. It's -- a lot of the -- when you see
16 bruising, especially around the eyes, it's blood
17 collecting in the sinuses or there's ruptured
18 capillaries under the skin.

19 Q. Can you tell us whether or not that can be an
20 indication of fresh injury as well?

21 A. It can be an indication of it or it could be,
22 you know, something that's been there.

23 Q. It can be within the hour?

24 A. Quite possibly.

25 Q. All right. Now the last thing I wanted to ask

1 you about is your notation about the residence. Did
2 you have an opportunity to actually, as Mr. Casto
3 asked you, make a note about Minor 1 room?

4 A. I did. I asked which room was his and actually
5 walked back just to kind observe the bedroom itself.

6 Q. Did he have a bed in that room?

7 A. I don't believe so. I noted what appeared to
8 be a lawn chair.

9 MS. MAYES: Nothing further.

10 THE COURT: Recross?

11 RE CROSS-EXAMINATION

12 BY MR. CASTO:

13 Q. With regard to -- just to be clear, with regard
14 to the raccoon eyes, that could be something that
15 happened within the hour, but it could also be
16 something that happened before that; isn't that
17 right?

18 A. Yes, sir.

19 MR. CASTO: No further questions.

20 THE COURT: Thank you for your testimony. You
21 may step down, sir.

22 (Witness excused.)

23 THE COURT: Mr. Foreman, ladies and gentlemen
24 of the jury, I think we are going to go ahead and
25 recess for the evening.

1 We'll start back at 9:30 in the morning?

2 MS. MAYES: Yes, sir, Your Honor.

3 THE COURT: Is that good with the defense?

4 MR. CASTO: Yes, sir, Your Honor.

5 THE COURT: All right. We'll start back at
6 9:30 in the morning, so be promptly back into your
7 jury room. Again I remind you, don't discuss this
8 case with -- among yourselves or with any friends or
9 family members that you come into contact with this
10 evening. I hope you have a real good evening,
11 restful evening, and we'll see you at 9:30 in the
12 morning.

13 (A recess transpired.)

14 THE COURT: Is everybody ready to bring the
15 jury out?

16 MS. MAYES: Your Honor, we are. Our first
17 witness is sequestered and I believe he may -- we're
18 checking to see if he may be in the restroom.

19 THE COURT: Okay. You want me to wait just a
20 second before I bring the jury out?

21 MS. MAYES: Yes, Your Honor. We do know the
22 witness is here, Your Honor.

23 THE COURT: All right. Let's bring the jury
24 in, please.

25 (The jury enters the courtroom at 9:53 AM.)

1 THE COURT: Good morning. As you can tell, you
2 are minus one juror. Mr. Vyas, I was informed, and
3 I spoke with him in chambers with the lawyers, and
4 he indicated he worked third shift and he was having
5 some difficulties staying awake. And I think the
6 information initially was provided by the foreman to
7 us in that he actually dozed off a time or two
8 yesterday. And, I mean, I can certainly understand
9 that, but it is so absolutely crucial that jurors
10 remain alert and certainly awake, so I have excused
11 Mr. Vyas. And now, Ms. Broom, you're no longer an
12 alternate, so if you'd like to either slide over one
13 or to that seat in front of you, wherever you would
14 like to sit, but you are now on the regular 12
15 jurors.

16 You know, if at any time you need to take a
17 break -- I know it was mentioned to me yesterday we
18 went maybe a little bit longer that last segment
19 yesterday afternoon than we normally do. If you
20 need to take a break, and we're still, you know, in
21 the middle, just raise your hand. We want to make
22 sure that you're comfortable, we want to make sure
23 that you're alert and awake. So just don't
24 hesitate, just raise your hand, and we'll certainly
25 address your needs.

1 Okay. Solicitor, are you ready to get started
2 this morning?

3 MS. MAYES: Yes, sir, Your Honor. The State
4 calls Dan Shearer.

5 KENNETH DANIEL SHEARER
6 being first duly sworn, testified as follows:

7 THE WITNESS: I do.

8 THE CLERK: Once you're seated state your full
9 name spelling your last on the record, please.

10 THE WITNESS: Full name is Kenneth Daniel
11 Shearer, S-H-E-A-R-E-R.

12 DIRECT EXAMINATION

13 BY MS. MAYES:

14 Q. All right. And where are you currently
15 employed?

16 A. Lexington County Sheriff's Department.

17 Q. And what are your current job responsibilities
18 there with the sheriff's department?

19 A. Work with the crime scene unit. I process
20 evidence, process crime scenes, and testify for
21 court.

22 Q. Does that include photo documentation in cases
23 where there has been actual injury to victims of
24 crime?

25 A. Yes, ma'am.

1 Q. And can you tell us in this particular case
2 whether you were involved in photo documentation
3 concerning the victim, Minor 1

4 A. Yes, ma'am, I was.

5 Q. Do you have with you your information regarding
6 your involvement?

7 A. Yes, ma'am.

8 Q. If you could, go ahead and refer to your
9 report. How did you first become notified that you
10 were needed to do photo documentation in this case?

11 A. I was notified by Detective Brian Travis who
12 needed my assistance in getting photographed the
13 evidence of the case.

14 Q. Okay. I need you to pull the microphone a
15 little bit closer.

16 All right. On what date, Investigator Shearer,
17 were you called to respond for the purpose of photo
18 documentation?

19 A. On February 17th, 2013.

20 Q. Now, was that done at the scene or at another
21 location?

22 A. It was done at another location.

23 Q. Okay. What location was that?

24 A. It was at Palmetto Health Richland.

25 Q. All right. And that's because a child had

1 actually been transported to Palmetto Health
2 Richland?

3 A. Yes, ma'am.

4 Q. Okay. And what time did you arrive there for
5 the purpose of taking photographs of Minor 1

6 A. I arrived approximately at 8:30 p.m.

7 Q. Okay. And what time did you depart?

8 A. At approximately 9:05 p.m.

9 Q. Okay. So to clarify, the photos that you took
10 of Minor 1 would have been within this timeframe
11 of 8:30 to 9:05?

12 A. Yes, ma'am.

13 Q. Okay. And that would have followed any
14 photographs that were taken earlier of Minor 1 at the
15 scene in the back of an ambulance?

16 A. Yes, ma'am.

17 Q. Okay. I'm going to show you some photos and
18 ask you whether or not you recognize them.

19 MS. MAYES: I beg the Court's indulgence.

20 THE COURT: Sure.

21 BY MS. MAYES:

22 Q. Can you tell us how you recognize those photos?

23 A. I took these photographs.

24 Q. All right. And in the process of taking the
25 photographs, at any point did you use any type of a

1 ruler or other device?

2 A. Yes, ma'am.

3 Q. All right. That was an instrument used by law
4 enforcement?

5 A. Yes, ma'am.

6 Q. All right. To measure and properly document
7 what you were observing?

8 A. Yes, ma'am.

9 Q. All right. I'm going to show you also what is
10 State's Exhibit 23. And are you familiar with
11 photographs that were taken by the officer at the
12 scene, Adam Spires, State's Exhibits 22 and 37?

13 A. No, ma'am.

14 Q. Okay. As to this particular exhibit, State's
15 Exhibit 23?

16 A. That looks familiar, yes, ma'am.

17 Q. Okay. Can you tell us whether or not that was
18 included in the photos you took at the hospital?

19 A. Yes, ma'am.

20 Q. Are all of those a fair and accurate
21 representation?

22 A. Yes, ma'am.

23 MS. MAYES: Your Honor, at this time we would
24 offer this group of exhibits. It's going to be
25 Exhibit 23 and then 27 through 35.

1 THE COURT: 23, 27 through --

2 MS. MAYES: 36, Your Honor.

3 THE COURT: And what says the defense?

4 MR. DRYLIE: I beg the Court's indulgence for
5 just one moment, Your Honor.

6 THE COURT: Sure.

7 MR. DRYLIE: Without objection, Your Honor.

8 THE COURT: All right. Without objection,
9 State's Exhibit 23 and Exhibits 27 through 36 into
10 evidence.

11 (State's Exhibits 23, 27 - 36 admitted into
12 evidence.)

13 MS. MAYES: Okay. And, Your Honor, we would
14 ask to publish at this time.

15 THE COURT: Certainly.

16 (State's Exhibits 23, 27 - 36 published to the
17 jury.)

18 THE COURT: You may proceed, Solicitor.

19 MS. MAYES: Yes, sir. That is all from this
20 particular witness, Your Honor, with those items in
21 evidence.

22 THE COURT: Okay.

23 All right. Cross-examination?

24 MR. DRYLIE: Just briefly, Your Honor.

25 THE COURT: Sure.

1

2

CROSS-EXAMINATION

3

BY MR. DRYLIE:

4

Q. Investigator Shearer?

5

A. Yes.

6

Q. That's correct, Shearer?

7

A. Yes.

8

Q. Okay. Just to be clear, so your involvement in

9

this case is that you responded to Palmetto Health

10

Richland in order to take photographs; correct?

11

A. Correct.

12

Q. And you took pictures of Minor 1 injuries and

13

you don't know what caused the injuries; correct?

14

A. Correct.

15

Q. And you weren't there when any of those

16

injuries were sustained?

17

A. Correct.

18

Q. You didn't respond to the scene?

19

A. No.

20

Q. Okay. How long have you been working at the

21

sheriff's department?

22

A. A little over five years now.

23

MR. DRYLIE: All right. No further questions.

24

THE COURT: Okay.

25

Any redirect, Solicitor?

1 MS. MAYES: No, sir, Your Honor.

2 THE COURT: Thank you for your testimony. You
3 may step down, sir.

4 (Witness excused.)

5 MS. MAYES: May we approach?

6 THE COURT: Certainly.

7 (Sidebar conference.)

8 MS. MAYES: The State calls Deputy Adam Spires.

9 THE COURT: Okay. And that's being done
10 without objection from the defense.

11 JEREMIAH ADAM SPIRES

12 being first duly sworn, testified as follows:

13 THE WITNESS: Yes, ma'am, I do.

14 THE CLERK: ~ Once you're seated state your name
15 on the record spelling your last again, please, sir.

16 THE WITNESS: Deputy Adam Spires, S-P-I-R-E-S.

17 DIRECT EXAMINATION

18 BY MS. MAYES:

19 Q. Deputy Spires, I'm going to show you two
20 exhibits, they're Exhibits 22 of the State and 37 of
21 the State, and ask you whether or not you recognize
22 those particular photographs.

23 A. Yes, ma'am, I do.

24 Q. How so?

25 A. These are photographs that I took on the

1 incident date of Minor 1 in the ambulance.

2 Q. All right. You previously testified you took
3 photos of him in the ambulance. Were those taken at
4 the same time?

5 A. Yes, ma'am. It was in sequence of each other
6 while we were still at the incident location.

7 Q. While you were still at the scene?

8 A. Yes, ma'am.

9 Q. Prior to his transport to the hospital?

10 A. That's correct.

11 MS. MAYES: This would be 22 for evidence and
12 37 for evidence, Your Honor.

13 THE COURT: And what says the defense?

14 MR. CASTO: Without objection, Your Honor.

15 THE COURT: Without objection, State's Exhibits
16 22 and 37 into evidence.

17 (State's Exhibit Nos. 22 and 37 admitted into
18 evidence.)

19 MS. MAYES: Nothing further of the witness.

20 THE COURT: Any cross from the defense?

21 MR. CASTO: No additional questions for this
22 witness, Your Honor.

23 THE COURT: Thank you for your testimony. You
24 may step down, sir.

25 THE WITNESS: Thank you, Your Honor.

1 THE COURT: All right. The next witness?

2 MS. MAYES: The State calls Dr. Gary Hals.

3 GARY HALS

4 being first duly sworn, testified as follows:

5 THE WITNESS: I do.

6 THE CLERK: Once you're seated state your full
7 name spelling your last, please.

8 THE WITNESS: My name is Gary Hals, H-A-L-S.

9 MS. MAYES: The beg the Court's indulgence.

10 THE COURT: Sure.

11 DIRECT EXAMINATION

12 BY MS. MAYES:

13 Q. Doctor, can you give us some information
14 concerning your educational background and training
15 that led you to become a physician?

16 A. Well, I graduated from UT Southwestern Medical
17 School in Dallas in 1993 and then did residency for
18 four years in emergency medicine at the University
19 of Cincinnati and subsequently in '97 moved down
20 here and have been working at Palmetto Richland
21 since then.

22 Q. All right. And if you could, pull the
23 microphone just a little closer to you.

24 And what exact specialty are you practicing
25 currently in the medical field?

1 A. My residency was in emergency medicine and
2 that's what I've been practicing since I graduated
3 in '97.

4 Q. Can you give us a brief summary or overview of
5 what is meant by the term emergency medicine?

6 A. Basically we're ER docs. We man the emergency
7 department 24/7 and basically take care of anyone
8 that comes through the door.

9 Q. All right. And for how many years have you
10 been working in the field of emergency medicine in
11 emergency rooms?

12 A. I started residency in 1993, so since then.

13 Q. All right. And is there any type of board
14 licensing involved with -- in the field of emergency
15 medicine?

16 A. Yes. There's American Board of Emergency
17 Medicine that you are required by most hospitals to
18 be board-certified through, and you usually do that
19 when you finish residency. So I became
20 board-certified in 1998.

21 MS. MAYES: Your Honor, at this time the State
22 would offer Dr. Gary Hals as expert in the field of
23 emergency medicine.

24 THE COURT: Okay.

25 Any examination by the defense as to this

1 doctor's qualifications?

2 MR. CASTO: No, sir, Your Honor.

3 THE COURT: Okay. The Court will deem Dr. Hals
4 as an expert in the field of emergency medicine.

5 You may proceed.

6 BY MS. MAYES:

7 Q. Now, Doctor, how long have you actually been
8 affiliated with Palmetto Health Richland Hospital?

9 A. Coming up on 17 years.

10 Q. And during this time period have you had the
11 opportunity to treat children who may have sustained
12 injuries as a result of accident?

13 A. Yes, many times.

14 Q. In addition to that, have you also had the
15 opportunity to treat children who had injuries
16 sustained by means that were not accidental or
17 nonaccidental?

18 A. Unfortunately, yes.

19 Q. That would include child abuse?

20 A. Yes; anything from mild to essentially deadly
21 injuries.

22 Q. Doctor, can you tell us whether or not you were
23 working on February 17th of 2013 at the emergency
24 room at Palmetto Health Richland?

25 A. Yeah. I was working in the pediatric area that

1 evening.

2 Q. All right. And do you have with you your
3 records from that event?

4 A. Yes, ma'am.

5 Q. During the course of that evening did you have
6 the opportunity to treat a five-year-old patient by
7 the name of Minor 1

8 A. Yes, I did.

9 Q. Now, when a patient first comes into the
10 hospital, do you immediately see that patient or is
11 there a step or a process known as triage?

12 A. The triage occurs on every patient. It
13 sometimes occurs simultaneously while we're seeing
14 them along with the nurse performing the triage. In
15 many cases the triage nurse performs her triage
16 before we actually see them. Typically when
17 patients come in through the front door, they're
18 triaged, they're brought back, whereas if they come
19 in by ambulance, we're usually seeing them
20 simultaneously.

21 Q. All right. And in this particular case, do you
22 have notations as to what time Minor 1 would have
23 been admitted for treatment or triage there at
24 Palmetto Health Richland?

25 A. Yes. It looks like his arrival time is

1 6:30 p.m.

2 Q. All right. And do you also have notes
3 indicating Minor 1 weight at the time he was
4 admitted?

5 A. Yes. The nurses document that, typically.
6 They have him at 16 kilos which, I think, is about
7 35 pounds.

8 Q. 35 pounds?

9 A. Yes, ma'am.

10 Q. And then once he's actually admitted for
11 treatment, do you have the opportunity, along with
12 other physicians, to actually conduct an exam?

13 A. Yes. The Richland Hospital is a teaching
14 center, so there are residents who are essentially
15 physicians that have graduated medical school but
16 are receiving additional training in the specialty,
17 emergency medicine or pediatrics, in that area, and
18 we see those patients along with the residents.

19 Q. All right. And is dictation prepared as a form
20 of documentation of such an exam?

21 A. Yeah. That's the standard recording of the
22 encounter at this time is dictation.

23 Q. All right.

24 A. So it's performed on every patient.

25 Q. Okay. And in this particular case, do you have

1 with you the signed dictation reflecting your
2 involvement in [Minor 1] medical exam?

3 A. Yes, I do.

4 Q. All right. I'm going to first ask you in
5 general whether you recall this patient.

6 A. Yes, I do.

7 Q. And what, if anything, is significant to you as
8 an experienced emergency medicine physician about
9 the injuries you observed on [Minor 1]

10 A. Basically the significant amount of bruising
11 that he had stood out compared to most other cases
12 I've seen in the past.

13 Q. All right. And, ultimately, can you tell us
14 whether or not there was a finding as to trauma?

15 A. Yeah. He was basically covered in bruises
16 consistent with blunt-type injuries.

17 Q. And when you say blunt-type injuries, you're
18 referring to blunt-force trauma?

19 A. Yes. We refer to trauma as either blunt or
20 penetrating. Penetrating, everybody would be
21 familiar with, you know, lacerations, stabbings,
22 gunshot wounds; things that don't produce those
23 kinds of injuries are basically referred to as blunt
24 trauma. They could be car wrecks or assaults.

25 Q. All right. And in this particular case,

1 Doctor, do you have an opinion as to whether the
2 blunt trauma that you observed on Minor 1 is
3 accidentally acquired or nonaccidental in nature?

4 A. The appearance of the bruising --

5 MR. CASTO: Objection, Your Honor. May we
6 approach?

7 THE COURT: Certainly.

8 (Sidebar conference.)

9 BY MS. MAYES:

10 Q. I want to back up just a little bit more and
11 ask you a few questions about your experience in the
12 field of emergency medicine. You said you've been
13 in that field for 17 years?

14 A. Seventeen years after residency. So counting
15 residency would actually be closer to 21.

16 Q. All right. And during the course of that time,
17 have you had the opportunity to see patients who
18 were victims of assault?

19 A. Many times.

20 Q. And also whether or not the assault victims
21 included victims of child abuse?

22 A. Yes.

23 Q. In a case such as child abuse, what, if any,
24 significance may there be if there's a pattern of
25 injury?

1 A. The pattern of bruising is one of the things
2 you would look at, the type of injury, the
3 explanation given by the caretaker versus the
4 evidence that you see. For example, if they bring
5 you a four-month-old that said that he fell down the
6 stairs, four-month-olds don't crawl, so therefore
7 they couldn't fall down the stairs like an older
8 child might.

9 Q. All right. And how does a physician such as
10 yourself -- when trying to determine the type of
11 trauma that you are treating, how do you go about a
12 determination as to accidental versus nonaccidental
13 trauma?

14 A. There are certain characteristic features you
15 would look for such as bite wounds, pattern of
16 bruising suggesting that someone was hit with a
17 belt, they're called strap injuries, where they have
18 kind of like a circular pattern consistent with the
19 impact, and then just the pattern of bruising
20 overall. Kids typically have a standard set of
21 bruises; they'll come in with some on their shins,
22 their knees, you know, maybe a little bit on their
23 elbows, they can bump their heads on things with
24 toddlers. Once children become older, essentially
25 school-age, those happen much less frequently.

1 Q. All right. And in this particular case
2 concerning Minor 1 can you tell us whether or
3 not you were able to identify a pattern of injury?

4 A. There was many patterns of injuries on him.
5 The most consistent ones are probably ones on his
6 back. They're linear in nature consistent with some
7 kind of a stray object. Typical accidental trauma
8 doesn't occur to someone's back because that's just
9 not an area that gets injured normally.

10 Q. Okay. And, Dr. Hals, I'm going to need a
11 moment to go ahead and pass up some photos. The
12 first group of photos I'm going to show you are
13 State's Exhibits 12, 13, 14, 15 and 37 taken in an
14 ambulance. If you could just take a moment to
15 review those.

16 And the next group of photos I'm going to show
17 you are State's Exhibits 28, through -- actually, I
18 believe these are not in order. But these -- this
19 group of photos I'm going to show you are photos
20 taken at your hospital.

21 Okay. Those groups of photos that you have
22 just looked at, can you tell us whether or not they
23 appear to be a fair and accurate representation of
24 injuries or pattern of injuries that you observed
25 concerning Minor 1

1 A. Yes. Those are what I recall from the
2 encounter.

3 Q. And having reviewed those photographs as well
4 as your own dictation from your examination of **Minor 1**

5 **██████████** can you tell us whether or not you have a
6 notation as to the type of trauma sustained by **Minor 1**

7 **██████████**

8 A. The vast majority of those injuries are
9 consistent with nonaccidental trauma.

10 Q. And when you're referring to nonaccidental
11 trauma, can you tell us whether or not that is
12 inflicted trauma?

13 A. Right. That's what you would think of when you
14 say child abuse.

15 Q. All right. Now, is it possible when you're
16 looking at this constellation of injuries to reach
17 an absolute determination as to the age or timing of
18 each specific injury?

19 A. You can infer ages of bruises. I think
20 everybody's familiar with a bruise on your shin, how
21 it goes through a typical pattern of getting a
22 little bit worse after it happens and then over the
23 next day or so, it's starting to plateau and then
24 fade away and change colors. It's not a scientific
25 process, you can't look at a single bruise and say

1 that it happened 24 hours ago versus 26 hours ago,
2 but you can generalize in terms of it happened
3 today, it happened two days ago.

4 Q. All right. And specifically concerning Minor 1
5 [REDACTED] can you tell us whether or not there was
6 evidence of old or prior injuries prior to the date
7 of your exam?

8 A. He had some bruises that were consistent with
9 something that happened in the last couple days.
10 The majority of what he had actually were consistent
11 with something that was much more recent.

12 Q. All right. And when you say recent, you're
13 referring to injuries that could have occurred that
14 day?

15 A. Probably did occur that day, yes.

16 Q. All right. And just to ask you a few more
17 questions about that, if someone is struck or hit
18 with blunt force, may there be an immediate
19 appearance of an injury?

20 A. Depending upon the velocity that they're hit
21 with, sometimes it can take a few minutes for
22 something to appear or a few hours. But if you're
23 going to leave a bruise, essentially it will show up
24 within a few hours to, you know, half a day.

25 Q. All right. And can redness and markings occur

1 within minutes of an injury?

2 A. Yes. If you get hit with something and you
3 break the capillaries, the kind of little blood
4 vessels in the surface of the skin, they'll bleed
5 immediately which is starting -- beginning to
6 bruise. A bruise is just basically bleeding under
7 the skin.

8 Q. All right. And does that include blows or
9 blunt force to the face and the eye area?

10 A. Yes.

11 Q. Those injuries may appear immediately as well?

12 A. Yes. The face actually has better blood supply
13 than, for example, your foot. So it may take less
14 time to show up on the face than it would if it was
15 something further away.

16 Q. Okay. Now I'm going show you State's Exhibits
17 22, 24 and 28 which are in evidence. 22, Doctor, is
18 the photograph that was actually taken in the back
19 of an ambulance; 23 and 24 are photographs that were
20 taken at the hospital actually between 8:30 and
21 9:05 p.m. What, if anything, having observed the
22 photos that were taken in the ambulance versus the
23 one at the hospital, do you note about any
24 progression of injury?

25 A. You can see that some of the linear bruises

1 have essentially blossomed, to use kind of a
2 layman's term; they've gotten bigger and spread out,
3 which is more consistent with something that's
4 evolving in a more rapid situation, in other words,
5 something that just happened more recently.

6 There's also one area, which you to look a
7 little closely at his left shoulder up near the top
8 where there really isn't a bruise in the ambulance
9 and then later you can see that there is a mark. So
10 that's something you can point to say that it
11 occurred within the time period of the ambulance to
12 the hospital in terms of the appearance.

13 Q. Can you show us specifically what you're
14 referring to?

15 A. It might be difficult to see from back there,
16 but he -- this part of his shoulder there's --

17 THE COURT: If you want to step down in front
18 of the jury, you're certainly welcome to.

19 THE WITNESS: Sure.

20 THE COURT: You need to speak up loud since
21 you're away from the microphone. Okay, Doctor?

22 THE WITNESS: Yes, Your Honor.

23 And if anyone can't see, just let me know. But
24 if you look at the shoulder up here, you'll see that
25 there's really not any marks to speak of up there

1 compared to the lower part. And probably the best
2 example is, here, you can see that mark has appeared
3 where it wasn't there before. So if you kind of
4 have the two of them side by side you can kind of
5 see just looking at that area that this spot up here
6 is essentially not in the other picture.

7 And realistically you can also see that these,
8 if you look closely, have gotten a little bit more
9 pronounced. So these marks in the center of the
10 back have gotten just a little bit bigger. That's
11 more subtle, but it's there.

12 BY MS. MAYES:

13 Q. Thank you. And that progression of injury
14 within a matter of hours indicates what from a
15 medical standpoint?

16 A. That basically you're dealing with something
17 that occurred very recently. And if you wanted me
18 to give a timeframe, I would say within several
19 hours.

20 Q. I'm also going to show you this group of photos
21 taken in the ambulance, 12 through 15, and in
22 comparison with the photos taken at the hospital,
23 ask whether there's any additional observations as
24 to a progression of injury.

25 A. There are several spots on his legs,

1 essentially kind of between the knee and ankle on
2 his left more so than his right that show evidence
3 of the similar kind of pattern on the back where you
4 can see faint marks in the ambulance but you can see
5 more pronounced marks in the hospital.

6 Q. All right. Now I'm also going to ask about the
7 injuries that you've observed specifically around
8 the face area. What stands out about the blunt
9 trauma to the face and head area of Minor 1

10 A. I would say that the thing that stands out is
11 the fact that, you know, both eyes are essentially
12 bruised and there's bruising on his cheek which
13 are -- and also on his ears, which are things that
14 don't normally happen to a child in -- under their
15 own power; in other words, it's something that
16 something would have to have happened to them; in
17 other words, someone did that to them as opposed to
18 them doing it by accident themselves.

19 Q. All right. And do you have an opinion as to
20 whether or not those injuries to the face and ear,
21 as you noted, may be recent injuries?

22 A. They're in a similar appearance as the ones on
23 the other parts of his back and his legs so that
24 also looks like something that happened very
25 recently.

1 Q. Now, you mentioned a linear pattern to the
2 injury. When there is a linear pattern, can you
3 tell us whether or not that may indicate some type
4 of instrument or instrumentation being used?

5 A. Basically when you strike a person and you
6 cause a bruise, whatever you strike them with is
7 going to leave an imprint, more or less. So if you
8 can picture someone being hit with a hand, you can
9 see handprints. Linear patterns such as the ones on
10 his back where they're just real long and straight
11 are consistent with either a belt or some other
12 straight, relatively firm object.

13 Q. I'm going to show you what is State's Exhibit
14 20 depicting some type of stick or natural object.

15 A. Yes.

16 Q. Having observed that object, can you tell us
17 whether or not that type of object could result in a
18 linear pattern of injury such as you observed?

19 A. Certainly it's of the right size and diameters
20 that produce the types of injuries that are seen on
21 his back.

22 Q. Now, Doctor, in dealing with blunt trauma to a
23 child and this constellation and collection of
24 injuries that involve several different parts of the
25 body, how do you go about treating that child's

1 injuries?

2 A. Well, typically you're going to be more
3 concerned about things you can't see versus things
4 you can see. When you see evidence of someone
5 having an injury on the surface of their body,
6 you're concerned about what organs could have been
7 involved underneath there that would require more
8 attention. In other words, if I have a cut on my
9 skin from a car wreck, I'm less concerned about the
10 cut as opposed to the fact that I might have
11 internal injuries that go with it. So the best
12 example, if someone has a cut on their head, you're
13 concerned about the injury to the scalp, but you're
14 more concerned about the injury to the brain.

15 Q. All right. And in this particular case
16 concerning Minor 1 you, as the treating
17 physician, did you have concerns that there could
18 have been injury to his organ systems?

19 A. Certainly when you have that extensive amount
20 of bruising that indicates a lot of trauma, that's a
21 lot of injury that's been departed to the child, and
22 that energy can cause all kinds of problems with
23 internal injuries.

24 Q. And how do you go about assessing that or
25 ruling out that risk of injury actually resulted in

1 a laceration of an organ or something of that
2 nature?

3 A. You basically have to obtain data that's going
4 to show it's not there. In these situations you
5 consider them essentially having these injuries
6 until you prove they're not there. So, for
7 instance, you'd get X-rays of his leg if you're
8 concerned about fracture, you would have to get a
9 CAT Scan of his head if you're concerned about
10 injuries to his brain or his skull.

11 Q. All right. And can you tell us, in this
12 particular case while Minor 1 was hospitalized,
13 did he receive CT Scan of the head?

14 A. Yes. We actually ordered those in the
15 emergency department. And then he also got what's
16 called a skeletal survey, which is basically an
17 X-ray of your entire bones, all of them, to look for
18 any evidence of acute fractures versus something
19 that may have also healed in the past.

20 Q. And can you tell us whether or not that
21 skeletal survey was ordered due to the risk of
22 injury, based on your observations?

23 A. Yes. It's basically a standard thing you do
24 when you bring in a child that's suspected of having
25 undergone nonaccidental trauma.

1 Q. Now, Doctor, in blunt trauma that results in,
2 for example, blows or hitting or some type of
3 mechanism, a force that can actually be heard from
4 outside of a residence, what is significant about
5 that?

6 A. It basely tells you that there's enough force
7 involved to cause the sound to penetrate the walls
8 that -- and so someone could hear it --

9 MR. CASTO: Objection, Your Honor. I believe
10 that if he testified to that, it would be
11 speculation.

12 THE COURT: Solicitor, would you repeat -- I
13 had a little hard time hearing that question. Would
14 you repeat the question?

15 And, Doctor, don't respond until I rule on this
16 objection.

17 MS. MAYES: Yes, sir, Your Honor.

18 THE COURT: Thank you.

19 BY MS. MAYES:

20 Q. When you have an injury -- an injury from a
21 blow or a strike that is heard from outside the
22 residence, what, if anything, does that suggest
23 about the mechanism of blunt force?

24 THE COURT: And the nature of your objection,
25 Mr. Casto, is what.

1 MR. CASTO: It's basically speculation. We're
2 getting into things that were heard and the like,
3 and I don't believe that -- I mean, with something
4 like that, it's -- it's entirely just speculative.
5 I think it's beyond the scope here and there's just
6 too many variables to generally speak about that in
7 just general terms and principal. I think it's
8 highly speculative with regard to these questions,
9 Judge.

10 THE COURT: Solicitor, do you want to respond?

11 MS. MAYES: Yes, sir. We do believe it's part
12 of his -- the diagnosis and treatment. We believe
13 it's within the scope of his training and
14 experience.

