

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Richland County

Honorable G. Thomas Cooper, Circuit Court Judge

ANTWAN LYDELL GADDIST,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2020-001608

APPENDIX

SARAH E. SHIPE
Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

MICHAEL D. DAVIDSON
Assistant Attorney General
1000 Assembly Street
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

RECEIVED

Apr 23 2021

S.C. SUPREME COURT

INDEX

INDEX	i
TRANSCRIPT OF PRE-TRIAL, TRIAL, AND GUILTY PLEA HELD JANUARY 31, 2014 AND FEBRUARY 3-7, 2014.....	1
NOTICE OF APPEAL.....	1022
STATEMENT OF BASIS OF APPEAL	1024
LETTER FROM COURT OF APPEALS DATED FEBRUARY 11, 2014	1025
LETTER FROM PETITIONER TO COURT OF APPEALS RECEIVED MARCH 7, 2014	1027
ORDER OF DISMISSAL.....	1028
PCR APPLICATION.....	1029
STATE’S RETURN.....	1034
TRANSCRIPT OF PCR HEARING HELD JULY 20, 2017	1040
ORDER OF DISMISSAL.....	1115
INDICTMENT.....	1178
SENTENCE SHEET	1180

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

IN THE COURT OF
 GENERAL SESSIONS

STATE OF SOUTH CAROLINA)

STATE,)

v.)

TRANSCRIPT OF RECORD
 11-GS-40-3916

ANTIWAN L. GADDIST,)

 DEFENDANT.)

January 31, 2014
 February 3 through 7, 2014
 Columbia, South Carolina

B E F O R E :

THE HONORABLE JAMES R. BARBER, III, JUDGE;
 AND JURY

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

K. LUCK CAMPBELL, ESQ.
 JOANNA MCDUFFIE, ESQ.
 NICOLE M. SIMPSON, ESQ.
 Assistant Solicitors

DOUGLAS S. STRICKLER, ESQ.
 TRACY E. PINNOCK, ESQ.
 ERIC M. STAGGS, ESQ.
 Attorneys for Defendant

FRANCES B. RAY, RPR
 Circuit Court Reporter

INDEX

	Page
Pretrial motions	3
Jackson v. Denno hearing:	
Kevin Preston	15/24
Scott Faust	28/58
Kevin Isenhoward	71/83/92
Qualifying of jury panel	136
Striking of jury	169
Preliminary remarks by the Court	178
Opening remarks by Ms. McDuffie	195
Opening remarks by Mr. Staggs	204
M.G. [REDACTED]:	
Direct examination	214
Cross-examination	236
Maxine Scott:	
Direct examination	241
Cross-examination	258
Mary Short:	
Direct examination	263
Cross-examination	269
Jackie Richbourg:	
Direct examination	272
State's Exhibit 2 played for jury	273
Miesha Miller:	
Direct examination	274
Cross-examination	300
Redirect examination	313
Jacob P. Eller:	
Direct examination	322
Cross-examination	336
Redirect examination	352
Recross-examination	354
Michael Cosola:	
Direct examination	355
Cross-examination	364
Aubrey Jenkins:	
Direct examination	368
Cross-examination	375
Tamika Brown:	
Direct examination	381
Cross-examination	385
Cara Heater:	
Direct examination	386
Cross-examination	389

1	Michelle Presnell:	
	Direct examination	392
2	Cross-examination	403
	Redirect examination	405
3	Avery Boykin, Jr.:	
	Direct examination	407
4	Cross-examination	414
	Amanda Adams:	
5	Direct examination	417
	Cross-examination	433
6	Jimmy Wilder:	
	Direct examination	434
7	Cross-examination	442
	Kevin Preston:	
8	Direct examination	448
	Cross-examination	469
9	Redirect examination	475
	Richard Carter:	
10	Direct examination	476
	Cross-examination	490
11	Robert Oates:	
	Direct examination	495
12	Cross-examination	516
	Michael T. Hayes:	
13	Direct examination	535
	Cross-examination	545
14	Elizabeth Mack:	
	Direct examination	549
15	Cross-examination	576
	Redirect examination	582
16	Sheila Jones:	
	Direct examination	593
17	Cross-examination	619
	Redirect examination	625
18	Amy Durso:	
	Proffer examination	632
19	Direct examination	640
	Cross-examination	677
20	Redirect examination	688
	Recross-examination	689
21	Bradley Marcus:	
	Direct examination	692
22	Cross-examination	709
	Olga Rosa:	
23	Direct examination	715
	Cross-examination	744
24	Redirect examination	770
	Recross-examination	771
25	Motion for mistrial	776

1	Trevor Holt:	
	Direct examination	801
2	Cross-examination	803
	Christine Barrickman:	
3	Direct examination	805
	Cross-examination	811
4	Avery Amick:	
	Direct examination	814
5	Cross-examination	844
	Redirect examination	865
6	Scott Faust:	
	Direct examination	869
7	Cross-examination	916
	Redirect examination	945
8	Kevin S. Isenhoward:	
	Direct examination	946
9	Cross-examination	964
	Motion for directed verdict	984
10	Guilty plea	998

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

EXHIBITS

STATE'S:

No.	Description	I.D./EVD.
1	CD - recording of phone call	7/296
2	Recording of 9-1-1	7/272
3	Blowup diagram of area	314/333
4 through 18	crime scene photos	446
19 through 75	crime scene photos	446/501
76 through 85	crime scene photos	446
86	Crime scene photo	446/501
87 through 93	crime scene photos	446
94 through 106	crime scene photos	446/501
107	Defendant statement	446/462
108	DNA, K.H. [REDACTED]	446/804
109	Buccal swab from defendant	446/916
110	White T-shirt	446/508
111	Washcloth	446/509
112	Towel	446/584
113	CD - radiology	582/610
114	Autopsy	587/662
115	Autopsy	587/662
116	Xray	630/661
117	Diagram of body	630/665
118	Diagram of body	630/675
119	Advisement of rights form	792/885
120	Defendant statement	792/959
121	CD - recording of phone call	792/913
122	Swab from Miesha Miller	792/916
123	Cuttings	792/844
124	Photos	907
125	Photo	907
126	Photo	907

DEFENDANT'S:

No.	Description	I.D./EVD.
1	Photo	311
2	Photo	311/312
3	Photo	311/312
4	Photo	311/312
5	Photo	311/312
6	Photo	311/518
7	Photo	311/525
8	Photo	311/525
9	Photo	311

1	10	Photo	311
	11	Photo	311
2	12	Photo	311
	13	Photo	311
3	14	Photo	311/523
	15	Photo	311/523
4	16	Photo	311/523
	17	Photo	311/523
5	18	Photo	311/523
	19	Photo	311/518
6	20	Photo	311/518
	21	Photo	311/518

7

8 COURT'S:

9	No.	Description	I.D./EVD.
10	1	Advisement of rights form	5
	2	Statement	5
11	3	Written motions	134
	4	Defendant's requested voir dire	134
12	5	Note from jury	628
	6	Letter DSS	766
13	7	Report	766

14

15

16

17

18

19

20

21

22

23

24

25

1 (Court's Exhibit Number 1, advisement of
2 rights form, and Court's Exhibit Number
3 2, statement, were marked and made a part
4 of the record and State Exhibits Nos. 1
5 and 2 were marked for identification
6 only.)

7 THE COURT: I'm gonna put this on the
8 record, this morning when I got to my office my law
9 clerk, Caitlin Preswick, informed me that somehow
10 last night she learned that she had some information
11 about this case in the past, that she is engaged to
12 a fellow named Carol Heyward, and that apparently
13 Mr. Gaddist's mother at some point in time worked
14 for Carol Heyward's parents in some capacity as a
15 housekeeper or had some connection to the Heywards,
16 that she, my law clerk, indicated that she had met
17 Mr. Gaddist's mother -- your mother's name is
18 Gaddist?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Ms. Gaddist, a couple of times
21 over the course of the years, said she's not seen
22 her in a while but had this conversation with her
23 fiance, over the years had learned, been given some
24 information by her fiance -- I don't know how
25 factual it was or truthful it was -- about the case.

1 She did not realize that she had this connection
2 until last night 'cause she didn't really know the
3 name of the lady. Now I've informed the lawyers of
4 this and I've informed -- I have not had any factual
5 discussions about this case except in the broadest
6 terms in research of the motions that we're gonna
7 hear this morning. My law clerk has not discussed
8 anything she knew about the case 'cause she didn't
9 know she knew anything about the case other than
10 what y'all have told us and that has been put in the
11 memos that have been prepared by Ms. Pinnock in this
12 case. In abundance of caution I have -- I talked to
13 Judge Hood about this matter and indicated I did not
14 feel comfortable going forward with Caitlin being
15 involved in the case and that I would go forward
16 without a law clerk; but he said that, graciously
17 offered to let Ms. Neil -- new name is Neil, sit
18 with me, and that he would use my law clerk over the
19 next week or two and assist in handling whatever he
20 needed to do. I do not believe the fact that she
21 has this history with this lady is, would in any way
22 affect me in anything I did in this case and has not
23 affected me in anything as well. I just feel better
24 proceeding like we are proceeding at this time.
25 Anything the State want to say with respect to

1 information I've provided y'all?

2 MS. MCDUFFIE: Your Honor, we have no
3 objection to Ms. Neil proceeding as your law clerk
4 in this case.

5 THE COURT: Any problem with my going
6 forward with it?

7 MS. MCDUFFIE: None, Your Honor.

8 THE COURT: Defense?

9 MS. PINNOCK: No objection, Your Honor.

10 THE COURT: You need to talk to your
11 client about it at all?

12 MS. PINNOCK: No, sir.

13 THE COURT: Well, why don't you -- I'm
14 gonna give you a minute to do so. I'm gonna step
15 out of the room just to, so that you're not doing it
16 with me and Ms. Neil being here, but we'll come back
17 in a minute or so and you can talk to him about it.

18 MS. PINNOCK: Yes, sir.

19 MR. STAGGS: Thank you, Your Honor.

20 THE COURT: We'll be back in about two
21 minutes. Do you need longer?

22 MS. PINNOCK: No, sir. I don't believe
23 so.

24 (WHEREUPON, a recess was taken from the
25 proceedings while attorneys confer with

1 the defendant.)

2 THE COURT: Y'all need anymore time?

3 MS. PINNOCK: No, sir.

4 THE COURT: Ms. Pinnock, anything you
5 want?

6 MS. MCDUFFIE: Judge, I just have one.
7 Our victims were told to be here 12 for the hearing.
8 It's my understanding that understanding that some
9 of them are up here, we've asked they be brought
10 down so if we could have like two minutes for them
11 to get downstairs.

12 THE COURT: All right. We can address
13 this without them.

14 MS. MCDUFFIE: Absolutely, I'm sorry.

15 THE COURT: And then you said you had some
16 housecleaning things to talk about.

17 MS. PINNOCK: We've explained the
18 situation to Mr. Gaddist. He has no problem; he
19 understands.

20 THE COURT: You understand it all,
21 Mr. Gaddist?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. You've had enough
24 time to talk to your attorneys about this matter?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: You understand what we're
2 going to forward based on Ms. Pinnock's
3 representation to the Court?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: All right. Okay,
6 Ms. McDuffie, did you want to say something before
7 we got started?

8 MS. MCDUFFIE: I was just going to ask if
9 we could make it -- wait for the victims to make it
10 downstairs. That's all I have.

11 MR. STAGGS: Your Honor, we do have one
12 housekeeping, we ask witnesses be sequestered for
13 purposes of Denno hearing.

14 MS. MCDUFFIE: Your Honor, all of them
15 have reports they have, the written statements; but
16 if it's just for the purpose of Denno hearing, we
17 don't object to them being sequestered.

18 THE COURT: All right, I'm going to let
19 them keep on in here. They got an investigator,
20 whoever is chief investigator, officer here.

21 MS. MCDUFFIE: We have Isenhoward and
22 Faust are the two investigative officers, Your
23 Honor.

24 THE COURT: All right. The one -- you can
25 keep in that you can call that person first or does

1 that present a problem if you want to keep them?

2 MS. MCDUFFIE: It doesn't make as much
3 sense, Your Honor -- Investigators Carter, Preston,
4 took the first statement. They were going to be our
5 first, then they did the second.

6 THE COURT: All right. Well then,
7 let's -- so there are different officers for
8 different statements, right?

9 MS. MCDUFFIE: Right, Your Honor.

10 THE COURT: Well we'll, you know, have a
11 problem with the first, one officer being first.
12 Officer gonna testify be in here the whole time.

13 MR. STAGGS: Okay.

14 THE COURT: On the first statement, on the
15 statement with the second statement, but they won't
16 be able to hear the other one unless they've already
17 testified.

18 MR. STAGGS: Sounds fair to me, Your
19 Honor. Thank you.

20 THE COURT: All right. What we're gonna
21 do this morning, first thing we're gonna do is the
22 Jackson versus Denno hearing. I understand there's
23 two statements. It's my understanding the State
24 does not raise an issue about the first statement
25 that was the statement that was given at the

1 hospital, or something like that. Is that correct,
2 Ms. Pinnock?

3 MS. PINNOCK: Yes, Your Honor.

4 THE COURT: But we're gonna go ahead just
5 out of abundance of caution, again, we're gonna go
6 ahead and let her put up whatever she is gonna put
7 up about that, and then we're then gonna have -- and
8 I don't know what order we're gonna do it in. There
9 are some pictures. They're -- the defendant's
10 concerned about numbers and whatever those pictures
11 are we will address those this morning as well. I
12 think I have indicated that the State, that they're
13 gonna be very limited in whatever we do. She
14 indicated, I think, they had multiple and hundreds
15 of pictures and we're certainly not gonna do that,
16 and then we have -- what is the other issue that
17 we're -- what other issue do we have?

18 MS. PINNOCK: Your Honor, we have, we have
19 a number of motions listed, the other one that ---

20 THE COURT: I don't have it. Do you have
21 a copy of whatever you ---

22 MR. STAGGS: It should be...

23 THE COURT: We have a memorandum.

24 MS. PINNOCK: It should be right on front,
25 Your Honor, on the left.

1 THE COURT: All right. We can go with all
2 these. All right. Have you got your folks here,
3 Ms. McDuffie?

4 MS. MCDUFFIE: Yes, Your Honor.

5 THE COURT: Ready to go?

6 MS. MCDUFFIE: I do have -- we just handed
7 Defense a list of pretrial motions, Your Honor. We
8 met in chambers on two, maybe three prior occasions,
9 discussing the status and what motions will be heard
10 today. There are some motions on this list, some of
11 just housekeeping issues, and those aren't an issue;
12 but there are others, I believe, are substantive and
13 we weren't made aware of them in chambers.

14 THE COURT: All right. Well, whatever
15 motions that you feel like that you're not in motion
16 to argue here today, we'll address those at that
17 time. Well, go ahead and do whatever it is both of
18 you think we can do and then we'll take up those
19 that you think you're not and tell me why not. May
20 have to do it Monday or sometime before that issue
21 comes up in the trial. All right.

22 MS. MCDUFFIE: All right. The State would
23 call Investigator Kevin Preston.

24 WHEREUPON,

25 **KEVIN PRESTON,**

SW - K. PRESTON - PROFFER

1 having been duly sworn by the Court, testified as
2 follows:

3 THE COURT: If you will tell us your full
4 name and be seated.

5 THE WITNESS: Kevin Preston.

6 **DIRECT EXAMINATION**

7 BY MS. MCDUFFIE:

8 Q Investigator Preston, where are you currently
9 employed?

10 A Richland County Sheriff's Department.

11 Q What are your duties with the Sheriff's
12 Department?

13 A I'm an investigator assigned to the special
14 victim's unit.

15 Q And in May of 2011 what were your duties with the
16 Sheriff's Department?

17 A Special victims' investigator.

18 Q How long had you been working as an investigator?

19 A For that prior probably about six years.

20 Q As an investigator?

21 A Yes.

22 Q And on May 23rd of 2011 were you on-call, or were
23 you working an evening shift?

24 A No, ma'am.

25 Q Just normal?

1 A Normal hours.

2 Q Normal hours. And you were partnered with
3 Investigator Carter that day?

4 A Yes, ma'am.

5 Q And approximately 5:00 that evening on May 23rd
6 did you respond to Palmetto Health Richland?

7 A Yes, ma'am.

8 Q And what was that in reference to?

9 A In reference to an incident that took place
10 earlier that day.

11 Q And prior to, or once you responded to that
12 incident, did you have a complete factual background
13 of what the allegations were and what was going on?

14 A Yes, ma'am.

15 Q And what were you made aware of prior to going to
16 Palmetto Health?

17 A That a child was at the hospital and she had
18 received some injuries and that's mainly it.

19 Q And were you informed that these injuries may be
20 non-accidental?

21 A Yes.

22 Q And that police investigation was warranted and
23 needed to be done?

24 A Yes, ma'am.

25 Q And so as part of your investigation did you make

1 contact with Antwan Gaddist?

2 A Yes, ma'am.

3 Q And do you see Mr. Gaddist in the courtroom
4 today?

5 A Yes, ma'am.

6 Q Please point him out for the judge.

7 A (Indicating.) He's right there.

8 Q Can you describe what he's wearing?

9 A Blue jumpsuit.

10 MS. MCDUFFIE: Your Honor, please let the
11 record reflect he's identified the defendant.

12 THE COURT: It does.

13 BY MS. MCDUFFIE:

14 Q When you encountered Mr. Gaddist do you recall
15 where you were?

16 A At the Children's Hospital at RM, Richland
17 Memorial?

18 Q And was Mr. Gaddist in custody at that time?

19 A No, ma'am.

20 Q Do you recall exactly what part of the hospital
21 you were in?

22 A I think it was the waiting area. It's a little
23 small conference room next to the waiting area.

24 Q And why did you and Investigator Carter
25 eventually talk with Mr. Gaddist?

1 A Because we were trying to determine who was with
2 the child during these injuries or at the time these
3 injuries took place.

4 Q And you were aware prior to going there that Mr.
5 Gaddist was living with the child's mother
6 Miss Miesha Miller?

7 A Yes, ma'am.

8 Q And so you and Investigator Carter felt it
9 important to get a statement to find out what he
10 knew and what had happened?

11 A Correct.

12 Q And did you then proceed to speak with Mr.
13 Gaddist?

14 A Yes, ma'am.

15 Q And was Ms. Miller being interviewed, the child's
16 mother, being interviewed by another officer with
17 your department?

18 A Yes, ma'am.

19 Q And this interview when it was conducted was it
20 done at the Sheriff's Department?

21 A No, ma'am.

22 Q Where was it done?

23 A At the hospital.

24 Q And was the defendant in custody?

25 A No, ma'am.

SW - K. PRESTON - PROFFER

1 Q How did he arrive at the hospital, are you aware
2 of that?

3 A I think he was brought by someone if I'm not
4 mistaken.

5 Q And how did you begin to speak with Mr. Gaddist?

6 A Spoke to him just trying to get, I guess,
7 basically information about who he was, name, date
8 of birth, that type of thing, and just his
9 whereabouts prior to these injuries taking place.

10 Q And did you and Investigator Carter interview
11 Mr. Gaddist still at the hospital just away from the
12 other people who were in the waiting room?

13 A Yes, ma'am.

14 Q And during that interview yourself, yourself were
15 present, and Investigator Carter?

16 A Yes, ma'am.

17 Q And a statement was obtained from him?

18 A Yes.

19 Q And that statement consists of six pages that are
20 handwritten?

21 A Yes, ma'am.

22 Q I show you what's been marked Court's Exhibit 2.
23 Is that the statement that you and Investigator
24 Carter obtained on that day?

25 A Yes, ma'am.

1 Q And at the bottom it's signed, the defendant's
2 signature is on there?

3 A Correct.

4 Q And you witnessed that?

5 A Yes, ma'am.

6 Q As well as your own signature?

7 A Yes.

8 Q Prior to obtaining this statement did you advise
9 Mr. Gaddist of his Miranda warnings?

10 A No, ma'am, he wasn't.

11 Q And why was that?

12 A 'Cause he wasn't in custody.

13 Q Did you have any indication that Mr. Gaddist was
14 a suspect in regard to the injuries that the child
15 had suffered?

16 A Not at that time.

17 Q And so you did not mirandize him?

18 A No.

19 Q Was he in custody?

20 A No, ma'am.

21 Q And you and Investigator Carter obtained a six
22 page written statement.

23 A Yes.

24 Q And it's done in a question/answer style format?

25 A Yes, ma'am.

SW - K. PRESTON - PROFFER

1 Q The questions, are those of you and Investigator
2 Carter and the answers are Mr. Gaddist's?

3 A Correct.

4 Q At any point in time did you threaten him, coerce
5 him, promise him anything?

6 A No, ma'am.

7 Q Withhold creature comforts?

8 A No, ma'am.

9 Q Deny him of food, bathroom, anything like that?

10 A No, ma'am.

11 Q Was he handcuffed?

12 A No, ma'am.

13 Q At any point in time did he tell you that he did
14 not want to talk to you anymore?

15 A No, ma'am.

16 Q And this statement was taken?

17 A Yes.

18 MS. MCDUFFIE: Your Honor, can I publish
19 the statement or I can just hand it up to Your
20 Honor.

21 THE COURT: All right.

22 MS. MCDUFFIE: I can have him read the
23 entirety of the statement or...

24 (Document tendered to the Court.)

25 THE COURT: All right.

SW - K. PRESTON - PROFFER

1 MS. MCDUFFIE: Your Honor, in terms of
2 time, if Your Honor could just read it instead of
3 having to read the entire statement unless Defense
4 objects.

5 MR. STAGGS: No objection, Your Honor.

6 THE COURT: Anything you want to ask him
7 about it and we'll make this Court Exhibit Number
8 1 -- or number two; is that right?

9 MS. MCDUFFIE: That's correct, Your Honor.

10 BY MS. MCDUFFIE:

11 Q Investigator Preston, after ---

12 THE COURT: Any objection to this being
13 made Court Exhibit 2?

14 MR. STAGGS: No objection, Your Honor.

15 BY MS. MCDUFFIE:

16 Q After that statement was obtained Investigator
17 Carter left the room?

18 A Correct.

19 Q And at some point in time there had been mention
20 of him coming down to the Sheriff's Office the next
21 morning to take a polygraph?

22 A Yes, ma'am.

23 Q And Investigator Carter then left the room?

24 A Correct.

25 Q And the defendant then informed you that he

SW - K. PRESTON - PROFFER

1 wanted to speak with an attorney prior to taking any
2 polygraph?

3 A Yes, ma'am.

4 Q And that was documented in Investigator Carter's
5 followup?

6 A Yes, ma'am.

7 Q And so then you left the room and informed
8 Investigator Carter of that?

9 A Yes, ma'am.

10 Q And then did you and Investigator Carter re-enter
11 the room?

12 A Yes.

13 Q And was the defendant asked if he wanted an
14 attorney before polygraph?

15 A Yes, ma'am.

16 Q And was he asked to come down to the Richland
17 County Sheriff's Department headquarters the next
18 morning?

19 A Yes, ma'am.

20 Q And was that to take a polygraph or to give
21 another statement to the investigators that were
22 actually assigned the case?

23 A Another statement to investigators.

24 Q And did he say that he was willing to come down
25 and give that statement?

1 A Yes, ma'am.

2 Q And did he express to you that he only wanted an
3 attorney if he was gonna take a polygraph?

4 A Yes, ma'am.

5 Q And you and Investigator Carter informed him that
6 he would not be taking a polygraph, only giving a
7 statement if he chose to come down there the next
8 morning?

9 A Correct.

10 Q And at no point in time did he tell you he did
11 not want to give a statement. He only informed you
12 that he wanted a lawyer before any polygraph was
13 given?

14 A Yes, ma'am.

15 Q And was a time set up for him to come to the
16 Sheriff's Department the next morning?

17 A Yes.

18 Q After that interaction where did Mr. Gaddist go?

19 A I am not sure.

20 Q Was he taken into custody or his liberty deprived
21 in any way by you or Investigator Carter?

22 A No, ma'am.

23 Q As far as you know he left or went wherever he

24 ---

25 A Yes, ma'am.

SW - K. PRESTON - PROFFER

1 Q But you and Investigator Carter didn't arrest
2 him, didn't cuff him, didn't him to Alvin S. Glenn.

3 A No, ma'am.

4 Q And after your interaction with him that night
5 did you have any further interaction with him?

6 A No, ma'am.

7 Q Beg the Court's indulgence. And again,
8 Investigator Preston, he never told you he didn't
9 want to speak to you or give a written or oral
10 statement, he just said he wanted to speak to an
11 attorney before a polygraph?

12 A That's correct.

13 Q Thank you.

14 MS. MCDUFFIE: No further questions for
15 this witness.

16 THE COURT: Anything?

17 MR. STAGGS: Yes, sir, Your Honor.

18 **CROSS-EXAMINATION**

19 BY MR. STAGGS:

20 Q Investigator Preston, you told us that you spoke
21 to Mr. Gaddist in the waiting room of the hospital?

22 A Yes. Yes, it's a waiting room, conference room,
23 a little small office.

24 Q So was -- were there other people in the room
25 aside from you and Investigator Carter and

1 Mr. Gaddist?

2 A No, sir.

3 Q About what size was the room?

4 A I think it was some type of -- it was a large
5 room, not very, not small, not very large, medium
6 sized room. It had computers and long tables in it.
7 Sort of set up like a conference room.

8 Q Okay. Was the door open or closed?

9 A The door was closed.

10 Q And you let Mr. Gaddist know he was free to leave
11 at any time?

12 A Yes, sir.

13 Q About how long would you say you spoke with him?

14 A Without looking at the statement I'm not exactly
15 sure.

16 Q Okay. Care to give an estimate? Was it an hour,
17 half hour?

18 A If I'm not mistaken probably about an hour maybe.

19 Q About an hour? You didn't prepare a report, did
20 you?

21 A No, sir.

22 Q Did you review any report that was made?

23 A Yes.

24 Q All right. You said that you had information
25 that there was a child at the hospital with

SW - K. PRESTON - PROFFER

1 injuries. Where did you get that information from?

2 A From my sergeant and Investigator Carter.

3 MR. STAGGS: Beg the Court's indulgence.

4 That's all I have, Your Honor.

5 THE COURT: Anything further,

6 Ms. McDuffie?

7 MS. MCDUFFIE: No, Your Honor.

8 THE COURT: Thank you, sir. You may step
9 down.

10 MS. MCDUFFIE: Your Honor, I believe
11 Investigator Carter's testimony is going to be
12 duplicative so I don't think we have anything
13 further to offer on this statement.

14 THE COURT: Anything from y'all?

15 MR. STAGGS: We have no objection to that,
16 Your Honor.

17 THE COURT: All right, I'm gonna find that
18 the statement -- he wasn't in custody. It was done
19 in the course of investigation and didn't need to be
20 Mirandized, and voluntarily made. We will charge
21 the jury on all -- they ultimately have the decision
22 making on statements. All right.

23 MS. MCDUFFIE: Your Honor, we ask
24 Investigator Preston and Carter be excused.

25 THE COURT: They're free to leave or

1 they're free to stay, whatever.

2 MS. MCDUFFIE: The State will call
3 Sergeant Scott Faust.

4 WHEREUPON,

5 **SCOTT FAUST,**

6 having been duly sworn by the Court, testified as
7 follows:

8 THE COURT: If you will tell us your full
9 name, sir.

10 THE WITNESS: Steven Scott Faust,
11 F-A-U-S-T.

12 MS. MCDUFFIE: Just as a housekeeping
13 matter, Sergeant Faust also has testimony about the
14 phone calls that I believe the Defense is moving to
15 suppress as well. Do you want to just do the Denno
16 portion and then I can re-call Faust, or would you
17 like to ---

18 THE COURT: No, I think we probably ought
19 to do the Denno at this time.

20 **DIRECT EXAMINATION**

21 BY MS. MCDUFFIE:

22 Q Sergeant Faust, where are you currently employed?

23 A Richland County Sheriff's Department.

24 Q And what are your duties with the Richland County
25 Sheriff's Department?

SW - S. FAUST - PROFFER

1 A I'm the sergeant supervisor over the special
2 victims' unit.

3 Q And how long have you held that position?

4 A Going on five years, starting six.

5 Q And in May of 2011 were those the same duties you
6 had at the time?

7 A That's correct.

8 Q On May 23rd of 2011 were you assigned to
9 investigate a case involving a 17 month old baby
10 girl, K.H. [REDACTED]?

11 A As the supervisor I received call we had an
12 injured child in the hospital, and at that time I
13 designated some special victims' unit investigators
14 to go assess the situation and obtain statements
15 from any possible witnesses.

16 Q And is law enforcement called every time there's
17 an injured child in the hospital?

18 A It's mandated reporting when it's unexplained
19 injuries or where their injuries are significant.

20 Q So when the doctors believe that it may be abuse
21 or neglect then law enforcement is called?

22 A That is correct.

23 Q But if a kid falls off a bike law enforcement
24 doesn't get a call?

25 A That's correct.

SW - S. FAUST - PROFFER

1 Q And so you were aware that there were possible
2 child abuse or neglect complaints being made or
3 allegations being made?

4 A That -- yes.

5 Q And so you assigned investigators to go to the
6 hospital?

7 A That's correct.

8 Q And also go to the home where the child last was?

9 A Yes.

10 Q And did you yourself do that?

11 A I initially sent Investigator Carter and Preston
12 to the scene, and then they found out that the scene
13 had moved, that the people at the scene had moved to
14 the hospital. And at that point in time then I
15 decided to take control of the crime scene and get a
16 search warrant to go search based on the totality of
17 the circumstances.

18 Q And so you didn't respond to the hospital on
19 May 23rd of 2011?

20 A I did not.

21 Q You stayed at the apartment where the child last
22 was on Springtree?

23 A I typed up a search warrant, then grabbed a lab
24 unit and went to the incident location, the 220
25 Springtree Drive, Apartment ■■■4.

SW - S. FAUST - PROFFER

1 Q And you were there when crime scene was
2 processing that home?

3 A We entered together.

4 Q And you had no interaction with anyone at the
5 hospital that evening?

6 A No.

7 Q And as the sergeant you were briefed as to what
8 was going on?

9 A Yes.

10 Q And you were briefed or told that statements were
11 taken both from Mr. Antwan Gaddist and also the
12 child's mother Miesha Miller?

13 A Yes.

14 Q And the next morning did you review those
15 statements?

16 A Yes -- well that, yes.

17 Q Or that evening, I don't remember?

18 A Whenever I got hold of them I reviewed.

19 Q And were you also made aware that Mr. Gaddist was
20 asked to come to headquarters at 9 a.m. on May 24th
21 to be re-interviewed?

22 A Yes, at my request.

23 Q And the information you had prior to interviewing
24 Mr. Gaddist was that he was the person home with the
25 child when the child went into distress and that

1 Ms. Miller was at work?

2 A Yes, that's correct.

3 Q And you found it necessary to re-interview
4 Mr. Gaddist?

5 A Based off of his statement and her statement I
6 wanted to talk to him again, yes, ma'am.

7 Q And had you had any contact with the doctors or
8 were aware of injuries that K.H. had.

9 A Just through the investigators. I had not spoken
10 to any doctors, just the investigators relaying the
11 injuries.

12 Q And do you recall what information you had?

13 A Yes, that there was brain trauma. I want to say
14 some detached retina, that there were some
15 significant injuries that were just not -- that were
16 physically manifested through something that's not
17 natural.

18 Q So you knew that it was non-accidental trauma?

19 A Non-accidental trauma would be a good way of
20 putting it.

21 Q So that morning Mr. Gaddist came to the Sheriff's
22 Department?

23 A That's correct, his mom drove.

24 Q And y'all didn't go out and pick him up?

25 A No, he was down in the lobby. I was actually

SW - S. FAUST - PROFFER

1 late going to check on him down there.

2 Q And was he under arrest?

3 A No.

4 Q He came on his own free will?

5 A He came on his own free will. I actually had him
6 upstairs and sitting in the lobby himself at times.

7 Q And after Mr. Gaddist arrived you proceeded to
8 take him to investigations?

9 A Yes.

10 Q And investigations at the Sheriff's Department
11 which is on Two Notch Road is a very large room with
12 cubicles all down the center?

13 A I would say larger than this room, and yes.

14 Q And then there's offices that kind of lined the
15 cubicles?

16 A Yes.

17 Q Do y'all have, you know, what people see on TV as
18 an interrogation room?

19 A No.

20 Q So when you interview a person where do you
21 interview them?

22 A Well, this was part of the problem that morning.
23 My office is located in another building so I don't
24 have anywhere to specifically interview. At that
25 time I was actually waiting for Investigator Preston

1 to get there since he had a rapport with Mr.
2 Gaddist. And he called in, informed he was going to
3 be late, so I was looking around his office and saw
4 Kevin Isenhoward, Sergeant Isenhoward, and just
5 said, hey, can you help me, I need an office and can
6 you sit in with me so I can interview Mr. Gaddist.
7 Maybe gave him a two minute briefing of what I had,
8 and he just said, well his office is open, and at
9 that time we used his office to do the interview.

10 Q And Investigator Isenhoward's office is a normal
11 office, desk, computer, his personal stuff up?

12 A Correct.

13 Q And you escorted Mr. Gaddist to Investigator
14 Isenhoward's office?

15 A I led the way and he was behind me, yes.

16 Q And again, was he under arrest at that time?

17 A No.

18 Q And when he got to Investigator Isenhoward's
19 office did yourself and Investigator Isenhoward
20 inform him of his Miranda rights?

21 A We did go on to advise him of his Miranda rights
22 regards the original form.

23 Q And you did that via the standard written advice
24 of rights form?

25 A That is correct.

SW - S. FAUST - PROFFER

1 Q And that was on what time that day?

2 A 9:34 a.m. on May 24th, 2011.

3 Q And please inform the Court of how you advised
4 Mr. Gaddist of his rights on May the 24th at
5 9:34 a.m.

6 A This is the form -- I have a form to where we can
7 both see it. There's -- the desk was right here and
8 I had it positioned like this. Mr. Gaddist would
9 have been sitting right here. I would have been
10 sitting over here. If you can read and write; he
11 indicated yes. I asked what his education was; he
12 indicated 11th grade and that he was working on his
13 GED. At that time I then knew that he understood
14 the questions I asked by the answers that he
15 answered to my questions. And then I started the
16 questionnaire. As I wrote -- as I read off each
17 line I would look at him and get his acknowledgment
18 that he understood what I was writing; and then once
19 he, I got the acknowledgment, I would mark off the
20 little box there. It's not mandated; it's just
21 something we do to acknowledge that I read them.
22 And would you like me to go through each one?

23 Q Please.

24 A I started by saying, "Before I ask any questions
25 you must understand your rights. Answer so we can

SW - S. FAUST - PROFFER

1 both see it been right here. At that time I already
2 filled out his name at the top. I asked for his
3 date of birth which he responded [REDACTED]. Before
4 I read it to him I asked him if he can read and
5 write. He indicated yes. I asked what his
6 education was. He indicated 11th grade and that he
7 was working on his GED. At that time I then knew
8 that he understood the questions I asked by the
9 answers that he answered to my questions. And then
10 I started the questionnaire. As I wrote, as I read
11 off each line I would look at him, get his
12 acknowledgment that he understood what I was writing
13 and then once I got that acknowledgment I would mark
14 off the little box there. It's not mandated, just
15 something we do to acknowledge that I read them.
16 And would you like me to go through each one?
17 Q Please.
18 A I start off by saying: Before I ask any
19 questions you must understand your rights and we can
20 both see it looked over; he acknowledged. Then
21 little X then I for each sentence I did the same
22 thing. "You have the right to remain silent.
23 Anything you can, anything you say can be used
24 against you in court."
25 Q Let me stop you right there. You said you went

SW - S. FAUST - PROFFER

1 over each one and waited for him to acknowledge?

2 A That's correct. I do it every single time.

3 Q And he acknowledged you after you read him each,
4 right?

5 A Each time at then at which time when I get the
6 acknowledgment I hit the little X.

7 Q And how did he acknowledge?

8 A Just if it wasn't verbal it was some type of
9 physical indicator. If it was not verbal, but I
10 would not move forward if he did not understand or
11 acknowledge; or if he said no, which he didn't any
12 of these. But any time somebody does say no, I'll
13 stop until they indicate that they do fully
14 understand what I'm reading to them. And this is
15 pretty basic.

16 Q And then at any point in time did you have any
17 indication or any hesitation that he didn't
18 understand what you were talking about or wasn't
19 acknowledging his rights?

20 A No.

21 Q And please proceed.

22 A "You have the right to talk to a lawyer for any
23 advice before we ask you any questions and to have a
24 lawyer with you during any questioning. If you can
25 not afford lawyer one will be appointed for you

SW - S. FAUST - PROFFER

1 before any questions if you wish." And again,
2 acknowledgment before I proceeded. "If you decide
3 to answer questions now without a lawyer present you
4 still have the right to stop answering at any time.
5 You also have the right to stop at any, answering at
6 any time until you talk to a lawyer." At that point
7 I said, did you understand these and I got an
8 acknowledgment. Go down to the next portion. I
9 said ---

10 Q Sorry, let me stop you there. You said you got
11 acknowledgment?

12 A Out of that I was like, did you understand what
13 we just did and get -- for that section.

14 Q And did he sign that he did understand that?

15 A Not at that time. I get it -- it -- just not at
16 that time.

17 Q Okay, please go on.

18 A Then I go on to -- again, this is a standard
19 procedure for everything I do. It's always the same
20 way. Then I go on to the next portion. "I have
21 read this statement of my rights. I understand I
22 know what my rights are. I'm willing to talk and
23 answer questions. I understand and know what I'm
24 doing. No promises" -- and at that point I
25 underline promises. "Have been made to me under

SW - S. FAUST - PROFFER

1 pressure or coercion." At that time I circled
2 those. "Of any kind have been used against me."
3 And then I go promises, have I promised you
4 anything? And I said, does he understand what
5 promises mean and that I'm not offering him any
6 promises and he indicated yes. And I go over
7 pressure, coercion, and as typical case people
8 understand pressure. Then I go over coercion.
9 Coercion is basically that there's not gonna be any
10 type of physical or, you know, the classic example I
11 use is, you know, there's a phone book, I'm not
12 gonna hit you with a phone book if you don't answer
13 these questions. I would like to ask the type of
14 meaning of coercion is basically some type of, you
15 know, force or threats. I said, that's not gonna be
16 done in that case and did he understand coercion,
17 and I would not proceed further until he indicated
18 what he understood coercion to be. He stated yes.
19 We're talking just like this. And at that time I
20 said, do you understand? He goes yes. I said, are
21 you willing to talk to us; he goes yes. And at that
22 point I mark the two lines where I said this is to
23 acknowledge that you understand what I read to you.
24 It doesn't mean that you're saying or admitting to
25 anything. It's just saying you understand what your

SW - S. FAUST - PROFFER

1 rights are. At that time he signed it and then I
2 signed it, and I gave it to Kevin and he signed it.

3 Q And you're talking about up here where he
4 acknowledged?

5 A That's correct.

6 Q And this is Court's Exhibit 1. Is this the
7 advice of rights and then the subsequent statement
8 that Mr. Gaddist gave to yourself and Investigator
9 Isenhoward on May 24th of 2011?

10 A It does appear to be an identical copy.

11 MS. MCDUFFIE: Your Honor, if I may
12 approach.

13 (Document tendered to the Court.)

14 THE COURT: This is being admitted as
15 Court Exhibit 2. Do y'all have any objection?

16 MS. MCDUFFIE: Your Honor, I think it's
17 marked 1.

18 THE COURT: I mean 1, I'm sorry.

19 MR. STAGGS: We have no objection.

20 BY MS. MCDUFFIE:

21 Q And then did he acknowledge to you he wished to
22 waive his rights and speak with you and Investigator
23 Isenhoward?

24 A That's correct.

25 Q And did he again sign the form saying he wished

SW - S. FAUST - PROFFER

1 to waive his rights?

2 A That's correct, and signed both spots.

3 Q And you and Investigator Isenhoward also signed
4 that as witnesses?

5 A That's correct.

6 Q And when you take a statement from an individual
7 at the sheriff's department, please describe for the
8 Court your normal procedure of how you take a
9 statement.

10 A Well, that particular time I basically start off
11 by saying, could you tell me -- what happened. You
12 know, that I just said can you tell me what
13 happened, and you know, did he know how this baby
14 was injured and ---

15 Q Well, sorry, let me stop you right there. I
16 don't mean to go backwards. When you re walking him
17 up from the lobby of the Sheriff's Department to
18 investigations did you know how K.H. [REDACTED] was doing
19 or the extent of her injuries?

20 A I just knew that she was in the hospital. I knew
21 the injuries were significant, but I did not have
22 any updates. I had not talked to anybody that
23 morning since, you know, I spoke to Investigator
24 Carter. And I had not spoken to anybody from six,
25 seven that night till that following morning when

1 Mr. Gaddist appeared at our office.

2 Q And did you actually ask Mr. Gaddist ho K.H. [REDACTED]
3 was doing?

4 A I did 'cause at that time I did not have an
5 update.

6 Q And what did Mr. Gaddist inform you?

7 A Mr. Gaddist informed me -- I stated that I did
8 not have a current health update for K.H. [REDACTED] and I
9 asked Mr. Gaddist if he had heard of one, and he
10 stated to me that she was breathing on her own and
11 off the respirator and I was kind of taken back and
12 was like, that's good news and because her health
13 had gotten better.

14 Q And so he's the one that informed you that her
15 concern was improving, that she was breathing on her
16 own?

17 A That's correct, and off of the respirator.

18 Q And you said that was good news?

19 A Yes.

20 Q And you had no reason to believe that was not
21 true?

22 A At that time I did not.

23 Q And then you advised him of his Miranda rights
24 and you and Investigator Isenhoward ---

25 A That's correct. It was just some small talk.

SW - S. FAUST - PROFFER

1 You know, I explained to him why there was a delay,
2 and I asked him the condition as we were walking
3 back towards the room until we got back to the room
4 and then, you know, once we got situated and settled
5 and pulled out the advice of rights form that's when
6 we started the advice of rights.

7 Q And so you and Investigator Isenhoward after he
8 was mirandized then began to question him about what
9 the events were leading up to K.H. [REDACTED]'s injuries?

10 A That's correct.

11 Q And you asked him to start from the beginning on
12 the 23rd how the day started out?

13 A That's correct. I basically just said, you know,
14 can you tell me what happened.

15 Q And you're, orally speaking you and Investigator
16 Isenhoward are orally speaking with him?

17 A I'm doing the talking. Kevin Isenhoward is not
18 doing much of the talking at this point 'cause he
19 knows very little about this case. He's basically
20 told that we got an injured baby in the hospital and
21 it's non, it's non-accidental injuries.

22 Q And so you asked him what happened and Mr.
23 Gaddist informed you that initially K.H. [REDACTED] was
24 injured, just laying on the bed.

25 A That's correct.

1 Q And you informed him that the doctor said that's
2 not possible?

3 A That's correct.

4 Q And why -- what was the basis of that
5 information?

6 A I think that's just common sense that a baby just
7 can't be injured just laying on a bed; and knowing
8 the injuries that I knew at that time just, it's
9 physically impossible for a baby be injured like
10 that and laying on a bed.

11 Q And you were informed by the doctors that this
12 was non-accidental trauma. This wasn't disease or
13 sickness or, you know?

14 A Through the investigators that this was not a
15 non-accidental injury.

16 Q And so it didn't make sense the baby would just
17 be lying on the bed and receive these injuries?

18 A That's correct.

19 Q And you informed Mr. Gaddist that that's not,
20 that's medically impossible?

21 A That's correct.

22 Q That these are non-accidental, these are
23 inflicted injury?

24 A Simply put, that's medically impossible that
25 that, that could have happened.

SW - S. FAUST - PROFFER

1 Q And then Mr. Gaddist then said to you that she
2 fell off the bed?

3 A He did indicate that was the next basically that
4 perception.

5 Q And you then said to Mr. Gaddist that that's
6 physically impossible how if she fell off the bed
7 and was unconscious, how did she end up back on the
8 bed?

9 A And with him, without her -- without him hearing
10 her cry, I said that just doesn't make sense, just
11 ---

12 Q So basically he told you that she fell off the
13 bed and was unconscious but ended up back on the
14 bed?

15 A Yes. And I said, well, that just doesn't make
16 sense. How if she fell off the bed and you heard
17 her crying, wouldn't you have gone to assist. And
18 you're basically telling me you walk in there and
19 you saw her on the bed and that's how she's injured,
20 that she fell off. I said, that just doesn't make
21 sense.

22 Q You said physically impossible?

23 A Yes.

24 Q And you had been to Mr. Gaddist's residence that
25 he shared with the child's mother Miesha Miller, the

1 previous day?

2 A That evening.

3 Q And when you were there on the 23rd you had found
4 some -- or you found like a stain on the bedroom
5 floor?

6 A On the children's bedroom floor that appeared to
7 potentially be, could have been feces. It just
8 looked like a smear.

9 Q And so did you ask him if he got upset that the
10 children smeared feces on the floor?

11 A Or that that -- yes, that had leaked pooped on
12 the floor and that that upset him.

13 Q And he said that, no, they don't, they don't poop
14 on floor or smear it, that it probably was food,
15 that they always smear food on the floor.

16 A That's correct.

17 Q And that you asked him, you know, wa **K.H.**
18 crying at this time?

19 A That's ---

20 Q ---at the time the injuries occurred?

21 A I then asked him, I said, was she crying.

22 Q And you also said, if she was crying did you just
23 shake her a little?

24 A That's correct.

25 Q And please describe what happened with

SW - S. FAUST - PROFFER

1 Mr. Gaddist after you said that.

2 A At that point when I said, you know, was she
3 drying, did you shake her because she was crying, he
4 then goes into a fetal position basically like this
5 (indicating.)

6 Q And was that significant to you?

7 A That is an indicator to us that we've learned
8 through classes, interview classes, that that is an
9 indicator of someone feeling remorse.

10 Q And did Mr. Gaddist then get choked up and say, I
11 didn't mean to hurt K.H. [REDACTED]?

12 A That's correct.

13 Q At any point in time did you tell him that the
14 doctor said that he definitely shook her, or that
15 shaking was the only way to cause these injuries?

16 A No, but I basically said that the shaking or some
17 type of physical harm is how that would have, how
18 these injuries would have taken place.

19 Q So when you were telling him that, you were
20 telling him that this wasn't an accident, this
21 wasn't natural, that somebody harmed this child?

22 A That that -- that this was physically, something
23 physically happened to this child and I asked him to
24 explain it.

25 Q And he then told you that he didn't mean to hurt

1 K.H. [REDACTED] but he couldn't get her to stop crying?

2 A And that he shook her until she quit crying.

3 Q Until she became unconscious?

4 A Yes.

5 Q And you got him to demonstrate how he shook her?

6 A Well, at that time -- I want to make sure I go
7 through it correct. He stated that he shook her a
8 few minutes until she went unconscious, and I looked
9 at him and I said, you know, several minutes? And I
10 felt like to clarify several minutes. And he stated
11 again, yeah, a few minutes; and I just felt that he
12 might not -- I wanted to clarify exactly what a few
13 minutes were. I didn't feel like he literally meant
14 a few minutes. So at that time I started talking to
15 him. I said, well, let's start, I was like, you
16 know, if you started shaking her right now, let's go
17 through how far you think you shook her. And I
18 started going in my head like, thousand one,
19 thousand two. And as I got up to about 15 seconds I
20 said, 15 seconds just passed, did you shake her this
21 long; and he goes, longer. Then I continued. About
22 every 10 or 15 seconds as I manually was in my head
23 going from a thousand one, you know, going from 15
24 to 25 to 30, I said all right, we're up to, you
25 know, 30 seconds now, did you shake her this long;

SW - S. FAUST - PROFFER

1 and he would indicate yes. I then got up to 45
2 seconds as I continued the process of literally
3 going as close to 45 seconds as I could doing the
4 one thousand one method. Actually got up to a
5 minute and again asked him, I said, did you feel
6 like you shook K.H. this long; and he goes, yes,
7 it was a few minutes until she went conscious.
8 Those were his exact words.

9 Q Until she went unconscious?

10 A Unconscious.

11 Q And he said that there was blood or white stuff
12 coming from K.H.'s nose and that he used a towel
13 to wipe that off?

14 A That's correct.

15 Q And then Sergeant Isenhoward was present during
16 all this?

17 A At that time, yes.

18 Q And Sergeant Isenhoward left the room and got a
19 teddy bear that y'all had in the Sheriff's
20 Department?

21 A Yes.

22 Q And why did y'all have them?

23 A I'll be honest with you, I didn't know it was
24 there. I just know that he came back with that
25 teddy bear. I think he went to look for something

1 and that was the closest thing he could find.

2 Q And then Investigator Isenhoward handed that to
3 Mr. Gaddist, asked him to demonstrate how he shook
4 K.H. ?

5 A That's correct.

6 Q And he did do that?

7 A Yes.

8 Q And then after, after you were told by
9 Mr. Gaddist verbally what had happened, you then --
10 you and Investigator Isenhoward asked if he would
11 give you a written statement?

12 A Yes.

13 Q And that was then done?

14 A Yes, we took a --

15 Q And that --

16 A --written statement.

17 Q And that's State's -- I'm sorry, Court Exhibit 1?

18 A Yes. And from the time I read his rights to the
19 point of the statement might have been 10 to 15 at
20 the most; it was not that long. I meant, the
21 process of us talking was about as long as it took
22 to get to this point.

23 Q And then the statement, the time on that
24 statement is 10:30 a.m.?

25 A Yes, ma'am.

SW - S. FAUST - PROFFER

1 Q So it's about 15---

2 A Wait a minute. Let me -- well, at the time of
3 the statement -- well, the advice of rights, then
4 there was some delays; but when we started talking
5 to him, that's when it did, was not that long of a
6 conversation.

7 Q So you talked with him and then at 11 -- I'm
8 sorry, at 10:30 the actual written statement?

9 A The 10:30 is whatever time that Kevin Isenhoward
10 put on the statement because he actually took the
11 statement.

12 Q And so Kevin was sitting at his computer and
13 asking you and Investigator Isenhoward were asking
14 questions?

15 A Yes.

16 Q And so in question and response---

17 A He ---

18 Q He questioned---

19 A At that point I was out of it and Kevin was
20 asking the questions.

21 Q And these are whose responses on this statement?

22 A It starts out Q for Kevin Isenhoward and Scott
23 Faust. But Kevin, again is, now asking the
24 questions. I might chime in here and there just to
25 suggest something; but Antwan is the R, stands for

1 response.

2 Q And Investigator Isenhoward was the one actually
3 typing what Antwan was saying?

4 A That's correct.

5 Q And after this statement, this three page
6 statement was obtained, was a copy given to
7 Mr. Gaddist so that he could make sure that it was
8 accurate and that those were his words?

9 A We printed it and then offered him a copy --
10 well, we printed the copy and handed it to him and
11 asked him to read it to make sure that those were
12 the exact things that he said, and he took the piece
13 of paper and he read it and actually corrected some
14 of the things on the paper. We had spelled **K. H. 2**
15 incorrectly. We put a C in and he corrected it with
16 a K, made a K mark over the C, and then drew a line
17 over as we told him to indicate that was his
18 initials, that he was the one changing that. And
19 then I put my initials above it when we actually
20 were ready to sign it, and he said that this is what
21 he did.

22 Q And he actually made corrections on each page of
23 this three page statement?

24 A That's correct.

25 Q And he initialed that those were his corrections,

SW - S. FAUST - PROFFER

1 and he indicated that by his initials and then you
2 also initialed it?

3 A Yes.

4 Q And those were the only changes he wanted made to
5 the statement?

6 A That's correct. And he read it thoroughly and
7 almost to the next to the last line where he made a
8 correction of the K replacing a C.

9 Q And so he made spelling changes to your statement
10 ---

11 A That's correct.

12 Q ---or the statement that Investigator Isenhoward
13 typed? And then he signed the statement, each page
14 of the statement, that "I made the foregoing
15 statement freely and voluntarily without fear,
16 threat, promise of reward, or hope of reward of any
17 kind"?

18 A That's correct.

19 Q And you then provided him -- you signed as a
20 witness and Investigator Isenhoward had also signed?

21 A He notarized it and I signed as a witness.

22 Q And Mr. Gaddist signed twice on each page?

23 A Yes, one that that was made freely as you stated
24 and then the other one that he was given a copy.

25 Q And at any point in time did you threaten

1 Mr. Gaddist?

2 A No.

3 Q Did you force him to give the statement?

4 A No. And our conversations were like this, there
5 was never any yelling on his part, on my part. It
6 always a very respectful tone and conversations
7 carried on like this.

8 Q And did you tell him at any point in time that
9 the only way that these injuries could have been
10 caused to this child was by shaking it, and he had
11 to have done it?

12 A I did not say he had to have done it, but I did
13 say the injuries could have been from shaking,
14 suggested it; and that's when the indicator came on
15 but I didn't say he had to have been the one.

16 Q And you also indicated that the injuries could
17 have been done by some other form of trauma to the
18 child?

19 A There were, I believe, some injuries of blunt
20 force trauma; but he didn't indicate that that was
21 done by him.

22 Q So he didn't say that he caused blunt force
23 trauma to the child but he did indicate he shook the
24 child?

25 A He indicated he shook the child, demonstrated it

SW - S. FAUST - PROFFER

1 with the teddy bear, and stated it was over a
2 minute.

3 Q And after he gave the statement did you then call
4 the hospital or call Doctor Olga Rosa and inform him
5 that -- informed her that Mr. Gaddist said that he
6 had shaken the child?

7 A That's correct, to help with any type of medical
8 treatment of the child to say that this is, you
9 know, this is what we've learned and after tracking
10 down that's what I told her. And then I indicated,
11 you know, I was informed that she was, the child was
12 doing better.

13 Q Let me stop you right there. You were informed
14 by who that the child was doing better?

15 A I, I was informed -- I told Doctor Rosa that I
16 learned from -- that she had gotten better. I don't
17 know if I told her that Mr. Gaddist told me that,
18 but I just said I heard that the child was doing
19 better and that information was from Mr. Gaddist.

20 Q And Doctor Rosa informed you that's not true at
21 all, in fact, she is in very critical condition?

22 A That was correct. She stated that around 4 a.m.
23 that morning she took a turn for the worse and that
24 she was in a very critical condition.

25 Q And after Mr. Gaddist gave you the statement

1 where he admitted to shaking [K.H.] and that her
2 going unconscious, you had decided to arrest him?

3 A That's correct based off of the evidence that I
4 recently obtained.

5 Q And he was arrested at that point for inflicting
6 great bodily injury upon a child?

7 A That's correct.

8 Q He was not arrested for homicide by child abuse?

9 A That's correct, the child was still living.

10 Q And he was informed that he was arrested?

11 A At that time. Once we went back to the office,
12 you know, I had stepped out and made a private phone
13 call to Doctor Rosa, then went back. I actually
14 spoken to a supervisor and just went over the case,
15 what we had done, and what we learned, and
16 determined that probable cause was developed. Then
17 went back to the room where Mr. Gaddist was. And
18 again, he's not in cuffs the entire time. When I
19 asked him to come with me I then go to a private
20 area -- well, not necessarily a private area, but I
21 go to another office to clear out Kevin Isenhoward
22 so he can continue doing what he's doing. And I
23 ended up finding an empty office belonging to Don
24 Robinson; and at that time, I then sit him down and
25 tell him that, you know, he's gonna be arrested for

SW - S. FAUST - PROFFER

1 what he did. And then I proceed to start typing the
2 warrants and arrest report.

3 Q And you moved him from Investigator Isenhoward's
4 office to Sergeant Don Robinson's office so that
5 Investigator Isenhoward can continue to use his
6 office for other matters and no one was in Sergeant
7 Robinson's Office?

8 A That there's no, I mean, his involvement, one
9 person can type the arrest report and warrants and
10 he just wasn't needed.

11 Q So Mr. Gaddist was in there with you while you
12 were completing the paperwork that you needed to go
13 to take him to Alvin S. Glenn?

14 A Yes, and he is still not in handcuffs at this
15 time.

16 Q And after that you informed you went down to the
17 lobby and informed his mother that he was being
18 arrested and he wouldn't be going home with her?

19 A And that she didn't need to stick around.

20 Q Beg the Court's indulgence. At any point in time
21 during your conversations with Mr. Gaddist the, I
22 guess, hour-and-a-half or two hours you were with
23 him, did he ever ask for a lawyer?

24 A No.

25 Q Did he ever tell you he didn't want to speak with

1 you?

2 A No.

3 Q Did he ever ask for food or drink or bathroom?

4 A If he did we would have let him do it, but I
5 don't specifically recall. You know, I typically
6 offer them water. I may have even gotten water.

7 Q At any point did you think he didn't understand
8 what was going on?

9 A No, he's -- no, he understood.

10 Q Sergeant Faust, the individual you interviewed on
11 May 24th, 2011, do you see him in the courtroom
12 today?

13 A State that one more time.

14 Q Do you see Antwan Gaddist you spoke with on
15 May 24th in the courtroom today?

16 A Yes, he's over at this table (indicating).

17 Q Can you please describe what he's wearing.

18 A It looks like a Richland County Alvin S. Glenn
19 Detention Center jumpsuit.

20 MS. MCDUFFIE: Your Honor, please let the
21 record reflect ---

22 THE COURT: So reflected.

23 MS. MCDUFFIE: I have no other questions,
24 Your Honor.

25 THE COURT: Defense.

1 MR. STAGGS: Thank you, Your Honor.

2 **CROSS-EXAMINATION**

3 BY MS. PINNOCK:

4 Q Investigator Faust, how are you doing?

5 A Doing good, sir.

6 Q I have a few questions for you just so I'm
7 comfortable with the timeline. You spoke to
8 Investigator Carter on the 9th; is that correct?

9 A That's correct.

10 Q About what time of night?

11 A After he had finished taking the statement, then
12 we call to briefly on what he obtained. I can look
13 at the time on the statement, but there were
14 probably several phone calls but when he was -- let
15 me look at his statement to get a specific time. He
16 takes the statement at 17:49 which would be
17 5:49 p.m. However long it took him to take that
18 statement, then usually within, you know, a few
19 minutes of him taking the statement he would have
20 called me, you know, 7, 8 that night.

21 Q Okay?

22 A But he would have still been with Mr. Gaddist
23 because I think we were discussing -- well, I don't
24 think I know we were discussing; I said, well, just
25 have him come in the morning.

SW - S. FAUST - PROFFER

1 Q Okay. What time do you get to work in the
2 morning?

3 A I get to work anywhere from 8 to 8:30.

4 Q 8 to 8:30?

5 A That morning, instead of going to my office I
6 went straight to Two Notch Road.

7 Q Okay. And you told us earlier that you upon
8 arriving at work reviewed the statements from the
9 night before?

10 A Yes.

11 Q What time did you get down to the lobby?

12 A It would have been about 9:15 'cause I was told
13 that he'd be there at 9, and I don't believe they
14 knew to ask for me even though they were probably
15 told. So about 9:15 after waiting for Investigator
16 Preston to get to headquarters and realizing he was
17 going to be late when I called him, I then went to
18 go check on him to let him know, hey I'm here, you
19 know, that, you know, to don't go anywhere. And at
20 that time I just said, well, on up and then I had
21 him sit in a lobby type area right outside of our
22 elevator until I could make arrangements and find
23 somebody to assist me and to find my office.

24 Q So it's about 9:15 he's upstairs with you?

25 A That's correct. Well, he's not necessarily with

SW - S. FAUST - PROFFER

1 me but he's upstairs.

2 Q He's upstairs. He's been taken from the lobby.

3 His mom stayed down in the lobby at that time,

4 right?