15 THE COURT: I think -- let's do this: Let's
16 take a very short morning break so we can discuss
17 this further.

18 Mr. Foreman and ladies and gentlemen of the
19 jury, let's take a short recess and we'll get you
20 back here momentarily.

21 (The jury retires to the jury room at 10:43
22 AM.)

23 THE COURT: Okay. Let's deal with this
24 objection. Solicitor, repeat one more time the
25 question and let me try to get a good handle on

1 where we are on this.

2 MS. MAYES: Okay. And, Your Honor, I can
3 actually back up. I believe he's already testified
4 to this, but just in the context of where the
5 question is coming from.

6 DIRECT EXAMINATION

7 (In Camera)

8 BY MS. MAYES:

9 Q. Doctor, I believe your testimony was about
10 blunt trauma and you had mentioned assaults. But
11 what are some examples of blunt trauma?

12 A. Just being struck with any objection; a fist, a
13 baseball bat, you know, a stick, a rock, a foot.

14 Q. All right. In a situation where blunt trauma
15 can be heard from a distance such as outside of a
16 residence, what, if anything, does that suggest or
17 what, if anything, does that indicate concerning the
18 mechanism of force?

19 A. It just speaks to a larger force being involved
20 to make a sound that's going to carry that distance.

21 Q. And can -- or could that type of blunt trauma
22 result to injury to an organ system?

23 A. Absolutely.

24 THE COURT: All right. Mr. Casto, do you want
25 to speak to that?

1 MR. CASTO: Thank you very much. The reason
2 the State offered for that testimony is this: You
3 know, this hypothetical could you have heard or
4 anything like that, well, really the reason that the
5 State offered that was basically for treatment.

6 But, you know, my understanding from his
7 testimony is that he's -- with treatment it's going
8 to be based on, you know, what he observed himself
9 and then run a battery of tests from there to rule
10 out things and whatnot. And basically this is just,
11 we feel, too speculative with regard to what he's
12 testified, because now we're in the realm of, well,
13 somebody heard something and -- and I think it's too
14 far.

15 THE COURT: I mean, I almost tend to agree with
16 Mr. Casto, certainly with all due respect to this
17 doctor and his expertise and qualifications. For
18 him to pretty much say that this trauma could have
19 been heard outside of a mobile home trailer is, I
20 think, maybe going a little bit far afield in what
21 he's actually able to testify to.

22 Solicitor, do you want to comment on that?

23 MS. MAYES: Your Honor, I believe I might
24 could, if I can go ahead and proffer a question that
25 is different in nature but still, I believe, is

1 relevant to the issue of our requirements under the
2 moderate bodily injury statute. And, again, a lot
3 of this is related to the wording of that statute
4 and our requirement, pretty much, to meet those
5 elements. So I can ask a different type of
6 question.

7 THE COURT: Okay. Try it differently and let's
8 see if it maybe works out better for you.

9 BY MS. MAYES:

10 Q. In addressing blunt force trauma, can you tell
11 us whether or not that can include strikes?

12 A. Yes.

13 Q. Can it include a child being pushed or shoved?

14 A. Certainly.

15 Q. Can it include blunt contact with an object
16 such as a wall?

17 A. Yes.

18 MS. MAYES: That would be it, Your Honor.

19 THE COURT: Okay. I'll certainly allow that.
20 But I think as far as getting him to get into the
21 area of being able to hear that type of activity
22 from outside a mobile home is probably going a
23 little bit too far, and I will not allow that. But
24 that last proffer you made certainly I think would
25 be admissible, and I'll allow it.

1 Let's take about five minutes before we bring
2 the jury back out.

3 (A recess transpired.)

4 THE COURT: Bring the jury back out, please.

5 (The jury enters the courtroom at 11:02 AM.)

6 THE COURT: Let the record reflect the jury is
7 back in. And I understand, Mr. Foreman, ladies and
8 gentlemen of the jury, that it's a little warm back
9 in that jury room. That problem has been reported
10 to the building maintenance folks, and hopefully
11 they'll get to that shortly for you. Okay? So just
12 bear with us. Okay?

13 All right. Solicitor, you may proceed with
14 your direct examination of Dr. Hals.

15 MS. MAYES: Yes, sir, Your Honor.

16 DIRECT EXAMINATION

17 BY MS. MAYES:

18 Q. Dr. Hals, you had previously testified as to
19 blunt trauma that you observed on the patient, Minor 1

20 [REDACTED] Can you tell us whether or not blunt trauma
21 includes assault?

22 A. Yes, it does.

23 Q. And what are some types of assault that may
24 result in blunt trauma?

25 A. Being struck with fists, other objects, kicked,

1 choked.

2 Q. All right. Can you tell us whether or not
3 blunt trauma can result as -- can result from being
4 struck with an object?

5 A. Absolutely.

6 Q. Can it result from a child being pushed or
7 shoved?

8 A. Yes.

9 Q. And can it result from a child having blunt
10 trauma with an object such as a wall?

11 A. Yes.

12 Q. When we talk about blunt trauma to a patient
13 who weighs 35 pounds and is the size of Minor 1
14 what, if any, risk is present for injury to organs
15 or an organ system?

16 A. It's quite common that the liver which is
17 basically under your right side under your ribs is
18 injured. That's typically -- when people hear
19 internal injuries, that's one of the things, the
20 liver and spleen, that are injured that can produce
21 dangerous bleeding and certainly be fatal.

22 Q. Are the eyes an organ?

23 A. Yes.

24 Q. Is the brain an organ?

25 A. Yes.

1 Q. Are bones of the body part of an organ system?

2 A. Yes.

3 Q. And what organ system is that?

4 A. The skeletal system.

5 Q. And I think you testified previously that a
6 skeletal survey was ordered?

7 A. Yes; to look for evidence of a previous
8 fracture or something that had happened that day.

9 Q. And a CT Scan or a head radiology exam was
10 ordered?

11 A. Right. That's to ascertain for skull fracture
12 and brain injury.

13 Q. What, if any, risk to the eyes or brain is
14 present based on the injuries you observed to Minor 1
15 [REDACTED] face and head?

16 A. Based on the pictures, the eyes themselves were
17 not considered to be at high risk, although he
18 didn't require examination by an ophthalmologist
19 later to ascertain for retinal injury which can't
20 always be obtained, you're not going to see that on
21 a CAT Scan or just looking at them.

22 Q. All right.

23 A. The other thing is you would have to be worried
24 about, you know, brain injuries, skull fractures,
25 either that day or previous.

1 Q. All right. And could any of those things have
2 occurred from the blunt trauma you witnessed on Minor 1

3 [REDACTED]

4 A. Absolutely.

5 Q. And could a skeletal fracture have occurred
6 based on the blunt trauma you observed on Minor 1

7 [REDACTED]

8 A. Yes. We were actually expecting to find
9 something.

10 MS. MAYES: I beg the Court's indulgence.

11 THE COURT: Sure.

12 BY MS. MAYES:

13 Q. Do you see in the nurse's notes, Dr. Hals, on
14 the eventual discharge date for Minor 1 [REDACTED] why was
15 he kept at the hospital for several days?

16 A. For several reasons; one, to provide him a safe
17 place to be immediately. But the main reason is to
18 look for any kind of injuries or any things that may
19 have developed over the coming 24 to 48 hours. Even
20 if you think about someone being in a car accident
21 or being assaulted and having internal injuries,
22 those don't always show up on a CAT Scan right away,
23 especially if they're injuries to the intestine.
24 Those are things that you need to observe for that
25 can be very significant that may take a day or so to

1 turn up.

2 MS. MAYES: Nothing further, Your Honor.

3 THE COURT: Cross-examination from the defense?

4 MR. CASTO: Yes, sir, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. CASTO:

7 Q. Is it Dr. Hals?

8 A. Yes, sir.

9 Q. All right. Dr. Hals, how are you today?

10 A. Good.

11 Q. Now, to get a running start, you know, part of
12 what you know about this case is based on, you know,
13 the information that was relied to you; correct?

14 A. Yes, sir.

15 Q. And the other part is basically your
16 observations; right?

17 A. Yes.

18 Q. Okay. And you mentioned observations that you
19 made in looking at Minor 1 and you described some
20 injuries that appeared to you as older; right?

21 A. Yes.

22 Q. Some others appeared to you as marks that were
23 more recent; is that correct?

24 A. Correct.

25 Q. Well, I want to speak with you briefly about

1 the marks that appeared to you as older --

2 A. Okay.

3 Q. -- and just make sure that I'm understanding
4 what you're saying.

5 Now, you noticed that there were marks in
6 different stages of healing. How do you -- how do
7 you know that?

8 A. Just basically based on the color of the
9 bruise. I think everybody is familiar with the
10 pattern a bruise goes through where it's initially
11 darker and then it fades and turns more yellow as
12 the blood products are breaking down in the skin and
13 then reabsorbed.

14 Q. And, you know, you had testified on direct that
15 it's tough with an older bruise or what have you to
16 conclusively say, well, you know, this injury
17 happened four days ago; is that correct?

18 A. Right. You end up with a range of time to work
19 with as opposed to a specific number.

20 Q. Okay. These marks that appear older to you,
21 did some appear a few days old or a few weeks old --

22 A. Typically --

23 Q. -- or both?

24 A. Typically, when I would say fresh versus old,
25 fresh would be within, you know, the 12 to 24 hours,

1 and older would be something of, you know, the
2 two-to-three-day range. And there were a couple of
3 bruises on him that were consistent with the
4 two-or-three-day range.

5 Q. Okay. Older, two-to-three-day range; newer,
6 that 12-to-24-hour window?

7 A. Right. I mean, it could be as recent as, you
8 know, a few hours ago, but something that occurred,
9 like, in that 24-hour period.

10 Q. Within that 24-hour block of time; is that a
11 fair statement?

12 A. Yes.

13 Q. All right. Now let's talk about **Minor 1** general
14 health.. You know, when you saw **Minor 1** that day, you
15 saw him on the 17th of February; is that correct?

16 A. Yes, sir.

17 Q. And with when you saw him, that he was awake, I
18 believe; right?

19 A. Yes.

20 Q. He was alert?

21 A. Yes.

22 Q. He was oriented to his surroundings?

23 A. Usually when we say oriented, that means that
24 they know where they're at, like at a hospital as
25 opposed to a grocery store. But since he wasn't

1 speaking, I would just say that he was awake and
2 alert.

3 Q. Okay. I mean, it was learned that [Minor 1] was
4 developmentally delayed; right?

5 A. Right. We just didn't have that information
6 when he first arrived.

7 Q. Okay. There were other tests performed on him
8 to check him out, as I understand, as part of kind
9 of a battery to make sure; right?

10 A. Yes, sir.

11 Q. Particularly in this, I believe that his vital
12 signs were good when you saw him; correct?

13 A. Correct.

14 Q. This would include, you know, heart rate,
15 pulse; correct?

16 A. Blood pressure. And usually, like I said,
17 oxygen level measurement.

18 Q. Okay. Was he able to breathe on his own when
19 you saw him?

20 A. Yes.

21 Q. Was he able to walk on his own when you saw
22 him?

23 A. I don't know that I specifically ever saw him
24 walking, but he was able to stand up.

25 Q. One thing that you noted that -- in your notes

1 that **Minor 1** was possibly emaciated. Is that what you
2 noted?

3 A. Right. That was -- basically this report was
4 dictated by Dr. Kim under my supervision. So these
5 are actually his words. I sign it after he
6 evaluates it to ascertain that I agree with what
7 he's written down. But I think I wouldn't
8 necessarily use the word emaciated. That would
9 imply that he was underweight where I think he's in
10 more of kind of like the middle of the weight zone
11 that you would expect for a child that age.

12 Q. Okay. When we talk about emaciated, what are
13 we speaking about?

14 A. Usually somebody who's malnourished, who's
15 going to be showing signs of that where they don't
16 have the normal amount of, you know, fat under their
17 skin or muscle structure. They're going to be just
18 basically underweight for their given age and size.

19 Q. And the other doctor, as I understand, used
20 that word; right?

21 A. Right.

22 Q. But that's not necessarily the word that you
23 would use; right?

24 A. No, not given the pictures and what I recall
25 from the exam.

1 Q. I mean, you did indicate just now that he is
2 somewhat behind, but perhaps not fully emaciated; is
3 that right?

4 A. I think at the time we didn't calculate like a
5 body mass index which is basically, you know, how
6 much you should weigh and the range of your size
7 what. But I would just say that I would
8 characterize him as average or lower average.

9 Q. I understand. And then these injuries you
10 stated on direct, that these were nonpenetrating
11 injuries; is that right?

12 A. Right. They were not resulting in lacerations
13 or holes in the skin.

14 Q. Okay. One thing that you did note on direct
15 was that there was a CT Scan that was performed; is
16 that right?

17 A. Yes, sir.

18 Q. Did that reveal any fractures, damage, anything
19 of that nature?

20 A. No. It was read as normal.

21 Q. The same thing, there was testing that looked
22 at his full skeleton?

23 A. Correct.

24 Q. And the results of that test were also normal?

25 A. Yes, sir.

1 Q. All right. You also -- I believe there was
2 some followup with regard -- that you testified on
3 direct that they checked out his eyes and that that
4 came back as normal as well; is that right?

5 A. Yes. I'd have to double-check in the records,
6 but that's my recollection.

7 Q. So you didn't observe any current fractures at
8 that time; right?

9 A. That's correct.

10 Q. And you didn't observe any fractures that
11 appeared to be older ones that may have, you know,
12 been a broken bone that -- but that healed?

13 A. Right. On the X-rays they didn't see any
14 evidence of that. Typically it would be like a rib
15 fracture or something where it's not something you
16 can appreciate by looking or feeling them, but you
17 can see it on the X-ray that it's happened.

18 Q. But you did, obviously, you know, look at and
19 you really did notice, you know, those marks all on
20 the back and all that, and that was really the area
21 that you looked at chiefly?

22 A. Well, we examined all of them, but the ones on
23 the back probably stood out as more pronounced.

24 MR. CASTO: I beg the Court's indulgence.

25 THE COURT: Sure.

1 MR. CASTO: No further questions.

2 THE COURT: Redirect?

3 MS. MAYES: Yes, sir, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. MAYES:

6 Q. Just to clarify on that, Mr. Casto was asking
7 you about the fact that ultimately the skeletal exam
8 was normal.

9 A. That's correct.

10 Q. All right. And that an ophthalmologist had
11 been referred or consulted with due to the risk of
12 retinal injury --

13 A. That's correct.

14 Q. That was also normal based on your
15 understanding?

16 A. Correct.

17 Q. Does the fact that ultimately those exams were
18 normal, does that mean there was never a risk to the
19 organ systems?

20 A. No. It's -- in that situation you would have
21 to do that to look for things that you can't
22 ascertain any other way. And it's actually quite
23 common in situations like this to have those kinds
24 of injuries. So it's just more of a standard test
25 that you have to look at because you can't see it

1 otherwise.

2 Q. All right. And the back injuries that he was
3 asking you about, the back injuries as well, can you
4 tell us whether or not that posed a risk to an organ
5 system?

6 A. Yes. Probably less so than being struck in the
7 front. But your kidneys are located towards the
8 back and, obviously, your spine is there, it's
9 fairly well protected, but it can certainly be
10 injured.

11 Q. Now, one of the things he asked you about was
12 the notation about **Minor 1** being developmentally
13 delayed. Is it routine or common for a treating
14 physician to attempt to interact or actually speak
15 with a patient?

16 A. Certainly.

17 Q. All right. In this particular case looking at
18 the dictation was there any notation as to whether
19 **Minor 1** was speaking or not speaking?

20 A. I believe it's noted that he didn't speak. And
21 I remember that he really didn't say anything the
22 entire time we were with him.

23 Q. So based upon your observations, his
24 developmental delays included communication delays?

25 A. Right. It's possible that in the setting he

1 was in, he could have been intimidated in not
2 wanting to speak. But the amount of time that he
3 was there with us and the interaction with the
4 nurses over time, typically that's not something
5 that would happen just from being timid.

6 Q. Thank you.

7 MS. MAYES: Nothing further.

8 THE COURT: Recross?

9 MR. CASTO: The beg the Court's indulgence.

10 RE CROSS-EXAMINATION

11 BY MR. CASTO:

12 Q. Just briefly, when you performed the battery of
13 tests as you note just to kind of check out Minor 1
14 those tests included, you know, looking at the
15 skeletal system; right?

16 A. Yes, sir.

17 Q. And that came back as clear; right?

18 A. That's correct.

19 Q. And checking out the eyes, that came back as
20 clear as well?

21 A. Right.

22 Q. The one thing that was noted was a slight
23 deformity in the head, but that appeared older; is
24 that correct?

25 A. Right.

1 Q. Thank you.

2 THE COURT: Thank you for your testimony,
3 Doctor. You may step down.

4 MS. MAYES: We would ask that Dr. Hals be
5 excused, Your Honor.

6 THE COURT: Certainly.

7 Without objection?

8 MR. CASTO: No objection, Your Honor.

9 THE COURT: Okay. Thank you.
10 You are excused from the courthouse.

11 (Witness excused.)

12 THE COURT: Call your next witness, Solicitor.

13 MS. MAYES: The State calls Cory Pertz.

14 CORY PERTZ

15 being first duly sworn, testified as follows:

16 THE WITNESS: I do.

17 THE CLERK: Once you're seated state your full
18 name spelling your last on the record, please.

19 THE WITNESS: Cory William Pertz, P-E-R-T-Z.

20 DIRECT EXAMINATION

21 BY MS. MAYES:

22 Q. All right. And tell us a little about
23 yourself, Mr. Pertz. Where are you currently
24 employed?

25 A. Lexington County DSS.

1 Q. All right. And what led you to the field of
2 working with the Department of Social Services?

3 A. I was hired right after I got out of graduate
4 school.

5 Q. All right. And how long have you been a
6 caseworker with the Department of Social Services?

7 A. Since May of 2012.

8 Q. Now tell us a little bit about specifically the
9 type of work you do at the Department of Social
10 Services.

11 A. I'm a foster care case manager.

12 Q. Now, when you use the term such as foster care,
13 you're referring to children who are removed from
14 their original or natural home?

15 A. That is correct.

16 Q. Can you tell us how you became involved in the
17 case concerning Minor 1

18 A. I was actually on call at the time. I received
19 a call on Sunday, February 17th stating that two
20 children were being medically transported to
21 Richland Hospital.

22 Q. All right. And February 17th is, of course,
23 the incident date. The two children you're
24 referring to would be Minor 1 -- and who is the
25 second child?

1 A. [Minor 2]

2 Q. All right. And that was the infant who was
3 also in the home?

4 A. Yes.

5 Q. Now, where did you actually go once you got
6 that call on Sunday evening?

7 A. I was told to go directly to the hospital as
8 they were transported there.

9 Q. And did you actually lay eyes on [Minor 1]
10 that night at Palmetto Health Richland?

11 A. I did. I laid eyes on [Minor 1] and [Minor 2]
12 [redacted]

13 Q. There's been testimony about a police officer
14 being there for photo documentation. Were you
15 present for that?

16 A. I did meet an investigator there by the name of
17 Brian Travis. I think later there were two officers
18 that came and did photographs.

19 Q. So you were there and present at the hospital
20 throughout that?

21 A. Yes.

22 Q. Was that your first meeting with [Minor 1]
23 there at the hospital that night?

24 A. Yes, it was.

25 Q. In that particular situation, had [Minor 1]

1 actually been placed into the Department of Social
2 Services' custody at that point?

3 A. At that point he was not placed in custody of
4 Department of Social Services. In talking with
5 Brian Travis, he stated that --

6 MR. CASTO: Objection; calls for hearsay.

7 THE COURT: Do not testify as to what
8 Mr. Travis told you. You can testify as to what you
9 did as a result of your conversation with Brian
10 Travis.

11 THE WITNESS: Yes, sir.

12 THE COURT: Sustained.

13 A. We did not place Minor 1 in the Department
14 of Social Services. We ex parted him on Tuesday, I
15 believe, that following Tuesday.

16 Q. And when you use a term such as ex parte,
17 you're referring to a legal proceeding?

18 A. That's correct.

19 Q. And ultimately through that legal proceeding,
20 did the Department of Social Services obtain legal
21 custody of Minor 1 following his hospitalization?

22 A. Yes; both Minor 1 and Minor 2

23 Q. Now, that night at the hospital when you
24 actually met Minor 1 did you attempt to communicate
25 with him?

1 A. I did. I tried to engage him in conversation..

2 Q. All right. And what can you tell us about
3 that?

4 A. At first **Minor 1** was kind of to himself, he didn't
5 really want to interact with anybody. About the
6 time that we started taking pictures of his bruises
7 and things, he started to open up a little bit. I
8 did try to engage him that there were pictures
9 around the wall saying, what's that, and he would
10 say dog --

11 MR. CASTO: Objection; calls for hearsay.

12 THE COURT: Right. Don't repeat what the child
13 told you.

14 THE WITNESS: Okay.

15 Q. Let me ask you this: Was he ever able to
16 communicate in sentences with you?

17 A. No. He would give one-word answers, repeating
18 things, never speaking in full sentences.

19 Q. Okay. If you -- if you posed any type of
20 question to him in a question format, was he ever
21 able to give you a structured sentence?

22 A. He would not.

23 Q. Okay. And ultimately was it determined once
24 the Department of Social Services obtained legal
25 custody of him that he was special needs or

1 developmentally delayed?

2 A. That is correct.

3 Q. Does that include his communication skills?

4 A. Yes.

5 Q. Now, you've testified about being a foster care
6 worker. Has **Minor 1** been placed into foster care?

7 A. Yes. He was placed in foster care the Tuesday
8 following the incident when he was ex parted, and he
9 was placed into a special needs therapeutic foster
10 care.

11 Q. It's a therapeutic foster care home for
12 children who are special needs?

13 A. Yes.

14 Q. During your investigation, did you learn
15 whether **Minor 1** who was age five at the time of this
16 incident on February 17th, had he ever received any
17 type of formal schooling?

18 A. Not to my knowledge.

19 Q. And is that part of what you research and look
20 into as a foster care caseworker?

21 A. Yes. We tried to look into his school records;
22 we could not find any.

23 Q. And that includes kindergarten and preschool?

24 A. Yes.

25 Q. Was **Minor 1** potty trained at the time?

1 A. He was not potty trained; he was still in
2 Pull-Ups.

3 Q. And now that he's in foster care, is he
4 developing in that realm of being potty trained?

5 A. Yes.

6 MS. MAYES: I beg the Court's indulgence.

7 THE COURT: Sure.

8 BY MS. MAYES:

9 Q. You are, as a caseworker, familiar with the
10 term forensic interview; correct?

11 A. Yes.

12 Q. All right. Were you able to refer Minor 1 for a
13 forensic interview in this case?

14 A. We did not refer him for forensic interview.

15 Q. And for what reason?

16 A. Just based on his communication skills and him
17 processing things, I did not think it was
18 appropriate. And he -- we wouldn't get anything out
19 of a forensic interview, based on his communication
20 skills.

21 Q. And in other words, a forensic interview
22 requires the ability to communicate?

23 A. Yes.

24 MS. MAYES: Nothing further, Your Honor.

25 THE COURT: Cross-examination?

1 MR. CASTO: No questions for this witness, Your
2 Honor.

3 THE COURT: Thank you for your testimony. You
4 may step down.

5 (Witness excused.)

6 THE COURT: You may proceed, Solicitor.

7 MS. MAYES: At this time, the State does rest.

8 THE COURT: Okay.

9 All right. Mr. Foreman, ladies and gentlemen
10 of the jury, there's a few legal matters at this
11 stage of this trial that we need to tend to, so I'm
12 going to ask that you retire to your jury room. I
13 don't know if they've fixed that temperature problem
14 yet, but hopefully they have.

15 Again, I remind you not to discuss this case
16 among yourselves or anything about this case, and
17 we'll bring you back out shortly.

18 (The jury retires to the jury room at 11:27
19 AM.)

20 THE COURT: Okay. Any motions?

21 MR. CASTO: Yes, sir. We do have a motion at
22 this time, Your Honor. We would move for a directed
23 verdict. You know, when we look at the evidence in
24 the case, we're looking at the existence thereof and
25 not its weight.

1 The State has failed to carry their burden of
2 proof in this case. Our analysis, Your Honor, to
3 make this argument is twofold; particularly that
4 there's no evidence that Courtney, you know,
5 physically put this child in such harm that it rose
6 to the level of assault and battery second degree,
7 Your Honor. Really what we have here is a mere
8 suspicion of guilt. But as the Court knows and has
9 likely read, that's simply not enough to make it
10 past the directed verdict stage, Your Honor. Really
11 what we have is somebody, you know, who was there.
12 And we acknowledge and we admit that Courtney
13 Woodard was there. And so at the most, Your Honor,
14 we have a mere presence situation here. People
15 heard things, there is some, you know, debatable
16 testimony about what people may or may not have
17 seen.

18 But, basically, much of the evidence, nobody
19 can say for sure exactly what was going on in that
20 house, and so therefore there's been no testimony
21 whatsoever with regard to the key link between
22 Courtney and these injuries. It puts her in the
23 house, she's there, but with these lacerations or
24 these whips and marks and things of that nature,
25 that there is a disconnect that the State has not

1 linked up in this case that raises a mere, you know,
2 suspicion, Your Honor. But that does not -- that is
3 not high enough, from a legal standpoint, to, you
4 know, survive a directed verdict motion, Your Honor.
5 That's where it falls.

6 The other issue is this: These injuries, when
7 we look at these particular injuries, the second
8 argument is that they do not rise to the level of
9 assault and battery in the second degree. I believe
10 it was the doctor who said that these were
11 nonpenetrating injuries, that he wasn't, you know,
12 bleeding profusely, that they were just on the skin.
13 He even said, you know, there weren't any holes or
14 rips in the skin itself, Your Honor. We would
15 propose that it becomes a slippery slope when we
16 look at, you know, injuries in a basic fist fight
17 because I think then when he we have these
18 hypotheticals going on, you know, I can't imagine a
19 single time where a basic fist fight between two
20 people that somebody just couldn't say, well, you
21 know, basic fist fight between two people, somebody
22 punches somebody and then, you know, hey, that could
23 have resulted in moderate bodily injury. I think
24 that under that standard, that becomes a slippery
25 slope. So it must be something more than that. And

1 I don't think that we have it in this case, Your
2 Honor.

3 For those reasons, we believe that -- we move
4 for the Court to grant a directed verdict. The
5 other -- the mom of these kids, wholly differently
6 situated; she is the mother of the children, number
7 one, she's confessed, number two, quite honestly now
8 she's pled guilty, but she confessed, she admitted
9 it. They don't have anything with regard to that
10 with regard to Courtney, Your Honor. And for those
11 reasons, we'd move for directed verdict.

12 THE COURT: Okay. Thank you very much,
13 Mr. Casto.

14 Solicitor, do you want to respond to Defense
15 motion for a directed verdict or acquittal?

16 MS. MAYES: Yes, sir, Your Honor. The State's
17 position is that the burden of proof has been at
18 least some substantial evidence, if not more, has
19 been presented at this time through the multiple
20 witnesses.

21 First, there is the concept, Your Honor, of
22 hand of one, hand of all, accomplice liability,
23 which is the law of South Carolina. In this
24 particular case there's ample evidence through the
25 witness who could hear the events that both females

1 in the home -- and there's been testimony that the
2 only two adult females in the home were this
3 defendant and the codefendant, Heidi Oberg. The
4 testimony from the witness is that both females were
5 interacting with one another regarding these events
6 that were taking place with comments such as, throw
7 him against the wall, hold his head down, and the
8 statement that the State alleges came directly from
9 the defendant Courtney Woodard which is, does your
10 mom hit you like this, to which the testimony was, a
11 second voice said, don't break a wall. And, Your
12 Honor, that evidence alone, regardless of whether
13 Courtney Woodard ever delivered a blow herself,
14 certainly indicates accomplice liability and her
15 participation as -- under the hand of one, hand of
16 all doctrine.

17 In this case it would rise to the level of
18 assault and battery second degree because there has
19 been, again, ample evidence from Dr. Hals that the
20 injuries were multiple and covered multiple body
21 parts; the face, ear, eyes, front and back, and that
22 they were multiple in nature. His testimony was
23 that that constellation of injuries, in his medical
24 opinion, created a risk of injury to an organ system
25 which could have included the brain, kidneys, liver

1 or skeletal system. As a result of that risk of
2 injury, he actually ordered skeletal survey as well
3 as CT Scans.

4 And, Your Honor, the statute only requires that
5 there could have been a risk of moderate bodily
6 injury, not that moderate bodily injury must occur
7 as a result, only that there is the risk of that
8 injury. There was also testimony that **Minor 1** weighed
9 35 pounds and that various forms of blunt trauma
10 could have resulted in such injury, whether that was
11 striking a wall, being pushed or shoved or being
12 stricken with an object of some sort.

13 THE COURT: Thank you very much, Solicitor.

14 Well, of course the Court is bound to view the
15 evidence, direct and any substantial circumstantial
16 evidence, in the light most favorable to the State
17 and determine if there exists any direct or
18 substantial circumstantial evidence.

19 The Court finds that there has been. We have
20 testimony from Colin Piselli, direct evidence that
21 he did view the defendant push the child,
22 circumstantial evidence being the interaction
23 between the two females in the home and what was
24 heard by the witnesses who testified, and then
25 lastly, the existence of moderate or possible

1 moderate injury that caused this doctor some concern
2 that required him to order those tests. I think
3 there's enough to survive the motion for directed
4 verdict and the same is respectfully denied.

5 All right. Mr. Casto, what is your plan for --
6 you had indicated yesterday that it was your
7 intention to put up a case.

8 MR. CASTO: Yes, sir. That's still our intent.

9 THE COURT: Okay. Let me go ahead and -- at
10 this stage I'll need to place your client under oath
11 and advise her as to her rights to testify or not
12 testify. And you can either tell me now or she can
13 tell me now that she plans to testify or not testify
14 or we can reserve that, but at least the
15 instructions have been given. Give me just one
16 moment so I can pull that up.

17 MR. CASTO: Yes, sir, Your Honor.

18 THE COURT: And you may want to explain to her
19 what I'll be doing while I'm pulling this up if you
20 haven't already.

21 MR. CASTO: We're ready, Your Honor.

22 THE COURT: All right. Madam Clerk, will you
23 swear the defendant in, please.

24 COURTNEY WOODARD

25 being first duly sworn, testified as follows:

1 THE DEFENDANT: Yes, I do.

2 EXAMINATION BY THE COURT

3 (In Camera)

4 Q. Ms. Woodard, at this time I'm going to explain
5 to you certain of your rights. If you do not
6 understand anything I say, please let me know; if
7 you want me to explain anything in more detail,
8 please let me know that as well. Do you understand?