5 A That's correct.

6 Q All right. And then I want to talk with you a

7 little bit about this advice of rights form that you

8 went over with Mr. Gaddist. You said it was you

9 that did the check marks as you went through the
10 questions, right?

11 A Yes, sir.

12 Q And you read those questions to him?

13 A Yes, sir.

14 Q And you told us earlier that he acknowledged each

15 one, but some were verbal and some were nonverbal.

16 A Yes, I won't proceed to the next line until I get

17 some type of indicator that there's an

18 understanding. If it would have been something like

19 that, or a no, or just a blank stare I would not

20 have proceeded.

21 Q Can you tell me how many of these were verbal as

22 opposed to nonverbal?

23 A I can't tell you.

24 Q Okay.

25 A But there was an acknowledgment to some extent.

1 I don't get to that specific detail, but I do not
2 move forward as pretty much ever since I've done
3 this, for years.

4 Q And how long have you been an investigator?

5 A Since 1999.

6 Q Since '99. And you've been the sergeant, you are
7 the head of the special victims' unit?

8 A I wouldn't say I'm the head of it. I am a
9 supervisor, higher level.

10 Q You have a position of authority over there?

11 A Sure, if you want to put it like that.

12 Q All right. So let me ask you this in regards to
13 this advice of rights, did you let Antwan read it
14 over?

15 A We read it together. He's ---

16 Q You read it together?

17 A ---as close to it as I am.

18 Q Okay. And at that time this happened everybody
19 is in Investigator Isenhoward's office?

20 A Kevin, myself, and Mr. Gaddist.

21 Q Okay. And the door is closed?

22 A No.

23 Q Can you give me an idea spatially of where
24 everyone is?

25 A If you walk into his office -- I don't know if

SW - S. FAUST - PROFFER

1 you want me to sit down I can probably give you a
2 better. If you walk into his office the chair he's
3 sitting in is right here so he's facing back towards
4 the door and can look out to an open area.

5 Q All right.

6 A He's sitting beside the desk. Kevin is sitting
7 over here and I'm sitting over here. There's
8 probably anywhere from 4 to 6-feet between us if I'm
9 backed up. But when I got to the desk I would slid
10 up; and then at that point in time when I'm done I'm
11 not crowding him, I'm giving him space, but for us
12 to both see the paper I use the desk so we can look
13 at it and Kevin is sitting off, you know, 5-feet.

14 Q All right. Okay. Once he came up you said you
15 were making small talk, right?

16 A Yes.

17 Q Before you go in the office and you asked him how
18 K.H. was doing?

19 A Yes.

20 Q And he told you that it was his understanding
21 that she was improving?

22 A That is correct.

23 Q And you didn't have any reason to doubt that, did
24 you?

25 A I didn't.

1 Q Okay.

2 A I was actually was happy that had gotten that
3 news.

4 Q That's understandable. But now once the advice
5 of rights is done and you start questioning
6 according to this -- and you did do a report,
7 correct?

8 A Yes.

9 Q You completed a report? And according to your
10 report as soon as you start interviewing him after
11 the advice of rights -- the first thing you do is
12 doubt what he tells you?

13 A I said, can you tell me what happened, and he
14 says the baby is laying on the bed. And I said,
15 nope, I just, nope. So if you want to call it doubt
16 it, yes.

17 Q In fact, you told him it was medically
18 impossible?

19 A Yes.

20 Q That's what it says in your report, ---

21 A Yes.

22 Q ---Right? You told him it was medically
23 impossible for that child to be laying injured on
24 the bed?

25 A That's what's in my report.

SW - S. FAUST - PROFFER

1 Q Yes, sir. Okay, and then after being told that
2 Antwan discussed another scenario with you; didn't
3 he?

4 A Yes, that made no sense.

5 Q And you told him that one was physically
6 impossible; didn't you?

7 A Yes, sir.

8 Q Investigator -- Sergeant, I apologize.

9 A You can call me ---

10 Q Are you familiar with the term of lucid interval?

11 A No.

12 Q And that's 'cause you're not a doctor, right?

13 A I think that's correct.

14 Q Sure. Okay. After you've told him that
15 something is medically impossible and you've told
16 him the next thing is physically impossible, you
17 mentioned crying a lot; is that right? You
18 mentioned K.H. crying?

19 A No, I -- at that point I suggested, I asked him,
20 you know, were you upset that the child defecated on
21 the floor. And my specific words were pooped. But
22 I, you know, suggested, I said, I saw some what
23 looked like feces on the ground and I just offered
24 that up, you know, hey, could that have happened,
25 did that upset you. And he said, no, that that was

SW - S. FAUST - PROFFER

1 probably food stains that the child, the children
2 had never had accidents. And more my words, but
3 that marks on the floor were not feces.

4 Q Okay. You told us earlier that after you got
5 spoke did you re-approach Antwan about the
6 statement? Once you get through with the shaking
7 and whatnot did you say, all right, now will you
8 write one down?

9 A Well, we got him to where -- well, he indicated
10 that he shook the baby. Then we did the timeline
11 of, you know, how long did it actually take. And
12 then Kevin went and got the teddy bear so
13 that was -- there was a chain of events.

14 Q Okay.

15 A I'm not sure what you're specifying.

16 Q But at what point in time did you say, Antwan,
17 let's write this down.

18 A Once the shaking of the teddy bear was done we
19 then proceeded to say, well, you know, we're gonna
20 put it on paper, are you willing to supply a
21 statement of this same effect and he said yes.

22 Q Did you readvise him of his rights at that time?

23 A No, it was not necessary. We had already done so
24 at one time and he indicated he understood. At that
25 point he said that ---

SW - S. FAUST - PROFFER

1 Q Now you told -- thank you. That's all I need.
2 You told us a few minutes ago that once you got into
3 typing the statements you sort of took a backseat?

4 A I -- yes, Kevin was the that was directing the
5 questions, that's correct.

6 Q So these questions that Mr. Gaddist responded to
7 are the questions of Mr., Investigator Isenhoward,
8 correct?

9 A That's correct. Well, he's the one typing them
10 and he's the one who's doing most of the verbal. I
11 might say something but these are typed and
12 everything that's typed was by Kevin Isenhoward.

13 Q Okay. So there's nothing in this statement
14 that'll indicate where you chimed in or where your
15 involvement?

16 A I think that's fair.

17 Q Sergeant Faust, you've mentioned during your
18 testimony on direct that there were some delays in
19 between the typing of the statement. Can you tell
20 us what those were?

21 A Well, the 9:34 we started the advice of rights.
22 That could have taken anywhere from ten minutes.
23 And then once there's a signing process then we go
24 on to the verbal portion. That may take another 15
25 minutes. Then the timeline of the seconds, that

SW - S. FAUST - PROFFER

1 would take a couple of minutes and then we went to
2 teddy bear, and then the process of just delays.
3 You know, whatever, maybe of getting the computer
4 cut on, statement pulled up, things of that nature.

5 Q So just general nonspecific delays?

6 A Well, I mean, the delay -- well, not -- delay may
7 have been a misinterpreted word; but from the time I
8 read the rights, you know, to when I spoke to him
9 there was about a 15 minute window of us
10 communicating and then we went on to the timeline of
11 the seconds, the countdown, then the teddy bear
12 shaking and then we moved on to statement. But as
13 in delays, you know, you know, I can't tell you
14 exactly how long it took Kevin to go get that teddy
15 bear. You know, that might have been five minutes.

16 Q Okay. You have a copy of this statement?

17 A Yes, sir.

18 Q Tell me what time it says there at the top?

19 A We've discussed that, 10:30.

20 Q 10:30. And the advice of righters was signed at
21 9:30?

22 A No, the advice of rights, when I put the time to
23 start reading it was 9:34. That's at the time I
24 start.

25 Q Okay. And there are no -- no time coding down at

SW - S. FAUST - PROFFER

1 the bottom. In fact, there's no time coding in any
2 of your report anywhere, is there?

3 A I, you know, what's on the paper.

4 Q All right. Once Antwan signed the statement --
5 well, let me ask you this first. You said he was
6 allowed to read it before he signed it, right?

7 A Yes.

8 Q About how long would you say that took him?

9 A I, I guesstimate five to ten minutes and then, you
10 know, as a correction is made, you know, immediately
11 when he sees the C he changes it to K.

12 Q Five to ten minutes?

13 A It's three pages and skip lines, yea, it
14 shouldn't be that long.

15 Q I understand that; I'm just, more of a curiosity.
16 Okay. So he signs the statement, then you leave the
17 office; is that right?

18 A After he signs the statement we make a copy and
19 then I go call Doctor Rosa or try ---

20 Q That's the first time you speak to a medical
21 professional all; is that right?

22 A Yes.

23 Q An you wanted to let her know what Antwan had
24 just told you?

25 A Basically all for if that would help out with

SW - S. FAUST - PROFFER

1 anything of the treatment I -- that's something I
2 commonly do.

3 Q Did you advise Antwan he was gonna be arrested
4 prior to or after speaking with Doctor Rosa?

5 A After. It wasn't until we got to Don Robinson's
6 office alone.

7 Q Sergeant Robinson.

8 MR. STAGGS: Beg the Court's indulgence
9 for a moment, Your Honor.

10 THE COURT: Anything further?

11 MR. STAGGS: No, Your Honor.

12 THE COURT: Anything from the State?

13 MS. MCDUFFIE: No, Your Honor.

14 THE COURT: All right, thank you, sir.
15 You may step down.

16 THE WITNESS: Thank you, sir.

17 THE COURT: You want to call your next
18 witness?

19 MS. MCDUFFIE: The State would call
20 Sergeant Kevin Isenhoward.

21 Is Sergeant Faust staying?

22 THE COURT: If he wants to.

23 WHEREUPON,

24 **KEVIN SCOTT ISENHOWARD,**

25 having been duly sworn by the Court, testified as

1 follows:

2 THE COURT: All right, thank you. Have a
3 seat and tell us your full name please, sir.

4 THE WITNESS: Kevin Scott Isenhoward.

5 **DIRECT EXAMINATION**

6 BY MS. MCDUFFIE:

7 Q Sergeant Isenhoward, where are you currently
8 employed?

9 A Richland County Sheriff's Department.

10 Q What are your duties with the Sheriff's
11 Department?

12 A I'm sergeant in the major crime scene.

13 Q And as a sergeant in the major crimes unit what
14 sort of crimes do you investigate or supervise the
15 investigation of?

16 A Robbery, homicide, shootings, incidents,
17 assaults, suspicious death investigation.

18 Q And on May 24th the 2011 were you asked to
19 participate in the investigation of the injuries
20 that occurred to K.H. [REDACTED]?

21 A I was.

22 Q And was that by Sergeant Faust?

23 A Yes.

24 Q And what information did you have prior to
25 interviewing Antwan Gaddist that morning about the

1 case?

2 A Just that the little girl had gone to the
3 hospital, and she had significant injuries, head
4 injuries, and that the father Mr. Gaddist, --
5 Mr. Gaddist was the only person in the home I
6 believe at the time. Very limited information as he
7 was already there when I was asked to participate.

8 Q And were you also informed that the injuries to
9 the child were not natural or not, you know, she
10 wasn't -- didn't have sickness or disease ---

11 A Yes.

12 Q ---these were non-accidental trauma?

13 A Yes.

14 Q And you then with Sergeant Faust participated in
15 interviewing Mr. Gaddist?

16 A We did.

17 Q And that was done in your office?

18 A Yes.

19 Q And your office is a normal office. Just
20 describe it for the Court.

21 A It's probably 12 by 10. It's got a door, four
22 walls, a desk, and a computer in it.

23 Q And where was Mr. Gaddist when you began to
24 interview him?

25 A He was brought up from the waiting room. I

SW - K. ISENHOWARD - PROFFER

1 believe Sergeant Faust brought him up. He
2 introduced the two of us. We went into my office and
3 interviewed him.

4 Q And was he sitting in a normal chair?

5 A Yes.

6 Q Next to your desk, right at your desk?

7 A There's a chair next to my desk which is when
8 people come and speak with me they sit at, and we
9 brought in another chair for Sergeant Faust to sit.

10 Q And you were sitting at your desk?

11 A Yes.

12 Q And you and Sergeant Faust advised Mr. Gaddist of
13 his rights?

14 A We did.

15 Q And that was done -- I think the Court has it,
16 but it's State's Exhibit Number 1 advice of rights
17 form?

18 A Yes.

19 Q And that's a standard Richland County Sheriff's
20 Department advice of rights form?

21 A It is.

22 Q And was Mr. Gaddist advised of his rights?

23 A We go through the form. Obviously, he was
24 introduced to the two of us. We sat down. Sergeant
25 Faust read these rights to him line by line and then

1 obtained a waiver from him. I signed as a witness.

2 I was there the entire advice.

3 Q And at any point in time did Mr. Gaddist appear
4 not to understand those rights?

5 A No.

6 Q Did he acknowledge that he did understand his
7 rights?

8 A Yes.

9 Q And did he, in fact, sign that he understood his
10 rights?

11 A He did.

12 Q And he then waived those rights and said he
13 wished to speak with you and Sergeant Faust?

14 A He did.

15 Q At any point in time was he threatened?

16 A No.

17 Q Coerced?

18 A No.

19 Q Or promises made to him?

20 A No.

21 Q Was he in handcuffs when this was done?

22 A No, he wasn't.

23 Q And any creature comforts, food, water, restroom
24 facilities withheld from him during the entirety of
25 taking the statement?

SW - K. ISENHOWARD - PROFFER

1 A No.

2 Q Had he requested those would you have provided
3 them to him?

4 A Absolutely.

5 Q At any point in time did he tell you he no longer
6 wished to speak with you and Investigator Faust?

7 A No, he did not.

8 Q Did he ever ask for an attorney?

9 A No.

10 Q And if he had what would you have done?

11 A We would have stopped the questioning to at least
12 allowed him to contact someone.

13 Q And Sergeant Faust then asked him after he was
14 advised of his rights and waived his rights, what
15 happened on May 23rd?

16 A He said that he was at his, at the home with the
17 child and his initial story was that the -- that he
18 found the child in the bed unresponsive and called
19 9-1-1 and tried to administer CPR to the child.

20 Q And you and Investigator Faust continued
21 questioning him, and I think at one point he said
22 that he fell from the bed and then he found her in
23 the bed unconscious?

24 A Correct.

25 Q And you and Sergeant Faust informed him that to

1 your knowledge that was medically impossible she was
2 unconscious and fell out of the bed, how did she get
3 back in the bed?

4 A Absolutely there's a problem with that.

5 Q And so you then continued to question him?

6 A Yes.

7 Q And then you -- I think in your reports your
8 exact words were you pleaded with him to tell you
9 the truth of what happened to her?

10 A Yes.

11 Q Please describe to the court what.

12 A Obviously our questioning led up to that. He --
13 we informed him that there was a problem with his
14 description of the events and our reasoning was why
15 we felt there was a problem. And eventually you
16 could see emotions start to take over. He started
17 to cry and he told us he'd tell us exactly what
18 happened. He said that he -- he went to the child's
19 bed I believe to try and feed her, took her from the
20 bed. She began to cry; she wouldn't feed. And in
21 an attempt to prevent her from crying or to calm her
22 down he began to shake the child violently for
23 several minutes as he described. I asked him to go
24 into detail to tell me how he shook the child and
25 specifically told me he put -- he wrapped his hands

SW - K. ISENHOWARD - PROFFER

1 around the child's body with his fingers and her
2 back and thumbs on the chest and began to shake
3 'cause her head to go back and forth. When he was
4 giving me a verbal description i told him I would be
5 right back. I went to another office where we had
6 some stuffed animals, specifically a Teddy bear, and
7 I brought that to the office and had him show us
8 specifically on the bear what he did and he showed
9 us.

10 Q And why does the Sheriff's Department have that
11 teddy bear in the office, I mean?

12 A We have some stuffed animals there for several
13 reasons, to comfort children. Early on they were
14 used, I think, as sort of -- if a child had been
15 touched or something like that they could kind of
16 show on the bear something they're comfortable
17 with, familiar. And those have just been in the
18 office there, and I mean, they were -- I wanted to
19 really see how hard he was shaking the child.

20 Q At any point in time did you tell Mr. Gaddist or
21 Investigator Faust that the doctor said that he
22 definitely shook the child or he must have shaken
23 the child or that he had to have shaken the child to
24 cause those injuries?

25 A No, we only told him that his initial description

1 of how the injuries occurred, how he believed they
2 occurred, we didn't believe it could have happened
3 that way.

4 Q That she was unconscious in the bed and then
5 fallen out of the bed?

6 A Right.

7 Q And got back in the bed?

8 A Yeah, her age, and she's unconscious she couldn't
9 obviously get in the bed, pretty simple.

10 Q And then you left and went and got the teddy bear
11 and he demonstrated on that teddy bear for you?

12 A He did.

13 Q And describe that for the Court.

14 A Again, he grabbed the bear his hands under the
15 armpits, what would be the armpits of the bear, his
16 fingers to the rear of the bear's thumbs on the
17 chest, and then began to shake it (indicating) back
18 and forth in a front to back motion extremely
19 violent in my opinion. The head was noticeably
20 bouncing back and forth slamming it front to back.
21 And additional concern was the amount of time that
22 he described and showed us that he did this. It
23 wasn't on for several, over a minute.

24 Q And after he did this demonstration for you and
25 Investigator Faust you then asked him if he would

SW - K. ISENHOWARD - PROFFER

1 put his statement into writing or give a written
2 statement?

3 A I did.

4 Q And the way that was done is you typed questions
5 and he responded and then you typed his answers to
6 those?

7 A Yes. Obviously we, in the process of our
8 conversation those questions had been asked
9 previously, then we go back over them type out the
10 question he provides me an answer, which I type
11 exactly as best I can and then you can understand
12 from reading. He's then given an opportunity to
13 change, read through it changing anything he would
14 like and ultimately sign the statement.

15 Q And you noted at the top of the statement this
16 statement was made the 24th day of May at 10:30 in
17 the morning?

18 A Yes.

19 Q And is the time the statement started or ended?

20 A That's the time the statement started.

21 Q So you he was -- Miranda was started at 9:34 and
22 so 56 minutes later is when this written statement
23 was done?

24 A Yes.

25 Q And what was occurring during those 56 minutes?

1 A Our conversation between the three us.

2 Q So the conversation, you leaving the office going
3 and getting the teddy bear, the demonstration,
4 Sergeant Faust counting the time, things of that
5 nature, that's what was occurring?

6 A Yes.

7 Q And then you had to pull the statement up on your
8 computer and you plug in the basic, I mean, the
9 basic, his name, date, time, things like that?

10 A Yes.

11 Q And then you began asking questions and noting
12 his responses?

13 A Correct.

14 Q And you're actually the one typing?

15 A Yes.

16 Q And after he gave you these responses and you
17 type them was he given a copy of the statement to
18 review?

19 A Yeah, it's printed off and then it was provided
20 to him to read over, make corrections that he felt
21 he needed, and then the opportunity to retype the
22 statement if necessary. And then he, in fact, did
23 make some notations and corrections.

24 Q And when you give him the statement to review the
25 Miranda rights or the advice of rights again are at

SW - K. ISENHOWARD - PROFFER

1 the top of the statement?

2 A They are.

3 Q And he had opportunity to review those again?

4 A Yes.

5 Q At any point did he say this statement was not
6 correct, or he did not want to speak with you or he
7 wanted a lawyer, that these were not his words?

8 A No, he did not.

9 Q And in fact, he made corrections on every page of
10 the -- he corrected your spelling on every page of
11 the statement? He?

12 A Did.

13 Q And he initialed that as well as Sergeant Faust?

14 A Yes.

15 Q And he signed the bottom of each page of the
16 statement saying that this was a true and accurate
17 statement and that it was made freely and
18 voluntarily without threat, promise, reward, or hope
19 of any kind?

20 A Yes.

21 Q And also he acknowledged it was his statement and
22 that he had it given to him that day?

23 A Yes.

24 Q And Sergeant Faust signed as a witness and you
25 notarized this?

1 A I did.

2 Q And a copy was provided to him?

3 A Yes.

4 Q And if he wanted to make any other corrections to
5 the statement he would have been allowed to?

6 A Yes.

7 Q And at any point in time was he threatened,
8 coerced, promised anything?

9 A No.

10 Q And after this statement was taken did you have
11 any further contact with Mr. Gaddist on that day?

12 A No, I did not.

13 Q And Sergeant Faust took him from your office to
14 prepare the arrest warrant paperwork?

15 A He did, allowed me to -- I had other matters for
16 attend to.

17 Q And do you see Mr. Gaddist in the courtroom
18 today?

19 A I do.

20 Q Can you please identify him for the Court?

21 A He's to my right at the defense table at the end
22 with the blue jump suit.

23 MS. MCDUFFIE: Your Honor, please let the
24 record reflect he's identified the Defendant.

25 THE COURT: It does.

1 MS. MCDUFFIE: No further questions at
2 this time.

3 THE COURT: All right.

4 MS. PINNOCK: If it please the Court, Your
5 Honor.

6 **CROSS-EXAMINATION**

7 BY MS. PINNOCK:

8 Q Investigator Isenhoward, how long did it take
9 Mr. Gaddist to read the statement?

10 A To read through the statement?

11 Q Uh-huh, after you typed it up?

12 A Just a few minutes.

13 Q Two minutes, three minutes, four minutes?

14 A I couldn't give you, probably five minutes.

15 Q Five minutes?

16 A Somewhere in that range. Long enough to make
17 corrections.

18 Q Okay. And you only had one page report; is that
19 right?

20 A Yes.

21 Q And your only involvement you said was helping
22 Investigator Faust with the taking of the statement?

23 A Yes.

24 Q Now you said that when Investigator Faust went up
25 to you, is he the only person that provided you any

1 information?

2 A As I recall, yes.

3 Q You didn't talk to any doctors at the hospital?

4 A No.

5 Q And you said what he told you was the child
6 admitted to the hospital, she had head injury,
7 Mr. Gaddist was the only person at the house and it
8 was non-accidental trauma?

9 A It was believed. That's what was believed, yes.

10 Q And that came from Investigator Faust?

11 A Yes.

12 Q Sergeant Faust?

13 A Yes, ma'am.

14 Q Now you didn't make any independent phone calls?

15 A No. Faust at some point spoke with, I believe
16 someone, a medical doctor.

17 Q Were you there for that conversation?

18 A I was not. I was not party to the conversation.

19 Q You didn't look at any medical records?

20 A No.

21 Q The only person you talked to before speaking
22 with Mr. Gaddist was Sergeant Faust?

23 A Yes.

24 Q Now you said you advised him of his rights. You
25 didn't read those to him?

SW - K. ISENHOWARD - PROFFER

1 A Faust read them to him. I was, I was there for
2 his acknowledgment that he understood.

3 Q How did he acknowledge he understood?

4 A He said that he did.

5 Q He answered -- he understood it all?

6 A Yes.

7 Q Every single one of them?

8 A Yes.

9 Q Okay. Did he initial the side boxes?

10 A I would have to look back at it to remember, but
11 I know the boxes were checked indicating that he
12 understood them. I don't recall if it was initialed
13 or not.

14 Q Okay. Did you explain what coercion and pressure
15 meant or was that Sergeant Faust?

16 A Faust.

17 Q How did he explain what those meant?

18 A I don't recall specifically. You know, I can
19 tell you how I do it, but I don't recall
20 specifically how he did it.

21 Q Mr. Gaddist acknowledged he understood those too?

22 A Yes.

23 Q How did he acknowledge those?

24 A He said that he did.

25 Q He answered verbally?

1 A Yes.

2 Q To both questions?

3 A I believe, yes, verbally to the questions.

4 Q And all this was taking place in your office?

5 A It was.

6 Q About what time did Mr. Gaddist get to your
7 office?

8 A I don't recall. It was, I believe, first thing
9 in the morning, 9 something.

10 Q About how long was Mr. Gaddist sitting in your
11 office before y'all advised him of his rights?

12 A That was first thing when he sat down.

13 Q You didn't talk to him about anything before you
14 started advising him of his rights?

15 A There might have been some small talk about, you
16 know, that he was brought in here, we're going to
17 talk about it. That would have been by Sergeant
18 Faust. But prior to us diving into the meat of the
19 conversation, yeah, he was advised of his rights.

20 Q Did you review the witness statements before?

21 A No.

22 Q Okay. Now when -- according to your report -- do
23 you have it?

24 A Yeah, I do.

25 Q You said you asked Mr. Gaddist about his

SW - K. ISENHOWARD - PROFFER

1 description of events. He indicated that he was
2 home and he discovered the child laying unconscious
3 in bed, right?

4 A Yes.

5 Q At that point you wrote down, "We continued to
6 question Gaddist, pointing to -- pointing out the
7 physician's treating the child, reported her
8 injuries and his description of events were
9 medically impossible; is that correct?

10 A Yes.

11 Q Okay. What medical professional did that come
12 from?

13 A That was my understanding of what Faust had
14 spoken to a doctor. I don't know which doctor. He
15 told me that there were some issues with what he was
16 describing the possibility of that occurring.

17 Q Okay. So Faust is telling you that somebody's
18 telling him this is impossible, and that's the only
19 information that you have?

20 A Yes.

21 Q Okay. Then you said you continued questioning
22 him. Originally he told you that he found K.H. [REDACTED]
23 unresponsive in bed, right?

24 A Yes.

25 Q Okay. And then he goes to say after y'all tell

1 him it's impossible that well maybe she fell out of
2 bed and got back in bed, right?

3 A Yes.

4 Q Okay. And at that point you told him it was
5 impossible again?

6 A Yeah, it was -- yeah, we didn't believe it
7 happened that way.

8 Q Okay. Again, that's just from your conversations
9 with Sergeant Faust?

10 A Well, I'm also speaking with him and I can
11 tell -- I been doing this a while, and I can tell
12 when someone is holding back. Generally I can tell
13 when somebody is holding back. They're just not
14 real comfortable with what they're saying to me or
15 whether or not I'm believing it. And he exhibited
16 some of those signs of untruthfulness.

17 Q Okay. So at that point Sergeant Faust suggested
18 to him that maybe she was crying and he shook her
19 because of that?

20 A I believe so.

21 Q Okay. Up to that point nobody had ever mentioned
22 crying?

23 A I don't know if it was him or Faust, but you
24 know, we discussed crying.

25 Q Now you said you were sitting at your computer.

SW - K. ISENHOWARD - PROFFER

1 You're the one that actually typed the statement?

2 A Yes.

3 Q Can Mr. Gaddist read and write?

4 A Yes, he indicated that he had -- I don't have the
5 form. I recall, if I'm correct, at the bottom of
6 the form he indicated his educational level and that
7 he could read and write. He also makes corrections.

8 I spelled **K.H.2** -- I believe his name is **K.H.2**.

9 The way I'm familiar with the spelling, he corrected
10 that so he obviously can read.

11 Q Okay. Would you agree me he went through the
12 11th grade in school?

13 A That sounds right.

14 Q But you didn't let him write his own statement?

15 A No, we -- we did it per departmental policy.

16 Q Your policy is that suspects, for people about to
17 be arrested do not get the opportunity to write
18 their own statement?

19 A They, they provide a statement to us, a verbal
20 statement and then it's documented. We type it out
21 and then they read it, and if they want to make
22 changes to it they can change it.

23 Q So everything that you talked about Mr. Gaddist
24 is encompassed in these three pages? In over an
25 hour worth of discussions is encompassed in three

1 pages of a statement?

2 A Yeah, the pertinent information, yes.

3 Q Pertinent information though. You didn't put in
4 there what he had told you before y'all started
5 saying it was impossible, right?

6 A I believe he made a previous statement. It was
7 pretty consistent with his earlier statements to us.

8 Q So that wasn't important to you?

9 A It wasn't in the time before important again, is
10 that why -- it already existed, that statement
11 already existed.

12 Q So we have three pages from his meeting over an
13 hour you and Sergeant Faust?

14 A Yes.

15 Q And that was all the pertinent information that
16 y'all got?

17 A That was our discussion about the death of the
18 child and his involvement.

19 Q You also didn't make a video recording of this
20 interrogation, did you?

21 A No.

22 Q Why?

23 A 'Cause we don't have them and I don't have them.

24 Q You don't have what?

25 A A video recorder.

SW - K. ISENHOWARD - PROFFER

1 Q There's no video recording equipment in Richland
2 County Sheriff's Department?

3 A I'm sure there is. I don't have one in our
4 office. It's our policy we don't use them during
5 interview.

6 Q So it's Richland County Sheriff's Department
7 policy to not record something?

8 A It's our policy that our interviews are not ---

9 THE COURT: It that an issue? Is that a
10 criteria before a statement is voluntary, was it
11 recorded or not?

12 MS. PINNOCK: No, sir.

13 THE COURT: All right. Well that may be
14 something you want to take up with the jury. That's
15 not an issue here.

16 MS. PINNOCK: Yes, sir.

17 BY MS. PINNOCK:

18 Q You just -- you said when you were on direct that
19 you told Mr. Gaddist that his initial description
20 what he was telling you initially y'all believed it
21 couldn't happen that way?

22 A Yeah, I don't believe the child that small could
23 fall from the bed, hit their head, or cause -- have
24 an injury that's so significant that they're
25 unconscious and can't get back into the bed after

1 that. That's my opinion.

2 Q You said a child that small. How small was she?
3 How old was she?

4 A I believe just a few months old. I don't recall
5 specifically.

6 Q How much did she weigh?

7 A I don't know.

8 Q Beg the Court's indulgence.

9 MS. PINNOCK: Thank you, Your Honor.
10 Nothing further.

11 THE COURT: Anything further from the
12 State?

13 MS. MCDUFFIE: Briefly, Your Honor.

14 **REDIRECT EXAMINATION**

15 BY MS. MCDUFFIE:

16 Q Sergeant Isenhoward, when Ms. Pinnock was reading
17 to you from your followup she left out a few lines.
18 Your followup actually says that Mr. Gaddist
19 indicated that he was home and that his girlfriend
20 the mother of the two children left for work. He
21 said that at some point he discovered the child
22 lying unconscious in the bed and then he said he
23 indicated that the child must have fallen from the
24 bed at some point?

25 A Yes.

SW - K. ISENHOWARD - PROFFER

1 Q And then you wrote, "Then we continued to
2 question Gaddist pointing out that the physician
3 treating the child reported her injuries and that
4 his descriptions of the events were medically
5 impossible to our knowledge?"

6 A Yes.

7 Q It actually says to our knowledge. I'm assuming
8 that's a typo?

9 A It is, yes.

10 Q And then you pleaded with him to tell the truth.

11 A Correct.

12 Q So he said she was unconscious, that she must
13 have fallen from the bed?

14 A Yes.

15 MS. MCDUFFIE: No further questions.

16 THE COURT: Anything further?

17 MS. PINNOCK: No, Your Honor.

18 THE COURT: All right, thank you. You may
19 step down.

20 Anything further from the State?

21 MS. MCDUFFIE: Not on the Denno matter,
22 Your Honor.

23 THE COURT: Anything from Defense?

24 MR. STAGGS: No, Your Honor.

25 THE COURT: All right, anything?

1 MR. STAGGS: Your Honor, we at this time
2 move to suppress the second statement dated May 24th
3 given by Mr. Gaddist to Investigator Faust and
4 Isenhoward. Based on the information that we
5 submitted to you in the brief earlier, we feel that
6 the testimony from Sergeant Faust reflects that very
7 similar fact to the Amway case that we've provided
8 you with. He came in without knowledge, told Antwan
9 Gaddist that his version of events was medically and
10 physically impossible and in doing so he took away
11 Mr. Gaddist's ability to make a rationale choice and
12 decide. And the court has held actually in the
13 Amway case they cited a case called Crow versus San
14 Diego, and it says that in a situation where you
15 create a logical necessity that the defendant was
16 the sole responsibility a confession so induced is
17 worthless. We would ask that the Court suppress
18 that statement as it is a result of due process
19 under the 14th Amendment.

20 THE COURT: All right, anything from the
21 State?

22 MS. MCDUFFIE: Your Honor, I believe the
23 proper standard under Jackson v. Denno is looking to
24 the statement the way it was made, totality of the
25 circumstances surrounding the making of the

1 statement to see if the statement, if he was advised
2 of his rights, if waiver of those rights was
3 voluntary and that if the statement was obtained or
4 gotten from law enforcement under promise, threats,
5 rewards, coercion. There's no testimony, no
6 evidence before the Court that this statement was
7 obtained in any way but in a proper way with no
8 threats, promise, or coercion. There's no evidence
9 before the Court to say that this defendant was
10 coerced or didn't understand what was going on at
11 all in this matter.

12 Your Honor, it's clear in South Carolina
13 and through U.S. Supreme Court precedent that
14 officers are allowed to mislead a suspect, although
15 I don't contend that's what happened in this case at
16 all. Officers believed that it was medically
17 impossible for a child to fall out of bed
18 unconscious and then get back into bed. And Your
19 Honor, there's no indication that that was not
20 impossible, Your Honor. The officers also had
21 information that was non-accidental trauma and
22 therefore, you know, Your Honor, that's — there was
23 that proceeded with. There's no testimony or
24 evidence before the Court that this defendant was
25 coerced in any way or in this officer's line of

1 questioning was coercive to this defendant in any
2 way and would ask that under the totality of the
3 circumstances you allow the statement in.

4 MR. STAGGS: Brief response, Your Honor.
5 It's actually a two part analysis. Miranda is just
6 the first part and coercion is the second part.
7 Despite Ms. McDuffie's best efforts to direct his
8 testimony, Investigator Faust told the Court, I told
9 him shake how these injuries would have taken place.
10 That removes the rationale choice that raises to the
11 level of coercion. He also, when he explained what
12 coercion was, it was the phone book incident, I
13 can't throw a phone book at you. Coercion is more
14 than just physical threats.

15 THE COURT: All right. Now this Court
16 carefully considered the evidence that's been
17 offered by the State. The Court is convinced by
18 preponderance of the evidence that the alleged
19 statement was obtained from the defendant.
20 Defendant was advised of his rights under the Fifth
21 and Sixth Amendments of the Constitution. Defendant
22 was advised of constitutional safeguards required by
23 Miranda. He was advised prior to any interrogation
24 he had the right to remain silent. He was advised
25 prior to any interrogation he waived that right to

1 remain silent, made a statement, second statement
2 can and will be used against him in a court of law,
3 was advised prior to any interrogation he had a
4 right to select an attorney or employ one to his own
5 choice. If he didn't have the money or resources
6 one would be employed or appointed to him but he had
7 a right to have attorney present with him at all
8 times during the interview. He was advised he had a
9 right to consult with his attorney prior to any
10 interrogation, advised prior to any interrogation he
11 had a right to terminate the interrogation, stop
12 answering questions, and that he prior to any
13 interrogation he was advised that if he desired an
14 attorney the interrogation would cease until an
15 attorney was provided, he can consult with the
16 attorney. The defendant knowingly, intelligently
17 waived the rights under the Fifth and Sixth
18 Amendments of the Constitution of the United States
19 and constitutional safeguards required by Miranda
20 versus Arizona. The alleged statement obtained from
21 the defendant was freely and voluntarily given
22 without duress, without coercion, without undue
23 influence, without reward, without promise, hope of
24 reward or promise of leniency, without threat of
25 injury, without compulsion or induce ment of any

1 kind, and such alleged statement was voluntarily the
2 product of free, unconstrained will of defendant.
3 And I find they don't, that's how you pronounce
4 simply included a whole lot more than just the, they
5 told him they lied about the medical evidence,
6 medical reports, also includes deals with I think it
7 was a civil rights lawsuit that was brought as a
8 result of improper Miranda arrests; but I mean,
9 trickery is I don't consider this trickery in this
10 cases you know, common knowledge is sufficient in
11 medical malpractice case you don't have to have
12 medical testimony in every case that there's been
13 some breach of standard of care, somebody got a
14 broken leg and the right leg and left one gets put
15 in a cast and common knowledge indicates that that
16 is probably some error here. It's patently, these
17 police officers said based on their knowledge and
18 experience as police officers that the medical
19 testimony and the physical testimony don't add up.
20 They never lied about any medical reports. They
21 never, it was, their experience tells them the stuff
22 didn't add up, and it didn't make sense and that he
23 needed to tell them what the truth was. I'm gonna
24 find all the foregoing conclusions are found by the
25 preponderance of the evidence and that the statement

1 will be freely and voluntarily given, I will allow
2 the jury to make a decision by giving them a charge
3 so. What's the next issue?

4 MS. MCDUFFIE: Your Honor, there's
5 defense's motion.

6 THE COURT: All right. Y'all want to
7 cover that issue of the recording of the telephone
8 conversation at the Sheriff's Department?

9 MS. PINNOCK: Your Honor, I would, but
10 Doctor Durso is here for another one of our motions
11 and I know she has something scheduled. She has to
12 be out by 3, so if we could take up the autopsy
13 pictures first so she can be excused.

14 THE COURT: Have y'all looked at the
15 pictures?

16 MS. MCDUFFIE: Your Honor, we've narrowed
17 it down to a handful. As I said in chambers, we
18 still have a few more doctors that we would like to
19 show pictures to make sure that these pictures are
20 relevant and necessary to aid in testimony.

21 THE COURT: Well, you know, we're doing
22 this this week. You came to see me last week and I
23 told you that we were gonna have a limited number of
24 pictures and ---

25 MS. MCDUFFIE: Yes, Your Honor, and we are

1 working on limiting it. We have the ones, again, we
2 may ---

3 THE COURT: How many you have there? I
4 can tell you you're counting too many already so...

5 MS. MCDUFFIE: Fifteen, Your Honor.

6 THE COURT: What are the purposes of the
7 pictures?

8 MS. MCDUFFIE: Your Honor, it's to
9 illustrate to the injuries to the child to aid the
10 jury in seeing the injuries to the child that cannot
11 be adequately done via diagram or via x-ray. Your
12 Honor, we do have diagrams and x-rays.

13 THE COURT: Why do you need 15? Why don't
14 you need five? What injuries, head injuries, rib
15 injuries, what else?

16 MS. MCDUFFIE: Your Honor, injuries to the
17 bruising to the child injuries to the brain of the
18 child, and things of that nature. Your Honor, we
19 narrowed it down substantially, and I think we can
20 narrow it down more once we are able to consult with
21 the other doctors. Your Honor, I apologize, we
22 would have had more time; but due to the weather
23 this week, it kind of hained into a good chunk of
24 everyone's week so we are not as far along as ---

25 THE COURT: And who is it you got here?

1 MS. PINNOCK: Oh, Doctor Durso. She's one
2 of the pathologists on the case who performed the
3 autopsy who would be testifying to the injuries and
4 cause of death.

5 THE COURT: And what is it that she's
6 gonna say for you or against you?

7 MS. PINNOCK: Well, I mean, we're actually
8 not -- there's no dispute really over cause of
9 death. She's here. I assumed we were doing all the
10 motions today so I contacted her.

11 THE COURT: We're gonna do all motions
12 that you gave them notice that we're gonna do and
13 they're prepared to go forward with.

14 MS. PINNOCK: I'm not -- I don't see what
15 motion they would not be prepared to go forward on
16 from what we discussed.

17 THE COURT: Well, I don't know. They said
18 they just got notice of it and I said we'll do what
19 they said they are prepared and then we'll take up
20 those other issues. I mean, what is the basis that
21 you're trying to exclude all pictures?

22 MS. PINNOCK: Well, Your Honor, it
23 would -- obviously, it's our position that the
24 pictures are unfairly prejudicial in this case. We
25 don't see any medical necessity for them. There is

1 a dispute over cause of death. You know, I'm not
2 sure what a broken rib has to do with cause of
3 death. If nothing else, it's going to inflame the
4 jury and cause them to make a decision ---

5 THE COURT: For what? Somebody gets shot
6 to death, don't they generally allow pictures of a
7 deceased body. There's no question what killed
8 them, a bullet.

9 MS. PINNOCK: Where I would argue against
10 the photo of a deceased person who died from a
11 gunshot wound coming in because I think the
12 probative nature of that is certainly ---

13 THE COURT: I'm gonna let some pictures
14 come in. I think it goes to -- I think they have a
15 right to put up some. We're not gonna make it so
16 redundant that we're spending time after time doing
17 nothing other than repeating what we've done, it's
18 just cumulative. And by the same token we're not
19 going to have so many that they're so prejudicial,
20 but we are gonna allow some pictures to come in.

21 MS. PINNOCK: And Your Honor, just for the
22 record, for our record we will be doing, renewing
23 our objection because, again, I don't believe they
24 can introduce pictures unless it's been testified to
25 the pictures are actually necessary to corroborate

1 the expert's testimony and explain something to the
2 jury, so I would just -- when that time comes I
3 guess we'll be asking to proffer the testimony
4 before pictures are introduced into evidence.

5 THE COURT: When are you gonna get your
6 five or six pictures?

7 MS. MCDUFFIE: Your Honor, we're hoping,
8 we were hoping to do it today and to narrow it down.
9 We've narrowed it down to these. The Defense is
10 welcome to view the ones we intend to offer. Again,
11 Your Honor, we wouldn't be offering them until, you
12 know, the witness is on the stand testifying. But I
13 would like to put on the record that, Your Honor,
14 homicide by child abuse requires the State to prove
15 that there was extreme indifference to human life,
16 and that's what we are illustrating through medical
17 testimony. I don't believe that Ms. Pinnock --

18 THE COURT: Ms. McDuffie, y'all are gonna
19 be able to put in pictures.

20 MS. MCDUFFIE: Yes, sir, I understand
21 that. And we can --

22 THE COURT: You can put in some pictures
23 that, one, it's highly prejudicial, and then you can
24 put in so many pictures that the jury just kind of
25 gets tired of it after some point, it makes no

1 difference.

2 MS. MCDUFFIE: Your Honor, I completely
3 understand that.

4 THE COURT: I want you to put in a number
5 of them, and I think you can do that with four or
6 five pictures explaining what the injuries are, the
7 severity of the injuries, if that's what you're
8 attempting to do. But who asked the doctor to be
9 here?

10 MS. PINNOCK: I did, Your Honor.

11 THE COURT: And what is it you want her to
12 say? Is she going to get up and say these aren't
13 necessary?

14 MS. PINNOCK: I don't know. That was not,
15 I mean, we weren't trying to introduce those. We
16 called -- I contacted her and served subpoenas in
17 anticipation of having pretrial this week. I didn't
18 know if we were going to be going forward with it --
19 I'm assuming we're not -- so she's been sitting here
20 for the past ---

21 THE COURT: I don't mind going forward
22 with it. I've already determined that she's gonna
23 be able to admit some pictures. I don't know why
24 you subpoenaed this physician to say that.

25 MS. PINNOCK: To establish on the record

1 pursuant to State v. Fletcher, Your Honor, that any
2 pictures that they're intending on introducing are
3 necessary to corroborate the expert's testimony and
4 explain material fact and issue to the jury. The
5 Court has held in a number of cases ---

6 THE COURT: So is this physician going to
7 tell you today that they're not?

8 MS. PINNOCK: Well, Your Honor, it would
9 have to be through proffered testimony. I don't
10 think it's something we can do in front of a jury,
11 and I assume -- we had it on our list to suppress
12 them so we ---

13 THE COURT: I assume that too, but I
14 didn't anticipate we were gonna have two days of no
15 court when there's one day with no snow, but ---

16 MS. MCDUFFIE: And Your Honor, my only
17 point is I'm happy to do this now; however, I think
18 that if we're given enough time to meet with these
19 doctors we may be able to further reduce it more at
20 point where, you know, this may not be as lengthy of
21 a hearing or as necessary because I think we can
22 further, or hopefully further reduce the pictures
23 that are needed so I just think at this point ---

24 THE COURT: The main concern is the
25 physician has to leave to be somewhere.

1 MS. PINNOCK: Yes, sir.

2 THE COURT: So somebody needs to say that
3 she's critical to being here. You've got her here;
4 I don't know what she's gonna say. So I assume
5 you're not going to call her, if she gets to be your
6 witness get up there and say how critical they are.

7 MS. PINNOCK: Well no, Judge, we
8 subpoenaed her because we were having pretrial. We
9 were trying to prepare for it. It's the State's
10 burden to show that the pictures are necessary so I
11 was able to get in contact with her. I was able to
12 ask her to show up; she showed up. She doesn't have
13 to stay if we're not gonna actually have a hearing
14 on that.

15 THE COURT: I realize that, but I mean,
16 you know...

17 MS. MCDUFFIE: Your Honor, Ms. Simpson has
18 shown these ---

19 THE COURT: We might be able to do this
20 without the doctor. What is ---

21 MS. MCDUFFIE: Ms. Simpson has shown these
22 to her. It's my understanding she will say these
23 pictures are very helpful and necessary in
24 explaining her testimony to the jury; however,
25 there's also multiple other doctors that we will be

1 calling during this case and we'd like the
2 opportunity to show them to them as well.

3 THE COURT: Well, I have no doubt that
4 you'll have a physician that's gonna say what you
5 need them to say. And I don't say that that they're
6 gonna say something that they're not supposed to,
7 but they'll say they would be helpful to them in
8 explaining their testimony. I mean, pictures are
9 worth a thousand words; isn't it? Isn't that what
10 somebody said?

11 MS. MCDUFFIE: Yes, Your Honor. So we
12 would just ask that once we have the opportunity to
13 show them to all the doctors that we intend to call
14 that this matter be properly taken up then. And we
15 apologize again for not doing that prior to this
16 hearing.

17 THE COURT: You ready to get out of here,
18 Doctor?

19 DOCTOR DURSO: Yes.

20 THE COURT: Pardon me? You're one of the
21 first doctors I've ever known that didn't like
22 hanging around lawyers. All right. Well, is this
23 doctor testifying at the trial?

24 MS. MCDUFFIE: She is.

25 THE COURT: Tentatively?

1 MS. MCDUFFIE: Yes, Your Honor.

2 THE COURT: Well, I guess we'll put
3 whatever questions we have to you at a later date
4 and you are free to leave. You have a nice weekend.

5 DOCTOR DURSO: Thank you, you too.

6 MS. PINNOCK: Your Honor, if we could,
7 motion number two is a motion to exclude any
8 reference to sexual assault kit. I'm assuming one
9 was taken at the hospital in normal practice.
10 There's no allegation of sexual assault. The kit,
11 there was no findings of anything. At this point
12 out of abundance of caution to just not discuss it
13 because it has nothing to do with this case.

14 THE COURT: Did you talk to them about
15 this?

16 MS. PINNOCK: No.

17 THE COURT: Why wouldn't you talk to them
18 about it before you ---

19 MS. PINNOCK: I ---

20 THE COURT: Are y'all planning on bringing
21 up anything about a sexual assault kit?

22 MS. SIMPSON: Your Honor, just the fact
23 that it was collected, I don't know that we
24 necessarily will bring it up. I think if we did
25 bring it up the testimony would be that when the

1 autopsy was performed they noticed, the doctors
2 noticed a slight tear in the perineum which gave
3 them pause there may have been sexual abuse. They
4 contacted the treating physician. The treating
5 physician informed them that that injury was not
6 present when the child presented to the hospital and
7 that injury is most likely an injury that occurred
8 because as the child was brain dead skin and things
9 like that begin to deteriorate disintegrate, that
10 was an artifact from treatment and nothing to do
11 with anything sexual in nature.

12 THE COURT: So you don't plan on bringing
13 it up?

14 MS. SIMPSON: We don't plan on saying that
15 this child was sexually ---

16 THE COURT: Or sexual assault kit?

17 MS. MCDUFFIE: Your Honor, if they -- I
18 mean, I don't want to say that if they intend to go
19 into the thoroughness of the law enforcement
20 investigation, then you know, obviously we ---

21 THE COURT: All right, don't bring it up
22 unless they open the door.

23 MS. MCDUFFIE: Yes, Your Honor.

24 MS. PINNOCK: Thank you, Your Honor. Our
25 fourth motion is a motion to exclude any photos from

1 the hospital. We just don't see how ---

2 THE COURT: I don't know what photos
3 they're gonna ---

4 MS. PINNOCK: I don't either.

5 THE COURT: Well, we'll deal with that at
6 that time but ---

7 MS. PINNOCK: Our next motion ---

8 THE COURT: ---I already told you they're
9 going to be able to include some photos.

10 MS. PINNOCK: Our next motion, Your Honor
11 is a motion to exclude the phone calls that were
12 recorded at the Richland County Sheriff's Department
13 on the 24th.

14 THE COURT: Well, I guess the first thing
15 we need to do is discuss the jurisdictional issue,
16 right?

17 MS. PINNOCK: Yes, Your Honor.

18 THE COURT: There's no point in talking
19 about the, whether it'd be admissible, if I don't
20 have the authority to make that determination,
21 right?

22 MS. PINNOCK: Yes, Your Honor, and it's my
23 position that you do have the authority to make that
24 determination. In situations where there's a search
25 warrant, the statute -- I provided it.

1 THE COURT: I've read that. State versus
2 Whitener?

3 MS. PINNOCK: State versus — I didn't
4 hear you.

5 THE COURT: Huh?

6 MS. PINNOCK: I didn't hear you.

7 THE COURT: State versus Whitener?

8 MS. PINNOCK: I don't believe that I have
9 it, Your Honor.

10 MS. MCDUFFIE: Your Honor, I have a copy
11 for her.

12 THE COURT: Huh?

13 MS. MCDUFFIE: I have a copy for her.

14 MS. PINNOCK: If Your Honor would just
15 give me a few minutes.

16 (Pause.)

17 MS. PINNOCK: Actually, yes, sir, I think
18 I have glanced at this case.

19 THE COURT: Well, my initial thinking when
20 I read the, everything you gave me — before I read
21 your brief, as a matter of fact, my initial thinking
22 was that this seems to not make sense unless it
23 applies to search warrants because you generally
24 wouldn't want a circuit court judge issuing a search
25 warrant, another circuit judge coming behind him or

1 her and making a determination as to the validity.
2 You might want some superior court, court of higher
3 jurisdiction, I mean higher level, passing on that.
4 The statute says any matter dealing with a
5 suppression has to go before the review panel, which
6 is the Court of Appeals and State versus Whitener
7 confirms that.

8 MS. PINNOCK: Well, Judge, I -- if I
9 could, I'd respectfully ---

10 THE COURT: A circuit court judge cannot
11 grant a motion to suppress.

12 MS. PINNOCK: Respectfully, Judge, I would
13 disagree. The reading of the statute, it talks
14 about responsibilities of the reviewing authority
15 when the motion is presented and that reviewing
16 authority is then contacting the issuing judge who
17 ---

18 THE COURT: All right, well here's -- I'm
19 gonna determine that I have no jurisdiction in this
20 matter. We will be happy to advise the Court of
21 Appeals that you have a matter that needs to be
22 heard on a expedited matter. Ms. Neil here would be
23 happy to call them, and you can contact them and see
24 if you can get some motion heard on a expedited
25 basis between now and whenever this issue comes up

1 at trial. If we're wrong, then I'll deal with it at
2 that time; but the way I read the case and the way I
3 read the statute, I don't have the authority to hear
4 this.

5 MS. PINNOCK: And just for the record, I
6 draw distinction between Mr. Gaddist's position and
7 the Whitener case. In the Whitener case there was a
8 consent through the child's mother so there was an
9 actual consent to the phone call and that's not what
10 we have here so I just draw that distinction.

11 THE COURT: Look, I'm not saying I
12 wouldn't exclude the statement if I had ability to
13 hear it. I clearly understand what the situation
14 here is. They -- my understanding is there's no
15 warning at the end of the call or no sign somewhere
16 that says this call is being monitored at the
17 Sheriff's Department. Is that correct?

18 MS. MCDUFFIE: No, Your Honor, that's not
19 correct.

20 THE COURT: All right. Well, maybe you'll
21 prevail. But I've ruled. You want us to call the
22 Court of Appeals and tell them you will be filing
23 something?

24 MS. PINNOCK: Beg the Court's indulgence.
25 Could Your Honor allow us to get back in contact

1 with you this afternoon and see if we want to go
2 that route?

3 THE COURT: I'm not waiting around for
4 y'all to decide that.

5 Mrs. Neil, you're going duck hunting in
6 Georgia; aren't you?

7 THE LAW CLERK: No, sir.

8 THE COURT: Look, y'all can decide
9 whatever you want, and if Elizabeth is here she'll
10 call them for you. If she's not, then you can call
11 them.

12 MS. PINNOCK: Thank you, Your Honor.

13 MR. STAGGS: Thank you.

14 MS. MCDUFFIE: Your Honor, may I just put
15 on the record we've met in chambers on two prior
16 occasions about this. We were not informed of the
17 actual grounds or the written motion until this
18 morning. However, when Ms. Pinnock initially said
19 in chambers that this was under the wire tap act and
20 that's the specific issue, I did let her know at
21 that time that I didn't think this Court had
22 jurisdiction and she had to file it with the Court
23 and Appeals. And it's my understanding she's -- her
24 position was that Your Honor did, and she's chosen
25 not to file it with the Court of Appeals.

1 THE COURT: Well, why are you reciting
2 that to me?

3 MS. MCDUFFIE: Your Honor, we would just
4 be asked that if a response to the Court of Appeals
5 is required that we be given ample time or the Court
6 to know that we weren't given that much ---

7 THE COURT: Wouldn't you need to ask them?

8 MS. MCDUFFIE: We don't need to ask them
9 anything, Your Honor, we believe the law is clear.

10 THE COURT: If they decide to hear this
11 thing wouldn't you need to ask them to give you
12 adequate time?

13 MS. MCDUFFIE: Yes, Your Honor.

14 THE COURT: All right. Well, if the law
15 is clear they got a right to hear it; don't they?

16 MS. MCDUFFIE: Absolutely.

17 THE COURT: All right.

18 MS. PINNOCK: Your Honor, our sixth motion
19 to exclude any reference to shaken baby syndrome. I
20 don't know if the State is going to be putting forth
21 evidence of that. This is not a shaken baby
22 syndrome case. Medically the cause of death is
23 clear from everybody ---

24 THE COURT: Y'all planning on bringing up
25 the shaken baby syndrome?

1 MS. MCDUFFIE: Your Honor, I don't -- we
2 weren't given notice of this motion. I don't really
3 know what she means by that. Are we gonna say --
4 the doctors are going to testify that the child died
5 of blunt force trauma to the head. The doctors will
6 also say that if he was shaking the child and the
7 child's head hit something, then that is very
8 consistent with what they found. Will they say that
9 the child died of shaken baby syndrome, no, but they
10 will say that the child's injuries are consistent
11 with being shaken or a head striking something so
12 would we talk about shaking, yes, but --

13 THE COURT: Well, apparently the doctor is
14 gonna say the baby was shaken, and in order to have
15 the blunt force trauma it had to have been hit in the
16 head doing something, right?

17 MS. MCDUFFIE: Correct.

18 THE COURT: Well, it doesn't sound like
19 shaken baby syndrome is the issue here. It's a
20 blunt force trauma that resulted in the course of
21 shaking the baby.

22 MS. PINNOCK: Yes, Your Honor, and that
23 was our concern. We just don't want the shaken baby
24 syndrome thrown out in front of the jury because
25 people have their own beliefs about that. Since

1 that's not what we're dealing with we wanted to stop
2 any ---

3 THE COURT: She just said what she's gonna
4 test-- what their doctors are gonna testify to,
5 which is not the shaken baby syndrome. They will
6 testify that the -- that there will be testimony in
7 this trial based on your client's statement that the
8 baby was shaken.

9 MS. PINNOCK: Yes, sir, but we're ---

10 THE COURT: These doctors can -- if
11 they're expert witnesses I assume can tell you all
12 the facts and offer whatever medical opinions they
13 want to offer within a reasonable degree of medical
14 certainty. You can cross-examine them and show that
15 they're wrong if you want; but they're not gonna say
16 that this is a shaken baby syndrome case, that the
17 baby died solely from the shaking of the baby.
18 Right?

19 MS. MCDUFFIE: Correct, Your Honor, which
20 is from my understanding their opinion is not the
21 baby died from ---

22 THE COURT: It had to be blunt force
23 trauma. There had to be some ---

24 MS. MCDUFFIE: Impact, Your Honor.

25 THE COURT: All right, what else we got?

1 MS. PINNOCK: A motion to exclude any
2 testimony about the prior injuries to K.H. [REDACTED].

3 THE COURT: They testified yesterday they
4 weren't gonna do that.

5 MS. MCDUFFIE: Your Honor, I believe my
6 statements yesterday were that when she came to the
7 hospital this is how the doctors saw her and this is
8 how she presented. She had a black eye and injuries
9 that came from that. She had bite marks on her
10 body. Other doctors looked at the bite marks and
11 ---

12 THE COURT: All right, well, we're not
13 going into those. They're not relevant to this
14 case.

15 MS. MCDUFFIE: Your Honor, ---

16 THE COURT: That she had bite marks on
17 her. You just told ---

18 MS. MCDUFFIE: I agree. The bite marks, I
19 agree, are not ---

20 THE COURT: All right. And you said the
21 black eye wasn't something that was contemporaneous
22 with these other things. Isn't that what you told
23 me yesterday?

24 MS. MCDUFFIE: Your Honor, the testimony I
25 believe from the mother will be that the black eye

1 occurred four days earlier when she was not present
2 in the home. Only at this time ---

3 THE COURT: We're not going to go into
4 that. What else?

5 MS. MCDUFFIE: Your Honor, we just ask
6 that once the testimony is put before the Court
7 prior to eliciting any testimony about that, we be
8 allowed to revisit it so Your Honor can see the
9 potential relevance in that testimony by action of a
10 motion in limine. Your Honor, I believe that it may
11 become relevant at some point.

12 THE COURT: Well, what is the relevance of
13 somebody had a bite mark on, a baby had a bite mark?

14 MS. MCDUFFIE: Your Honor, I, at this
15 point I think it's hard to explain. If it becomes
16 an issue I'll bring it before the Court before
17 there's any testimony.

18 THE COURT: All right, well, I've ruled
19 until you're capable of showing me something else.
20 Apparently you want to keep that a secret until
21 the -- I do have a hard time understanding why y'all
22 don't talk about these motions prior to coming in
23 here and see what things she's not gonna bring up.
24 She just -- y'all agree to that and then we'll put
25 it on the record.

1 MS. PINNOCK: It would make things a
2 little bit easier, Judge.

3 THE COURT: Pardon me?

4 MS. PINNOCK: I said it would make things
5 a little easier.

6 THE COURT: You understand on the civil
7 side you can't file motions to get people to do
8 things if you hadn't talked about it in good faith
9 to see if you can get it resolved.

10 MS. MCDUFFIE: Your Honor, we did ask the
11 Defense for a list of motions and they would not
12 provide us with one so.

13 MS. PINNOCK: And ---

14 THE COURT: Well, talk to you, they don't
15 need to. And you talk to them. I tried a murder
16 case one time with Jack Swerling and Knox McMahan,
17 and they tried the whole case and never had an
18 objection because they talked to each other prior to
19 the trial and knew what each was gonna do and wasn't
20 gonna let the facts fall where they did. What else
21 we got?

22 MS. PINNOCK: Your Honor, we would -- I
23 don't foresee, I don't know if any of this exists
24 but as an abundance of caution, any reference
25 required bad acts and Rule 404(b) Lyle. That kind

1 of goes on what we're just discussing.