9 A. Yes.

10 Q. Okay. And speak up a little bit. Okay?

11 A. Okay.

12 Q. We've now reached the stage of the trial where
13 you may present your defense. And your attorneys
14 have indicated to me that the defense will put up a
15 case.

16 You have the right to claim the protections
17 given to you by the Fifth Amendment to the
18 Constitution of the United States. This amendment
19 states in part: No person shall be compelled in any
20 criminal case to be a witness against himself or
21 herself. This means that you cannot be required to
22 testify in this case. You have the right to testify
23 on your own behalf, however no one can make you
24 testify. This is a personal right and no one can
25 waive this right except you.

1 If you decide to testify you'll be subject to
2 the same rules that govern other witnesses, and you
3 may be examined and cross-examined on any relevant
4 issue in this case. In addition, if you have any
5 convictions involving dishonesty or false statement
6 or for crimes punishable by imprisonment for more
7 than one year and this Court determines that the
8 probative value of admitting this evidence outweighs
9 its prejudicial effect to you, the Solicitor will be
10 able to introduce your record to attack your
11 credibility.

12 If you decide to testify, this decision on your
13 part must be freely, voluntarily, and intelligently
14 made with knowledge of the protections given to you
15 by the Fifth Amendment and the consequences of your
16 decision to testify.

17 If you decide not to testify, I will instruct
18 the jurors that they cannot give the fact that you
19 did not testify any consideration whatsoever and
20 that there is to be absolutely no prejudice to you
21 because you did not testify. It is left entirely up
22 to you whether or not you testify. Certainly you
23 have the right to talk with your attorneys, your
24 family or friends or anyone else to assist you in
25 making this decision, but the final decision will be

1 left entirely up to you.

2 Do you understand what I've explained to you
3 thus far?

4 A. Yes, Your Honor.

5 Q. And do you have any questions about what I've
6 explained to you?

7 A. No, Your Honor.

8 Q. Okay. Have you had ample opportunity to
9 discuss this with your lawyers, your friends and
10 family?

11 A. Yes.

12 Q. Okay. Have you made a decision to -- at this
13 time, whether or not to testify or not testify?

14 A. Yes. I'm going to testify.

15 Q. Okay. And what is your intentions concerning
16 testifying?

17 MR. CASTO: She just said, yes, I'm going to
18 testify.

19 THE COURT: Oh, she did. I'm sorry. I
20 couldn't hear that.

21 Q. So it is your plan to testify at some point in
22 time in this case; is that correct?

23 A. Yes, Your Honor.

24 Q. Okay. Thank you very much. You may have a
25 seat.

1 THE COURT: Okay. Are you ready to start into
2 your case? You need a few minutes to regroup?

3 MR. CASTO: Yes, sir, if possible.

4 THE COURT: All right. Let's take a ten-minute
5 break. And we'll maybe shoot for maybe around 1:00
6 lunch break or thereabouts.

7 MR. CASTO: Yes, sir.

8 THE COURT: All right. We'll be in recess for
9 about ten minutes.

10 (A recess transpired.)

11 THE COURT: Is the defense ready?

12 MR. CASTO: Yes, sir, Your Honor.

13 THE COURT: All right. Bring the jury out,
14 please.

15 (The jury enters the courtroom at 12:07 PM.)

16 THE COURT: Let the record reflect the jury is
17 back in.

18 Okay. Mr. Casto, are you ready to proceed?

19 MR. CASTO: Yes, sir. Your Honor, the defense
20 calls Mr. James Lorick to the stand.

21 THE COURT: Okay. Come around, please, sir.

22 JAMES LORICK

23 being first duly sworn, testified as follows:

24 THE WITNESS: I do.

25 THE CLERK: Please state your full name and

1 spell your last name.

2 James Christopher Lorick, L-O-R-I-C-K.

3 DIRECT EXAMINATION

4 BY MR. CASTO:

5 Q. Mr. Lorick, how are you today?

6 A. I'm good. How about yourself?

7 Q. Just fine.

8 Could you please tell us where you work?

9 A. I work for Byrd Investigations.

10 Q. And what do you do there?

11 A. I'm a private investigator.

12 Q. And how long have you worked there?

13 A. Approximately six months.

14 Q. Now, do you have a law enforcement background
15 and/or training?

16 A. Yes, sir.

17 Q. Okay. And would you walk me through your law
18 enforcement career starting at the beginning and up
19 to the present time?

20 A. I worked for Lexington County Sheriff's
21 Department for approximately 15 years, majority of
22 the time being a major crime investigator, narcotic
23 investigator. I left there, I went -- I worked for
24 the Lexington County Coroner's Office as a chief
25 deputy coroner for three years. I went to

1 Afghanistan as a police advisor. I just got back
2 from a two-year mission in Haiti as a police advisor
3 down there also.

4 Q. Okay. Well, in referring to your law
5 enforcement experience in Lexington County,
6 specifically what types of cases did you work on?

7 A. Anything from rape, murders, I was a child
8 abuse investigator for four years on a grant,
9 aggravated assaults.

10 Q. What years were you a child abuse investigator?

11 A. Mid '90s.

12 Q. Let me ask you this, Mr. Lorick: How did you
13 become associated with this case?

14 A. I was given the case after the Public
15 Defender's Office contacted us and requested our
16 help with it.

17 Q. And specifically would that have any bearing on
18 your ability to testified to?

19 A. No.

20 Q. Okay. What other types -- with Byrd
21 Investigations, what other types of matters are you
22 hired for?

23 A. Domestic cases. Majority is criminal cases.

24 Q. Okay. But is it fair to say it's a wide
25 variety?

1 A. Yes, sir.

2 Q. Specifically in working on this particular case
3 involving Courtney Woodard, did you have an
4 opportunity to speak with a young man named Colin
5 Piselli?

6 A. I did.

7 Q. Okay. And when was that?

8 A. January 8th.

9 Q. Did you interview him in person or did you
10 interview him over the phone?

11 A. On the phone.

12 Q. Well, tell me about how you made contact with
13 him.

14 A. I sent word through a person, Kelly Brown, that
15 I -- I assumed knew him. I asked her if she could
16 make contact with him and have him give me a call.

17 Q. And did he call you or did you call him?

18 A. He called me.

19 Q. Okay. And, specifically, did you ask him what
20 he heard or saw in this case?

21 A. I did.

22 Q. And specifically during that conversation, did
23 Colin Piselli tell you that he could not actually
24 see what was going on inside Heidi's house?

25 A. He did. He could not -- could not ascertain

1 what was going on inside the house.

2 Q. Specifically did Colin tell you that he was
3 unsure who was cursing and striking the child?

4 A. He did.

5 Q. And, basically, didn't he tell you that he
6 heard things but he didn't see? Correct?

7 A. He did.

8 Q. Did Colin tell you that he never actually
9 observed anything inside Heidi's residence at the
10 time of this incident?

11 A. He did.

12 Q. And did Colin tell you specifically that he
13 wished he had said --

14 MS. MAYES: Object to the leading.

15 THE COURT: Okay.

16 Yeah. Try to rephrase, Mr. Casto, please.

17 MR. CASTO: Yes, sir.

18 BY MR. CASTO:

19 Q. Throughout the course of that conversation, did
20 Colin tell you that he wished he had seen something,
21 but he didn't see?

22 A. He did.

23 Q. Now, throughout that phone conversation, did
24 you make sure that you got what Colin told you
25 correctly?

1 A. Yes. It was a simple question. It was about a
2 five-minute phone call, direct questions. My main
3 focus was to ascertain whether he actually saw
4 anything taking place in the residence. I asked
5 him, he said no; I asked him several times, he said
6 no.

7 Q. Throughout the course of that conversation, did
8 you threaten Colin or make him feel like he had to
9 say anything at all to you?

10 A. No. Very cordial conversation. Wasn't at the
11 sheriff's department in an interview room, it was
12 over the phone.

13 Q. Were not -- you were not in a -- where you
14 could actually see him?

15 A. Not a formal interview, no.

16 Q. Just over the phone?

17 A. (Nods head.)

18 MR. CASTO: I beg the Court's indulgence.

19 THE COURT: Sure.

20 MR. CASTO: No further questions for this
21 witness.

22 THE COURT: Cross-examination, Solicitor?

23 MS. MAYES: Yes, sir, Your Honor.

24 CROSS-EXAMINATION

25 BY MS. MAYES:

1 Q. Now just to clarify, Mr. Lorick, you said you
2 were formerly employed by law enforcement, but you
3 are currently self-employed as an investigator;
4 correct?

5 A. Correct. I work for Byrd Investigations.

6 Q. All right. Well, what that means is that
7 anyone can hire you to look into something for them;
8 correct?

9 A. Through Byrd Investigations.

10 Q. It could be a divorce proceeding?

11 A. Yes, ma'am.

12 Q. It could be a child custody dispute --

13 A. Yes, ma'am.

14 Q. -- something of that nature?

15 And you then make phone calls or make attempts
16 to locate witnesses or things of that nature;
17 correct?

18 A. Yes, ma'am.

19 Q. And in this particular case you were actually
20 hired or paid money by the Public Defender's Office
21 on behalf of Courtney Woodard; correct?

22 A. Byrd Investigations was paid money and then
23 they paid me.

24 Q. All right. How much is Byrd Investigations --
25 Byrd Investigations of Columbia, how much are they

1 being paid hourly for your services?

2 A. I believe county is 50 an hour.

3 Q. \$50 an hour?

4 A. I believe so.

5 Q. And that includes court testimony as well?

6 A. Yes, ma'am.

7 Q. Now, your testimony was that you had a
8 five-minute phone conversation with Colin Piselli;
9 correct?

10 A. Correct.

11 Q. The reason that you were looking for him or
12 wanted to talk to him was because you knew he was a
13 witness in this case; correct?

14 A. Correct.

15 Q. In fact, the Public Defender's Office had been
16 provided with a two-page written statement that
17 Colin Piselli gave to law enforcement on the date of
18 the incident, which was February 17th, 2013. You
19 would have been familiar with that statement;
20 correct?

21 A. Correct.

22 Q. I'm going to show you that document now and ask
23 you whether or not you recognize it.

24 A. That's it.

25 Q. And you were also aware that this witness was

1 16 years of age --

2 A. Correct.

3 Q. -- at the time of that incident?

4 A. (Nonverbal response.)

5 Q. So you're aware that a 16-year-old witness gave
6 a two-page written statement about what he observed
7 on the incident date, yet you wanted to talk with
8 him?

9 A. Correct.

10 Q. Isn't it a fact that the reason you wanted to
11 talk with him is because you wanted to try and
12 influence or you wanted to see if there's anything
13 that you could get out of him that's different than
14 what's in his written statement; correct?

15 A. Just the facts.

16 Q. Well, you already had the facts, sir.

17 A. Seemed so, until I started asking him
18 questions.

19 Q. So you get the written statement and then
20 decide you're going to track down the teenage
21 witness; correct?

22 A. I wouldn't say track down. I had him call me.

23 Q. Well -- but that was through someone named
24 Kelly Brown, according to your testimony.

25 A. Correct.

1 Q. And who is Kelly Brown? How did you find her?

2 A. She -- I knew her when I worked at the
3 sheriff's department.

4 Q. All right. So --

5 A. She worked at the -- one of the judge's office,
6 magistrate's offices.

7 Q. So you know someone named Kelly Brown. How --
8 based upon what you had information on so far, which
9 is you had a two-page statement from Colin Piselli
10 about the events he documented that night, what
11 would make you think he's connected to Kelly Brown
12 in any way?

13 A. I had heard that she was connected to Colin
14 some type of -- I can't remember.

15 Q. All right. So you placed a phone call to an
16 adult female that is an acquaintance of he or his
17 family?

18 A. Yes, ma'am.

19 Q. Because you heard through the grapevine
20 that she might know him?

21 A. Let me correct that. I don't think I sent
22 her -- or called her. I think I Facebooked her. I
23 think I sent her a message on Facebook seeing if she
24 could get in touch with him.

25 Q. So you start asking around trying to find out

1 how you can locate Colin Piselli and you hear
2 through the grapevine that a woman you know named
3 Kelly Brown might know he or his family; correct?

4 A. Correct.

5 Q. And then you send her a message on Facebook?

6 A. Correct.

7 Q. And you ask this her on Facebook to have this
8 teenage witness give you a phone call?

9 A. Correct.

10 Q. And as a result of that request to a friend of
11 yours; he ends up giving you a call in response.

12 Now, when he calls you, did you tell him that you
13 had a copy of his statement?

14 A. I don't -- I don't think I told him that, no.

15 Q. Sir, isn't it a fact that your question was, is
16 there anything else that you saw or want to add?

17 A. After -- after we -- at the end of the
18 conversation, after he told me that he hadn't
19 observed anything inside the residence, I asked him
20 was there anything else he could provide concerning
21 this investigation. He said no. He said, it's in
22 my statement.

23 Q. It's in his statement?

24 A. In his statement.

25 Q. And you had his statement and were aware of

1 what he says he saw in his statement that night
2 which was that he looked in and saw the two females.
3 Isn't it a fact that when you posed the question to
4 him about what he may have seen in addition to that,
5 that is when he said no?

6 A. No. That was -- that was two separate -- two
7 different questions. Two different questions. I
8 asked him if he had seen anything while he was
9 standing out in the road, and he said no. And then
10 when we were ending the conversation, I said, is
11 there anything else you can tell me about this
12 investigation? He said no.

13 Q. Sir, you would agree that in a five-minute
14 phone conversation you didn't have time to go over
15 his entire statement; correct?

16 A. No.

17 Q. In fact, you never even went over the details
18 of the written statement with him?

19 A. The main -- the main objective was to see if he
20 observed anything in that residence, in which he
21 said no.

22 Q. You can agree that if you already have his
23 statement and he's already provided that statement,
24 that when you're asking if he's seen anything, it
25 refers to anything else, and his response is no?

1 A. No, that's not what I mean. That's not what I
2 meant. It's two separate questions. I asked him
3 did he observe anything in that residence when he
4 was standing in the middle of that road looking in
5 the house, and he said no. I had everybody's --

6 Q. But yet --

7 A. -- statement. I had the whole discovery. He's
8 the only -- he's the only witness that said he
9 observed anything in that house.

10 Q. All right. He's the only witness who observed
11 something, which means you wanted to track him down
12 and try and change his story if you could?

13 A. I didn't want to change his story, I just
14 wanted to get it from him --

15 Q. But yet you --

16 A. -- to see how, in fact, he actually did see
17 something from approximately 35 feet away in the
18 middle of the road.

19 Q. Mr. Lorick, you say you wanted to get it from
20 him, but you never even went over his statement with
21 him in that five-minute phone call. You never even
22 discussed what he stated he observed where he was
23 standing and who was in there.

24 A. He said it was two females in there. He could
25 hear slapping, he could hear cursing toward this

1 child, but he couldn't tell who was actually doing
2 the cursing or slapping toward this child.

3 Q. Mr. Lorick, do you have an audio recording of
4 this conversation?

5 A. No, ma'am.

6 Q. Do you have handwritten notes of this
7 conversation?

8 A. I got my report.

9 Q. Your report. Mr. Lorick, that report was
10 prepared for Mr. Casto on Monday, January 13th;
11 correct?

12 A. Yes, ma'am.

13 Q. But you say this conversation took place on
14 January 8th.

15 A. Yes, ma'am.

16 Q. So five -- so you don't have handwritten notes
17 and you don't have an audio recording, and five days
18 later you prepare the report about what you say
19 happened in a five-minute phone conversation?

20 A. It was a short conversation.

21 Q. In which you never went over Colin Piselli's
22 written statement to law enforcement with him where
23 he documented what he observed on that night;
24 correct?

25 A. Correct.

1 MS. MAYES: Nothing further.

2 THE COURT: Redirect?

3 MR. CASTO: Yes, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. CASTO:

6 Q. When you're hired on cases, you know, are you
7 trying to basically find out something that's not
8 true?

9 A. No.

10 Q. What you trying to do when you're hired to
11 investigate cases?

12 A. Trying to find the truth.

13 Q. And when you talked to Colin Piselli, were any
14 of your questions toward him -- were they confusing
15 at all?

16 A. No.

17 Q. And, specifically, did you ask him what he had
18 seen that day?

19 A. I did.

20 Q. And what was his response to you?

21 A. He said he could not observe anything inside
22 the residence.

23 Q. And that's totally different than what he said
24 in his previous statement, isn't it?

25 A. Correct.

1 Q. And, basically, at any time did you use or
2 employ any type of intimidation tactics whatsoever?

3 A. No.

4 Q. With questions so simple, was it imperative to
5 go over his prior statement to what he even said?

6 A. No.

7 Q. Because -- what did you ask him about what he
8 saw?

9 A. I asked him could he observe anything inside
10 the residence. He said he could not observe
11 anything in the residence, he couldn't tell who was
12 doing the striking, who was doing the cursing, he
13 could not observe anything in the residence.

14 Q. Just because a particular person or
15 organization hires you, does that color --

16 THE COURT: Mr. Casto, I apologize for
17 interrupting. Could the lawyers come up here just a
18 minute, please.

19 MR. CASTO: Yes, sir.

20 THE COURT: And I apologize.

21 (Sidebar conference.)

22 THE COURT: All right. Mr. Casto, whenever
23 you're ready.

24 MR. CASTO: Yes, sir, Your Honor.

25 BY MR. CASTO:

1 Q. Just briefly, Mr. Lorick, in your law
2 enforcement career did you ever work on a case where
3 somebody made a statement and then later changed
4 that statement?

5 A. Yeah, many.

6 Q. All right. And Byrd Investigations, the folks
7 that hired you and paid you money, and then your
8 business was to basically tell them what you want to
9 hear, would you get tons of business or none at all?

10 A. Say the question one more time.

11 Q. Basically --

12 MS. MAYES: I object to the question, Your
13 Honor.

14 Q. Basically are you --

15 THE COURT: Wait a minute. Wait a minute.
16 We've got an objection.

17 MR. CASTO: I'm sorry.

18 MS. MAYES: It was leading in nature.

19 THE COURT: Try to rephrase, if you can,
20 Mr. Casto, please.

21 BY MR. CASTO:

22 Q. When you're hired by an individual or
23 organization, what is your primary objective to do?

24 A. To ascertain the facts of the case to see if
25 there's any discrepancies in the statements;

1 witnesses, if you can find any more witnesses. It's
2 really to go back over the case.

3 Q. And it's not just to tell somebody what they
4 want to hear; right?

5 A. Right.

6 MR. CASTO: That's all the questions I have.

7 THE COURT: Recross?

8 MS. MAYES: Yes, sir, Your Honor.

9 RE CROSS-EXAMINATION

10 BY MS. MAYES:

11 Q. So your response to that is one of the things
12 that -- one of your objectives is to see if there
13 are any discrepancies in the statement; correct?

14 A. Correct.

15 Q. And in this case you had a statement, yet you
16 never went over that statement with the witness?

17 A. No.

18 MS. MAYES: Nothing further.

19 THE COURT: Thank you for your testimony, sir.

20 You may step down.

21 (Witness excused.)

22 MR. CASTO: The defense calls Anita Waddell.

23 ANITA WADDELL

24 being first duly sworn, testified as follows:

25 THE WITNESS: I do.

1 THE CLERK: State your full name and spell your
2 last name.

3 THE WITNESS: Anita Waddell, W-A-D-D-E-L-L.

4 DIRECT EXAMINATION

5 BY MR. CASTO:

6 Q. All right. Ms. Waddell, can you hear me from
7 back here?

8 A. Yes.

9 Q. Okay. And where do you live, Ms. Waddell?

10 A. At [REDACTED], Lexington.

11 Q. And how long have you lived there?

12 A. I've been there for 17 years.

13 Q. Where do you live in relation to where Heidi
14 used to live?

15 A. Right cross the road.

16 Q. Okay. Right cross the street?

17 A. Yes.

18 Q. Do you remember how long Heidi and her husband
19 lived there?

20 A. Not exactly. They've been there at least a
21 year.

22 Q. While they were living there, did you have the
23 chance to see them?

24 A. Yes.

25 Q. How often would you see them, would you say?

1 A. About every day.

2 Q. Okay. Besides Heidi and her husband, did you
3 see any other males over there at that house?

4 A. Yes.

5 Q. Who did you see?

6 A. It was a young black boy.

7 Q. Do you know who he is?

8 A. I didn't know his name or nothing, but I knew
9 what trailer he come visit and stay in the summer
10 and all.

11 Q. Did he visit with some regularity?

12 A. Yes.

13 Q. From where you lived, did you have opportunity
14 to observe **Minor 1** from time to time?

15 A. Yes.

16 Q. And before this incident happened, had you ever
17 heard **Minor 1** screaming or upset at any time?

18 A. Yes.

19 Q. How many times would you say?

20 A. Every day.

21 Q. Okay. Was it every day?

22 A. Yes, sir.

23 Q. Did you ever see Heidi abuse or mistreat her
24 kids in any way?

25 A. All times and all during rainy days, she'd have

1 both youngins in the stroller and walking down the
2 road in the pouring-down rain and things and all
3 like that, take them back and up and down the road
4 in the hot summers and taking them out. And all the
5 sudden, the little boy, he come out the front door
6 and stay out on the porch and all. I seen her grab
7 him and tell him to get his butt back in the house
8 and things like that and all.

9 Q. Did you ever see a time where **Minor 1** was bound in
10 any way?

11 A. One time I think they had like them harness
12 things that parents use in the grocery stores and
13 things and all hanging on the kids, he was on one
14 one time at the front porch.

15 Q. What was it tied to?

16 A. The railing on the porch.

17 Q. In other words, there was -- just so I
18 understand what you're saying, one end of that
19 string was tied to the railing?

20 A. Yes.

21 Q. What was the other end of the string tied to?

22 A. It was like a harness thing like they put on
23 the kids and all, and she said it was to keep him
24 from going out to the road and all.

25 Q. Was it tied to **Minor 1**

1 A. Yes.

2 Q. I want to take you up to the incident date that
3 this happened and specifically the morning that this
4 happened. You understand?

5 A. Yes.

6 Q. Okay. Let's start that very morning. Hours
7 before law enforcement arrived, did you hear any
8 noise or observe anything cross the street, where
9 Heidi lives?

10 A. I have a security camera right at that end of
11 the trailer that faces the road and all, and I heard
12 it on the monitor. And I went out to see, I didn't
13 know if somebody was in our front yard, you know,
14 hollering for me and all because I got a Beware of
15 Dog sign. And then I walked out there and heard it
16 across the road, and I walked out to the edge.

17 Q. What time of the day was that?

18 A. It was around 10:00.

19 Q. That morning?

20 A. Yes.

21 Q. And, you know, what did that noise or -- I
22 mean, what did it sound like to you?

23 A. There was a woman hollering, what are you
24 doing, get up.

25 Q. And do you know who the woman was?

1 A. From what I could see in the window and all, it
2 was Heidi, you know. She's doing something on the
3 floor there in the living room, because the front
4 door is right there at it.

5 Q. Okay. And this was -- in that morning, how
6 long did it last?

7 A. That's all I heard. I figured it was just, you
8 know, Courtney just showing up to the house and --

9 Q. I mean, that morning, you just said that you
10 just heard Heidi; right?

11 A. Yeah.

12 Q. That morning, you know, how long did -- that
13 commotion that you heard, how long do you think it
14 lasted?

15 A. Maybe about 15, 20 minutes, you know. I can't
16 really exactly say how long it lasted because I work
17 in the yard and all. That's where I, you know, kept
18 hearing it and all. But that's --

19 Q. Okay. But it was loud enough that you could
20 hear it across the street where you live?

21 A. While I was in the yard.

22 Q. Okay. Now let's jump to the afternoon of that
23 same day. Do you understand?

24 A. Yes.

25 Q. Just before police arrived, did you hear any

1 noise coming from Heidi's house?

2 A. I heard a lot of loud talking.

3 Q. And, particularly, did you hear, you know,
4 anyone yelling at Minor 1

5 A. I heard Heidi hollering and all.

6 Q. Okay. Now let's stop there. Do you know
7 Heidi?

8 A. Only from the time she moved in there and the
9 times I've went over and talked with her and all
10 because her little boy speaks to me all the time.

11 Q. Had you talked with Heidi before?

12 A. Yes.

13 Q. Did you know what her voice sounded like?

14 A. Yes.

15 Q. And so did you hear Heidi's voice or Courtney's
16 voice yelling at Minor 1

17 A. Heidi's.

18 Q. And again, how were you able to hear this?

19 A. Because I was out in the yard right there near
20 the road.

21 Q. And could you observe anything at all?

22 A. No.

23 Q. Specifically, did you ever see Courtney hit
24 Minor 1 at all?

25 A. No.

1 Q. And did you see whether or not Courtney was
2 there that afternoon at all?

3 A. Not till after the police were there and all
4 and then she came out of the trailer.

5 Q. Okay. So did you whether she was there or not?

6 A. Seen her when the police brought her out.

7 Q. Okay. And let me ask you this: What time did
8 law enforcement vehicles show up at Heidi's house?

9 A. I couldn't tell you exactly because I didn't
10 pay attention to the time around that because we
11 were all standing there waiting on them because I
12 was there in 1227's yard talking with them and all
13 and they said the police were on the way. I could
14 not tell you exactly what time it was.

15 Q. Since you live right across the street, did any
16 law enforcement officers go and talk to you about
17 what you may or may not have seen that afternoon?

18 A. They talked to us right there at the road.

19 Q. Okay. And did a law enforcement officer ask
20 you whether you had heard anything that morning?

21 A. Yes.

22 Q. Okay. And what did you say?

23 A. I just told them that I just heard Courtney
24 talking right there at the door, and I figured she
25 just, you know, walked up there because they were

1 always visiting each other.

2 Q. Let me ask you this: Do you know Courtney?

3 A. Yes.

4 Q. Do you have any reason in this world to try and
5 protect Courtney?

6 A. No.

7 Q. Okay. How do you know her?

8 A. I used to -- she lived two trailers up from me.
9 And I work repairing the mobile homes that the
10 preacher built on there in the trailer park, and I
11 had to work on their trailer when they lived there,
12 one of them.

13 Q. Do you know if Courtney ever lived with Heidi
14 at all?

15 A. Nope.

16 Q. Okay. Did Courtney -- does Courtney live on
17 that same road as you?

18 A. Yes.

19 Q. Whereabouts in relation to where your house is
20 does Courtney live?

21 A. Six trailers down the road from me.

22 Q. And that's not Heidi's house, is it?

23 A. No.

24 Q. Okay. Now, do you know if Courtney has kids of
25 her own?

1 A. Yes.

2 Q. Okay. And have you seen her together with her
3 kids in the neighborhood?

4 A. Yes.

5 Q. Okay. Have you ever seen or heard Courtney
6 abuse or mistreat or own kids?

7 A. Nope.

8 Q. Have you ever seen strange marks or injuries on
9 Courtney's kids that would be consistent with abuse?

10 A. Nope.

11 Q. Do you know if Courtney even spansks or
12 appropriately disciplines her own kids?

13 A. I've heard her holler at them one time when I
14 was working at the trailer about not going in and
15 sneaking snacks out the kitchen when I was in there
16 working in the kitchen.

17 Q. Have you ever seen her spank her own kids?

18 A. Nope.

19 Q. Okay.

20 MR. CASTO: No further questions. Thank you.

21 THE COURT: Cross-examination?

22 MS. MAYES: Yes, sir, Your Honor.

23 CROSS-EXAMINATION

24 BY MS. MAYES:

25 Q. Ms. Waddell, I'm going to ask you to take a

1 look at a photograph. This is State's Exhibit 4.
2 First of all, let me show you this one. This is
3 State's Exhibit 3. You recognize what's in that
4 photograph?

5 A. Yes; the trailer right across the road from me.

6 Q. And when you say trailer, you're referring to
7 the trailer that Heidi Oberg lived in; correct?

8 A. Yes.

9 Q. Now take a look at this photograph, which is
10 State's Exhibit 4. This is an aerial or satellite
11 photograph. Looking at this particular photograph
12 with this being the residence that Heidi lived in,
13 you're familiar with this residence here that the
14 Swartz family resides at?

15 A. Who?

16 Q. All right.

17 A. I mean, so many people moved in there --

18 Q. I need you to -- let me move around this way.

19 All right. This being the incident location --
20 you said before you were at 1227. Where would 1227
21 be?

22 A. The one right behind that one.

23 Q. All right. 1227, Ms. Waddell, is located here.

24 A. You got a little ditch in between there.

25 Q. All right. Your residence isn't even on this

1 satellite photograph because your residence is up
2 across the street and over beyond that other
3 driveway; correct?

4 A. My trailer is right straight in front of 1227.

5 Q. All right. Well, what I'm asking you is yours
6 is not on this photograph; correct?

7 A. Not on that side of the road.

8 Q. All right. Can --

9 A. It's on the other side.

10 Q. That's what I'm getting at.

11 All right. You'd have to cross the road and
12 then it's outside the view of this photograph;
13 correct?

14 A. Yeah, because right there where that tree is,
15 where that green box is, is my yard.

16 Q. All right. Now this is the incident location
17 here, Basin Rock Lane. Ma'am, before the police
18 arrived, you never left your trailer and came out to
19 this area here; correct? You never came to this
20 area to actually hear the conversation that was
21 taking place inside Heidi Oberg's residence?

22 A. I was in my corner yard right there across from
23 her.

24 Q. That's what I'm asking. You were across the
25 street in your is your testimony; correct?

1 A. When I heard Heidi and her, I heard it on the
2 monitor of my security camera first.

3 Q. So what you heard was you heard loud talking;
4 correct?

5 A. Yes.

6 Q. So you heard two females interacting together;
7 correct?

8 A. At first it was just one.

9 Q. And then you could hear both of them?

10 A. Yes.

11 Q. Now, you never called police or 911, did you?

12 A. No.

13 Q. So you couldn't hear well enough to know that a
14 child was being harmed in that residence, could you,
15 because if you could have hear that, you would have
16 called 911, wouldn't you?

17 A. Yes.

18 Q. Okay. So you couldn't hear it that well, could
19 you?

20 A. No.

21 Q. All right.

22 MS. MAYES: Nothing further.

23 THE COURT: Anything on redirect?

24 MR. CASTO: I beg the Court's indulgence.

25 THE COURT: Sure.

1

2

REDIRECT EXAMINATION

3

BY MR. CASTO:

4

Q. Just to be clear, Ms. Waddell, that morning of

5

that incident, did you hear Heidi's voice or did you

6

hear Courtney's voice?

7

A. The first voice I heard was Courtney going in

8

there. And then when I went back in the house and

9

came out and all, then I heard both. That's when I

10

seen her standing at the door.

11

Q. No, that's that afternoon; correct?

12

A. Yes.

13

Q. Okay. Backing up and going back to that

14

morning around 10:00 a.m., did you hear Heidi's

15

voice at that time?