2 THE COURT: I thought that's what you're
3 doing here.

4 MS. PINNOCK: Yes, sir.

5 THE COURT: You told me yesterday you're
6 not going into any prior bad acts, right?

7 MS. MCDUFFIE: Your Honor, I don't know of
8 any.

9 THE COURT: Would that answer be yes,
10 we're not going ---

11 MS. MCDUFFIE: Yes, Your Honor, we're not.

12 MS. PINNOCK: Motion to exclude any
13 reference to Mr. Gaddist being incarcerated prior to
14 this case.

15 THE COURT: I'm not sure what that means.

16 MS. PINNOCK: I mean, prior to being
17 arrested for the current charge, any prior
18 incarcerations, his record.

19 THE COURT: Well, is he gonna testify?

20 MS. PINNOCK: I anticipate him testifying.
21 I don't see anything on his record that can be used
22 for truthfulness, but he was incarcerated up until
23 February of this year and we just were gonna -- we
24 were going to stop any testimony about him being
25 away or when he got out.

1 THE COURT: If he had gotten out of prison
2 at some point in time. Y'all not planning on going
3 into that, are you?

4 MS. MCDUFFIE: I don't see any reason for
5 us to go into it, Your Honor, unless they open the
6 door or ---

7 THE COURT: Is that ---

8 MS. MCDUFFIE: At this point in time ---

9 THE COURT: Everything, there's a caveat
10 on everything. Somebody opens the door ---

11 MS. MCDUFFIE: At this point in time, Your
12 Honor, I don't foresee us going into that.

13 THE COURT: The answer is no, they will
14 not go into that. You open the door, that will be a
15 different issue. My guess is you won't.

16 MS. PINNOCK: Your Honor, we would --
17 first, we only have a couple left -- renew Rule 5
18 Brady and any information that would fall under
19 Riddle. The only information I've got from the
20 Solicitor's Office of conversations with potential
21 witnesses leading up to trial is that the responding
22 officer didn't put in the report that he remembers
23 seeing the child in the hospital. That's been the
24 only information that we have provided to that's
25 different than what we were provided in discovery so

1 we want to make sure, first, discovery is complete;
2 and secondly, that there's no evidences that should
3 have been provided to us that wasn't.

4 THE COURT: What about it, Ms. Simpson?
5 I'm trying to get you on the record.

6 MS. SIMPSON: Thank you, Your Honor. May
7 it please the Court. Your Honor, at this time I
8 believe we've turned over everything that we are
9 required to under both Riddle and Brady. If we
10 become aware of anything ---

11 THE COURT: They said that they, if
12 something comes up we'll deal with it. They said
13 they've complied with Rule 5 and Brady and
14 Ms. Simpson has earned her pay for the day.

15 MS. SIMPSON: Thank you, Your Honor. And
16 Your Honor, at this time, too, the State would renew
17 its reciprocal Rule 5. We've not really been
18 provided anything by Defense.

19 THE COURT: All right. Ms. Pinnock, have
20 y'all given them everything?

21 MS. PINNOCK: Your Honor, we don't have
22 anything that's gonna be introduced so I ---

23 THE COURT: Have you given them everything
24 they're entitled to have?

25 MS. PINNOCK: Yes, sir.

1 THE COURT: All right. What else?

2 MS. PINNOCK: And Your Honor, number 8,
3 we're gonna mark that one off at this time. And all
4 the records for the lay witnesses, Your Honor, we
5 have not been provided with any so we'd like to have
6 records of the witnesses. I don't know if they have
7 them available today or provide them next week.

8 THE COURT: We'll do that before any
9 witness testifies. The sooner you can get it to
10 them, the better it would be. I mean, it just saves
11 time and effort and energy. But they're not putting
12 anybody up without you getting it resolved, or you
13 don't have to put anybody up till they tell you
14 that, all right? Is that it? Is that fair enough?

15 MS. PINNOCK: Yes, sir.

16 THE COURT: All right.

17 MS. PINNOCK: I think — I think that's
18 all we have, Your Honor.

19 THE COURT: Motion to sequester witnesses?

20 MS. PINNOCK: We could have asked on
21 Monday, but I don't know if they have an objection
22 to it other than the lead investigator and the
23 family.

24 MS. MCDUFFIE: Your Honor, we would ask
25 that the lead investigator be allowed to stay in the

1 courtroom during the trial, also the victims be
2 allowed to stay in the trial. Your Honor, I think
3 for the ease of things ---

4 THE COURT: How many investigators stay in
5 the trial?

6 MS. MCDUFFIE: We'd ask these two, Your
7 Honor. And Your Honor, they have the reports from
8 the doctors and the physicians testifying and I
9 believe that the rule allows ---

10 THE COURT: Who are the lead
11 investigators?

12 MS. MCDUFFIE: Sergeant Faust ---

13 THE COURT: I mean, Sergeant Faust and
14 Sergeant ---

15 MS. MCDUFFIE: Isenhoward.

16 THE COURT: Isenhoward? You said he
17 didn't do anything but ---

18 MS. MCDUFFIE: Well, it was pretty key,
19 Your Honor.

20 THE COURT: Huh?

21 MS. MCDUFFIE: It was pretty key, Your
22 Honor.

23 THE COURT: Well, I understand that, but I
24 mean. Well, we will let them both stay in there but
25 they don't get to listen to each other's testimony.

1 MS. MCDUFFIE: Yes, Your Honor. I also
2 ask that experts be allowed ---

3 THE COURT: I mean, with respect to --
4 Sergeant Isenhoward is going to be relatively short
5 assuming -- does he have any other involvement other
6 than what he testified here today?

7 MS. MCDUFFIE: No, Your Honor.

8 THE COURT: I mean, that's relatively
9 short testimony. I don't think the Defense wants to
10 make a big issue of him.

11 MS. MCDUFFIE: Your Honor, we'd also ask
12 that experts be permitted in the courtroom.

13 THE COURT: Are they gonna be here for the
14 whole trial?

15 MS. MCDUFFIE: The experts? No, Your
16 Honor. We just ask that when they are they be
17 permitted to.

18 THE COURT: Well, I mean, I understand the
19 basis for that; but if they have some objection I'll
20 take that up with whatever that expert is. I mean,
21 I think they have a right to listen to testimony
22 that may come in.

23 MS. PINNOCK: The only issue that I can
24 foresee coming up would be there are two
25 pathologists involved so we would ask that one be

1 removed while the other one testifies. That's the
2 only thing I can see happening unless they're
3 experts that we don't know about.

4 THE COURT: I think the information is I
5 have three or four that they will disclose next
6 week.

7 MS. PINNOCK: Sir?

8 THE COURT: Right before they testify.
9 All right, what else we got?

10 MS. PINNOCK: I think that is all we have
11 at this time, Your Honor.

12 MS. MCDUFFIE: Your Honor, if we can just
13 get some clarification on whether they're gonna
14 appeal to the Court of Appeals.

15 THE COURT: They're gonna what?

16 MS. MCDUFFIE: If they're gonna appeal to
17 the Court of Appeals or not.

18 THE COURT: I don't know. I'm gonna ask
19 the smart woman here, she's the one that gave me
20 that case. I'm gonna tell them to call and tell
21 her -- call and say it may be coming and do a bolo.

22 MS. MCDUFFIE: Your Honor, if we could
23 just sooner rather than later, get some guidance so
24 we don't have -- if the case isn't going on Monday
25 we don't have the witnesses -- we're fine with ---

1 THE COURT: The case is going Monday.

2 MS. PINNOCK: We will let them know.

3 THE COURT: If they have not, if this
4 issue has not been addressed by the Court of Appeals
5 then, you know, as far as I'm concerned they elected
6 not to seek to suppress before the review authority.

7 MS. MCDUFFIE: Thank you, Your Honor.

8 MS. PINNOCK: Thank you, Your Honor.

9 THE COURT: Anything else?

10 MS. PINNOCK: Not at this time, no.

11 THE COURT: Do we need a written order on
12 all these things?

13 MS. PINNOCK: I don't believe so.

14 THE COURT: If you want me to sign a
15 written order on all these?

16 Are you doing this on realtime?

17 THE COURT REPORTER: Yes, sir.

18 THE COURT: So you'll have all this if I
19 need it on Monday?

20 THE COURT REPORTER: Uh-huh.

21 THE COURT: If they claim that I ruled one
22 way other than I did.

23 THE COURT REPORTER: Yes.

24 THE COURT: All right, well, we don't need
25 a written order then. So the only thing we have

1 left now is to determine the pictures.

2 MS. MCDUFFIE: Yes, Your Honor.

3 MS. PINNOCK: Yes, sir. And if we could
4 find out what pictures they're even considering
5 introducing because we still are, we're still
6 dealing with over six hundred. We don't even know
7 what they've limited it down to 15. So by the end
8 of the day if we could get a list ---

9 THE COURT: Ms. Pinnock, we're not dealing
10 with 600.

11 MS. PINNOCK: We are because we don't know
12 what they're even ---

13 THE COURT: No, you're not.

14 MS. MCDUFFIE: Your Honor, we're happy to
15 show them all the ---

16 THE COURT: You don't know which ones but
17 I promise you, it will not be six hundred.

18 MS. PINNOCK: Okay.

19 THE COURT: It will be 5, 4, 3, 2, 1.
20 Have you got something down to 15 now?

21 MS. MCDUFFIE: Yes, Your Honor, we're
22 happy to show them to them.

23 THE COURT: They will show you 15, and
24 you'll know it will be something less than that.

25 MS. PINNOCK: Thank you, Your Honor.

1 THE COURT: Now Ms. Simpson and Ms.
2 McDuffie are going to spend their weekend up here
3 going through pictures, then I'm not saying that
4 they can't substitute maybe.

5 MS. MCDUFFIE: Thank you, Judge.

6 THE COURT: All right, anything else?

7 MS. PINNOCK: No, sir.

8 THE COURT: Y'all did a great job. We
9 finished in two hours.

10 MS. MCDUFFIE: Just, you know, just for
11 Monday, what time should we -- I assume we pick
12 first?

13 THE COURT: That's what I'm assuming. I
14 have to ask. Judge Lee is qualifying, I guess, so
15 it may be a while. But I would like to pick the
16 jury. How many alternates y'all think we're gonna
17 need?

18 MS. MCDUFFIE: I'd say three to be safe,
19 Your Honor, since ---

20 THE COURT: Pardon me?

21 MS. MCDUFFIE: I'd say three to be safe
22 since if defendant's appeal it will take ---

23 THE COURT: What do you think, Mr. Staggs?

24 MR. STAGGS: We'd be comfortable with two,
25 Your Honor, but whatever the Court sees fit.

1 THE COURT: Well, I believe we will finish
2 this case in six days. Do you think you can finish
3 all your testimony by Thursday evening?

4 MS. MCDUFFIE: That's our goal, Your
5 Honor, yes, sir.

6 THE COURT: And y'all have, y'all have
7 some witnesses other than experts we can do Friday?

8 MR. STAGGS: We have a few, yes, and they
9 may not be, it may not end up being a full day of
10 testimony.

11 THE COURT: I understand that.

12 MR. STAGGS: But we can do some on Friday.

13 THE COURT: Well, Ms. Neil's already told
14 me she doesn't work all day Friday. We will see
15 y'all Monday morning.

16 (WHEREUPON, the proceedings were concluded
17 on January 31, 2014 and reconvened on
18 February 3, 2014 at 9:30 a.m.)

19 THE COURT: We're here this morning
20 beginning the trial of the case of State versus
21 Antwan Gaddist. We were here Friday afternoon and
22 heard some pretrial motions, one of which was a
23 motion to suppress that I determined this Court
24 didn't have jurisdiction to hear and the appropriate
25 methods to proceed to suppress that would be to go

1 through the Court of Appeals which is in reviewing
2 court. The defendant filed an appeal late Friday
3 afternoon with my order, my decision. I have not
4 seen it, but I was told that the Court of Appeals
5 has dismissed that appeal and we had a little
6 conference with the lawyers this morning in which
7 Judge Hood advised the lawyers that the Court of
8 Appeals that's going to be dismissing the appeal and
9 I'm looking at a copy of it. Then the question came
10 up whether the defendant was gonna proceed by filing
11 a motion to suppress in the Court of Appeals
12 pursuant to the statute; and it's my understanding
13 that the defendant has elected not to do that. Is
14 that right, Ms. Pinnock?

15 MS. PINNOCK: Yes, Your Honor.

16 THE COURT: It is the decision of the
17 defendant?

18 MS. PINNOCK: Yes, Your Honor, I discussed
19 the issue with him in holding, and we came to
20 conclusion we were not going to proceed.

21 THE COURT: Mr. Gaddist, is that, in fact,
22 correct?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: This is your decision? You
25 had advice of your counsel as to whether you would

1 do that or not and you've elected not to file,
2 proceed with filing a motion in Court of Appeals; is
3 that correct?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: And -- all right. Nobody
6 threatened you, coerced you, pressured you, into
7 making this decision?

8 THE DEFENDANT: No, sir.

9 THE COURT: You're doing so freely and
10 voluntarily?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: You understand that by doing
13 so that this Court's not gonna be able to grant a
14 motion to suppress that evidence related to any
15 telephone call?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Are we ready to begin? Is
18 there anything we need to address before we begin?

19 MS. CAMPBELL: No, Your Honor. I'm sorry,
20 I was look -- my understanding then there was no
21 objection to the admissibility of those phone calls
22 or do we need to hear pretrial period under any
23 grounds.

24 THE COURT: I don't know. They don't have
25 any objection to it, probably don't like it coming

1 in, but I think they are foregoing their right to.
2 This Court can't address that and it will be, first
3 of all, ---

4 MS. CAMPBELL: Okay. And the only other
5 thing, Your Honor, I need to turn over is that ---

6 THE COURT: Y'all have voir dire or
7 anything like that?

8 MS. CAMPBELL: I will hand it up to the
9 Court.

10 THE COURT: Witness list?

11 MS. CAMPBELL: Witness list is coming down
12 now, Your Honor.

13 THE COURT: What I thought was we could
14 select three alternates. Would that -- anybody
15 think we need more or not going to less? The State
16 think we need more than three?

17 MS. CAMPBELL: No, sir, I think that will
18 be adequate.

19 MS. PINNOCK: I agree.

20 THE COURT: What I would like somebody to
21 do is go through this witness list and -- have y'all
22 had look to look at Defendant's proposed voir dire?

23 MS. CAMPBELL: Yes, Your Honor. Your
24 Honor, we have no objection other than number 9
25 if -- and I don't know what you're just don't have

1 whatever you ask this question?

2 THE COURT: I'm not going to ask that
3 question and I'm not gonna ask number ten.

4 MS. CAMPBELL: Yes, sir.

5 THE COURT: I will ask about their ability
6 to be fair and impartial.

7 MS. CAMPBELL: Yes.

8 THE COURT: But I'm not gonna ---

9 MS. CAMPBELL: Will that be part of ---

10 THE COURT: ---ask them if they have any
11 feelings about alleged child abuse. I'm sure
12 everybody in the room has feelings of that, whatever
13 that means, believe it or not, how you feel but.

14 MS. CAMPBELL: Whatever you think is
15 appropriate, Your Honor.

16 THE COURT: All right. We're ready to go?

17 MS. PINNOCK: Your Honor, just briefly, I
18 hand a copy of our requested voir dire to the court
19 reporter if we think just mark that as a Court
20 Exhibit. And also last week on Friday I failed to
21 make part of the record written motions that we
22 submitted to you and the State actually make part of
23 the record as well.

24 THE COURT: Okay.

25 (Court's Exhibit Numbers 3 and 4 were

1 marked and made a part of the record.)

2 THE COURT: All right, do we have — can
3 we ask the jury to come up. For y'all's
4 information, y'all had said the other day you didn't
5 think written orders were necessary with respect to
6 any of the rulings that I made last Friday. Well in
7 fact, we are doing an order on the conforming my,
8 memorializing my ruling.

9 (WHEREUPON, the jury was returned to the
10 courtroom at approximately 11:34
11 a.m., and the following
12 proceedings commenced in open
13 court.)

14 THE COURT: All right, good morning to
15 you, ladies and gentlemen. My name is Jim Barber
16 and I'm a circuit court judge here in the Fifth
17 Judicial Circuit and I am holding what is called
18 general sessions court, criminal court, this week,
19 and we're about to select a jury in a case entitled
20 the State versus Antwan Lydell Gaddist. Ladies and
21 gentlemen, Mr. Gaddist has been charged with the
22 offense of homicide by child abuse that caused
23 death. He was indicted by the grand jury of
24 Richland County, and I want to tell you a couple of
25 things before we begin this process. First, ladies

1 and gentlemen, in every instance when a person comes
2 into court in a criminal proceedings they are
3 presumed to be innocent and that presumption of
4 innocence remains with them throughout the course of
5 the trial and would only change if the jury after
6 hearing all the evidence has determined that, in
7 fact, a defendant is guilty of the offense for which
8 he or she has been charged. So in this instance,
9 Mr. Gaddist comes into this courtroom presumed to be
10 innocent and you are to keep that in mind throughout
11 the course of the trial. You also need to
12 understand that in every criminal case the burden of
13 proving the defendant guilty falls upon the State of
14 South Carolina. They must prove the defendant
15 guilty beyond a reasonable doubt. The defendant has
16 no burden in a criminal case and you need to keep
17 that in mind as well.

18 Now before we begin this case I have
19 certain questions I want to ask you. I want to
20 introduce you to some individuals who will be
21 involved in the trial, and I want to tell you that
22 this case is most likely gonna run longer than this
23 week so if it, if that presents a problem to you
24 then you're gonna have to let me know in the course
25 of this trial. I don't know that it's gonna

1 actually go — it will probably go into next week.
2 I don't think it will go all of next week, but it
3 will probably go into next week as well. Does that
4 present any kind of special problem to anybody here?

5 Yes, sir, tell me your name.

6 THE POTENTIAL JUROR: Kevin Pasciak.

7 THE COURT: Pasciak? All right, what is
8 your situation?

9 THE POTENTIAL JUROR: I'm an engineering
10 manager and prefer not to be gone for a couple of
11 weeks. I don't know if that qualifies but...

12 THE COURT: It won't qualify to get you
13 off the jury, but I certainly will take that into
14 consideration. I don't think it's gonna go a couple
15 of weeks. I think it may go into several days of
16 next week, but I don't think it's gonna go a couple
17 of weeks. And I know nobody here wants to do that
18 and it's a long time and an inconvenience and
19 effects everybody's life; but this is a very
20 important case and we need good qualified jurors and
21 so I'm gonna ask you to stay with, stay with us and
22 if you get selected, then ask you to work with us in
23 the matter, all right?

24 Yes, sir, your name.

25 THE POTENTIAL JUROR: Byron Dinkins?

1 THE COURT: Dinkins?

2 THE POTENTIAL JUROR: Yes, sir.

3 THE COURT: All right, Mr. Dinkins, what
4 is your situation?

5 THE POTENTIAL JUROR: Just own my own
6 business and got about 18 employees, it's a little
7 hard to, you know, try to two weeks of it.

8 THE COURT: Well, again, I don't think
9 it's gonna be two weeks and we're not gonna work
10 late at night and probably won't begin till 9:30 in
11 the morning so it may give you some time to be able
12 to deal with some of your work.

13 It may be, ladies and gentlemen, that we
14 don't go all of this week, we have -- there are a
15 number of witnesses that are scheduled to come in
16 the first part of next week because they're coming
17 from different parts. The State may actually
18 conclude its case before the end of this week so you
19 may have some, a little bit of time at the end of
20 the week before we begin; but again, I'm gonna ask
21 you to stay with us if you would please, sir. If
22 any problems come up and you're on the jury, I mean,
23 you bring it to my attention and we will try and
24 deal with it for you, okay?

25 THE POTENTIAL JUROR: Yes, sir.

1 THE COURT: All right, ladies and
2 gentlemen, first I want to introduce you to some
3 individuals who are gonna be in this case and first
4 I want to introduce you to Mr. Antwan Gaddist.

5 And Mr. Gaddist, if you would please stand
6 and face the jury.

7 Ladies and gentlemen, this is the
8 defendant Antwan Gaddist, and I would inquire at
9 this time is there any member of this jury panel or
10 any member of the jury panel immediate family who is
11 related by blood or connected by marriage or either
12 now or in the past has had a close personal
13 relationship with Mr. Gaddist or either now in the
14 past has had employment or a business relationship
15 with Mr. Gaddist, if so, please stand.

16 (There was no response.)

17 THE COURT: All right. Thank you, sir.

18 Ladies and gentlemen, in most instances
19 when parties come into court they're represented by
20 attorneys and that is, in fact, the situation here
21 today. The attorneys representing the State of
22 South Carolina are the solicitors of the Fifth
23 Judicial Circuit, and I want to introduce you to
24 those attorneys right now. Ms. Luck Campbell,
25 Ms. Joanne McDuffie, and Ms. Nicole Simpson, and all

1 of these young ladies are members of the South
2 Carolina bar. They're employed by the Fifth Circuit
3 Solicitor's Office, and I would inquire at this
4 time, is there any member of this jury panel or any
5 member of the jury panel's immediate family who is
6 related by blood or connected by marriage or either
7 now or in the past has had a close, personal
8 relationship with any of these ladies or now or in
9 the past that's had employment or business
10 relationship with any of these ladies or with the
11 Fifth Circuit Solicitor's Office, if so, please
12 stand.

13 (There was no response.)

14 THE COURT: All right. Ladies and
15 gentlemen of the jury, representing Mr. Gaddist are
16 three attorneys who are employed with the Public
17 Defender's Office of Richland County. Mr. Doug
18 Strickler who is, in fact, the Public Defender for
19 the Fifth Judicial Circuit; Ms. Tracy Pinnock, and
20 Mr. Eric Staggs. These are the two gentlemen and
21 the lady that just stood in front of you, and I
22 would inquire at this time is there any member of
23 this jury panel or any member of the jury panel's
24 immediate family who is related by blood or
25 connected by marriage or even now or in the past has

1 had a close personal relationship with any of these
2 attorneys either now or in the past has been
3 employed by or had a business relationship with the
4 Public Defender's Office of the Fifth Circuit or
5 been represented by any of these individuals, if so,
6 please stand.

7 (There was no response.)

8 THE COURT: All right, ladies and
9 gentlemen, I am now gonna read you the list of some
10 potential witnesses who may testify in this trial.
11 If any of these witnesses are here I would ask them
12 to stand, and it is a right lengthy list of
13 potential witnesses. Ladies and gentlemen, Sergeant
14 Scott Faust of the Richland County Sheriff's
15 Department, Investigator Richard Carter of the
16 Richland County Sheriff's Department. Many of these
17 witnesses are not here because they're not gonna
18 testify until some other point in time this week and
19 so they won't be here to stand. Investigator Kevin
20 Preston of the Richland County Sheriff's Department;
21 Corporal John Enzor of the Richland County Sheriff's
22 Department, Deputy Jimmy Wilder of the Richland
23 County Sheriff's Department, Deputy Nate White of
24 the Richland County Sheriff's Department, Sergeant
25 Kevin Isenhoward of the Richland County Sheriff's

1 Department, Investigator Robert Oates of the
2 Richland County Sheriff's Department, Lieutenant
3 Heidi Scott of the Richland County Sheriff's
4 Department, Sergeant Maria Yturria, Y-T-U-R-R-I-A,
5 of the Richland County Sheriff's Department,
6 Investigator Shawn Schroeder of the Richland County
7 Sheriff's Department, Investigator Trevor Holt of
8 the Richland County Sheriff's Department, Doctor
9 Gray Amick of the Richland County Sheriff's
10 Department, Mr. Rusty Matthews of the Department of
11 Social Services, Ms. Heather Smith of ARC, Nikki
12 Williams of ARC, Doctor Elizabeth Hayes Mack,
13 Richland Memorial Children's Hospital, Doctor
14 Michael Hayes of Providence Hospital, Doctor Olga
15 Rosa of the Richland Memorial Children's Hospital,
16 Miesha Miller, Maxine Scott, Cara Heater, Doctor
17 Mare Todd of Sandhill's Pediatric, Doctor Gloria
18 Woods of Woodlawn Day Care, Deputy Coroner Ann Neely
19 of the Richland County Coroner's Office, Jean Powell
20 of the Richland County Coroner's Office, Doctor
21 Sheila Jones with Fifth Radiology, Mr. Gary Watts,
22 the Richland County Coroner, Doctor Burns with the
23 Richland County Coroner's Office, Christine Benson
24 of the Richland County Coroner's Office, Doctor
25 Bradley Marcus, Chanika Oliver of Richland Northeast

1 Lab, David Arnold of the Richland County Coroner's
2 Office, Fadia Belts of Palmetto Richland Hospital,
3 Doctor Matthew Marcus of Pitts Radiology, Mary
4 Short, a custodian from 9-1-1 records, Chief Aubrey
5 Jenkins of the Columbia Fire Department, Deirdre
6 Stogdill, S-T-O-G-D-I-L-L, Doctor Amy Durso,
7 D-U-R-S-O, Sandra Gaddist, Christopher Gaddist,
8 Gilbert Walker of the Columbia Housing Authority,
9 Lee MacRoberts of Columbia Housing Authority; Evelyn
10 Edwards of Columbia Housing Authority, Doctor John
11 Plunkett, Doctor Bruce Frumkin, F-R-U-M-K-I-N,
12 Martha Hoy of DJJ, Jacob Eller of the Columbia Fire
13 Department, Investigator Rick Seel, S-E-E-L, of the
14 Columbia Fire Department, Captain Michael Cosola,
15 C-O-S-O-L-A, of the Columbia Fire Department;
16 Investigator Hicks of the Richland County Sheriff's
17 Department, Chris Kitts of the Richland County Fire
18 Marshal's Office, Michelle Presnell of other
19 Richland County EMS, Avery Boykin, Richland County
20 EMS, Amanda Adams, Richland County EMS, Tameka
21 Brown, Robert Hill, Antonio Cheesboro, Althea Davis,
22 M.G. [REDACTED], Michiko Golston, Shakira Simmons or
23 Simons, S-I-M-M-O-N-S, Tionna Gaddist, Ratisa
24 Brisbon of Richland County DSS, Demetric Brown,
25 Bessie Woods, also known as Bessie Gilliard, with

1 the Woods Wonderland Day Care.

2 Ladies and gentlemen, I would inquire at
3 this time is there any member of this jury panel or
4 any member of the jury panel's immediate family who
5 is related by blood or connected by marriage or
6 either now or in the past has been a close personal
7 friend of any of those individuals or either now or
8 in the past has had employment or a business
9 relationship with any of those individuals, if so,
10 please stand.

11 Yes, ma'am, tell me your number please.

12 THE POTENTIAL JUROR: My name is Pamela
13 Lowman. I'm kin to Kevin Preston. He is my
14 cousin's husband.

15 THE COURT: You think it's your cousin's
16 husband?

17 THE POTENTIAL JUROR: I'm thinking it's
18 Kevin Preston.

19 THE COURT: Is that a first cousin?

20 THE POTENTIAL JUROR: Yes, she's — no,
21 she's my second cousin.

22 THE COURT: Second cousin, and that's her
23 husband?

24 THE POTENTIAL JUROR: Yes, sir.

25 THE COURT: Y'all know what that witness

1 does so we can?

2 MS. MCDUFFIE: Your Honor, he's a
3 investigator at the Sheriff's Department who
4 assisted investigating the case.

5 THE COURT: Tell me your name again
6 please, ma'am.

7 THE POTENTIAL JUROR: Pamela Lowman.

8 THE COURT: Logan?

9 THE POTENTIAL JUROR: Lowman, L-O-W-M-A-N.

10 THE COURT: That's your first cousin's
11 husband?

12 THE POTENTIAL JUROR: My second cousin's
13 husband.

14 THE COURT: Your second cousin's husband.
15 Well, how often do you see them?

16 THE POTENTIAL JUROR: Well, I haven't seen
17 them in a while.

18 THE COURT: All right, the fact that this
19 is the husband of a second cousin, would that
20 prevent you from listening to the evidence in this
21 case and based upon such evidence render a fair and
22 impartial verdict?

23 THE POTENTIAL JUROR: No, sir.

24 THE COURT: Thank you, ma'am.

25 Your name.

1 THE POTENTIAL JUROR: Aleshia Battle, my
2 husband is retired from the Columbia Housing
3 Authority so I don't know.

4 THE COURT: Well ---

5 THE POTENTIAL JUROR: Never had any with
6 relationship with ---

7 THE COURT: All right, the fact that your
8 husband is retired from Columbia Housing Authority,
9 would that prevent you from listening to the
10 evidence in this case and based upon such evidence
11 render a fair and impartial verdict?

12 THE POTENTIAL JUROR: No, sir.

13 THE COURT: All right, thank you, ma'am.
14 Yes, sir, your name.

15 THE POTENTIAL JUROR: William Snyder. I
16 went to college with Doctor Todd, hadn't seen him in
17 20 years.

18 THE COURT: All right, would the fact that
19 you went to college with Doctor Todd prevent you
20 from listening to the evidence in this case and
21 based upon such evidence rendering a fair and
22 impartial verdict?

23 THE POTENTIAL JUROR: No, Your Honor.

24 THE COURT: Yes, sir, your name.

25 THE POTENTIAL JUROR: Colin Widener.

1 THE COURT: All right, Mr. Widener.

2 THE POTENTIAL JUROR: I work with Doctor
3 Mack, he's one of my partners.

4 THE COURT: I'm sorry?

5 THE POTENTIAL JUROR: I work with Doctor
6 Elizabeth Mack, she's one of my partners.

7 THE COURT: She's a partner in?

8 THE POTENTIAL JUROR: Pediatric Group Care
9 at the Children's Hospital.

10 THE COURT: I think I'm gonna excuse you
11 from service on this jury. If you'll just keep your
12 seat please, sir.

13 Yes, ma'am.

14 THE POTENTIAL JUROR: My husband is a
15 sheriff's deputy with Richland County, but he
16 doesn't ---

17 THE COURT: Tell me that again.

18 THE POTENTIAL JUROR: My husband is a
19 sheriff deputy with Richland County, but I don't
20 recognize any of the names that you listed.

21 THE COURT: Your husband is a sheriff's
22 deputy?

23 THE POTENTIAL JUROR: With Richland
24 County, yeah.

25 THE COURT: Tell me your name.

1 THE POTENTIAL JUROR: Lindsey Grady.

2 THE COURT: Ms. Grady?

3 THE POTENTIAL JUROR: Uh-huh.

4 THE COURT: I'm gonna excuse you from
5 service on this jury.

6 Tell me your name again please, sir.

7 THE POTENTIAL JUROR: Colin Widener.

8 THE COURT: Widener?

9 THE POTENTIAL JUROR: Yes, sir.

10 THE COURT: Ladies and gentlemen, the
11 indictment that has been returned by the Richland
12 County grand jury which I tell you is only a notice
13 document. It is not to be considered by you for any
14 purpose other than this document has put the
15 defendant on notice of the particular charges, it's
16 not evidence, it's not to be considered for any
17 purpose other than the defendant was given notice by
18 this document, alleges that Mr. Gaddist did in
19 Richland County on or about May 23, 2011 cause the
20 death of K.H. [REDACTED], a child under 11 while
21 committing child abuse or neglect and that the
22 child's death occurred under circumstances
23 manifesting an extreme indifference to human life.
24 To this indictment the defendant has entered a plea
25 of not guilty which as I told you places upon the

1 State the burden of proving the defendant guilty and
2 proving him guilty beyond a reasonable doubt.

3 Now I have certain questions that I would
4 like to ask you, ladies and gentlemen. Is there any
5 member of this jury panel or any member of the jury
6 panel's immediate family that belongs to or
7 contributes to any organization that supports
8 prisoners' rights such as the Innocence Project, if
9 so, please stand.

10 (There was no response.)

11 THE COURT: Now ladies and gentlemen, if
12 you are going to respond affirmatively to this
13 question I'm gonna ask you to come down here and
14 meet me right in front of the court reporter and
15 give me a response. Is there any member of this
16 jury panel or any member of the jury panel who is --
17 jury panel's immediate family who has ever been a
18 victim, a witness, or accused of any type of child
19 abuse or neglect, if so, if you would come down here
20 please, sir.

21 (Potential juror approached the Bench for an
22 on-the-record discussion.)

23 THE CLERK: Number 16, Tommie Banks.

24 THE COURT: Good morning.

25 THE POTENTIAL JUROR: Good morning, sir.

1 THE COURT: Tell me your name again.

2 THE POTENTIAL JUROR: Tommie Banks.

3 THE COURT: All right, what's your
4 situation?

5 THE POTENTIAL JUROR: My son was sexually
6 assaulted. It was taken to trial and was given 30
7 years.

8 THE COURT: The fact that you had that
9 experience, would that prevent you from listening to
10 the evidence in this case and based upon such
11 evidence rendering a fair and impartial verdict?

12 THE POTENTIAL JUROR: Yes, sir.

13 THE COURT: It would?

14 THE POTENTIAL JUROR: Most definitely.

15 THE COURT: All right, I'm gonna excuse
16 you from jury, if you will go all the way in the
17 back.

18 Put him in the back please, Mr. Dye.

19 THE BAILIFF: Yes, Your Honor.

20 THE CLERK: Number 240, Beverly A.
21 Roberts.

22 (Potential juror approached the Bench for an
23 on-the-record discussion.)

24 THE COURT: Good morning. Tell me your
25 name please, ma'am.

1 THE POTENTIAL JUROR: Beverly Roberts.

2 THE COURT: Ms. Roberts, what's your
3 situation?

4 THE POTENTIAL JUROR: My nephew was, it's
5 under investigation for being murdered and he was
6 five months old. And I don't feel, I don't feel
7 like I could be very impartial to this case.

8 THE COURT: Even though you have that
9 experience in your family, would that prevent you
10 from listening to evidence in this case and based
11 upon this evidence rendering a fair and impartial
12 verdict?

13 THE POTENTIAL JUROR: I'm not sure to be
14 quite honest. I'm quite honest. Well, I can't —
15 yes.

16 THE COURT: You think it's gonna prevent
17 you from being fair and impartial? You need to tell
18 me.

19 THE POTENTIAL JUROR: Probably.

20 THE COURT: All right, I'm gonna excuse
21 you. Have a seat.

22 I've excused her, Mr. Dye.

23 THE CLERK: Number 265, Jean Sullivan.

24 (WHEREUPON, potential juror approached the
25 Bench for an on-the-record discussion.)

1 THE COURT: Good morning.

2 THE POTENTIAL JUROR: My employment is
3 with Clarendon County School District. I'm a school
4 counselor so I have lots of dealings with reporting
5 students that have been abused. I also served as a
6 witness in a case that in the past. I didn't know
7 if that would exclude me or not.

8 THE COURT: Would that experience, would
9 that prevent you from listening to evidence in this
10 case and based upon such evidence rendering a fair
11 and accurate verdict?

12 THE POTENTIAL JUROR: It would not render
13 -- I would be fair and impartial.

14 THE COURT: Fair, okay. Thank you, ma'am.

15 Ladies and gentlemen, has any member of
16 this jury panel or any member of the jury panel's
17 immediate family ever been subject to investigation
18 of alleged abuse or neglect conducted by any child
19 protective services agency, if so, I need you to
20 come down here, other than the people who have
21 already been here.

22 THE CLERK: Number 119. Chrystal Gossett.

23 (Potential juror approached the Bench for an
24 on-the-record discussion.)

25 THE COURT: Good morning, tell me your

1 name.

2 THE POTENTIAL JUROR: Chrystal Gossett.

3 THE COURT: What's your situation?

4 THE POTENTIAL JUROR: I was turned in to
5 DSS although it was unfounded.

6 THE COURT: The fact you had that
7 experience prevent you from listening to evidence in
8 this case based upon such evidence rendering a fair
9 and impartial verdict?

10 THE POTENTIAL JUROR: No, sir.

11 THE COURT: Thank you.

12 Has any member of this jury panel ever
13 been a victim or a witness of a crime of violence,
14 including but not limbed to homicide, assault and
15 battery, if so ---

16 THE POTENTIAL JUROR: Please repeat that.

17 THE COURT: Have you ever been a witness
18 or a victim to a crime of violence, if so, please
19 come down to see me.

20 THE CLERK: Number 189, Alphonso McCollum.

21 (Potential juror approached the Bench for an
22 on-the-record discussion.)

23 THE COURT: Good morning, what's your
24 situation?

25 THE POTENTIAL JUROR: Father, domestic.

1 THE COURT: You were a victim?

2 THE POTENTIAL JUROR: My mother and father
3 were accused of domestic violence.

4 THE COURT: Would the fact that you had
5 that history prevent you from listening to evidence
6 in this case and based upon such evidence rendering
7 a fair and impartial verdict?

8 THE POTENTIAL JUROR: It will.

9 THE COURT: Can you be fair and impartial?

10 THE POTENTIAL JUROR: No.

11 THE COURT: Have a seat.

12 He's being excused, Mr. Dye.

13 I think that's it. All right, ladies and
14 gentlemen, is there any member of this jury panel or
15 any member of the jury panel's immediate family ever
16 been employed by any state or local or federal
17 prosecutor's office, including but not limited to
18 the Solicitor's Office, the Office of the Attorney
19 General, United States Attorney's Office, if so
20 please stand.

21 Yes, sir, your name.

22 THE POTENTIAL JUROR: John Catalano. My
23 brother was as a deputy sheriff for Lancaster
24 County.

25 THE COURT: You have a brother was a

1 deputy sheriff in Lancaster County. The fact that
2 you have that family connection, would that prevent
3 you from listening to the evidence in this case and
4 based upon such evidence rendering a fair and
5 impartial verdict?

6 THE POTENTIAL JUROR: It will not.

7 THE COURT: Thank you, sir.

8 Any member of this jury panel or any
9 member of the jury panel's immediate family, other
10 than those who have already stood, who have ever
11 been employed by any state, local, or federal law
12 enforcement agency, including but not limited to the
13 City of Columbia Police Department, Richland County
14 Sheriff's Department, State Law Enforcement
15 Division, FBI, or any other law enforcement agency,
16 if so...

17 Yes, sir, tell me your name.

18 THE POTENTIAL JUROR: William Dragoon. I
19 have 20 years in the Department of Corrections.

20 THE COURT: Would the fact that you have
21 that history prevent you from listening to the
22 evidence in this case and based on such evidence
23 rendering a fair and impartial verdict?

24 THE POTENTIAL JUROR: I think it would.

25 THE COURT: It would prevent you? All

1 right, I'm gonna excuse you. If you will go all the
2 way in the back.

3 Yes, sir, tell me your name.

4 THE POTENTIAL JUROR: Timothy Brinson. I
5 was formerly employed with the Department of Natural
6 Resources Law Enforcement Division.

7 THE COURT: Would the fact that you have
8 had that experience prevent you from listening to
9 the evidence in this case and based upon such
10 evidence rendering a fair and impartial verdict?

11 THE POTENTIAL JUROR: No, sir.

12 THE COURT: Thank you, sir.

13 Yes, ma'am, your name.

14 THE POTENTIAL JUROR: My name is Whitney
15 Odom, juror number 218.

16 THE COURT: All right.

17 THE POTENTIAL JUROR: I was formerly
18 employed with the polygraph school. I was at
19 federal polygraph school.

20 THE COURT: Say that again.

21 THE POTENTIAL JUROR: Whitney Odom, juror
22 number 218. I was formerly employed for the federal
23 government, polygraph school in Fort Jackson.

24 THE COURT: Would the fact that you have
25 that working experience, would that prevent you from

1 listening to the evidence in this case and based
2 upon such evidence rendering a fair and impartial?

3 THE POTENTIAL JUROR: No, it would not.

4 THE COURT: Yes, ma'am, your name.

5 THE POTENTIAL JUROR: Doris Martin, my
6 number is 182, and my son is a correctional officer.

7 THE COURT: Would the fact that you have
8 that family member who is employed in the
9 corrections business, would that prevent you from
10 listening to the evidence in this case and based
11 upon such evidence rendering a fair and impartial
12 verdict?

13 THE POTENTIAL JUROR: Yes, sir, it would.

14 THE COURT: It would? All right. You can
15 go back in the back. I'm excusing you.

16 Does any member of this jury panel now
17 belong to or have any membership or contributed to
18 any organization whose primary purpose which is to
19 promote law enforcement such as MADD, SADD, Sister
20 Care Assessment Resources Center, etc., if so,
21 please stand. Has any member of this jury panel --
22 yes, ma'am, I'm sorry, tell me your name.

23 THE POTENTIAL JUROR: Annette McLeod and
24 I'm not sure I fit, I work with family advocacy at
25 Fort Jackson and we do preventions, advocacy

1 treatment of domestic violence and child abuse.

2 THE COURT: The fact that you have this
3 employment history, does that present you from
4 listening to evidence in the case and based upon
5 such evidence rendering a fair and impartial
6 verdict?

7 THE POTENTIAL JUROR: I'm not sure.

8 THE COURT: Ma'am, can't guess. You can't
9 guess. If you can or you can't, you have to tell me
10 one. Can you be fair and impartial?

11 THE POTENTIAL JUROR: I'll do my best.

12 THE COURT: No, ma'am, it doesn't matter.
13 Everybody is going to do their best but you have to
14 ---

15 THE POTENTIAL JUROR: Yes, sir.

16 THE COURT: You can be fair and impartial?

17 THE POTENTIAL JUROR: Yes.

18 THE COURT: Thank you, ma'am. Has any
19 member -- oh, yes, sir.

20 THE POTENTIAL JUROR: When you mentioned
21 MADD as far as being a donor ---

22 THE COURT: Yeah.

23 THE POTENTIAL JUROR: ---does that mean
24 children's hospitals or anything like that? I mean
25 ---

1 THE COURT: I don't know if children's
2 hospitals but, MADD, SADD -- if you've given any
3 money that would qualify.

4 THE POTENTIAL JUROR: I have, and
5 children's hospital as well.

6 THE COURT: The fact that you have made
7 contributions prevent you from listening to the
8 evidence in this case and based upon such evidence
9 rendering a fair and impartial verdict?

10 THE POTENTIAL JUROR: I may be partial,
11 yes, sir.

12 THE COURT: It would?

13 THE POTENTIAL JUROR: Partial, yes.

14 THE COURT: You could not be partial?

15 THE POTENTIAL JUROR: I could, yes, sir.

16 THE COURT: Thank you, sir.

17 Any member of this jury panel a victim ---

18 MR. STRICKLER: I'm sorry, Your Honor,
19 could we get that last juror's name and number?

20 THE COURT: Tell me your name again
21 please, sir.

22 THE POTENTIAL JUROR: Byron Dinkins,
23 number 86.

24 THE COURT: Any member of this jury panel
25 or any member of the jury panel's immediate family

1 who is formerly or currently employed by a medical
2 institution such as Providence Northeast Hospital,
3 Richland Memorial Baptist Hospital, Urgent Care,
4 Lexington Hospital? Yes, ma'am, your name.

5 THE POTENTIAL JUROR: Corbett Toussaint,
6 number 277. My husband is a neurosurgeon at
7 Palmetto Richland.

8 THE COURT: All right, would the fact that
9 you have that relationship with somebody in the
10 medical business, would that prevent you from
11 listening to the evidence in this case and based
12 upon such evidence rendering a fair and impartial
13 verdict?

14 THE POTENTIAL JUROR: No.

15 THE COURT: Tell me your name again
16 please.

17 THE POTENTIAL JUROR: Corbett Toussaint,
18 277.

19 THE COURT: All right, thank you.
20 Yes, ma'am, your name.

21 THE POTENTIAL JUROR: Brenda Timme. I'm a
22 nurse at Lexington.

23 THE COURT: All right, would the fact that
24 you're employed as a nurse, would that prevent you
25 from listening to evidence in this case and based

1 upon such evidence rendering a fair and impartial
2 verdict?

3 THE POTENTIAL JUROR: No.

4 THE COURT: Thank you, ma'am.

5 Tell me your name.

6 THE POTENTIAL JUROR: Sallie Johnson, I'm
7 a volunteer with the nursery at Palmetto Health
8 Richland.

9 THE COURT: All right, that fact that you
10 have that experience would that prevent you from
11 listening to the evidence in the case and based upon
12 such evidence rendering a fair and impartial
13 verdict?

14 THE POTENTIAL JUROR: No.

15 THE COURT: Thank you, ma'am.

16 Yes, sir, your name.

17 THE POTENTIAL JUROR: Frank Martin, my dad
18 is a primary care physician at Lexington.

19 THE COURT: The fact that you have a
20 family member in the medical world, would that
21 prevent you from listening to the evidence in this
22 case and based upon such evidence rendering a fair
23 and impartial verdict?

24 THE POTENTIAL JUROR: No, sir.

25 THE COURT: Yes, sir, your name and

1 number.

2 THE POTENTIAL JUROR: 51, Tim Burke, my
3 wife's a nurse at Palmetto Richland.

4 THE COURT: The fact that you have a wife
5 who is a nurse, would that prevent you from
6 listening to the evidence in this case and based
7 upon such evidence rendering a fair and impartial
8 verdict?

9 THE POTENTIAL JUROR: No, sir.

10 THE COURT: Yes, ma'am, your name.

11 THE POTENTIAL JUROR: Margaret Smith, my
12 husband is a critical care nurse at Providence
13 Hospital.

14 THE COURT: The fact that you have a
15 family member that's a nurse, would that prevent you
16 from listening to the evidence in this case and
17 based upon such evidence rendering a fair and
18 impartial verdict?

19 THE POTENTIAL JUROR: No, sir.

20 THE COURT: Thank you, ma'am.

21 Ladies and gentlemen, this incident
22 occurred in May of 2011, and there was some media
23 coverage at that time and subsequently been some
24 additional media coverage. Does any member of this
25 jury panel have any memory of reading or seeing

1 anything in this, in the media concerning this case,
2 if so, please stand.

3 Yes, sir, your name.

4 THE POTENTIAL JUROR: William Martin,
5 number 19.

6 THE COURT: All right.

7 THE POTENTIAL JUROR: I remember seeing it
8 on the news one time.

9 THE COURT: The fact that you had seen
10 something on the news about this case, would that
11 prevent you from listening to the evidence in this
12 case and based upon such evidence rendering a fair
13 and impartial verdict?

14 THE POTENTIAL JUROR: Yes, sir, I believe
15 it would.

16 THE COURT: All right, you can have a seat
17 in the back.

18 Has any member of this jury panel discuss
19 this incident with anyone, if so, please stand.

20 (There was no response.)

21 THE COURT: Ladies and gentlemen, has any
22 member of the jury panel formed or expressed any
23 opinion about this case, if so, please stand.

24 (There was no response.)

25 THE COURT: Ladies and gentlemen, at the

1 end of this case I'm going to charge you or instruct
2 you as to the law as it applies to this type of
3 case. It is your obligation to accept the law as I
4 give it to you and apply it to the facts that you
5 determine them to be in this case. Does any member
6 of this jury panel believe you will not be able to
7 comply with my instruction and apply the law as I
8 give it to you, to the facts of the case? If you do
9 not think you can comply with my instructions,
10 please stand at this time.

11 THE POTENTIAL JUROR: My name is Dan
12 Catoe, I'm number 60. I'm a licensed independent
13 social worker. I spent four years working with
14 child abuse and neglect. I've testified in several
15 cases.

16 THE COURT: Wait a minute, wait a minute,
17 you better come down here, I don't want you...

18 (Potential juror approached the Bench for an
19 on-the-record discussion.)

20 THE COURT: Tell me your name again.

21 THE POTENTIAL JUROR: My name is Dan
22 Catoe.

23 THE COURT: Look, I don't want these
24 people to hear what you have to say.

25 THE POTENTIAL JUROR: I spent four years

1 working with child abuse and neglect, and I've
2 testified in cases where a child has been killed.

3 THE COURT: Please, these people can hear
4 you, don't spoil this jury. If you'd talk about
5 it —

6 THE POTENTIAL JUROR: Okay. What do you
7 want?

8 THE COURT: Is it work history you can't
9 be fair and impartial?

10 THE POTENTIAL JUROR: I've seen too many
11 cases that — I can't be, I can't.

12 THE COURT: I don't — I asked you a
13 question. Can you be fair and impartial in this
14 case?

15 THE POTENTIAL JUROR: No, sir.

16 THE COURT: All right, you can have a seat
17 in the back.

18 I've excused Mr. Catoe.

19 All right, ladies and gentlemen, does any
20 member of this jury panel know of any bias or
21 prejudice either for or against the plaintiff, I
22 mean, the State or the Defendant that you may have,
23 if so, please stand.

24 (There was no response.)

25 THE COURT: Can each member of the jury

1 panel be fair and impartial to both the State and
2 the Defendant? If you believe you cannot please
3 stand.

4 (There was no response.)

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

7 MS. MCDUFFIE: Nothing further from the
8 State.

9 THE COURT: Anything from Defendant?

10 MS. PINNOCK: Your Honor, may we approach.

11 THE COURT: Pardon me?

12 MS. PINNOCK: May we approach.

13 THE COURT: You may.

14 (WHEREUPON, counsel approached the Bench
15 for an off-the-record
16 discussion.)

17 THE COURT: Mr. Samuel, where are you?

18 THE POTENTIAL JUROR: Right here, sir.

19 THE COURT: If you can come down here
20 please, sir.

21 (Potential juror approached the Bench for an
22 on-the-record discussion.)

23 THE COURT: Do you know Robert Hill?

24 THE POTENTIAL JUROR: No, sir.

25 THE COURT: You don't know ---

1 THE POTENTIAL JUROR: Not right now.

2 THE COURT: He doesn't know him. Is he
3 here, Mr. Hill? Where is he?

4 MS. PINNOCK: White shirt.

5 THE COURT: Mr. Hill, please stand. Is
6 that him? Do you know that fella?

7 THE POTENTIAL JUROR: I don't recall.

8 MS. PINNOCK: What'd he say, Judge? I'm
9 sorry.

10 THE COURT: He doesn't recall. All right,
11 you can be fair and impartial in this case?

12 THE POTENTIAL JUROR: Yes, sir.

13 THE COURT: All right, Ms. Pinnock,
14 anything further?

15 MS. PINNOCK: No, Your Honor.

16 THE COURT: Madam Clerk, we're going to
17 pull three alternates and it's five and five.

18 THE CLERK: Yes, sir.

19 THE COURT: And we need to make sure that
20 we have all of the jurors that have been excused.
21 Can we go over that real quick and make sure that
22 they -- you want to just read out their numbers,
23 juror numbers, so that both State and Defendant can
24 make sure.

25 THE POTENTIAL JUROR: Number 89.

1 THE COURT: Hold on.

2 THE CLERK: Number 19, number 16.

3 THE COURT: All right.

4 THE CLERK: Number 240.

5 THE COURT: All right, yes, ma'am.

6 THE CLERK: Number 189, number 60, number
7 293.

8 THE COURT: What number?

9 THE CLERK: 293? Number 182.

10 THE COURT: Number 120?

11 THE CLERK: And number 120, yes, sir.

12 THE COURT: All right, does that conform
13 to everybody, the State and Ms. Pinnock?

14 MS. PINNOCK: Yes, sir.

15 THE COURT: All right, Madam Clerk.

16 THE CLERK: Yes, sir. Ladies and
17 gentlemen, as I call your number please come to the
18 microphone at the center of the courtroom. Bring
19 any personal belongings with you, state your number
20 and your occupation please.

21 Number 303 (white male).

22 THE POTENTIAL JUROR: My juror number is
23 number 303, manager with Medical Cells Company, also
24 an officer of the South Carolina Natural Guard.

25 THE CLERK: What says the State?

1 MS. CAMPBELL: Please present the juror.

2 THE CLERK: What says the Defense?

3 MS. PINNOCK: Please excuse the juror.

4 THE CLERK: Please have a seat in the back
5 of the courtroom.

6 Number 257 (white female.)

7 THE POTENTIAL JUROR: Juror number 257,
8 I'm a receptionist at Ogletree Deakins.

9 THE CLERK: What says the State?

10 MS. CAMPBELL: Please present the juror.

11 THE CLERK: What says the Defense?

12 MS. PINNOCK: Please seat the juror.

13 THE CLERK: Please have a seat in the jury
14 box.

15 Number 213 (black female).

16 THE POTENTIAL JUROR: Elizabeth Nkuo,
17 community relations with Blue Cross.

18 THE CLERK: What says the State?

19 MS. CAMPBELL: Please present the juror.

20 THE CLERK: What says the Defense?

21 MS. PINNOCK: Please seat the juror.

22 THE CLERK: Please have a seat in the jury
23 box.

24 Number 144 (black female).

25 THE POTENTIAL JUROR: Juror number 144,

1 I'm a iodic supervisor at Sam's Club.

2 THE CLERK: What says the State?

3 THE COURT: Please present the juror.

4 THE CLERK: What says the Defense?

5 MS. PINNOCK: Please seat this juror.

6 THE CLERK: Please have a seat in the jury
7 box.

8 Number 123 (black female).

9 THE POTENTIAL JUROR: Juror number 123, HR
10 supervisor, human resources department.

11 THE CLERK: What says the State?

12 MS. CAMPBELL: Please present the juror.

13 THE CLERK: What says the Defense?

14 MS. PINNOCK: We'd excuse the juror.

15 THE CLERK: Please have a seat in the back
16 of the courtroom.

17 Number 167 (white female).

18 THE POTENTIAL JUROR: Juror 167, Martha
19 Leighty. I'm a nurse at Lexington Women's Care.

20 THE CLERK: What says the State?

21 MS. CAMPBELL: Please present the juror.

22 THE CLERK: What says the Defense?

23 MS. PINNOCK: Please excuse the juror.

24 THE CLERK: Please have a seat in the back
25 of the courtroom.

1 Number 51 (white male).

2 THE POTENTIAL JUROR: 51, Timothy Burke,
3 I'm a graphic designer, web designer, self-employed.

4 THE CLERK: What says the State?

5 MS. CAMPBELL: Please present the juror.

6 THE CLERK: What says the Defense?

7 MS. PINNOCK: Please seat this juror.

8 THE CLERK: Please have a seat in the jury
9 box.

10 Number 132 (black female).

11 THE POTENTIAL JUROR: 132, regulatory
12 agent with a tire/wrecking (ph) service.

13 THE CLERK: What says the State?

14 MS. CAMPBELL: Please present the juror.

15 THE CLERK: What says the Defense?

16 MS. PINNOCK: Please seat this juror.

17 THE CLERK: Please have a seat in the jury
18 box.

19 Number 254 (white male).

20 THE POTENTIAL JUROR: 254, Mike Simpson,
21 I'm retired from SC&G nuclear station.

22 THE CLERK: What says the State?

23 MS. CAMPBELL: Please present the juror.

24 THE CLERK: What says the Defense?

25 MS. PINNOCK: Please seat this juror.

1 THE CLERK: Please have a seat in the jury
2 box.

3 Number 33 (black male).

4 THE POTENTIAL JUROR: Number 33, David
5 Bolton, (inaudible).

6 THE CLERK: What says the State?

7 MS. CAMPBELL: Please present the juror.

8 THE CLERK: What says the Defense?

9 MS. PINNOCK: Please seat this juror.

10 THE CLERK: Please have a seat in the jury
11 box.

12 Number 235 (black male).

13 THE POTENTIAL JUROR: Number 235,
14 restaurant manager.

15 THE CLERK: What says the State?

16 MS. CAMPBELL: Please excuse the juror.

17 THE CLERK: Please have a seat in the back
18 of the courtroom.

19 Number 41 (white male).

20 THE POTENTIAL JUROR: I'm juror 41, and
21 I'm an electrical apprentice.

22 THE CLERK: What says the State?

23 MS. CAMPBELL: Please present the juror.

24 THE CLERK: What says the Defense?

25 MS. PINNOCK: Please seat the juror.

1 THE CLERK: Please have a seat in the jury
2 box.

3 Number 11 (black female).

4 THE POTENTIAL JUROR: I'm 11, Karen
5 Bailey, (inaudible).

6 THE CLERK: What says the State? Please
7 present the juror.

8 What says the Defense?

9 MS. PINNOCK: Please seat this juror.

10 THE CLERK: Please have a seat in the jury
11 box.

12 Number 277 (white female).

13 THE POTENTIAL JUROR: Corbett Toussaint,
14 I'm a physician.

15 THE CLERK: What says the State?

16 MS. CAMPBELL: Please present the juror.

17 THE CLERK: What says the Defense?

18 MS. PINNOCK: Please excuse this juror.

19 THE CLERK: Please have a seat in the back
20 of the courtroom. Strike counts, one for the State
21 and four for the defense.

22 Number 274 (white male).

23 THE POTENTIAL JUROR: 274, I'm an
24 accountant.

25 THE CLERK: What says the State?

1 MS. CAMPBELL: Please present the juror.

2 THE CLERK: What says the Defense?

3 MS. PINNOCK: Please seat this juror.

4 THE CLERK: Please have a seat in the jury
5 box.

6 Number 244 (white female).

7 THE POTENTIAL JUROR: Number 244, special
8 IT assistant.

9 THE CLERK: What says the State?

10 MS. CAMPBELL: Please present the juror.

11 THE CLERK: What says the Defense?

12 MS. PINNOCK: Please seat this juror.

13 THE CLERK: Please have a seat in the jury
14 box.

15 Number 59 (white male).

16 THE POTENTIAL JUROR: John Catalano,
17 customer support for an insurance company.

18 THE COURT: What says the State?

19 MS. CAMPBELL: Please present the juror.

20 THE CLERK: What says the Defense?

21 MS. PINNOCK: Please seat this juror.

22 THE CLERK: Please have a seat in the jury
23 box. Please proceed to striking alternate. Strikes
24 are one for the State and two for Defense.

25 Number 255 (black male).

1 THE POTENTIAL JUROR: I'm juror number
2 255, I'm in marketing.

3 THE CLERK: What says the State?

4 MS. CAMPBELL: Please present the juror.

5 THE CLERK: What says the Defense?

6 MS. PINNOCK: Please seat the juror.

7 THE CLERK: Please have a seat in the jury
8 box.

9 Number 86 (white male).

10 THE POTENTIAL JUROR: Number 86, Byron
11 Dinkins, I own Capital City Cycles in Columbia.

12 THE CLERK: What says the State?

13 MS. CAMPBELL: Please present the juror.

14 THE CLERK: What says the Defense?

15 MS. PINNOCK: Please excuse the juror.

16 THE CLERK: Please have a seat in the back
17 of the courtroom.

18 Number 218 (black female).

19 THE POTENTIAL JUROR: Juror 218 and I'm a
20 student.

21 THE CLERK: What says the State?

22 MS. CAMPBELL: Please present the juror.

23 THE CLERK: What says the Defense?

24 MS. PINNOCK: Please seat her.

25 THE CLERK: Please have a seat in the jury

1 box.

2 Number 265 (white female).

3 THE POTENTIAL JUROR: I'm juror 265, Jean
4 Sullivan, I'm an elementary school counselor.

5 THE CLERK: What says the State?

6 MS. CAMPBELL: Please present the juror.

7 THE CLERK: What says the Defense?

8 MS. PINNOCK: Please excuse the juror.

9 THE CLERK: Please have a seat in the back
10 of the courtroom.

11 Number 79 (black female).

12 THE POTENTIAL JUROR: Juror 79, sales
13 support.

14 THE CLERK: What says the State?

15 MS. CAMPBELL: Please excuse the juror.

16 THE CLERK: Please have a seat in the back
17 of the courtroom.

18 Number 112 (black female).

19 THE POTENTIAL JUROR: Juror number 112,
20 Lisa Castle Gygere, medical receptionist.

21 THE COURT: Does the State challenge for
22 cause?

23 MS. CAMPBELL: Please present the juror.

24 THE CLERK: What says the Defense?

25 MS. PINNOCK: Please seat the juror.

1 THE CLERK: Please have a seat in the jury
2 box.

3 THE COURT: All right, anything from the
4 State with respect to the composition of the jury?

5 MS. CAMPBELL: Beg the Court's indulgence.
6 Nothing from the State, Your Honor.

7 THE COURT: Anything from Defendant?

8 MS. PINNOCK: No, Your Honor.

9 THE COURT: All right, Madam Clerk, will
10 you swear the jury.

11 THE CLERK: Yes, sir. Ladies and
12 gentlemen, please stand and raise your right hand to
13 be sworn. After this oath please acknowledge by
14 answering I do.