16

A. Yes.

17

Q. Okay. And, you know, was it loud?

18

A. Yes.

19

Q. And who was her voice directed at?

20

A. I couldn't -- I just heard her hollering, what

21

are you doing.

22

Q. Okay. Okay. But you heard her yelling; right?

23

A. Yes.

24

Q. Okay.

25

MR. CASTO: No further questions. Thank you.

1 THE COURT: Thank you, ma'am, for your
2 testimony. You may step down.

3 (Witness excused.)

4 THE COURT: Any further witnesses before we
5 break for lunch?

6 MR. DRYLIE: We've got a rather short witness,
7 Your Honor.

8 THE COURT: Okay.

9 MR. DRYLIE: The State calls Jamie Hendrix --
10 or the defense calls Jamie Hendrix.

11 JAMIE HENDRIX

12 being first duly sworn, testified as follows:

13 THE WITNESS: I do.

14 THE CLERK: State your full name and spell your
15 last name.

16 THE WITNESS: My name is Jamie Hendrix,
17 H-E-N-D-R-I-X.

18 DIRECT EXAMINATION

19 BY MR. DRYLIE:

20 Q. Good afternoon, Ms. Hendrix. How are you
21 today?

22 A. I'm doing okay. How are you?

23 Q. Good.

24 Can you tell me where you live?

25 A. [REDACTED].

1 Q. And where is that in relation to 1225?

2 A. Two houses before that house.

3 Q. Okay. How long have you lived there?

4 A. Six years.

5 Q. Was there ever a time where Courtney Woodard
6 lived close to you?

7 A. Yeah. Right when I first moved in, she lived
8 across the street.

9 Q. And do you have a son?

10 A. Yes.

11 Q. How old is your son?

12 A. Twelve.

13 Q. Would you ever let your son go over to
14 Ms. Woodard's house and play?

15 A. Yes.

16 Q. Were they friends? Did they play together?

17 A. Yes.

18 Q. Did you ever see Courtney do anything abusive
19 to her children?

20 A. No.

21 Q. Now, you stated you live at 1221 Basin Rock;
22 correct?

23 A. Yes.

24 Q. Did you ever have an occasion to meet the
25 people that lived at 1225 Basin Rock?

1 A. No, not -- I mean, just like waving, passing
2 by, passing down the street or something.

3 Q. Did you ever have any interaction with anyone
4 who might have lived in that house, even a child?

5 A. No, other than when he showed up at my back
6 door.

7 Q. Could you elaborate on that for me?

8 A. I just -- I heard what sounded like a kid
9 playing and I looked out the back door and he was
10 just sitting there playing on my back porch.

11 Q. Who was playing on your back porch?

12 A. The little boy.

13 Q. That lived at 1225?

14 A. Uh-huh.

15 Q. Was anyone watching him?

16 A. No. There was nobody else around.

17 Q. So he was just wandering unsupervised in your
18 backyard?

19 A. Right.

20 Q. What did you do when you saw him playing on
21 your back porch?

22 A. I had my son walk him home.

23 Q. How many times did this happen?

24 A. Two times that I can remember.

25 Q. So twice the little boy from 1225 ended up on

1 your back porch just playing unsupervised?

2 A. Correct.

3 Q. And the only reason you knew he was out there
4 is because you heard him?

5 A. Yeah.

6 MR. CASTO: No further questions.

7 THE COURT: Any cross?

8 MS. MAYES: Yes, sir, Your Honor.

9 CROSS-EXAMINATION

10 BY MS. MAYES:

11 Q. Ms. Hendrix, were you ever able to engage in
12 conversation with Minor 1

13 A. No.

14 Q. Was he ever able to speak to you if you spoke
15 to him?

16 A. Honestly, I never really saw him or was around
17 him enough to talk to him.

18 Q. Okay. So on those two times that you saw him,
19 your son just walked him back to Heidi's house?

20 A. Right.

21 Q. Okay.

22 MS. MAYES: Nothing further.

23 THE COURT: Thank you for your testimony,
24 ma'am. You may step down.

25 MR. CASTO: We have another witness that's just

1 as brief, Your Honor.

2 THE COURT: Okay.

3 MR. CASTO: The defense would call Matthew J.

4 [REDACTED].

5 Matthew J.

6 being first duly sworn, testified as follows:

7 THE WITNESS: Yes.

8 THE CLERK: State your full name.

9 THE WITNESS: Matthew J.

10 THE COURT: Okay. And, Matthew, you need to
11 sit close to that microphone. You see that
12 microphone in front of you?

13 How old are you?

14 THE WITNESS: 12 years old.

15 THE COURT: All right.

16 You may proceed.

17 DIRECT EXAMINATION

18 BY MR. CASTO:

19 Q. All right. Matthew, I just ask you keep your
20 voice up so I can hear you back here. Okay?

21 A. Okay.

22 Q. Do you go by Matthew?

23 A. Yes, sir.

24 Q. And where do you live, Matthew?

25 A. [REDACTED].

1 Q. And who lives in your house with you?

2 A. My mom, my dad and my sister.

3 Q. Talking about Minor 1 [REDACTED] in this case, do you
4 know who Minor 1 [REDACTED] is?

5 A. Yes.

6 Q. Okay. Does Minor 1 [REDACTED] or did Minor 1 [REDACTED] live near you?

7 A. Yes.

8 Q. And did you live close enough where your could
9 walk over to his house?

10 A. Yeah.

11 Q. I want to ask you about the day that law
12 enforcement showed up back in February. You
13 understand?

14 A. Yeah.

15 Q. Okay. On that day did you speak with law
16 enforcement about what you saw?

17 A. They came over and I had to write what I before
18 seen and what I -- like, what I've seen her do to

19 Minor 1 [REDACTED]

20 Q. Okay. And let's talk about that, if you don't
21 mind. Okay?

22 A. Okay.

23 Q. Before the day that you spoke with law
24 enforcement, had you ever seen Minor 1 [REDACTED] mom hurt Minor 1 [REDACTED]

25 A. Yeah.

1 Q. Okay. And do you know what Minor 1 mom's name
2 is?

3 A. Heidi.

4 Q. Okay. And what did you see Heidi do to Minor 1
5 before that day? What kinds of things did you see?

6 A. She would like -- she would hit him with a
7 stick and she would hit him with her hand. And it
8 wouldn't be just a normal like -- she wouldn't just
9 normally spank him, it would be -- she would hit him
10 across the face and she would pick him up sometimes
11 by his arm and just and toss him into a room and
12 tell him to go to bed and just bad things that she
13 could have just done to him.

14 There was one time that she would -- she pinned
15 him down, and I don't know what was wrong with him,
16 but he couldn't talk, and she was forcing him to say
17 I'm sorry. And since he couldn't, she started
18 beating him with a stick and threw him into a room.

19 Q. Where did Heidi hit Minor 1 with a stick?

20 A. She would hit him just a bunch of places;
21 across the legs, arms, she would -- if he was laying
22 on his stomach, in the back; if he was laying on his
23 back, she would hit him in the stomach.

24 Q. Were there ever times that you could see marks
25 on Minor 1 from Heidi hitting him?

1 A. Yeah. There would be marks on his arms. And I
2 would never see any on, like, his back or stomach
3 because I would never -- he would never have his
4 shirt off. But I would see them on his legs and
5 arms.

6 Q. Did you ever see Heidi walking with Minor 1 in
7 your neighborhood?

8 A. Yes.

9 Q. And do you know when they were out walking, you
10 know, where did they -- what place on the street
11 were they walking?

12 A. Well, I seen her pass by my house with him and
13 a baby in the stroller, and they would just walk, I
14 guess, to the dumpsters. Like, if you go up the
15 street, there's dumpsters. They would just
16 occasionally walk up there and walk back down to the
17 house.

18 MR. CASTO: I beg the Court's indulgence.

19 THE COURT: Sure.

20 BY MR. CASTO:

21 Q. Are you friends with Courtney's son?

22 A. Yes.

23 Q. Have you ever seen Courtney hit her own son?

24 A. No.

25 Q. Have you ever seen any strange marks or

1 anything on Courtney's son at all?

2 A. If there was, it was probably -- I was just --
3 I would be guessing that -- he likes to play outside
4 and we would play a lot and, you know, occasionally
5 he would, like, fall and get banged up. But that's
6 all I could think of that he would get marks from.
7 I've never seen her actually hit him before.

8 Q. Okay.

9 MR. CASTO: No further questions.

10 THE COURT: Cross-examination?

11 MS. MAYES: Yes, sir.

12 CROSS-EXAMINATION

13 BY MS. MAYES:

14 Q. How are you, Matthew?

15 A. Good.

16 Q. And what grade are you in right now?

17 A. I'm in 7th.

18 Q. Okay. I want to ask you a little bit about

19 [REDACTED] Minor 1 You know you were talking about how [REDACTED] Minor 1
20 can't talk?

21 A. Yes. He can't really like -- I guess he just
22 can't talk very well.

23 Q. Okay. Can you explain that a little bit
24 better? Kind of -- if you would talk to him, what
25 would happen?

1 A. Like if I would try to talk to him, he would
2 kind of like try to mumble out words. But he could
3 never actually just say the whole word. He would
4 just kind of mumble.

5 Q. Okay. Was he able to talk in sentences to you?
6 Like if you said, hey, Minor 1 how was your day, would
7 he be able to give you a sentence back?

8 A. Most of the time, he probably could, but there
9 was sometimes when he would just probably say like a
10 word and then not say anything else.

11 Q. Okay. So if you couldn't really talk to him,
12 what would you do when you would see him?

13 A. Whenever usually I was over at Heidi's house,
14 we would -- I would just play with Minor 1 and, like,
15 his toys. And then we would like -- usually she
16 always had a movie on and I would just watch movies
17 and just occasionally play with him.

18 Q. Okay. Now how often would you go over to
19 Heidi's house?

20 A. Probably twice every week.

21 Q. Okay. Would you go over there to play with
22 Minor 1 or for any other reason or --

23 A. Most of the time just because -- I just,
24 like -- my other friend had been there, Nathaniel.
25 He was over there before, so whenever we would hang

1 out, we would usually be over there sometimes. So I
2 would go over there and then just stay and play with
3 [REDACTED] Minor 1 and watch a movie over there.

4 Q. Okay. And the stuff that you saw Heidi doing
5 to [REDACTED] Minor 1 that was before the day the police came out
6 there; right?

7 A. Yes. She's done it before.

8 Q. Okay. Now, when you would go over there, I
9 know you said you were friends with Courtney. How
10 did you get to be friends with Courtney?

11 A. It was a while, like a long time before I knew
12 Heidi. I knew her son and then I came over to his
13 house and me and Courtney just kind of started
14 talking and just became friends.

15 Q. Okay. And that's because Courtney or
16 Ms. Woodard lives in the same mobile home park as
17 you?

18 A. Yes.

19 Q. And that's the same one that Heidi lived at
20 too, right, with [REDACTED] Minor 1

21 A. Yes.

22 Q. And how -- how many times would you see
23 Courtney over at Heidi's house?

24 A. Every time -- I think just about every time I
25 went over there. Sometimes she wouldn't be over

1 there, but most of the times she would be over there
2 when I walked over there.

3 Q. Okay. So Courtney and Heidi were friends;
4 right?

5 A. Yes.

6 Q. The stuff that you saw Heidi doing to [REDACTED] Minor 1 she
7 would do that one time or more than one time?

8 A. It really depends. Sometimes she would just,
9 like, hit him once for doing something bad, well,
10 that she said would be bad, when usually he -- I
11 mean, he's just a little kid. He doesn't really
12 know any better. She would hit him and then if --
13 like, it just depends on what he would do. She
14 would just either hit him once or she would just sit
15 there and beat him.

16 Q. Okay. Now, you mentioned about Courtney having
17 a son. The son doesn't live there with her anymore,
18 does he?

19 A. I think he went away for a while but I think he
20 moved back in with his grandma -- well, his mom is
21 always with his grandma and grandpa, and they like
22 -- I think he just moved back in with his grandma
23 and grandpa. I think he lives with her now.

24 Q. Okay. But he doesn't live with Courtney;
25 correct?

1 A. I don't think so.

2 Q. Okay.

3 MS. MAYES: Nothing further, Your Honor.

4 THE COURT: Any redirect?

5 REDIRECT EXAMINATION

6 BY MR. CASTO:

7 Q. Have you ever seen Courtney hit Minor 1 any of
8 those times you were over there?

9 A. No.

10 MR. CASTO: No further questions.

11 THE COURT: Thank you, Matthew, for your
12 testimony. You may step down.

13 (Witness excused.)

14 THE COURT: Okay. Mr. Foreman and ladies and
15 gentlemen of the jury, we're going to recess for
16 lunch. And I ask that you be back here promptly at
17 2:30. I remind you again, don't talk about this
18 case among yourselves, don't talk about it with
19 anybody you come into contact with. Have a good
20 lunch.

21 (The jury retires to the jury room at 1:00.)

22 THE COURT: Okay. We'll be in recess until
23 2:30. That will give you enough time to -- how many
24 more witnesses do you anticipate?

25 MR. CASTO: Around five, Your Honor.

1 THE COURT: Okay. But you feel pretty
2 comfortable we can finish this afternoon with your
3 case?

4 MR. CASTO: Yes, sir, I do. We've kind of
5 arrived at the goal that closings will be tomorrow.

6 THE COURT: I think that's going to be the plan
7 that we're going to argue and charge tomorrow.

8 MR. CASTO: I think that's realistic, Your
9 Honor.

10 THE COURT: All right. We'll be in recess
11 until 2:30. Everybody have a good lunch.

12 (A luncheon recess transpired.)

13 THE COURT: Is the defense ready?

14 MR. CASTO: Yes, sir.

15 THE COURT: Is the State ready?

16 MS. MAYES: Yes, Your Honor.

17 THE COURT: Very good. Let's bring the jury
18 out, please.

19 (The jury enters the courtroom at 2:33 PM.)

20 THE COURT: Let the record reflect the jury is
21 back in.

22 Defense, call your next witness.

23 MR. CASTO: The defense would call Heidi Oberg
24 to the stand.

25 HEIDI OBERG

1 being first duly sworn, testified as follows:

2 THE WITNESS: I do.

3 THE CLERK: State your name and spell your last
4 name.

5 THE WITNESS: Heidi Oberg, O-B-E-R-G.

6 DIRECT EXAMINATION

7 BY MR. CASTO:

8 Q. Heidi, how old are you?

9 A. I'm 27.

10 Q. Are you the mother of Minor 1

11 A. Yes, I am.

12 Q. Are you the mother of Minor 2

13 A. Yes, I am.

14 Q. And did you plead guilty for what you did to
15 your son, Minor 1 back on February 17th, 2013?

16 A. Yes, I did.

17 Q. Do you remember when you pled guilty?

18 A. I pled guilty November 20th.

19 Q. Of what year?

20 A. Of 2013.

21 Q. Okay. What did you plead guilty to?

22 A. Unlawful neglect to a child.

23 Q. Is that towards Minor 1

24 A. Yes, it is.

25 Q. And where are you living right now?

1 A. At Goodman Correctional Facility off --
2 Columbia.

3 Q. Is that the department of corrections?

4 A. Yes, it is.

5 Q. I want to take you back to the date that this
6 incident happed. Do you understand?

7 A. Yes, sir.

8 Q. Tell me exactly what you did to get arrested
9 that day.

10 A. I spanked my son with a switch on his legs and
11 buttocks.

12 Q. And that afternoon that all this happened, did
13 you speak with a law enforcement officer about what
14 happened?

15 A. Yes, I did.

16 Q. Okay. And specifically on that afternoon of
17 February 17th, do you admit or deny that you told
18 Officer Black that you made a mistake and hurt the
19 love of your life, Minor 1

20 A. Yes, I did.

21 Q. Do you admit that?

22 A. Yes, I do.

23 Q. Do you admit or deny that you told Officer
24 Black that you hit Minor 1 with a stick?

25 A. I admit it.

1 Q. Do you admit or deny that you told Officer
2 Black the stick was from a tree?

3 A. I admit it.

4 Q. And do you admit or deny that you told Officer
5 Black that you hit **Minor 1** in his butt and back?

6 A. I admit it.

7 Q. Do you admit or deny that you told Officer
8 Black you didn't know how many times you hit **Minor 1**

9 A. I admit it.

10 Q. Do you admit or deny that you hit **Minor 1** because
11 he said a cussword?

12 A. I admit it.

13 Q. Do you admit or deny that you told Officer
14 Black that this event happened in your house on
15 Basin Rock Lane?

16 A. I admit it.

17 Q. Do you admit or deny that you told Officer
18 Black that you were scared to tell the officers what
19 really happened at first?

20 A. I admit it.

21 Q. Ms. Oberg, a couple days later, were you
22 visited by some workers from the Department of
23 Social Services?

24 A. Yes, I was.

25 Q. And specifically on February 19th, do you admit

1 or deny that you told Ms. Shepherd Carey with DSS
2 that you hit your son, Minor 1 with a switch?

3 A. I admit it.

4 Q. Do you admit or deny that you told Ms. Carey
5 that the switch kept breaking but you continued to
6 use it?

7 A. I admit it.

8 Q. Do you admit or deny that you told Ms. Carey
9 that you were trying to discipline Minor 1 and had a
10 momentary lapse of reason?

11 A. I admit it.

12 Q. Do you admit or deny that you told Ms. Carey
13 that Minor 1 was cussing and misbehaving?

14 A. I admit it.

15 Q. Do you admit or deny that you told Ms. Carey
16 that Minor 1 learned cusswords from your music and
17 television?

18 A. I deny that.

19 Q. Okay. Do you admit or deny that you told
20 Ms. Carey that Minor 1 is developmentally delayed?

21 A. I admit that.

22 Q. Do you admit or deny that you told Ms. Carey
23 that Minor 1 had pooped in his pants and it was getting
24 on your nerves?

25 A. I admit it.

1 Q. Do you admit or deny that you told Ms. Carey
2 that you probably have anger issues?

3 A. I admit it.

4 Q. Do you admit or deny that you told Ms. Carey
5 that Courtney did not hit your child at all?

6 A. I deny that.

7 Q. Okay. And do you admit or deny that you told
8 Ms. Carey that if someone said that they saw
9 Courtney hit **Minor 1** that they would be lying?

10 A. I deny that.

11 Q. Deny it.

12 MR. CASTO: I beg the Court's indulgence.

13 THE COURT: Sure.

14 BY MR. CASTO:

15 Q. Do you know where **Minor 1** learned cusswords from?

16 A. When his father -- when he was about a year
17 old, his father said the S word and he learned that
18 from there.

19 Q. Right from the get-go like that?

20 A. Yes, sir. He said, oh, S-H-I-T, and he --
21 Jacob picked it up.

22 Q. Okay.

23 A. I try not to cuss around my son, but sometimes
24 it slips. So he may have picked it up.

25 Q. Sometimes it slips?

1 A. I try not to cuss.

2 Q. Prior to this incident had you had other
3 instances where you were investigated by DSS?

4 A. Once before, but it was unfounded.

5 Q. Okay. But you were investigated by DSS prior?

6 A. Yes, sir.

7 MR. CASTO: Nothing further for this witness,
8 Your Honor.

9 THE COURT: Okay. Cross-examination?

10 MS. MAYES: Yes, sir, Your Honor.

11 CROSS-EXAMINATION

12 BY MS. MAYES:

13 Q. Now just to clear up about your criminal
14 record, Ms. Oberg, you have been convicted of a
15 felony charge which is unlawful conduct toward a
16 child. I believe your original testimony was that
17 it was unlawful neglect.

18 A. Yes, ma'am.

19 Q. That is the felony charge of unlawful conduct
20 towards a child; correct?

21 A. Yes, ma'am.

22 Q. And in addition to that conviction, you were
23 convicted of shoplifting on December 8th of 2011;
24 yes?

25 A. Yes, ma'am.

1 Q. Okay. Also convicted of shoplifting in
2 September of 2011, specifically September 14th; yes
3 or no?

4 A. Yes, ma'am.

5 Q. And also convicted of shoplifting in April of
6 2011. So you have three additional shoplifting
7 charges?

8 A. Yes, ma'am. But that was all taken care of.

9 Q. Well, it was taken care of because you were
10 convicted in court of those charges; correct?

11 A. Yes.

12 Q. Okay.

13 A. But I don't have to pay no fees or anything;
14 those are already paid.

15 Q. Now I want to start with the events that day
16 when law enforcement arrives at the scene. Law
17 enforcement officer comes to the door, this officer
18 here, Deputy Spires, and as he's approaching the
19 door, you're coming out. Do you recall that?

20 A. Yes, ma'am. I opened the door for him.

21 Q. And after he sees **Minor 1** and gives him to an EMS
22 worker, you recall that a paramedic came in your
23 house and actually took **Minor 1** from your residence?

24 A. Yes, I do.

25 Q. He starts asking you what happened. And you

1 actually were advised of what's known as your
2 Miranda Rights.

3 A. Yes, ma'am.

4 Q. And you initialed that form. And I'll let you
5 take a look at it.

6 A. Yes, I see that.

7 Q. It's got your initials on there?

8 A. Yes, it does.

9 Q. So you were advised of your Miranda Rights and
10 that led to you actually giving a statement there at
11 the scene in writing; correct?

12 A. Yes, ma'am.

13 Q. And the first statement that you gave at the
14 scene was not truthful, was it?

15 A. No, it wasn't.

16 Q. In that first statement, you said that **Minor 1** has
17 a lot of problems because he falls down on toys in
18 his room; correct?

19 A. Yes, I did.

20 Q. And you said it was sharp objects in his
21 bedroom and he goes back and messes up his room and
22 falls on them every day. That was your statement?

23 A. Yes, it was.

24 Q. I would never hurt my kids ever, is how you
25 ended that statement; correct?

1 A. Yes, it was.

2 Q. So you admit that that first statement was a
3 lie?

4 A. Yes.

5 Q. Then a little while later, there's a second
6 officer who's at the scene, and he's Investigator
7 Caleb Black.

8 A. Yes, ma'am.

9 Q. And he also went over your rights with you.
10 But I'll show you this document. Do those look like
11 your initials here?

12 A. Yes, they do.

13 Q. Where he's advised you of your rights?

14 A. Yes.

15 Q. And this statement is in your writing?

16 A. Yes.

17 Q. Okay. Now in this statement you go on to say,
18 as Mr. Casto was asking you earlier, that you hurt,
19 as you put it, the love of my life, Minor 1.

20 A. Yes.

21 Q. What you actually wrote in this statement is, I
22 made a mistake and I accidentally hurt my love of my
23 life, Minor 1.

24 A. Yes, I did.

25 Q. So even then you were saying it was an

1 accident?

2 A. Yes, I did. It shouldn't have happened, but it
3 did.

4 Q. And the officer went on and posed a question
5 here and he said, how did you hurt him? Your
6 response was, I spanked him, and you wrote,
7 accidentally.

8 A. Yes, I did.

9 Q. And the only place you said you spanked him was
10 his butt and his back?

11 A. Yes.

12 Q. Now, later you met with the DSS worker, which
13 is Shepherd Carey, and Mr. Casto was asking you
14 about that meeting. If I understand correctly, you
15 said that during the course of that interview with
16 Ms. Carey, you admitted that you and Courtney were
17 together that day?

18 A. Yes, that's true.

19 Q. Okay. And how frequently would Courtney come
20 to your residence?

21 A. Daily because we were friends at the time.

22 Q. Okay. So when you say daily, it's pretty much
23 every day. But beyond that, how close did she live
24 to 1225 Basin Rock?

25 A. Not that far. Right down the road from us.

1 Q. Close enough to walk?

2 A. Yes.

3 Q. Okay. So she would usually just walk over to
4 your house?

5 A. Yes.

6 Q. Okay. And would you ever walk down to her
7 house?

8 A. To meet her halfway sometimes when it was cold.

9 Q. Okay. And on a daily basis what would y'all
10 normally do together?

11 A. Sit around my house, talk, you know,
12 mother-to-mother stuff, smoke cigarettes generally
13 at the window or outside, listen to music.

14 Q. Now on this particular day, according to your
15 interview with Shepard Carey, and that was the
16 interview on February 21st, so basically about four
17 days after your arrest, do you recall Shepherd Carey
18 asking you what you remembered about Sunday, which
19 is the date of the incident, and you recalled that
20 Courtney had come over and that your husband was not
21 home.

22 A. Yes.

23 Q. And that you had started by doing laundry and
24 opening up the windows because, I believe, there was
25 something broken on the dryer.

1 A. No. The heat vents were set to come in the
2 house instead of out of the house. So it -- when I
3 would wash and dry clothes, it would make the house
4 completely hot. So I had to open the windows to let
5 out the heat.

6 Q. Okay. Now, one of the windows that you opened
7 is the window -- and this photograph was not taken
8 on the incident date. Okay? But just as a
9 reference, one of the windows that was open is this
10 window here; correct?

11 A. Yes.

12 Q. What other windows do you recall being open?
13 And I'll let you look at the photograph.

14 A. I can see from there, Ms. Mayes. And it's the
15 two front windows.

16 Q. Okay. What would the other front window be?

17 A. The one closest to the porch and the one
18 closest to the road.

19 Q. Okay. Would it be this window, to the best of
20 your recollection?

21 A. Yes.

22 Q. Okay. So this window is open and you believe
23 this window would have also been open?

24 A. No. I believe those both were open because I
25 opened them myself.

1 Q. Okay. So it was more than just this one?

2 A. (Nods head.)

3 Q. Okay.

4 THE COURT: You need to give a verbal response,
5 ma'am, not just nod your head. Okay?

6 THE WITNESS: Yes, sir.

7 THE COURT: Okay.

8 BY MS. MAYES:

9 Q. And one of the things that you told Ms. Carey
10 is that you and Courtney had a couple of shots of
11 Ivanna Peach, which is peach vodka?

12 A. Yes.

13 Q. And you were in the process of picking up
14 Minor 1 toys because they were in various places
15 across the floor?

16 A. Correct.

17 Q. Now do you recall telling Ms. Carey that he had
18 picked up curse words because he heard them in
19 music, that you listened to a lot of music that has
20 curse words?

21 A. No, ma'am.

22 Q. You don't recall that?

23 A. No, sir -- I mean, no, ma'am. I generally
24 listen to music that does not have curse words.
25 Occasionally some do and some don't. I try not to

1 let my son hear them.

2 Q. Now, how -- I know you said a couple of shots.

3 But how many shots of vodka was that?

4 A. Like maybe two, three. I don't drink that
5 much. I tried drinking, didn't like it.

6 Q. All right. Well, who brought the vodka over?

7 A. I had boughten [sic] it from the store.

8 Q. So you don't like to drink, but you had bought
9 the vodka at a store and had it there to do shots on
10 this particular Sunday afternoon; correct?

11 A. Yes, I did.

12 Q. And we're talking basically before 5:01 p.m. on
13 February 17th of last year?

14 A. Yes.

15 Q. How long had Courtney been there?

16 A. A couple of hours.

17 Q. Now, your testimony under oath previously
18 during direct examination is that you don't curse a
19 lot.

20 A. I try not to curse. I'm trying to quit. But,
21 yes, it was correct.

22 Q. Okay. Who was it that was cursing at Minor 1 on
23 February 17th?

24 A. Both of us.

25 Q. What had he done to cause both of you to curse

1 at him?

2 A. I can't recall.

3 Q. I think one of the things that you talked to
4 Ms. Carey about was that he wasn't potty trained
5 yet.

6 A. I was in the process of potty training him.
7 He's had several things in his short little life to
8 set him back on potty training because he's special
9 needs.

10 Q. Was that one of the frustrations you had with
11 him that day?

12 A. Yes, ma'am. I was trying to potty train him
13 and get him to where I could put him in school.
14 That's why there's no records of him in school. We
15 went to a developmental pediatrician to get him
16 evaluated for school for that reason.

17 Q. Okay. And when you get frustrated with that,
18 that's one of the things that, I guess you could
19 say, contributed to you and Courtney cursing at him
20 that day?

21 A. Yes, ma'am. But I shouldn't have. I should
22 have just told him to go to a different room so
23 Mommy could cool down.

24 Q. How much do you think the vodka shots y'all
25 were doing contributed to that?

1 A. Probably a little bit.

2 Q. Okay.

3 A. I try to generally have a cool temper towards
4 my child. I try to verbalize discipline instead of
5 physically discipline.

6 Q. Now, if you're angry and frustrated about the
7 potty training, what is it that you observed
8 Courtney to be angry and frustrated about?

9 A. I don't recall what she was frustrated and
10 angry for.

11 Q. What role had she played up to that point in
12 assisting you with Minor 1

13 A. Just a good friend.

14 Q. Up to that point and up to that day, had she
15 had any responsibilities assisting in Minor 1 care?

16 A. She would baby-sit him when me and my husband
17 had to go to the DMV or to his immigration.

18 Q. All right. And was she allowed to discipline
19 him for you if he got out of hand if you were away?

20 A. She was allowed to put him in the corner, you
21 know, stuff like that, but not to physically
22 discipline him.

23 Q. Okay. And that's based on your conversations
24 with Courtney up until that day?

25 A. Yes, ma'am.

1 Q. So on this particular day, February 17th, it's
2 the afternoon, both of you are drinking vodka, and
3 all of a sudden things pretty much get out of
4 control because you're both cursing at him?

5 A. Basically.

6 Q. And what happened next?

7 A. The cops arrived at my house and asked, you
8 know, is there anything wrong, you know, can I help
9 you? And they said -- they came in and looked at
10 Jacob. He told him to come here. But he never
11 asked him, he just grabbed his hand and picked him
12 up and took him out of my house. And that's the
13 last time I saw my son --

14 Q. Right. The --

15 A. -- and my daughter.

16 Q. The officer --

17 A. Yes. Officer Spires right there. (Indicating)

18 Q. The officer came into the room?

19 A. Yes, he did, came into my living room.

20 Q. And **Minor 1** was in this chair right here, facing
21 the wall; correct?

22 A. Yes, he was. He was in timeout.

23 Q. And that's where the officer went and got him
24 from?

25 A. Yes.

1 Q. And you say that's his timeout there in that
2 chair to face the wall?

3 A. Yes. When I do not want to physically put my
4 hands on my child, I put him in timeout for -- as
5 much as he is old is as much time as he gets in the
6 corner.

7 Q. All right. Well, before timeout on that day,
8 you certainly had put your hands on him; correct?

9 A. Yes. But I tried not to and lost my cool. And
10 I put him in the corner, and that was the last of
11 that.

12 Q. Okay. Where were you at in the room just prior
13 to the officer's arrival?

14 A. I was sitting on my couch.

15 Q. The couch here?

16 A. Yes.

17 Q. All right. And where was your daughter,

18 Minor 2 just prior to the officer arrival?

19 A. She was in her swing, which is right there.

20 (Indicating)

21 Q. Okay. So if the officer -- when the officer
22 arrives, if Courtney is holding Minor 2 at that point
23 it's because at some point when the officer pulls
24 up, she got Minor 2 out of the swing?

25 A. I had picked Minor 2 up before the officer came

1 to the scene and put her -- handed her to Courtney
2 so I could do something in the kitchen, and then I
3 went back into the living room.

4 Q. Okay. Now, **Minor 1** is here in this chair, you're
5 on the couch, Courtney is on the couch. Where are
6 the shots of vodka? Were they in this room or a
7 different room?

8 A. They were in the living room and the kitchen.

9 Q. Okay. I'm going to let you take a closer look
10 at this photo just so you'll be familiar with it.

11 A. I can see from right there. I'm not blind.

12 Q. When we refer to shots, are we referring to
13 this -- was there alcohol in this glass here?

14 A. No, ma'am. That's nothing but sweet tea.

15 THE COURT: I didn't hear the answer.

16 THE WITNESS: No. There was nothing in that
17 cup but sweet tea.

18 BY MS. MAYES:

19 Q. All right. So you and Courtney are both in the
20 residence, as you've testified. You don't like to
21 curse, but you and Courtney were both cursing at
22 **Minor 1** that day. You don't recall what he did that
23 set the two of you off?

24 A. Not at this particular moment. It's been a
25 year since I've seen him and that incident happened.

1 And I miss my son terribly.

2 Q. I'm going to show you State's Exhibit 20.

3 A. I see that.

4 Q. Okay. You recognize that as the stick used on

5 Minor 1

6 A. Yes. That was the switch.

7 Q. I believe your testimony on direct examination

8 with Mr. Casto was that you admitted spanking Minor 1

9 on his butt and his legs; correct?

10 A. Correct.

11 Q. He has injuries to locations other than just

12 his buttocks and legs; correct?

13 A. Yes. Yes, ma'am.

14 Q. And the back?

15 A. Yes.

16 Q. You want to tell us how he got all of those

17 injuries?

18 A. I don't recall at this point in time.

19 Q. You don't recall? Did it have something to do

20 with you and Courtney being angry with him?

21 A. It could have.

22 Q. Okay.

23 A. But I regret more than you can ever imagine

24 what happened to my son. I wish I had a time

25 machine to rewind time so that would have never

1 happened. But I'm not that powerful and I don't
2 have no time machine, they don't exist. I'll refer
3 to this as it never happened at all. But I can't
4 change that. I can only learn from my mistakes, and
5 I have.

6 Q. Now, on that particular day when the both of
7 you were angry with him and the switch was
8 eventually used there in the living room, two people
9 are yelling loud enough for the neighbors to hear
10 and call the police. Who were those two people?

11 A. That was me and Courtney. Only because my
12 windows were open could they hear me --

13 Q. All right.

14 A. -- because it was hot in my house from me doing
15 laundry.

16 Q. All right. Someone called Minor 1 a pussy. Who
17 was that?

18 A. That was Courtney.

19 Q. What does that mean? What did that mean
20 towards him?

21 A. A vulgar statement. My son is specially
22 delayed. He does not know what they mean.

23 Q. Do you know why she called him that?

24 A. I don't.

25 Q. Someone in frustration yelled, throw him

1 against the wall. Who was that?

2 A. That was Courtney.

3 Q. Someone said to Minor 1 does your mama hit you
4 like this? Who was that?

5 A. Courtney.

6 Q. Now, when you met with Shepard Carey from DSS,
7 one of the things she asked you was about Courtney's
8 involvement in this, and you covered for Courtney.

9 A. Yes, I did.

10 Q. Why did you do that?

11 A. I don't know -- I don't know why I did it. I
12 shouldn't have. But I came clean to her the next
13 time she saw me.

14 MS. MAYES: Nothing further.

15 THE COURT: Anything on redirect from the
16 defense?

17 MR. CASTO: I beg the Court's indulgence.

18 THE COURT: Sure.. Take your time.

19 THE WITNESS: Your Honor, may I say something
20 else?

21 THE COURT: No. No. Just respond to the
22 questions asked of you.

23 REDIRECT EXAMINATION

24 BY MR. CASTO:

25 Q. You do admit that you told Ms. Shepard Carey

1 that Courtney did not hit your child at all;
2 correct?

3 A. Yes, I do admit that.

4 Q. And you admit that you told Ms. Carey that if
5 someone said they saw Courtney hitting **Minor 1** that
6 they'd be lying; right?

7 A. I deny that.

8 Q. Okay. The other thing is you didn't tell the
9 officer that day about Courtney, did you; right?

10 A. No, I didn't.

11 Q. And you didn't tell Shepard Carey about
12 Courtney that day, did you?

13 A. No, I did not.

14 MR. CASTO: I beg the Court's indulgence.

15 THE COURT: Sure.

16 MR. CASTO: No further questions.

17 THE COURT: Recross?

18 MS. MAYES: Yes, sir, Your Honor.

19 RECCROSS-EXAMINATION

20 BY MS. MAYES:

21 Q. Yes, sir. In response to that, he was just
22 asking you about the fact that when you first met
23 with the DSS worker Shepherd Carey, you said that
24 Courtney didn't hit **Minor 1** that day. Was that true or
25 not true?

1 A. That was not true.

2 Q. Did she hit Minor 1 one time or more than one
3 time?

4 A. More than once.

5 Q. In the pictures that I showed you --

6 A. Yes, ma'am.

7 MR. CASTO: Objection, Your Honor. This is
8 outside the scope of --

9 MS. MAYES: I can narrow that down.

10 THE COURT: Okay.

11 BY MS. MAYES:

12 Q. You say more than once. Do you know in what
13 way she hit him?

14 A. Physically --

15 MR. CASTO: Objection; still outside the scope.

16 THE COURT: Well, I think redirect was related
17 to her statements to the DSS worker which included
18 the defendant hitting or not hitting the child. So
19 I think this would be proper recross. I'll
20 overrule..

21 MR. CASTO: Yes, sir.

22 THE COURT: You want to repeat the question
23 maybe, Solicitor?

24 MS. MAYES: Yes, sir.

25 BY MS. MAYES:

1 Q. You said that it was more than one time. Do
2 you know in what way she hit him?

3 A. Physical abuse with a switch.

4 Q. Is it the same switch that --

5 A. Yes, ma'am.

6 Q. -- the officer found in the living room?

7 A. Yes, ma'am.

8 Q. And part of that switch is right here at the
9 base of the couch. That would be the same switch?

10 A. Yes, ma'am.

11 Q. That's in that photo, State's Exhibit 20 that I
12 showed you, from the tree?

13 A. Yes, ma'am.

14 Q. Did she strike his face at any point?

15 A. She might have. I don't remember. It's been,
16 like I said, a year since I -- since that incident
17 happened.

18 Q. Now, when you met with the DSS worker --
19 Mr. Casto was asking you about that -- I believe
20 your previous testimony was that you covered for her
21 and you didn't tell the worker that day that
22 Courtney was involved; correct?

23 A. Correct.

24 THE COURT: You need to speak up, ma'am.

25 THE WITNESS: Correct.

1

2

BY MS. MAYES:

3

Q. And you said later that you told someone with
DSS that she was involved?

4

5

A. Yes, ma'am.

6

MS. MAYES: Nothing further.

7

THE COURT: Thank you for your testimony. You
may step down.

8

9

Any objections to the witness being excused?

10

MS. MAYES: No, sir, Your Honor.

11

THE COURT: Defense?

12

MR. CASTO: None, Your Honor.

13

THE COURT: Okay.

14

(Witness excused.)

15

MS. MAYES: We beg the Court's indulgence, Your
Honor.

16

17

THE COURT: Sure.

18

Let's do this: Let's go ahead and take a brief
break and give you attorneys an opportunity to
discuss further.

19

20

21

MR. CASTO: Thank you, Your Honor.

22

THE COURT: Mr. Foreman, ladies and gentlemen
of the jury, we're going to take a brief break at
this time. Please retire to your jury room.

23

24

25

Remember, don't begin discussing this case or any

1 facts about this case.

2 (The jury retires to the jury room at 3:11 PM.)

3 THE COURT: All right. We'll be in recess.

4 (A recess transpired.)

5 THE COURT: Ready to bring the jury out?

6 MR. CASTO: Yes, sir, Your Honor.

7 THE COURT: Okay. Bring the jury out, please,
8 sir.

9 (The jury returns to the courtroom at 3:31 PM.)

10 THE COURT: Let the record reflect the jury is
11 back in.

12 Mr. Cast?

13 MR. CASTO: Yes, sir, Your Honor. The defense
14 calls Ms. Courtney Woodard.

15 THE COURT: Okay.

16 COURTNEY WOODARD

17 being first duly sworn, testified as follows:

18 THE WITNESS: Yes, I do.

19 THE CLERK: Please be seated. State your full
20 name and spell your last name.

21 THE WITNESS: Courtney Woodard, W-O-O-D-A-R-D.

22 DIRECT EXAMINATION

23 BY MR. CASTO:

24 Q. Ms. Woodard, the most important question of the
25 whole trial: Did you, with a switch, go up to Minor 1

1 Minor 1 and hit him with a switch and do these things
2 in this picture?

3 A. No, I did not.

4 Q. Well, if you didn't, who did?

5 A. Heidi Oberg.

6 Q. Did you at any time ever spank Minor 1 with
7 a switch or anything else?

8 A. No, sir. No.

9 Q. Have you ever assisted anyone in doing such a
10 thing ever?

11 A. No.

12 Q. Specifically on this date in question, did you
13 mistreat Minor 1 in any way, shape or form that day?

14 A. No, sir.

15 Q. And on the date this happened, were you ugly or
16 cruel to Minor 1 on that afternoon?

17 A. No, sir.

18 Q. Courtney -- do you go by Courtney?

19 A. Yes.

20 Q. How old are you?

21 A. Thirty.

22 Q. Courtney, where do you live?

23 A.

24 Q. Is that the same street that Heidi used to live
25 on?

1 A. Yes, sir.

2 Q. And how many houses roughly are -- was -- is
3 your house from where Heidi used to live?

4 A. Ten.

5 Q. And who do you live with?

6 A. My mother and my father and my kids.

7 Q. And what do your mom and dad do for work?

8 A. My mother works at B&L Electric and my father
9 is a carpenter.

10 Q. Do you have children of your own?

11 A. Yes, sir, I do.

12 Q. How old?

13 A. I have a son that's ten and a daughter that's
14 eight.

15 Q. What are their names?

16 A. Alexis W. [REDACTED] and DJ White [REDACTED]

17 Q. You say you live at your mom and dad's house.
18 How long have you lived there?

19 A. Twenty years.

20 Q. How long have you known Heidi before this
21 happened?

22 A. Maybe two months.

23 Q. And how exactly did you come to meet Heidi?

24 A. My kids -- well, they came down to the house
25 because they play in the trailer park and they

1 wanted to go to the park with Heidi, and I did not
2 know Heidi and Mr. Mike, which is her neighbor,
3 Heidi's neighbor. So I walked up there with my
4 children to see if -- to meet her. And as soon as I
5 walked up to the door, she, like -- I never even met
6 her before -- handed me [Minor 2] which is
7 her baby, and said, here, look at my new baby. And
8 I gave the baby back to her. She kind of talked a
9 little bit. And I did not let my children go and we
10 walked back home.

11 Q. Once you knew Heidi, how often did you see
12 Heidi?

13 A. Maybe twice a week.

14 Q. Do you know who all lived over there at Heidi's
15 house?

16 A. Miguel Martinez, Heidi Martinez -- well,

17 [Minor 1], [Minor 1] and [Minor 2]

18 Q. Was there ever a period of time that you ever
19 lived over there?

20 A. No.

21 Q. Were there ever nights that you spent the night
22 over there?

23 A. No, there wasn't.

24 Q. During that time were you and Heidi ever close
25 friends?

1 A. No.

2 Q. How often would you see Minor 1 and Minor 2

3 A. Maybe twice a week.

4 Q. And when would you see them?

5 A. If I was baby-sitting for her.

6 Q. Prior to this incident here, did you ever see
7 signs of abuse on either Minor 1 or Minor 2

8 A. No -- well, Minor 2 rash.

9 Q. And tell me about that. What's going on with
10 Minor 2 rash?

11 A. It was a constant thing. I know they were
12 taking her in and out of doctors. I know she was on
13 a bunch of different creams and a steroid and they
14 were doing blood work to try to figure out what it
15 was. They were supposed to be -- Heidi was told to
16 use Dreft and she still used regular.

17 Q. What parts of the baby's body did that rash
18 cover?

19 A. The back of the head, her face, her back, her
20 legs, her butt, her arms, her face.

21 Q. When you'd baby-sit Minor 1 or Minor 2 did you
22 ever baby-sit at Heidi's -- or, you know, when you
23 baby-sat, where did you baby-sit the kids?

24 A. If I ever baby-sat at Heidi's, it would only be
25 for a little while. Me and Minor 1 would sit and watch

1 a movie and then we'd go down to my parents' house.

2 Q. Okay. And specifically, I mean, you know, when
3 you would baby-sit Minor 1 what kind of things would
4 y'all do?

5 A. We would go down to my parents' house and he
6 would play with my son's toys and run around. My
7 dad would be there and my dad would give him candy.
8 And Mr. Bob, Mr. Bob, Mr. Bob. I mean --

9 Q. Who is Mr. Bob?

10 A. That's my father.

11 Q. And, Courtney, let's turn to the day this
12 happened. All right?

13 Why did you go over to Heidi's house that day?

14 A. Heidi started calling my mom's phone -- and my
15 mama was in Michigan -- at 7:30 that morning. This
16 was a weekly thing and -- to get me to come over
17 there.

18 Q. What time did Heidi contact you?

19 A. She finally talked to my mom at around 8:30,
20 9:00.

21 Q. Okay. And that morning, did you wake up --
22 were you at your parents' house that morning?

23 A. Yes, sir.

24 Q. What time approximately did you wind up walking
25 from your parents' house down to Heidi's that day?

1 Roughly what time was that?

2 A. Between 2:30 and 3:00.

3 Q. And when you were at Heidi's house that day,
4 did you ever see Heidi's husband, Miguel, at all?

5 A. He was leaving as I was walking up there.

6 Q. Okay. So when you arrive at the house, who all
7 is at Heidi's house?

8 A. Jacob, Heidi and Minor 2

9 Q. Okay. And Miguel, you said, is on his way out?

10 A. Yeah.

11 Q. And when you first walk up there and go in
12 Heidi's house, what did y'all do? What's the first
13 thing y'all did as a group?

14 A. I sat down, Heidi was already sitting on the
15 couch. I sat there for a minute. I made --

16 Minor 1 said he say hungry. I made him some frozen
17 dinosaur nuggets, and then I also fed Minor 2

18 Q. Why didn't Heidi make food for her kids?

19 A. I don't know.

20 Q. What was Heidi doing?

21 A. Sitting on the couch, watching TV.

22 Q. When you first saw Minor 1 that day, did you
23 notice anything in particular about his physical
24 appearance?

25 A. Yes.

1 Q. And what did you notice?

2 A. He had a black eye.

3 Q. What was **Minor 1** wearing when you saw him?

4 A. A blue shirt and a Pull-Up.

5 Q. Pull-up like pull-up pants; is that what you're
6 saying?

7 A. No, Pull-Up like diaper.

8 Q. Okay. Did you ever see Miguel at all that
9 afternoon?

10 A. Yeah. He came --

11 Q. When did you see him?

12 A. -- about -- he came about 45 minutes after I
13 got there.

14 Q. All right. Well, when he returned, what did he
15 do?

16 A. He came in and picked **Minor 2** up, which
17 is his, and held her and talked Spanish to her.

18 Q. And is Spanish basically the language he's most
19 familiar with?

20 A. Yes.

21 Q. Does he speak much English?

22 A. No.

23 Q. Did Heidi's husband, Miguel, did he visit with
24 **Minor 1** at all?

25 A. Jacob walked up to him and he pushed **Minor 1** away.

1 Q. Like, pushed him like hard push,
2 knocked-him-over push, or just --

3 A. Like get-away-from-me push.

4 Q. So not a hard push?

5 A. No, sir.

6 Q. Okay. Pushed him to the side; is that a fair
7 statement?

8 A. Yes, sir.

9 Q. Okay. But, you know, not hard enough to, like,
10 leave a mark or something?

11 A. No.

12 Q. Just push away?

13 A. Yeah.

14 Q. Okay. And based on what you saw, did **Minor 1** get
15 very much attention from Heidi or Miguel?

16 A. Never.

17 Q. Is Miguel **Minor 1** biological father?

18 A. No, sir.

19 Q. Is **Minor 2** Miguel's biological daughter?

20 A. Yes, sir.

21 Q. But Heidi's the biological mother of each
22 child?

23 A. Yes, sir.

24 Q. Okay. Do you know why Miguel didn't -- or,
25 well, why **Minor 1** didn't get much attention from Heidi

1 or Miguel?

2 A. No, I don't.

3 Q. Specifically when you were in there that day
4 when all this happened that afternoon while Miguel
5 was there, did you ever see or witness any type of
6 stick laying there?

7 A. Yes, I did.

8 Q. Where was -- did you ever see a stick in the
9 house?

10 A. Yes.

11 Q. And where was it?

12 A. It was pushed up against a container standing
13 up. And when Miguel was there, he kicked it out of
14 the way to where you could not see it.

15 Q. Kicked it out of the way?

16 A. Yes, sir.

17 Q. How long was Miguel there the second time you
18 saw him?

19 A. For about 30 minutes.

20 Q. Now, was **Minor 1** -- was he basically pretty well
21 behaved for much of the afternoon?

22 A. Yeah. He was running around, playing, watching
23 movies.

24 Q. And at some point did **Minor 1** act out that
25 afternoon?

1 A. Yes, sir.

2 Q. Okay. And what did he do to act out?

3 A. Started jumping up and down and cussing.

4 Q. He started cussing?

5 A. Yes.

6 Q. Do you know where he might have heard language
7 like that?

8 A. No, I don't.

9 Q. So, you know, as a result of that, what did
10 Heidi do with him?

11 A. She asked him to come over to her and
12 apologize. And he would not do that, so she put
13 him -- walked him over and put him in that chair,
14 the car seat, facing the wall. (Indicating)

15 Q. Okay. And what we're talking about here, just
16 to be clear, this car seat right here? (Indicating)

17 A. Yes, sir.

18 Q. And when you look at this picture, is this car
19 seat turned to the wall like it was when you were
20 over there that day?

21 A. Yes, sir.

22 Q. Now, was there ever a time when you were over
23 there when Heidi and **Minor 1** left the living room?

24 A. Yes, sir.

25 Q. Where did they go?

1 A. To the middle bedroom.

2 Q. And when they left the room, what did you do?

3 A. I had the baby in my lap.

4 Q. Is that **Minor 2**

5 A. Yes, sir.

6 Q. And from where you were in the living room,
7 could you hear anything from coming down the
8 hallway?

9 A. I could hear Jacob yelling. He was not crying
10 yelling, but he was screaming, I'm good, I'm good.

11 Q. From what you heard, what was Heidi doing to

12 **Minor 1**

13 A. Obviously spanking him -- well, spanking him.

14 Q. At some point did Heidi and **Minor 1** return back to
15 the living room?

16 A. Yes, sir.

17 Q. And when they walked back in there, what did
18 they do?

19 A. She put him right back directly in the car
20 seat.

21 Q. Is that the first thing that she does --

22 A. Yes, sir.

23 Q. -- upon coming down that hallway we see in the
24 picture?

25 A. Yes, sir.

1 Q. Same car seat facing that wall?

2 A. Yes, sir.

3 Q. And, obviously, [Minor 1] is looking away from you;
4 right?

5 A. Yes; he's facing the wall.

6 Q. And during all that, did you ever actually see
7 Heidi hit [Minor 1]

8 A. No, I did not.

9 Q. Do you know for sure what all happened between
10 Heidi and [Minor 1] in the back bedroom where you
11 couldn't see them?

12 A. No. But now I obviously do.

13 Q. Do you know if Heidi spanked him -- spanked
14 [Minor 1] with an object?

15 A. I didn't know, but now I do.

16 Q. Did you assist Heidi in any way in hitting
17 [Minor 1]

18 A. No, sir.

19 Q. Let me ask you about the baby you were holding.
20 You already said that the baby was covered in this
21 rash. Is it fair to say that that rash covered most
22 of the body?

23 A. Yes, the whole body, I mean, even her feet.

24 Q. And you said about the treatment or the
25 medication that she was given -- what kind of

1 treatment or medication was the baby supposed to
2 receive?

3 A. She was supposed to get the cream -- her cream
4 on her and she was supposed to take her prednisone,
5 which is a steroid liquid, and not have her clothes
6 washed in regular laundry soap. She was supposed to
7 have them washed in Dreft, but they were still being
8 washed in regular laundry soap. I was putting cream
9 on the baby.

10 Q. Did you put cream on -- have you ever put cream
11 on Minor 2

12 A. Yes, sir.

13 Q. Did you put cream on Minor 2 that afternoon?

14 A. Yes, sir.

15 Q. And when you put cream on Minor 2 what -- you
16 know, what did Minor 2 do?

17 A. She was screaming. She's been screaming ever
18 since the rash began, and it's been going on -- it
19 was going on for a while.

20 Q. Were there other times in dealing with the rash
21 that Minor 2 would scream?

22 A. Yes.

23 Q. When were those times?

24 A. Practically all throughout the day, I mean, no
25 matter what. I guess it irritated her, it itched.

1 Q. And when you put cream on **Minor 2** and she began
2 to cry, about how much longer is it until law
3 enforcement shows up?

4 A. Maybe ten, 15 minutes.

5 Q. When the officer walks up, Officer Spires, what
6 were you doing that exact second?

7 A. Sitting on the couch with **Minor 2** in my arms.

8 Q. And just to be absolutely clear with you on the
9 stand, the front door is basically where I'm
10 standing; correct?

11 A. Yes, sir.

12 Q. Were you sitting on this end of the couch or
13 were you sitting on that end of the couch?

14 A. The one closest to the door.

15 Q. Okay. And whose stuff is this right here?

16 A. Mine.

17 Q. What is that?

18 A. That's my pocketbook and my jacket.

19 Q. Okay. Now, did Heidi seem like she wanted law
20 enforcement in her home that day?

21 A. No, sir.

22 Q. Was she -- when law enforcement comes in, did
23 the officer walk over to where **Minor 1** was at some
24 point?

25 A. Yes, he did.

1 Q. Who, if you recall, did the officer take out of
2 the home first? Do you remember?

3 A. Minor 1

4 Q. Okay. And then who did the officer take out of
5 the home second?

6 A. Heidi.

7 Q. And when he was taking them out, what were you
8 doing?

9 A. Holding the baby.

10 Q. You're still sitting there at that same place
11 on the couch?

12 A. Yes, sir.

13 Q. Did the officers question you?

14 A. He asked me what I had heard there, what was
15 going on there.

16 Q. And did you tell him?

17 A. I told him that Minor 1 was crying but I did not
18 know what was going on.

19 Q. Okay. And let's talk about the condition of
20 that home. Was Heidi -- Heidi's home, was it
21 well-kept?

22 A. No, not really.

23 Q. I mean, do you know, for instance, if Minor 1 had
24 a bed of his own in there?

25 A. No, he did not.

1 Q. And with two young kids like that, do you know
2 if Heidi and her husband had so much as a highchair
3 in there?

4 A. No, they did not.

5 Q. As a result of this afternoon at Heidi's house,
6 did DSS open a case to look into whether there was
7 any physical abuse of your children?

8 A. Yes, they did.

9 Q. Had you ever had DSS --

10 MS. MAYES: Objection, Your Honor. May we
11 approach?

12 THE COURT: Sure.

13 (Sidebar conference.)

14 BY MR. CASTO:

15 Q. Courtney, the last question: Do you and your
16 kids and your parents all live together today?

17 A. Yes.

18 MR. CASTO: No further questions.

19 THE COURT: Okay. Cross-examination from the
20 State?

21 MS. MAYES: Yes, sir, Your Honor.

22 CROSS-EXAMINATION

23 BY MS. MAYES:

24 Q. Now, Ms. Woodard, just to follow up a little
25 bit more on that last question, your testimony is

1 y'all all live together?

2 A. Yes, we do.

3 Q. But a month ago weren't you living in a
4 motel --

5 MR. CASTO: Objection. May we approach?

6 (Sidebar conference.)

7 THE COURT: Let the record reflect that defense
8 counsel has withdrawn the objection.

9 You may want to repeat the question again,
10 Solicitor.

11 MS. MAYES: Yes, sir, Your Honor.'

12 BY MS. MAYES:

13 Q. I believe your testimony on direct exam was you
14 were living with your parents.

15 A. Yes.

16 Q. And your children are now living with you and
17 your parents?

18 A. Yes.

19 Q. Now, less than a month ago on -- in December,
20 do you recall making a statement that you were
21 living in a motel --

22 MR. CASTO: Objection; relevance.

23 THE COURT: Well, it's cross-examination. I'll
24 allow it. Certainly you can renew the objection if
25 you feel like it goes too far. Overruled.

1

2 BY MS. MAYES:

3 Q. Were you living in a motel a month ago?

4 A. No, I was not.

5 Q. Do you recall making a statement that you were
6 living in a motel with your mother?

7 A. No, never.

8 Q. And your children were living with the Whites,
9 which are the paternal side of the family, but
10 they're now back with you is your testimony?

11 A. They're with my parents.

12 Q. And you stay there all of the time or some of
13 the time?

14 A. All of the time.

15 Q. Now let's go to this particular incident date,
16 February 17th of last year. At this point in time
17 you were living on Basin Rock Lane in this mobile
18 home park. I'm going to go ahead and put this one
19 picture up here so you can take a look at it. And
20 this particular picture, this is Heidi's house. How
21 close did you live to her location?

22 A. Ten trailers -- about ten trailers down.

23 Q. All right. So close enough to walk; correct?

24 A. Yes, ma'am.

25 Q. And on this particular day you walked over

1 there?

2 A. Yes, ma'am.

3 Q. Your testimony was that Heidi made a phone call
4 to ask you to come over; correct?

5 A. Yes, ma'am.

6 Q. And I believe your testimony during direct
7 examination was that you were over there weekly.

8 A. Yes, ma'am, maybe twice a week.

9 Q. Maybe twice a week?

10 A. Yes.

11 Q. Well, on this particular occasion, this is a
12 Sunday afternoon, you're over there. Where are your
13 children?

14 A. With their father.

15 Q. They're usually with their father on weekends?

16 A. Every other weekend.

17 Q. And you had gone over to Heidi's house at what
18 time?

19 A. Between 2:30 and 3:00.

20 Q. All right. Law enforcement arrives at the
21 location at 5:01. So it's fair to say you were
22 there over two hours; correct?

23 A. Yes, ma'am.

24 Q. And according to your testimony, at some time
25 you saw Heidi's husband Miguel come in and stay

1 approximately 30 minutes and then he left; correct?

2 A. Yes.

3 Q. Now, how often are you over there -- you know
4 the little boy who testified earlier today, Matthew J.

5 [REDACTED] How often were you over there when Matthew J.

6 [REDACTED] was over there?

7 A. Maybe twice a week to three times a week when
8 my son would go up there.

9 Q. All right. So it may have been as often as
10 three times a week; correct?

11 A. Yeah. But mostly it was just two times a week.

12 Q. And your testimony is that you started becoming
13 friendly with Heidi around the time that Minor 2 was
14 born or shortly after Minor 2 was born?

15 A. Yes.

16 Q. And when you first met Minor 2 she was a new
17 baby; correct?

18 A. Yes, ma'am.

19 Q. Was she a couple weeks old?

20 A. Maybe three.

21 Q. Maybe three weeks?

22 A. Three months.

23 Q. And from that point you're over there on a
24 frequent basis. And I say frequent because three
25 times a week would be frequent; correct?

1 A. Yes.

2 Q. And your testimony under direct examination was
3 that you never saw any signs of abuse on Minor 1

4 A. Besides that I seen that black eye. But that
5 was supposedly from him falling off the bed.

6 Q. Ms. Woodard, your testimony under oath is that
7 you never saw a single mark on Minor 1 until that
8 day.

9 A. Yes. Never.

10 Q. And your testimony on direct examination was
11 not only were you around Minor 1 several times a week,
12 but you actually would baby-sit for him; correct?

13 A. Yes, ma'am.

14 Q. And on this particular occasion, not only is he
15 there in your presence, but this child is dressed in
16 shorts and a short-sleeved shirt; correct?

17 A. Yes, he is.

18 Q. And your testimony was you saw a black eye.

19 He's got more than a black eye, doesn't he?

20 A. When I got there.

21 Q. Your testimony is the black eye was there when
22 you got there; correct?

23 A. Yes, it was.

24 Q. I want you to take a look at State's Exhibits
25 30 and 31, please. That short-sleeved shirt and

1 those shorts don't cover up those markings, do they?

2 A. No, they don't.

3 Q. The only thing you'd ever seen on that child

4 was that day and it was a black eye; correct?

5 A. Yes, it was.

6 Q. Are you visually impaired?

7 A. No, I'm not.

8 MR. CASTO: Objection; badgering the witness.

9 THE COURT: I wouldn't consider it badgering.

10 I'll overrule.

11 Q. State's Exhibit 36. You never saw any of those

12 markings, even that day?

13 A. No, I didn't.

14 Q. Now, your testimony on direct examination was

15 that there was a stick and you saw Miguel kick the

16 stick. Where did that occur?

17 A. In the living room.

18 Q. All right. We'll talk about the living room.

19 That would be this room here depicted in State's

20 Exhibit 8; correct?

21 A. Yes, ma'am.

22 Q. Can you see the photograph from where you're

23 seated?

24 A. Yes, ma'am.

25 Q. Where is the stick when you see Miguel kick it?

1 A. Over further that way. (Indicating)

2 Q. I'm going to go ahead and take this over your
3 way.

4 A. Like over in here. (Indicating)

5 Q. Somewhere that's not shown here in the
6 photograph?

7 A. Yes, ma'am.

8 Q. All right. And when you say stick, you're
9 referring to a large stick in one piece; correct?

10 A. Yes, ma'am.

11 Q. And then your testimony is that **Minor 1** ended up
12 in that chair that was facing the wall; correct?

13 A. Yes, ma'am.

14 Q. And you never saw Heidi pick up that stick or
15 use the stick on **Minor 1** that's your testimony?

16 A. No, I did not.

17 Q. So the last time you saw that stick was when
18 Miguel kicked it over to a container somewhere over
19 here, but away from the front door; correct?
20 (Indicating).

21 A. The last time I actually seen the stick was
22 when the cops were picking it up all over the floor.

23 Q. All right. So the cops were picking it up all
24 over the floor. Now, prior to that, you're here on
25 the couch, at some point, according to your

1 testimony, you had gone into the kitchen, which is
2 this way. Looking at this photograph here, this
3 would be the kitchen right here; correct?