15 (WHEREUPON, the jury was sworn at 12:35
16 p.m.)

17 THE CLERK: Thank you, you may be seated.

18 THE COURT: All right, ladies and
19 gentlemen of the jury, what we're gonna do is I'm
20 gonna take a few minute to tell you a little bit
21 about this process, then I think we'll go ahead and
22 break for lunch, come back after lunch, and at that
23 time we'll turn it over to the attorneys so we can
24 begin the trial of the case. First of all, ladies
25 and gentlemen, I want to introduce you to some

1 individuals who are gonna be involved in this trial
2 including me and you and the lawyers who you've
3 already met and some of the witnesses that you've
4 already met. First, you may have heard in juror
5 qualification that this is a court of record; and by
6 that, I mean everything that's said in this
7 courtroom is taken down by a court reporter and
8 there's a record made of it. Our court reporter is
9 this young lady who happens to be from Florence but
10 ahs been assigned over here for this trial to, is
11 Frances Bakis-Ray. She is the one that will take
12 everything down, whatever I say, anything anybody
13 says, including if you say something she'll make a
14 record of it. The young lady seated in front of me
15 is Pat Falcon. She is with the clerk's office and
16 she is, as you can see she's been very helpful to me
17 so far and she'll be involved in the course of the
18 trial as well.

19 The young lady seated next to me is
20 Elizabeth Hedgeco, and she's assisting me as a law
21 clerk this week. She normally works for Judge Hood,
22 but she's helping me this week and she will help me
23 a lot in this case and has been a great help up to
24 this point as well. And the lady, the gentleman,
25 people you're gonna have the most contact with in

1 the course of the trial are the bailiffs. They're
2 the ones who are gonna help you get in and out of
3 the courtroom, back in the jury room. They'll take
4 roll call in the morning. They'll get you
5 refreshments when we take breaks, take your cell
6 phone when you come in in the morning, give it back
7 to you when you leave at lunch, give it back to you
8 when you go home. And any problems that come up or
9 any questions you may have, you bring it to their
10 attention and they will get you an answer. They'll
11 either answer it themselves or find out who it is
12 that can provide the answer, and we have two very
13 good experienced bailiffs this week. Mr. Dye is the
14 gentleman seated right here and Mr. Toblet is in the
15 back right there so anything that comes up, you
16 bring it to their attention and they'll help you.
17 They're experienced gentlemen and they'll assist us
18 in any way they possibly can.

19 Now ladies and gentlemen, this is a very
20 important trial. It's a very important trial to the
21 plaintiff and -- I mean to the State and to the
22 Defendant and we want to do everything we can to
23 make sure that both sides get a fair and impartial
24 trial. As I told you, the defendant has been
25 indicted on the charge of homicide by child abuse.

1 And the indictment again alleges that on May 23rd,
2 2011, the cause of death of K.H. [REDACTED], a child
3 under the age of 11, committing a child abuse or
4 neglect and the child's death occurred under
5 circumstances manifesting an extreme indifference to
6 human life. This is a serious charge and to this
7 charge the defendant has entered a plea of not
8 guilty, and therefore, we are going to listen to the
9 evidence this week and maybe into next week and let
10 you listen to the evidence and let you determine
11 what you believe to be the facts in the case, apply
12 the law, and ultimately render a verdict and resolve
13 this dispute that exists between the State and Mr.
14 Gaddist.

15 Because this case is very important I'm
16 gonna ask you to assist me in seeing to it that both
17 sides get a fair and impartial trial, and the only
18 way I'm gonna ask you to do is that you should not
19 discuss this case with each other or with anyone
20 else at any time until you have been given
21 instructions by me that you can begin your
22 deliberations. So any time we take a break, ladies
23 and gentlemen, you go back to the jury room, please
24 do not discuss this case with each other. When we
25 break for lunch in a little while and you go to

1 lunch, if you come in contact with some friends or
2 family or whoever, do not discuss that case with
3 anybody you come in contact with. When we go home
4 tonight don't discuss the case with your family,
5 your friends, anybody. The reason I ask you to do
6 this is I want you to not make a decision in this
7 case until you've heard everything that both sides
8 want to put in front of you. If you begin to talk
9 about the case with each other you may begin to
10 formulate some opinion about the case before both
11 sides have had full opportunity to offer whatever
12 they wish to offer. If you go and talk to somebody
13 else about it, even though they're not here, they're
14 not listening to the evidence that's being put into
15 the case, I promise you they'll have an opinion and
16 they'll tell you what that opinion is and they may
17 influence you in some way. So please do not discuss
18 this case with each other or anyone else at any time
19 until you begin your deliberations. I will attempt
20 to remind you of that fact each and every time you
21 leave this courtroom.

22 I'm also gonna ask that you not do any
23 investigation or make any inquiry into this case.
24 Don't, if we talk about some location in the course
25 of trial don't go by that location. Don't read

1 anything if there's something in the press or
2 something on television or something on the radio,
3 don't listen to it, watch it, read anything about
4 it. Don't get on the internet and do your own
5 investigation and see what you might be able to find
6 out about anything that's involved in this case.
7 Again, you are to decide this case based on the
8 evidence that's put into this, put before you in
9 this courtroom, and nothing else so please do that.
10 I will ask you each and every day if you've done
11 anything that previous night since we left, and I
12 will expect call to tell me that no, you haven't
13 made any investigation or made any inquiry about the
14 case.

15 As I told you earlier, Mr. Gaddist comes
16 into this courtroom presumed to be innocent and
17 that's an important right that exists in South
18 Carolina and everywhere with every defendant who
19 comes into a courtroom. And I also told you that
20 the defendant has no burden in this case, doesn't
21 have to do anything in this case. The State has the
22 burden of proving this defendant guilty and proving
23 him guilty beyond a reasonable doubt which is a
24 heavy burden and one which the State generally
25 readily accepts; but it is a burden that falls upon

1 the State and they have to meet that burden and you
2 need to keep that in mind throughout the course of
3 the trial.

4 Now ladies and gentlemen, in case you've
5 not served on a jury before, it's been some time,
6 let me tell you a little bit about how this case
7 will unfold. The first thing that's gonna happen
8 when we come back from lunch is the lawyers will
9 make an opening statement to you with the State
10 going first. Because the State has the burden of
11 proof they get to go first throughout the course of
12 the trial. In this opening statement that is made
13 by both the State and the defendant's counsel it's a
14 chance for them to introduce themselves and anybody
15 else that may be involved in the case with and to
16 tell you a little bit about this case so you have
17 some understanding of what will unfold during the
18 course of the trial. It is a chance for them to
19 educate you or inform you a little bit about the
20 facts of the case and what they think will come out
21 during the course of the trial. After both the
22 State and the Defendant have made their opening
23 statements, then the State will begin the
24 presentation of the State's evidence, and I would
25 assume that most of the evidence that will come in

1 in this case will come in through testimony of
2 witnesses.

3 There probably will be several types of
4 witnesses in this case. One will be a fact witness
5 and that is a witness that will be put under oath
6 and get in this witness box right next to our court
7 reporter and tell you what information that witness
8 may have about this case. They've seen something,
9 heard something, smelled something, tasted
10 something, they have some knowledge from one of
11 their senses and they will tell you what that fact
12 information is. The second type of evidence that
13 might come in through testimony is through a, what
14 we call expert witnesses. And expert witnesses are
15 people who have specialized knowledge or training or
16 skill in particular areas and they can offer
17 opinions in their areas of expertise. Unlike fact
18 witnesses who can offer opinions, an expert can
19 offer opinions in his or her area expertise, and I
20 assume that we will probably have some expert
21 witnesses in this case as well.

22 Other types of evidence that may come in
23 may be things like photographs, or documents. That
24 type of evidence is actually introduced, is given an
25 exhibit number, and it will go with you to the jury

1 room so that when you are deliberating this case you
2 can review that evidence. Testimony, ladies and
3 gentlemen, will go with you in your memory so it is
4 absolutely essential that you pay close attention to
5 what's being said in this courtroom. If you can't
6 hear somebody, you don't understand what somebody is
7 saying raise your right hand, let me know in some
8 way and we will make that witness or that lawyer or
9 whoever it is speak more clearly or louder or
10 whatever so you can hear 'cause it's essential that
11 you hear what's being said in this case.

12 The third type of evidence that
13 potentially could come in is what we call a
14 stipulation, and that's where the parties may
15 stipulate or agree ahead to some fact or some
16 matter. If there's a stipulation these lawyers will
17 tell me and I will tell you, and you are to accept
18 that as though that has been proven here in the
19 courtroom.

20 Now ladies and gentlemen, after the State
21 has offered whatever evidence the State wishes to
22 offer, then the Defense is given an opportunity to
23 offer any evidence the Defense wishes to offer; but
24 again, as I told you, the defendant has no burden in
25 this case. The defendant may not offer, put up any

1 case. I assume that's a decision they'll make after
2 the State has put up its case, but the defendant
3 doesn't have to do anything. If the defendant
4 elects to put up evidence, I assume that most of the
5 evidence of the defendants will be of a similar
6 nature to the State, that is, most of it will be
7 testimony from witnesses. When both sides have
8 offered whatever evidence they wish to offer, then
9 the lawyers are given another opportunity to speak
10 with you and this is what we call a closing argument
11 and the closing argument is different from an
12 opening statement in it is an argument. It is a
13 chance for these lawyers to review with you what
14 evidence they think came in during the course of the
15 trial. It is a chance for them to attempt to
16 convince or persuade you as to why you should
17 ultimately return a verdict for their respective
18 client. When both sides have completed their
19 closing arguments, ladies and gentlemen, then I will
20 charge you or direct, or inform you as to the law in
21 this case so that you can have the law to apply with
22 the facts that you determine them to be in this case
23 and ultimately render your verdict.

24 Now ladies and gentlemen, you are the
25 judges of the facts in this case. You are the sole

1 judges of the facts. Nobody else will participate
2 in that process but you, but your responsibility is
3 to determine the facts in this case. My
4 responsibility is different from yours; my
5 responsibility is twofold. One is in most
6 structured events there are rules as to how that
7 event takes place. Well, we have rules of evidence
8 and rules of procedure that dictate how we try a
9 case in South Carolina. It's my responsibility to
10 see that those rules are complied with. My other
11 responsibility is to charge you or instruct you as
12 to the law at the end of the case so you can apply
13 that law to the facts.

14 Now ladies and gentlemen, I want you to
15 pay close attention to what the attorneys say during
16 the course of this trial. What they tell you is
17 very important, but understand this, what they say
18 is not evidence. They are advocates for their
19 clients. It's their responsibility to represent
20 their clients. The Solicitor's Office represents
21 the State and the Defense counsel represents
22 Mr. Gaddist. Pay close attention. But again,
23 understand that what they say throughout the course
24 of this trial is not evidence and is not to be
25 treated by you as such.

1 All right, I think with that said we will
2 go ahead and break for lunch. I'm gonna ask you be
3 back, it's about ten till one. Ask you to be back
4 so we can start at 2:00. Now one of the things I
5 ask everybody to do, ladies and gentlemen, is to be
6 prompt. When I ask you to be here in the morning it
7 is important you're here when we're ready to start.
8 I expect everybody to be on time. That includes me
9 and anybody that works with me. That includes the
10 solicitor, the defense counsel. That includes all
11 the witnesses, everybody, and we expect you to be
12 here. Your time is very, very important so make
13 sure you're here on time. Remember, you're never
14 early, you're either on time or you're late, so I
15 would plan a little bit making sure you get here a
16 little bit early so you won't, will not be late.
17 We're gonna do everything we can to move this case
18 quickly as we can so that your time is not tied up
19 here any longer than it needs to be, but we're gonna
20 give both the State and Defendant full opportunity
21 to put up whatever they need to put up on behalf of
22 their client.

23 So again, I'm gonna let Mr. Dye,
24 Mr. Tolbert, take you back to the jury room, show
25 you where it is, and ask you to be back here at

1 2:00. Please do not discuss the case with each
2 other or with anyone else at any time while you're
3 gone. Y'all have a nice lunch and we'll see you
4 back here.

5 (WHEREUPON, the jury was removed from the
6 courtroom at 12:52 p.m., and the following
7 proceedings commenced in open court.)

8 THE COURT: Anything we need to take up
9 before we leave?

10 MS. CAMPBELL: One thing, Your Honor, I'd
11 like to address briefly is, they just handed us a CV
12 of one of their experts. We weren't aware of him,
13 his name, or who he was. In looking over his CV it
14 appears some of his expertise falls in the area of
15 false confessions. We anticipate possible expert
16 testimony on that. Just, we would just ask that
17 prior to admission in opening or anything that we
18 have opportunity to have a hearing pursuant to White
19 and Council as far as the admissibility of that.
20 And that's all we're asking is just we have the
21 hearing at whatever point, but if we can just, grant
22 permission not mention it in opening.

23 THE COURT: What say you?

24 MS. CAMPBELL: We anticipate on the basis
25 that they've handed up to us, handed us a CV from a

1 Mr. ---

2 THE COURT: What is it you want me to do
3 at that point in time?

4 MS. CAMPBELL: Just ask them not to
5 mention anything about false confessions in their
6 opening till we've had a hearing on it pursuant to
7 White and Council.

8 MR. STAGGS: We have no objection to that,
9 Your Honor.

10 MS. CAMPBELL: Thank you.

11 THE COURT: All right. Well, I mean, my
12 thinking about that normally is if they want to do
13 it, then they can put it up. They're the ones that
14 don't look too good, but they're agreeable to do
15 that.

16 MS. CAMPBELL: Yes, sir.

17 THE COURT: We'll address it. Anything
18 from the defendant?

19 MS. PINNOCK: No, Your Honor.

20 THE COURT: All right, and y'all have a
21 nice lunch. See you back here in a little over an
22 hour.

23 (WHEREUPON, a lunch break was taken and
24 resumed at 2:05 p.m.)

25 THE COURT: Ms. Campbell, what was that

1 other case besides Council?

2 MS. CAMPBELL: White.

3 THE COURT: White?

4 MS. CAMPBELL: Yes, sir.

5 THE COURT: State v. White?

6 MS. CAMPBELL: State versus White.

7 THE COURT: Is that the one that says
8 you're not entitled to counsel at a, some lower
9 proceeding? I can't remember what it is.

10 MS. CAMPBELL: It says basically that
11 before you admit ---

12 THE COURT: Oh, this details with an
13 expert.

14 MS. CAMPBELL: Expert, that's all it is.
15 It's the dog fight case.

16 THE COURT: It's what?

17 MS. CAMPBELL: The dog tracking case.

18 THE COURT: Is that down in Aiken?

19 MS. CAMPBELL: It was here in Richland
20 County, the Nesser (ph) trial.

21 THE COURT: There was a case where they
22 allowed the tracking dog to be qualified?

23 MS. CAMPBELL: That's really good.

24 THE COURT: That was in Aiken.

25 MS. CAMPBELL: Yeah, I think this is just

1 the one that talks about ---

2 THE COURT: If you'd seen this dog, how
3 smart that dog was, you'd let him in too. He could
4 talk. All right, we're ready to go.

5 MS. CAMPBELL: If I can, just a couple of
6 quick housekeeping matters we might take up before
7 opening break. Some of our first witnesses, Your
8 Honor, are gonna be testifying about, were living
9 with Mr. Gaddist at the time this occurred,
10 including the mother of the victim in this case.
11 Basically in her statement and in other places
12 refers to Mr. Gaddist was gone out of their life and
13 out of his daughter's life for a long period of time
14 because he was incarcerated. He came back in
15 February before this occurred and basically that's
16 when he was released from prison. And we've
17 instructed her not to refer to the fact he was in
18 prison or not to say the word incarcerated, but just
19 to say that he was gone for a period of time and
20 that he showed up again. We just want to put that
21 on the record that we're trying to make sure we keep
22 it clean. In addition to that, Your Honor, she
23 also, the reason that she didn't -- or one of the
24 reasons she did not take the child to day care that
25 day was because she saw the bite marks on the child,

1 and I also instructed her not to testify about the
2 bite marks or the mark on the eye pursuant to your
3 ruling at this point. But I just want to, I mean,
4 if they were to press her why the children didn't go
5 to day care that would have been the response. So I
6 just want to put that on the record we have
7 instructed her on that reason.

8 THE COURT: We're privileged to have a
9 famous defense lawyer here, a mental check. She can
10 observe and critique us at the end of the trial.
11 Isn't that right, Amy? I've given her a sheet to
12 rate you and Ms. Pinnock.

13 MS. CAMPBELL: Thank you. As far as ---

14 THE COURT: Ready to go?

15 MS. CAMPBELL: I think we're ready to go.

16 THE COURT: Ms. Pinnock, you ready?

17 MS. PINNOCK: Yes, Your Honor sorry.

18 THE COURT: All right, Mr. Dye, bring them
19 in.

20 THE BAILIFF: Yes, Your Honor.

21 (WHEREUPON, the jury was returned to the
22 courtroom at approximately 2:09
23 p.m., and the following
24 proceedings commenced in open
25 court.)

1 THE COURT: All right, ladies and
2 gentlemen of the jury, hope y'all had a nice lunch.
3 Just for your own information, nobody has an
4 assigned seat so when y'all come in, come all the
5 way to the end. The alternates will stay in the
6 back row. And at some point in time we'll get a
7 foreperson, and that foreperson will have to sit
8 right next to Mr. Dye but until then y'all just come
9 on all the way down so nobody is having to crawl
10 over everybody. As I told you before we broke, this
11 is now the time that we're gonna turn the matter
12 over to the attorneys, and they have the opportunity
13 to make their opening statements so I'll call on the
14 Solicitor, y'all prepared to proceed?

15 MS. MCDUFFIE: Yes, Your Honor, may it
16 please the Court.

17 THE COURT: All right, Ms. McDuffie, if
18 you would please.

19 MS. MCDUFFIE: Monday, May 23rd, 2011, was
20 a normal morning for Miesha Miller and her children,
21 13 year older M.G. [REDACTED] and 17 month old twins
22 K.H. [REDACTED] and K. H. 2 [REDACTED]. M.G. got up that morning,
23 ready for school, checked on her little sister who
24 was sleeping in the room with her, everything was
25 fine. Miesha got ready to go to work, decided not

1 to take the twins to day care, but rather, leave
2 them home with the defendant who is the biological
3 father of M.G. [REDACTED], referring to her daughter.
4 About 11:21 she calls into to work from her
5 employer's house, Mary Short. She worked as a
6 caregiver for Ms. Short and she'd been doing it
7 about two years. She even called her mom. She got
8 to Ms. Short's house at 11:21 that morning, a normal
9 Monday morning. While Ms. Miller was there cleaning
10 the bathrooms just like she did, part of her routine
11 in Ms. Short's home, the defendant Antwan Gaddist
12 was at home. K.H. [REDACTED] was fussing and he was
13 frustrated and he was mad and he grabbed K.H. [REDACTED] by
14 the ribs, his hands all the way around her tiny 17
15 month old body, and he squeezed her and he shook
16 her. And he kept shaking her multiple impact points
17 causing her head blunt trama to her head, and he
18 kept shaking her. He didn't stop, ladies and
19 gentlemen, squeezing her so hard that he broke two
20 of her ribs, and he didn't stop then either. Kept
21 shaking her. Shaking her until she went
22 unconscious. And then laid her down on the floor
23 and didn't get help. While Ms. Miller was changing
24 the sheets on Ms. Short's bed, 17 month old K.H. [REDACTED]
25 was lying on the floor. Her brain was bleeding, her

1 eyes were bleeding internally, her ribs were broken,
2 and she was struggling for life, and the defendant
3 still didn't get help. He called Ms. Miller while
4 she was cleaning and she missed two phone calls.
5 Ms. Miller finished cleaning the bathroom, cleaning
6 Ms. Short's bedroom, changing the sheets, and then
7 she started on the kitchen and Mary Short told her
8 to sit down, let's talk, have a cigarette. And
9 that's when Miesha Miller got a third phone call
10 from the defendant where he told her that K.H. [REDACTED]
11 wasn't breathing, still hadn't called 9-1-1, hadn't
12 done anything to help her. Shook her, beat her, and
13 left her for dead.

14 Miesha immediately calls 9-1-1 from
15 Ms. Short's home on her cell phone, gets the 9-1-1
16 dispatcher to call the defendant, to three way call
17 with him, to a three way call with him. And the
18 9-1-1 dispatcher tries to talk him through CPR, to
19 do anything to help poor K.H. [REDACTED]. Miesha rushes
20 home. She calls her mother, gets her mother to go
21 over there, tries to do anything she can to help
22 K.H. [REDACTED], tried to help her. EMS and fire arrive.
23 When they arrive K.H. [REDACTED] is lying on the floor in
24 the apartment alone and dying.

25 She was taken to Providence Hospital

1 Northeast. When she got there, there were massive
2 traumatic injuries to her brain, to her ribs. She
3 had retinal hemorrhages. She was hypothermic. She
4 was cold. Her body had begun to shut down to die.
5 They tried to do everything they could to save her,
6 ended up transferring her to Children's Hospital
7 Palmetto Health Richland. Ladies and gentlemen,
8 K.H. was pronounced brain dead and removed her
9 from life support and died on May 26th of 2011. She
10 died because that defendant got frustrated and got
11 mad and decided to take matters into his own hands
12 and kill a 17 month old baby by beating her and
13 shaking her kill, shaking her so hard she went
14 unconscious.

15 My name is Joanna McDuffie and I, along
16 with Luck Campbell, Nicole Simpson, represent the
17 State of South Carolina for the Fifth Judicial
18 Circuit. It is our job to prosecute all crimes that
19 occur in Richland and Kershaw counties. As a result
20 of Antwan Gaddist's actions on May 23rd of 2011, he
21 is charged with homicide by child abuse. South
22 Carolina law defines homicide by child abuse as an
23 individual while committing child abuse or neglect
24 to a child under the age of 11 and a death occurs
25 under circumstances manifesting an extreme

1 indifference to human life. Seventeen month old
2 K.H. [REDACTED] had no chance of living under what the
3 defendant did to her. What did he do to her? He
4 shook her while he — when he caused blunt force
5 trauma to her brain in multiple places he showed
6 extreme indifference to human life, ladies and
7 gentlemen. And we, as the State of South Carolina,
8 have the burden of proof. In this case and in all
9 criminal cases we must prove the defendant guilty of
10 each and every element of the offense charged beyond
11 a reasonable doubt.

12 And ladies and gentlemen, proof beyond a
13 reasonable doubt is proof that leaves you firmly
14 convinced of the defendant guilty. It's not
15 absolute certainty of guilt. We're not required to
16 produce proof that overcomes every possible doubt.
17 Where at the end of this, ladies and gentlemen, you
18 are firmly convinced, that's something that you will
19 be of the defendant's guilt must be guilty.

20 Now, ladies and gentlemen of the jury,
21 Judge Barber is the judge of the law in this case
22 and it's up to him to instruct you, the jury, on
23 what the law is. But just as Judge Barber is the
24 judge of the law, you, ladies and gentlemen, are the
25 judges and triers of the facts. It's up to you to

1 determine if Antwan Gaddist committed homicide by
2 child abuse on May 23rd of 2011. And ladies and
3 gentlemen, as the judges of facts you learn those
4 facts and get those facts from two different places:
5 From the testimony of witnesses under oath on the
6 witness stand and the physical exhibits that will be
7 introduced as evidence during this trial. Ladies
8 and gentlemen, during this trial you will hear from
9 13, at the time 13 year old M.G. . M.G.
10 is Antwan's biological daughter. She'll
11 tell you how the night before she had made K.H.
12 dinner, made K.H. dinner, everything was fine,
13 how K.H. went to bed in her room. When she got
14 up to go to school she checked on K.H. and
15 everything was fine. She let her mother know that
16 K.H. was still sleeping, and that was the last
17 time she ever saw her again. You will hear from
18 Miesha Miller and she'll describe horrific things
19 that she had to endure because of the defendant's
20 actions. You'll hear from Mary Short, the woman
21 Miesha was working that day. You'll hear from fire
22 department and EMS. You'll hear how when they got
23 the call they were initially told to go to the wrong
24 building; and when they got there, there was some
25 confusion. They were doing everything they could to

1 get to K.H. [REDACTED] as fast as they could. When they
2 found K.H. [REDACTED], the fire department, the fire men,
3 rush up the stairs, three flights of stairs, and saw
4 her laying on the ground alone dying. All they
5 wanted to do was help her. So they cradled her in
6 their arms and took her downstairs to where EMS was,
7 and everyone did everything they could to get her
8 the medical help that she so desperately needed.
9 You'll hear how there was some frustration between
10 fire and EMS, how they started fussing at each
11 other, who should have gotten the baby or who
12 shouldn't have gotten the baby. All they wanted to
13 do was help K.H. [REDACTED] on May 23rd, 2011.

14 You'll hear from investigators with the
15 Richland County Sheriff's Department who went to
16 Providence Northeast that evening and to Palmetto
17 Health Richland who interviewed the defendant who
18 that night on May 23rd, 2011, tells law enforcement
19 that he doesn't know what happened, that K.H. [REDACTED]
20 was asleep and she just wouldn't wake up. Still
21 didn't call 9-1-1, still didn't try and help her.

22 You'll then hear from Investigator Scott
23 Faust and Lieutenant Isenhoward who are assigned
24 lead investigators of this case and they will detail
25 their investigation for you. They'll tell you how

1 on May 24th, 2011, Mr. Gaddist came to the Sheriff's
2 Department and how he told them that he shock
3 K.H. . He shook her so hard that she went
4 unconscious. He said he did it for a couple of
5 minutes. And the investigators say, that can't be
6 right, he didn't do this for a couple of minutes, a
7 minute is a long time. And people don't realize how
8 long a minute is so they started to time it. Is
9 this how long you did it? He kept saying longer,
10 longer, longer. Shook her, beat her, she went limp,
11 unconscious, and he left her there. You'll hear
12 after how he was questioned by law enforcement he
13 gave a statement to law enforcement, he asked to use
14 the phone, a recorded line at the Sheriff's
15 Department. And how he made three phone calls, two
16 to his mother, one to Miesha Miller. And you'll
17 hear how he tells Miesha, I'm sorry, she was fussy
18 and I just shook her. Miesha tells him why, why did
19 you do this, I wouldn't have left him home with you
20 if you couldn't handle it I wouldn't have left them
21 home with you. Why? He just tells her I shook her.
22 You'll hear how he calls his mother and how his
23 mother starts questioning him about this, what did
24 you do, why would you say you did that, why would
25 you say you hurt the baby, why would you say that.

1 And he tells his mother because it's the truth,
2 because I shook her until she went unconscious. And
3 his mother says, are you sure, is that what you did?
4 And he says, mom, I had to come in and tell the
5 truth.

6 Ladies and gentlemen, you will hear from
7 doctors, Providence Hospital, Palmetto Health
8 Children's Hospital, and ultimately Doctors Amy
9 Durso, Bradley Marcus who performed the autopsy on
10 tiny 17 month old K.H. . You will hear them
11 describe the numerous injuries K.H. had, how
12 when she arrived at the hospital she was in
13 cardiopulmonary arrest, how they did everything they
14 could to try and resuscitate her. When she got
15 there her temperature was so low her body was dying;
16 it was shutting down. She had multiple subdural
17 hematomas, multiple sites of bleeding on her brain,
18 multiple points of impact, and two broken ribs from
19 where he had squeezed her and shook her.

20 Ladies and gentlemen, all we're asking you
21 to do this week is listen to the testimony from the
22 witnesses on the witness stand and the physical
23 evidence that's introduced in exhibits, and apply
24 the law to it as given to you by judge Barber, and
25 to return a verdict. The word verdict comes from

1 the Latin veredicto, which means to speak the truth,
2 and all we're asking you to do is to return a
3 verdict that speaks the truth, a verdict that holds
4 Antwan Gaddist responsible for his extreme
5 indifference to K.H. [REDACTED]'s life, a verdict of
6 guilty. Thank you.

7 THE COURT: All right.

8 MR. STAGGS: Thank you, Your Honor, may it
9 please the Court.

10 THE COURT: Yes, sir, Mr. Staggs.

11 MR. STAGGS: Ladies and gentlemen of the
12 jury, my name is Eric Staggs. I'm here with Tracy
13 Pinnock and Doug Strickler from our office, and we
14 are representing Antwan Gaddist today. And I think
15 that it's helpful to start out, one of the things
16 that Ms. McDuffie just asked you to do is listen to
17 everything. I think it's gonna be very important
18 that you pay attention, pay very careful attention
19 to the evidence that you'll hear and testimony, the
20 physical evidence; and also to remember as the judge
21 instructed you, what we say, what the lawyers say is
22 not evidence. We have a position, and that's an
23 innocent man sitting at that table right now. The
24 judge told you this morning, that was the first
25 thing he said. He is innocent until you go back

1 into a room and you weigh all the evidence that
2 you've listened to, and you make a decision one way
3 or the other; and we believe that at the end of the
4 case you're gonna find that he remains an innocent
5 man.

6 Ms. McDuffie told a story that's very,
7 very painful. This is a tragic, tragic accident.
8 But it's a story about failure to do jobs. Everyone
9 involved in this case has a job to do. Everyone in
10 this room has a job to do right now. Everyone who's
11 been involved from the get-go had a job to do. And
12 some people have done their job very well; and some
13 people have not done their job well at all, and
14 you're gonna hear that in testimony. And at the end
15 of it, you're gonna have to look at that evidence
16 and you're gonna have to decide if they have met
17 their burden. One of the things that I think is
18 very helpful is when the State stands before a jury
19 and says this is the statute, this is the law,
20 because it tells you what their job; it tells you
21 what they have to do for you guys to return a
22 verdict and I don't believe it's gonna happen in
23 this case.

24 On May 23rd around 6:00 in the morning M.G.
25 [REDACTED] woke up and got herself ready for school.

1 And you're gonna hear her come in here and tell you
2 that at 7:30 as she was leaving for school she woke
3 her mom up because her sister [K.H.] was awake,
4 sleeping in [M.G.]'s room. And you're gonna hear her
5 tell you that her mom got up and went in the room
6 with [K.H.] and was in there. You're also gonna
7 hear testimony that Antwan was sound sleep at that
8 time, and Antwan was not awake until around 10 or
9 10:30 or so. Miesha Miller woke up sometime around
10 10 and started getting herself ready for work before
11 Antwan was even awake. At some point there --
12 Ms. Miller's son [K. H. 2] also woke up, and he started
13 his day. He's 17 months old; he's [K.H.]'s twin
14 brother. Antwan gets up. They make some breakfast.
15 Ms. Miller leaves for work. Now there's some
16 conflict on the timing here, but we believe the
17 evidence is going to show that she didn't leave for
18 work until 11:20. That's what she told Doctor Rosa;
19 that's what she told several people. She arrived at
20 work around noon. About that time Antwan and [K. H. 2]
21 had gotten up and had their morning, and now it's
22 time to wake [K.H.] up and Antwan goes in [M.G.]'s
23 room to wake [K.H.] up because it's around noon
24 and it's time to get up and start the day. And he
25 finds her unresponsive laying on the bed, and that

1 is what he told Investigator Carter that night at
2 the hospital, it's what he told Investigator Faust
3 the next morning when he went in. He found her
4 unresponsive on the bed; he called for help. He
5 called the child's mother. He didn't call 9-1-1,
6 but he called for help.

7 Now the story takes a very, very
8 unfortunate turn from this point because you're
9 going to hear, as Ms. McDuffie referenced, there's
10 an awful lot of confusion once the 9-1-1 call is
11 placed. There are things happening that don't make
12 any sense at all. You're gonna hear testimony that
13 the fire department was dispatched to the wrong
14 apartment complex; and then when they found the
15 right apartment complex, they found the wrong
16 building. Now you heard in the State's opening that
17 **K.H. [REDACTED]** was laying alone on the floor, and that's
18 just not true. You're gonna hear testimony that
19 there are people in that apartment; but more
20 importantly, you're gonna hear testimony that Antwan
21 Gaddist raced out into the parking lot to flag down
22 the emergency people and try to get some help.
23 That's what happened, and that's what the testimony
24 is gonna show you.

25 Now this confusion continues. There's the

1 argument with EMS. But you're also gonna hear about
2 two firefighters, a Captain Cosola and a fire
3 fighter Eller, who race across the parking lot they
4 say about 75-yards, up three flights of steps and
5 head into the apartment. You're gonna hear that
6 they didn't get any consent to treat the baby.
7 You're gonna hear that they didn't assess the baby.
8 They made a rapid decision, scoop the baby up and
9 took back off down the stairs. Now these are
10 trained first responders who know protocol and they
11 broke protocol, and that's the testimony that you're
12 gonna hear. You're also gonna hear some testimony
13 from an Investigator Ricky Seel, and he works for
14 the fire department and he's been at the fire
15 department for, since 1998. And Investigator Seel,
16 there was ultimately a complaint filed in this case
17 regarding the emergency medical treatment. And
18 Investigator Seel conducted an investigation, and
19 he's gonna come in here and he's gonna tell you guys
20 that he spoke to everyone involved. He looked for
21 every single witness he could find. He went through
22 that apartment complex looking for people who might
23 have seen it, not to mention the emergency service
24 people who were involved. And he talked to them and
25 then he went back and talked to them again if what

1 they said the first time didn't make sense. You're
2 also gonna hear him tell you from this stand that he
3 takes a tape recorder to every single interview he
4 conducts because it's good practice because it's for
5 his records; and if there's any dispute about
6 whatever got said, you can go back and you can look
7 at that tape or listen to the tape and there's a
8 clear record. And you'll hear from him.

9 Now once K.H. [REDACTED] arrives at the hospital
10 her injuries are very, very serious. She has brain
11 swelling; but no one knows exactly the cause of it
12 at that point in time and you're gonna hear
13 testimony that a call was made to the Sheriff's
14 Department which is appropriate. That's a mandatory
15 reporting situation. But at the time call was made
16 Investigator Faust becomes aware of the situation,
17 and no one knows what the cause of injury is. His
18 first decision is to go not to the hospital, but to
19 get a search warrant and go over and look over the
20 premises. In fact, you're gonna hear that Sergeant
21 Faust doesn't talk to any doctors at all that
22 evening, okay.

23 You're also gonna hear -- let me tell you
24 a little bit. When I became involved in this case
25 and started looking at all the evidence and looking

1 at all the reports, I was reminded I'm from
2 Kentucky, and I grew up first loving college
3 basketball; but I was also around horse racing a lot
4 growing up. And when you train a horse, horses are
5 famously stubborn animals and some of them just
6 can't figure out to run. And one of the things that
7 trainers do is they put blinders right on the sides
8 of the horses' eyes so they're gonna go straight
9 instead of because you can't win a race if you're
10 bobbing and weaving all over the place. But the
11 Richland County Sheriff's Department in this case
12 put their blinders on immediately, decided they had
13 a bad guy, they had their man, and then they tried
14 to shoehorn evidence in to make it fit after they
15 had already decided. They didn't look at everything
16 first and then decide.

17 And you're gonna hear from Sergeant Faust
18 and you're gonna hear from Investigator Carter. And
19 they were in communication that night and on no less
20 than three occasions there in their report, the
21 reports, we need more information, we need to talk
22 to the doctors, we don't know enough yet. But
23 you're also gonna hear from Sergeant Faust, the next
24 morning he still hasn't talked to any doctors, he
25 started interviewing Antwan. And Antwan comes in

1 and tells him the same thing, the same thing he had
2 told Investigator Carter the night before. And
3 Sergeant Faust looks at him and says, well, that's
4 not true, that's medically impossible. And you're
5 gonna hear testimony that it's not. So the
6 conversation goes on -- or we're told the
7 conversation goes on because we don't have any
8 recordings. Sergeant Faust is going to tell you
9 Richland County Sheriff's Department has a policy
10 not to record, no video, no audio. That's a top
11 down policy. They don't do it for their
12 interrogations. So we're stuck with the report.
13 And the report is gonna reflect that after that
14 first batch of conversation where Sergeant Faust
15 says, well, that's medically impossible, even though
16 he has no medical knowledge, he's gonna say, well,
17 what else could have happened; and Antwan is gonna
18 say, I don't know, maybe she fell off the bed, I
19 don't know. And Sergeant Faust is gonna look at him
20 and say, you know what, that's physically impossible
21 because she'd automatically lose consciousness.
22 You're gonna hear that's not true. So we've ruled
23 those two out with Antwan at that point; it couldn't
24 have been that. And then, only then, after this is
25 going on, do we get to the point where the first

1 time we hear anything about K.H. crying before,
2 anything about shaking. That's the first time after
3 we've gone through the truth on two occasions.

4 Antwan talked to the investigators for
5 over two hours that first night at the hospital. He
6 was trying to cooperate. He was trying to help. He
7 was trying to give them the information that they
8 needed so that K.H. could receive the treatment
9 she needed. And that didn't, that didn't jive with
10 what Sergeant Faust's conclusion already had been so
11 he kept on him; and he said, no, that doesn't work,
12 that doesn't work.

13 Now the judge told you that we, as the
14 defense, don't have to prove anything to you at all.
15 We have no burden. The State is the only party in
16 this room with the burden to prove anything at all.
17 But we do plan on offering some testimony, and we're
18 going to call -- you'll hear from a Doctor John
19 Plunkett who is a Board certified pathologist, he's
20 from Minnesota. And he's also -- he has advanced
21 degrees in biomechanics, and he's gonna come in and
22 he's gonna talk to you about brain injuries a little
23 bit and try to explain it so we can all understand
24 it a little bit better.

25 And you're also gonna hear from a Doctor

1 Bruce Frumpkin who is a clinical psychologist; and
2 he's going to tell you about what Antwan's IQ is,
3 and what that possibly means when you evaluate
4 everything together, when you look at everything
5 that's going on, not just one little piece, but all
6 the information. And then most importantly, you're
7 going to hear from people that know Antwan Gaddist,
8 that grew up with him, that have known him since he
9 was a baby. And they're gonna come in and tell you
10 that that is not this man. He is not capable of
11 doing that, he is a gentle soul, that's not who he
12 is.

13 And let me tell you a little bit about who
14 he is. Antwan has five children, five children.
15 One is M.G. [REDACTED]. Then he has four, N [REDACTED],
16 A [REDACTED], D. [REDACTED], and M. [REDACTED] with a Miss Mitshco (ph)
17 Golson. And she's gonna come in here and she's
18 gonna tell you what type of dad Antwan is, always
19 was. And you're gonna be able to hear all of this
20 and you're gonna have an opportunity get to know
21 Antwan Gaddist. And I think that at the end of the
22 case, if you uphold your oath of looking at
23 everything, every piece of evidence, every piece of
24 testimony, you are gonna go back there and you're
25 gonna sit in that room and you're gonna talk to each

SW - M.G. - DIRECT

1 other and you are going to know what I know and what
2 we know and that is still an innocent man and you're
3 gonna return a verdict of not guilty. Thank you.

4 THE COURT: Ready to call your first
5 witness?

6 MS. SIMPSON: Thank you, may it please the
7 Court, the State calls M.G. .

8 THE CLERK: Place your left hand on the
9 Bible and raise your right.

10 WHEREUPON,

11 M.G. ,
12 having been duly sworn by the Clerk, testified as
13 follows:

14 THE CLERK: Please have a seat in the
15 witness stand. State your full name for the record
16 And please spell your first name.

17 THE WITNESS: M.G. .

18 **DIRECT EXAMINATION**

19 BY MS. SIMPSON:

20 Q M.G., how old are you?

21 A I'm 16 years old.

22 Q And when is your birthday?

23 A .

24 Q So you just had a birthday?

25 A Yes, ma'am.

SW - M.G. - DIRECT

1 Q And do you live in Columbia?

2 A Yes, ma'am.

3 Q Who all lives with you right now?

4 A Me, my mother, and my younger brother.

5 THE COURT: M.G., you're gonna need
6 to speak up, if you could, 'cause I'm having a hard
7 time hearing you and I want this jury to be able to
8 hear you.

9 THE WITNESS: Me, my mother, and my
10 brother.

11 BY MS. SIMPSON:

12 Q And who is your mother?

13 A Miesha Miller.

14 Q And who's your little brother?

15 A K. H. 2.

16 Q And how old is K. H. 2?

17 A He's four.

18 Q Can you tell us a little bit about your family,
19 your grandmother? What's her name?

20 A Maxine Scott.

21 Q And did you have a sister as well?

22 A Yes, ma'am.

23 Q And who was your sister?

24 A K.H.

25 Q And was K.H. K. H. 2's twin?

1 A Yes, ma'am.

2 Q Now do you an K. H. 2 an K.H. [REDACTED], do y'all have
3 the same father?

4 A No, ma'am, we don't.

5 Q Who is your father?

6 A Antwan.

7 Q Antwan Gaddist?

8 A Yes, ma'am.

9 Q And do you know who the twin's father are?

10 A Yes, ma'am.

11 Q Who is he?

12 A Robert.

13 Q And do you actually have another brother as well?

14 A Yes, ma'am.

15 Q Half brother? What's his name?

16 A Z [REDACTED] (ph).

17 Q And do you know his dad as well?

18 A Yes, ma'am.

19 Q Where do you go to school?

20 A CA Johnson.

21 Q And what grade are you in right now?

22 A Tenth.

23 Q Tenth grade?

24 A Uh-huh.

25 Q What kind of things do you like to do?

SW - M.G. - DIRECT

1 A Shop. And I'm in a pageant so...

2 Q In pageants? Did you actually win something last
3 year?

4 A Last year I one Miss Freshman.

5 Q Miss Freshman for C.A. Johnson?

6 A Yes, ma'am.

7 Q Are you work working to win something this year?

8 A Yes, ma'am.

9 Q What are you working on?

10 A I'm gonna do it again this year for sophomore.

11 Q Miss Sophomore? And what kind of subjects are
12 you taking in school? What kind of things you like
13 to do?

14 A English and dance.

15 Q And how are your grades?

16 A Very good.

17 Q They're good? What type of grades do you make?

18 A A's and B's.

19 Q A's and B's, those are pretty good. Do you think
20 you know what you might want to be when you grow up?

21 A A lawyer or a counselor.

22 Q Now I want to talk a little bit about your
23 younger sister K.H., okay. Can you tell us
24 about her and your relationship with her.

25 A We was close.

SW - M.G. - DIRECT

1 Q Talk up just a little bit so everybody can hear.

2 A We was close. She was my only sister so we had a
3 real good bond.

4 Q Okay. And when this happened do you remember
5 about how old she was?

6 A She was one.

7 Q One? What types of things did you an K.H.
8 do? Did you actually help take care of her?

9 A Yes, ma'am.

10 Q Tell us about that.

11 A I went outside and played with her an K. H. 2,
12 took them to the park. We read books with them and
13 played with her.

14 Q And out o K. H. 2 an K.H., you sai K.H.
15 was pretty close to you?

16 A Uh-huh, yes, ma'am.

17 Q Did she always want to be around you?

18 A Yes, ma'am.

19 Q Would you fix her dinner or make food?

20 A Yes, ma'am.

21 Q And did she sleep with you sometimes too?

22 A Yes, ma'am.

23 Q Did your parents even say you kind of spoiled her
24 a little bit?

25 A Yes, ma'am.

SW - M.G. - DIRECT

1 Q What about K.H. , was she, was she fussy,
2 angry, or was she pretty happy?

3 A She was happy. She didn't really cry a lot. She
4 was like very good.

5 Q And you were around her a good bit, right?

6 A Yes, ma'am.

7 Q And were you also aroun K. H. 2 an K.H. when
8 they were playing together?

9 A Yes, ma'am.

10 Q Can you tell us how they played together?

11 A They played really good.

12 Q Okay. Like little kids play?

13 A Yes, ma'am.

14 Q Would they maybe fight over toys sometimes or
15 anything like that?

16 A Sometimes, but not often.

17 Q Not often. And did you ever see anybody hurt
18 K.H. ?

19 A No, ma'am, I didn't.

20 Q O K. H. 2 ?

21 A No, ma'am.

22 Q Okay. Going to your relationship with your mom
23 and dad, how was your relationship with Mr. Gaddist?

24 A It was okay because he really wasn't in my life
25 and he just start back coming around so.

SW - M.G. - DIRECT

1 Q Okay, so he wasn't in your life for a period of
2 time?

3 A No, ma'am.

4 Q And how long would you say it was befor K.H.
5 died that he'd been living back in the home?

6 A He wasn't.

7 Q He wasn't actually living there? He was just
8 kind of back and forth?

9 A He wasn't at all. I was with my grandmother
10 after my sister died.

11 Q Okay. What about before your sister died, was he
12 living with you and your mom?

13 A Yes, ma'am.

14 Q And who lived in the house at that point?

15 A It was still me, my mom K. H. 2, an K.H. and
16 him.

17 Q Okay. And he had been in the house for what, a
18 couple of months ---

19 A Yes, ma'am.

20 Q ---before this happened? And at some point your
21 mom actually had a relationship with Robert Hill,
22 the twins' father, right?

23 A Uh-huh.

24 Q K. H. 2 an K.H.'s father? Do you know
25 whether -- let's see, what grade were you in at the

SW - M.G. - DIRECT

1 time?

2 A Seventh.

3 Q Seventh? So how old were you?

4 A Thirteen.

5 Q Thirteen? And were you going to school?

6 A Yes, ma'am.

7 Q Where were you going to school then?

8 A Dent.

9 Q Dent? I want to actually focus on May 23rd of
10 2011 and that weekend and that time frame. Do you
11 remember what you were doing that weekend?

12 A I had went to my godmother's house, and I had
13 just came back home that Sunday for school.

14 Q Okay. So that weekend, May 23rd, was that a
15 Monday ---

16 A Yes, ma'am.

17 Q ---the last time you sa K.H.? So you came
18 home that Sunday. Can you tell us what you remember
19 happening when you came home and talk up just a lit
20 bill.

21 A Sunday we really didn't do nothing, just cleaned
22 up and laid around the house. It really wasn't
23 nothing to do.

24 Q Was that kind of a typical Sunday for you, just
25 kind of relax?

1 A Yes, ma'am.

2 Q Did you get your things in order for school?

3 A Yes, ma'am.

4 Q Who all was home with you on Sunday?

5 A My mom K.H. 2 K.H. [REDACTED], and Antwan.

6 Q And did Antwan, or Mr. Gaddist, did he actually
7 work sometimes?

8 A Yes, ma'am.

9 Q Do you remember where he worked?

10 A Fort Jackson. Somewhere in Fort Jackson.

11 Q Somewhere? Do you have any idea what kind of
12 hours do you remember him working? I know it's been
13 a while.

14 A I think they were like in the evening during the
15 night time.

16 Q Okay. So when you were, when you would go to bed
17 would he still be at the house?

18 A No, I don't think he was during that time.

19 Q But only if he was working?

20 A Uh-huh.

21 Q And when you woke up in the morning was he
22 already back home?

23 A Yes, ma'am.

24 Q And your mom, did she work at the time?

25 A Yeah, she was working but she worked during the

1 morning time.

2 Q During the morning time? So by morning time was
3 that morning and afternoon like while you were at
4 school?

5 A Uh-huh.

6 Q Do you know what type of work she did?

7 A She went to like other people's house to take
8 care of them and help them out.

9 Q Okay, so she took care of other people?

10 A Yes, ma'am.

11 Q And your little brother and sister, did they stay
12 home with anyone or did they go to day care?

13 A They went to day care.

14 Q And were there occasions that they would actually
15 stay home?

16 A They really didn't stay home unless they were
17 like sick or something was wrong with them.

18 Q And on that Sunday did your mom or Mr. Gaddist
19 have work?

20 A No, ma'am.

21 Q So y'all were all together?

22 A Yes, ma'am.

23 Q Did you actually -- you said you hung out, did
24 you hang out with the twins?

25 A Yes, ma'am.

SW - M.G. - DIRECT

1 Q What did you do? What do you remember doing?

2 A They was just like around me playing, keeping
3 company. I let them, keep them company.

4 Q So did y'all watch TV, fix them dinner?

5 A Yes, ma'am.

6 Q Did you actually fix them something to eat?

7 A I think I fixed them like a snack, like maybe
8 some chips or something, get them something.

9 Q And wa K.H. acting funny in any way?

10 A No, ma'am.

11 Q Did you see her fall?

12 A No, ma'am.

13 Q Did you see anyone hurt her in any way at that
14 point?

15 A No, ma'am.

16 Q Was she just her happy normal self?

17 A She was normal.

18 Q An K.H. 2, how was he interacting, were they
19 just playing like a typical day?

20 A Yes, ma'am.

21 Q What about your mom and Mr. Gaddist, how were
22 they acting?

23 A They were okay.

24 Q They were okay?

25 A Uh-huh.

SW - M.G. [REDACTED] - DIRECT

1 Q So were they arguing at all?

2 A No, ma'am.

3 Q So everything was pretty normal?

4 A Yes, ma'am.

5 Q And you never saw them do anything to the twins

6 ---

7 A No, ma'am.

8 Q ---that night? Now after you fixed some food
9 what happened next? At some point did you decide to
10 go to bed?

11 A Uh-huh.

12 Q Can you tell us about that.

13 A I guess like after finishing, like, them eating,
14 they play a little while and in the room together
15 and then ---

16 Q And you say "they," who played, who played in
17 their room together?

18 A K.H. 2 an K.H. [REDACTED] played together.

19 Q Okay.

20 A And then we would get in like to the point where
21 they were getting sleepy. And normally, whenever
22 K.H. [REDACTED] get sleepy she comes like in my bed, come
23 sleep with me so.

24 Q Okay, so y'all like to sleep together?

25 A Yes, ma'am.

1 Q About do you remember -- and I know it's been a
2 long time -- what time that would have been? Was it
3 kind of late?

4 A I would say like 9:00, 9:30.

5 Q 9:00? And when you went to bed, you say you went
6 to bed, did you just go to your bedroom, did you go
7 automatically to sleep or were y'all ---

8 A I went to my bedroom and watch TV and then sooner
9 or later she went to sleep so I went to sleep.

10 Q Okay, so while she was in the bedroom -- and so
11 she actually went to sleep before you did?

12 A Uh-huh.

13 Q While she was in the bedroom with you was she
14 acting normal?

15 A Yes, ma'am.

16 Q Did you actually fix her some juice at some
17 point?

18 A Yes, ma'am.

19 Q Did she seem to be crying or fussy in any way?

20 A No, ma'am, she was normal like, nothing wrong
21 with her.

22 Q And you went to sleep sometime after that as
23 well?

24 A Yes, ma'am.

25 Q Now the next day was a Monday. What did you have

SW - M.G. - DIRECT

1 to do on Monday?

2 A Just school.

3 Q School? What time did you get up or do you
4 normally get up for school?

5 A At that time I got up around like 6 and had to be
6 at school by like 7:30.

7 Q Wa K.H. the only one in the room with you
8 ---

9 A Yes, ma'am.

10 Q ---at the time? Was she still sleeping?

11 A Normally when I get up and like when she see like
12 lights on or hear somebody else, she'll get up. So
13 during the time I was getting dressed she was just,
14 I turned on the TV for her and she watched TV while
15 I was getting dressed.

16 Q An K.H. was actually probably about 17
17 months old. Was she really walking and talking a
18 whole lot?

19 A She was walking. She just started walking good,
20 but she really wasn't talking like, she really
21 wasn't talking that good.

22 Q Okay. And was she climbing up and down or was
23 she just kind of walking, learning to walk.

24 A Walking, learning to walk.

25 Q So she just sat in your bed and watched TV for a

1 little while?

2 A Yes, ma'am.

3 Q Did you notice anything funny about her? Was she
4 crying or fussy?

5 A No, ma'am.

6 Q And you didn't see her fall or anything like
7 that. About what time, tell us about happened next
8 after you got ready for school.

9 A After I got ready and I noticed it was getting
10 late, I had to leave out for school, so I turned off
11 like all the lights and make sure all my stuff in my
12 room was picked up and out of her way. And then I
13 fixed her something to drink, some juice in her
14 little cup, and I gave her a kiss and was letting
15 her know I was about to leave. I was letting her
16 know I was about to leave and then I let my mom know
17 I was leaving out and that K.H. was up before I
18 left.

19 Q Okay, so I'll back up just a little bit. So
20 K.H., was she actually out of bed, was she kind
21 of stirring and laid back down?

22 A She was still in bed.

23 Q And so you gave her a kiss?

24 A Yes, ma'am.

25 Q And then you said you went and told your mom that

SW - M.G. - DIRECT

1 you were about to leave. Is that what you would
2 normally do?

3 A Uh-huh, so she could come and lock the door.

4 Q Okay. And who -- where did you go to tell your
5 mom, was she in the bedroom?

6 A Uh-huh.

7 Q Who was she in the bedroom with?

8 A Antwan.

9 Q And then when you left for school everything was
10 fine?

11 A (Shakes head.)

12 THE COURT: Is that a yes?

13 THE WITNESS: Yes, sir.

14 THE COURT: You need to answer please.

15 BY MS. SIMPSON:

16 Q Now have you ever seen your mom get violent or
17 angry with either of the twins?

18 A No, ma'am.

19 Q And did you ever see Antwan really get violent or
20 angry with the twins?

21 A No, ma'am.

22 Q Okay. And were there times that while you were
23 at school that Antwan would actually keep the twins
24 by himself?

25 A Not regular.

1 Q Not regular?

2 A Normally they would go to day care.

3 Q But sometimes, couple of times maybe?

4 A Yeah.

5 Q Not very often?

6 A Yes, ma'am.

7 Q And he'd only been in the house a couple of
8 months?

9 A Yes, ma'am.

10 Q Right? And what about your mom and dad or
11 Mr. Gaddist with one another were they, how was
12 their relationship? What did you ---

13 A They had a good relationship. They didn't really
14 like argue or have any problems like that, like I
15 thought everything was good.

16 Q According to you everything was good?

17 A Yes, ma'am.

18 Q Now that day you went to school, tell us what you
19 remember about that Monday. What happened next
20 after you went to school?

21 A I was in school like in my 4th block, my last
22 block of the day, and I got called for early
23 dismissal and it was my grandmother. She was crying
24 so I was asking her what was wrong, and she said it
25 was K.H. so I was, like, what was wrong and she

SW - M.G. - DIRECT

1 was just, like, how she was rushed to the hospital
2 because she wasn't breathing and she didn't really
3 say anything else because she was crying.

4 Q Is that your grandmother Maxine Scott?

5 A Yes, ma'am.

6 Q And did she actually come pick you up from
7 school?

8 A Yes, ma'am.

9 Q Where did y'all go once you left school?

10 A We went back to the apartment.

11 Q Who was at the apartment when you got there?

12 A K. H. 2 and Antwan.

13 Q And can you tell us what you remember about,
14 while y'all were at the apartment what happened?

15 A When we was -- when we first got there we had met
16 up with my uncle and he was in the parking lot so my
17 grandmother told me to go get some clothes and
18 everything because I didn't know if I was going to
19 be back there that night so I packed my clothes.

20 When I first came in Antwan was acting kind of like
21 strange to me 'cause normally when I would get home
22 he would say hey, and he really didn't say much when
23 I came in so I just got my clothes and I got K. H. 2
24 and then left out and got back in the car with my
25 grandmother and that was it.

SW - M.G. - DIRECT

1 Q You said he was acting strange. Did he talk to
2 you at all?

3 A No.

4 Q Did he try to ask if you were okay?

5 A No.

6 Q Did he tell you anything about what was going on?

7 A No, ma'am.

8 Q Did you actually try to talk to him?

9 A No, ma'am. I said hey, but -- I think I said
10 hey, but he really didn't say, it's not like he was
11 in his normal mood.

12 Q So you kind of sensed that he wasn't acting
13 normal?

14 A Yes, ma'am.

15 Q And he's your biological father?

16 A Yes, ma'am.

17 Q At this point do you know where your mother was?

18 A She was in the ambulance on the way to the
19 hospital with K.H.

20 Q And once you got all your stuff together where
21 did you go?

22 A To my cousin's house.

23 Q Your cousin's house? Who's your cousin?

24 A Her name is Marie.

25 Q Marie? At some point did you actually go to the

SW - M.G. - DIRECT

1 hospital?

2 A It was like maybe days later after the fact
3 because they didn't want me up there seeing her like
4 that.

5 Q Okay. And did you ask to see K.H.? Did you
6 want with to see K.H.?

7 A Yes, ma'am.

8 Q But they didn't want you to see her?

9 A No, ma'am.

10 Q Did you get to see your mom at all or talk to
11 your mom?

12 A Yes, ma'am.

13 Q What did your mom talk about?

14 A She was, she really wasn't like in a talking
15 mood. She was just telling me how she missed me and
16 how things was gonna get better with K.H. when I
17 was asking her about her.

18 Q And at some point did you learn that you were
19 gonna have to stay with your grandmother for a
20 little while?

21 A Yes, ma'am.

22 Q An K.H. 2 was gonna have to stay with her too?

23 A Yes, ma'am.

24 Q Who told you that?

25 A My grandmother told me.

SW - M.G. - DIRECT

1 Q Your grandmother told you? Now did you ever see
2 after that day that your dad was acting strange and
3 didn't talk to you, did you ever see or talk to him
4 again?

5 A No, ma'am.

6 Q In person?

7 A No, ma'am.

8 Q Were you allowed to see your mother again?

9 A Yes, ma'am. She would come over to my
10 grandmother's house during time when she wasn't at
11 the hospital with K.H. .

12 Q Okay. So she got to see you?

13 A Yes, ma'am.

14 Q And at some point did you actually get to go back
15 to living with her and K. H. 2 ?

16 A Yes, ma'am.

17 Q Did you ever see K.H. at the hospital or your
18 mom?

19 A Yes, ma'am.

20 Q Can you tell us about that?

21 A My grandmother took me up there to see her one
22 day, and when I saw her she was in the hospital bed
23 like just still. She wasn't moving or her eyes
24 wasn't open so it was a lot of people just, you
25 know, crying. But I went in there with my mother

SW - M.G. - DIRECT

1 and I gave her a kiss and then after that we left
2 'cause they didn't want me to be up there anymore
3 longer.

4 Q So as far as you knew when you left the house and
5 gave K.H. a kiss she was fine?

6 A Yes, ma'am.

7 Q And the last time you saw her was while she was
8 hooked up to the machines?

9 A Yes, ma'am.

10 Q And Antwan never told you anything about what
11 happened?

12 A No, ma'am.

13 MS. SIMPSON: beg the Court's indulgence.

14 BY MS. SIMPSON:

15 Q Now the person Antwan Gaddist, your father, do
16 you see him here in the courtroom today?

17 A Yes, ma'am.

18 Q And can you point him out for the jury.

19 A (Indicating.)

20 Q Can you describe what he's wearing?

21 A A purple shirt.

22 Q Sitting next to his lawyers?

23 A Yes, ma'am.

24 MS. SIMPSON: Your Honor, let the record
25 reflect that she's identified the defendant.

SW - M.G. - CROSS

1 THE COURT: Okay, it does.

2 MS. SIMPSON: Thank you. Oh, the Defense
3 is gonna ask you some questions.

4 THE COURT: All right.

5 MS. PINNOCK: May it please the Court.

6 **CROSS-EXAMINATION**

7 BY MS. PINNOCK:

8 Q How are you?

9 A Hey?

10 Q It's not easy for you to be here, is it?

11 A No, ma'am.

12 Q K.H. was your sister?

13 A Yes, ma'am.

14 Q And Antwan is your father?

15 A Yes, ma'am.

16 Q It's a bad position to be in; isn't it?

17 A Yes, ma'am.

18 Q I just want to ask you a couple of questions
19 about the 23rd, May 23rd. That was a Monday, right?

20 A Yes, ma'am, it was.

21 Q You said that you woke up. You wake yourself up
22 in the morning?

23 A Yes, ma'am.

24 Q When you woke up that morning you said that

25 K.H. woke up with you?

SW - M.G. - CROSS

1 A Yes.

2 Q Or soon thereafter?

3 A Yes, ma'am.

4 Q She didn't get out of bed?

5 A No, ma'am.

6 Q And she wasn't talking so you weren't talking to
7 her?

8 A No, ma'am.

9 Q Okay. You said that she was pretty much watching
10 you get dressed?

11 A Yes, ma'am.

12 Q And your room was set up because you had your own
13 bathroom -- you shared a bathroom with your brother
14 and sister, right?

15 A Yes, ma'am.

16 Q And from your bed you sa K.H. was kind of
17 watching you in the bathroom getting yourself ready?

18 A Yes, ma'am.

19 Q You turned the TV on for her?

20 A Yes, ma'am.

21 Q And when you finished getting ready, what time
22 did school start?

23 A 7:30.

24 Q When you get up in the morning everybody is still
25 asleep?

- 1 A Yes, ma'am.
- 2 Q Your mom was asleep?
- 3 A Yes, ma'am.
- 4 Q Antwan was asleep?
- 5 A Yes, ma'am.
- 6 Q Okay. K.H. 2 was still asleep as far as you
- 7 knew?
- 8 A Yes, ma'am.
- 9 Q He would sleep in his own room?
- 10 A Yes, ma'am.
- 11 Q How many bedrooms did your apartment have?
- 12 A Three.
- 13 Q Three? How is it set up?
- 14 A When you first walk in the house my mother's room
- 15 is right there. And the kitchen, if you come behind
- 16 the kitchen, that's where the bathroom and our rooms
- 17 are.
- 18 Q Okay. K.H. 2 was sleeping in his own room?
- 19 A Yes, ma'am.
- 20 Q Your mom and dad were in the master bedroom?
- 21 A Yes, ma'am.
- 22 Q And you an K.H. were in your room?
- 23 A Yes, ma'am.
- 24 Q All right. Now at 7:30 you said you were leaving
- 25 for school. Did you take the bus?

SW - M.G. - CROSS

1 A Yes, ma'am.

2 Q You took the bus that day?

3 A Uh-huh.

4 Q Okay. So about 7:30 early then you said that you
5 went in to wake your mom up and let her know that

6 K.H. was awake, right?

7 A Yes, ma'am.

8 Q And that's what you always do. You weren't going
9 to leave her in there awake by herself?

10 A Yes, ma'am.

11 Q At that point your mom got up and went in; didn't
12 she?

13 A Yes, ma'am.

14 Q And that's what she usually did?

15 A Yes, ma'am.

16 Q 'Caus K.H. was 17 months old, she's a baby?

17 A Yes, ma'am.

18 Q Okay. And that was 7:30 when you're leaving?

19 A Yes, ma'am.

20 Q And you had a pretty close relationship with your
21 dad; didn't you?

22 A Kind of sort of.

23 Q Okay. You remember going to the DSS Resource
24 Center?

25 A Yes, ma'am.

SW - M.G. - CROSS

1 Q You told the interviewer there that you had a
2 close relationship with him?

3 A Yes, ma'am.

4 Q Okay. In fact, I mean, you would go over to his
5 mom's house, Suzette Gaddist's house, all the time,
6 right?

7 A I won't say all the time, but I would go over
8 there.

9 Q Pretty regularly?

10 A Yes, ma'am.

11 Q You an K.H. 2 an K.H. and your dad's other
12 kids would all go together, right?

13 A Yes, ma'am.

14 MS. PINNOCK: Beg the Court's indulgence.
15 Thank you. I have nothing further.

16 THE COURT: Anything further?

17 MS. SIMPSON: Nothing further from the
18 State.

19 THE COURT: All right, thank you, ma'am.
20 You may step down.

21 MS. SIMPSON: Your Honor, may this witness
22 be excused.

23 THE COURT: You may.

24 MS. PINNOCK: No objection.

25 MS. SIMPSON: The State calls Maxine

SW - M. SCOTT - DIRECT

1 Scott.

2 THE BAILIFF: Place your left hand on the
3 Bible, raise your right.

4 WHEREUPON,

5 **MAXINE SCOTT,**

6 having been duly sworn by the Clerk, testified as
7 follows:

8 THE CLERK: Thank you. Please have a seat
9 in the witness stand and state your full name for
10 the record.

11 THE WITNESS: My name is Maxine Scott.

12 **DIRECT EXAMINATION**

13 BY MS. SIMPSON:

14 Q Ms. Scott, how old are you?

15 A 51.

16 Q And do you live here in Columbia?

17 A Yes, I do.

18 Q Are you from here?

19 A Yes, I am.

20 Q Can you tell us a little bit about your family?

21 A My family is just me, my kids, and my grandkids.

22 I'm a single mother. My mother passed so it's just

23 me to kind of hold everything together with me, my

24 two daughters, and my son, and ten grandkids. I

25 still consider **K.H.** being here so.

1 Q An K.H., that's?

2 A K.H. .

3 Q And so Miesha Miller, what is your relationship
4 with her?

5 A That was my first born, my first, oldest
6 daughter.

7 Q First daughter. And who are her children, your
8 grandchildren?

9 A M.G. K.H. K.H. Z .

10 Q And are you currently working?

11 A Yes, ma'am, I am.

12 Q What type of work do you do?

13 A I do patient care.

14 Q Patient care?

15 A Yes.

16 Q Have you been involved in patient care for a
17 while?

18 A Yes, ma'am.

19 Q How often would you say you get to see your
20 grandchildren?

21 A Pretty much some of them every day.

22 Q And they actually have nicknames as well, right?

23 A Yes.

24 Q 'Cause I know you sai K.H., that' K.H. . It's
25 KK. How do you refer to K.H. 2 ?

SW - M. SCOTT - DIRECT

1 A K.H. 2 .

2 Q K.H. 2 , okay. An M.G., you just cal M.G.?

3 A M.G. .

4 Q M.G.? And do you actually pic M.G. up from
5 school sometimes?

6 A Yes.

7 Q Do you also know the defendant Antwan Gaddist in
8 this case?

9 A Yes.

10 Q How do you know him?

11 A Back in the day when him and my daughter was
12 dating and that she was pregnant with M.G.; but as
13 far as a real relationship, close relationship, no.

14 Q So y'all didn't really have a whole lot of
15 interaction?

16 A No, ma'am.

17 Q And there was a period of time he wasn't really
18 involved in M.G.'s life?

19 A Yes, ma'am, he wasn't.

20 Q At some point did he come back into the picture?

21 A Yes, ma'am.

22 Q And prior t K.H. 's death do you recall how
23 long he had been back in the picture?

24 A No, ma'am.

25 Q And when was -- actually, where were they living

SW - M. SCOTT - DIRECT

1 at the time?

2 A I forgot ---

3 Q Looking back in May of 2011.

4 A In the apartment complex there off of Park Lane
5 on Bay Spring, Bay shore?

6 Q Something like that?

7 A Yes, ma'am.

8 Q But here in Columbia, Richland County?

9 A Yes, ma'am.

10 Q And do you know who all was living with Miesha at
11 that time?

12 A Yes, it wa M.G. K.H. 2, an K.H. . I had
13 recently found out that Antwan was living there as
14 well.

15 Q I want to turn your attention to the actual date
16 that this incident occurred on May 23rd of 2011.
17 About how long, if you recall, had it been since
18 you'd seen the twins?

19 A I would say probably like a week-and-a-half.

20 Q A week-and-a-half so ---

21 A Yes, ma'am.

22 Q ---just within a -- and at that point did you
23 ever see anything wrong with them as far as were
24 they acting normal, everything is fine?

25 A I didn't see anything wrong with them.

SW - M. SCOTT - DIRECT

1 Q Were you actually working that day on May 23rd?

2 A Yes. Well, I work third shift so I gets off like
3 ten in the morning.

4 Q What do you remember about that day or where were
5 you at first that day?

6 A I was at home and I was about to get ready, get
7 prepared to watch Young and the Restless which it
8 came on 12:30 so I received a phone call from my
9 daughter I would say probable around about 12. She
10 told me that I need go to her apartment because K.H.
11 wasn't breathing. K.H. is K.H. . So I was on my
12 cell phone and I'm like, you know, so where are you?
13 She said that, you know, she was at work so, you
14 know, I grabbed my keys and headed towards, you
15 know, her apartment.

16 Q And how far -- let me stop you just for a second.
17 How far were you from their apartment?

18 A Let's see, okay, a normal route from Farrow Road
19 to Park Lane, it's about like 20 minutes give or
20 take. It all depends on how you drive.

21 Q And on this day how were you driving?

22 A Quite fast.

23 Q About how long did it take you to get there after
24 you got the call from Miesha?

25 A Ten minutes.

SW - M. SCOTT - DIRECT

1 Q And she was working, was that on the other side
2 of town?

3 A I'm not quite sure exactly where, you know, she
4 was working, you know, as far as what side of town
5 she was working. I could not say.

6 Q She just knew that you could get there pretty
7 quickly?

8 A Well, I'm gonna get there quick but I'm assuming
9 she did. That's why she called me.

10 Q And she sai K.H. [REDACTED] K.H. wasn't breathing?

11 A Yes, ma'am.

12 Q Once you got the call what happened next?

13 A Once I got the call I went there, and as when I
14 was turning into the apartment complex I could see
15 like from the roadway where I saw the fire truck and
16 the ambulance. So when I turned in and I went to
17 the apartment -- as a matter of fact, I had bypassed
18 them. You know, I didn't know if they were, you
19 know, coming for KK or was another emergency thing
20 so I jumped out my car and I proceeded upstairs. I
21 tried to go in the door but the door was locked so I
22 knocked on the door, and Antwan came to the door so
23 I rushed beside him, you know, looking for KK. And
24 once when I saw her I kneeled down so I touched her
25 leg and her leg felt cold and I just lost it, you

SW - M. SCOTT - DIRECT

1 know. And I just lost it, was saying no, no, no,
2 no, no.

3 Q So she was cold to the touch ---

4 A Yes, ma'am.

5 Q ---when you got there? Was she moving?

6 A No, ma'am.

7 Q And backing up just a little bit, you bypassed
8 EMS and the fire department. You actually saw them?

9 A Yes, ma'am.

10 Q And knocked on the door to the apartment?

11 A Yes, ma'am.

12 Q Did you say anything to Antwan once you realized
13 that K.H. was cold?

14 A Yes. I told him to go out there and to wave them
15 over here because I didn't know that they were
16 supposed to been coming to Miesha's apartment.

17 Q So you actually told him to go outside and find
18 them?

19 A Yes, I did.

20 Q And did you just touch her leg or did you observe
21 ---

22 A I just touched her leg and when I felt her cold I
23 just lost it.

24 Q Do you remember wher K.H. was laying when
25 you walked in the door?

SW - M. SCOTT - DIRECT

1 A She was laying in the doorway of Miesha's
2 bedroom.

3 Q And is that -- if I were to walk in is that
4 pretty close right when you walk in?

5 A Yes, if I could kind of like demonstrate to you,
6 you know, versus trying to ---

7 Q Well, it's fine. There's a hallway and then her
8 room?

9 A Okay. Say for instance this is her room
10 (indicating). I'm walking in the room and KK was
11 laying like this. Her head was this way and her
12 legs was this way (indicating).

13 Q So she was kind of parallel to the door?

14 A Yes.

15 Q Do you remember if she was face up, face down, or
16 just that she was cold?

17 A She was face up.

18 Q Face up?

19 A Yes, ma'am.

20 Q Cold to the touch, not moving?

21 A Yes, ma'am.

22 Q What were you thinking at that point?

23 A For her being cold and it was, you know, warm. I
24 mean, something wasn't right.

25 Q So it was warm and temperature in the room ---

SW - M. SCOTT - DIRECT

1 A Yes.

2 Q ---but she was cold?

3 A Yes.

4 Q What do you remember happening next?

5 A Just saying no, no, no. And I heard a male's
6 voice came in and said that we got to get out here,
7 we got to get out here now, you know. And I could
8 not sit here and say who was saying it; I just know
9 it was a male's voice. And what they was doing, I
10 can't say because I lost it, you know. Only thing I
11 heard was we got to get out here, we got to get out
12 here now.

13 Q And getting out of here, getting out of here now,
14 that's getting K.H. out?

15 A Yes.

16 Q Getting her help?

17 A Yes.

18 Q What do you remember happening next?

19 A Whilst that was going on I realize K.H. 2 was
20 coming down, K.H. 2 was coming down the hallway, and
21 I just looked at him but I just went on ahead and
22 followed, you know, them downstairs and got in the
23 ambulance and they was asking what hospital.

24 Q And as you're walking downstairs someone, the
25 male voice, they've already taken K.H.

SW - M. SCOTT - DIRECT

1 downstairs and you're ---

2 A Yes.

3 Q ---following them toward EMS?

4 A Yes.

5 Q S **K.H. 2** was actually still at the house?

6 A Yes.

7 Q Do you recall where Antwan was or were you just
8 focused on ---

9 A I was just focused o **K.H.**.

10 Q And as you went downstairs what did you, what do
11 you remember, what did you observe outside?

12 A Other than they asked me what hospital, I was
13 saying Richland. Somebody said we need to go to
14 nearest one. Who said it, I can't say.

15 Q Okay. And did you see while you were out there
16 anybody do anything other than try to help **K.H.**

17 ---

18 A No, ma'am.

19 Q ---in that ambulance? And you actually got in
20 the ambulance, right?

21 A Yes, ma'am.

22 Q Were you in front of the ambulance or the back of
23 the ambulance?

24 A I was in front.

25 Q In the front seat?

SW - M. SCOTT - DIRECT

1 A Front seat passenger in the front seat.

2 Q And they were talking about hospitals?

3 A Yes.

4 Q What do you remember next?

5 A We proceeded out the apartment complex, and
6 that's when I observed seeing my daughter getting
7 ready to turn in so I put my hand out the window,
8 you know, to tell her to come and follow us or
9 whatnot. And that's when we got down to Providence
10 Northeast and my daughter jumped up and she jumped
11 out the truck and she just lost it. She was asking
12 where was her baby.

13 Q Backing up just a little bit, when you got to the
14 apartment the first time before you saw K.H. [REDACTED],
15 what was Antwan's demeanor, how was he acting?

16 A Honestly, I wasn't focusing on him. I was just
17 wanting to know what was going on with K.H. [REDACTED], K.H. [REDACTED].

18 Q And did he mention anything to you about why she
19 was laying there on the floor ---

20 A No, ma'am.

21 Q ---unresponsive and cold?

22 A No, ma'am, not a word.

23 Q And did you actually see K.H. [REDACTED] being placed on
24 the stretcher before she got into the ambulance?

25 A No, ma'am.

SW - M. SCOTT - DIRECT

1 Q Once y'all got to the hospital and you see Miesha
2 again, what did you observe Miesha doing?

3 A She was hollering and crying.

4 Q And what do you remember happening next?

5 A We escorted her, you know, inside the hospital
6 and they had us to sit in this little waiting room
7 area while K.H. was being taken in the back, or
8 however wherever they took her at.

9 Q At some point did you di K.H. go, have to go
10 to another hospital?

11 A Yes, ma'am.

12 Q And what did you do onc K.H. was being
13 transported?

14 A Well, at that time I had left to go pick u M.G.
15 from school, and that's when I later got a call that
16 said that she was being transported from Providence
17 to the Children's Hospital at Richland.

18 Q So you left to ge M.G. ---

19 A Yes.

20 Q ---whil K.H. was still at Providence?

21 A Yes.

22 Q And when you got there and go M.G., what was your
23 demeanor?

24 A Trying to hold it together, not to break apart in
25 front of her.

SW - M. SCOTT - DIRECT

1 Q Where did y'all go after you picked u **M.G.**

2 A Took her back to the apartment so she can get
3 some clothes and that's when my son was there as
4 well.

5 Q And say that again, I'm sorry?

6 A Took her back to the apartment so she can get
7 some clothes.

8 Q Okay. And why did she need clothes?

9 A Well, under the circumstances she was going to be
10 staying with me, you know.

11 Q Who was at the apartment when you got there?

12 A On the outside it was my son.

13 Q Your son?

14 A My son.

15 Q Who's that?

16 A Gregory Scott.

17 Q Gregory Scott?

18 A Which is Miesha's brother.

19 Q Did you actually go into the apartment at all?

20 A No, I stayed outside talking with him.

21 Q Do you know who was inside the apartment?

22 A Antwan.

23 Q Where wa **K.H.2** at this point?

24 A He was up there as well to my knowledge. He had
25 to have still been there.

SW - M. SCOTT - DIRECT

1 Q At any point did Antwan come downstairs?

2 A If he did he an **M.G.** had left already.

3 Q So he didn't -- y'all never had any interaction
4 or conversation about what had happened?

5 A No.

6 Q So what happened next afte **M.G.** comes down and
7 gets her clothes, where do you go?

8 A I took her to Marie.

9 Q That's her? Who is Marie?

10 A That's her cousin.

11 Q And where did you go?

12 A I went back to the hospital once when I found out
13 they was at Richland.

14 Q When you got to Richland what happened?

15 A I paced up and down the hallway, the little
16 hallway next to where the family room is at.

17 Q Did you see Miesha at all?

18 A Just only when she had came out that, when she
19 knew that I was out there.

20 Q And at this point has more family arrived?

21 A Yes.

22 Q The child's father Robert Hill, is he there?

23 A Yes.

24 Q And some of his family as well?

25 A Yes.

SW - M. SCOTT - DIRECT

1 Q Did you see Antwan at that point at the hospital?

2 A No, ma'am.

3 Q At some point did you have to speak with I guess
4 the Department of Social Services?

5 A Yes.

6 Q And what did they inform you as far as taking
7 care and custody of the children M.G. and K.H. 2?

8 A I had to tak M.G. an K.H. 2 to this place to be
9 evaluated, and DSS asked me would I, you know, keep
10 K.H. 2 and M.G. while they was trying to figure out
11 what was going on, and I told them yes, you know, I
12 would take them in my care.

13 Q And so you took them in your care?

14 A Yes.

15 Q And you actually took them and did what law
16 enforcement told you to do as far as taking them to
17 be evaluated?

18 A Yes.

19 Q By the Children's Center?

20 A Yes.

21 Q Backing up just a little bit, when you saw
22 K.H. and I don't know if you remember, do you
23 recall what she would have been wearing?

24 A It was like a pinkish purple one-sey. One-sey is
25 like a T-shirt that snaps, you know.

SW - M. SCOTT - DIRECT

1 Q So a snap, kind of two piece one-sey almost?

2 A Just a one-sey, just one piece that snaps between
3 the ---

4 Q Do you recall seeing any blood?

5 A No, ma'am.

6 Q On the one-sey?

7 A No, ma'am.

8 Q On the floor?

9 A No, ma'am, I ---

10 Q In the apartment?

11 A I -- I wasn't trying to look for anything other
12 than nothing but K.H. .

13 Q You had custody o M.G. an K.H. 2 for a little
14 while. Did you ever see Antwan again?

15 A No, the only time I did he was sitting up in the
16 hospital waiting area with the family.

17 Q And as far as Miesha, was she actually able to
18 visit the children while they were staying with you?

19 A Yes, but ---

20 Q Supervised?

21 A Supervised.

22 Q And at some point did she actually get custody
23 back to where they could live with her?

24 A Yes.

25 Q And who are they living with now K.H. 2 an M.G.?

SW - M. SCOTT - DIRECT

1 A Miesha.

2 Q And did you have the opportunity to observe how
3 the twins were kind of with one another?

4 A Oh, yes.

5 Q How were they?

6 A They were like two peas in a pod. I mean, when I
7 say peas in a pod, K.H. [REDACTED], she was like the leader
8 and you know, and K.H. 2 [REDACTED], he was the little
9 follower. She started walking before he did. You
10 know, she was like a little leader.

11 Q And so they played but were they extremely
12 violent with one another or ---

13 A No.

14 Q ---angry at all?

15 A No.

16 Q And at no point did the defendant ever say
17 anything about what happened to you directly?

18 A No, ma'am.

19 Q Beg the Court's indulgence. And when you arrived
20 to the apartment that day, the only other adult in
21 there was who?

22 A Antwan Gaddist.

23 Q And do you see him here in the courtroom today?

24 A Yes, I do.

25 Q Can you point him out for the jury?

1 A Yes, ma'am, the gentleman sitting over there with
2 the purple shirt and black, I assume, tie
3 (indicating).

4 MS. CAMPBELL: Your Honor, let the record
5 reflect she's identified the defendant.

6 THE COURT: It does.

7 MS. SIMPSON: Thank you, Ms. Scott.

8 THE WITNESS: Thank you.

9 THE COURT: Anything on cross?

10 MS. PINNOCK: Briefly, Your Honor.

11 **CROSS-EXAMINATION**

12 BY MS. PINNOCK:

13 Q Ms. Scott, what time did you say you got the call
14 from M.G.?

15 A It was around about 12.

16 Q Around 12. And you didn't ask any questions, you
17 just jumped in the car and you were trying to get to
18 the apartment, right?

19 A I asked her where she was at. She said she was
20 at work, and yes.

21 Q You said you got there about ten minutes?

22 A Yes.

23 Q Give or take? I know you weren't looking at the
24 clock but it took about ten minutes to get there?

25 A Pretty much ten minutes. I didn't care if I got

SW - M. SCOTT - CROSS

1 stopped for a speeding ticket. I wasn't going to
2 stop, but I would say ten minutes, yes.

3 Q And when you got there you said you saw EMS and
4 the fire department at the wrong building?

5 A Yes.

6 Q And you kept going to the apartment that Miesha
7 ---

8 A Yes.

9 Q ---was sharing with Antwan?

10 A Yes, ma'am.

11 Q So you get, you said you get upstairs, Antwan
12 opens the door, you're running in and yelling what
13 happened, what happened, and Antwan telling you he
14 didn't know, he found her unconscious?

15 A No, ma'am.

16 Q Okay. Do you remember telling him that they're
17 outside, go get them?

18 A Yes, I told him that the ambulance and the fire
19 truck was over at the other building, could he go
20 down there and get them 'cause I'm assuming
21 nevertheless, you know, maybe at that particular
22 apartment for some reason but at this time I told,
23 him to go down and wave them over here.

24 Q And he did that. He went outside to get them?

25 A Yes, ma'am. Well, he left from out the

1 apartment.

2 Q But eventually the fire department showed up in
3 the apartment?

4 A Yes, ma'am.

5 Q Did you ever talk to law enforcement that day,
6 Ms. Scott?

7 A On that day?

8 Q Yes, ma'am, May 23rd, 2011?

9 A It may be a possibility later on that day.

10 Q Okay. Did you give a formal statement on that
11 day, do you remember?

12 A Not on that particular day, no, I didn't.

13 Q Do you remember when you actually spoke to
14 Investigator Scott and gave a official statement?

15 A Investigator Scott?

16 Q I'm sorry, Investigator Faust, I apologize,
17 Investigator Faust.

18 A I remember giving a statement to him.

19 Q Was that July of 2011? Does that sound right?

20 A It could be.

21 Q Okay. And the next day you said you took both
22 children, you took **K.H. 2** and **M.G.** to the assessment
23 resource center?

24 A Well, I was told that that's what I had needed to
25 have been done.

SW - M. SCOTT - CROSS

1 Q And you did that?

2 A Yes.

3 Q You tried to follow, you did?

4 A Yes.

5 Q Did you speak to Doctor Rosa after her
6 examination of **K.H. 2**?

7 A No.

8 Q No, okay. Beg the Court's indulgence. And Ms.
9 Scott, it was about a month or so since you had seen
10 the defense witness before May 23rd, right? Three
11 or four weeks?

12 A About a week-and-a-half or so.

13 Q About a week-and-a-half, all right. Thank you.
14 I have nothing further.

15 THE COURT: Anything on redirect?

16 MS. SIMPSON: No, Your Honor, may this
17 witness be excused?

18 MS. PINNOCK: No objection.

19 THE COURT: You may step down. You're
20 free to leave.

21 All right, ladies and gentlemen, we're
22 going to go ahead and take a little bit of a break,
23 let you step back to your jury room. Take about a
24 15 minute break. Relax a little bit. Please do not
25 discuss the case while you're back there. I'll bring

1 you back in about 15 minutes.

2 (WHEREUPON, the jury was removed from the
3 courtroom at 3:23 p.m., and the following
4 proceedings commenced in open court.)

5 THE COURT: All right, we'll take a break
6 for 15 minutes.

7 (WHEREUPON, a recess was taken from the
8 proceedings.)

9 THE COURT: All right, Mr. Dye, let's
10 bring us the jury in.

11 THE BAILIFF: Yes, Your Honor.

12 (WHEREUPON, the jury was returned to the
13 courtroom at approximately 3:45
14 p.m, and the following
15 proceedings commenced in open
16 court.)

17 THE COURT: Okay, Madam Solicitor, ready
18 to call your next witness?

19 MS. MCDUFFIE: Your Honor, at this time
20 the State could call Mary Short.

21 WHEREUPON,

22 **MARY SHORT,**
23 having been duly sworn by the Clerk, testified as
24 follows:

25 THE CLERK: Thank you. Please have a

SW - M. SHORT - DIRECT

1 seat in the witness stand. State your full name for
2 the record and please spell your last name.

3 THE WITNESS: Mary Short, S-H-O-R-T.

4 **DIRECT EXAMINATION**

5 BY MS. MCDUFFIE:

6 Q Ms. Short, do you know Miesha Miller?

7 A Yes, I do.

8 Q And how do you know Ms. Miller?

9 A I know her by the, by the agency that sends
10 people out to help me, and they sent Miesha to me.

11 Q And in May of 2011, at that point in time
12 approximately how long had you known Miesha?

13 A Gosh, it seems like a long time. It's been two
14 years or more.

15 Q So two years prior to that?

16 A Yeah.

17 Q And what would Ms. Miller do for you?

18 A She would come in and she would do my housework.
19 Whatever I needed to be 'cause I can't do housework
20 anymore. And a good friend after time, we became
21 friends.

22 Q And she worked for you for approximately two
23 years?

24 A Uh-huh, five days a week.

25 Q And did you know her children?

SW - M. SHORT - DIRECT

1 A Yes, I did.

2 Q M.G. K.H. [REDACTED], an K.H. 2?

3 A Yes.

4 Q And would you see them, you know, different, I
5 mean not often, but you would see them?

6 A I would see them. She had brought them to my
7 home and I had had the opportunity more than once or
8 twice to go to her home to see them.

9 Q And what did Ms. Miller call you?

10 A Momma.

11 Q And you two, you said you had a close
12 relationship?

13 A Yes, we did.

14 Q And did you know the defendant in this case
15 Antwan Gaddist?

16 A I met him only once.

17 Q And that was shortly before May 23rd of 2011?

18 A Yes.

19 Q And never met him prior to that?

20 A No.

21 Q And again, you said you knew the twin K.H. [REDACTED]
22 and K.H. 2?

23 A Yes.

24 Q And on May the 23rd of 2011 was Ms. — that was a
25 Monday — was Ms. Miller scheduled to work in your

SW - M. SHORT - DIRECT

1 home that day?

2 A Yes, she was there.

3 Q When she would come to work approximately what
4 time would she get there?

5 A Well, sometimes it would be different times,
6 around 11. If we, you know, I didn't have any
7 doctors appointments. And sometimes 2, but at that
8 time I was more of a morning person.

9 Q And so she would come over shortly after 11 in
10 the morning?

11 A Yes.

12 Q And how would she, I mean, was there a time
13 clock? How would she clock in?

14 A She would clock in. The agency that she works
15 for, when she would come in she would have to clock
16 in by calling a particular number; and when she
17 would leave, she would have to call as she was
18 leaving a particular number. That way I believe the
19 agency could keep up with her time.

20 Q And she had to use your phone to do that?

21 A Yes, that was a necessity.

22 Q And on May 23rd of 2011 she arrived at your house
23 shortly after 11, how, what was her demeanor like
24 that day?

25 A Like always, good, you know, and she came in, we

SW - M. SHORT - DIRECT

1 spoke. That's what I loved about her because she
2 would come in, she would do what she have to do, and
3 we would sit down sometime and socialize. Sometimes
4 go out for lunch, but like Miesha.

5 Q Did Ms. Miller have a routine when she would come
6 to your house?

7 A Yes, she did.

8 Q And please tell the jury what that was.

9 A She would always start, start at my bathroom, and
10 work her way through my apartment. And when she
11 came in she, hi, mom, how was your weekend. And
12 then she went, she started in the bathroom. She
13 finished that---

14 MS. PINNOCK: Your Honor, objection,
15 relevance.

16 MS. MCDUFFIE: Your Honor, we are just
17 going through the chronology leading up to when when
18 Ms. Miller received the phone call from Mr. Gaddist.

19 THE COURT: All right, well, you can be
20 brief about that.

21 THE WITNESS: Okay. When she got to where
22 I was in the dining area she was on her way into the
23 kitchen. I said, Miesha, why don't you just sit
24 down a few minutes, let's have a cigarette. The
25 process of smoking and her telephone rang.

SW - M. SHORT - DIRECT

1 Q And this was sometime after 12 on---

2 A Yes, it was.

3 Q ---May 23rd. And what happened after

4 Ms. Miller's phone rang?

5 A I could see in her face something was wrong. And

6 I asked her, I said, Miesha, what's wrong. She said

7 mom, I got to go. I said, what's wrong. She said,

8 my baby is not breathing.

9 Q And describe how her demeanor changed.

10 A Oh, God, she was distraught. She was, I mean,

11 she's a loving mother. She was a loving mother so

12 she, she was almost falling apart. And I asked her,

13 I said, let me drive you, I can take you home, I'll

14 drive; and she said no. And I was concerned so I

15 followed later.

16 Q And you were concerned about her being in a state

17 of mind to be able to drive?

18 A To be able to drive and get there safely.

19 Q And so how did you -- could you drive at that

20 point or did you have a vehicle to---

21 A Yes, I had a vehicle and I could drive, you know,

22 and I drove to my sons.

23 Q And you went to your son's house and then please

24 tell the jury what happened once you got to your

25 son's house?

SW - M. SHORT - DIRECT

1 A I asked him to take me to Miesha's. I wanted to
2 make sure that she had reached there okay and the
3 baby was okay. But when I got there her car was
4 gone, but I still asked my son to go knock on the
5 door because I knew that he should be there with
6 him, and I wanted to make sure everything was okay.
7 But he never, he didn't open the door.

8 Q So when your son knocked on the door nobody
9 answered?

10 A No one answered.

11 Q And you didn't actually go knock on the door
12 yourself?

13 A No, 'cause it was difficult for me to climb those
14 three flights of stairs.

15 Q And after your son came back and said that no one
16 answered the door, what did you then do?

17 A I said we need to go to the hospital. And by him
18 being a constable here at one time, I asked him
19 which one would be the close and we went to
20 Providence East.

21 Q And when you got to Providence did you see
22 Mrs. Miller?

23 A I did, after they let me back.

24 Q And you were able to talk with her at that point?

25 A Yes, I was able to talk with her, but I mean,

SW - M. SHORT - CROSS

1 she was just distraught. I mean, at -- I know it
2 was probably like her world were falling apart.

3 Q And did you ever see Mr. Gaddist at the hospital
4 or at any point in time that day, May 23rd of 2011?

5 A No.

6 Q Thank you. No further questions for this
7 witness.

8 THE COURT: Anything?

9 MS. PINNOCK: Briefly, Your Honor, please
10 the Court.

11 **CROSS-EXAMINATION**

12 BY MS. PINNOCK:

13 Q Ms. Short, you said that Ms. Miller worked for
14 you two years, just about two years?

15 A Or a little more.

16 Q You didn't know Antwan Gaddist?

17 A No.

18 Q You said she has to clock-in using your phone at
19 your house?

20 A Yes.

21 Q Is it a house phone?

22 A It's a necessity with the agency.

23 Q Okay.

24 A Even when they would send the nurse out or they
25 would send the worker to observe her, they would

1 always have to use my phone to call in and to call
2 out.

3 Q Okay. You said after Ms. Miller left you got in
4 the car with your son and you had headed back over
5 ---

6 A I got in my car.

7 Q ---to your son's house?

8 A And drove to my son's.

9 Q And then y'all went over to the apartment?

10 A Yes, we did.

11 Q You didn't go upstairs?

12 A It's difficult for me. I would go up the stairs
13 when I would see her, and it'd take me a good 15
14 minutes to get up there. So I asked my son to go
15 knock on the door.

16 Q Right. And as far as you know you didn't know
17 who was home, right, because you ---

18 A Not at that time until I asked her later.

19 Q Okay. So you never went inside the apartment
20 that day?

21 A Not that day.

22 Q You never saw Mr. Gaddist, Antwan, that day?

23 A I did not see him that day, but I know that's who
24 she had left the children home with.

25 Q Right, but when you were there ---

SW - M. SHORT - CROSS

1 A No, he would ---

2 Q You (didn't see him open the door?

3 A ---he would not open the door.

4 Q You don't know if he was actually up there, do
5 you?

6 A No.

7 Q And you said you didn't see him at the hospital?

8 A No.

9 Q Did you look for him?

10 A No.

11 MS. PINNOCK: Beg the Court's indulgence.
12 Nothing further.

13 THE COURT: Anything?

14 MS. MCDUFFIE: Your Honor, may this
15 witness be excused?

16 THE COURT: Yes, ma'am, you're free to
17 leave.

18 All right, call your next witness please.

19 MS. MCDUFFIE: Your Honor, the State would
20 call Jackie Richbourg.

21 WHEREUPON,

22 **JACKIE RICHBOURG,**

23 having been duly sworn by the Clerk, testified as
24 follows:

25 THE CLERK: Thank you. Please have a

SW - J. RICHBOURG - DIRECT

1 seat in the witness stand and state your full name
2 for the record.

3 THE WITNESS: Jacqueline Richbourg.

4 **DIRECT EXAMINATION**

5 BY MS. MCDUFFIE:

6 Q Ms. Richbourg, where are you currently employed?

7 A Richland 9-1-1 communication center.

8 Q And what are your duties with the 9-1-1?

9 A I am, fill out the requests for recordings for
10 police, fire, EMS.

11 Q And are you what is referred to as a custodian of
12 records?

13 A Yes.

14 Q And it's your job to maintain the 9-1-1 calls,
15 the recordings of those calls, for a specified
16 period of time?

17 A Yes.

18 Q And have you had the opportunity to listen to
19 what's been marked as State's Exhibit 2?

20 A Yes.

21 Q And is that a 9-1-1 call that took place on
22 May 23rd, 2011 at approximately 12:26 p.m.?

23 A Yes, it was.

24 Q And is that record kept in the normal and
25 ordinary course of business at 911?

SW - J. RICHBOURG - DIRECT

1 A Yes.

2 Q And has it been altered or tampered with or
3 changed in any way?

4 A No.

5 MS. MCDUFFIE: Your Honor, at this time we
6 offer State's Exhibit 2.

7 MS. PINNOCK: No objection.

8 THE COURT: So admitted without objection.

9 (WHEREUPON, State Exhibit No. 2 was
10 admitted into evidence.)

11 MS. MCDUFFIE: Your Honor, at this time we
12 ask to publish State Exhibit 2, play it for the
13 jury.

14 THE COURT: You may.

15 BY MS. MCDUFFIE:

16 Q Ms. Richbourg, all 9-1-1 calls are automatically
17 recorded when the call is placed to 9-1-1?

18 A Yes, they are.

19 (State Exhibit No. 2 was published to the jury.)

20 MS. MCDUFFIE: No further questions for
21 this witness, Your Honor.

22 THE COURT: Anything?

23 MS. PINNOCK: No, ma'am.

24 THE COURT: Thank you. You may step down.
25 You're free to leave.

SW - M. MILLER - DIRECT

1 Call your next witness.

2 MS. CAMPBELL: Thank you, Your Honor. The
3 State calls Miesha Miller.

4 THE CLERK: Place your left hand on the
5 Bible, raise your right.

6 WHEREUPON,

7 **MIESHA MILLER,**

8 having been duly sworn by the Clerk, testified as
9 follows:

10 THE CLERK: Thank you. Please have a seat
11 in the witness stand. State your full name for the
12 record and please spell your first name.

13 THE WITNESS: Miesha, M-I-E-S-H-A, Miller,
14 M-I-L-L-E-R.

15 **DIRECT EXAMINATION**

16 BY MS. CAMPBELL:

17 Q Miesha, how old are you?

18 A I'm 32.

19 Q Where are you from?

20 A Columbia.

21 Q Do you know Antwan Gaddist?

22 A Yes, I do.

23 Q And tell this jury how you know or how you first
24 met Antwan Gaddist.

25 A I met Antwan in school in '97. I also have a

SW - M. MILLER - DIRECT

1 daughter by Antwan, 16 year old M.G. [REDACTED].

2 Q And you said you met Antwan in school. What
3 school were you attending when you met Antwan?

4 A Gerald High School.

5 Q And was Antwan older or younger than you?

6 A He was older than me.

7 Q What kind of relationship did you and Antwan
8 develop back in 1997?

9 MS. PINNOCK: Objection, relevance.

10 THE COURT: That's background, I'm gonna
11 let her go into it a little bit.

12 MS. CAMPBELL: Thank you, Your Honor.

13 THE WITNESS: We were friends. I
14 conceived a baby by Antwan.

15 BY MS. CAMPBELL:

16 Q You had a baby? And how old were you when you
17 got pregnant with Antwan?

18 A I was actually 15 years old.

19 Q And once you were pregnant what happened?

20 A I ha M.G. a year later. I basically raise M.G.
21 alone.

22 Q Did you continue your education?

23 A Yes, ma'am, I did.

24 Q How did you manage to do that having a small
25 child at 16?

1 A I had help of my mother and my grandmother.

2 Q Later on did you have any other children?

3 A Eight years later I did have another son by
4 Antonio Cheesboro. I have an eight year old son by
5 him.

6 Q And briefly, did you have a relationship with
7 Mr. Cheesboro that lasted more than a few months?

8 A Yes, ma'am. M.G. was two months old when Mr.
9 Cheesboro came into her life, and he raised her up
10 until 10, 11 years old.

11 Q And you and Mr. Cheesboro have one son I believe?

12 A Yes, ma'am.

13 Q And does that son actually reside with you or
14 with Mr. Cheesboro?

15 A He's with Mr. Cheesboro.

16 Q Are you active in his life?

17 A Yes, ma'am, I am.

18 Q And why does he stay with Mr. Cheesboro?

19 A We had a mutual agreement at the time, and we
20 found that it was best fit for him to stay with him
21 at the time.

22 Q At some point did you meet a Mr. Robert Hill?

23 A Yes, ma'am, I did.

24 Q And when was that?

25 A 2006 or '7.

SW - M. MILLER - DIRECT

1 Q Okay. And did you and Mr. Hill have any
2 children?

3 A Yes, ma'am, we did. We had the twins K.H. [REDACTED]
4 and K. H. 2 [REDACTED].

5 Q And when were they born?

6 A They were born in 2009.

7 Q And after they were born did your relationship
8 with Mr. Hill, did y'all separate?

9 A Yes, ma'am, shortly after they were born we did
10 separate.

11 Q Let me ask you this, do you currently work?

12 A Yes, ma'am, I do.

13 Q And what type of work do you do now?

14 A Right now I'm the manager over a custodial
15 service.

16 Q Over some custodial services?

17 A Yes, ma'am.

18 Q And where do you -- what part of town do you work
19 in now?

20 A Near Fort Jackson.

21 Q Back in 2011 where were you -- who was your
22 employer?

23 A In 2011?

24 Q Before this happened.

25 A Prior to this happening I was employed with

1 CarePro.

2 Q How long had you been with CarePro company?

3 A I had been there two-and-a-half, three years.

4 Q And what type of work did you do for CarePro?

5 A I was a personal care agent. I went out to the
6 client's home; I took care of them. I made sure all
7 their basic needs were attended to. That included
8 house work, grooming. I mean, whatever the client
9 asked for that's, you know, I basically tried to
10 help them in those areas.

11 Q And typically in a day when you went to work were
12 there for a certain number of hours?

13 A Yes, ma'am, I was there four hours a day.

14 Q To help them whatever way they want?

15 A Yes, ma'am.

16 Q Did you come to know a Mrs. Short?

17 A Yes, ma'am.

18 Q And how did you meet Mrs. Short?

19 A I was assigned to her through an agency.

20 Q Did y'all develop a relationship kind of outside
21 of work?

22 A Outside of work?

23 Q Or was it primarily inside work?

24 A Primarily inside.

25 Q And when you first started going to Ms. Short's

SW - M. MILLER - DIRECT

1 house, and CarePro typically, how did they send you
2 out? How did they choose who you were to go help?

3 A Well, usually they choose who you're gonna help
4 like -- really they don't choose who you were going
5 to help. They put you out and, you know, it's upon
6 us as the caregiver to, like, make sure that we give
7 the client their needs or whatever. But when I
8 first start working with Ms. Short I was staying in
9 the Saint Andrews Road area.

10 Q You were staying in the Saint Andrews Road area?

11 A Yes, ma'am, during the time I start working for
12 Ms. Short.

13 Q And that's where I was going. Where does Ms.
14 Short live?

15 A She stays in Columbia Anna Ridge that's in
16 Harbison.

17 Q In Harbison?

18 A Yes, ma'am.

19 Q And at that point you were staying at Saint
20 Andrews Road area, is that close proximity?

21 A Yes, ma'am, it was.

22 Q And at some point did you move to a different
23 part of town?

24 A Yes, ma'am, I did. Shortly after having the
25 twins we moved to the Park Lane area?

SW - M. MILLER - DIRECT

1 Q Why did you move?

2 A We moved because we need bigger space. It was
3 two more kids, you know, added to the family and the
4 place where I was staying, it was small so it was
5 just for, you know, bigger space.

6 Q And Park Lane as far as it's in relation to
7 Harbison, was that a good deal farther for you to
8 travel?

9 A Yes, it was.

10 Q And did you request to be changed away from
11 Ms. Short or did she make any requests?

12 A No, I didn't.

13 Q Did you stay with her?

14 A Yes, ma'am. After I came back off maternity
15 leave Ms. Short requested that I came back to her;
16 and you know, I had done, I had gotten close to
17 Ms. Short and so I went the extra mile to be with
18 Ms. Short.

19 Q From the tim **M.G.** was little up until February of
20 2011, what type of contact did Antwan Gaddist have
21 with you and your daughter?

22 A There was really no contact.

23 Q And in February that year did y'all make contact
24 again?

25 A Yes, ma'am, we did.

SW - M. MILLER - DIRECT

1 Q And what happened after y'all made contact in
2 February of 2011?

3 A After we made contact in February of 2011 I
4 helped Antwan, like, pull hisself together as far as
5 getting a job. I made sure, you know, took him to
6 help him better himself; I was there.

7 Q And at some point did your relationship become
8 personal again?

9 A Yes, it did.

10 Q Was he back active i **M.G.**'s life?

11 A At that short period of time, yes, ma'am.

12 Q And at some point did he move in with you?

13 A Yes, ma'am.

14 Q And do you remember exactly when that was?

15 A Sometime February.

16 Q Would he stay with you all the time?

17 A He would be back and forth between my home and
18 his mother's.

19 Q And his mother's?

20 A Yes, ma'am.

21 Q At the time did you have your children in day
22 care?

23 A Yes, ma'am, I did.

24 Q Did you always take them to day care?

25 A Yes, ma'am. When they were sick as far as colds,

SW - M. MILLER - DIRECT

1 I did not take them, I kept them home with me.

2 Q After Antwan had moved in did he sometimes agree
3 to help you out and keep the kids for you?

4 A Yes, ma'am, he did.

5 Q And did you comply with that?

6 A Yes, ma'am, I did.

7 Q Typically what hours of the day did you work?

8 A I would work anywhere from ten to two.

9 Q And Mr. Gaddist, what hours would he typically
10 work? Or did it just depend?

11 A It depended.

12 Q I want to turn your attention back to that
13 morning of May the 23rd, 2011. Who all had spent
14 the night into that morning at your house?

15 A Myself, the twins **M.G.**, and Antwan Gaddist.

16 Q And did you know where everyone was in the house
17 asleep that night?

18 A Yes, ma'am.

19 Q And where was everybody?

20 A **K.H.** was in the bed with her big siste **M.G.**.

21 Q Was that unusual?

22 A No. **K.H. 2**, he was in his room at the time. He
23 fell asleep with me and I laid him in his bed that
24 night.

25 Q The night before?

SW - M. MILLER - DIRECT

1 A Yes, ma'am. And I was in my room along with
2 Antwan Gaddist.

3 Q And approximately what time was it when you went
4 to sleep that night, do you remember?

5 A I want to say I was in bed no later than 11.

6 Q Your daughter M.G., how old was she at the time?

7 A She was 13.

8 Q And what time would she typically get up to go to
9 school?

10 A M.G. would get up between 6 and 6:30.

11 Q That morning did you wake up or M.G. went — how
12 did you get up the first time?

13 A M.G. actually came and woke me up and said, mom,
14 I'm about to leave, K.H. is in her bed, and I
15 gave her her bottle. And so I got up and checked on
16 K.H. and walked M.G. out the door 'cause I had to
17 lock the door behind M.G..

18 Q And approximately what time of night, do you
19 remember?

20 A No, ma'am, I don't.

21 Q Do you remember what time M.G. would have to be at
22 school?

23 A Yes, ma'am.

24 Q What time?

25 A 7:30 in the morning. By 7:30 she caught the bus

SW - M. MILLER - DIRECT

1 in the neighborhood.

2 Q You said that she indicate M.G. had given her a
3 bottle?

4 A Yes, ma'am.

5 Q And then you said you went and checked on her?

6 A Yes, ma'am.

7 Q Where wa K.H. when you checked on her that
8 morning?

9 A K.H. was i M.G.'s bed. If you're going in
10 the room and the bed is -- the headboard is facing
11 the back wall, K.H. was right there on the left
12 hand side of the bed asleep.

13 Q And she was asleep by the time you went back and
14 checked on her?

15 A Yes, ma'am, she was.

16 Q And was that unusual for her to go back to sleep
17 after she woke up with M.G.?

18 A No, ma'am, 'cause usually whe M.G. gets up she'll
19 get up with M.G.

20 Q Once you had checked o K.H. that morning
21 what else did you do? What did you do next?

22 A After I checked o K.H.?

23 Q Uh-huh.

24 A I walke M.G. to the door and locked the door.

25 Q Then what happened?

SW - M. MILLER - DIRECT

1 A Then I got back in the bed.

2 Q Did you go back to sleep?

3 A Yes, ma'am, I tried to get me in a couple more
4 hours of sleep.

5 Q And approximately what time was it when you woke
6 up again?

7 A I woke up again probably about 9:45.

8 Q Sometime ---

9 A Yeah, somewhere in there?

10 Q And when you woke up who all was still in the
11 house with you?

12 A It was myself **K. H. 2**, and Antwan.

13 Q And was Antwan already awake when you woke up or
14 was he still asleep?

15 A When I got up, I noticed that it was late.
16 Antwan also got up along with me.

17 Q And where wa **K. H. 2** at that point?

18 A At this point?

19 Q Uh-huh.

20 A As I got u **K. H. 2** got up shortly after I was up,
21 yes, ma'am.

22 Q And what was, di **K. H. 2** start doing after y'all
23 got up that morning?

24 A I went and I se **K. H. 2** down at the table and I
25 fed him a jelly and peanut butter sandwich. I went

SW - M. MILLER - DIRECT

1 and checked on K.H. before I left.

2 Q And where wa K.H.?

3 A She was still in the bed. I checked on her
4 before I left that morning to head out the door to
5 work.

6 Q And was that unusual for her to still be
7 sleeping?

8 A No, ma'am, it wasn't.

9 Q And when you went and checked on her what all did
10 you do prior to leaving her that morning?

11 A I went and I opened the door. I kissed her on
12 the head, and I left back out the door. I tried to
13 leave K.H. asleep. I didn't want to wake her so
14 I left her asleep.

15 Q As far as you could tell was she still breathing?

16 A Yes, ma'am, she was. As a mother, I always
17 check. I had two babies at one time so that was
18 like real fresh to me so I would look at my baby and
19 I would make sure that -- you can see when a child
20 is breathing so, yes, ma'am, she was still
21 breathing.

22 Q Did you notice anything at all?

23 A No, ma'am.

24 Q And approximately how long would it take you to
25 drive to Ms. Short's house?

SW - M. MILLER - DIRECT

1 A Depending on traffic I would say anywhere to 40
2 to 45 minutes.

3 Q And that day when you got to Ms. Short's house
4 what did you do?

5 A When I went to Ms. Short's house that day I have
6 a routine. I go in her room, check on her, get her
7 out the bed, if she's not already out the bed. I
8 make up her bed, clean the bathroom, then I work my
9 way from the back to the front.

10 Q Typically when working for CarePro is there a way
11 to check in so they would know when you were -- what
12 hours you're supposed to get paid for?

13 A Yes, ma'am.

14 Q And that day did you check in with them?

15 A Yes, ma'am, I did.

16 Q And how would you do that?

17 A I would pick up her house phone or her cell
18 phone, and I would dial this number that was given
19 to us to dial and I would put in my code. All the
20 employees had a certain code that they put in to
21 verify that they are there at whatever time. That's
22 how you get paid.

23 Q And you would have to use her phone to do that?

24 A Yes, ma'am.

25 Q And that's what you did that day?

SW - M. MILLER - DIRECT

1 A Yes, ma'am.

2 Q Once you got there did you start doing your
3 routine?

4 A Yes, ma'am, I did.

5 Q And some point did Ms. Short want you to sit down
6 and just kind of talk to her a little bit?

7 A Yes, ma'am.

8 Q And what happened then?

9 A At the time that I sat down and talked to Ms.
10 Short and I began to light my cigarette, I noticed
11 that I had two missed calls on my telephone.

12 Q And could you tell who the calls were from?

13 A Yes, ma'am, I could. They were from my house
14 phone.

15 Q And what happened next?

16 A Okay. So when I returned the call back, at this
17 time when I was, looked at my phone, it was like
18 five, ten minutes later. I called back.

19 Q Uh-huh. And did anybody ---

20 A Gaddist answered the phone.

21 Q Who did?

22 A Gaddist, Mr. Gaddist, answered the phone.

23 Q He answered the phone?

24 A Uh-huh.

25 Q And did you know why he was calling prior to

SW - M. MILLER - DIRECT

1 making that phone call back?

2 A No, ma'am, I didn't.

3 Q And when he answered the phone what, if anything,
4 did he say to you?

5 A I said hello. And he responded, baby -- and it
6 was like the way he said it, like, what's going on.
7 And that's when he told me that my daughter was no
8 longer breathing.

9 Q And when he said your daughter is no longer
10 breathing, did he say which daughter, what daughter?

11 A He said K.H. was not breathing. And at that
12 time when he told me my daughter was not breathing I
13 went into panic and shock and I hung up the phone.
14 I then told Ms. Short I needed to go because I had
15 gotten a call saying that my daughter was no longer
16 breathing.

17 Q Did he give you any other explanations?

18 A No, I didn't ask for any explanation at the time.

19 Q Okay. And what's going through your mind?

20 A Just like, a whole 'nother world. My baby is not
21 breathing so. At that time my baby's not breathing;
22 I went into shock. My baby is not breathing. It's
23 not normal for a child to not breathe. K.H. had
24 no sickness so why was she not breathing.

25 Q So you told Ms. Short you had to leave?

SW - M. MILLER - DIRECT

1 A Yes.

2 Q And what were you trying to do? What were you
3 trying to accomplish?

4 A Get home, get home to my baby.

5 Q So what did you do?

6 A I called 9-1-1.

7 Q Why did you call 9-1-1?

8 A I called 9-1-1 because where I was working at and
9 the distance that I stay, there was no way
10 possible -- I needed someone to get there
11 immediately to find out what's going on with my
12 baby. I needed someone to get there immediately. I
13 was too far.

14 Q Did you know if Mr. Gaddist had already called
15 9-1-1?

16 A No, I didn't.

17 Q You didn't know whether he had or not?

18 A No, I didn't.

19 Q But you called 9-1-1 ---

20 A Yes, ma'am, I did.

21 Q ---as soon as you got the news?

22 A Yes, ma'am.

23 Q And when you called 9-1-1 what information were
24 you trying to get? What were you trying to get them
25 to do?

SW - M. MILLER - DIRECT

1 A I was trying to get help to my daughter.

2 Q And what information were you trying to give
3 them?

4 A I let them know that I happened to receive a
5 phone call from Mr. Gaddist who was at home watching
6 my twins, that my baby girl was not breathing, and I
7 needed someone to get there.

8 Q And did you stay on the line with 9-1-1?

9 A Yeah, for a little bit, but then I hung up with
10 9-1-1 and I called my mother.

11 Q Why did you do that?

12 A I called my mother because I wanted as much as
13 help there as possible to find out what was going on
14 with my daughter because I knew it would be some
15 time before I get there, and I didn't even know if I
16 was going to make it before I got there in the time
17 to be with my baby.

18 Q So when you called your mother what did you get
19 her to do?

20 A I asked my mother to please go to my apartment
21 and check on my baby. My baby was not breathing.
22 Antwan Gaddist called me and told me that my baby
23 was no longer breathing.

24 Q Did you get to your apartment?

25 A As soon as I arrived on Park Lane and to make

SW - M. MILLER - DIRECT

1 that left, my mother was already, the EMS, and she
2 was waving me down to follow her to the Providence
3 Hospital.

4 Q And did you follow?

5 A Yes, ma'am, I did.

6 Q And once you got to the hospital what happened?

7 A I pulled up behind the EMS and I was instructed
8 that I could not see her, what I needed to do was go
9 in the hospital and fill out the paperwork.

10 Q And did you do that?

11 A Yes, ma'am, I did.

12 Q Why did you go fill out the paperwork?

13 A Because that's what I was instructed to do.

14 Q You wanted to help her?

15 A Yes, ma'am.

16 Q What happened next?

17 A After I filled out the paperwork they took me to
18 the back, and they set me down in this little room
19 and that's when an officer came in.

20 Q So the police responded?

21 A Yes. An officer came in and got information from
22 me, and I sit there and I waited. I was not allowed
23 to go and see my daughter at the time. From there
24 on out some hours later, I was able to go back
25 briefly; and once I seen my daughter, that was not

SW - M. MILLER - DIRECT

1 the same child that I left that morning. They then
2 transported K.H. [REDACTED] to Richland Memorial Hospital.
3 Got to Richland Memorial Hospital, I can't recall
4 the time. An officer then came up to Richland
5 Memorial Hospital and then another officer. I
6 talked to them for six or seven hours before I was
7 even able to see my daughter again.

8 Q You say when you saw your daughter at Providence
9 it wasn't the same child, what was different?

10 MS. PINNOCK: Objection.

11 THE COURT: I didn't hear what the
12 question was.

13 MS. CAMPBELL: She said that when she saw
14 her daughter it wasn't the same child she left that
15 morning. I asked her to describe what was
16 different.

17 THE COURT: Overruled.

18 MS. CAMPBELL: Thank you.

19 BY MS. CAMPBELL:

20 Q You can go ahead.

21 A Her face was swollen. Her head was swollen.

22 MS. PINNOCK: Objection, Your Honor.

23 THE COURT: Overruled.

24 BY MS. CAMPBELL:

25 Q Was she hooked up to any machines?

SW - M. MILLER - DIRECT

1 A Not at this point. When we got to Richland and I
2 was able to see her after seven-and-a-half hours, my
3 baby was hooked up to a bunch of tubes and a machine
4 that was breathing for her.

5 Q Once you gave the police the information they
6 asked for, what you knew, they allowed you to go
7 back and be with her?

8 A Yes.

9 Q And did you stay with her at the hospital?

10 A Yes, ma'am, I did.

11 Q At some point did you have to leave to go get
12 some clothes?

13 A Yes, ma'am, I did.

14 Q And do you remember exactly when that was?

15 A It was later on that evening. I want to say
16 possible 9 or 10:00.

17 Q Did Antwan ever come to Providence?

18 A No, ma'am.

19 Q Did he ever show up at Richland?

20 A Yes, ma'am, he did.

21 Q Did you talk to him?

22 A He came up along with me and the family. At this
23 point in time I really didn't know what was going
24 on. He got there shortly after. Investigators came
25 and pulled Antwan to the side.

SW - M. MILLER - DIRECT

1 Q So they were the ones talking?

2 A Yes, ma'am.

3 Q Later did you get back to the hospital to be with
4 the child?

5 A Did I?

6 Q Uh-huh.

7 A Yes, ma'am.

8 Q And at any point did you talk to Antwan about
9 what had happened that day during the course of that
10 moment?

11 A When he was at the hospital he acted so that he
12 did not know what was going on with K.H. . He
13 had no clue. She was walking around and he went to
14 go and feed her, and then from out of nowhere she
15 was no longer breathing. This is what he told me.

16 Q That she was walking around.

17 A Yes.

18 Q And he went to feed her.

19 A And she wasn't breathing anymore.

20 Q That's the story he told you?

21 A Yes, ma'am.

22 Q That night did you stay with your daughter at the
23 hospital?

24 A Yes, ma'am, I did.

25 Q And over the next day?

SW - M. MILLER - DIRECT

1 A Yes, ma'am, I did.

2 Q And the next day?

3 A Yes, ma'am, I did. I stayed with her till the
4 time that I held her and she was no longer here. I
5 did.

6 Q At some point did you become aware that Antwan
7 Gaddist was talking to the police the day after this
8 happened?

9 A Yes.

10 Q Did he make a phone call?

11 A Yes.

12 Q To you?

13 A Yes.

14 Q And where were you when you got that phone call,
15 do you remember?

16 A I was at the hospital. I had just actually woke
17 up and went downstairs to smoke a cigarette and
18 that's when I received a call from Richland County
19 Sheriff's Department with Antwan on the phone.

20 Q And was Antwan on the line?

21 A Yes, ma'am, he was.

22 Q And did you become aware that there was a
23 recording made of that phone call---

24 A I wasn't aware.

25 Q ---at the time?

SW - M. MILLER - DIRECT

1 A At the time.

2 Q But later did you become aware?

3 A Yes, ma'am, I did.

4 Q And have you had an opportunity to review that?

5 A A little, and I didn't hear the whole thing
6 because I couldn't take hearing how I responded at
7 that time not knowing what happened to my child.

8 Q And when you say you doesn't like hearing how you
9 responded at the time, what did you not know?

10 A What he did to my baby.

11 Q But as far as what you reviewed, it fairly and
12 accurately represents the conversation y'all had?

13 A Yeah.

14 MS. CAMPBELL: Your Honor, at this time
15 I'd offer State's Exhibit 1 into evidence.

16 MS. PINNOCK: Subject to our previous
17 objection, Your Honor.

18 THE COURT: All right.

19 MS. CAMPBELL: Permission to publish?

20 THE COURT: You may.

21 (WHEREUPON, State Exhibit No. 1 was
22 admitted into evidence and published
23 to the jury.)

24 BY MS. CAMPBELL:

25 Q That phone call, were you actually comprehending

SW - M. MILLER - DIRECT

1 what he was telling you?