4 (Indicating)

5 A. I never went into the kitchen.

6 Q. Okay. Didn't you testify that you made lunch
7 for Minor 1

8 A. Oh, yeah.

9 Q. So you went into the kitchen?

10 A. Yeah.

11 Q. And it's this room located here. And this
12 photograph was not taken on the incident date, but
13 this photograph was. Here you see the window to the
14 kitchen is open; correct?

15 A. Yes, ma'am.

16 Q. So once you're done with that in the kitchen,
17 you're here in the living room. And your testimony
18 is that whatever Heidi did, she did in another room;
19 correct?

20 A. Yes, she did.

21 Q. Then the next thing you know, the police show
22 up. The police showed up and it was this officer
23 here. But in fact, on the tape, it's EMS and law
24 enforcement all arriving pretty much the same time;
25 correct?

1 A. Yes.

2 Q. So you can hear those sirens from quite a
3 distance; correct?

4 A. No. I actually -- I didn't hear any sirens.

5 Q. You never heard those sirens?

6 A. No.

7 Q. So an officer arrives at the door and he says,
8 what do you know? And your response was, [Minor 1] had
9 been screaming but you didn't know why anyone would
10 call the police; correct?

11 A. I don't recall saying that.

12 Q. You don't recall making that statement?

13 A. I said [Minor 1] was screaming, but I don't know why
14 anybody would call the police.

15 Q. Okay. That's what I'm asking you.

16 A. Yeah.

17 Q. That's the statement that you made to Deputy
18 Spires --

19 A. Yeah.

20 Q. -- that [Minor 1] had been screaming, but you don't
21 know why anyone would call the police?

22 A. Yeah.

23 Q. Okay. And from your standpoint, you're baffled
24 that the police would even show up because you
25 didn't know anything was going on.

1 A. No, I did not.

2 Q. Ms. Woodard, the window to that kitchen was
3 open. People around that area, neighbors who were
4 20 to 25 feet away, can hear throw him against the
5 wall, and you don't know anything about that?

6 A. No.

7 Q. Neighbors can hear cursing at Minor 1 and you
8 don't know anything about that?

9 A. No. I did not cuss at that boy.

10 Q. Don't break the wall, you don't know anything
11 about that?

12 A. No, ma'am.

13 Q. Hold his head down, you don't know anything
14 about that?

15 A. No, ma'am.

16 MS. MAYES: I beg the Court's indulgence.

17 BY MS. MAYES:

18 Q. All right. So Minor 1 is screaming, you don't
19 know why he's screaming, you have no idea what's
20 going on; the police show up, you're baffled that
21 anyone would have even called the police, and the
22 next thing you know police start removing pieces of
23 the stick from the living room floor; correct?

24 A. Yes. Well, now I do know why they were showing
25 up and why he was screaming, because she was

1 obviously beating him with a stick.

2 Q. You've figured that out now?

3 A. Yes -- no -- yes. I know that. I see that.

4 MS. MAYES: Nothing further.

5 THE COURT: Redirect from the defense?

6 MR. CASTO: I beg the Court's indulgence.

7 REDIRECT EXAMINATION

8 BY MR. CASTO:

9 Q. To be clear, Courtney, did you at any time beat
10 Minor 1 with a stick?

11 A. No, I didn't.

12 Q. Thank you.

13 MR. CASTO: No further questions.

14 THE COURT: Thank you, ma'am, for your
15 testimony. You may step down.

16 Anything further from the defense?

17 (Witness excused.)

18 MR. CASTO: At this time, Your Honor, the
19 defense rests.

20 THE COURT: Okay. Solicitor, do you have any
21 reply --

22 MS. MAYES: May we approach?

23 (Sidebar conference.)

24 THE COURT: All right. Everybody be at ease.

25 The solicitor just needs a couple minutes to work on

1 something. So we'll all be at ease.

2 (Brief pause in the proceedings.)

3 MS. MAYES: Nothing further from the State.

4 THE COURT: Mr. Foreman, ladies and gentlemen
5 of the jury, that concludes the evidentiary record.
6 Now, with that said, what is left to be done in this
7 trial before you start your deliberations is each
8 side, the State and the defense, will give their
9 closing arguments to you, and then after that is
10 done, the Court will give you the final charge on
11 the law. I would anticipate those matters taking a
12 fair amount of time and I don't want to start that
13 this afternoon, I'd rather start that in the
14 morning. So we're going to cut you loose a little
15 bit early today. Hopefully that's okay with you.
16 And I would ask that you be back in your jury room
17 promptly at 9:30 in the morning and we will have
18 closing arguments and the final charge on the law,
19 at which time, once that is done, then you would
20 begin your deliberations. But prior to that, you're
21 still are not permitted to discuss this case,
22 anything about this case, among yourselves or with
23 anybody, family, friends or anybody that you come in
24 contact with this evening. So I hope you have a
25 good afternoon, good evening, and we'll see you back

1 promptly at 9:30 in the morning.

2 (The jury retires to the jury room at 4:12 PM.)

3 THE COURT: Okay. We're in recess until 9:30
4 in the morning. What I'd like to do this afternoon,
5 since we do have a little bit of time, is go ahead
6 and -- we've got the draft of the final charge.
7 Lyon is going to make copies. And let's work on
8 that this afternoon, say from now until about 5:00.
9 So everybody be at ease. But we'll be in recess
10 until 9:30 in the morning.

11 MR. CASTO: Your Honor, would it be prudent to,
12 as far as -- renew my objections at this point or --

13 THE COURT: You can go ahead and renew your
14 objections at this point. This is certainly the
15 appropriate point to do it. So I'll be glad to hear
16 from you.

17 MR. CASTO: Yes, sir, Your Honor. At this
18 point, we renew Defense's motion for directed
19 verdict at this time, as well as any and all
20 objections made during the trial and issues and
21 matters of law and objections raised at pretrial as
22 well, Your Honor, respectfully. And we wish to
23 renew all of those matters at this time.

24 THE COURT: Thank you very much. Denied.

25 We'll just give Lyon a few minutes to get those

1 copies made. We'll give them to you and let's work
2 on that since we do have a little bit of time,
3 unless y'all have anything pressing elsewhere.

4 MS. MAYES: No, sir.

5 MR. CASTO: No, sir.

6 (WHEREUPON, court is in recess.)

7 THE COURT: Okay. We're on the record. The
8 court reporter has mentioned about Exhibits 24, 25
9 and 26 not actually being moved into evidence even
10 though they may have been used and discussed with
11 the doctor. My notes reflect that they were not
12 moved into evidence and so does the court
13 reporter's, so we need to deal with that. Let's
14 take a look at what those three exhibits are. It
15 may be just cumulative exhibits to the others, but
16 let's --

17 MS. MAYES: I believe 21 was also in question,
18 Judge.

19 THE COURT: All right. I still show 21 as
20 marked for identification purposes.

21 MS. MAYES: Right. It's 21 that was not
22 offered as evidence.

23 THE COURT: But then we've got 24, 25 and 26.

24 MS. MAYES: Your Honor, my understanding is
25 that those were offered as evidence through the

1 doctor. I believe they were published at some
2 point -- and maybe not 26.

3 THE COURT: Let's take a look at 24, 25 and 26,
4 what those are.

5 MS. MAYES: Okay. But 23 and 22 are in
6 evidence?

7 THE COURT: 22 and 23 are in evidence,
8 according to my notes and according to the court
9 reporter's notes. But her notes and my notes
10 indicate that 24, 25 and 26 did not actually get
11 moved in. And again, they may just be cumulative to
12 the other exhibits and the defense may not have a
13 problem.

14 MS. MAYES: I believe 21 and 24 may be -- okay.
15 Your Honor, I thought -- when I gave him 25 and 26,
16 I thought we offered a group all together at one
17 time with the starting number and an ending number.

18 (State's Exhibit No. 24 marked for
19 identification.)

20 THE COURT: Let me ask the defense. Is there
21 any objection to them being in evidence?

22 MS. MAYES: And we're not offering those two.

23 MR. CASTO: Okay. So they won't go back?

24 MS. MAYES: They are cumulative. That is 21
25 and 24, with 23 being in evidence.

1 THE COURT: Right. What about 25 and 26?

2 MS. MAYES: 25 and 26, Your Honor, the State
3 would intend to offer. I thought they were part of
4 a group that the doctor identified collectively.

5 THE COURT: All right. Any objection from the
6 defense on those two exhibits?

7 MR. CASTO: As to, I believe, 25 and 26, if
8 they -- quite -- quite honestly, we'd object to
9 those going back. They do strike me as cumulative,
10 I guess. I don't know that -- you know, any real --
11 like, changes the nature of the case or anything
12 like that.

13 THE COURT: Right. It appears that probably it
14 was just inadvertently not sought to be put into
15 evidence by the solicitor. I do remember those
16 exhibits being used in questioning with the doctor
17 and it was probably just an oversight on the
18 solicitor's part. Let me see those two exhibits.

19 MS. MAYES: Yes, sir, Your Honor. And 25 is a
20 comprehensive photo and we do not have another one
21 of this nature in evidence that shows the full
22 length of the body. 26 shows an angle of the arm
23 with the ruler.

24 THE COURT: I'm going to allow them in because
25 they -- I do specifically remember the pictures

1 being shown to the doctor and being discussed. And
2 I don't see where there would be any prejudice to
3 the defense by allowing these in. I think it was an
4 oversight on the part of the solicitor.

5 (State's Exhibits 25 and 26 admitted into
6 evidence.)

7 MR. CASTO: Yes, sir. And just to place, I
8 guess, on the record at this time, we'd just note
9 our objection to that on the record. Specifically,
10 I believe, the State had already rested, and we'd
11 just want to place that on the record at this time,
12 respectfully.

13 THE COURT: Right. I understand.

14 MR. CASTO: 21 and 24, these are not --

15 MS. MAYES: Not in evidence.

16 MR. CASTO: Okay. Well, why don't we put
17 these, I guess, elsewhere, because they're not --

18 MS. MAYES: Okay..

19 MR. CASTO: That way they won't wash back, you
20 know, into the jury room.

21 THE COURT: Right. I think the court reporter
22 can hold onto them. Since they are marked for
23 identification, they need to stay with the court
24 reporter. I think she can do a pretty good job of
25 segregating those.

1 Okay. Are the lawyers ready for the closing
2 arguments?

3 MS. MAYES: Your Honor, I'm going to take a
4 moment to try and organize the exhibits. I'm not
5 sure if the defense plans to -- intends to use any
6 of them.

7 THE COURT: Okay. Let me just note for the
8 record that the jury charge was provided to both
9 sides yesterday afternoon, and I understand both
10 sides have had an opportunity to review the jury
11 charge, and I understand that there were no
12 exceptions or objections to the jury charge; is that
13 correct from the solicitor?

14 MS. MAYES: Yes, sir, Your Honor.

15 THE COURT: And from the defense?

16 MR. CASTO: Yes, sir, Your Honor.

17 THE COURT: And certainly after I charge the
18 jury, I will -- again, I'm not holding your feet to
19 the fire because y'all may have something come to
20 light and you want to make an objection or
21 exception. So I'll certainly allow you to review
22 that again.

23 Okay. Anything else before the jury comes out
24 and we start with closing?

25 MS. MAYES: Your Honor, you had mentioned

1 yesterday about the indictment.

2 THE COURT: Yes.

3 MS. MAYES: That amendment, we're striking.

4 THE COURT: All right. That amendment has been
5 taken care of?

6 MS. MAYES: We were going to have Your Honor
7 actually do the striking on the indictment.

8 THE COURT: Okay. How about do this: Both of
9 y'all -- one of you do it and then I will initial
10 it. But I want y'all to make sure you're on the
11 same page with what's coming out.

12 MR. CASTO: Yes, sir.

13 THE COURT: And I typically do send the
14 indictment back to the jury; however, I'm not going
15 to this time. I don't want them to place any
16 significance to the fact that part of it has been
17 marked out. So I'm not going to send it back in
18 this case.

19 MR. CASTO: Yes, sir. Just for the record,
20 myself and the solicitor has looked at that and we
21 both agree and we're passing it back at this time.

22 THE COURT: All right. And I have initialed
23 it.

24 And lastly, I think both sides have reviewed
25 the verdict form and no objections to that from the

1 State?

2 MS. MAYES: Yes, sir, Your Honor, no
3 objections.

4 THE COURT: Okay. And defense?

5 MR. CASTO: No objections, Your Honor.

6 THE COURT: Okay. Very good.

7 All right. Let's bring the jury out.

8 Is the State going to open on the law or just
9 close, in full and --

10 MS. MAYES: We waive opening on the law, Your
11 Honor.

12 THE COURT: Okay.

13 (The jury enters the courtroom at 9:49 AM.)

14 THE COURT: Let the record reflect the jury is
15 back in. As I mentioned to you yesterday, closing
16 arguments will be made. The defense will go first,
17 the State will follow, and then I'll charge you on
18 the law in the case. And then you will, upon my
19 instruction, begin your deliberations.

20 So with that being said, I'll ask that you give
21 both sides who have worked very, very hard on this
22 case, give them your close and undivided attention
23 during these closings.

24 Defense?

25 MR. CASTO: Yes, sir. May it please the Court,

1 Your Honor.

2 THE COURT: Yes, sir.

3 MR. CASTO: I made a mistake, I hurt my love
4 **Minor 1** and I hit him with a stick. These are the
5 words spoken to us in this courtroom and uttered by
6 Heidi Oberg, the mother of **Minor 1** if you even want to
7 call her that. That's what she said. That's what
8 she came in and that's what she said to all of us.

9 You see, from the outset, we agree that child
10 abuse, wherever it exists, in any form, in any
11 fashion, is horrible, despicable, it's loathed. And
12 wherever it is found, it should just be snuffed out.
13 So that can't possibly be our question. And these
14 types of questions raised when we look at the people
15 that came and spoke to us and things that they saw
16 and what they said in the world of this trial, in
17 the world of this case, it brings the average person
18 to say, who could do that to a child? Who could do
19 that to a child? Why did this even happen?

20 Those are valid questions, but they are not the
21 question that is before us or specifically before
22 you today. The essential question in the world of
23 this trial and in the world of this case is, did
24 Courtney -- did she hurt or help hurt **Minor 1** That is
25 the essential question before you, not the other

1 things. The answer is simple: No, she did not.

2 As you wade through all of the pictures and
3 things that we hear in the world of this case, your
4 job sitting on the jury is not unlike first year
5 medical students. And what I mean is this: Before
6 the first year med students can really work with
7 people that are amongst the living, so to speak,
8 they work with people that are no longer living. To
9 be certain, it's difficult, it's horrible, it
10 doesn't even seem real, but those medical students,
11 those folks have a goal. The goal is this: To
12 learn, to listen, to look and take in all of the
13 facts. That's their goal. And they can't -- if
14 they were to get sidetracked, if they were to look
15 elsewhere and think about how horrible that is, they
16 can lose sight of the goal. Well, your job in
17 sitting on this jury is you will now analyze and
18 look over and take in all of the facts in the case,
19 that is what your goal is; to not get sidetracked by
20 the terrible things that we've walked through in
21 this case, but to take in all of the facts as
22 they've been presented to you, all of them, and keep
23 your eye on that goal. And I think you will.

24 To evaluate this case, the focal point that we
25 look at is Heidi Oberg, Minor 1 mother, if we can

1 even call her that. When we look at her and when
2 she comes in and we look at her and we analyze her,
3 analyze her by what she said. Here's somebody,
4 Heidi Oberg, who has confessed to two different
5 people about what she did to **Minor 1** that day. She's
6 pled guilty to it and right now, as we speak, she's
7 being punished for that. She lives in prison,
8 rightfully so.

9 Let's flesh each of those things out. Let's
10 take a look -- before we just wash over that, let's
11 take a look at what she says. What does she first
12 say to the first person that she admits that -- or
13 she confesses to that day, and that's Officer Caleb
14 Black who stood right here. We asked Heidi a
15 battery of questions and she admitted to what -- she
16 said she tells Officer Black specifically that she
17 spanked **Minor 1** with a stick that day, that she got the
18 stick from a tree, that she hit him in the butt and
19 the back area on him where we see the bulk, the
20 world, the cluster of those atrocious marks on **Minor 1**
21 in the pictures, and squares with what we see in
22 those pictures, all because **Minor 1** said a cussword.
23 That's what she said, at least to Officer Black, and
24 that she didn't come clean at first with Officer
25 Spires because she was scared to tell the truth.

1 This wasn't some accident because even she
2 tells you from the stand, even she knows, the
3 horrible wretch that she is, even she knows it
4 shouldn't have happened, and that's what she said.
5 You see, something interesting occurs when we look
6 closer at that and really what's going on when she's
7 telling all this to Officer Black. Basically she
8 never says that Courtney did anything in that
9 moment. And when we look at what's really going on,
10 what's interesting about that is she's talking to a
11 law enforcement officer, somebody who has the power
12 to take her freedom away and arrest her, better yet,
13 even closer to the truth than that, somebody who did
14 take her freedom away and arrested her, and she says
15 nothing about Courtney hitting **Minor 1** at all. And
16 that's because it didn't happen. Courtney did not
17 hit **Minor 1** that day.

18 Heidi Oberg also spoke with Shepard Carey who
19 is with Department of Social Services two days after
20 the day that this happened, February 19th of last
21 year, two days later. Two different people, two
22 days later and we get even more detail about what's
23 going on. She says that she hit **Minor 1** with a stick,
24 that Heidi said that the stick was breaking but she
25 still continued to use it, and all because **Minor 1** said

1 a cussword. Also it was because [Minor 1] wasn't potty
2 trained and, you know, that he used the bathroom in
3 his pants and this angered her, that she has anger
4 issues. Heidi said all. She said all that to the
5 DSS worker. And that this got on Heidi's nerves.
6 This developmentally delayed child couldn't even use
7 the bathroom. Why, because he hadn't been taught,
8 got on her nerves and that's when she whipped --
9 eventually, you might have seen when we asked her
10 again -- the first time she denied it, but when we
11 asked her again, didn't you tell Shepard Carey that
12 Courtney didn't have anything to do with hitting
13 [Minor 1] that afternoon, she finally admitted it the
14 second time we asked.

15 And the same thing fleshes itself out as
16 talking to the DSS workers. There's dangers for
17 Heidi right there because there she's talking on
18 February 19th to a DSS worker, somebody that has the
19 power to take her kids away, even closer to the
20 truth, somebody who has the power that actually did
21 take her kids away. Why didn't she fess up? Why
22 didn't she say anything or implicate Courtney in any
23 way, shape, or form? Why, because Courtney did not
24 hurt [Minor 1] It just doesn't make any sense what she
25 says that day.

1 And so then towards the end of her testimony
2 for the first time, Heidi wants to come in here and
3 say that Courtney did something to **Minor 1** And we get
4 a look at how truthful she is because we need only
5 look at the question -- and, actually, the Solicitor
6 asked -- actually, the Solicitor asked a good
7 question. And what she asked was, well, you know,
8 why was Courtney upset with **Minor 1** that day? What did
9 Heidi say? She didn't know. You see, in the world
10 of what was what was going on in Heidi's house, how
11 could that make sense? If **Minor 1** used a cussword,
12 **Minor 1** used the bathroom in his pants, what in the
13 world does that have does that have to do with
14 Courtney to set her off? It's not true because
15 Courtney did not abuse **Minor 1** that day. She did not
16 do it.

17 Had we not called Heidi Oberg to the stand, you
18 wouldn't have heard the details to her actual
19 confessions. I mean, you see, doesn't that sound
20 odd to you? I mean, does that make sense? I mean,
21 really, because the burden of proof is on the State.
22 The defense, we don't have to present anything. We
23 didn't have to present any witnesses, any testimony,
24 nothing at all. If they can't carry their burden of
25 proof, you must find Courtney not guilty. But in

1 what they presented, they didn't even bring Heidi to
2 court, and you wouldn't have heard anything in this
3 world about those confessions that she made, the
4 details contained therein, and on two different
5 occasions spoke with the officer and spoke with
6 Shepard Carey. Where was that in the State's case?
7 It was glaringly missing and we were without it.
8 Does that sound like hide-the-ball to you? We
9 brought her in here to flesh everything out, to lay
10 it out there on the field, out in the open in front
11 of you-all so you could evaluate it and keep your
12 eye on that very goal that I discussed from the
13 outset, to look at all of the facts, and not get
14 sidetracked.

15 You know, basically in that full view of the
16 case, we're not left to just that partial view. And
17 we get the idea and we get the example of a horse
18 with blinders on. And they have these blinders and
19 they stick out, they stick out, they stick out, and
20 that's so the animal can focus and so he can go
21 afford and so that he can see his vision is
22 controlled. That's so the person riding the horse,
23 that's so they can control where the horse goes.
24 But by bringing Heidi in here, you don't have those
25 blinders on anymore, you've seen it all, and you

1 won't be manipulated and you won't be controlled.

2 You've heard it all.

3 Reasonable doubt, much has been said about
4 reasonable doubt. And on some level it's been, you
5 know, watered down in various media outlets in
6 television, movies, TV shows, things of that nature.
7 And the Judge is going to give you a definition of
8 reasonable doubt. And to short it up, sometimes,
9 you know, reasonable doubt is this idea that is
10 mentioned so much that it's just thrown out into the
11 street and trampled upon, and it doesn't have the
12 power that it really does. And that's far from the
13 truth.

14 Reasonable doubt has been defined under our law
15 in South Carolina as the type of doubt -- the type
16 of doubt that would cause a reasonable person to
17 pause or to hesitate before they act. A type of
18 doubt that cause a reasonable person to pause or to
19 hesitate before they act. If you have a pause or a
20 hesitation about Courtney's guilt in this case, you
21 must find her not guilty. Just so you know and so
22 everything is out there and it's open and honest and
23 you don't think that that's some sort of fancy trick
24 or some sort of -- you know, just words, just
25 language, it's even more simple than that. The

1 other question is this: Do you have a doubt and do
2 you have a reason for that doubt? Do you have a
3 doubt about Courtney's -- and do you have a reason
4 for that doubt?

5 The story of our case does not start on
6 February 17th, 2013, it's much more unfortunate than
7 that. It starts much before that and with our
8 witnesses saying that they saw various terrible
9 things at the hands of Heidi Oberg on **Minor 1** And
10 we'll start with the folks that were closest to that
11 action, closest to the world of **[REDACTED]**
12 **[REDACTED]** in that nexus or in that world and what they
13 saw. First person, **Matthew J. [REDACTED]** the young
14 kid who got up there and sat up there, closest to
15 the action. Why? He's been inside Heidi's house
16 many times. Not only lives around there, he's been
17 inside, maybe twice a week. And you saw how his
18 answers just flowed? I mean, he's ten years old and
19 he comes in here and he doesn't even have to think
20 about the answers. You know why? Because you just
21 don't have to think about what the truth is, you
22 don't have to go over it, it's not rehearsed. He
23 just talks about what he saw. But what did he see?
24 Well, he never saw Courtney hit **Minor 1** at any time,
25 ever. He never saw Courtney even hit her own kids

1 and they were over there as well and he watched
2 that. He's not on anybody's side; he's not on this
3 side that or that side. He never saw that. But
4 what he did see was Heidi beat [Minor 1] And we get the
5 story from him about her holding [Minor 1] down, a
6 developmentally delayed kid who can't talk, forcing
7 him to apologize, and when he does not, he gets the
8 stick. We already hear accounts before this
9 afternoon of February 17th, 2013. [Minor 1] was laying
10 one way -- he was going to get the beating inflicted
11 upon him one way, [Minor 1] was laying another way, he's
12 going to get another beating, it just doesn't really
13 matter with [Minor 1] because we care so little about
14 him, wherever the stick hits, that's just fine.
15 That's what Heidi Oberg did and that's what he saw.
16 He also saw just a couple days before this happened
17 Heidi whip [Minor 1]

18 He saw his mother, Jamie Hendrix, take the
19 stand briefly, and what she said was that [Minor 1] would
20 wander off, [Minor 1] would be found on occasion at her
21 back porch. A young boy, five years old, all alone
22 and he's just standing there to take him back home.
23 And that happened more than one time. She also was
24 witness to Heidi screaming at [Minor 1] on occasion she
25 could hear it.

1 We also heard from Anita Waddell close to the
2 action because she lived right across the street.
3 What did she see? What did she hear? She heard
4 Heidi screaming at [Minor 1] almost every day. That was
5 nothing out of the ordinary, that was the daily
6 routine. She constantly heard [Minor 1] upset and
7 screaming from where she lived, saw much of the
8 abuses that went on, and perhaps one of the more
9 graphic stories in this trial, she's the one that
10 saw young [Minor 1] out there in what she describes as a
11 harness with the other end tied to the front porch
12 and he's lassoed there to the front porch like some
13 kind of dog and he's all alone, and Heidi tied him
14 up. Saw Heidi and [Minor 1] walking in the road in the
15 rain, saw her grab [Minor 1] And she also noticed
16 something interesting that same day, February 17th,
17 that morning at 10:00 a.m. approximately is what she
18 said, that she heard screaming and yelling. And who
19 was doing the screaming and yelling? Well, it was
20 Heidi. Heidi was screaming, Heidi was yelling. She
21 said that morning event lasted approximately 15
22 minutes and she was yelling at [Minor 1] And who's to
23 say that abuse wasn't going on just then? She has
24 no problem abusing him any other time, who's to rule
25 out that morning?

1 And guess what? Chelsi, Colin, Phillip, they
2 don't even show up to next door until that
3 afternoon. They can't speak to anything that
4 happened that morning before Courtney got there.
5 That's what each and every one of them says. She
6 also heard the afternoon's events, and basically she
7 also heard, just like she had heard that morning,
8 Heidi Oberg yelling at **Minor 1**. And who's to say that
9 some or at least part of this abuse happened that
10 very morning? Again, indifferent as to time because
11 you know why? We're indifferent as to where we
12 strike this kid with a stick in Heidi's domain,
13 because remember what Courtney said when she first
14 got there that afternoon that **Minor 1** had a black eye
15 when she got there that afternoon. And the doctor
16 and the EMS personnel both said it's impossible to
17 tell with any certainty when those bruises occurred.
18 The doctor specifically said something about a
19 24-hour, you know, window of time, but you can't
20 look at a mark and say this one right here, this was
21 at 11:00 a.m., this was more 10:50. You can't do
22 it. It's all within that window. And you know
23 what? That screaming and yelling at 10:00 a.m. also
24 fits within that window as well.

25 You see, she heard Heidi yelling both in the

1 morning and the afternoon that day. And is it that
2 farfetched to believe that abuse occurred that
3 morning, because any other time was fair game at
4 Heidi's house? Unlike Heidi, she's never seen --
5 Ms. Waddell has never seen Courtney abuse her own
6 kids. She's never seen any evidence of abuse on
7 Courtney's kids. She's never seen them even get
8 spanked. So in order to believe that Courtney came
9 over to Heidi's house and just whipped her kids,
10 you'd have to believe that she didn't carry on,
11 didn't do anything like that at home. Remember what
12 Chelsi said? Everybody in this trailer park lives
13 on top of one another. Nobody has even see her kids
14 get hit, abused, or spanked, appropriately or at any
15 other time. You have to believe that she just
16 waltzes over and just beats on other people's kids.
17 It's too farfetched.

18 We come to witnesses that are less familiar and
19 particularly Chelsi Swartz. She arrives there that
20 day, she tells us, about 4:00 or 4:30 p.m., she
21 doesn't know anything about that morning, she
22 doesn't see anything that happens at all that whole
23 afternoon. She hears a commotion going on when she
24 goes outside. She hears that verbiage, you know,
25 does your mom hit you like that, throw him at the

1 wall, cussing, et cetera. There's one key detail:
2 She mentions a highchair in what she says and there
3 is no highchair in Heidi's house. So how sure are
4 we that she actually heard exactly what was going
5 on, who was saying what and who was saying it?
6 Remember that this is -- Chelsi is the same witness
7 that said that she what? That she never met Heidi,
8 that she never met Courtney, that they never spoke
9 to one another, so she doesn't know what either
10 one's voice even sounds like, unlike Ms. Waddell who
11 had spoke with both of them and knew both of them.
12 Ms. Waddell knew what Courtney's voice sounded like,
13 she knew what Heidi's voice sounds like; Chelsi does
14 not. And she was honest with us, she told us that
15 from the stand. Especially wasn't familiar with
16 their voices and their inflections, talking versus
17 yelling, that type of thing. Chelsi says she's
18 never even had a conversation with them and never
19 even heard them. And she admitted, point blank, she
20 doesn't know who was doing what inside, is what she
21 said from the witness stand. Doesn't even know how
22 many kids were inside, there was music playing
23 inside at times, and at times it was so loud that
24 she couldn't hear anything else inside. There is
25 some language where it sounds like the lady and

1 child, what she tells us, had gone back and they're
2 in what sounds like a closed room. Sort of seems to
3 kind of go with what Courtney said, Heidi taking
4 **Minor 1** down the hall.

5 What she did see was just a small glimpse. She
6 said she saw one thing in the window. She said she
7 saw somebody sitting on a couch, just like Courtney
8 said that she was sitting on a couch holding **Minor 2**
9 just like the officer, Officer Spires, saw Courtney
10 sitting on a couch when he came in. He just looked
11 right at her and that's exactly where she was.
12 She's also forced to admit that she saw Heidi
13 walking up and down the middle of the street
14 dragging, is the word she used, **Minor 1** behind her.
15 He's not properly dressed, thought it was funny,
16 didn't move when cars came, they're walking in the
17 middle off the road.

18 We switch over to Phillip Swartz. What does he
19 say? He's outside Heidi's house as well. He didn't
20 see anything at all that day. He got there about
21 5:00, he can't speak to anything that happened that
22 morning. And like Chelsi, he doesn't know any of
23 the people inside, he'd never met them, he'd never
24 spoken with them, he can't say who was doing what
25 either. And he also sees Heidi just walking up and

1 down this road in an indescribable manner, something
2 that doesn't make sense, with her young children
3 there.

4 And final finally we switch over to Colin
5 Piselli. He says he not only hears something, but
6 he also saw into Heidi's home. He says Courtney and
7 Heidi pushed Minor 1 but his testimony is not
8 believable. Well, why is that? Because last week
9 Investigator Chris Lorick talks with him by phone.
10 Who is Chris Lorick? Is he just some guy who sort
11 of just happened upon the, you know, private
12 investigator business? No. Fifteen years law
13 enforcement experience, specifically four years
14 where he only did child abuse cases. He didn't
15 threaten or intimidate Colin, he talked to him over
16 the phone. And basically he asked him a simple
17 question: Did you see anything in Heidi's house?
18 Colin said in that conversation to Investigator
19 Lorick that he didn't see anything going on inside,
20 that he was unsure who was cursing and striking the
21 child. And when Investigator Lorick asked him
22 several times that he never saw anything in the
23 residence when this went on. He wished he had, but
24 he just didn't see. Well, the reason given for this
25 wild discrepancy, this huge entire difference

1 between what he said then and now is because he was
2 confused, because Investigator Lorick didn't go over
3 his prior testimony. And the State would have you
4 believe that, well, what he said at the scene, well,
5 that's fine because that's set in stone and that's
6 not going to change, you didn't go over that with
7 him, did you? The thing about the truth is you
8 don't have to rehearse the truth, you don't have to
9 go over that again. Colin is 17 years old. He's
10 17.

11 We have young Matthew scamper right up here and
12 sit in this chair, and then when we ask him
13 questions, he just rattles them off, rattles them
14 off, rattles them off, and he's 10. Did he need to
15 rehearse what the truth was? No, he didn't. No, he
16 didn't at all. You can't believe what Colin is
17 saying. And even still, he got there around 10:30.
18 He cannot speak to anything that happened that day.
19 Even if everything that they say is true, this case
20 does not rise to the lofty standard of assault and
21 battery in the second degree.

22 We look at what the doctor says. He went
23 through a battery of tests to make sure that Minor 1
24 was all right. Skeletal exam, CT Scan, eyes, all
25 normal. EMS and doctors said that Minor 1 was alert,

1 oriented, breathing on his own, nonlabored breathing
2 is what he said.

3 And so there it is in wading through that with
4 our goal, with our objective, in wading through
5 those facts, you're to look at whether this fits
6 under the charge alleged. And with each of those
7 witnesses, Matthew, his mother, Heidi, do you have a
8 doubt? Do you have a reason for that doubt as you
9 wade through that with Chelsi? Do you have doubt?
10 Do you have a reason for that doubt with Phillip?
11 Do you have a doubt and a reason for that doubt?
12 And especially with Colin, do you have a doubt about
13 what he said? Do you have a reason for that doubt?

14 It's just like Courtney said, she didn't
15 mistreat or hurt **Minor 1** at all that day or ever. We
16 know that Courtney lives several homes down with her
17 parents. And Chelsi said everyone lives on top of
18 one other. Courtney has two kids of her own. One
19 is eight years old and one is ten. And that on
20 occasion she would baby-sit **Minor 1** and this would
21 happen with some frequency, about two times a week
22 is what she said. Who else is also there two times
23 a week? Matthew, he's also there, he can also see.
24 And with everybody living on top of each other, no
25 one ever saw Courtney abuse her own kids. No one

1 ever saw that.

2 In order to believe what the State is telling,
3 you'd have to believe Courtney didn't abuse her own
4 kids, didn't hurt them, mistreat them, discipline
5 them, but that everybody else's kids were fair game.
6 It doesn't make sense. Courtney says -- and she
7 arrived there about 3:00 or 3:30 that day. She came
8 in and Miguel, Heidi's husband, was leaving. And
9 right then, right then and there upon going in, she
10 saw that black eye on Minor 1. And she's open and
11 honest with you about that. She didn't see anything
12 else, but she noticed -- looking right at his face,
13 she noticed that black eye right on Minor 1 is
14 wearing a shirt just like EMS said, and we see that
15 in the pictures with some of the -- that blue shirt
16 being held up. And they all watch TV and Courtney
17 eventually made Minor 2 and Minor 1 lunch. And for
18 whatever reason, Heidi didn't do it. She was just
19 more interested in sitting there watching TV, and
20 Courtney did this. 45 minutes later, Miguel comes
21 back, he pushes Minor 1 out of the way, not in an
22 abusive manner, we're clear on that. Was it enough
23 to topple him over? No. No. Just more of an, I'm
24 disinterested in you, get out of my way. He went
25 for his biological child, Minor 2

1 And in that moment right there, that's a little
2 picture of the big picture. We see how much
3 attention **Minor 1** is getting. He's not interested.
4 He's not getting very much attention at all and, in
5 fact, that's exactly what Courtney said from the
6 stand that she witnessed over there at the Oberg
7 house, that Miguel holds and talks to **Minor 2** for 20
8 minutes, that while he does this, that he kicks a
9 stick that was leaning against the wall. And
10 Courtney, this is when she actually sees that stick.
11 She saw it. That **Minor 1** was good all afternoon and
12 then he was cussing. And then we come to that same
13 question: Why in the world would that set Courtney
14 off if **Minor 1** was cussing? And coupled with what
15 Heidi said, that he used the bathroom in his pants,
16 why in the world would that set Courtney off and
17 stir her into some sort of rage? It doesn't make
18 sense. The reason is because Courtney did not hit
19 or abuse **Minor 1**

20 Do you have a doubt and do you have a reason
21 for that doubt? Heidi put **Minor 1** in his seat facing
22 the wall and then walked -- eventually that wasn't
23 good enough and she walked him down the hallway. So
24 Heidi and **Minor 1** leave the room, and Courtney could
25 hear **Minor 1** yelling just like she told the officer.

1 And Heidi and **Minor 1** stay in that back room for a
2 while. And that's one of those periods in this
3 trial where if walls could talk. Well, we don't
4 have that. Do you have doubt and do you have a
5 reason for that doubt? Courtney is able to make out
6 some of what is said. She believes that she hears
7 **Minor 1** you know, say something to the effect of I'm
8 good or it's good or something like that. She does
9 hear him yelling and things of that nature, but the
10 only audible things she can actually hear are those
11 things from **Minor 1** coming down the hall.

12 Heidi and **Minor 1** after a while, re-enter the
13 room and she immediately -- what does she do? She
14 walks down this hallway right here to go away this
15 is the car seat right here. And upon entering the
16 room, what does she do? She walks down this hallway
17 right here to go away. This is the car seat right
18 here. And upon entering the room, what does she do?
19 Immediately, based on what Courtney tells us, stops
20 here, puts **Minor 1** immediately in this car seat right
21 here with the high back facing the wall. That's
22 what she said. She goes on to stay that she's
23 holding **Minor 2** while all this is going on. **Minor 2**
24 has a skin rash and the rash is all over the child's
25 body and from time to time, you know, they're trying

1 to clear it up, use several lotion medications, but
2 specifically creams. And basically Minor 2 -- well,
3 Courtney has Minor 2 in her lap and Courtney puts
4 this lotion on Minor 2 and she's crying as well due
5 to the lotions. She always cried when you put the
6 lotion in Minor 2 had this skin rash that
7 was not cleared up. And soon after that, law
8 enforcement came. And you heard the solicitor,
9 well, you didn't hear sirens? I mean, you didn't
10 even know? All of a sudden then just looked up and
11 they're there. What does Chelsi tell us? Chelsi
12 said they turned those sirens off when they turned
13 on the street, didn't she? Well, what chance does
14 Courtney have of hearing those sirens?

15 Officer Spires comes in and he confirms what
16 Courtney said all along. He said that he found
17 Courtney sitting right there on that couch,
18 specifically at this end right here, and not this --
19 Courtney said this is her stuff and, in fact, we
20 did -- that thing was mildly silly, but there's an
21 imaginary doorway right here, if you walk into the
22 apartment and you look to the left, this is what you
23 see. Well, guess what? On that day, you see
24 Courtney sitting right there, right in that seat
25 right there, sitting down, and these are her things.

1 That's exactly what Officer Spires saw upon going
2 in. And it also squares with what Chelsi tells us,
3 saw somebody sitting on the couch inside. And so it
4 squares with what other witnesses are saying.

5 She's holding Minor 2 just like the officer said
6 and just like Courtney said, and that he finds
7 pieces of the stick in part of the house but he
8 doesn't know about pieces of the stick in other
9 areas of the house. There's no testimony on that
10 whatsoever. So the idea -- so what we've learned
11 throughout the world of this trial is that these
12 beatings, they don't just occur in the afternoons;
13 any time is fair game. Who's to say that -- there's
14 pieces of stick all over the house. You know why?
15 Because they live right there and we saw on the
16 overhead there's trees all around, there's no
17 shortage of sticks out there. That's not the only
18 one. They probably cared so little about keeping
19 their place up, you saw that clutter all over the
20 counter. Well, we care so little about our kids
21 that we're probably not even going to clean up the
22 stick that the mess made after we beat our kids.
23 That's Heidi Oberg's world and that is what she did
24 to Minor 1

25 You know, one thing when we were wading through

1 Courtney's testimony we asked this question: Wasn't
2 it have been the easiest thing in the world for
3 Courtney to lie? Think about it. What she could
4 have said was she saw upon going in, she saw lots of
5 marks and bruises on **Minor 1** she saw all of that stuff
6 upon going in and thought, oh, my goodness, what's
7 going on? But she doesn't. She could have made up
8 a story that she personally witnessed **Minor 1** getting
9 the beating of his life right there in the living
10 room, but she doesn't do that either. And it would
11 have been the easiest thing in the world to say
12 that, yes, I saw with my own eyes that Heidi did
13 this and she said all those terrible things to **Minor 1**
14 but she doesn't. That would further our case. And
15 you know what? That's a lie she could get away
16 with. There's no other witnesses in that house that
17 could speak. She could have gotten away with it.
18 But she doesn't do that. Why? Because she told the
19 truth.

20 Specifically, and in close, this is the last
21 time that I'll have to address you, this is the last
22 time that you'll hear these words from me, and what
23 I'd simply ask is that you carry these words back
24 with you into the jury room and hold onto them.
25 Next you'll hear from the State. It's easy to look

1 at pictures like this, it's despicable and lowly
2 acts, it's easy to look at pictures like this and
3 say, somebody must be punished, somebody must be
4 punished for what this is. Well, guess what?
5 Somebody has been punished, somebody has confessed,
6 somebody has pled guilty, and somebody right now
7 their address is over there at the South Carolina
8 Department of Corrections and that somebody is Heidi
9 Oberg.

10 Reasonable doubt doesn't exist in this case but
11 it is alive and well. Remember, do you have a doubt
12 about the guilt of Courtney? Do you have a reason
13 for that doubt?

14 Final example and then I'll sit down and I'll
15 shut up. In Lexington County it's easiest to think
16 about because we have four levels to the courthouse,
17 and normally what happens, generally speaking, is on
18 that second floor that y'all passed on your way up
19 here, that's really where a lot of family court
20 cases happen. And the standard or the burden of
21 proof down there in family court is a whole lot less
22 than what you have to prove up here. But very
23 significant, very important things can happen in
24 family court. What I really mean is, you know, we
25 think it's more likely than not that this happened.

1 But in family court, the consequences are severe.
2 The judge down there has the power to take your kids
3 away, has the power to order child support, has the
4 power to order alimony, so there's significant
5 consequences, even with a standard like that. When
6 you go up to the third floor, third floor we have --
7 right now this week there was a civil trial going
8 on. And the burden of proof of what somebody has to
9 prove to a jury or to a judge in a civil trial is
10 even less than what we have to prove up here in this
11 court, in criminal court. Significant consequences
12 exist down there in civil court. They can take your
13 money away, shut your business down, things of that
14 nature. But we're up here on the fourth floor, this
15 is criminal court, and it's the highest burden of
16 proof that the State must present. It's the highest
17 burden and that burden is reasonable doubt. It's
18 higher than all of the others and the consequences
19 are oh so severe up here. Do you have a doubt and
20 do you have a reason for that doubt?

21 And in conclusion I'd ask you to find Courtney
22 not guilty of these crimes. Thank you for
23 listening.

24 THE COURT: Thank you, Mr. Casto.

25 Solicitor, are you ready?

1 MS. MAYES: Yes, sir, Your Honor.

2 THE COURT: Okay. You may proceed.

3 MS. MAYES: May it please the Court.

4 THE COURT: Yes, ma'am.

5 MS. MAYES: I don't know why the police were
6 called. I don't know why the police were called.
7 That was the statement of Courtney Woodard at the
8 scene of this crime, and it was a lie. And that was
9 her plan, to pretend that she knew nothing, to
10 pretend that she saw nothing. Another part of her
11 plan was to cover for Heidi Oberg, and that's why
12 she said at the scene to this law enforcement
13 officer, I don't know why the police were called.
14 **Minor 1** was screaming, but I don't know why the police
15 were called. Is there anything else you can add?
16 Nope, I have nothing else I can add. It was a lie
17 to protect herself and to protect the codefendant,
18 Heidi Oberg. And for a while that's how it went;
19 she was going to cover for Heidi and Heidi was going
20 to cover for her. And the investigation goes on and
21 eventually, as always, the evidence prevails.

22 The evidence -- and the Judge will charge you a
23 little bit later on exactly what types of evidence
24 you can consider, what types of evidence are valid,
25 reliable evidence in a court of law. One of those

1 is what we call direct evidence. Direct evidence is
2 something that someone sees or someone hears, but
3 it's first-hand knowledge from people who know. And
4 in this case, there's overwhelming direct evidence.
5 Chelsi Swartz who heard her involvement absolutely,
6 unequivocally, no doubt whatsoever from Chelsi
7 Swartz, that two females are involved, two females
8 are interacting and conversing as this goes on about
9 what is happening to **Minor 1** Colin Piselli who saw
10 her that night or that evening, it's 5:00, it's
11 still light.

12 And then what about their own witness, Anita
13 Waddell? Anita Waddell who they called to the
14 witness stand, what did she tell us? She heard two
15 females yelling, and yet she wants to stick with the
16 lie that she doesn't know what happened. And then,
17 significantly, direct evidence from somebody else at
18 the scene, someone who can actually talk because we
19 know **Minor 1** can't communicate to us what happened.
20 His body tells us what happened. That other person
21 at the scene who took the stand and told us what
22 happened is our codefendant, Heidi Oberg.

23 What reason does she have now to cover for
24 Courtney Woodard? In the beginning she did. In the
25 beginning she tried to cover for herself saying, oh,

1 Minor 1 you know, he falls in his room. There's no
2 way that argument, that story, was ever going to
3 float, not even for five minutes. So there at the
4 scene she ends up minimizing her involvement just
5 like anybody in this situation would, okay, yes, I
6 made a mistake. A mistake? It's far more than a
7 mistake. But she wasn't acting alone.

8 So by the time you hear her testimony, and
9 she's called as a defense witness, she is called
10 into this courtroom as a witness for the defense.
11 But on the stand, as she said, she has eventually
12 come clean to the fact that she's not going to cover
13 for Courtney anymore and her testimony absolutely
14 confirms and corroborates what all of the other
15 witnesses who have direct knowledge and direct
16 evidences have shared, and that is Heidi wasn't
17 acting alone and two people were involved.

18 So now in response to what Mr. Casto said
19 earlier, you know, his argument to you was, well, no
20 one has ever seen Courtney do anything before this,
21 because there are multiple witnesses confirming her
22 involvement on this date, but he says, well, you
23 know, this little boy -- who is 12 by the way --
24 he's been over to her house, he's never seen
25 Courtney do anything to her child. Child abuse is a

1 secret crime. That is how **Minor 1** got to the point
2 that he got because no one had the guts to do
3 anything to intervene on that child's behalf until
4 Chelsi Swartz picked up the phone and finally saved
5 that child's life. Would he even be here today if
6 he had stayed there? Child abuse is a secret crime.
7 It's not a crime that Courtney Woodard or anybody
8 else is going to be committing repeatedly in front
9 of people. As he said, if walls could talk. If
10 walls could talk. We don't know what goes on behind
11 closed doors in her home, but we know what goes on
12 on February 17th behind closed doors in Heidi's
13 house.

14 The evidence in this case confirming their
15 involvement together is overwhelming. There doesn't
16 have to be some motive that was discussed and
17 planned. It's about how they began participating
18 together.

19 At some point there was a common scheme taking
20 place, and the Judge will charge you in a little bit
21 later about exactly what the hand of one is the hand
22 of all means. You've probably heard that expression
23 before in term before of South Carolina law. The
24 hand of one is the hand of all. And that means that
25 the State does not have to prove that Courtney

1 Woodard ever laid a hand on **Minor 1** that day, although
2 we submit she did, and Heidi Oberg confirmed that
3 she did.

4 The hand of one is the hand of all means when
5 two people are participating together, there is an
6 understanding or agreement or a common scheme that
7 the consequences apply to both of them and they're
8 both responsible for the outcome of the crime that's
9 been committed.

10 Now let's take a look -- let's take a look at
11 what Chelsi Swartz heard that day. And again,
12 Chelsi Swartz is not someone who is recounting after
13 the fact, she didn't give some statement days later;
14 Chelsi is telling us what's happening while it is
15 taking place. She is desperate to relay to that 911
16 operator exactly what she's hearing. That's as
17 reliable of an account as there could ever be. She
18 is witnessing it as it takes place. And we know
19 that that phone call or the time that the call is
20 received to the time that the first unit arrives is
21 15 minutes. Those screams and yells and the two
22 female voices yelling at that child were going on
23 for minutes before Chelsi even placed the call.

24 There was testimony from her brother, Phillip
25 Swartz, that she heard the two females yelling at

1 the child for minutes before he ever alerted Chelsi.
2 And then Chelsi hears it and has to go get the phone
3 to place the call. So all together we're talking
4 about an event that went on in excess of 20 minutes.

5 They were drinking vodka that day, multiple
6 shots of vodka. As Courtney said, her children
7 weren't with her that weekend. What led to this?
8 They wanted to party and **Minor 1** was not complying with
9 whatever it was they wanted him to do. What leads
10 to child abuse? It's something that can't be
11 explained. It's inexplicable. There's no rational
12 way to even understand how a child is hurt or killed
13 in our modern society, yet it happens, it happens
14 every day, to the misfortune of so many.

15 So what caused it to get out of hand? Could
16 have been the vodka, could have been the rage, could
17 have been the two of them spurring each other on.
18 **Minor 1** wouldn't comply with whatever it was they
19 wanted from him and it completely got out of hand.
20 From the 911 call, this is Courtney, this is
21 Courtney that Chelsi Swartz hears. When she says,
22 it's not even her kid because she says, does your
23 mom hit you like this? And she says, and then
24 another voice said, don't break the wall. Who would
25 be concerned about somebody breaking the wall? The

1 owner, the person who lives there. It's Heidi who
2 says in response to Courtney when she says, does
3 your mom hit you like this, don't break the wall.
4 And Heidi Oberg testified it was, in fact, Courtney
5 who said, does your mom hit you like this, Courtney
6 cursing at Minor 1 And no doubt Heidi was involved in
7 that equally. These are equal participants. It's
8 clear from Chelsi's description that there were two
9 females involved. She heard big booms, really loud
10 booms. Again, this is more than just the stick
11 being used. You could hear skin hitting skin is the
12 way she describes it, loud enough that they could
13 hear it from 20 to 25 feet away outside of that
14 residence. And the injuries he sustained confirms
15 that.

16 Later in the call she says, a lady said, roll
17 your eyes, and another voice said, throw him at the
18 wall. Heidi Oberg's testimony was that throw him at
19 the wall was a statement made by Courtney Woodard.

20 (WHEREUPON, the audiotape was played for the
21 jury.)

22 MS. MAYES: So that's how loud it was. And yet
23 she comes in this courtroom and takes that witness
24 stand and tells us she never heard a thing. She
25 heard Minor 1 screaming but she has no idea what was

1 going on, she has no idea that he was being injured,
2 and she's figured it out after the fact. But the
3 lie doesn't stop there. It gets bigger.

4 She says she's sitting on this couch, that
5 earlier that day she had seen the stick all in one
6 piece and she doesn't know how it ever got in
7 multiple fragments all over the floor in the very
8 room that she's sitting in. That's impossible. Of
9 course she knows. She knows because she was
10 involved. Here we see the room, here you see
11 multiple fragment of that stick right at the bottom
12 of the very couch she's sitting on. The officer
13 testified those fragments were throughout this area
14 beside the couch, on into the kitchen, the kitchen
15 and the living room being one big room. If you're
16 in the kitchen, you can see what happened in the
17 living room and vice versa. Again, fragments of the
18 stick throughout that living room. And then you
19 have the testimony from Dr. Hals about that stick
20 being consistent with the linear markings on Minor 1
21 particularly the linear markings along his back.
22 Happened right there, and just like the witnesses
23 said, she's there taking part of it, and yet she's
24 going to continue to deny it and has no explanation
25 for how that stick ended up in fragments right in

1 front of her.

2 Now, in addition to the 911 call of Chelsi
3 Swartz -- and I ask you to keep in mind that is in
4 evidence, that item of evidence is there for your
5 review. If you have any question along the way
6 about exactly what is said and the extent of
7 Chelsi's documentation as she hears it, it is there
8 in evidence for your review. Colin Piselli -- Colin
9 Piselli was 16 years old. He is there as Chelsi is
10 making the call. And they're standing in the
11 roadway. He looks in the window. He doesn't see
12 everything that happens for the whole 20 minutes,
13 no, and he never said that he did. But what he did
14 see was Courtney Woodard and Heidi push Minor 1 and he
15 documented it that day as any reliable law
16 enforcement officer would have a witness do,
17 documented it that day in writing.

18 And then what we hear from the defense witness
19 is that last week he calls Colin Piselli on the
20 phone and he estimates it's a five-minute phone call
21 or less and that the entire point of his phone call
22 is to try and get a discrepancy or see if there's
23 any discrepancy. He doesn't make notes during the
24 phone call. He testified he had prior law
25 enforcement experience and yet he's not even taking

1 notes of the phone call and then he doesn't even
2 prepare a summary or a report following the phone
3 call. In fact, his testimony was that he prepared a
4 report on Monday, this Monday, five days after he
5 alleges he heard this statement from Colin that he
6 didn't see anything. How did Colin explain that?
7 He said that he was uncomfortable talking with this
8 guy, that he felt like he was asking questions that
9 were confusing to him and designed to confuse him,
10 because they were, and his understanding was that
11 the person was asking him did he see anything else
12 other than what's in his statement. No, he didn't
13 see anything else other than what he's already put
14 in his statement, and he never said that he did. So
15 clearly there is room for human error, clearly a
16 misunderstanding, but the bottom line is it is not
17 reliable to document or attempt to document a phone
18 conversation days after it took place when you don't
19 even take notes about what you're asking and what
20 the response is. Any trained person in law
21 enforcement would have that documented verbatim.
22 But he can't even tell us what he asked him and what
23 the responses were. Again, that is not reliable.
24 Colin's testimony, consistent with what he observed
25 that night, is additional direct evidence. Even if

1 Colin had never looked in that window and never seen
2 her, Chelsi heard, Anita Waddell heard two females,
3 and the codefendant, Heidi Oberg, has confirmed her
4 involvement and her participation.

5 Let's talk about the testimony of Dr. Hals.
6 And I mention it because it's a factor or an element
7 that the Judge will charge you on in just a few
8 moments. When we talk about the law of assault and
9 battery in the second degree, assault and battery in
10 the second degree occurs when a person injures
11 another person or offers or attempts or injure
12 another person. So for example, two people are in a
13 fight, one person swings at the other person and
14 that person is not actually injured but there was an
15 offer or an attempt. That would satisfy the
16 statute. But here, of course, it goes way beyond
17 that, because **Minor 1** certainly has injuries. That
18 element has been met beyond a reasonable doubt.
19 Secondly, that moderate bodily injury to another
20 person results or moderate bodily injury to another
21 person could have resulted. That is the law. There
22 is no requirement that **Minor 1** bones be broken, there
23 is no requirement that he have a bleeding brain.
24 Moderate bodily injury could have resulted from the
25 injuries that he sustained. And that's what

1 Dr. Hals confirmed repeatedly and explained in great
2 detail.

3 Any bone could have been broken or fractured
4 considering that he weighs 35 pounds and he was
5 being stricken repeatedly. Again, whether it's
6 Heidi doing the blows while Courtney is involved and
7 participating or vice versa, it does not matter
8 under the hand of one is the hand of all doctrine of
9 law. But clearly, moderate bodily injury could have
10 occurred to an organ system such as the skeletal
11 system, the nervous system, the brain, the eyes or
12 the kidneys or the liver, as Dr. Hals explained in
13 detail. Absolutely no doubt whatsoever as a medical
14 professional that Minor 1 was at risk for injury to his
15 organ systems, that's why he ordered the CT Scans,
16 that's why he ordered the full skeletal survey,
17 that's why he remained hospitalized for several days
18 to be fully evaluated. And that's why we have this
19 statute, to protect kids that are put at risk
20 instead of waiting for them to actually be injured
21 with broken bones or killed before someone can be
22 adequately prosecuted.

23 Now, the Judge will also charge you on what's
24 called a lesser offense, a lesser offense of assault
25 and battery in the third degree. I submit, ladies

1 and gentlemen, that that lesser offense is not
2 applicable to the facts in this case. Simple
3 assault would be a situation -- or assault and
4 battery third degree would be a situation where
5 let's say you've got two drunks in a bar, one takes
6 a swing at another. It would never apply to a case
7 such as this with extensive child abuse and injuries
8 to this degree. This is clearly assault and battery
9 second degree considering [Minor 1] age and size and
10 weight and the sheer vulnerability and helplessness
11 that he faced. What happened to [Minor 1] should
12 never happen to any human being, much less a child.
13 It's unacceptable in every way in any society. But
14 here in Lexington County, it's got to stop. She
15 must be held accountable for her actions that day,
16 for her participation in this crime, an undeniable
17 crime in which she was clearly involved, confirmed
18 by multiple witnesses and the evidence itself, no
19 greater evidence than what was heard on that 911
20 tape and what her codefendant said right there on
21 the witness stand.

22 She lied at the scene, she's tried to cover up
23 her involvement, but it stops now. You have before
24 the most noble of opportunities, the chance to
25 strike back against injustice and deliver a verdict

1 that speaks the truth. And in this case, it cries
2 out for justice. ^{Minor 1} deserves justice. The
3 correct verdict in this case is assault and battery
4 in the second degree. Thank you.

5 THE COURT: Thank you, Solicitor.

6 Mr. Foreman and ladies and gentlemen of the
7 jury, before we go to the final charge on the law,
8 we're going to take a ten-minute break. Now, I
9 understand we have some smokers on the jury. I'm
10 going to go ahead and allow you to take a smoke
11 break because once we start the deliberations, it's
12 going to be very difficult for you to leave the jury
13 room. So we're going to take about a 10- or
14 15-minute break, and for those smokers who want to
15 take a smoke break, I'm going to allow you to do it
16 at this time.

17 Again I remind you, don't start your
18 deliberations yet. See you back in about 10 or 15
19 minutes. All right. We'll be in short recess.

20 (The jury retires to the jury room at 10:57
21 AM.)

22 (A recess transpired.)

23 THE COURT: Okay. Let's bring the jury out
24 please.

25 (The jury returns to the courtroom at 11:15

1 AM.)

2 THE COURT: Let the record reflect the jury is
3 back in.

4 Mr. Foreman, ladies and gentlemen of the jury,
5 I will now charge you on the law applicable to this
6 case. You must consider the charge as a whole and
7 not focus on some portions to the exclusion of other
8 portions. I remind you that during this trial you
9 and I have had certain duties to perform. As the
10 trial judge, it's been my responsibility to preside
11 over the trial of this case. I've also had the duty
12 to rule on the admissibility of evidence offered
13 during this trial. You are to consider only the
14 competent evidence before you. If there was any
15 testimony ordered stricken from the record in this
16 case during this, trial you must disregard that
17 testimony.

18 You are to consider only the testimony which
19 has been presented from the witness stand, any
20 exhibits which have been made part of the record in
21 this case, and any stipulations of counsel. I have
22 the additional duty to charge you the law applicable
23 to this case. As the presiding judge, I'm the sole
24 judge of the law in this case, and it is your duty
25 as jurors to accept and apply the law as I now state

1 it to you.

2 If you have already had any idea as to what the
3 law is or what the law ought to be and it does not
4 agree with what I now tell you the law is, you must
5 abandon this idea because you are sworn to accept
6 the law and apply the law exactly as I state it to
7 you.

8 In every case tried in this court before a
9 jury, the jury becomes the sole and exclusive judge
10 of the facts in the case. A trial judge cannot
11 intimate, comment on, state or make any statement to
12 a trial jury about the facts in a case. Since you
13 the jury are the sole judge of the facts in this
14 case, you are not to infer from what I have said
15 during the progress of this trial in ruling upon the
16 admissibility of evidence or otherwise or anything
17 that I say now during the course of this instruction
18 to you that I have any opinion about the facts in
19 this case, because I do not. The law does not allow
20 me to have an opinion about the facts in this case.
21 This is a matter solely for you, the jury, the 12 of
22 you to determine. As jurors it is your duty to
23 determine the effect, value, weight and truth of the
24 evidence presented during this trial.

25 Now, as I told you at the outset of this case,

1 the indictment charges the defendant with assault
2 and battery in the second degree. I remind you that
3 the fact that the defendant was arrested, charge d
4 and indicted in this case is not evidence in this
5 case and cannot be considered by you as evidence of
6 guilt in this case, nor does it create any
7 presumption or inference of guilt. The indictment
8 is simply the formal written instrument which
9 contains the charge made against defendant. It's
10 the formal document by which this case is brought
11 into this court.

12 Now, Mr. Foreman and ladies and gentlemen of
13 the jury, the defendant has pled not guilty to this
14 indictment, and that pleas puts the burden on the
15 State to prove the defendant guilty. A person
16 charged with committing a criminal offense in South
17 Carolina is never required to prove himself or
18 herself innocent. I charge you that it is an
19 important rule of the law that the defendant in a
20 criminal trial, no matter what the seriousness of
21 the charge may be, will always be presumed to be
22 innocent of the crime for which the indictment was
23 issued unless guilt has been proven by evidence
24 satisfying you of that guilt beyond a reasonable
25 doubt. This presumption of innocence does not end

1 when you begin your deliberations, but it
2 accompanies the defendant throughout the trial
3 unless you reach a verdict of guilt based on the
4 evidence satisfying you of that guilt beyond a
5 reasonable doubt.

6 The presumption of innocence is like a robe of
7 righteousness placed about the shoulders of the
8 defendant and remains with the defendant unless it's
9 been stripped of the defendant by evidence
10 satisfying you of the defendant's guilt beyond a
11 reasonable doubt.

12 The presumption of innocence is not a mere
13 legal theory, it is not just a legal phrase, it's a
14 substantial right to which every defendant is
15 entitled unless you, the jury, are satisfied of the
16 defendant's guilt beyond a reasonable doubt.

17 The State has the burden of proving the
18 defendant guilty beyond a reasonable doubt. Some of
19 you have served as jurors in civil cases where you
20 were told that it is only necessary to prove that a
21 fact is more likely true than not true, such as by
22 the greater weight or the preponderance of the
23 evidence. However, in criminal cases, the State's
24 proof must be more powerful than that; it must be
25 beyond a reasonable doubt.