2 A I don't believe I was.

3 Q At one point in that phone call you even say it
4 was your fault, why did you say that?

5 A I beat myself up for leaving my kids with someone
6 who I ---

7 MS. PINNOCK: Objection.

8 THE WITNESS: ---felt I could leave my
9 kids with.

10 MS. PINNOCK: Move to strike the record,
11 Your Honor.

12 BY MS. CAMPBELL:

13 Q Did DSS become involved with your family?

14 A Yes, ma'am.

15 Q And in fact, for some period of time did you
16 actually lose custody of your children?

17 A Yes, ma'am, I did.

18 Q Who had custody?

19 A My mother Maxine Scott.

20 Q And were you allowed visitation?

21 A Yes, ma'am, I was.

22 Q And what had to happen before you got your
23 children back?

24 A A guardian ad litem had came to my home several
25 occasions, pop up as they please, to find out what

SW - M. MILLER - DIRECT

1 type of living and mother I was to my kids and to
2 see, in fact, what type of mother I was.

3 Q And within a month or two I believe you got your
4 children back?

5 A It didn't last that long, within two to three
6 weeks.

7 Q Okay.

8 A I went to court and they had given me back
9 custody of my kids.

10 Q After that phone call, I believe it was on the
11 26th, they actually said that K.H. couldn't go
12 on any further?

13 A Yes, ma'am.

14 Q Did you and your family move back into that
15 apartment?

16 A No, ma'am.

17 Q Why not?

18 A I didn't stay there. There was no way I could
19 stay somewhere where my baby life was taken. I just
20 didn't stay there so I moved in with my mother until
21 I found another place to go.

22 MS. CAMPBELL: Beg the Court's indulgence.

23 BY MS. CAMPBELL:

24 Q The phone call that you received from the
25 defendant that we just heard?

1 A Uh-huh.

2 Q At that point wa K.H. still on life support?

3 A Yes, ma'am.

4 Q And it wasn't until, I believe, the next day or
5 two after that that they actually ---

6 A Yes, ma'am, too K.H. off of life support
7 because there was no more that they could do for
8 K.H.. She was completely gone. They had ran
9 several tests before she -- and she was brain dead.
10 She was no longer responsive to anything.

11 MS. CAMPBELL: Thank you. I don't have
12 anything further.

13 THE COURT: Defendant?

14 MS. PINNOCK: Please the Court, Your
15 Honor.

16 THE COURT: You need any water, Ms.
17 Miller?

18 THE WITNESS: I'm fine, thank you.

19 **CROSS-EXAMINATION**

20 BY MS. PINNOCK:

21 Q Ms. Miller, you said that you talked to law
22 enforcement for six or seven hours?

23 A Repeat the question again.

24 Q On May 23rd, 2011, you said you talked to law
25 enforcement for six or seven hours that day?

SW - M. MILLER - CROSS

- 1 A Correct.
- 2 Q Who did you talk to?
- 3 A I'm not sure of her name.
- 4 Q It was a female?
- 5 A Yes, ma'am, it was.
- 6 Q Would it be Investigator Scott?
- 7 A I can't recall.
- 8 Q Before you talked to Ms. Scott did she advise you
- 9 of your rights?
- 10 A Yes, she did.
- 11 Q Did you give her a statement?
- 12 A Did I give her a written statement?
- 13 Q Yes.
- 14 A I gave her a verbal statement.
- 15 Q Did she write it down?
- 16 A Yes, ma'am, she did.
- 17 Q Did you sign it when it was done?
- 18 A Yes, I did.
- 19 Q Indicating that's what y'all just talked about?
- 20 A Correct.
- 21 Q On May 23rd, 2011, you never told Ms. Scott that
- 22 you went into K.H. [REDACTED]'s room at 7:30, did you?
- 23 A You said -- repeat it again.
- 24 Q On May 23rd, 2011---
- 25 A Uh-huh.

1 Q ---you never told Investigator Scott that you
2 entered K.H. [REDACTED]'s room at 7:30, did you?

3 A I didn't tell her what time I entered K.H. [REDACTED]'s
4 room.

5 Q You didn't tell her that you woke up around 10 or
6 10:30?

7 A I don't recall.

8 Q Then you got dressed? You washed up and then
9 went and checked on K. H. 2 and K.H. [REDACTED]. You didn't
10 tell her that?

11 A Whatever she wrote down is what I told her.

12 Q So that would not be at 7:30, correct?

13 A Whatever she wrote down, that's what I told her.

14 Q You also didn't tell her that Antwan or anybody
15 had said that K.H. [REDACTED] was walking around all of a
16 sudden just fell out ---

17 A Whatever she said in the statement is what I told
18 her.

19 Q Okay. So you didn't tell her that?

20 A Whatever is in the statement is what I told her.

21 THE COURT: Ma'am, you need to answer the
22 question.

23 THE WITNESS: I don't know.

24 BY MS. PINNOCK:

25 Q Would you like to review your statement?

1 A No.

2 Q So you never told her she was walking, correct?

3 A No.

4 Q You never told her she was walking around, just
5 fell out and started not breathing?

6 A No.

7 Q And you said the first time you went to that room
8 was after you woke up at 10 or 10:30?

9 A No.

10 Q You didn't tell her?

11 A The first time I went t [K.H.]'s room [M.G.] and
12 [K.H.]'s room, was when [M.G.], before [M.G.] left out
13 to go to school that morning.

14 Q Right.

15 A That was initially the first time that I saw my
16 daughter that morning.

17 Q Okay. My question was, you didn't tell that to
18 Investigator Scott?

19 A I don't recall telling that to Investigator
20 Scott.

21 Q What time did you say you got to work?

22 A I don't remember.

23 Q Can you approximate?

24 A I was there by about 11:00.

25 Q By 11?

1 A Yes, ma'am.

2 Q You got up at 10 or 10:30?

3 A No, I said I ---

4 Q Would it be ---

5 A ---got up at 9:45 ---

6 THE COURT: Whoa, whoa, whoa.

7 THE WITNESS: I got up at 9:45 that
8 morning.

9 BY MS. PINNOCK:

10 Q Okay. And Antwan kept the twins that day, right?

11 A Correct.

12 Q Not the first time he kept them?

13 A No.

14 Q You told her four or five times?

15 A Possibly.

16 Q Okay. And one of the reasons you told
17 Investigator Scott you didn't take them to day care
18 is because you woke up too late?

19 A Yes.

20 Q Okay, because you said you had to have them at
21 day care by 9:00?

22 A Yes.

23 Q And that's Woods Wonderland?

24 A Yes.

25 Q And you're saying if your kids get there after

SW - M. MILLER - CROSS

1 9:00 you can't take them?

2 A It wouldn't be a problem, but I was running late
3 so Mr. Gaddist said that he would watch K.H. [REDACTED] and
4 K.H. 2 for me. He agreed to watch them so I left
5 them at home.

6 Q Okay. So you could have dropped them off after
7 9?

8 A I could have, but I was running late and he
9 agreed that he would watch them so I left them home.

10 Q But you told Investigator Scott you couldn't do
11 that, right?

12 A I don't recall what I told.

13 Q Do you recognize this, Ms. Miller? Is that the
14 statement you gave Investigator Scott on May 23rd?

15 A Yes.

16 Q That's your signature at the bottom of each page?

17 A Yes, it is.

18 Q Look on page 6 for me if you would, six out of
19 18.

20 A Uh-huh.

21 Q Towards the bottom, the last answer you gave.
22 You told Investigator Scott I didn't take them to
23 day care today because I got up too late. I would
24 have to have them there by 9 so I was too late.
25 That's what it says, right?

1 A Yes.

2 Q So that's the reason you told her you didn't take
3 them to school?

4 A Yes.

5 Q All right. And again, not the first time Antwan
6 had watched the kids?

7 A No.

8 Q If you had any problem with Antwan watching your
9 children you would have never left them there?

10 A Correct.

11 Q Four or five times before you never had a
12 problem?

13 A Correct, and I probably was just ---

14 Q And you had a daughter with him?

15 A Correct.

16 MS. CAMPBELL: Objection, she has a right
17 to finish.

18 THE COURT: Let her answer the question.

19 THE WITNESS: I never had Antwan to watch
20 them for more than an hour or two.

21 BY MS. PINNOCK:

22 Q You didn't tell her that either. You just said
23 he kept the kids four or five times, right?

24 A Yes, because that's what she asked, was that the
25 first time he kept my kids. I said, no, that was

SW - M. MILLER - CROSS

1 the first time he kept my kids.

2 Q How many doctors did you talk to?

3 A How many doctors did I talk to?

4 Q On May 23rd when you were at the hospital?

5 A Really, I didn't talk -- I can't tell you how
6 many doctors I talked to. I had just, you know, got
7 the information, the news about my child so,
8 therefore, I wasn't even comprehending, like,
9 anything that they -- I mean, I'm the mother of a
10 child that was no longer -- I left my child
11 breathing and gathered that she was no longer
12 breather so what state of mind would you be in.

13 Q How many doctors, you don't remember?

14 A I don't remember, ma'am.

15 Q Okay. And you only sat with Investigator Scott
16 for a couple of hours, but you were pretty much
17 being talked to by a number of people, we can say
18 that for sure?

19 A Correct.

20 Q All right. You also remember Investigator Scott
21 asking you if K.H. looked the same that she did
22 that morning at the hospital?

23 A Yes.

24 Q You told her that she looked the same; didn't
25 you?

1 A I don't recall what I said.

2 Q Okay. It's in your statement, Ms. Miller.

3 A Okay.

4 Q It's on page 16.

5 A Okay, that's fine.

6 Q Okay, so you said she looked the same. You never
7 mentioned swelling, correct?

8 A I don't know.

9 Q Okay. Can we agree that it's probably not in
10 there?

11 A It may be; it may be not.

12 Q You mentioned you worked for CarePro, correct?

13 A Yes.

14 Q You take care of other peoples' houses?

15 A (No response.)

16 MS. PINNOCK: Beg the Court's indulgence.

17 THE COURT: All right, Ms. Pinnock, let's
18 move it.

19 MS. PINNOCK: One second, Your Honor.

20 THE COURT: No, ma'am, let's do it now.

21 MS. PINNOCK: Thank you, Judge.

22 BY MS. PINNOCK:

23 Q As part of CarePro, your employment, you said
24 that you clean up peoples' houses? You help them
25 out, people who need help, do housework?

SW - M. MILLER - CROSS

1 A I also take care of them.

2 Q Right.

3 A And they need to eat. If they cannot feed
4 themselves, I put a spoon to their mouth. If they
5 cannot use the restroom on their own, I help occupy
6 them to the restroom. So it's just not about clean.

7 Q You said you created a relationship outside of
8 work. Well, a lot of it in work, but also outside
9 work with Ms. Short, correct?

10 A I never stated that.

11 Q You have a pretty close relationship with her?

12 A Yes.

13 Q Okay. And you lived in apartmen ■4; is that
14 correct?

15 A I did.

16 Q Do you recognize that picture, Ms. Miller?

17 A Ma'am?

18 Q Do you recognize that picture?

19 A Yes.

20 Q What is that a picture of?

21 A That's a picture of a bed.

22 Q Whose bed?

23 A Sheets, floor, that' K.H. 2's an K.H. ■'s
24 bed.

25 Q K.H. 2 an K.H. ■'s bed? That's a picture from

1 inside your house?

2 A Yes.

3 Q On May 23rd, 2011?

4 A I'm not sure that's the way it looked on May
5 23rd, 2007.

6 Q 2011.

7 A '11.

8 Q Okay. Do you recognize this picture?

9 A Yes.

10 Q What is this? Is this -- what does this picture
11 show?

12 A It shows assorted toys on the floor.

13 Q Is that your kids' room?

14 A That's not actually where they sleep on an
15 everyday basis, but that's their room.

16 Q That's not where they sleep?

17 A No, it's not.

18 MS. PINNOCK: Your Honor, I'm sorry, I
19 think I forgot to mark it. Mark this for Defense
20 Exhibit 1 for I.D. purposes only.

21 (WHEREUPON, Defendant Exhibit Nos. 1
22 through 21 were marked for identification
23 only.)

24 BY MS. PINNOCK:

25 Q Ms. Miller, I'm also gonna show you what's been

SW - M. MILLER - CROSS

1 previously been marked as Defense 2, 3, 4 and 5.

2 Can you please take a look at these pictures. What
3 are those pictures of?

4 A Those are pictures o [REDACTED] an [REDACTED]'s
5 bedroom ---

6 Q Uh-huh.

7 A ---which they eat and they play in.

8 Q Okay, but this would be their bedroom?

9 A Yes, ma'am.

10 Q That would be -- this is the bed they would have
11 shared in May of 2011?

12 A That's their bedroom. The bed is there, but they
13 usually sleep in the bed with me or the sister.

14 Q Okay. But this ---

15 A That's their play room. That's their bedroom,
16 correct.

17 Q This ---

18 A That's their bedroom, okay. That's their
19 bedroom. That's their toys on the floor. That's
20 their bedroom.

21 Q Ms. Miller, do these accurately depict the way
22 the room ---

23 A Yes.

24 Q ---looked like in May?

25 A Yes, ma'am, uh-huh.

1 MS. PINNOCK: Your Honor, at this time I
2 would introduce Defense Exhibit 2, 3, 4 and 5 in
3 evidence.

4 MS. CAMPBELL: I just don't know what they
5 are if you'd like ---

6 MS. PINNOCK: I'm sorry.

7 MS. CAMPBELL: No objection.

8 THE COURT: So admitted.

9 (WHEREUPON, Defendant Exhibits Nos. 2
10 through 5 were admitted into evidence.)

11 BY MS. PINNOCK:

12 Q Ms. Miller, Defense Exhibit 2, you said that's a
13 picture of the bed that your children shared back in
14 May of 2011, correct?

15 A I said that's their bedroom. That's where they
16 play and eat. You see toys on the floor. That's
17 their bedroom.

18 Q Yes, ma'am, on May 23---

19 A They were babies. I kept an eye on my babies at
20 night. They're not in a room alone by themselves.

21 Q Yes, ma'am. On May 23rd, 2011, you sai **K.H. 2**
22 slept in that room, correct?

23 A That's where I pu **K.H. 2** asleep at.

24 Q Yes, he slept there?

25 A Yes.

SW - M. MILLER - REDIRECT

1 Q Okay. In that bed?

2 A Yes.

3 Q Because you -- and you put him there?

4 A Yes.

5 Q Okay.

6 MS. PINNOCK: Beg the Court's indulgence.

7 BY MS. PINNOCK:

8 Q Ms. Miller, do you recall how muc [K.H.] and
9 [K.H. 2] weighed when they were nine months old?

10 A No, ma'am, I don't.

11 Q Do you recall what, how much they weighed when
12 they were born?

13 A Four pounds and five pounds, not to be exact.

14 Q Do you recall how muc [K.H.] weighed when she
15 was admitted to the hospital?

16 A No.

17 MS. PINNOCK: I have nothing further, Your
18 Honor.

19 THE COURT: Any redirect?

20 MS. CAMPBELL: Just briefly.

21 **REDIRECT EXAMINATION**

22 BY MS. CAMPBELL:

23 Q Ms. Miller, when she asked you about whether or
24 not you told Ms. Scott about the information Antwan
25 had given you about the baby getting up and tried to

1 feed her and then she didn't breathe?

2 A Uh-huh.

3 Q You didn't talk to Antwan till after you gave the
4 statement, did you?

5 A Yeah, I didn't talk to him until after I gave the
6 statement.

7 Q Thank you.

8 THE COURT: All right, thank you, ma'am.
9 You may step down.

10 Ladies and gentlemen we're gonna go ahead
11 and recess for the afternoon. I'm gonna ask you to
12 be back here tomorrow morning. We'll start at 9:30.
13 Please do not discuss this case while you're gone.
14 Do not do any investigation, make any inquiries.
15 Don't get on the computer. Don't read anything if
16 there's anything in the newspaper, anything on TV,
17 make sure you don't read it, don't watch it, or
18 don't listen to it. We've invested the day, don't
19 want to do anything to jeopardize in trial. Again,
20 don't talk to anybody else outside the courtroom
21 when you go home tonight before you come in tomorrow
22 so. Y'all have a nice evening. We'll see you. Be
23 ready to go at 9:30 and be on time.

24 (WHEREUPON, the jury was removed from the
25 courtroom at 5:07 p.m., and the following

1 proceedings commenced in open court.)

2 THE COURT: All right, folks, we will come
3 back tomorrow morning.

4 MS. MCDUFFIE: For scheduling purposes I
5 know you said you had a meeting at 3.

6 THE COURT: That's tentative. I'll have
7 to leave tomorrow afternoon.

8 MS. MCDUFFIE: Thank you, Judge.

9 THE COURT: Y'all have a nice evening.
10 See you tomorrow.

11 (WHEREUPON, the proceedings were concluded
12 for the day to be reconvened on February
13 4, 2014.)

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

16 MS. MCDUFFIE: Defense counsel this
17 morning gave me what they're requesting we sign
18 prior to getting the testing that's required to be
19 disclosed under Rule 5, part of the order that
20 they're saying that we have to sign before they'll
21 turn it over to us is that the data and the testing
22 cannot be made part of any public record, and we
23 can't agree to that.

24 THE COURT: I don't know what that means.
25 How would it be made a part of the public record?

1 MR. STAGGS: Your Honor, can I supply you
2 with a copy of the order?

3 THE COURT: That's fine.

4 MS. MCDUFFIE: Your Honor, I think we
5 would have a right to question about testing.

6 THE COURT: I mean, the report is not
7 admissible in my opinion. If it's something that
8 the expert was using for purposes of formulating
9 report itself, I mean, he could rely on it and
10 testify. He could rely on it and cross-examine him,
11 and he could rely on it and showing it to your
12 expert to see; but how is it gonna be made a public
13 record?

14 MS. MCDUFFIE: Your Honor, I'm not saying
15 that the actual raw data itself, but the document
16 would be made public record but questions will be
17 asked that, I mean.

18 THE COURT: Well, you can clearly ask
19 questions about -- y'all are just asking that the
20 report itself not be ---

21 MR. STAGGS: That's exactly right, Your
22 Honor. We're just asking that the raw data that
23 hasn't been supplied to us yet but will be pursuant
24 to this not be entered into evidence.

25 THE COURT: Well, oftentimes if

1 information is given pursuant to a confidentiality
2 order, which means that you can use it, people in
3 your office can use it, people that you are
4 employing to assist you in this case can use it; but
5 it's not to be disseminated to anybody else. And
6 ---

7 MS. MCDUFFIE: Your Honor, as long as
8 we're allowed to question him about the underlying
9 data, we have no objection.

10 THE COURT: I mean, I'm not gonna tell you
11 they're not going to object to something, but I'll
12 have to rule on that at the time; but clearly the
13 information is accessible use for whatever purposes
14 you want. The report itself will not be made, will
15 not be public, and it will be -- I mean, I don't
16 know whether this is a confidentiality order. Is
17 that basically what it is?

18 MR. STAGGS: Yes, Your Honor, it's a
19 protective order and confidentiality order.

20 THE COURT: I mean, it's, I don't want you
21 to disseminate it to anybody other than the people
22 that it's, as needed for your purposes, which would
23 be you, your colleagues, counsel, your staff. I
24 mean, if you have paralegals, things of that nature,
25 and people that would need that order in order to

1 assist you in presenting whatever evidence that you
2 want or in assist you in preparing you to
3 cross-examine the defendant.

4 MS. MCDUFFIE: Yes, Your Honor.

5 THE COURT: That will be a limitation and
6 it will not be -- this report will not be
7 disseminated to anybody else.

8 MS. MCDUFFIE: Your Honor, as long as
9 we're clear that we can ask questions about
10 underlying data, we have no objection.

11 MR. STAGGS: Your Honor, I have one bit of
12 housekeeping matter I'd like to take up. It's my
13 understanding that this is a bit of a novel idea,
14 but I'd like to request on the record that opposing
15 counsel furnish these overnight before, sort of a
16 proposed or anticipated witness schedule for the day
17 before. We're certainly willing to do that,
18 provided that the Solicitor's Office will be willing
19 to do that. I think that's professional ---

20 THE COURT: Any objection to that? I
21 mean, it would not be ---

22 MR. STAGGS: It's not binding.

23 THE COURT: It's not hard and fast. It's
24 just courtesy so you both have some understanding
25 what the State or Defense is going to put up the

1 next day. You want to change it, you don't call
2 somebody that day you call them the next day.

3 MS. CAMPBELL: We don't have any objection
4 to that.

5 THE COURT: All right.

6 MR. STAGGS: Thank you, Your Honor.

7 THE COURT: When do y'all want to exchange
8 whatever that is?

9 MR. STAGGS: By 6:00 in the evening.

10 THE COURT: Well, I don't know, I mean, we
11 may not finish in time. How about within an hour
12 after we adjourn for the evening?

13 MR. STAGGS: That will be perfectly grand.

14 THE COURT: Is that all right, Ms.
15 McDuffie?

16 MS. MCDUFFIE: Yes, Your Honor.

17 THE COURT: All right, Mr. Staggs?

18 MR. STAGGS: Absolutely.

19 THE COURT: All right, let's not use this
20 as some sort of camouflage by you give them a list
21 on Monday that says we're gonna have these proposed
22 witnesses and you don't call one of them.

23 MR. STAGGS: Absolutely not. That's not
24 my intention at all.

25 THE COURT: I mean, I understand that

1 y'all may have to make adjustments over the course
2 of the trial and there may be people and the sooner
3 that you know that, but there's just no reason y'all
4 can't communicate.

5 MR. STAGGS: That was my feeling too.

6 THE COURT: In this case and any case that
7 you have. Please confirm.

8 MR. STAGGS: My feeling too, Your Honor.
9 Thank you.

10 THE COURT: You don't bind yourselves, but
11 it does help. And I tell you what, I would like to
12 get a copy of whatever you have so I can have some
13 idea what we're gonna do.

14 MR. STAGGS: Okay.

15 THE COURT: All right.

16 MR. STAGGS: Just send a copy to your
17 clerk, exchange email, something like that?

18 THE COURT: That will be good.

19 MR. STAGGS: All right, thank you.

20 THE COURT: All right. Y'all ready to go,
21 Ms. McDuffie?

22 MS. MCDUFFIE: Yes, Your Honor.

23 THE COURT: Y'all ready to go, Defense?

24 MR. STAGGS: Yes, Your Honor.

25 THE COURT: Let's bring the jury in if you

1 could.

2 MS. PINNOCK: Judge, if we could, if you
3 wouldn't mind signing that order so we can send it
4 to the doctor so he can...

5 (WHEREUPON, the jury was returned to the
6 courtroom at approximately 9:35 a.m.,
7 and the following proceedings commenced
8 in open court.)

9 THE COURT: Good morning, ladies and
10 gentlemen, hope you had a nice evening last night.
11 And as you recall, when we broke yesterday the State
12 is in the process of putting up its evidence in its
13 case in chief; but before we begin I've got several
14 things I want to ask you. First of all, has anybody
15 had any conversation about this case? Have you been
16 approached by anyone to discuss this case since we
17 left yesterday afternoon?

18 (There was no response.)

19 THE COURT: Anybody read anything about
20 this case, watch anything about it on television,
21 hear anything about it on the radio, get on the
22 internet, do any investigation or inquiry about the
23 case since we left?

24 THE POTENTIAL JUROR: I saw a headline
25 when I opened the paper, but I didn't read it. It

SW - J. ELLER - DIRECT

1 was in the metro section.

2 THE COURT: All right, the fact that you
3 saw something in the paper, did that — you say you
4 did not read it, but did that affect your ability to
5 be fair and impartial in this case?

6 THE POTENTIAL JUROR: No, sir.

7 THE COURT: All right. You ready to
8 proceed, Ms. Campbell?

9 MS. CAMPBELL: Yes, sir. If it please the
10 Court, the State calls Jacob Eller.

11 THE CLERK: Place your left hand on the
12 Bible, raise your right hand.

13 WHEREUPON,

14 **JACOB P. ELLER,**
15 having been duly sworn by the Clerk, testified as
16 follows:

17 THE CLERK: Thank you. Please have a seat
18 in the witness stand. State your full name for the
19 record and please spell your last name.

20 THE WITNESS: Okay. My name is Jacob Paul
21 Eller, last name, E-L-L-E-R.

22 **DIRECT EXAMINATION**

23 BY MS. CAMPBELL:

24 Q Jacob, you're gonna have to speak up because for
25 some reason the microphone doesn't work. Mr. Eller,

SW - J. ELLER - DIRECT

1 where are you employed?

2 A With the city of Columbia, Richland County Fire
3 Department.

4 Q And how long have you been with the fire
5 department, sir?

6 A A little over six years.

7 Q What do your duties at the fire department
8 include?

9 A I am fire equipment operator.

10 Q And as a fire equipment operator do you have
11 occasions to respond to emergency situations?

12 A Yes.

13 Q And typically on an emergency situation such as
14 when a 9-1-1 call goes out, does your department
15 respond?

16 A Yes.

17 Q In addition to your department responding
18 typically, who else responds in an emergency
19 situation?

20 A EMS, law enforcement, depending on the call.

21 Q Depending on the call?

22 A Different agencies.

23 Q And what is typically your role when you respond
24 to an emergency, like an emergency call, say if
25 someone has been injured?

SW - J. ELLER - DIRECT

1 A My role is to write down the address, write down
2 the channel that we're going to be operating on to
3 look up the address, and then I get in my vehicle,
4 start it up and get us safely and efficiently to the
5 scene.

6 Q Okay. And you are there to assist anyone in the
7 emergency situation to whatever degree you need to?

8 A Correct.

9 Q And I want to turn your attention back to May
10 the 23rd, 2011. Were you working that day?

11 A Yes, ma'am.

12 Q And did y'all receive a dispatch that day
13 involving a child that had been injured?

14 A Yes. I don't remember how it came out as I
15 believe it was an infant cardiac arrest is what it
16 came out on the radio, but...

17 Q An infant cardiac arrest, what does that mean to
18 you? Can you put that in layman's terms.

19 A To me a cardiac arrest means that the heart
20 stopped.

21 Q And did you and other firemen respond that day?

22 A Yes, ma'am.

23 Q And how do you get the information to know where
24 to go? How exactly do y'all ---

25 A From our 9-1-1 dispatcher. They phone out the

SW - J. ELLER - DIRECT

1 appropriate station and then they relay the
2 information and wait for us to go in route.

3 Q Do you remember approximately what time of day
4 this was?

5 A I do not.

6 Q Was it during the daytime?

7 A It was during the daytime.

8 Q Once you had received the information did you and
9 other firefighters then respond to a scene?

10 A Yes.

11 Q And tell the jury what happened when y'all
12 responded?

13 A From the get-go from when ---

14 Q From the get-go.

15 A Okay. So we're in the station, normally I'm on
16 the ladder truck, I drive the ladder truck. The
17 engine was out of service. They normally handle the
18 medical calls in our area. Well, my captain
19 overheard a neighboring engine get toned out for the
20 medical call at the location. And what they do is,
21 since our engine isn't there, they'll tone out the
22 next engine. But my captain told me about it.
23 Dispatch, you know, toned out the station. We
24 started that way responding.

25 Q When you say toned out, what does that mean?

SW - J. ELLER - DIRECT

1 A The alarm in the station activates and then they
2 tell us what we're going to, what we have. They
3 tell us the address and they tell us map bridge. So
4 I have a map book, I open it up and see exactly
5 where we're going. It happened to be a street --
6 there are several apartment complexes on that
7 street. So I don't know the name of the apartments
8 off the top of my head, but the apartment they gave
9 us was the apartment after the correct ones.

10 Q The apartment complex after ---

11 A The apartment complex after the correct ones. So
12 if you're turning down the road, you have the
13 correct apartment complex is the first one on the
14 left. Then you have the one that they dispatched
15 us; they gave us that name. And then you have
16 another one or two apartment complexes towards the
17 end. So we're going to emergency, turn down the
18 road. When we turn in the apartment complex that
19 they gave us, as soon as we're driving inside I know
20 that we have a problem because those apartment
21 complexes are numbered -- or are alpha numerically
22 so it's A-1, -2, -3, -4, or B-1, -2, -3, -4, -5, -6,
23 whatever it may be. And the apartment we got was
24 just a number. So I knew off the bat that something
25 was wrong, and it's not uncommon to get a wrong

SW - J. ELLER - DIRECT

1 apartment number or a wrong apartments so I told my
2 captain. My captain relayed that to 9-1-1. And we
3 asked them that if we have the wrong number to have
4 someone come out and flag us down, or you know,
5 whatever they may do. So we're driving in the
6 argument complex looking for someone to wave us
7 down, and they come back and tell us the correct
8 apartment complex.

9 Q And who tells you the correct apartment?

10 A The 9-1-1 dispatcher over the radio tells us the
11 correct apartment complex.

12 Q At that point what do you do?

13 A So I need to find a place to turn around this
14 huge ladder truck. So we get to a turning area
15 where I can turn around. I have one of my firemen
16 back me up. I turn around in that area. We go back
17 out and we go into the correct apartment complex
18 going to the corrected building, and we see EMS
19 already parked in front of the building. So we come
20 around. I pull up behind him but enough room where
21 they can open the back doors, get all their
22 equipment out and everything.

23 And normally how our truck works, the
24 apparatus operator, once I get off, you know, I make
25 sure the truck is secured and I will assist the

SW - J. ELLER - DIRECT

1 fireman. Our medical gear is in the back of the
2 fireman. One fireman normally controls the med bag,
3 the gear. Another one is going to assist him in the
4 patient assessment. The captain is in charge
5 overall the scene and relays to central, our 9-1-1
6 dispatcher, what we have. And after this fire truck
7 is secure I fall in line with whatever they may be,
8 whether it's, you know, jotting down information, or
9 if it's a bad call assisting them, whatever they may
10 have. So I get out of the truck, secure the truck.
11 I have a fanny bag that I keep, you know, my gloves,
12 my eye wear and everything in because on most calls
13 I'm just writing down information because all those
14 guys have everything handled. So I grab my bag and
15 I start going up the stairs when I notice that the
16 building number that she corrected herself with is
17 the wrong number than where we're at. In a normal
18 apartment complex, usually when they give you an
19 apartment number the first number is the building
20 number. The second number is normally the floor,
21 and then the next number is going to be like the
22 apartment on that floor.

23 So my captain and EMS were on the bottom
24 were having some disagreement about which apartment
25 it was. I started following my firemen with the

SW - J. ELLER - DIRECT

1 equipment up the stairs, and I was telling them the
2 whole time I'm not sure if this is the right
3 apartment, but I figured maybe since they gave us
4 the wrong apartment complex that they also might
5 have gave us the wrong building number and maybe EMS
6 had it right since they were at the right apartment
7 complex from the getgo.

8 So I proceeded to the correct floor and the
9 correct apartment indicating by the two last
10 numbers. And as I started going up the stairs is
11 where I heard my captain just yelling that he saw
12 someone across the way. I looked across the way and
13 I could make out someone waving their arms and
14 yelling.

15 Q Uh-huh.

16 A So I told my firemen let's go to the other
17 apartment. We started heading down. I didn't
18 realize that my firemen with all the medical
19 equipment stopped and started helping EMS out. I
20 thought he was right behind us the whole time when I
21 told him let's go. So I'm following my captain who
22 is also following the gentleman who is flagging us
23 down. We follow him to the top of the stairs is
24 when I realized, you know, -- 'cause we're going up
25 the stairs, you can hear the footsteps -- I can

SW - J. ELLER - DIRECT

1 realize that my firemen are not behind me. It's not
2 until we're already, you know, at almost at the top
3 floor of the apartments; otherwise, you know, I
4 would have just grabbed the medical equipment and
5 brought it with me. So we're at the top, I have my
6 bag, you know. So I'm getting my eye wear, got my
7 gloves on when we get to the top floor. And as soon
8 as we go to the doorway I see the gentleman just
9 point at the infant laying on the ground, was laying
10 as I can recall, face up supine on the floor right
11 in the doorway. And my captain said let's go, let's
12 go. And it was obviously unconscious, not moving.
13 So not, you know, not having any kind of airway
14 supplies which is very important with children and
15 infants or anything, my thinking is we can't give
16 this child care where we're at here. And for every
17 minute that CPR and defibrillation isn't
18 administered, it dramatically reduces life
19 expectancy chances. So I position my arms, slid it
20 underneath the child to cradle behind its back and
21 cradle its head, and I secured it with my right arm.
22 And my captain started going down, and I started
23 going down the stairs. And I held the child up to
24 my ear securing it trying to listen for any kind of
25 breath sounds and do any kind of assessment, if I

SW - J. ELLER - DIRECT

1 could, on the way down the stairs.

2 Q And what was your assessment of the child's
3 condition from when you first came in contact with
4 it? Were there any breath sounds?

5 A I didn't -- when I was going down the stairs I
6 thought I heard a little bit of a gurgling noise.
7 Whether that was because I was going down the stairs
8 or not, I don't know; but when I got to the bottom
9 of the stairs I met up with EMS. They were pulling
10 up the stretcher, and one of my firemen. So I told
11 the EMS worker that I needed a bag valve mask or BVM
12 and a OPA, oropharyngeal way, you know, for the
13 tongue when you do that. And the EMS worker told me
14 to put the baby on to the stretcher. I positioned
15 the baby on the stretcher, and that's where she
16 directed my firemen to do compressions. Well, my
17 firemen was doing compressions my captain was to my
18 right side. The EMS worker was going through her
19 bag trying to find it. My other fireman came up to
20 me; I asked him where our equipment was. He said it
21 was back at the truck. I told him to go back, I
22 told him to go back to the truck and get our
23 equipment. So he takes off back to the truck. And
24 the EMS worker that was going through the bag I
25 guess couldn't find the equipment, stands up and put

SW - J. ELLER - DIRECT

1 her, puts her hands up.

2 So in the meantime I tell, I tell them that
3 we need a backboard for the child and the next thing
4 I know they start wheeling the child away. They
5 secured the child in the ambulance and then they
6 drove off from there.

7 Q So at that point that was the extent of your
8 contact with this child?

9 A Yes.

10 Q And again, can you describe to the jury what her
11 appearance was like and what her condition was when
12 you first saw her lying there on the floor?

13 A When I first saw her lying on the floor she was
14 unconscious and not moving.

15 Q And as you tried to check for signs, breath signs
16 and breathing signs as you were going down the
17 stairs, what was the only thing that you noticed as
18 you were going down the stairs? You mentioned it
19 earlier.

20 A I just heard a little bit of like a gurgling
21 noise.

22 Q A gurgling noise?

23 A Yeah.

24 Q And once you turned the child over to EMS
25 basically they took over administering to this

SW - J. ELLER - DIRECT

1 child?

2 A Correct.

3 Q And you had no further contact?

4 A No further contact.

5 Q And do you know what, if any -- I guess you
6 wouldn't know, what if any, care they gave the child
7 once you turned her over?

8 A No clue.

9 Q And again, can you describe to the jury how you
10 carried the child down the stairs?

11 A Yes. I had my right arm positioned underneath
12 the child across its back and my hand supporting its
13 head. And I had my left hand securing the child on
14 to my arm and supporting it, and then I had the
15 child just -- my head down up to the child's mouth
16 going down the stairs.

17 Q And can you describe briefly how you actually
18 turned the child over to the EMS workers.

19 A Yes. When I came to the bottom of the stairs
20 they had the stretcher there so I brought my right
21 arm down to the stretcher and slowly slipped my
22 right arm back out from underneath the child.

23 Q And so this jury understands, was all this
24 happening pretty quickly?

25 A Yes.

SW - J. ELLER - DIRECT

1 Q And in fact, were you trying to get this child
2 aid as quickly as possible?

3 A Exactly.

4 Q So would you say you were moving fast?

5 A I would say so.

6 Q I'm gonna show you what's been marked State's
7 Exhibit 3 and first ask, do you recognize this?

8 A It's a layout of the apartment complex.

9 MS. CAMPBELL: Your Honor, at this time
10 I'd offer State's Exhibit 3 into evidence.

11 MR. STAGGS: No objection, Your Honor.

12 THE COURT: All right, so admitted.

13 (WHEREUPON, State Exhibit No. 3
14 was admitted into evidence.)

15 MS. CAMPBELL: Your Honor, may the witness
16 step down.

17 THE COURT: He may. Only think I ask, if
18 you would get on this side and face back to the
19 court reporter so your voice will carry towards her.

20 MS. CAMPBELL: Thank you, Your Honor. If
21 I may, am I blocking you?

22 THE COURT: You're probably not going to
23 show me the picture anyway.

24 BY MS. CAMPBELL:

25 Q Which apartment complex does this show, sir?

SW - J. ELLER - DIRECT

1 A It shows the correct apartment complex.

2 Q When you say correct, that's where you actually
3 find the child in distress?

4 A Correct.

5 Q And the area, roads that you turn down, you
6 mentioned a second apartment complex. Does that
7 show that road?

8 A Right, that is right after it.

9 Q Okay. And where would the complex you went to
10 first, where would that be located even though it's
11 not on this map? Would it be in this area?

12 A Yes.

13 Q Further down this road?

14 A This is actually the start of the complex, this
15 road right here. This is the main road. You have
16 one apartment complex here, a second one, and then
17 there's additional apartment complexes after it.

18 Q And once you got the correct information and
19 entered into this complex, where did you initially
20 go?

21 A We came around the apartment complex here. We
22 driving cut to the left we could see EMS across the
23 way so we swung around and parked behind EMS.

24 Q And where was the man located that you ultimately
25 saw waving his arms and that you went over to that.

1 area?

2 A He was in the area of his apartment complex in
3 there. It's hard to tell, but like, I was on the
4 second to third floor already of the apartments
5 across the street so we were on this left side and
6 the correct apartment complex was on the right side.

7 Q And ultimately where was the apartment that you
8 went to and found the child approximately?

9 A Approximately in this area.

10 Q And what floor was it on?

11 A Top floor.

12 Q Top floor. And there were actually three floors?

13 A Yes.

14 Q And this just shows a different -- that area?

15 A Right.

16 Q During the time you had the baby in your care and
17 transported it down the stairs, did you do anything
18 to harm that child?

19 A No.

20 Q Thank you, sir. I have nothing further.

21 MR. STAGGS: Thank you, Your Honor.

22 **CROSS-EXAMINATION**

23 BY MR. STAGGS:

24 Q Fireman Eller, what's your title?

25 A Fire equipment.

SW - J. ELLER - CROSS

1 Q Fire equipment?

2 A Operator alert.

3 Q Fire equipment operator alert.

4 A Or engineer.

5 Q Engineer. You told Ms. Campbell ---

6 A That's easier.

7 Q ---Campbell you've been on the Columbia Richland
8 County Fire Department for six years. You've been
9 on the ladder the whole time?

10 A No.

11 Q No? Have you been operator the whole time?

12 A No.

13 Q Okay. How long have you worked with Captain
14 Cosola?

15 A I don't know exact -- I would say approximately
16 two to three years.

17 Q And do you still work with Captain Cosola?

18 A No, I've been promoted. Since I was a senior
19 fireman at the time which means I could be a fireman
20 or drive, and since then I've promoted to the fire
21 equipment operator.

22 Q All right.

23 A So I'm at a new station.

24 Q So you're a full-time driver now?

25 A Right.

1 Q Full-time operator of the equipment?

2 A Correct.

3 Q And I heard you say that you were driving a big
4 rig that day ---

5 A Yes, big.

6 Q ---on May 23rd. And was that the normal -- I was
7 curious, you said one engine was toned out and then
8 Captain Cosola realized that you guys should go. I
9 didn't understand why if another fire department or
10 another crew had been dispatched how did you wind up
11 there?

12 A Because we are -- we were closer as our first in
13 area so to say.

14 Q Okay.

15 A So what we do is we won't necessary -- it's not
16 that we will cancel someone, but we will also go to
17 and it's whoever gets there first ---

18 Q Okay.

19 A ---takes the call.

20 Q So dispatch was a little bit confused already.
21 They ---

22 A Right.

23 Q ---dispatched the wrong crew. And then you said
24 you went to the wrong apartment complex; but you
25 were following the orders of your dispatch, right?

SW - J. ELLER - CROSS

1 A Right, they gave us ---

2 Q You went where they told you to go?

3 A Exactly.

4 Q All right. And then you found the right complex
5 by locating the EMS man?

6 A By them giving us the correct apartment complex.

7 Q Okay.

8 A After we'd been in the wrong one.

9 Q Okay. Let me ask you this, when you found the
10 correct complex did your dispatch also tell you
11 where the right building was?

12 A She -- yeah, they relayed us, yeah, the correct
13 apartment and correct building.

14 Q So you had the correct address but you pulled up
15 behind the EMS man?

16 A Yes.

17 Q Followed them, okay. All right. Let me ask you,
18 you're first responder certified, right?

19 A Right.

20 Q And you were at that time in May of 2011?

21 A Correct.

22 Q And you know that there's protocol?

23 A Okay.

24 Q Well, you know that, right? You've had the
25 training. You understand, ---

1 A Right.

2 Q ---had the training?

3 A Yes.

4 Q Can you tell the jury what the first part of the
5 protocol is?

6 A First part of the protocol is to ---

7 Q Assess the scene, isn't it?

8 A Right.

9 Q And make sure it's a safe scene?

10 A Right.

11 Q Second part is to get consent, isn't it,---

12 A Uh-huh.

13 Q ---to treat? Neither one of those things
14 happened in this case?

15 A They did.

16 Q They did?

17 A They did.

18 Q Okay.

19 A Well, for one we take -- it's all risk versus
20 reward, right? So yes, you assess the scene. But
21 just like a fire, a fire is dangerous to go inside
22 but if there's someone inside we go for them. We go
23 in after them. And as far as ---

24 Q But this isn't a fire. This is not a fire.

25 You're going into an apartment where there are

SW - J. ELLER - CROSS

1 people in the apartment. You told Investigator Seel
2 that there were people in that apartment when you
3 entered it, right?

4 A I don't think ---

5 Q Adults, right? Okay. And you never spoke to
6 those adults, did you?

7 A No.

8 Q Okay. And so you didn't really know what was
9 going on, you didn't assess the scene?

10 A I knew ---

11 Q You didn't find any extra information other than
12 what you could see when you walked in and you were
13 back out in no time, right?

14 A I knew that there was a child that was
15 unconscious on the ground and at the point that's
16 what I had my captain there for. My captain is
17 overall in charge of scene so he's gonna be
18 assessing the scene, and I was worried about the
19 child.

20 Q He was giving you orders, right?

21 A Correct.

22 Q He's telling you what -- but in fact, do you
23 remember being interviewed by Investigator Seel?

24 A I do.

25 Q And he interviewed you twice; didn't he?

1 A I believe so.

2 Q Okay. And in the first interview do you remember
3 telling him that you received no orders to pick up
4 that baby?

5 A I don't remember any orders or not.

6 Q But you wouldn't argue with that, right?

7 A Right, I might have said that.

8 Q Okay. But in fact you did receive an order to
9 pick up that baby; didn't you?

10 A Right.

11 Q You just told the jury that was your captain's
12 responsibility?

13 A Right.

14 Q Okay, all right. You said you started up the
15 wrong apartment building once you guys got into the
16 complex, right?

17 A Correct.

18 Q How far did you make it up?

19 A I was at least to the second floor, if not third
20 floor.

21 Q Okay. So you were -- you were moving. You were
22 up there so you ---

23 A Right.

24 Q ---had to go a long way to get back down and
25 across. Do you remember where Captain Cosola was?

SW - J. ELLER - CROSS

1 A He was in front of me but I don't know exactly.

2 Q He was in front of you on the steps going up the
3 wrong building?

4 A Right. No, no, no, not going up the wrong
5 building. Once he was going up the correct building
6 he was in front of me. When we were at the wrong
7 building he was downstairs.

8 Q He was, he was in the parking lot?

9 A Right.

10 Q Okay, all right. I had -- another thing I was
11 curious about. You said that normally your function
12 when you get off the vehicle you're usually jotting
13 down notes, jotting down information, right?

14 A Most medical calls I am because the firemen
15 handle the equipments and the patient assessment,
16 patient treatment.

17 Q What type of notes would you be keeping?

18 A I would just get patient's name, maybe date of
19 birth just for reports.

20 Q Okay.

21 A And then ---

22 Q So you'd be talking to people at the scene, you'd
23 be ---

24 A Not really. I'm standing back and I'm letting my
25 firemen do the work, firemen doing assessments.

SW - J. ELLER - CROSS

1 Q Right.

2 A And I ---

3 Q You're trying to go get basic pertinent
4 information from people who are involved or people
5 who have seen what went on before you got there?

6 A Well, from what my firemen are getting from the
7 patient 'cause my firemen is going to be doing the
8 assessment.

9 Q Right, they're gonna be okay so ---

10 A My fireman is going to be saying what's going on
11 today.

12 Q And he's relaying that information to you?

13 A Yes, ma'am.

14 Q So you're not talking ---

15 MS. CAMPBELL: Objection, if he could just
16 let him finish before he moves on, finish his
17 sentence.

18 THE COURT: Okay, let him answer.

19 THE WITNESS: Okay. So typically my
20 fireman is going to go there. One fireman has the
21 medical bag and the equipment. The other fireman is
22 starting with their sample history, doing their
23 assessment, and most of the time I'm behind them
24 just jotting down information for my captain to
25 relay to him and also to relay to EMS when they get

SW - J. ELLER - CROSS

1 there what we have so far, what hospital they want
2 to go to, so forth.

3 Q Do you ever -- is it ever your responsibility to
4 write a report?

5 A It could be my responsibility.

6 Q It could be so you have prepared reports?

7 A Yes.

8 Q Calls before, okay. The next thing I want to ask
9 you about, in your estimation about how long were
10 you in the apartment once you got to the right one?

11 A I couldn't tell you. It wasn't that long.

12 Q Ten seconds?

13 A It wasn't long.

14 Q Okay, less than a minute?

15 A Less than a minute I would say.

16 Q Less than a minute, okay. All right, and how
17 long had you been at the child's side before you
18 were ordered to grab the baby up and let's go?

19 A Not very long. If, not, I mean, could have been
20 right in the doorway. I don't remember off the top
21 of my head.

22 Q Okay.

23 A Exactly which he is calling for it. But I think
24 a lot of, not remembering it, is I think I was kind
25 of on the same track as he was when I realized my

1 firemen with my equipment, or our equipment wasn't
2 behind me. You know, our training teaches us that
3 if we cannot provide proper care where we're at we
4 need to bring our patient to where we can provide
5 proper care.

6 Q But CPR would have been proper care at that time,
7 right, to start CPR right there? And there were
8 more qualified medical professionals that were
9 coming to the scene, right?

10 A Yes.

11 Q And CPR is an emergency intervention?

12 A Correct.

13 Q And you can -- you could have done that right
14 there?

15 A If ---

16 Q You were trained in CPR?

17 A If I would have had the proper equipment.

18 MS. CAMPBELL: Objection, Your Honor.

19 BY MS. PINNOCK:

20 Q Okay. So you didn't have the equipment to do CPR
21 at that time?

22 A Right.

23 Q Okay, all right. So you told the jury you
24 cradled the baby ---

25 A Right.

SW - J. ELLER - CROSS

1 Q ---across your body?

2 A Yeah, I would say so.

3 Q Okay. And 'cause one of the important things to
4 do is support the spine, right?

5 A Right.

6 Q When you exited the apartment was Cosola in front
7 of you?

8 A I believe he was behind me.

9 Q And as you descended the stairs?

10 A Right.

11 Q So he's behind you the whole way. On the way
12 going with you rushing in a hurry?

13 A I would say it was — it's with an urgency but I
14 was really paying attention to what I was, what I
15 was trying to hear. I was trying to listen for
16 breath sounds as I was going down the stairs so I
17 was going down with urgency, but I was taking time
18 to listen, to hear for breath sounds.

19 Q Once you got to the bottom of the steps how far
20 away was the stretcher?

21 A I couldn't tell you exactly how far but it was
22 pulling — they were bringing it out on the sidewalk
23 or street right at the bottom of the stairs or not
24 too far from it.

25 Q You wouldn't disagree that you stated before it

SW - J. ELLER - CROSS

1 was about 30 to 50 feet, right?

2 A Could be about that.

3 Q Does that seem reasonable? Okay. Now you told
4 the jury that you kept K.H. [REDACTED]'s head supported,
5 right?

6 A Right.

7 Q The whole way through?

8 A Correct.

9 Q But there were some conflicting reports about
10 that; weren't there?

11 A I don't know.

12 Q Now you told us you remember Investigator Seel
13 coming to talk to you not once, but twice, right?

14 A Correct.

15 Q Okay. Move along from there. You told
16 Investigator Seel there were a lot of people in the
17 apartment; didn't you?

18 A There may or may not have been.

19 Q Okay, all right. I want to talk about after you
20 hand off the baby so you -- how do you transfer the
21 baby? Tell me that. Did you use two hands, with
22 one hand, how did you transfer the baby into the
23 care of someone else?

24 A So EMS told me to take the baby to the stretcher.

25 I had my right, I had my right hand up here up

SW - J. ELLER - CROSS

1 towards my ear. And as I came to the stretcher I
2 had the baby supported, brought the baby back down
3 to the stretcher.

4 Q Kind of a twisting?

5 A Not really a twisting but just kind of down. You
6 know, I turned and just kind of with my body brought
7 the baby down and to the stretcher and slid my hand
8 out from under the baby.

9 Q Do you recall who all was around the stretcher?

10 A Several people. My captain, one of my firemen
11 for sure, EMS.

12 Q Okay. One of the last things I heard you answer
13 to Ms. Campbell's questions was backboard, was there
14 a backboard involved?

15 A Not in the time that I was there.

16 Q Okay. So they couldn't find the backboard?

17 A I asked for one and not in the time that I was
18 there. Whether they put one on the back of the
19 ambulance I have no clue.

20 Q Okay, all right. I want to talk to you just a
21 little bit about what happened after you put

22 K.H. on the stretcher.

23 A Okay.

24 Q There was an argument that broke out, right?

25 A Yes.

1 Q Between your captain and some of the EMS workers?

2 A Yes.

3 Q Is that correct? And I believe you told
4 Investigator Seel that there was a lot of cursing
5 going on?

6 A Yes.

7 Q And there was a heated intense moment, right?

8 A It was.

9 Q There was a lot of confusion in terms of care
10 that the baby was getting in terms of the readiness
11 of EMS to provide that care; is that correct?

12 A There was confusion.

13 Q Okay. You told the jury that it's not uncommon
14 to get wrong numbers, wrong apartment numbers, wrong
15 addresses from dispatch?

16 A It's happened several times to me before in the
17 past.

18 Q And that would be something that you're uniquely
19 qualified to talk about because you operate the
20 equipment; is that right?

21 A Right.

22 Q So you're responsible for getting where you need
23 to go?

24 A Correct.

25 MR. STAGGS: Beg the Court's indulgence

SW - J. ELLER - CROSS

1 for a moment.

2 BY MR. STAGGS:

3 Q And you don't recall, do you, how many people
4 were around once you got the child down and on the
5 stretcher? Did you notice anyone from the complex?

6 A I don't.

7 Q Look at what's going on?

8 A I don't recall.

9 Q And you didn't -- it's not your practice to talk
10 to people at the scene after a call is over, is it?

11 A It may or may not. It's at my officer's
12 discretion. Normally he will talk to people if he
13 needs to.

14 Q Your officer, your commanding officer?

15 A Right. Right. I give him, I relay what
16 information I have to EMS or my captain, and I
17 secure the vehicle and get it back ready for the
18 next call.

19 Q But in this case your captain was very upset at
20 the end of the call, wasn't really giving you any
21 instructions at all, was he?

22 A He, he wasn't, I guess he wasn't giving any
23 instructions but he -- I guess he's got, he's from
24 New York, you know, so...

25 Q I understand. I understand.

1 A You know, I'm used to it, you know. Sometimes
2 he'll, you know, he'll yell -- he'll get on me
3 because his eggs aren't cooked right, you know what
4 I mean? It's just common practice, you know, I'm
5 used to it.

6 Q He's an intelligent fella is what you're telling
7 us?

8 A Yeah.

9 Q All right. Those are all the questions I have
10 right now. Thank you.

11 THE COURT: Anything, Ms. Campbell?

12 MS. CAMPBELL: Yes, sir.

13 **REDIRECT EXAMINATION**

14 BY MS. CAMPBELL:

15 Q He asked you a couple of questions about the
16 statements that you gave to Investigator Seel?

17 A Yes, ma'am.

18 Q But he didn't show them to you?

19 A Okay.

20 Q He said that you told Investigator Seel there
21 were a lot of people in the apartment?

22 A Right.

23 Q Reviewing your statements, at any point did you
24 ever tell Investigator Seel there were a lot of
25 people in that apartment? I specifically refer to

SW - J. ELLER - REDIRECT

1 those two statements.

2 A I don't see anything in there about.

3 Q And he also asked you about whether or not in one
4 of these statements, whether or not you said you
5 were not ordered to pick up the baby. Did you write
6 in any statement anything about ordered to pick up
7 the baby?

8 A No, I didn't.

9 Q You've got training, medical training?

10 A Yes.

11 Q Emergency medical training?

12 A Yeah, the American Red Cross medical response.

13 Q What was your goal when y'all picked up that baby
14 that day and carried it downstairs?

15 A Our goal is to be able to provide care for the
16 child as quickly and efficiently as possible. And
17 if we can't do effective treatment of that child we
18 make it so we can. We may have to make a move, and
19 that's actually something that's at that trained in
20 our book. As one of the bullet points is, if you
21 cannot give appropriate care to a patient you can
22 move the patient in order to give him care. That's
23 one example, if someone is in a fire or if someone
24 is, you know, in a confined area; or in our case, if
25 the equipment isn't there to give proper care, we

1 want to get that person to a location where we can
2 give him proper care and we can give them a better
3 chance at survival.

4 MS. CAMPBELL: Thank you, sir. I don't
5 have anything else.

6 MR. STAGGS: Just one on recross, Your
7 Honor.

8 **RECROSS-EXAMINATION**

9 BY MR. STAGGS:

10 Q Now we talked about -- and you're right, I didn't
11 provide you a copy of your first statement to
12 Investigator Seel, but I ask you to read from page
13 12 here.

14 A Okay.

15 Q With permission to approach, Your Honor. We can
16 then look at lines 14 through lines 17 please. If
17 you can read them out loud to the jury I'd
18 appreciate it.

19 A Okay. Who was present in the room when you found
20 the infant? There were a couple of people, the
21 family, and me, and Captain Cosola.

22 Q All right, thank you. I have nothing further.

23 THE COURT: Thank you, sir. You may step
24 down. You are free to leave if you like.

25 THE WITNESS: Thank you, sir.

SW - M. COSOLA - DIRECT

1 MS. MCDUFFIE: May it please the Court,
2 Your Honor, the State will call Captain Cosola.
3 WHEREUPON,

4 **MICHAEL COSOLA,**
5 having been duly sworn by the Clerk, testified as
6 follows:

7 THE CLERK: Thank you. Please have a seat
8 in the witness stand. State your full name for the
9 record and please spell your last name.

10 MS. MCDUFFIE: Michael Cosola,
11 C-O-S-O-L-A.

12 **DIRECT EXAMINATION**

13 BY MS. MCDUFFIE:

14 Q Captain, where are you currently employed?

15 A City of Columbia Fire Department.

16 Q And what are your duties with the City of
17 Columbia Fire Department?

18 A I'm a fire captain.

19 Q And as a fire captain what do your
20 responsibilities include?

21 A I'm responsible for ladder 14 and three members
22 that are under me.

23 Q And firemen or people who work for the fire
24 department, you just don't respond to fires, do you?

25 A No.

SW - M. COSOLA - DIRECT

1 Q Please tell the jury what types of calls you
2 respond to.

3 A We respond to car accidents, emergency medical
4 calls, emergency water shutoffs, basically any time
5 someone needs help, children locked in cars.

6 Q So whenever someone needs help, if you're
7 available you go?

8 A Yes.

9 Q And how are you told to go to a scene?

10 A Via dispatch.

11 Q And on May 23rd, 2011 were you captain of ladder
12 14?

13 A I was.

14 Q And were you dispatched to 220 Spring Tree Road?

15 A Yes.

16 Q And what was that in reference to?

17 A I believe an unconscious child.

18 Q And you were told you, to the best of your
19 recollection, that it was a child that you were
20 responding to?

21 A Yeah, I believe it was dispatched as an
22 unconscious infant.

23 Q And when you responded that day shortly after
24 12:30 on May 23rd, please tell the jury what
25 happened when you responded to the scene?

SW - M. COSOLA - DIRECT

1 A Well initially another unit was dispatched to the
2 call. I heard it. I knew it was in my first
3 response area and that we were closer so I advised
4 the dispatcher that we would be responding.

5 Initially we were dispatched to the wrong apartment
6 complex so after a few minutes of trying to locate
7 the correct address we did so. As we pulled into
8 the apartment complex EMS was already on scene. We
9 pulled in behind them and then I conferred with them
10 about making sure that we were at the right address.

11 Q And so you ended up going to the wrong complex
12 and then going to the correct one?

13 A Yes.

14 Q And when you got there EMS was already there?

15 A Yes.

16 Q But they were in front of a different building?

17 A Yes.

18 Q And did you ask them to check or did they ask you
19 to check to see which building was correct?

20 A Yes. We had earlier gotten a dispatch for
21 building six, and I don't recall the building we
22 were in front of at the time but I know it wasn't
23 building 6. So I asked EMT several times, she was
24 busy getting different things so she told me to call
25 back with my dispatcher to see if I can confirm, you

SW - M. COSOLA - DIRECT

1 know, that we were in fact in front of the correct
2 building.

3 Q And there was also some confusion between what
4 was dispatched to EMS and what was dispatched to
5 y'all, whether it was an adult or a child that you
6 were responding to?

7 A Yes.

8 Q And EMS was told an adult and y'all were told a
9 child?

10 A Yes.

11 Q And so instead of going to building 7 did you go
12 to building 6 or start to proceed that way?

13 A After -- I don't know exactly how long. After
14 discussing with the paramedics -- she was busy
15 getting equipment -- my two firefighters had already
16 entered the building. They were following another
17 paramedic up the steps. I noticed a male sitting
18 further down waving his hands. He got my attention.

19 Q And so he got your attention and so you proceeded
20 in his direction?

21 A I did.

22 Q And what, if anything, did you do when you
23 proceeded in his direction?

24 A I don't recall his exact location, but my driver
25 for the day was firefighter Eller and I requested

SW - M. COSOLA - DIRECT

1 that he come with me. And we proceeded across the
2 parking lot to the person who was flagging us down.

3 Q And you proceeded on foot?

4 A On foot.

5 Q And what equipment did you have with you when you
6 proceeded to building 6?

7 A We did not have any.

8 Q And what was your goal in responding to building
9 6?

10 A We were still unsure of the exact location of the
11 patient so I was still trying to ascertain exactly
12 where this person was located.

13 Q And you went to building 6?

14 A I did.

15 Q And you saw a male gentleman that was flagging
16 you down?

17 A Yes.

18 Q And what happened after that?

19 A I said something, I said, where's the patient at;
20 and he pointed and directed us to, I believe, the
21 third floor apartment.

22 Q And you and fireman Eller proceeded up the stairs
23 to the third floor?

24 A We did.

25 Q And what did you observe when you entered that

SW - M. COSOLA - DIRECT

1 apartment?

2 A There was another female, an elderly female in
3 the apartment, another infant. And in, I believe
4 the elderly female pointed and I noticed the baby
5 was laying on the ground kind of in between two
6 doors just laying there motionless.

7 Q And so what, if anything, did you and fireman
8 Eller then do?

9 A I directed my firefighter to check for a pulse
10 and for respirations to see if she was breathing or
11 if it had a pulse.

12 Q And then what happened?

13 A We realized -- he looked back at me, just gave me
14 a look. I knew that it meant that the baby wasn't
15 breathing, didn't have a pulse. So I directed him
16 because we did not have gear at that time the only
17 way to get this baby proper care was to get that
18 infant to the medics so I directed him to cradle the
19 baby and that we would move the baby and meet EMS
20 back in the parking lot.