1 Proof beyond a reasonable doubt is proof that
2 leaves you firmly convinced of the defendant's
3 guilt. There are very few things absolute
4 certainty, and in criminal cases the law does not
5 require proof that overcomes every possible doubt.
6 If, based on your consideration of the evidence, you
7 are firmly convinced that the defendant is guilty of
8 the crime charged, you must find the defendant
9 guilty. If on the other hand you feel there's a
10 real possibility that the defendant is not guilty,
11 you must give the defendant the benefit of the doubt
12 and find her not guilty.

13 Now, Mr. Foreman and ladies and gentlemen of
14 the jury, there are two types of evidence which are
15 generally presented during a trial: Direct evidence
16 and circumstantial evidence. Direct evidence
17 directly proves the existence of a fact and does not
18 require deduction. Circumstantial evidence,
19 however, is proof of a chain of facts and
20 circumstances indicating the existence of a fact.

21 Crimes may be proven by circumstantial
22 evidence. The law makes no distinction between the
23 weight or value to be given to either direct or
24 circumstantial evidence, however, to the extent the
25 State relies on circumstantial evidence, all of the

1 circumstances must be consistent with each other,
2 and when taken together, point conclusively to the
3 guilt of the accused beyond a reasonable doubt. If
4 these circumstances merely portray the defendant's
5 behavior as suspicious, the proof has failed.

6 The State has the burden of proving the
7 defendant guilty beyond a reasonable doubt. This
8 burden rests with the State regardless of whether
9 the State relies on direct evidence, circumstantial
10 evidence or some combination of the two.

11 Necessarily, Mr. Foreman and ladies and
12 gentlemen of the jury, you must determine the
13 credibility of witnesses who have testified in this
14 case. Credibility simply means believability. It
15 becomes your duty as jurors to analyze and to
16 evaluate the evidence and determine which evidence
17 convinces you of its truth. In determining
18 believability of witnesses who have testified in
19 this case you may believe one witness over several
20 witnesses or several witnesses over one witness.
21 You may believe a part of the testimony of a witness
22 and reject the remaining part of the testimony of
23 that same witness. You may believe the testimony of
24 a witness in its entirety or reject the testimony of
25 a witness in its entirety. You may consider whether

1 any witness has exhibited to you any interest, bias,
2 prejudice or other motive in this case. You may
3 also consider the appearance and manner of a witness
4 while on the witness stand.

5 The rules of evidence ordinarily do not permit
6 witnesses to testify to opinions or conclusions. An
7 exception to this rule exists for witnesses we call
8 expert witnesses. A witness who, by education and
9 experience, has become an expert in some art,
10 science, profession or calling may state an opinion
11 as to relevant and material matter in which the
12 witness claims to be an expert and may also state
13 the reasons for the opinion.

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

23 An expert witness' testimony is to be given no
24 greater weight than that of other witnesses simply
25 because the witness is an expert. Further, you're

1 not required to accept an expert's opinion even
2 though it is not contradicted.

3 Now, a statement alleged to have been made by
4 the defendant has been admitted into evidence in
5 this case. While the Court has determined that the
6 statement is admissible, I instruct you that you
7 make the ultimate decision of whether or not the
8 defendant made the statement. If the defendant did
9 make the statement, you must determine whether the
10 statement was made by the defendant voluntarily and
11 of her own free will. This means that statement was
12 not caused by pressure, force, fear, threats,
13 coercion or intimidation or by hope or a promise of
14 leniency or a reward of any kind. In determining
15 whether the statement was voluntary, you should
16 consider both the characteristics of the defendant
17 and the details of the questioning. You must
18 carefully consider all of the surrounding
19 circumstances before you give any weight to the
20 alleged statement. The State has the burden of
21 proving beyond a reasonable doubt that the alleged
22 statement was voluntary. If you determine it was,
23 you may give the statement any further consideration
24 you deem proper. You must decide what weight, if
25 any, should be given to the alleged statement. If

1 you determine the alleged statement was not the free
2 and voluntary statement of the defendant, you should
3 not consider the statement at all.

4 An issue in this case is the identification of
5 the defendant as the person who committed the crime
6 charged. The State has the burden of proving
7 identity beyond a reasonable doubt. You must be
8 satisfied beyond a reasonable doubt of the accuracy
9 of the identification of the defendant before you
10 may convict the defendant. Identification testimony
11 is an expression of belief or impression by a
12 witness. You must determine the accuracy of the
13 identification of the defendant. You must consider
14 the believability of each identification in the same
15 way as any other witness. You may consider whether
16 the witness had an adequate opportunity to observe
17 the offender at the time of the offense. This will
18 be affected by things like how long or short a time
19 was available, how far or close the witness was, the
20 lighting conditions, and whether the witness had the
21 chance to see or know the person in the past. Once
22 again I instruct you the burden of proof on the
23 State extends to every element of the crime charged,
24 and this specifically includes the burden of proving
25 beyond a reasonable doubt the identity of the

1 defendant as the person who committed the crime.

2 If, after examining the testimony, you have a
3 reasonable doubt as to the accuracy of the
4 identification, you must find the defendant not
5 guilty.

6 Now, the defendant is charged in the indictment
7 with assault and battery second degree. A person
8 commits the offense of assault and battery in the
9 second degree if the person unlawfully injures
10 another person or offers or attempts to injure
11 another person with the present ability to do so,
12 and moderate bodily injury to another person results
13 or moderate bodily injury to another person could
14 have resulted.

15, Moderate bodily injury means physical injury
16 requiring treatment to an organ system of the body
17 other than the skin, muscles and connective tissues
18 of the body, except when there is penetration of the
19 skin, muscles and connective tissues that require
20 surgical repair of a complex nature or when
21 treatment of the injuries requires the use of
22 regional or general anesthesia.

23 If you determine that the State has not proven
24 assault and battery second degree beyond a
25 reasonable doubt, you should then consider whether

1 the State has proven beyond a reasonable doubt that
2 the defendant is guilty of assault and battery in
3 the third degree. This is referred to as a lesser
4 included offense. A person commits the offense of
5 assault and battery in the third degree if the
6 person unlawfully injures another person or offers
7 or attempts to injure another person with the
8 present ability to do so.

9 Mr. Foreman, ladies and gentlemen of the jury,
10 if a crime is committed by two or more people who
11 are acting together in committing a crime, the act
12 of one is the act of all. A person who joins with
13 another to commit an unlawful act is criminally
14 responsible for everything done by the other person
15 which happens as a probable or natural consequence
16 of the acts done in carrying out the common plan and
17 purpose. For example, two people can be guilty of
18 killing another person when only one of the two had
19 a gun, there was only one bullet, and only one of
20 the two fired the shot that caused the death. If
21 two or more people are together, acting together,
22 assisting each other in committing the offense, the
23 act of one is the act of all or, as it is sometimes
24 said, the hand of one is the hand of all.

25 Prior knowledge that a crime is going to be

1 committed, without more, is not sufficient to make a
2 person guilty of that crime. The mere knowledge
3 that another person is going to commit a crime, even
4 if the defendant is present when the crime is
5 committed, is not sufficient to convict the
6 defendant as a principal. Guilt as a principal is
7 shown by actual or constructive presence at the
8 scene as a result of prior arrangement, therefore, a
9 finding of a prior arranged plan or common scheme is
10 necessary for a finding of guilt as a principal.
11 The State must prove beyond a reasonable doubt by
12 competent evidence the theory of the hand of one is
13 the hand of all.

14 A principal in a crime is who either actually
15 commits the crime or who is present aiding, abetting
16 or assisting in committing the crime. When a person
17 does an act in the presence of and with the
18 assistance of another, the act is done by both.
19 Where two or more acting with a common plan or
20 intent are present at the commission of a crime, it
21 does not matter who actually commits the crime. All
22 are guilty. The hand of one is the hand of all.
23 Present at the commission of a crime means to be
24 sufficiently near to aid and abet and assist in the
25 commission of the crime. However, mere presence at

1 the scene of a crime is not sufficient to convict
2 one as a principal on the theory of aiding and
3 abetting. Intent is also a necessary element, for
4 there must have been a common design or intent to
5 commit the crime and the crime must have been
6 committed pursuant thereto with the person aiding
7 and abetting by some overt act. Intent means
8 intending the result which actually occurs, not
9 accidentally or involuntary. Intent may be shown by
10 acts and conduct of the defendant and other
11 circumstances from which you may naturally and
12 reasonably infer and intent. The State must prove
13 these elements beyond a reasonable doubt.

14 As I just mentioned, mere presence at the scene
15 is not sufficient to prove someone guilty of a
16 crime. A defendant's presence where a crime is
17 being committed or mere association with a person
18 who commits does not make a defendant an accomplice
19 or an aider and abettor of the person committing the
20 crime.

21 The burden is on the State to prove every
22 element of the crime charged. If you find, after
23 reviewing all of the evidence, that the State has
24 proved that the defendant was only present at the
25 scene of a crime and that they have not proved

1 beyond a reasonable doubt any other participation in
2 the crime, then you must find the defendant not
3 guilty. The law is that proof of a person at the
4 scene of the crime is not sufficient to find someone
5 guilty.

6 Now, Mr. Foreman, ladies and gentlemen of the
7 jury, there are four possible verdicts which you may
8 find in this case. We have a verdict form and it
9 has the caption of the case, *State of South Carolina*
10 *vs. Courtney Michelle Woodard*. Now, it states: As
11 to the charge of assault and battery second degree,
12 we the jury find the defendant, and you either mark
13 guilty or not guilty. Now, if the verdict it guilty
14 as to number one, then you stop there; Mr. Foreman,
15 you sign the verdict form. Now, if you find not
16 guilty as to assault and battery second degree, then
17 you can consider the following lesser included
18 charge and that goes to number two as to the charge
19 of assault and battery third degree, we the jury
20 find the defendant guilty or not guilty.

21 Now, the order where we -- that we have guilty
22 and not guilty plays no significance to that. We
23 have to place one or the other first. So the fact
24 that it's guilty and then not guilty, there's no
25 significance to that. So you'll have that jury form

1 back in the jury room.

2 Now let me tell you, and I think I told you
3 this that outset of this case, your verdict must be
4 unanimous. Once you have reached a verdict and the
5 verdict form has been completed and signed, then you
6 inform the bailiffs that you have reached a verdict.
7 Now I'm going to ask you to go back to the jury
8 room, but do not yet start your deliberations.
9 However, when the bailiffs bring to you the verdict
10 form and all of the exhibits that were admitted into
11 evidence, at that time you can then start your
12 deliberations, but not prior to that. We have one
13 final brief matter that I need to take up with the
14 lawyers before that. So when the bailiff brings the
15 exhibits to you, then at that time you can start
16 your deliberations. So if you can go back to your
17 jury room.

18 (The jury retires to the jury room at 11:34 AM
19 to begin deliberations.)

20 THE COURT: All right. Any objections or
21 exceptions to the jury charge from the State?

22 MS. MAYES: No, sir, Your Honor.

23 THE COURT: From the defense?

24 MR. CASTO: No, sir, Your Honor.

25 THE COURT: Thank you very much. If you would

1 participate with the court reporter to get the
2 exhibits ready to go back to the jury room.

3 (Brief pause in the proceedings.)

4 THE COURT: Okay. We're back on the record.
5 And the note from the jury has been signed by the
6 foreman, we need the definition of second degree and
7 the definition of third degree. So I'm going to
8 just reread the charge on pages 11 and page 12.

9 MS. MAYES: No objection, Your Honor.

10 MR. CASTO: No objection from the defense, Your
11 Honor.

12 THE COURT: All right. Very good. If you'll
13 bring the jury back out please.

14 (The jury enters the courtroom at 12:06 PM.)

15 THE COURT: Let the record reflect the jury is
16 back in.

17 Your note, Mr. Foreman, asks for the definition
18 of assault and battery second degree and assault and
19 battery third degree; is that correct?

20 (Court's Exhibit No. 2 admitted into evidence.)

21 MR. FOREMAN: Yes, sir.

22 THE COURT: I'll reread the portion of my
23 charge giving the definition. The defendant is
24 charged with assault and battery second degree. A
25 person commits the offense of assault and battery in

1 the second degree if the person unlawfully injures
2 another person or offers or attempts to injure
3 another person with the present ability to do so and
4 moderate bodily injury to another person results or
5 moderate bodily injury to another person could have
6 resulted.

7 Moderate bodily injury means physical injury
8 requiring treatment to an organ system of the body
9 other than the skin, muscles and connective tissues
10 of the body except where there is penetration of the
11 skin, muscles and connective tissues that require
12 surgical repair of a complex nature or when
13 treatment of the injuries requires the use of
14 regional or general anesthesia.

15 The lesser included offense is defined as
16 follows: If you determine the State has not proven
17 assault and battery in the second degree beyond a
18 reasonable doubt, you then can consider whether the
19 State has proven beyond a reasonable doubt that the
20 defendant is guilty of assault and battery in the
21 third degree. A person commits assault and battery
22 in third degree if the person unlawfully injures
23 another person or offers or attempts to injure
24 another person with the present ability to do so.

25 I will now ask you, members of the jury, to

1 retire to your jury room for further deliberations.

2 Thank you very much.

3 (The jury retires to the jury room at 12:09 PM
4 to continue deliberations.)

5 THE COURT: Any objections or exceptions to the
6 Court's additional instruction from the State?

7 MS. MAYES: Nothing from the state.

8 THE COURT: From the defense?

9 MR. CASTO: No, sir, Your Honor.

10 THE COURT: All right. We'll be at ease.

11 (Brief pause in the proceedings.)

12 THE COURT: Okay. Let's bring the jury out. I
13 understand we have a verdict.

14 (The jury returns to the courtroom at 12:17
15 PM.)

16 THE COURT: Mr. Foreman.

17 MR. FOREMAN: Yes, sir?

18 THE COURT: I understand we have a verdict.
19 Was it a unanimous verdict?

20 MR. FOREMAN: Yes.

21 THE COURT: Will you please hand the verdict
22 form the bailiff and he'll hand it to me.

23 Madam Clerk, will you publish the verdict,
24 please, ma'am.

25 THE CLERK: In Indictment No. 2013-GS-32-1394,

1 the *State vs. Courtney Michelle Woodard*, as to the
2 charge of assault and battery, second degree, we the
3 jury find the defendant guilty. And it is so signed
4 by the foreperson, January 16th, 2014.

5 Mr. Foreman, ladies and gentlemen of the jury,
6 if this is your verdict, each of please indicate so
7 by raising your right hand.

8 (Jurors raise their right hands.)

9 THE CLERK: All hands raised, Your Honor.

10 THE COURT: Thank you very much.

11 Mr. Foreman and ladies and gentlemen of the
12 jury, I want to take the opportunity now to once
13 again thank you for your jury service. The jury is
14 so vital to the operation and the effectiveness of
15 the judicial system and we couldn't operate without
16 folks like you. And I sincerely thank you for your
17 service. We have one more day of the week, and
18 you're excused. You're now free to discuss this
19 case, your deliberations, with anyone that you wish
20 to.

21 You may be approached -- I'm not saying this
22 will happen. You may be approached by one of the
23 lawyers or someone to ask you about your
24 deliberations. Let me tell you that you don't have
25 to talk to anyone if you don't want to. That's

1 solely a matter of your own personal choosing. And
2 if you don't want to talk with anyone and someone --
3 and I'm not suggesting this is going to happen. If
4 someone is very persistent and wants to get the
5 inside scoop on this jury and your deliberations and
6 they just continue to persist, you need to inform
7 the Court immediately. We want to protect our
8 jurors. So with that said, again, thank you very
9 much, and you're free to leave.

10 Mr. Foreman, you need to get with the clerk and
11 you need to sign the indictment.

12 Does anyone need a few moments before we go
13 into the sentencing phase?

14 MS. MAYES: No, sir.

15 MR. CASTO: This would be an appropriate time
16 to perfect the record, if I may, Your Honor, before
17 we move to sentencing, if that's all right.

18 THE COURT: Sure.

19 MR. CASTO: Your Honor, at this time, we would
20 renew all motions and objections to include our
21 directed verdict motion, any and all objections
22 raised pretrial and during the trial throughout both
23 the State's case and the defense case at this time.

24 THE COURT: Okay. So noted for the record and
25 denied. Thank you very much, Mr. Casto.

1 MR. CASTO: The remaining motion, Your Honor,
2 at this time we move for a new trial. Specifically
3 the evidence that's been presented to the jury with
4 this particular evidence, the jury could not have
5 found the defendant guilty beyond a reasonable
6 doubt, Your Honor. We'd move for a new trial at
7 this time.

8 THE COURT: Thank you very much. And that
9 motion is denied.

10 You need a few minutes before we go into
11 sentencing?

12 MR. CASTO: I don't believe so, Your Honor.

13 THE COURT: Okay. Is this -- Solicitor, is
14 this where they usually stand for guilty pleas?

15 MS. MAYES: Yes, Your Honor.

16 THE COURT: All right. I'll first hear from
17 the State as to sentencing and then hear from
18 defense and anyone on the defendant's behalf.

19 MS. MAYES: Your Honor, as to sentencing,
20 Ms. Woodard has no prior convictions; however, this
21 particular event prompted DSS intervention because
22 of a threat of harm. They opened a case for threat
23 of harm. She was tested, there was a drug test that
24 was conducted February 28th of 2013. Pursuant to
25 the DSS drug test on February 28th, which would be

1 11 days after this incident, she tested positive for
2 methamphetamine, and as a result they enacted a
3 safety plan concerning her.

4 I think what's significant about that is we are
5 seeing a -- I feel like there is a correlation
6 between the use of methamphetamine and child abuse.
7 It's becoming more and more physical abuse cases
8 that I prosecute here in Lexington County. The
9 indication from DSS is that the meth was detected
10 from a hair follicle test and consumed anywhere
11 within 90 days of February 28th, 2013. Most
12 recently, Your Honor, she was arrested December
13 19th, 2013. And I mention that because it seems to
14 be there is a drug problem here. The -- it's a
15 public drunk or public intoxication arrest. The
16 officer describes her as being clearly intoxicated,
17 that she had three Clonazepam earlier and with the
18 prescription pills, the officer took her to the
19 Lexington Medical Center for evaluation prior to
20 booking her. We are asking for the maximum sentence
21 in this case, Your Honor, of three years.

22 In addition I believe she needs drug counseling
23 while incarcerated. We feel it's the fact she was
24 not charged under the felony statute because that
25 statute applies to parents and guardians with an

1 actual custodial or legal responsibility for the
2 child, and she did not fall into that statute since
3 she was an acquaintance. And as a result, she was
4 charged under the misdemeanor statute which only
5 carries three years and is nonviolent. So
6 considering the very mild nature of that statute and
7 the penalty, we believe that a three-year sentence
8 would be appropriate.

9 Your Honor, Minor 1 is currently in the
10 Department of Social Services' care. He's in a
11 therapeutic foster care home. We feel he should not
12 be given back to the custody of his mother at any
13 point in time and there should be no reason for
14 future contact with the defendant, Courtney Woodard.

15 THE COURT: All right. Thank you very much,
16 Solicitor.

17 Mr. Casto, I'll be glad to hear from you, the
18 defendant, be glad to hear from any family members
19 that may be here.

20 MR. CASTO: Yes, sir, Your Honor. I'll let the
21 first words out of my mouth be that, you know, I
22 know that Courtney is disappointed with the verdict,
23 but she and I spoke and she understands there's a
24 certain respect and all with regard to what we do in
25 here. And I know she's disappointed, Your Honor.

1 By way of introduction, any time I've ever
2 dealt with her, she has always been respectful, and
3 I know she has respect for our process and,
4 ultimately, what we did here and now. And I wanted
5 to place that on the record from the outset.

6 Courtney Woodard is 30 years of age, she has a
7 10th grade education, and basically she resides here
8 in Lexington with her parents. She does have
9 children of her own, an eight-year-old and a
10 ten-year-old. The Solicitor is correct that when
11 this happened back in February of last year, that
12 DSS did initiate an investigation into, you know,
13 whether there was any abuse allegations whatsoever
14 on her own children. The result of that she
15 admittedly did not pass a drug test. I'm pleased to
16 report that since then, each and every drug test
17 since then she's passed. Basically what DSS did is
18 came up with a safety plan, and it just included a
19 battery of things that -- courses and things she
20 needed, hoops to jump through that she needed to
21 accomplish to really work on her. And she's really
22 made good strides and good effort on that, Judge.

23 The charge the Solicitor spoke about, Your
24 Honor, that is not pending. Courtney tells me
25 that's actually been dismissed, and that's our

1 understanding, Your Honor. So we'd ask the Court to
2 not hold that against her. She did complete, you
3 know, LRADAC. She's been continuously -- she
4 graduated from parenting classes, so this is not the
5 same person that you saw back in February of 2013.
6 And, you know, I've always known where to find
7 Courtney. I've always -- you know, she's lived in
8 the same place for 20 years, and I've always had
9 good numbers for both her and her mother.

10 Your Honor, specifically DSS, that's the only
11 negative thing that DSS really found when they
12 looked into it. No instances of abuse against her
13 own kids. And since she's made good progress where
14 she lives, also, DSS knows this, that's what's
15 happened. And they wouldn't do that if she hadn't
16 made significant progress. Courtney is somebody
17 that did -- I believe she did two days in jail for
18 this, Your Honor, and since that time has worked
19 very hard on working on herself.

20 What I will ask the Court and implore the Court
21 to do is -- hopefully it's something the way of the
22 buffalo, so to speak, with regard to the trial
23 tactics. We ask for much mercy. Heidi Oberg pled
24 to zero to ten years back on November 20th of 2013.
25 He gave her a suspended active time, so he didn't

1 choose to max her out or anything like that. We'd
2 ask the Court to basically feed Courtney out of the
3 same spoon. Courtney is different. Heidi did have
4 a prior record and that was also brought out in
5 trial, but Courtney doesn't have any record at all.
6 And it sort of seems there's certain indication of
7 progress being made, that this is kind of a unique
8 situation.

9 Your Honor, we think that if the Court did
10 consider an active time, that -- or active sentence,
11 Your Honor, that basically it could cause to unravel
12 a lot of this progress that's been made. I don't
13 think that would be in society's best interest or
14 Courtney's best interest. We'd ask that you take
15 all of those things in account in crafting a
16 sentence, Your Honor.

17 THE COURT: Okay. Thank you very much. Does
18 the defendant wish to address the Court? You can
19 stand back if you need a few minutes with her.

20 THE DEFENDANT: Yes, Your Honor. I have made
21 mistakes in my past and I am actually doing very
22 well with my children, with DSS and with LRADAC.
23 Thank you.

24 THE COURT: All right.

25 MR. CASTO: I'd like to see if the mother would

1 like to say anything.

2 THE COURT: Sure. Sure.

3 Ma'am, I need to place you under oath.

4 JUDITH WOODARD

5 being first duly sworn, testified as follows:

6 THE WITNESS: I do.

7 EXAMINATION

8 (In Camera)

9 Q. Yes, ma'am. And your name?

10 A. Judith Woodard. I'm Courtney Woodard's mother.

11 Courtney has done nothing but childcare since she
12 was 11 years old. She has baby-sat and raised two
13 nieces and her own children. She's baby-sat the
14 last 19 years. There's never been ever, not one
15 time, a complaint or anything bad stated or any
16 children taken from her baby-sitting care. Every
17 parent has prided Courtney in her work with their
18 children, helping teach these children. And most of
19 them, even her nieces, were taught their alphabet,
20 writing, reading, everything from Courtney.

21 This is something that has taken us all for a
22 blow. And I know in my heart what kind of person
23 Courtney is, and she's a good person.

24 THE COURT: Thank you very much, ma'am.

25 Anything further from the defense?

1 MR. CASTO: Nothing further, Your Honor. Just
2 in light of progress that she's made and that the
3 Court consider something that I believe that will be
4 created but will be twofold and also productive that
5 if Courtney really is and has made these gains,
6 she's done the right thing, that she maintains that
7 path. What we ask the Court to consider in this
8 case is a suspended sentence, that if basically she
9 should get off that path in any way, shape or form,
10 that she'd do an active sentence. We'd strongly ask
11 the Court to consider that.

12 THE COURT: Thank you very much. Anything
13 further from the State?

14 MS. MAYES: Nothing from the State, Your Honor.

15 THE COURT: You know, as we've sat -- or as
16 I've sat through this trial the last several days,
17 I've tried to figure out, you know, what really went
18 on in this house and -- but my mind is always
19 diverted to those pictures.

20 And, you know, that little boy received such a
21 beating. And, Ms. Woodard, for you to claim that
22 you really never saw anything other than the black
23 eye, just kind of puzzles me. But then what I found
24 to be significant -- and I don't know if anybody
25 picked up on this, and if you did, you may have

1 viewed it differently than me -- but every time when
2 you were testifying and either on direct examination
3 or cross you were asked a question directly related
4 to, did you beat the child, did you curse the child,
5 something that would implicate you in this, every
6 time, every time, you became emotional. And that
7 caused me to believe that you were not being
8 truthful. I am glad that you have progressed
9 through the DSS system and their treatment plan and
10 completed everything that you've done. I'm glad
11 that that has taken place. But I can't, in good
12 conscious, consider a suspended sentence, not seeing
13 what has happened to that poor little child. And
14 the jury verdict, while, you know, I think in this
15 case was correct, once a jury reaches a verdict, I
16 accept that 100 percent, regardless of my own
17 personal views about the case, about the innocence
18 or guilt of the defendant. I accept that jury
19 verdict 100 percent and, therefore, I've got to make
20 the decision to appropriately punish the defendant,
21 you, the defendant. And I have no choice. I don't
22 believe -- well, I do have a choice. But I don't
23 think I could accept the choice of anything other
24 than three years.

25 The sentence of this Court is that you will be

1 confined to the state department of corrections for
2 a period of three years. I will implicate the ATU
3 program while in the department of corrections, and
4 hopefully that will help you for whatever drug or
5 alcohol problems that you may have. I'll give you
6 credit for two days you have served. Good luck to
7 you, ma'am.

8 Let me see the lawyers back in chambers. We're
9 adjourned.

10 (The trial was adjourned at 12:37 PM.)

11 --- END OF TRANSCRIPT OF RECORD ---

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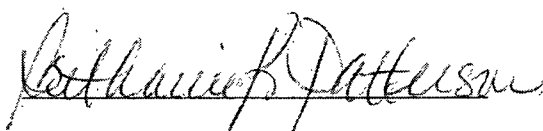
25

C E R T I F I C A T E

I, the undersigned Bethanie K. Patterson,
Official Court Reporter for the Second Judicial
Circuit of the State of South Carolina, do hereby
certify that the foregoing is a true, accurate and
complete transcript of record of all the proceedings
had and evidence introduced in the trial of the
captioned case, relative to appeal, in the Circuit
Court for Lexington County, South Carolina, on the
13th, 14th, 15th, and 16th of January, 2014.

I further certify that I am neither related to
nor counsel for any party to the cause pending or
interested in the events thereof.

April 4, 2014



Official Court Reporter

WITNESSES

Lexington County Sheriffs Department

A Spires

Law Enforcement Case #: 13002979

LSM

ARREST WARRANT NUMBER

2013A3210200299

ACTION OF GRAND JURY

TRUE BILL*Ron Brasington*

Foreperson of Grand Jury

Date: 5-6-13

VERDICT

*Guilty**Quoted 11**James Ford*

Foreperson of Petit Jury

Date: 1/10/2014

DOCKET NO. 2013GS3201394**The State of South Carolina**

County of Lexington

COURT OF GENERAL SESSIONS

MAY TERM 2013

THE STATE

vs.

Courtney Michelle Woodard

CDR #: 3413

Indictment for

Assault & Battery - second degree

§ 16-03-0600(D)(1)

DONALD V. MYERS, SOLICITOR

A TRUE COPY
JRS
Lex. Co. C.C.P. GIS. REC.

05072003

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

INDICTMENT FOR
Assault & Battery - second degree
§ 16-03-0600(D)(1)

At a Court of General Sessions, convened on MAY 2013, the Grand Jurors of Lexington County present upon their oath:

That Courtney Michelle Woodard did in Lexington County, South Carolina, on or about February 17, 2013, commit the offense of assault and battery in the second degree, by unlawfully injuring another person, or offered or attempted to injure another person with the present ability to do so, and moderate bodily injury to another person resulted or moderate bodily injury to another person could have resulted; to wit did inflict physical injuries upon a child, ^{Minor 1} [REDACTED] DOB [REDACTED] or did participate in offering or attempting to injure the child, ~~or did participate or assist in allowing physical injuries to be inflicted upon the child,~~ and moderate bodily to the child resulted or could have resulted as a result of multiple physical injuries or blows, in violation of §16-03-600(D) of the South Carolina Code of Laws of 1976, as amended.

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

Suzanne Maup
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

STATE VS.

Courtney Michelle Woodard

AKA:

Race: White Sex: F Age: 30

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip: [REDACTED]

DL#: [REDACTED] SID#: [REDACTED]

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

In disposition of the said indictment comes now the Defendant who was

TO: Assault & Battery 2nd degree

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS3201394

A/W#: 2013A3210200299

Date of Offense: 2/17/2013

S.C. Code § : 16-03-0600(D)(1)

CDR Code #: 3413

JAN 24 2014

SENTENCE SHEET SC Court of Appeals

X CONVICTED OF or [] PLEADS

in violation of § 16-03-0600(D) of the S.C. Code of Laws, bearing CDR Code # 3413

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser-Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTORNEY

Solicitor

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. (2 Days Credit)☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

Fine:	\$
14-1-206 (Assessments 107.5 %)	\$
14-1-211(A)(1) (Conv. Surcharge)	\$100
14-1-211(A)(2) (DUI Surcharge)	\$100
56-5-2995 (DUI Assessment)	\$12
56-1-286 (DUI Breath Test)	\$25
oviso 47.9 (Public Def/Prob)	\$500
14-1-212 (Law Enforce. Funding)	\$25
14-1-213 (Drug Court Surcharge)	\$150
50-21-114(BUI Breath Test Fee)	\$50
56-5-2942(I) (Vehicle Assessment)	\$40/ea
oviso 90.5 (SCCJA Surcharge)	\$5
to County (if paid in installments)	\$
TOTAL	\$130.00

irk of Court/ Deputy Clerk

urt Reporter:

CA217 (03/2011)

PTUP

_____ days/hours Public Service/ Employment

Obtain GED ☐Attend Voc. Rehab. or Job Corp. ☒

May serve W/E beginning Lex. Co. CDP, GS, & P.C.

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

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

\$ _____ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date:

2/16/14

1/16/14

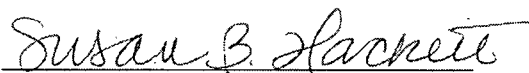
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ATU Program in SCDC

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

This 6th day of October, 2014.



Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

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RECEIVED

This 6th day of October, 2014.

OCT 06 2014

Susan B. Hackett

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Appellate Defender

SC Court of Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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