21 Q And is that what happened?

22 A That's exactly what happened.

23 Q And when you got down to the parking lot please
24 describe to the jury what happened then.

25 A I had led -- I was in front of firefighter Eller

SW - M. COSOLA - DIRECT

1 so he's behind me carrying the baby. When we got
2 outside I turned left. I don't know the exact
3 distance, but the medic from Richland County EMS and
4 another, I believe she was a trainee with EMS met us
5 there; they had a stretcher. My firefighter then
6 placed the infant on the stretcher and care was
7 proceeded.

8 Q And there was a lot of confusion about who had
9 the proper equipment and who was getting proper
10 equipment?

11 A Yes.

12 Q And you lost your temper?

13 A I did.

14 Q And you used inappropriate language?

15 A I did.

16 Q And you were reprimanded by the fire department
17 for using cuss words or inappropriate language?

18 A I was.

19 Q Suspended for three days?

20 A I was.

21 Q And you admit that it wasn't appropriate to use
22 that language ---

23 A No.

24 Q ---To EMS?

25 A No.

SW - M. COSOLA - DIRECT

1 Q At any point in time what was your goal in
2 getting the baby, getting the baby down the stairs.

3 A Our protocol, we are not allowed to treat mostly
4 because of infectious diseases and otherwise without
5 what we call BSI, gloves, gowns, things like that,
6 oxygen. We cannot initiate CPR, things like that.
7 EMS was much higher trained. They had drugs. They
8 had things that were better suited for patient care.
9 So at that time my goal and my only goal was to get
10 that infant from the upstairs apartment where things
11 were a little chaotic to more advanced help, which
12 were the paramedics.

13 Q And you and firefighter Eller got the baby safely
14 down the stairs and to the paramedics?

15 A Yes.

16 Q And once you got down there did you see anyone
17 provide any care to the baby while you were down
18 there?

19 A My firefighter, firefighter Senn was doing, was
20 doing compressions.

21 Q And that was at the direction of EMS?

22 A Paramedic ordered my firefighter to do
23 compressions and he did so.

24 Q While your firefighter was doing compressions EMS
25 made the decision to put the baby in an ambulance.

1 and go?

2 A Leave, yes.

3 Q And while you were there at the scene the only
4 medical care you saw [K.H.] being given was the
5 compressions from the other firefighter?

6 A Yes.

7 Q And then she was quickly loaded up and they left
8 the scene?

9 A They left the scene.

10 Q The fire -- the EMS workers made allegations that
11 you were combative and hostile?

12 A Uh-huh.

13 Q And one of them made an allegation you threw a
14 radio down?

15 A Uh-huh.

16 Q Did that happen?

17 A Absolutely not.

18 Q But you did use inappropriate language?

19 A I did.

20 MS. MCDUFFIE: Beg the Court's indulgence.

21 No further questions at this time, Your Honor.

22 MR. STAGGS: Thank you, Your Honor.

23 **CROSS-EXAMINATION**

24 BY MR. STAGGS:

25 Q Captain Cosola, how are you doing this morning?

1 A Doing great, you?

2 Q Not bad at all. I have copies of this,
3 transcript of statements. I'm just gonna hand these
4 up to you so you can refer to them if you need them.

5 A What are they?

6 Q Those are transcripts of your two interviews with
7 Investigator Seel.

8 A Okay.

9 Q Now in the investigation that followed this call
10 you gave two statements, two interviews to
11 Investigator Seel, right?

12 A Uh-huh.

13 Q And both times you were advised of something
14 called your guarantee rights and that basically let
15 you know that you were the target or subject of the
16 investigation, right? Your conduct was being
17 investigated?

18 A Uh-huh.

19 Q You not -- you necessarily ---

20 THE COURT: I need you to answer yes or
21 not so the court reporter can get your answer.

22 THE WITNESS: Oh, I'm sorry, yes.

23 BY MR. STAGGS:

24 Q Okay, so I have just a few questions for you I
25 believe. You were the person from the Columbia Fire

SW - M. COSOLA - CROSS

1 Department that saw Antwan Gaddist flagging you down
2 at the parking lot, right?

3 A That's correct.

4 Q And you were the one that identified that. And
5 you issued the order to firefighter Eller and say,
6 come on, let's go, let's get up there?

7 A That's correct.

8 Q All right. Now when you guys got up there that's
9 75 yards and cross three lights up, right?

10 A I never measured.

11 Q Okay. But it's a fair amount. You did some
12 running?

13 A It was a distance.

14 Q Okay, all right. Do you remember about how long
15 you were in the apartment?

16 A I don't.

17 Q Okay. You told Investigator Seel that you never
18 actually went in the room where the child was?

19 A I don't recall. The child wasn't actually in the
20 a room. The child was in a doorway laying
21 motionless in between two rooms.

22 Q Okay, all right. If you would look at your
23 second statement, it's ---

24 A I don't ---

25 Q I think they're numbered one and two, Captain.

1 A Okay. And where am I looking at? It's a lot
2 here.

3 Q Yeah, there is, there is. If you could look on
4 page 7.

5 A Page 7.

6 Q If I can approach?

7 A Okay.

8 Q With the page and line. I believe there's a
9 question in there about whether you went in the
10 room.

11 A Are you asking me what I was referring to?

12 Q I'm just asking you if that was your response to
13 Investigator Seel when we asked you?

14 A It was in reference to the fact if we had seen
15 blood on the wall so I made a reference to the fact
16 I never actually entered room.

17 Q You never entered the room, okay.

18 A There was ---

19 Q All right. In your first statement -- can we
20 just look at page 16. You told Investigator Seel
21 that you didn't use any profanity; didn't you? And
22 I'll just direct you to lines 18 through lines 25.
23 And if you would read those out loud for the jury.

24 A Which line?

25 Q Line 18. It should start with, okay, when you

SW - M. COSOLA - CROSS

1 started getting upset with this paramedic.

2 A Okay. I said, okay, when you started getting
3 upset with this paramedic, yea. And then question,
4 did you curse at her. They said did you curse her;
5 I said no. Question, did you use profanity?
6 Answer, I said, I need you to do your damn job. But
7 that was the extent of it.

8 Q Okay. You and firefighter Eller were the only
9 two that went up there, correct?

10 A That's correct.

11 Q And you ordered firefighter Eller to cradle the
12 baby and pick the baby up, right?

13 A I did.

14 Q Okay. Who went down the stairs first?

15 A I did.

16 Q You went down the stairs first. All right, so
17 you didn't see how he was transporting it. Once you
18 guys hit the steps it was get down, get to the
19 stretcher.

20 A I witnessed him cradle the infant the way we were
21 taught to.

22 Q Off the floor, but as you were going down the
23 steps?

24 A I was in front of him. There was no way for me
25 to.

SW - A. JENKINS - DIRECT

1 Q Okay.

2 MR. STAGGS: That's all I have for this
3 witness, Your Honor.

4 THE COURT: Anything?

5 MS. MCDUFFIE: Nothing further, Your
6 Honor. We'd ask this witness be excused.

7 THE COURT: You may step down. You're
8 free to leave if you like.

9 MS. SIMPSON: The State calls Chief Aubrey
10 Jenkins.

11 WHEREUPON,

12 **AUBREY JENKINS,**
13 having been duly sworn by the Clerk, testified as
14 follows:

15 THE CLERK: Thank you. Please have a seat
16 in the witness stand and state your full name for
17 the record.

18 THE WITNESS: Aubrey Jenkins.

19 **DIRECT EXAMINATION**

20 BY MS. SIMPSON:

21 Q Chief Jenkins, where are you employed?

22 A I'm employed with the city of Columbia Fire
23 Department.

24 Q And what is your position there?

25 A I'm fire chief.

SW - A. JENKINS - DIRECT

1 Q And how long have you been with the Columbia Fire
2 Department?

3 A In a couple of days it will be 35 years.

4 Q Thirty-five years?

5 A Yes.

6 Q Can you tell the jury a little bit about your
7 training and experience with the fire department?

8 A Well, I started in '79. I went through some
9 training to become a firefighter, moved up through
10 the ranks to be a round driver to engineer to
11 captain, to battalion chief, to deputy chief, now
12 it's the chief. My training, I went to the Academy,
13 went to school, you know, graduate with a BS in fire
14 science.

15 Q And you've actually been -- I apologize if I
16 missed it -- in your capacity as chief for how long?

17 A I was appointed as interim chief in 2010 and the
18 permanent chief in 2011.

19 Q And as the chief what do your duties include,
20 what's your role?

21 A Well, I oversee the total operations of the fire
22 department in all aspects.

23 Q And when you say all aspects tell us a little bit
24 about those?

25 A Fire prevention, suppression, logistics, um, just

SW - A. JENKINS - DIRECT

1 any activity that goes on within the fire
2 department.

3 Q And that includes dealing with any of your
4 personnel, your firefighters, you're responsible for
5 all of those things?

6 A Yes.

7 Q Turning your attention back to May 23rd of 2011
8 you were working in your capacity as chief?

9 A Yes.

10 Q And did you ultimately receive a complaint from
11 Richland County EMS regarding one of your personnel?

12 A I did.

13 Q And who was the firefighter, who was the
14 complaint against?

15 A The complaint was against Agent 14, Captain
16 Cosola.

17 Q Cosola? And was that complaint regarding his
18 conduct or behavior at the scene?

19 A It was regarding his conduct and behavior,
20 absolutely.

21 Q Specifically that he was yelling, cursing, using
22 profanity, things of that nature?

23 A That's correct.

24 Q As a result of that complaint did you initiate an
25 internal investigation?

SW - A. JENKINS - DIRECT

1 A Yes. Any complaint that I get I always
2 initial -- it all depends on what it is. I always
3 initiate an internal investigation.

4 Q And that investigation, the purpose of this one
5 was to determine just the conduct of your officer on
6 the scene, whether that was inappropriate?

7 A Yes, it was.

8 Q And was an investigation actually conducted in
9 this case?

10 A Yes. There was internal affairs investigation
11 done, conducted.

12 Q And did you assign an investigator to actually
13 conduct interviews and things of that nature?

14 A I did.

15 Q Of the fire fighters at the scene?

16 A I did.

17 Q Did you also have some information from EMS
18 personnel?

19 A Whatever information that I had, it was given to
20 my internal affairs investigation.

21 Q Okay. And that would have been primarily from
22 the complainant or the main EMS worker complaining,
23 ---

24 A That's correct.

25 Q ---correct? And the primary focus of that

SW - A. JENKINS - DIRECT

1 complaint was his actions and his behavior towards
2 her directly?

3 A That's correct.

4 Q And it is -- is it your understanding that both
5 your firefighter Captain Cosola, as well as EMS
6 worker, never really had a whole lot of direct
7 contact with the child itself?

8 A That's correct.

9 Q And the complaint, again, was towards the
10 behavior of your firefighter towards that EMS?

11 A Yes, some of his behavior.

12 Q And did you ultimately make a determ-- well, who
13 makes the determinations once, even though you don't
14 investigate the case, who makes the final
15 determination as to what disciplinary actions may be
16 taken in a situation?

17 A I make the final decision.

18 Q And you review what's given to you?

19 A I review what's given to me, then I make a
20 decision.

21 Q But that final decision is yours?

22 A It's mine.

23 Q And in this case did you actually reprimand or
24 make a decision with respect to Captain Cosola ---

25 A I did.

SW - A. JENKINS - DIRECT

1 Q ---and his behavior?

2 A I did.

3 Q Did you actually find some of his conduct was
4 inappropriate?

5 A I did find that some of it was inappropriate.

6 Q Specifically would that be referring to his
7 actions towards the EMS worker?

8 A That's correct.

9 Q And not anything related to directly to the care
10 of the child?

11 A No.

12 Q As a result how was he disciplined?

13 A He had a three day suspension.

14 Q Three day suspension?

15 A Three day suspension.

16 Q Was that without pay?

17 A Without pay.

18 Q But he was not fired from the force?

19 A He was not fired.

20 Q And if you'd found any reason that he had
21 compromised the situation in any way would you have
22 let him go?

23 A I would have terminated him.

24 Q Did you actually make some recommendations to the
25 county administrator in this case?

SW - A. JENKINS - DIRECT

1 A I did. I told him what the disposition was as
2 far as his discipline was concerned.

3 Q And did you actually also offer some
4 recommendations that perhaps both the fire
5 department and EMS could participate in some kind of
6 joint training just to develop you all's
7 relationship with one another?

8 A Yes, I thought that would be a good thing if we
9 could kind of work together and participate at some
10 kind of training so we can get to know one another a
11 little better.

12 Q And both EMS and the fire department, are you all
13 both, both agencies are considered first response
14 agencies?

15 A Yes, that's correct.

16 Q And while you're training for your firefighters,
17 you have first responder training, who would you say
18 has the more advanced care and ability to provide?

19 A It would be EMS.

20 Q And if EMS arrives on scene are they determined
21 to be the advanced care providers?

22 A Yes, they are.

23 Q And in this case was fire fighter Eller the one
24 who actually carried the baby, was any disciplinary
25 action taken against him?

SW - A. JENKINS - CROSS

1 A I took no disciplinary against Eller.

2 Q All his actions were proper with respect to the
3 care of that baby?

4 A Yes.

5 Q Thank you, Chief Jenkins.

6 THE COURT: Defense?

7 MR. STAGGS: Yes, Your Honor. Just a few
8 questions Your Honor.

9 **CROSS-EXAMINATION**

10 BY MR. STAGGS:

11 Q Now you, Chief, told the jury that you ultimately
12 suspended Captain Cosola for a matter of time,
13 right?

14 A That's correct.

15 Q And then you told us that you ordered as part of
16 your practice an internal investigation?

17 A That's correct.

18 Q And you asked Investigator Seel to do it, right?

19 A That's correct.

20 Q And he did a first round of interviews. He did a
21 first round of interviews with your employees?

22 A Yes.

23 Q And he reported those findings to you, didn't he?

24 A That's correct.

25 Q And you were not satisfied with the information

1 he was able to gain the first time around and you
2 asked him to go back, didn't you, ---

3 A I did.

4 Q ---and talk to them again?

5 A I did.

6 Q Okay. Now I'm gonna show you a sheet which is a
7 report that was issued to you by Investigator Seel.
8 And this report ---

9 A Okay.

10 MS. SIMPSON: Your Honor, may we approach.

11 THE COURT: You may.

12 (WHEREUPON, counsel approached the Bench
13 for an off-the-record discussion.)

14 BY MR. STAGGS:

15 Q All right, Chief, when you received this report
16 from Investigator Seel you took some actions, right?

17 A Yes, I did.

18 Q And one of those actions was to suspend Captain
19 Cosola, right?

20 A That's correct.

21 Q And this is the memo that you wrote to Milton
22 Pope, the county administrator?

23 A That's correct.

24 Q Reflects your decision, right?

25 A Yes, I wrote him in a memo.

1 Q That would be it then?

2 A Yes, that will be it.

3 Q Okay, all right. Thank you, Chief, I don't have
4 anything further right now.

5 THE COURT: Anything further for Chief
6 Jenkins?

7 MS. SIMPSON: Your Honor, may this witness
8 be excused.

9 THE COURT: Yes, sir, Chief, you're free
10 to leave. Thank you for coming.

11 THE WITNESS: Thank you, Your Honor.

12 THE COURT: Yes, sir.

13 MS. MCDUFFIE: Your Honor, may we
14 approach.

15 (WHEREUPON, counsel approached the Bench
16 for an off-the-record discussion.)

17 MS. MCDUFFIE: The State calls Gloria
18 Wood.

19 THE COURT: Ladies and gentlemen of the
20 jury, it's my understanding this witness is on the
21 third floor and it's gonna take a minute or so to
22 get her here but she's a relatively short witness.
23 And rather than break now, I'm gonna wait till we
24 finish. If y'all want to stand and stretch, relax
25 for a second, feel free to do so 'cause they're

1 gonna -- she's coming quick.

2 (Pause.)

3 MS. MCDUFFIE: Your Honor, we're actually
4 going to call Tameka Brown 'cause I think she's
5 quicker to get down here than Ms. Wood.

6 (Pause.)

7 THE COURT: All right, ladies and
8 gentlemen, this is ridiculous. I'm gonna let y'all
9 step back to the jury room. Please don't discuss
10 the case. We'll take a break and then we're gonna
11 see about repositioning these witnesses.

12 (WHEREUPON, the jury was removed from the
13 courtroom at 10:47 a.m., and the following
14 proceedings commenced in open court.)

15 THE COURT: All right. I want every next
16 witness sitting out there in the hallway.

17 MS. MCDUFFIE: Yes, sir, Your Honor.

18 THE COURT: I don't care if they're
19 sitting for three days.

20 MS. MCDUFFIE: Yes, Your Honor.

21 THE COURT: That goes for y'all as well,
22 you hear?

23 MR. STAGGS: Yes, Your Honor.

24 MR. STRICKLER: May it please the Court
25 before we break, I ask the record reflect turning

1 over to the State the raw data court ordered pages 2
2 through 42 of a fax inclusive, page 1 being the
3 cover page.

4 THE COURT: I appreciate that,
5 Mr. Strickler.

6 MR. STRICKLER: Yes, sir.

7 THE COURT: I was wondering what role you
8 were going to play in this case.

9 All right, we will take a break. See if
10 you can find that witness. Do we need an APB?

11 (WHEREUPON, a recess was taken from the
12 proceedings.)

13 MS. CAMPBELL: Judge, we have six
14 witnesses lined up before lunch. May I approach.
15 I've shown the Defense this. We're just checking to
16 see if Mr. Gaddist has any psychiatric records.

17 THE COURT: Any what?

18 MS. CAMPBELL: Any records from ZML or
19 DARSM, for those two.

20 THE COURT: All right, let's bring the
21 jury in.

22 MS. PINNOCK: Your Honor, may I ---

23 THE COURT: Yes, ma'am.

24 MS. PINNOCK: Before we broke the State
25 was going to call Gloria -- what is her last name?

1 MS. MCDUFFIE: Woods.

2 MS. PINNOCK: Gloria Woods from the day
3 care, the Woods Wonderland Day Care. The only
4 information ---

5 THE COURT: Gloria Wood.

6 MS. PINNOCK: I'm sorry?

7 THE COURT: According to the list it's
8 Wood.

9 MS. PINNOCK: Wood. We don't have a
10 statement from her. I asked Ms. Simpson what she
11 was going to be testifying about because we have no
12 information from this witness. I've been told that
13 it's just to establish the children were not
14 enrolled in day care, but on the record that is
15 going be the extent of her testimony because that's
16 all we were made aware of.

17 THE COURT: Can y'all stipulate to that?

18 MS. MCDUFFIE: Judge.

19 THE COURT: The jury is coming in.
20 Apparently not.

21 MS. MCDUFFIE: May we approach.

22 (WHEREUPON, counsel approached the Bench
23 for an off-the-record discussion.)

24 (WHEREUPON, the jury was returned to the
25 courtroom at approximately 11:22 a.m.,

SW - T. BROWN - DIRECT

1 and the following proceedings commenced
2 in open court.)

3 THE COURT: Y'all ready to call your next
4 witness?

5 MS. MCDUFFIE: Yes, the State calls Tamika
6 Brown.

7 WHEREUPON,

8 **TAMIKA BROWN,**
9 having been duly sworn by the Clerk, testified as
10 follows:

11 THE CLERK: Thank you. Please have a seat
12 in the witness stand and state your name for the
13 record.

14 **DIRECT EXAMINATION**

15 BY MS. MCDUFFIE:

16 Q State your full name?

17 A It's Tamika Brown.

18 Q And Ms. Brown, if I can get you to raise your
19 voice a little. I don't know if the microphone is
20 working today.

21 Q Ms. Brown, in May of 2011 where were you
22 employed?

23 A I was employed at Brookside Crossing.

24 Q And what were your duties with Brookside Crossing
25 Apartments?

SW - T. BROWN - DIRECT

1 A I was assistant manager.

2 Q And as assistant manager what were your duties?

3 A Assisting residents with whatever issues they
4 had, collected rent, val evictions, just regular
5 day-to-day customer service.

6 Q And you were working on May 23rd of 2011?

7 A I was, yes.

8 Q And you were the assistant manager and the
9 manager at that time was a Miss Cara Heater?

10 A Yes.

11 Q And did anything unusual or catch your attention
12 that day, May 23rd?

13 A Not in the beginning. What caught our attention
14 was the fire department and EMS coming to the
15 property.

16 Q And when you saw the fire department and EMS come
17 on to the property, what did you then do?

18 A We grabbed our keys, locked up the office, and we
19 went to the back to find out what was going on.

20 Q And please tell the jury what you observed.

21 A Well, when we got to the back we observed EMS and
22 the fire department. EMS was just getting off the
23 little wagon thing. The fire department had already
24 been, went upstairs. And we sat for maybe about a
25 minute or two to figure out which apartment they

SW - T. BROWN - DIRECT

1 were going to. Then I heard a gentleman shout, it's
2 a baby. And when he did that he came running out
3 with this child, and he came downstairs with her.
4 And from the conversation it seems like, you know,
5 maybe they wasn't prepared that it was a child that
6 they were responding for. When they got the child
7 downstairs ---

8 Q Let me stop you right there, when you actually
9 saw him with the baby he was already downstairs?

10 A No, he was coming out of the apartment with her.

11 Q Okay, so you saw him up on the third floor?

12 A Yeah.

13 Q And then he came downstairs towards where EMS
14 was?

15 A Uh-huh.

16 Q And when you saw him how was he holding the baby?

17 A He had the baby under her arms.

18 Q And he then placed her on the EMS stretcher?

19 A Yes, he placed her on the stretcher. At that
20 point between him coming down, I shot upstairs to
21 see, you know, which unit she came from.

22 Q And did you ultimately go in the apartment?

23 A No, no.

24 Q And you then saw him place the baby on the
25 stretcher and some words were exchanged between fire

SW - T. BROWN - DIRECT

1 and EMS?

2 A Yes, they were, they were.

3 Q And the baby was loaded on to the stretcher and
4 the ambulance drove off?

5 A The baby was on the stretcher. There was a young
6 lady that was on the phone; I believe it was the
7 grandmother. From what I observed, you know, they
8 had her on the stretcher. There were some words
9 being exchanged. I cannot remember, exactly
10 remember what it was, but I do know it was a tense
11 moment. And you know, I then finished going
12 upstairs to find out if the tenant was home.

13 Q And then was the tenant home when you went up
14 there?

15 A No.

16 Q And what did you then do after that?

17 A I came back downstairs. She wasn't there so I
18 went back to the office to contact her to let her
19 know that there was an emergency.

20 Q And did you ever make contact with Ms. Miller
21 that day?

22 A No, I didn't. I want to say I left a message.
23 I'm trying to remember; it was so long ago. I want
24 to say I left a message with her.

25 Q And did you ever see anyone hurt the baby,

SW - T. BROWN - CROSS

1 injure the baby, or do anything inappropriate to the
2 baby in any way?

3 A No, no, never.

4 MS. MCDUFFIE: No further questions for
5 this witness.

6 THE COURT: Anything?

7 MS. PINNOCK: Very brief, Your Honor.

8 **CROSS-EXAMINATION**

9 BY MS. PINNOCK:

10 Q Good morning, ma'am.

11 A Good morning.

12 Q You said you did see the fire fighter come down
13 the stairs with the baby?

14 A Uh-huh.

15 Q And you told Investigator Kits with the EMS
16 internal investigations and Investigation Seel from
17 the fire department that you clearly saw him holding
18 the child under his arms?

19 A Yeah, he had the baby---

20 Q Under her arms?

21 A That's right. He had the baby under her arms and
22 he kind of had her stretched out like this as he was
23 coming down the steps with her.

24 Q As he was coming down the steps?

25 A Uh-huh.

1 Q And was he running?

2 A Yes.

3 Q Okay.

4 A He wasn't running like really hard, just fast
5 enough to get her downstairs.

6 Q Okay, thank you.

7 A You're welcome.

8 THE COURT: Anything?

9 MS. MCDUFFIE: Nothing further.

10 THE COURT: All right, thank you, ma'am.
11 You're free to leave.

12 MS. MCDUFFIE: Your Honor, we ask the
13 witness be excused please.

14 THE COURT: I indicated she was free to
15 leave if she wants.

16 MS. MCDUFFIE: The State will call Cara
17 Heater.

18 WHEREUPON,

19 **CARA HEATER,**

20 having been duly sworn by the Clerk, testified as
21 follows:

22 THE CLERK: Thank you. Please have a seat
23 in the witness stand. State your name for the
24 record, please spell your first name.

25 THE WITNESS: Okay. Cara Heater, C-A-R-A.

SW - C. HEATER - DIRECT

DIRECT EXAMINATION

1
2 BY MS. MCDUFFIE:

3 Q Ms. Heater, in May of 2011 where were you
4 employed?

5 A For Brookside Crossing Apartments.

6 Q And what were your duties with Brookside
7 Crossing?

8 A I was the property manager.

9 Q And on May 23rd of 2011 were you working that
10 day?

11 A Uh-huh.

12 Q And —

13 THE COURT: I need you to answer.

14 THE WITNESS: Oh, yes, sorry.

15 BY MS. MCDUFFIE:

16 Q Brookside Crossing Apartments is Springtree Road?

17 A Correct.

18 Q In Richland County?

19 A Yes.

20 Q And May 23rd of 2011, was your attention drawn to
21 a ambulance and fire truck?

22 A Yeah. We normally don't go out, but when there
23 was as much activity we, 'cause they come -- our
24 office faces the entrance so we noticed quite a bit
25 of activity.

SW - C. HEATER - DIRECT

1 Q And you and Ms. Brown let then left the office to
2 see what was going on?

3 A Yes.

4 Q And please tell the jury what you observed.

5 A When we got there, there was some confusion on
6 what building the call had been made, and the fire
7 fighters and EMS were asking where building ■4 was.
8 And we pointed to it 'cause the ambulance had parked
9 at the incorrect building. Fire fighters were
10 already there and up the stairs by the time the EMS
11 had actually showed up at the building.

12 Q And so you saw fire fighters go up the stairs?

13 A They were first, yes.

14 Q And then did you see them come back downstairs?

15 A Yes.

16 Q And what did you observe?

17 A We observed one of the officers carrying the
18 child out and he stated, it's a child.

19 Q And you gave a statement to Chris Kits with EMS
20 shortly after this incident occurred?

21 A Yes.

22 Q And do you recall telling Mr. Kits that once
23 downstairs the fire fighter held the child upright
24 and placed it on the gurney?

25 A Yes.

SW - C. HEATER - DIRECT

1 Q And is that what you observed?

2 A Yes.

3 Q Did you see anyone do anything to harm the child
4 or hurt the child in any way?

5 A No.

6 Q And after the child was placed on the gurney what
7 did you observe?

8 A EMS came in and they started, you know,
9 performing whatever they needed to do and then
10 loaded her in the ambulance.

11 Q And left the complex?

12 A Yes.

13 Q And did you -- after that what did you then do?

14 A We went back to the office and were told --
15 police did come and tell us that somebody would be
16 back and that's...

17 Q And you never saw anyone hurt the child or harm
18 the child or do anything to the child that was
19 inappropriate in any way?

20 A No, ma'am.

21 MS. MCDUFFIE: No further questions of
22 this witness.

23 THE COURT: Anything?

24 MS. PINNOCK: Briefly, Your Honor.

25 **CROSS-EXAMINATION**

1 BY MS. PINNOCK:

2 Q Hi.

3 A Hi.

4 Q You met with Investigator Kits of the EMS, but
5 you also met with Investigator Seel from the fire
6 department?

7 A I don't believe so. I believe I only did with
8 Kits.

9 Q You didn't go Investigator Rick Seel?

10 A He may have come to the property.

11 Q Okay.

12 A I didn't go anywhere.

13 Q Okay, but he, he might have come and talked to
14 you about what you saw?

15 A Yeah, probably. He's probably the one that
16 informed me there was a case going on or somebody
17 had filed a grievance.

18 Q And he said he was investigating that complaint?

19 A Correct.

20 Q And you said when the officer, when he went to
21 place the child on the stretcher ---

22 A No, he ---

23 Q That's when he held ---

24 A No, he carried her down the stairs upright.

25 Q Carried her down the stairs upright?

SW - C. HEATER - CROSS

1 A Uh-huh.

2 Q And you witnessed that?

3 A Yes.

4 Q And that's what you told Investigator Seel when
5 he asked you?

6 A Uh-huh.

7 Q Thank you.

8 THE COURT: Anything further?

9 MS. MCDUFFIE: No, Your Honor, I ask the
10 witness be excused.

11 THE COURT: Thank you, ma'am. You're free
12 to leave if you like.

13 MS. SIMPSON: The State calls Michelle
14 Presnell.

15 WHEREUPON,

16 **MICHELLE PRESNELL,**
17 having been duly sworn by the Clerk, testified
18 as follows:

19 THE CLERK: Please have a seat in the
20 witness stand. State your full name and please
21 spell your last name.

22 THE COURT: Tell us your name please,
23 ma'am.

24 THE WITNESS: Michelle Presnell.

25 THE CLERK: Spell your last name please.

SW - M. PRESNELL - DIRECT

1 THE WITNESS: P as in Paul, R-E-S,
2 N-E-L-L.

3 **DIRECT EXAMINATION**

4 BY MS. SIMPSON:

5 Q Ms. Presnell, where are you employed?

6 A Richland County EMS.

7 Q And how long have you been with the Richland
8 County EMS?

9 A I'll begin my fourth year on April 4th of this
10 year.

11 Q And what are, what is your position now?

12 A An EMT basic.

13 Q EMT basic? What does that mean?

14 A Emergency medical technician basic, which is the
15 first line of emergency care.

16 Q So you're a first responder?

17 A One of the first responders. Underneath that
18 would be a first responder.

19 Q And turning your attention back to May 5th --
20 23rd, of 2011, were you working with Richland County
21 EMS at that point?

22 A Yes, ma'am.

23 Q And how long had you actually been out of
24 training with Richland County EMS?

25 A Two weeks.

SW - M. PRESNELL - DIRECT

1 Q Two weeks? And coming out of training what was
2 your duty at that point?

3 A I was still under training at the time that when
4 you go on to a unit. You're in training in a class
5 room with supervisors and captains and majors, and
6 then you go under lieutenants and then you go under
7 sergeants and at that time you're put on a vehicle.

8 Q And so EMS unit, the ambulance?

9 A That's correct.

10 Q And at this point were you on a unit?

11 A Yes, ma'am.

12 Q And did your unit actually respond to a call to
13 220 Springtree Apartments?

14 A Yes, ma'am.

15 Q Who was with you that day?

16 A Sergeant Adams and Sergeant Boykin.

17 Q Okay. And as far as their positions were they
18 your supervisors essentially?

19 A Yes, ma'am.

20 Q Were they in charge of what was going on at the
21 scene?

22 A Yes, ma'am.

23 Q And what was your role with responding to the
24 scene?

25 A My role is basic life saving, BLS, and to follow

SW - M. PRESNELL - DIRECT

1 my sergeant's orders.

2 Q And did you actually, were you the driver of the
3 unit that day?

4 A Yes, ma'am.

5 Q Focusing on this incident when you were
6 dispatched did you -- were you dispatched to the
7 correct location?

8 A No, ma'am.

9 Q Can you tell us about that?

10 A We were dispatched to ■4, an apartment complex.
11 And when we arrived and Sergeant Adams was walking
12 upstairs is when we realized 'cause we knocked their
13 the door and they said they did not contact EMS,
14 that we were at the wrong location and she was
15 contacting dispatch to get it all rectified.

16 Q And did you all actually arrive before the fire
17 department?

18 A Yes.

19 Q And as far as your arrival you were driving the
20 unit so you would have parked the unit at the
21 incorrect building at that point?

22 A No, ma'am, at that time I was not driving.

23 Q Okay. Who was driving the unit at that point?

24 A I don't recall.

25 Q Okay. Who actually got out of the unit and

SW - M. PRESNELL - DIRECT

1 determined that y'all were in the wrong location?

2 A Sergeant Adams.

3 Q Okay. And were you eventually able to clear up,
4 you -- and you being EMS is as well as the fire
5 department -- the correct location?

6 A Yes, ma'am.

7 Q And was there some yelling kind of back and forth
8 as to where everyone needed to be?

9 A Yes, ma'am.

10 Q Who actually headed in the direction of the
11 correct apartment ---

12 A There was ---

13 Q ---first?

14 A There was a young firefighter that was, saw
15 somebody waving them down, and he's the one that
16 recognized it was at a different building and he
17 relayed that to us.

18 Q And once that information we relayed to you all
19 what did you do?

20 A Immediately began going towards that location.

21 Q And when you say immediately began going towards
22 that location, were you on foot, were you driving?

23 A I was on foot.

24 Q On foot. And what did you have with you?

25 A I had what's called a thumper and elder valve

SW - M. PRESNELL - DIRECT

1 which is for adult CPR.

2 Q So at that point was it your understanding that
3 you all were responding to an adult call ---

4 A Yes, ma'am.

5 Q ---rather than a pediatric call ---

6 A Yes, ma'am.

7 Q ---on foot? And were you the only one headed in
8 that direction or was it EMS personnel as well as
9 ---

10 A Everybody began, yes.

11 Q Everybody was headed in that direction.

12 A That is correct, uh-uh. Yes.

13 Q What happened once you arrived towards the
14 location?

15 A As I was coming up on the lawn and started going
16 up the corridor carrying the adult thumper and elder
17 valves someone from the apartment complex was
18 yelling down that it was a pediatric patient instead
19 of an adult patient.

20 Q Did you relay that information to your sergeant?

21 A Yes, ma'am.

22 Q And once that information was relayed and --
23 let's be clear, are things happening pretty quickly
24 at this point?

25 A Yes, ma'am.

SW - M. PRESNELL - DIRECT

1 Q Once that information was relayed to your
2 sergeant what did you begin to do?

3 A I immediately dropped all the adult equipment and
4 was advancing towards the unit to obtain pediatric
5 equipment.

6 Q And when you say the unit what are you referring
7 to?

8 A The ambulance.

9 Q And within the unit all the necessary equipment
10 for adult and pediatric care is contained within the
11 ambulance itself, correct?

12 A Correct.

13 Q But you all have what you call jump kits; is that
14 correct?

15 A That's correct.

16 Q And the jump kits or the thumper kits, that's
17 extra equipment for when you have to go and respond
18 to the scene, ---

19 A That's correct.

20 Q ---correct? Where you have to actually provide
21 the care at the location?

22 A Yes. It's a small contained bag of what is
23 necessary inside as opposed to taking care of a
24 patient on scene in an apartment or on the ground
25 compared to an ambulance.

SW - M. PRESNELL - DIRECT

1 Q And in this case your unit was actually close and
2 you had the bag of equipment?

3 A Yes, ma'am.

4 Q And you were searching for the pediatric
5 equipment?

6 A Correct.

7 Q And as you arrived and you realized it was a
8 baby, did you actually observe the fireman coming
9 down the stairs with the baby or did you hear
10 someone say something?

11 A I only heard voices at that point. I did not
12 observe the fireman until after he got through the
13 corridor.

14 Q And what was your focus at that point?

15 A Was on somebody yelling and screaming at us.

16 Q And by that someone was that from the fire
17 department?

18 A Yes. When I turned around, that is correct.

19 Q And was he essentially yelling at you about the
20 equipment and to get, get moving, get the job going,
21 this is a baby, things of that nature.

22 A He was trying to prepare us for him coming down,
23 what we needed.

24 Q So he was preparing you all for a child verses an
25 adult?

SW - M. PRESNELL - DIRECT

1 A Correct.

2 Q And once that child is downstairs what do you
3 recall happening?

4 A Once the child came downstairs with a firefighter
5 it was -- the baby or infant was passed to Sergeant
6 Adams who is responsible for advance life saving
7 skills.

8 Q So the stretcher -- and you say passed, was the
9 stretcher out at this point?

10 A Yes, ma'am.

11 Q And the baby was passed to from the fireman to
12 Sergeant Adams?

13 A Correct.

14 Q And at this point who is responsible for the care
15 of the child?

16 A Sergeant Adams.

17 Q And to be clear, is the fireman still kind of
18 yelling and a little bit loud and aggressive?

19 A Yes, ma'am.

20 Q And is it fair to say that this is an intense
21 situation, you have an unresponsive child?

22 A Very so, yes.

23 Q And what was the focus of everyone that day as
24 far as that child's concerned?

25 A The child's life, the patient.

1 Q And the firefighter who was yelling, do you
2 recall him having actual physical contact with the
3 child?

4 A He was carrying a child.

5 Q Or yelling coming down the stairs. What about
6 the one that was yelling directly at you?

7 A Yes, he was the one carrying the child.

8 Q Captain Cosola?

9 A Yes, I believe that was his name. That's what I
10 was told later.

11 Q The one that was yelling at you?

12 A Yes.

13 Q But another firefighter is actually one that
14 placed the baby on the stretcher?

15 A I do not recall that.

16 Q You don't recall?

17 A Yeah.

18 Q Once -- did you ever actually have any contact
19 with the child?

20 A No.

21 Q You just observed the baby being placed on the
22 stretcher?

23 A Correct.

24 Q And once that baby was placed on the stretcher
25 and this is still an intense scene, correct?

SW - M. PRESNELL - DIRECT

1 A Correct.

2 Q Was the baby then moved to the unit?

3 A Yes, ma'am.

4 Q And at whose orders was that?

5 A Sergeant Adams.

6 Q And was she in the unit providing care to the
7 child?

8 A Yes.

9 Q And what were you doing at that point? What were
10 you ordered to do?

11 A My responsibility was getting all the equipment
12 back into the unit.

13 Q Back into the unit. And once all the equipment
14 was back into the unit where did you go?

15 A I was the driver. Then I become the driver of
16 the unit.

17 Q Was there actually a female civilian on scene as
18 well?

19 A Yes, ma'am, there was a lot of civilians there.

20 Q And as far as someone who rode with you in the
21 ambulance, a family member?

22 A Yes, ma'am.

23 Q Do you recall who that was, or did you know she
24 was just related in some way to the child?

25 A We -- yes, I asked if she was related and she

SW - M. PRESNELL - DIRECT

1 said she was the grandmother.

2 Q Okay. And was she allowed to ride in the front
3 or the back of the ambulance?

4 A The front.

5 Q And where did you all go?

6 A Excuse me?

7 Q Where did you all go? Once the ambulance is
8 loaded up where did you head?

9 A We headed to Providence Northeast.

10 Q And Providence Northeast is fairly close to this
11 location, correct?

12 A That is correct.

13 Q And while you were on scene did you actually
14 observe anyone mishandle or mistreat this child in
15 any way?

16 A No, ma'am.

17 Q And Sergeant Adams had complete control of the
18 situation?

19 A Yes, ma'am.

20 Q And was she actually responsible for kind of
21 calming the situation?

22 A Yes, ma'am.

23 Q After you get to the hospital is that the extent
24 of your involvement directly with this patient or
25 what happened?

SW - M. PRESNELL - CROSS

1 A My responsibility, yes. Then at that point once
2 the patient is transferred then I'm responsible for
3 all the equipment to get it back in the ambulance
4 and have it in a ready situation for the next call.

5 Q For the next response?

6 A That's correct.

7 Q Subsequent to this did you actually file a
8 complaint with your agency regarding Captain
9 Cosola's behavior at the scene?

10 A Yes, ma'am.

11 Q And that was just based on his behavior as far as
12 yelling and being aggressive and things of that
13 nature?

14 A Yes, ma'am.

15 Q But everyone's concern, even his concern with
16 yelling, was that about the baby?

17 A Yes, ma'am.

18 Q And getting the proper care for the baby?

19 A Yes, ma'am.

20 Q Thank you.

21 **CROSS-EXAMINATION**

22 BY MR. STAGGS:

23 Q Ms. Presnell, you said you had been working for
24 Richland County EMS for four years?

25 A I'll begin my fourth year on April 4th of this

1 year.

2 Q And you were on a probationary status at the
3 time, right?

4 A At the time of this call, yes.

5 Q Do you remember at the -- after this call you did
6 file a complaint, right?

7 A Yes, sir.

8 Q And you drafted -- and you drafted an
9 administrative memo to a Major Young; is that
10 correct?

11 A That is correct.

12 Q I'm gonna show it to you and I'm gonna ask you to
13 read right here, the highlighted sentence please.

14 A Just this one?

15 Q Yes, ma'am.

16 A Simultaneously the infant was kind of thrown to
17 Agent Adams by the fire department personnel
18 carrying him or her towards the stretcher.

19 Q Kind of thrown, right?

20 A Yes, sir.

21 Q And yet you just told this jury that you didn't
22 see that child mistreated at all, right?

23 A That is correct.

24 Q That is correct? All right. That's all I have.
25 Thank you, ma'am.

1 MS. SIMPSON: Brief redirect, Your Honor.

2 **REDIRECT EXAMINATION**

3 BY MS. SIMPSON:

4 Q At any point was the child air born?

5 A No, ma'am.

6 Q And can you describe for the jury what you meant
7 by tossing or throwing?

8 A May I demonstrate that?

9 Q Yes.

10 A The fire department coming down was walking
11 briskly, very quickly, and took his hands very
12 quickly as in that, but it never went air born
13 passing it to the next person.

14 Q And who was standing on that stretcher ready to
15 take that baby?

16 A Sergeant Adams.

17 Q So that baby was placed on to the stretcher and
18 your terminology has to do with the quickness and
19 rapidness?

20 A Very much so.

21 Q It wasn't thrown like a football?

22 A Oh, no, ma'am.

23 Q It wasn't tossed on a stretcher?

24 MR. STAGGS: Objection, Your Honor, that's
25 leading.

SW - M. PRESNELL - REDIRECT

1 THE COURT: Sustained.

2 BY MS. SIMPSON:

3 Q Was it tossed or thrown like a football?

4 A No, ma'am.

5 Q It was placed on the stretcher?

6 A Yes, ma'am.

7 Q And just briefly as far as the firefighters go,
8 you weren't familiar with any of them individually,
9 correct?

10 A That is correct, do not know them.

11 Q Nothing further. Thank you.

12 MR. STAGGS: I have nothing further.

13 THE COURT: Thank you, ma'am. You may
14 step down. You're free to leave if you would like.

15 All right, call your next witness.

16 MS. MCDUFFIE: The State would call Avery
17 Boykin.

18 WHEREUPON,

19 **AVERY W. BOYKIN, JR.,**

20 having been duly sworn by the Clerk, testified as
21 follows:

22 THE CLERK: Please have a seat in the
23 witness stand and state your full name for the
24 record.

25 THE WITNESS: Avery Woodward Boykin, Jr.

SW - A. BOYKIN - DIRECT

DIRECT EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY MS. MCDUFFIE:

Q Mr. Boykin, where are you currently employed?

A Richland County EMS.

Q And what are your duties with Richland County EMS?

A I'm a senior paramedic, the rank level of a sergeant, crew chief paramedic.

Q And how long have you been with EMS?

A I've been with Richland County since 2006.

Q And prior to being with Richland County?

A I worked for Sumter County EMS from 1999 till 2006, and I was with Sumter Fire Department 1997 until 2004.

Q And in May of 2011 what were your duties with EMS?

A At that current time my rank was corporal, and I was a crew chief paramedic.

Q And on May 23rd of 2011 did you respond to 220 Springtree Drive?

A Yes, ma'am.

Q And what was that in reference to?

A The original call, I believe, was for a adult unresponsive.

Q And you were originally dispatched to building

SW - A. BOYKIN - DIRECT

1 724?

2 A I'll have to look at the paperwork. I don't
3 remember the exact building number, but we were
4 dispatched to the wrong building.

5 Q And when you arrived on scene were you the first
6 first, first responders there?

7 A No, it seems to my recollection I think the fire
8 department arrived right behind us. I don't know
9 that they arrived before us. I think they came in
10 right behind us.

11 Q And after the fire department arrived what did
12 y'all then do?

13 A We proceeded to the apartment that we were
14 dispatched to.

15 Q And when you proceed or go to any call is there
16 certain equipment that you take off the truck with
17 you?

18 A Yes. In that case it was dispatched as a
19 unresponsive patient, which is considered to
20 possibly be a cardiac arrest, so there's a good bit
21 of equipment that we take for that type of call
22 verses a normal call. So we have five or six things
23 that we had to grab to go on that.

24 Q And these are large cumbersome big pieces of
25 equipment?

SW - A. BOYKIN - DIRECT

1 A Yes. We had a stretcher, mechanical CPR device,
2 the O-2 cylinders to support it, our jump bag, and
3 our cardiac monitor.

4 Q And so all that equipment was taken to the wrong
5 floor of the wrong building?

6 A I proceeded up the steps with the cardiac
7 monitor. Mrs. Presnell was retrieving the
8 mechanical CPR device and O-2 tanks. Ms. Adams was
9 getting the stretcher.

10 Q And at some point the firefighters and there were
11 tense words exchanged, but told you were at the
12 wrong building?

13 A Yes, I requested to one of the fire personnel to
14 assist Ms. Adams with the stretcher as I proceeded
15 with the cardiac monitor. Our protocol is to take
16 the monitor to the patient as quickly as possible in
17 case defibrillation is needed, and I got adverse
18 reactions from the fire department when I made that
19 request.

20 Q And ultimately you learned that it was building
21 6, not building 7?

22 A Yes.

23 Q And all the equipment had to be moved to that
24 building?

25 A Correct.

SW - A. BOYKIN - DIRECT

1 Q And you were one of the individuals who was in
2 the process of moving that equipment?

3 A Yes.

4 Q Did you see the firefighters come out of the
5 building with the infant in their arms?

6 A I was actually -- I moved the truck, the
7 ambulance, and when I moved the ambulance
8 Mrs. Presnell and Ms. Adams had went on foot and I
9 was exiting the ambulance when that transfer took
10 place.

11 Q And you wrote a statement on -- to your major
12 Major Young on May 23rd of 2011?

13 A Uh-huh.

14 Q And in that statement at that time you said that
15 you saw the fireman throw the baby on to the
16 stretcher?

17 A Yes, and I was inaccurate. When I come back and
18 thought about it, less, when less emotion and
19 aggravation was involved, and recan-- recollection
20 of the activity that took place, I realized that the
21 transfer was a little bit differently or that I had
22 not seen it as I had originally written.

23 Q And so on June the 7th of 2011 you gave another
24 statement?

25 A Yes, I did.

SW - A. BOYKIN - DIRECT

1 Q And did anyone come to you asking you or question
2 you about that, or did you go on your own?

3 A I come forth on my own and told them that I felt
4 like I needed to correct the mistake that may have
5 been made.

6 Q And so when you said on May 23rd of 2011 that you
7 saw the firefighter toss or underhand toss the child
8 to Sergeant Adams, that was incorrect?

9 A Yes, it was.

10 Q And you then went on your own on June the 7th and
11 corrected that statement?

12 A Correct.

13 Q And what did you actually observe on May 23rd of
14 2011?

15 A I never got a clear viewing of the tran-- the
16 actual transfer of the patient. There's a lot of
17 people on the scene. You're talking a couple of, at
18 least three to four firemen. It was three people on
19 our truck. You had bystanders involved. It was
20 three years ago. I can't tell you exactly what it
21 was. The angle that I was coming from I couldn't
22 see -- I seen more of the before and the after as I
23 did see the actual transfer.

24 Q But at the time, and again, no one approached
25 you, no investigators, you didn't even know this

SW - A. BOYKIN - DIRECT

1 matter was being further investigated?

2 A No, ma'am.

3 Q And you wanted to change the statement because it
4 was inaccurate from what you observed?

5 A Right. When I originally wrote the statement it
6 was after the call. There's a lot of — when I was
7 on the call I was able to maintain a sense of
8 calmness and that was the role I was trying to play.
9 After the call I was rather aggravated and
10 frustrated with the way that things had went, and
11 that was influenced in my original statement. Once
12 I was able to collect my thoughts and think about it
13 in a more organized manner is when I come back and
14 advised them that I needed to make amendment to the
15 original statement.

16 Q And after the baby was placed on the stretcher
17 the inappropriate language and cursing still
18 continued?

19 A Yes, it did.

20 Q And you felt it best and Sergeant Adams felt it
21 best that y'all just needed to get the baby into the
22 ambulance and get to the hospital as fast as you
23 could?

24 A Right, yes.

25 Q And is that what you did?

SW - A. BOYKIN - DIRECT

1 A Yes.

2 Q And the firemen didn't prevent you from loading
3 the baby on to the ambulance or impede care in
4 getting the baby to the hospital?

5 A No, no.

6 Q When you were in the ambulance what was your --
7 or where were you in the ambulance?

8 A Well, I would have been back and forth between
9 the bench and the captain's chair, basically from
10 the head of the stretcher to the side of the
11 stretcher. There was a lot of work that we were
12 getting done in a short period of time.

13 Q So you were in the back of the ambulance actually
14 with K.H. [REDACTED], the infant child?

15 A Yes.

16 Q And EMS Presnell was actually driving the
17 ambulance?

18 A Yes.

19 Q And what care were you trying to provide to
20 K.H. [REDACTED] in the back of the ambulance?

21 A Well, we were performing CPR. We were performing
22 advance cardiac skills on the patient. We were
23 doing CPR. We started an IV. We administered
24 drugs, air way, maintain the air way. We were just
25 doing protocol for pediatric advance life support.

SW - A. BOYKIN - DIRECT

1 Q Okay. What was the condition o K.H. when
2 she was in the back of the ambulance?

3 A We initially got her she had no pulse and she was
4 not breathing. She was cold to the touch.

5 Q And what, if anything, were you able to do while
6 you were treating K.H.?

7 A Our treatment resulted in a return of a pulse.
8 She still was not breathing on her own, but we got a
9 return of a pulse prior to arrival at the ER and the
10 patient was transferred to the ER staff with a
11 palpable pulse.

12 Q And once you transfer a patient to ER staff, do
13 you have any further duties or responsibilities in
14 terms of caring for the patient?

15 A No, no.

16 Q An K.H. was later transferred, or you took
17 her to Providence Northeast that day?

18 A Correct.

19 Q And she was later transferred to Palmetto Health
20 Richland. Are you aware of that?

21 A No.

22 Q And your crew had no part in transferring her at
23 that point?

24 A No, ma'am.

25 Q Your job was done once she went to Providence

SW - A. BOYKIN - CROSS

1 Hospital?

2 A Correct.

3 MS. MCDUFFIE: Beg the Court's indulgence.

4 No further questions for this witness.

5 MR. STAGGS: Just a couple, Your Honor.

6 **CROSS-EXAMINATION**

7 BY MR. STAGGS:

8 Q And you're paramedic Boykin. Your first report
9 was on the date of the incident, right?

10 A Correct.

11 Q May 23rd, okay. And the second one when you
12 amended your statement was on June 7th?

13 A I would have to look at the document but...

14 Q I'd be glad to show it to you.

15 A If that's what it says, then that would be
16 correct.

17 Q It's here. So that's 15 days, right?

18 A Yes.

19 Q Okay. And you told the jury just a second ago
20 that the time that you went back and amended your
21 statement you had realized that you were exiting the
22 truck so you didn't actually, you weren't really
23 able to say anything, right?

24 A Correct.

25 Q But on your first statement you said you

1 witnessed the captain underhand toss the child to
2 Sergeant Adams from approximately the distance of 2
3 feet without being prompted to do so, right?

4 A Correct.

5 Q And then you thought about it and that wasn't how
6 you remembered it anymore?

7 A Correct.

8 Q Okay, all right. And then in your second
9 statement you say what you believe you saw was fire
10 personnel coming down the last flight of steps in an
11 expedited manner and the ground floor he extended
12 his arms out? But you were exiting the truck,
13 right?

14 A Yes.

15 Q Okay. All right, I don't have any further
16 questions right now. Thank you.

17 THE COURT: Anything?

18 MS. MCDUFFIE: Nothing further, Your
19 Honor.

20 THE COURT: All right. Thank you, sir.
21 You may step down. You are free to leave if you
22 like.

23 MS. CAMPBELL: The State calls Amanda
24 Adams.

25 WHEREUPON,

SW - A. ADAMS - DIRECT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AMANDA T. ADAMS,

having been duly sworn by the Clerk, testified as follows:

THE CLERK: Thank you. Please have a seat in the witness stand and state your full name for the record.

THE WITNESS: Amanda Tyler Adams.

DIRECT EXAMINATION

BY MS. CAMPBELL:

Q Ms. Adams, where are you employed?

A Richland County EMS.

Q And what do you do there?

A I'm a senior paramedic.

Q As a senior paramedic what do your duties include?

A We run all 9-1-1 calls throughout the county.

Q And have you had any specialized training in order to become a senior paramedic for Richland County EMS?

A Yes, we have -- everyone starts out as a EMT and then we go on to get the curricular of a paramedic. It's about a two year course.

Q It's about a two year course?

A Yes.

Q And when you start out as a initially as an EMT

SW - A. ADAMS - DIRECT

1 do you have specialized training before you can even
2 obtain that position?

3 A As a paramedic?

4 Q As an EMT?

5 A Oh, yes. You have schooling.

6 Q And you were able to successfully complete all
7 that schooling and become an EMT initially?

8 A Correct.

9 Q And then after you mentioned that you have to do
10 additional training?

11 A Right.

12 Q And that's about a two year course?

13 A Right.

14 Q And as a paramedic what are you, what are you
15 able to do because you have specialized training?

16 A We do all advance life support. We are trained
17 in EKGs, cardiac, respiratory. We have skills of
18 intubating patients, starting IVs.

19 Q And how long have you been working in this field?

20 A Eighteen years.

21 Q And have you always been working here in Richland
22 County?

23 A No, I worked in Greenwood County before I worked
24 here, for 11 years.

25 Q For 11 years?

SW - A. ADAMS - DIRECT

1 A Yes.

2 Q And then you've been here since when?

3 A 2005.

4 Q And you have a rank at EMS?

5 A Yes.

6 Q And what's your rank?

7 A Senior. It's -- we're called senior paramedics.

8 We're field training officers.

9 Q Field training officers?

10 A Yes.

11 Q So you actually do training for other people?

12 A Yes.

13 MS. CAMPBELL: And Your Honor, at this
14 time I'd offer her as an expert as a paramedic.

15 MS. PINNOCK: Your Honor, can we approach.

16 THE COURT: You may.

17 (WHEREUPON, counsel approached the Bench
18 for an off-the-record discussion.)

19 BY MS. CAMPBELL:

20 Q Sergeant Adams, I want to turn your attention
21 back to May 23rd of 2011. Were you working that
22 day?

23 A Yes, ma'am.

24 Q And did you have a -- were you required to
25 respond to a scene over in the northeast part of the

1 county that day?

2 A Yes, ma'am.

3 Q And what type of call was it that was initially
4 dispatched to y'all?

5 A The initial call was dispatched as a 20 year old
6 unresponsive.

7 Q A 20 year old unresponsive?

8 A Right.

9 Q And that's the information you were given?

10 A Right.

11 Q And were y'all also given address of where to
12 respond?

13 A Correct, we were.

14 Q And do you recall what that address was?

15 A Not right off the top of my head.

16 Q Who was working with you in your unit that day?

17 A Michelle Presnell and Avery Boykin.

18 Q And what was everybody's role in the unit that
19 day? Who was in charge?

20 A I was at that time. I was a senior paramedic on
21 the truck. Mr. Boykin was not a senior paramedic at
22 the time.

23 Q And once y'all got the call and were dispatched
24 where did y'all go?

25 A We went to the address that was dispatched to us.

SW - A. ADAMS - DIRECT

1 Q And once you got to that address tell the jury
2 what you observed or what happened.

3 A Once we got on scene and found the correct
4 apartment number we unloaded our equipment. Being
5 that it was an adult we have to unload a elder
6 valve, a thumper which we used for CPR when it's
7 unconscious, not breathing. When it comes out like
8 that we unload all our equipment. So we have a jump
9 bag, a monitor, a elder valve as well as a thumper
10 and we have to unload all that equipment as well as
11 the stretcher.

12 Q And when you got there you said you got to the
13 correct address, was that the address that was
14 initially given to you?

15 A That was our initial address that we found, the
16 correct address that was initially given.

17 Q And you mentioned that since it was an adult you
18 unloaded the items just mentioned?

19 A Correct.

20 Q Is that different from if you had known it was a
21 child?

22 A Correct.

23 Q And once you unloaded your adult equipment that
24 day what did y'all do?

25 A We went to the corridor of the apartment. Fire

SW - A. ADAMS - DIRECT

1 Department come up, said they were given a different
2 address. I asked one of them to make sure they
3 check with dispatch on their radio and we check with
4 ours at the same time to ask. And the address they
5 were given was the correct address so we had to load
6 all that stuff back out to the truck and go to an
7 address further up the complex.

8 Q And in fact, was it within the same complex?

9 A It was in the same complex, just further up in
10 another unit.

11 Q Another building?

12 A Yes, another building.

13 Q And so y'all went back down the stairs and then
14 loaded up that equipment?

15 A Actually, we didn't go upstairs. We just went to
16 a corridor towards some stairs and came back out.

17 Q Okay. So then y'all went and unloaded the
18 equipment?

19 A Yes.

20 Q And how did you proceed over to the actual
21 correct address?

22 A Mr. Boykin moved a unit and me and Ms. Presnell,
23 we put most of equipment on the stretcher and we
24 just walked up to the other apartment, complex,
25 building. It was about maybe one, two, maybe two

SW - A. ADAMS - DIRECT

1 apartment buildings up.

2 Q And once you got to the apartment building that
3 was the actual correct address of where y'all were
4 supposed to be, what did you observe?

5 A I observed one of the firemen bringing out a baby
6 that appeared to be unresponsive.

7 Q And was this the first time you ever became aware
8 that there was a child involved, the victim was a
9 child?

10 A As I can remember, yes, because I want to say
11 they were hollering it's a baby.

12 Q Okay. And that's how you ---

13 A Yea.

14 Q And then you saw the child?

15 A Then we saw the child, yes.

16 Q And you said you saw him coming out. Where did
17 you actually first see the fireman carrying the
18 child?

19 A Coming out the corridor of another building.

20 Q And would that have been the ground floor or the
21 first floor?

22 A I don't know if he went upstairs or not. He was
23 just coming out on the ground level.

24 Q On the ground level?

25 A Yes.

SW - A. ADAMS - DIRECT

1 Q And that's when you first observed him?

2 A Correct.

3 Q And he was carrying the baby at that point?

4 A Yes.

5 Q And somebody was hollering it's a baby?

6 A Yes.

7 Q And at that point what did you observe the
8 fireman do?

9 A He was coming out with the baby and he was
10 hollering we need a BVM.

11 Q A BVM?

12 A Yes.

13 Q And what's a BVM?

14 A It's a bag valve mask.

15 Q And is it different for a — bag valve mask?

16 A Yes.

17 Q Is that different for a child versus an adult?

18 A Oh, yes.

19 Q And at that point the equipment you had with you
20 was for an adult?

21 A Correct.

22 Q What happened next?

23 A He gave me the baby. I put the baby on the
24 stretcher. I assessed the baby. I felt for a
25 brachial pulse and to assess to see if the baby was

SW - A. ADAMS - DIRECT

1 breathing. She had neither. She was not -- she
2 didn't have a pulse and she was not breathing.

3 Q So when you received the child she didn't have a
4 pulse and she was not breathing?

5 A Yes.

6 Q And at that point had you observed anyone hurt
7 that child in any way?

8 A No.

9 Q But when you got her she was not breathing and no
10 pulse?

11 A Right.

12 Q So she wasn't conscious?

13 A No, she was not conscious.

14 Q Did you note anything about her skin or how she
15 felt?

16 A She had cyanosis around the mouth and nose.

17 Q And what does that mean?

18 A It's blue.

19 Q And what does cyanosis around the nose indicate
20 to you?

21 A That she's not breathing.

22 Q And did you notice anything about her skin
23 temperature or anything like that?

24 A Not -- she was warm to touch. She was warm to
25 touch. She wasn't completely cold.

1 Q But cyanosis she was blue around the mouth.?

2 A Uh-huh.

3 Q She wasn't breathing?

4 A Right.

5 Q And she had no pulse?

6 A Right.

7 Q So what, if anything, did you do at that point?

8 A I initiated CPR.

9 Q And where did that take place initially?

10 A On the stretcher right in the front of the yard.

11 Q And were you assisted by anyone, do you recall?

12 A Not at that time.

13 Q And in starting CPR were you also attempting to
14 get the additional equipment brought out?

15 A Actually, my monitor was at the bottom of my
16 stretcher and she was so small that I just reached
17 over and started getting my stretcher leads and
18 putting on so I could check for a heart rhythm.

19 Q And were you able to do that?

20 A Yes.

21 Q And what was the result when you checked?

22 A She was asystole.

23 Q And when you say she was asystole, what does that
24 mean?

25 A Flatlined. She had no pulse, no electrical

SW - A. ADAMS - DIRECT

1 activity of her heart.

2 Q So that basically confirmed your initial findings
3 of pulse ---

4 A That she was in cardiac arrest.

5 Q What did you then do?

6 A Called a cardiac arrest over the radio; that's
7 what we do. We have to confirm it, and so we have
8 to call it over the radio.

9 Q And what happened next?

10 A After then, as everything else was going on with
11 the fireman ranting to Ms. Presnell to get a BVM, to
12 hurry up and do something, she was looking for the
13 BVM which is a bag valve mask in the bag and I told
14 her we don't keep pediatrics in our jump bag because
15 it's very rarely that we have pediatric arrests. So
16 at that time Mr. Boykin brought the BVM for her size
17 out of the back of the truck.

18 Q And what did you do?

19 A I want to say Mr. Boykin starting bagging the
20 baby and we started moving towards the ambulance.

21 Q And so when you start bagging the baby would that
22 replace you as doing CPR?

23 A No, I continued CPR.

24 Q Okay. And you mentioned at this point you're
25 moving towards the back of the ambulance?

1 A Correct.

2 Q 'Cause at this point what was your judgment?

3 What was the best thing to do for this child?

4 A Is to get off scene.

5 Q And did you, in fact, get her into the ambulance?

6 A Yes, we did.

7 Q Did you continue to give her care?

8 A Yes, we did.

9 Q And was all the care you gave that child that day
10 proper?

11 A Correct.

12 Q And life saving?

13 A Yes.

14 Q To the best of your ability?

15 A To the best of my ability.

16 Q Once you were able to get her in the truck did
17 you administer any further care, treatment?

18 A Yes. I started an IV. Mr. Boykin inserted a
19 OPA, which is just a little airway junction that you
20 put in to open their airway up so they can get more
21 air into them.

22 Q And how is that inserted? What is that?

23 A It's called an OPA.

24 Q OPA?

25 A It's a, just a small like plastic tube that we

SW - A. ADAMS - DIRECT

1 put into their throat and it opens up your airway.

2 Q Did she resist you at all ---

3 A No.

4 Q ---when you put the tube down her throat?

5 A No.

6 Q What else did you do?

7 A Once we did that I started the IV and I gave her
8 the first round of cardiac drugs.

9 Q And when you say cardiac drugs, tell the jury
10 what these drugs do, why you're using them.

11 A The cardiac drugs kind of stimulate the heart to
12 start, electrically start, chemically start
13 functioning again.

14 Q Okay?

15 A And it's -- epinephrin is what we gave.

16 Q Epinephrin?

17 A Yes.

18 Q How was that administered?

19 A IV push.

20 Q And so at this point she'd already been able to
21 get an IV into this child?

22 A Yes.

23 Q Into a vein, in her arm, or where?

24 A In her arm.

25 Q Okay. Once you were able to give her the

1 epinephrin did she respond?

2 A No.

3 Q Did you continue to try to save this child's
4 life?

5 A Yes. We continued CPR when in route to the
6 hospital, gave her another round of epinephrin.
7 When we did that, by the time we moved her from the
8 truck to the ER she had a pulse.

9 Q So at this point was she able to breathe?

10 A No. She made no efforts to breathe that I can
11 recall.

12 Q But were y'all breathing for her?

13 A Right. She was still getting air into the
14 system.

15 Q And y'all were able to get a pulse?

16 A Yes.

17 Q And do you recall approximately how long it was
18 -- how close was Providence Northeast from this
19 address off ---

20 A Five to six miles away.

21 Q Once you got her to Providence Northeast what did
22 you do with her?

23 A We turned care over to the staff there.

24 Q Once you had placed the little girl on the
25 stretcher did you make any efforts to secure her on

SW - A. ADAMS - DIRECT

1 that stretcher?

2 A Yes, we did. We put a, what's called a full
3 pediatric patients. Sometimes our cervical collars
4 don't fit their neck so we put what's called a towel
5 roll around her neck and secured it so that her head
6 would be maintained and aligned in a neutral
7 position.

8 Q Is there any other care you administered to this
9 child while you had her in your custody that day?

10 A Other than, no, what I've all documented.

11 Q And in fact, you did do a report on this case?

12 A Oh, yeah.

13 Q And you were able to get at least a pulse?

14 A Yes, we did get a pulse back.

15 Q But she was never able to breathe on her on?

16 A No, not to my recollection.

17 Q Once you transferred her to the hospital did you
18 have anymore contact with K.H. [REDACTED]?

19 A No, I didn't.

20 Q At any point when you were out there did you see
21 anyone harm the child?

22 A No.

23 Q Did you harm the child?

24 A No.

25 Q Did you ever see anyone throw this child?

1 A No.

2 Q And in fact, when the child was turned over to
3 you, how did that exchange take place?

4 A I took her from the fireman's hands. He was
5 holding her in this position, and I took her from
6 his hand by the neck and the bottom and placed her
7 on the stretcher.

8 Q And when he was coming out of the building with
9 her was he moving quickly?

10 A Yes.

11 Q And there was some cussing going on that day?

12 A Yes.

13 Q And a complaint was made?

14 A Yes.

15 Q It got tense?

16 A Yes.

17 Q At any point did you -- did this affect your care
18 of this child?

19 A No.

20 Q And at any point did you see anyone else hurt
21 this child in any way?

22 A No.

23 Q And in fact, what was everybody's goal that day?

24 A To take care of the baby.

25 Q Did you do everything you could to save that

1 child?

2 A Yes, ma'am, we did.

3 Q Thank you.

4 THE COURT: All right, Ms. Pinnock.

5 MS. PINNOCK: Please the Court, Your
6 Honor.

7 **CROSS-EXAMINATION**

8 BY MS. PINNOCK:

9 Q Ms. Adams, you demonstrated when you took the
10 child from the fire department personnel he had her
11 up like this?

12 A Correct.

13 Q And then you took her from him?

14 A Right.

15 Q You're the one who laid her on the stretcher?

16 A Yes.

17 Q He didn't do it?

18 A Not that I can recall. As far as my records
19 recall, what I remember, i took her by her head and
20 buttocks and laid her down and then felt for a
21 pulse.

22 Q Okay. And you said when you saw him he was
23 either running or moving, coming quickly with the
24 baby?

25 A He was moving quickly with the baby.

SW - J. WILDER - DIRECT

1 MS. PINNOCK: Beg the Court's indulgence.
2 I have nothing further. Thank you.

3 THE COURT: Thank you, ma'am. You may
4 step down. You are free to leave.

5 Call your next witness.

6 MS. SIMPSON: The State calls Corporal
7 Wilder.

8 WHEREUPON,

9 **JIMMY WILDER,**

10 having been duly sworn by the Clerk, testified as
11 follows:

12 THE CLERK: Thank you. Please have a seat
13 in the witness stand and state your full name for
14 the record.

15 **DIRECT EXAMINATION**

16 BY MS. SIMPSON:

17 Q Can you state your full name.

18 A Corporal Jimmy Wilder.

19 Q All right. Corporal Wilder, where are you
20 employed?

21 A With Richland County Sheriff's Department.

22 Q And how long have you been with the Sheriff's
23 Department?

24 A Twelve years.

25 Q What is your current position with the

SW - J. WILDER - DIRECT

1 department?

2 A I'm the region three daytime supervisor.

3 Q And as the region three daytime supervisor what
4 are some of your duties?

5 A Responding to calls whether they call for
6 services, assisting in property crimes, protecting
7 witnesses if it's involved major crimes, gathering
8 up evidence for investigators. It's a varies of
9 primarily working with the community to showing the
10 Sheriff's Department different light, more so than
11 just taking them to jail.

12 Q And prior to becoming a corporal did you actually
13 have occasion to work as a resource officer in
14 schools and things of that nature?

15 A Yes, I did. I worked as a school resource
16 officer for five years. I worked in elementary
17 schools. I worked in middle schools and I worked in
18 high schools, primarily dealing with juveniles in
19 the elementary schools and teaching there.

20 Q So you have had a occasion to deal with cases of
21 child abuse and things of that nature?

22 A Yes, I have.

23 Q I want to turn your attention to May 23rd of
24 2011. Did you -- what capacity were you working in
25 at that time?

SW - J. WILDER - DIRECT

1 A At that time particular time I was on patrol as
2 the assistant supervisor.

3 Q And as being on patrol as assistant supervisor
4 what does that mean?

5 A That means responding to calls for service or
6 calls that when we are in a region and we receive a
7 call, then I would go on it and stuff.

8 Q And did you have occasion to become involved in
9 this case?

10 A Yes, I did.

11 Q Can you tell us how you were notified and where
12 you responded to?

13 A Well, I was notified by central dispatch to
14 Providence Northeast Hospital on the 23rd of May
15 about 1:30 in Richland County, and it was reference
16 a child abuse case.

17 Q So you were actually notified via dispatch?

18 A Yes, I was.

19 Q What time did you actually arrive to Providence
20 Northeast?

21 A The on or about time was about 1:35, 1:36, give
22 or take. It's about 1:35, 1:36.

23 Q And once you were notified were you aware of why
24 you were responding to the hospital?

25 A Yes, I was once I got to the location and after

SW - J. WILDER - DIRECT

1 speaking with the nurse, yes.

2 Q And did you ever respond -- did you actually have
3 a chance to observe the victim in this case,

4 K.H. [REDACTED]?

5 A Yes, I did.

6 Q And what did you observe just generally?

7 A Generally ---

8 Q Her condition?

9 A She was unresponsive. My observation that she
10 was deceased.

11 MS. PINNOCK: Objection, Your Honor,
12 that's conclusion.

13 THE COURT: Well, let him testify to what
14 his observation was. Overruled.

15 THE WITNESS: And I saw some bruises on
16 her leg ---

17 MS. PINNOCK: Objection, Your Honor, we
18 have a matter of law.

19 MS. SIMPSON: May we approach.

20 THE COURT: Ladies and gentlemen, let me
21 let you step back to the jury room. Please don't
22 discuss the case while you're there.

23 (WHEREUPON, the jury was removed from the
24 courtroom at 12:23 p.m., and the
25 following proceedings commenced in open

1 court.)

2 MS. PINNOCK: Your Honor, my objection is
3 based on your pretrial rulings on any sort of prior
4 injury. You ruled there would be no testimony about
5 bite marks, black eyes, or bruising. Every witness
6 has been instructed not to speak about those
7 injuries and this witness has just offered testimony
8 on —

9 THE COURT: My recollection is the prior
10 injuries were black eye and some biting. I don't
11 remember any bruising that was at least told to me.

12 MS. SIMPSON: And Your Honor, if I may, I
13 actually instructed Corporal Wilder not to mention
14 the black eye, only that he observed bruises which
15 is indicated in his report. He also knows not go
16 into any bite marks, which he didn't actually
17 observe. Those were told to him by the nurse so
18 that would not be anything that we would be going
19 into any way. But he has been advised as to what he
20 could testify to and essentially just what he stated
21 as far as the bruising that he noted she appeared to
22 be dead to him, just his observation of her. And
23 it's very brief. She's free to cross on it, but we
24 are not going into the bite marks or the black eyes.

25 THE COURT: The bruising, is it something

1 that y'all believe would occurred sometime prior to
2 this incident or is this an issue that's involved in
3 this case?

4 MS. SIMPSON: No, the bruising that we're
5 referring to specifically now is the result of the
6 injuries that she suffered from the defendant on
7 that day. That goes to all of the bleeding and
8 their actual which we would have gotten into or
9 hopefully with the pathologist as far as bruising to
10 ---

11 THE COURT: All right, well ---

12 MS. SIMPSON: ---this child.

13 THE COURT: If they're alleging that those
14 were something that occurred contemporaneously with
15 whatever other injuries are then they certainly have
16 the right to testify to that. You can cross him on
17 that.

18 MS. PINNOCK: Your Honor, my objection was
19 because it was my recollection of your ruling that
20 that was ---

21 THE COURT: I don't remember anything
22 about bruising. I didn't know there was any
23 bruising on the child. I mean, I assume at some
24 point y'all may try to show there was bruising on
25 the body because of the way the child was held, but

SW - J. WILDER - DIRECT

1 I'm gonna go ahead and allow them to testify to that
2 if that's their position that this occurred as a
3 result of this incident by the defendant. I don't
4 know how we can preclude that if they say that's
5 part of what your client did to her that day. But I
6 mean, let's stick to the injuries that were
7 allegedly occurred the day of the incident, which is
8 in May 23rd. All right.

9 MS. SIMPSON: And I'll be happy to couch
10 it in terms of what he believed to be bruising on
11 the face, Your Honor, what ---

12 THE COURT: If he's saying that these
13 bruises were something that occurred on that day,
14 are y'all gonna tie that in? You know, that's the
15 best you can do. If you can't tie it in you may
16 have problems. All right, let's bring the jury
17 back.

18 (WHEREUPON, the jury was returned to the
19 courtroom at approximately 12:26 p.m.,
20 and the following proceedings commenced
21 in open court.)

22 BY MS. SIMPSON:

23 Q Corporal Wilder, while at the hospital, without
24 telling me what all was said to you, did you make
25 contact with a nurse who was on duty?

SW - J. WILDER - DIRECT

1 A Yes, I did. Her name was nurse Shannon
2 McCormick.

3 Q And she gave you some information, without
4 telling me what that was?

5 A Yes.

6 Q Did you also -- were you able to speak with
7 Doctor Hayes?

8 A Yes, I did.

9 Q One of the doctor?

10 A Uh-huh.

11 Q As well as, I believe, the mother of the victim?

12 A Yes, I did.

13 Q And with the information that you gathered, the
14 limited information that you had, did you turn that
15 information over to the lead investigator Sergeant
16 Faust in this case?

17 A Yes, I did. Yes, I did.

18 Q And at some point did you learn that she was
19 going to be transferred to another hospital?

20 A Yes.

21 Q Okay, thank you.

22 THE COURT: Anything?

23 MS. PINNOCK: Please the Court.

24 **CROSS-EXAMINATION**

25 BY MS. PINNOCK:

1 Q Corporal Wilder, did you take photographs at the
2 hospital?

3 A Yes, I did.

4 Q Where are those photographs?

5 A I don't have them. At the time they told me the
6 coroner would be having those photos. I didn't have
7 them. I don't have them with me.

8 Q You turned them in to who?

9 A RSC crime kit, our crime kit.

10 Q Okay. And you're referring to your incident
11 report that you made on that day, right?

12 A Yes, uh-huh.

13 Q You never wrote anything in here about personally
14 observing the child in the hospital, did you?

15 A Personally observing?

16 Q Yes.

17 A If you -- I say that she had extensive -- if
18 you're talking about what I just ---

19 Q No, that you went to the room, you stood there,
20 you looked at her. That's not how your report is
21 written?

22 A No, it's not written like that, no.

23 Q Okay.

24 MS. PINNOCK: Beg the Court's indulgence.

25 Thank you, Your Honor.

1 THE COURT: All right, thank you, sir.
2 You may step down.

3 THE WITNESS: Thank you.

4 THE COURT: You're free to leave if you
5 like as well.

6 Call your next witness.

7 MS. CAMPBELL: The State calls Kevin
8 Preston. Your Honor, may I approach.

9 (WHEREUPON, counsel approached the Bench
10 for an off-the-record
11 discussion.)

12 THE COURT: Ladies and gentlemen, I've
13 been told this witness may be a little bit of time
14 so rather than go for 15, 20 minutes and then break,
15 we're gonna go ahead and break for a lunch at this
16 point in time. And I'm going ask y'all to be back
17 here at quarter till two. That will give you an
18 hour and 15 minutes. Please do not discuss the case
19 when you're gone. Don't do anything to make any
20 inquiry about it, and we'll come back and start back
21 up at quarter till two. We're gonna break a little
22 early this afternoon. I have an obligation that
23 requires me to be somewhere at 4:20 so we'll
24 probably leaving about ten till four this afternoon
25 and so we're not gonna be here all day. Anyway,

1 y'all have a nice lunch. Don't discuss the case.

2 We'll see you back here in an hour 15 minutes.

3 (WHEREUPON, the jury was removed from the
4 courtroom at 12:30 p.m., and the following
5 proceedings commenced in open court.)

6 THE COURT: All right, y'all have a good
7 lunch.

8 MS. MCDUFFIE: Judge, we had I think four
9 or five witnesses lined up this afternoon. We
10 didn't want, we knew had to leave early so we didn't
11 want to start testimony from medical doctors 'cause
12 I think that it's gonna be very complex so we might
13 finish up a little before time, just to let you
14 know.

15 THE COURT: We might?

16 MS. MCDUFFIE: Yes.

17 THE COURT: I mean, you want to, maybe.

18 MS. MCDUFFIE: No, I'm just ---

19 MS. CAMPBELL: We would ask.

20 MS. MCDUFFIE: I mean, we could have the
21 doctor here and that would push us ---

22 THE COURT: I don't know how long, I mean,
23 Ms. Campbell has indicated that the next witness may
24 be a while, something less than an hour but more
25 than 15 minutes so that would get, let's say that

1 that turns out to be an hour 15, 37 minutes because
2 that would be about half of what, 15, or closer to
3 an hour, so we're back at about 2:30.

4 MS. CAMPBELL: Well, we'll have six
5 witnesses here this afternoon.

6 THE COURT: Well, I want to go as close to
7 ten till four as we can.

8 MS. CAMPBELL: And the only thing is we
9 just scheduling, we're moving much quicker than we
10 thought which is great, but we just scheduled the
11 doctors for tomorrow.

12 THE COURT: Let's see.

13 MS. CAMPBELL: Thank you.

14 (WHEREUPON, a lunch break was taken.)

15 (WHEREUPON, State Exhibits Nos. 4 through
16 112 were marked for identification
17 only.)

18 THE COURT: Y'all ready to go?

19 MS. CAMPBELL: One quick thing, Your
20 Honor, just to make sure, in the interview,
21 Investigator Preston next, he interviewed the
22 defendant in the initial interview. Part of the
23 interview the defendant referred to the fact he'd
24 been living with her since he'd gotten out of jail.
25 I instructed him not to say those words, "since

1 jail." In addition to that, Your Honor, in the
2 pretrial and what's come up is, at some point
3 towards the end of the interview the defendant
4 indicates that he might want to get an attorney
5 prior to taking the polygraph. I assume, I don't
6 know that it's relevant at this point, if you would
7 instruct, I would assume you would instruct me not
8 to mention anything about the polygraph.

9 THE COURT: That would be a good idea.

10 MS. CAMPBELL: However, if voluntariness
11 of the statement comes into question later, that may
12 become relevant and I will just, I don't want the
13 jury to think we're hiding anything from them on the
14 front end, but would, might have to re-call the
15 witness to explain actually if it becomes relevant
16 later.

17 THE COURT: Whatever we do will be done in
18 camera and ---

19 MS. CAMPBELL: Yes, sir.

20 THE COURT: We're not gonna -- so don't
21 bring it up anything about ---

22 MS. CAMPBELL: Yes, sir. I just want to
23 make sure that's what they want too because I had
24 trial ---

25 MR. STAGGS: We didn't challenge the

1 voluntariness of the first statement, Your Honor.
2 We took -- there was the Jackson v. Denno hearing,
3 but we didn't ---

4 MS. CAMPBELL: That's fine, I didn't know
5 which way y'all want. Sometimes in false confession
6 cases they like to use the polygraph stuff.

7 MR. STAGGS: That's not something we're
8 planning on doing.

9 MS. CAMPBELL: I will instruct the witness
10 again not to mention that part.

11 MR. STAGGS: Thank you.

12 THE COURT: Let's bring the jury in
13 please, sir.

14 (WHEREUPON, the jury was returned to the
15 courtroom at approximately 1:52 p.m., and
16 proceedings commenced in open court.)

17 THE COURT: All right. Madam Solicitor,
18 you may call your next witness.

19 MS. CAMPBELL: Yes, sir. The State calls
20 Kevin Preston.

21 WHEREUPON,

22 **KEVIN PRESTON,**
23 having been duly sworn by the Clerk, testified as
24 follows:

25 THE CLERK: Thank you. Please have a

SW - K. PRESTON - DIRECT

1 seat in the witness stand. State your full name for
2 the record.

3 THE WITNESS: Kevin Preston.

4 **DIRECT EXAMINATION**

5 BY MS. CAMPBELL:

6 Q Sir, where are you employed?

7 A Richland County Sheriff's Department.

8 Q What do you do there?

9 A Investigator assigned to the special victim's
10 unit.

11 Q What do your duties include as a investigator of
12 the Sheriff's Department?

13 A Investigating crimes, making arrests, clearing
14 cases.

15 Q I want to turn your attention back to May the
16 23rd of 2011. Were you working that day?

17 A Yes, ma'am.

18 Q And did you become involved in the investigation
19 of a 17 year [sic] old with severe injuries?

20 A Yes, I was.

21 Q And how did you become involved that day, sir?

22 A I got a call from our sergeant, Sergeant Scott
23 Faust, asked me to accompany Investigator Richard
24 Carter, investigate incident that happened earlier
25 that day in reference to a child that was at the

SW - K. PRESTON - DIRECT

1 local hospital.

2 Q Okay. And when you first became aware of this --
3 let me back up a second. How long have you been in
4 law enforcement?

5 A Twelve years.

6 Q And have you been at the Sheriff's Department the
7 entire time?

8 A Yes, ma'am.

9 Q During the course of your investigations and your
10 following up on leads, do you have opportunities to
11 talk to witnesses?

12 A Yes, ma'am.

13 Q And defendants as well?

14 A Yes, ma'am.

15 Q And that's what you do almost on a daily basis;
16 is that right?

17 A Yes, ma'am.

18 Q Okay. So you found out about a child that was in
19 a local hospital?

20 A Correct.

21 Q And as a result of your conversation with
22 Sergeant Faust what, if anything, did you do?

23 A Accompany Richard Carter. We responded to a
24 residence apartment complex and also to the
25 hospital.

SW - K. PRESTON - DIRECT

1 Q Where did you go first that day, to the apartment
2 complex or to the hospital?

3 A Apartment complex.

4 Q And who was with you?

5 A Richard Carter.

6 Q And is he also an investigator at the Sheriff's
7 Department?

8 A Yes, ma'am.

9 Q And once y'all arrived about, do you remember
10 about what time it was when you got to the apartment
11 complex?

12 A I think it was around 4:30, 4:45.

13 Q Could it have been around 15:30?

14 A Correct, yes, ma'am.

15 Q And specifically was this an apartment complex
16 off Park Lane Road?

17 A Yes, sir.

18 Q And when you got to the apartment complex did you
19 have specific apartments you were going over there
20 to check out?

21 A Yes, ma'am.

22 Q What was the purpose of your going over to the
23 apartment complex that day?

24 A Secure the actual scene in lieu of a search
25 warrant.

SW - K. PRESTON - DIRECT

1 Q To secure the scene in lieu of a search warrant?

2 So at the time you went over there had a search
3 warrant been obtained yet?

4 A No, ma'am.

5 Q And is it proper protocol to get a search warrant
6 prior to searching anyone's house?

7 A That's correct.

8 Q And that was being done?

9 A Yes, ma'am.

10 Q And y'all went over there for the purpose of
11 securing the scene till the warrant had been
12 procured?

13 A Correct.

14 Q Once you got to the apartment — and do you
15 remember what level that apartment was on?

16 A If I'm not mistaken it's the second floor
17 apartment, second or third.

18 Q Second or third floor? And when you got there
19 did you make attempt to make contact with anyone
20 there?

21 A Yes, ma'am.

22 Q And what did you do?

23 A Knock on the door.

24 Q And when you went to the apartment and you had
25 the number at the time, right?

1 A Correct.

2 Q Did anyone respond?

3 A No, ma'am.

4 Q While there did you make an attempt to make
5 contact with any of the neighbors?

6 A Yes, ma'am.

7 Q And were you able to do that?

8 A No -- well, yes, ma'am, we did.

9 Q And were they able to give you any information
10 that was really pertinent to this case as far as
11 what happened that day?

12 A No, ma'am.

13 Q While there did you also -- did you and
14 Investigator Carter also make contact with the
15 apartment manager?

16 A Yes, ma'am.

17 Q And you can't say what she told you, but she was
18 able to give you some information, provide you with
19 some assistance?

20 A Yes, ma'am.

21 Q And in fact, what was she gonna do once y'all got
22 that search warrant that day?

23 A Help us get into the apartment.

24 Q At some point was there a request made for y'all
25 to proceed to the hospital and leave that scene?

SW - K. PRESTON - DIRECT

1 A Yes, ma'am.

2 Q Did you make any attempts to make sure the scene
3 remained secure until the search warrant could get
4 there?

5 A Yes, ma'am.

6 Q What'd y'all do?

7 A We called a responding, what we call responding
8 unit, a deputy from region two. He responded to the
9 apartment complex.

10 Q Okay. Once the region two deputy got there to
11 keep the scene secure, did y'all then proceed to
12 leave?

13 A Yes, ma'am.

14 Q And where did you go?

15 A Richland Memorial Hospital or Palmetto Health
16 Richland.

17 Q On the way there did y'all make any contact with
18 DSS in this case?

19 A I believe Investigator Carter did.

20 Q And he would have handled that part?

21 A Yes, ma'am.

22 Q Around 4:45 that evening did y'all arrive at
23 Palmetto Richland?

24 A Yes, ma'am.

25 Q And where did y'all proceed to go to?

1 A The PICU, the infant unit at the Children's
2 hospital.

3 Q The Pediatric Intensive Care Unit?

4 A Yes.

5 Q And it's commonly referred to as PICU?

6 A Correct.

7 Q Once there what did you do?

8 A I made contact with doctors at the PICU, Doctor
9 Rosa. She briefed us on what the condition of the
10 child was.

11 Q And without saying what she said to you, she
12 basically filled you in on the child's injuries?

13 A Correct.

14 Q Did Sergeant Faust also contact y'all that day to
15 give you some information about what he found at the
16 apartment?

17 A Yes, ma'am.

18 Q While you were there after talking to Doctor Rosa
19 who did you make contact with?

20 A Lieutenant Heidi Scott.

21 Q And what was Lieutenant Scott coming up there to
22 do that day?

23 A To investigate the child's mother, or speak with
24 the child's mother, excuse me.

25 Q Speak with the child's mother?

SW - K. PRESTON - DIRECT

1 A Uh-huh.

2 Q And while y'all were there, did you make attempts
3 to speak with anyone else at the hospital?

4 A No.

5 Q Did you, did you speak to anyone else at the
6 hospital?

7 A Oh, yes, ma'am, I'm sorry.

8 Q I'm sorry. And who did you make contact with
9 there at the hospital that evening?

10 A Antwan Gaddist.

11 Q And why were y'all making contact with Antwan
12 Gaddist?

13 A Because he was a person we needed to speak to in
14 reference to the accident.

15 Q And at this point you had been briefed on the
16 child's injuries?

17 A Correct.

18 Q But did y'all know the cause of the injuries?

19 A No, ma'am.

20 Q Whether they were accidental or non-accidental?

21 A No, ma'am.

22 Q But regardless, would you do investigation with a
23 child with these type of injuries?

24 A Yes, ma'am.

25 Q Where did you make contact with Mr. Gaddist that

1 day?

2 A It was a, on that same floor. It was a small
3 conference room outside, right beside the waiting
4 room on that floor, excuse me.

5 Q And did -- what was the purpose of y'all making
6 contact with Mr. Gaddist?

7 A To get, I guess, a timeline as to where, you
8 know, the condition of the child. The child was
9 with him, of course, with him and whoever else and
10 just to see if he can provide us any information as
11 to the injuries or how the child sustained injuries.

12 Q And when y'all spoke to him was he under arrest?

13 A No, ma'am.

14 Q Was he in custody?

15 A No, ma'am.

16 Q And did he speak to y'all voluntarily at that
17 point?

18 A Yes, he did.

19 Q And who all was present in the conference room
20 when you and Investigator Carter spoke to Antwan
21 Gaddist that evening?

22 A Just him.

23 Q Did you initially advise him what you wanted to
24 speak to him about?

25 A Yes, ma'am.

SW - K. PRESTON - DIRECT

1 Q And during the course of your questioning of him,
2 did he seem to understand you?

3 A Yes, ma'am, he did.

4 Q Did he have any problems responding coherently to
5 you?

6 A No.

7 Q Did he appear to be under the influence of any
8 alcohol or drugs that day?

9 A No, ma'am.

10 Q And during the course in your investigation over
11 the years in speaking to people, did he appear to
12 have any cognitive difficulties understanding?

13 MS. PINNOCK: Objection.

14 THE COURT: I don't know based on her
15 experience over the years I think he can testify
16 what his impressions were at the time whether he
17 understood or not.

18 MS. CAMPBELL: Thank you.

19 THE COURT: If you want to rephrase the
20 question.

21 BY MS. CAMPBELL:

22 Q What was your impression of his ability to
23 understand you?

24 A That he understood what we were asking.

25 Q Have you ever dealt with people before that you

1 were worried about their ability to understand you?

2 A Yes, ma'am.

3 Q Did you have any concerns about him?

4 A No, ma'am.

5 Q Did y'all ask him a series of questions about the
6 events of that day?

7 A Yes, we did.

8 Q And specifically, when you initially asked him
9 about how he had found K.H. [REDACTED], what did he
10 indicate to y'all?

11 A Rephrase your question, I'm sorry.

12 Q Did you ask him specifically how he found
13 K.H. [REDACTED]?

14 A Yes.

15 Q And what did he say how he found her
16 nonresponsive or however he put it?

17 A Nonresponsive.

18 Q And where did he indicate she was?

19 A Without looking I'm not exactly sure.

20 Q Did he indicate whether or not he had called
21 9-1-1 or anyone had?

22 A Yes, ma'am.

23 Q And who did he indicate called 9-1-1?

24 A The child's mother.

25 Q Okay. And did he indicate whether or not the

SW - K. PRESTON - DIRECT

1 child's mother was there when the child was found?

2 MS. PINNOCK: Objection, Your Honor,
3 leading.

4 THE COURT: Sustained.

5 BY MS. CAMPBELL:

6 Q What did he indicate about who was there?

7 A No one else.

8 Q Except for him?

9 A Correct.

10 Q I'm gonna show you a copy of State's Exhibit
11 Number 107. After speaking to him did y'all then
12 reduce what the information he told you into
13 writing?

14 A Yes, ma'am.

15 Q And again, where was that done?

16 A At the hospital.

17 Q And at any point did y'all force him to talk to
18 you?

19 A No, ma'am.

20 Q Did you force him in any way?

21 A No, ma'am.

22 Q And was this the information he relayed to you
23 for the most part?

24 A Yes, ma'am.

25 Q Once -- whose handwriting is that as far as the

1 body in the question/answer part?

2 A Investigator Richard Carter.

3 Q And is he the one that actually wrote out that
4 statement?

5 A Yes, ma'am.

6 Q And the question part, who was doing the
7 questioning that day?

8 A Investigator Carter.

9 Q And the answer parts on those, whose answers are
10 those?

11 A Antwan Gaddist.

12 Q Prior to — once the statement had been completed
13 was he then given an opportunity to review that
14 statement?

15 A Yes, ma'am.

16 Q And did he do so?

17 A Yes, he did.

18 Q And if he requested any changes be made would
19 they have been made?

20 A Yes, ma'am.

21 Q And in order to acknowledge that's his statement
22 did y'all have him sign in a certain manner on each
23 page?

24 A Yes, ma'am.

25 Q And where is his signature on that?

SW - K. PRESTON - DIRECT

1 A On the bottom by the X.

2 Q Who witnessed that signature?

3 A I did.

4 Q And is that your signature underneath his?

5 A Yes, ma'am.

6 Q Is that also notarized?

7 A Yes, ma'am.

8 Q And who notarized it?

9 A Investigator Carter.

10 MS. CAMPBELL: Your Honor, at this time we
11 offer State's Exhibit Number 107 into evidence.

12 MS. PINNOCK: No objection.

13 THE COURT: So admitted without objection.

14 (WHEREUPON, State Exhibit No. 107 was
15 admitted into evidence.)

16 MS. CAMPBELL: Permission for him to
17 publish.

18 BY MS. CAMPBELL:

19 Q If you can just read or go through exactly the
20 information at the top and then how the questioning
21 was done and then publish it to them, just read it
22 to them.

23 A It says, statement, State of South Carolina,
24 County of Richland. Date 5/23/2011, time 1749
25 hours. It says, personally appeared before me this

SW - K. PRESTON - DIRECT

1 date an officer duly and legally authorized to
2 administer oath in the name, county, state,
3 aforesaid comes one Antwan Lydell Gaddist, [REDACTED].
4 Address [REDACTED] Joiner Road, Columbia, South Carolina
5 29209. Phone number home, [REDACTED]44. Phone
6 number work, [REDACTED]84. Who makes this following
7 statement under oath, to wit: Question,
8 Investigator Carter. Answer, Mr. Gaddist.
9 Question, do you know Miesha Miller? Answer, yes.
10 Question, what is your relationship to Ms. Miller?
11 A: She is my girlfriend; we're in a relationship.
12 She's my kids' mom, got a daughter together.
13 Question: Do you have any children in common with
14 Ms. Miller? Answer: Yes. Question: How many?
15 Answer: One, M.G. [REDACTED], she is 13. Question: Do
16 you currently reside with Ms. Miller at her resident
17 located at 220 Springtree Road, apartment [REDACTED]4?
18 Answer: Yes, sir. Question: How long have you
19 lived with Ms. Miller? Answer: About two months, a
20 little over two months. Question: Do any of the
21 children live in the house? Answer: M.G. and the
22 twins, K.H. 2 and K.H. [REDACTED]. Question: Can you tell
23 Investigator Carter the names of those children?
24 Answer: M.G., K.H. 2, and K.H. [REDACTED]. The twins are
25 17 months. Question: On May 23, 2011, were you at

SW - K. PRESTON - DIRECT

1 the residence keeping the children? Answer: Yes.
2 Question: What time did Ms. Miller leave the
3 residence? Answer: She left around 11 something.
4 Question: What time did K.H. go to bed last
5 night? Answer: I'm not sure, about 12 something.
6 Question: What time did K.H. get up today?
7 Answer: I didn't see her get up, nothing. Today
8 she was asleep. Question: What time did you go to
9 bed last night? Answer: About 1 in the morning.
10 Question: What time did you get up today? Answer:
11 I got up about 9. Question: Did you keep K.H.
12 and her brother last week? Answer: Yeah.
13 Question: Did you see K.H. during the day on
14 Sunday, May 22nd, 2011? Answer: No, not to my
15 knowledge I didn't see her fall. Question: Were
16 you with K.H. during the day on Sunday, May
17 22nd, 2011? Answer: Yes, I was in the house with
18 them. All of us were there, me, the kids and
19 Ms. Miller. Question: can you tell Investigator
20 Carter what happened after Ms. Miller, the house
21 today? Answer: I was in the house. K.H. 2 was in
22 the house. I was feeding him and she was asleep.
23 Question: Can you tell Investigator Carter where
24 K.H. was sleeping? Answer: She was sleep in
25 her sister's room on the bed. Question: Can you

SW - K. PRESTON - DIRECT

1 tell Investigator Carter the reason you went into
2 the room where K.H. [REDACTED] was? Answer: To feed her.
3 Question: What time was this? Answer: Maybe 1
4 something. Question: When you went into the room
5 where K.H. [REDACTED] was, what happened? Answer: I went
6 to go feed her; she wasn't responding. I went to
7 wake her up to eat. That's when I called her mom.
8 I knew something wasn't right. I told her mom when
9 I went to wake her up to feed her she wouldn't wake
10 up. Her mom told me to call 9-1-1. She called EMS.
11 We were on three way call when she called 9-1-1.
12 The dispatcher told me to do something and I was
13 doing it. EMS came, took her to the hospital.
14 Question: What were you wearing when you got up
15 this morning? Answer: I had on a basic T-shirt.
16 Blood got on my T-shirt from me giving her CPR. I
17 picked her up and put her over my shoulder. When I
18 started doing CPR blood started coming out of her
19 mouth and nose. The operator told me to put my
20 mouth over her mouth and nose. That's when I
21 noticed the blood coming out of her nose and mouth.
22 I ain't never done anything like that, which is CPR
23 in parentheses, and I was nervous. Question: What
24 did you do with the T-shirt? Answer: I put it in
25 the laundry with the dirty clothes. Question: Did

SW - K. PRESTON - DIRECT

1 blood get on K.H. [REDACTED]'s clothes. Answer: I think
2 so; I didn't pay any attention. Question: Did you
3 change K.H. [REDACTED] before EMS transported her? Answer:
4 No, sir. Question: Did you shake, hit, or drop
5 K.H. [REDACTED] while she was with you? Answer: No, sir.
6 Question: Did you hurt K.H. [REDACTED] Answer: No.
7 Question: Did Ms. Miller ever assault or hurt
8 K.H. [REDACTED]? Answer: No, sir. Question: Can you
9 provide any information that would explain
10 K.H. [REDACTED]'s injuries? Only information I can provide
11 is that she fell. Question: Did you see K.H. [REDACTED]
12 fall today? Answer: No, sir. Question: How many
13 teeth does K.H. 2 have? Answer: I don't know how
14 many he has. Top and bottom, there are a few.
15 Question: Is there anything else you would like to
16 add that Investigator Carter has not asked you?
17 Answer: No, sir, that's basically all I know to my
18 knowledge. Question: Do you provide this statement
19 voluntarily? Answer: Yes. Question: Have you
20 told the truth? Answer: Yes, sir.
21 Q And is that the extent of the written statement
22 that y'all took that day?
23 A Yes, ma'am.
24 Q And again, it was handwritten because y'all were
25 at the hospital?

SW - K. PRESTON - DIRECT

1 A Yes, ma'am.

2 Q Once you witnessed the statement that Mr. Gaddist
3 signed, did you have any further involvement in the
4 investigation of this case?

5 A The next morning.

6 Q And the next morning were you present when he
7 returned to the Sheriff's Department?

8 A Yes, ma'am.

9 Q And did you actually participate in the interview
10 the next morning?

11 A Yes, ma'am.

12 Q And who all was interviewing him the next
13 morning?

14 A The next morning me and Investigator Carter, that
15 particular, earlier that morning.

16 Q And were you present when he was being
17 interviewed by Investigator Faust or Investigator
18 Eisenhower?

19 A No, ma'am.

20 Q In this statement, specifically towards the end,
21 he refers to a fall?

22 A Yes, ma'am.

23 Q That he saw her fall? Did he -- was he ever able
24 to give y'all any information about how she fell or
25 when that happened?

SW - K. PRESTON - DIRECT

1 A No, ma'am.

2 Q And those are his words?

3 A Yes, ma'am.

4 Q And specifically in that statement did y'all ask
5 him about whether she fell either that Monday or
6 that Sunday, the day before?

7 A Yes, ma'am.

8 Q And what did he indicate?

9 A Not -- no, not to my knowledge. He didn't see
10 her fall.

11 MS. CAMPBELL: Beg the Court's indulgence.

12 BY MS. CAMPBELL:

13 Q The person that you interviewed at the hospital
14 do you see him here in court?

15 A Yes, ma'am.

16 Q And can you point him out for the jury?

17 A (Indicating.)

18 Q Can you describe what he's wearing?

19 A Light blue shirt, black tie.

20 MS. CAMPBELL: Your Honor, may the record
21 reflect ---

22 THE COURT: Sitting at the table?

23 THE WITNESS: Yes, sir.

24 THE COURT: He's identified the defendant.

25 BY MS. CAMPBELL:

1 Q And that's the extent of your involvement in this
2 case?

3 A Yes, ma'am.

4 Q Thank you.

5 THE COURT: All right, Ms. Pinnock.

6 MS. PINNOCK: May it please the Court.

7 **CROSS-EXAMINATION**

8 BY MS. PINNOCK:

9 Q Investigator Preston, do you have a report in
10 this case?

11 A No, ma'am.

12 Q You didn't make one?

13 A No, ma'am.

14 Q You just testified that you met with Mr. Gaddist,
15 you met with Antwan the next morning, Tuesday
16 morning?

17 A Yes, ma'am.

18 Q Had you told the Solicitor's Office that you were
19 there?

20 A Yes, ma'am.

21 Q When did you tell them that?

22 A The day it took place.

23 Q So they had that information since the day it
24 took place?

25 A The fact that -- yes.

SW - K. PRESTON - CROSS

1 Q And you're positive you were there Tuesday
2 morning? Correct?

3 A Tuesday morning 5/24/2011, yes, ma'am.

4 Q Okay. Whose report did you review before you
5 testified here?

6 A Richard Carter's.

7 Q Investigator Carter's. And may I ask why you
8 didn't do a report?

9 A 'Cause usually if I'm doing the same thing that
10 he does, I never left his sight or not necessarily
11 work anything different than what he did, I didn't
12 do a report.

13 Q Okay. You said you've been an investigator for
14 how many years?

15 A Twelve.

16 Q Twelve years? You said that full 12 years with
17 Richland County?

18 A Yes.

19 Q Okay. Now on May 23rd you said the first thing
20 you did was go to the apartment complex, right?

21 A Correct.

22 Q And that was at the request of Sergeant Faust?

23 A Yes.

24 Q You went there with Investigator Carter?

25 A Correct.

1 Q You say that you went to secure the scene. There
2 was nobody at the apartment so that wasn't a concern
3 at that moment, right, so you knocked on the door?

4 A Yes.

5 Q And you spoke to a neighbor?

6 A Yes.

7 Q Okay. You said that that neighbor didn't provide
8 you any pertinent information?

9 A Yes.

10 Q Didn't that neighbor say he didn't hear anything
11 coming out of the apartment that morning?

12 A Yes.

13 Q What was his name?

14 A Not exactly sure.

15 Q Demetric Brown sound close to right?

16 A Yes.

17 Q Mr. Brown told you he heard nothing coming out of
18 that apartment that morning?

19 A Correct.

20 Q You didn't think that was important?

21 A Yeah, it was important.

22 Q Okay. Now y'all went there waiting for somebody
23 to secure the scene for the search warrant, then you
24 headed to the hospital, right?

25 A Right.

SW - K. PRESTON - CROSS

1 Q Who all was at the hospital when you got there?

2 A Myself, Investigator Carter, Lieutenant Heidi
3 Scott was there, several doctors. I'm not sure
4 whether family members or whoever else was there.

5 Q But you had specific instructions to go talk to
6 Antwan Gaddist?

7 A Correct.

8 Q That's the only person you were told to go talk
9 to?

10 A Correct.

11 Q And that's who y'all spoke to when you got there?

12 A Yes, ma'am.

13 Q And that order came from, or that request came
14 from Sergeant Faust?

15 A Correct.

16 Q He's also the person you were told to look for at
17 the apartment, correct?

18 A Correct, yes.

19 Q Okay. Did you know whose apartment it was?

20 A At that time it belonged to Ms. Miller.

21 Q Okay. He didn't ask you to talk to Ms. Miller
22 personally?

23 A No?

24 Q Didn't ask you to talk to Ms. Miller?

25 A No, ma'am.

1 Q Didn't ask Investigator Carter to talk to
2 Ms. Miller?

3 A No, ma'am.

4 Q They said go find Antwan Gaddist, go ask him
5 questions?

6 A Correct.

7 Q Okay. And he was there in the waiting room when
8 you got there, right?

9 A Not exactly sure exactly where he was.

10 Q Uh-huh.

11 A In the hospital.

12 Q How did you find him?

13 A We had to — he pointed to who he was. I didn't
14 even know how Antwan Gaddist looked.

15 Q When you were pointed in his direction and you
16 said I'm looking for Antwan Gaddist, where was he?

17 A In the waiting room?

18 Q Was he in the waiting room with family?

19 A Correct.

20 Q Was he sitting beside Ms. Miller?

21 A I can't recall.

22 Q Okay. About what time was this?

23 A Around between 4, 4:30 maybe.

24 Q How long did you speak to Antwan?

25 A Two-and-a-half hours maybe.

SW - K. PRESTON - CROSS

1 Q Two-and-a-half hours? Just so we're clear, is
2 that when you started writing the statement or is
3 that the start time, end time ---

4 A Start time, end time.

5 Q ---whole interaction with him?

6 A Yes, start time and end time for the statement.

7 Q Writing or talking? I want to be clear about how
8 long you actually talked to him.

9 A The beginning of the statement.

10 Q The written word?

11 A Yes.

12 Q And Ms. Campbell asked you a question. I want to
13 clear this up with you. She asked a question
14 referencing a fall, if he gave you any information
15 about what happened with that fall.

16 A Yes.

17 Q Did he -- doesn't it say this on the last page?
18 You asked him, or Investigator Carter asked him, can
19 you provide any explanation that you would explain
20 K.H. 's injuries; and he said, the only
21 information I can provide is that she fell. And you
22 asked him for the second time, did you see her fall
23 and he said no, right?

24 A Correct.

25 Q He already told you he didn't see her fall?

1 A Correct.

2 Q And right before you asked him that he told you
3 that he didn't have any idea how she got hurt?

4 A Correct.

5 Q Right? But then you asked him again how could
6 this happen?

7 A Correct.

8 Q And he said he didn't know?

9 A Correct.

10 Q Okay. And you said Investigator Carter was
11 writing while he was talking?

12 A Yes.

13 Q Were you taking notes or anything or just sitting
14 there listening?

15 A Sitting listening.

16 Q Did you ask questions?

17 A No, ma'am.

18 Q And at that point when you were talking Antwan at
19 the hospital you had no idea what the cause of the
20 injury was?

21 A No, ma'am.

22 Q You say you did talk to Doctor Rosa. Do you
23 remember what other doctor you talked to?

24 A I'm not exactly sure.

25 Q Okay.

SW - K. PRESTON - REDIRECT

1 A I don't remember.

2 Q Other than Doctor Rosa and maybe one or two other
3 doctors, the only person who again pointed you to go
4 find Antwan Gaddist was Sergeant Faust?

5 A Correct.

6 Q That's the reason you went to the apartment?

7 A Correct.

8 Q And that's the reason you went to the hospital?

9 A Correct.

10 MS. PINNOCK: Beg the Court's indulgence.

11 Thank you, Your Honor.

12 THE COURT: Anything?

13 MS. CAMPBELL: Just a couple of questions.

14 **REDIRECT EXAMINATION**

15 BY MS. CAMPBELL:

16 Q Just so I can be clear, you talked to him that
17 night at the hospital?

18 A Yes.

19 Q And then I believe you were supposed to talk to
20 him the next morning but then you were running late?
21 Do you remember in the pretrial talking and you were
22 asked, did you have any further interaction with him
23 after that night and the answer was no?

24 A Yes, that's correct.

25 Q Because then I believe Sergeant Faust and

SW - R. CARTER - DIRECT

1 investigator, Sergeant Eisenhower actually talked to
2 him the next day?

3 A Yes.

4 Q Thank you. I don't have anything further.

5 THE COURT: Anything?

6 MS. PINNOCK: No, Your Honor. Thank you.
7 You may step down.

8 THE COURT: All right, call your next
9 witness.

10 MS. SIMPSON: The State calls Investigator
11 Richard Carter.

12 WHEREUPON,

13 **RICHARD CARTER,**
14 having been duly sworn by the Clerk, testified as
15 follows:

16 THE CLERK: Thank you. Please have a seat
17 in the witness stand. State your full name for the
18 record.

19 THE WITNESS: Richard Carter.

20 **DIRECT EXAMINATION**

21 BY MS. SIMPSON:

22 Q Investigator Carter, where are you employed?

23 A I'm employed with the Richland County Sheriff's
24 Department.

25 Q And what is your position there?

SW - R. CARTER - DIRECT

1 A Currently I'm assigned to the motor vehicle theft
2 unit.

3 Q How long have you been with the Richland County
4 Sheriff's Department?

5 A Ten-and-a-half years.

6 Q Can you tell us a little bit about your law
7 enforcement background and the types of cases that
8 you worked?

9 A I have a total of almost 17 years in law
10 enforcement. I began my career in North Carolina,
11 worked at a park there while I was an investigator,
12 moved to Mount Pleasant, South Carolina where I
13 worked prior to coming here. The past almost nine
14 years I've been in investigations here at the
15 Sheriff's Department. The past six-and-a-half years
16 I was assigned to the special victims' unit out at
17 the Sheriff's Department.

18 Q And what is the special victims' units?

19 A The special victims unit we're responsible for
20 investigating cases of child abuse, sexual abuse,
21 those cases that involve abuse and neglect of
22 vulnerable adults.

23 Q And were you just recently kind of transitioned
24 into a difficult area?

25 A Yes.

SW - R. CARTER - DIRECT

1 Q Back in May 23rd of 2011 what was your position
2 with the Sheriff's Department?

3 A I was investigator assigned to the special
4 victims' unit.

5 Q And did you have occasion to become involved in
6 this case?

7 A I did.

8 Q Can you tell us how?

9 A On May 23rd Sergeant Faust, who is my immediate
10 supervisor in the special victims' unit, contacted
11 me. At the time I was on evening shift. Every
12 seven, eight weeks we were responsible for on-call
13 so I came in later in the afternoon. He contacted
14 me and requested that I respond to a location
15 regarding a case involving a child.

16 Q And that location, do you recall where that
17 location was?

18 A Yes, it was at 220 Springtree Drive at apartment
19 ■4.

20 Q And did he give you some limited information
21 about what you were responding to and what was going
22 on?

23 A He did.

24 Q And at that point were you aware of some of the
25 parties involved and who you might be looking for?

SW - R. CARTER - DIRECT

1 A Yes.

2 Q Did you actually respond to those apartments?

3 A I did.

4 Q Who was with you at the time?

5 A Investigator Preston.

6 Q And how long had he actually been with the
7 special victims' unit?

8 A That was his first -- it was a very short period
9 and he was responding to kind of shadow me which is
10 something we commonly do when investigators come to
11 the unit.

12 Q And so the first place that he responded to was
13 the actual apartment complex, correct?

14 A Yes.

15 Q And were you aware that a search warrant was
16 attempting to be obtained?

17 A I was.

18 Q And so when y'all responded this -- was his prior
19 to the search warrant or after?

20 A This is prior to.

21 Q Okay. And so what was your purpose of going out
22 there at that point?

23 A It was to go out and, I guess, secure the, make
24 sure the apartment was secure, or the location. I
25 tried to identify any witnesses or persons that may

SW - R. CARTER - DIRECT

1 be there, may have seen or witnessed.

2 Q Did you actually try to find out whether anyone
3 was at the apartment?

4 A We did.

5 Q And what happened?

6 A We knocked on the door and there was no answer.

7 Q And when there was no answer did you actually
8 attempt to knock on a neighbor's door?

9 A I did.

10 Q Can you tell us a little more about that?

11 A I went to and knocked on apartmen ■■■3, which is
12 next door to apartment ■■■4, and spoke to the
13 resident there.

14 Q And who was that resident?

15 A Mr. Detric Brown.

16 Q Detric Brown? And what did you, what were you
17 questioning him about?

18 A I had asked him if he had heard, I had asked him
19 -- he had -- he told me he had from another neighbor
20 building across from his building that EMS had been
21 there.

22 Q And so he actually wasn't even present when EMS
23 and fire arrived?

24 A Right.

25 Q So he didn't hear anything about what was going

SW - R. CARTER - DIRECT

1 on?

2 A Correct.

3 Q He indicated to you that this information came
4 from another resident?

5 A Yes.

6 Q But he was aware of the neighbors and who lived
7 beside him?

8 A Yes.

9 Q But no indication that he was actually present
10 when this incident occurred?

11 A Correct.

12 Q After speaking with him what did you do next?

13 A After speaking with him I actually — we were
14 able to locate the apartment manager that was there.

15 Q And when you attempted to locate the apartment
16 manager. At this point are you in contact with
17 someone regarding kind of the status of the search
18 warrant to the location?

19 A I am.

20 Q And were you aware that that search warrant was
21 in route?

22 A Yes.

23 Q So the purpose, what was the purpose of
24 contacting the apartment manager?

25 A To obtain a key so we wouldn't have to make a

SW - R. CARTER - DIRECT

1 forced entry if it wasn't necessary.

2 Q And what is a forced entry? What would you all
3 have had to have done?

4 A We would have had to knock the door down.

5 Q At some point were you able to speak with some
6 other people in this case involved in this case?

7 A Yes.

8 Q And did you ultimately respond to the hospital?

9 A I did.

10 Q Where did you go?

11 A We went to Palmetto Health Richland Children's
12 Hospital.

13 Q And what was your purpose of -- well, actually
14 who notified you and told you to respond there?

15 A My sergeant.

16 Q Sergeant Faust?

17 A Sergeant Faust.

18 Q And what was your purpose of going to the
19 hospital?

20 A To obtain additional information from family that
21 was present there at the hospital.

22 Q And at this point were you aware of a kind of
23 general nature of the injuries to the child?

24 A After I arrived at the hospital.

25 Q And were those, without going into specifics,

SW - R. CARTER - DIRECT

1 were they consistent with non-accidental injuries?

2 A Yes.

3 Q And that's why you all were called out to
4 investigate?

5 A Yes.

6 Q Who were -- was Investigator Preston with you at
7 the hospital as well?

8 A Yes.

9 Q And when you arrived at the hospital who all did
10 you encounter, or what did you see?

11 A First I met with Doctor Rosa.

12 Q And after speaking with her where did you go?

13 A I then met with Mr. Gaddist.

14 Q When you met with Mr. Gaddist, that would be the
15 defendant in this case, correct?

16 A Yes, ma'am.

17 Q What was your purpose of speaking with
18 Mr. Gaddist? I mean, what was your understanding of
19 his role with respect to the child?

20 A It was my understanding that Mr. Gaddist was at
21 home with the child taking care of the child.

22 Q And were you also aware that the mother in this
23 case, Miesha Millier was being interviewed as well?

24 A Yes.

25 Q And is it unusual for investigators to want to

SW - R. CARTER - DIRECT

1 speak with the primary caregivers of an injured
2 child?

3 A No, it's not unusual.

4 Q Is it more usual?

5 A Yes.

6 Q Almost always?

7 A Yes.

8 Q And in this case, when you encountered
9 Mr. Gaddist who all was around? Was he by himself,
10 where were you all in the hospital?

11 A Myself and Investigator Preston, we were in a, I
12 guess, a counsel room on the pediatric intensive
13 care unit floor and that's where we met.

14 Q And had other family members initially been
15 around the defendant at that time?

16 A It's my understanding in the waiting room in the
17 area which is out front. I mean, it's a -- you
18 can't get into the PICU without being buzzed in.

19 Q Okay. And that's where he was located or they
20 were outside the PICU?

21 A The family members were. That's where they all
22 were, then we spoke with Mr. Gaddist in this
23 conference room.

24 Q Okay. And when you spoke with him at that point
25 was he in custody at ail?

SW - R. CARTER - DIRECT

1 A No, ma'am.

2 Q Or under arrest?

3 A No, ma'am.

4 Q What was your purpose?

5 A The purpose was, was to find out, you know, what
6 happened.

7 Q 'Cause to your understanding he was the last
8 person in contact with the child?

9 A Yes.

10 Q And did he indicate a willingness to want to
11 speak with you all?

12 A Yes.

13 Q And the purpose of taking him away was that so it
14 could be a little more private?

15 A Yes.

16 Q And at that time did — what did you ask him
17 about?

18 A I asked him about what had occurred during the
19 day with the child while he was taking care of her.

20 Q And just so we're clear because we — this was a
21 very long day, at what point did you actually
22 encounter as far as time period Mr. Gaddist first in
23 the waiting room according to your report?

24 A It was almost 6:00. It was 20 minutes to 6.

25 Q And did you all begin in a verbal conversation

SW - R. CARTER - DIRECT

1 about what happened?

2 A Yes.

3 Q And at that point was he telling you certain
4 things?

5 A Yes.

6 Q And who was actually questioning Mr. Gaddist?

7 A I was.

8 Q I'm gonna show you what's already been entered
9 into evidence as State's Exhibit 107. Do you
10 recognize this?

11 A Yes.

12 Q And what is that?

13 A This is a statement that I took from Mr. Gaddist.

14 Q And this was -- he actually agreed to give a
15 written statement as well?

16 A Yes.

17 Q Did you all speak with him verbally and then
18 engage in a written statement?

19 A Yes, a brief verbal, verbally spoke about it and
20 then I read it.

21 Q And he was clear in talking to you?

22 A Yes.

23 Q About what -- what was his demeanor like as he
24 was speaking with you all?

25 A He was comfortable in speaking with us. I mean,

SW - R. CARTER - DIRECT

1 he was appeared to be, in my opinion, hesitant about
2 what had occurred.

3 MR. STAGGS: Objection, Your Honor, that's
4 speculation.

5 MS. SIMPSON: I'll move on, Your Honor.

6 THE COURT: Sustained.

7 BY MS. SIMPSON:

8 Q What is the time that that statement began as far
9 as the written statement?

10 A 17:49 hours.

11 Q And is that your handwriting or his?

12 A Mine.

13 Q And the questions, are those your questions?

14 A Yes.

15 Q Whose responses are those?

16 A His, Mr. Gaddist.

17 Q And we've actually already published the
18 statement so we won't go back through everything
19 that was said; but at the end of this statement, did
20 you indicate the time that the statement was
21 actually ended?

22 A Yes, ma'am.

23 Q And what was the time frame on that?

24 A 18:28 hours.

25 Q 18:28. So in our time that'd be, what, 6:28?

SW - R. CARTER - DIRECT

1 A 6:28 p.m.

2 Q And at some point once this statement was
3 completed did you actually exit the room as well?

4 A I did.

5 Q And did you come back into the room later,
6 approximately around 7:00, to possibly set up an
7 appointment for another interview with the
8 defendant?

9 A I did.

10 Q And that interview would have been for the next
11 day, correct?

12 A Yes, ma'am.

13 Q Were you present for any additional interviews?

14 A No, ma'am.

15 Q And to your knowledge was Investigator Preston
16 present for any additional interviews?

17 A No, ma'am.

18 Q And I believe the exact time you would have went
19 in there is about 7:35 to set up that actual
20 interview for the next day?

21 A Yes.

22 Q And when you were finished talking with Mr.
23 Gaddist, the defendant in this case, was he free to
24 leave?

25 A Yes.

SW - R. CARTER - DIRECT

1 Q Did he, in fact, leave?

2 A He did.

3 Q So he was not in custody or under arrest at that
4 time?

5 A No, ma'am.

6 Q And you also on that same day continuing in the
7 investigation make contact with numerous other
8 potential witnesses, correct?

9 A You.

10 Q But outside of your involvement that day and
11 interview with the defendant, did you have any more
12 involvement in this case?

13 A No, ma'am.

14 Q And the person that you encountered and saw in
15 the hospital and spoke with, do you see him here in
16 the courtroom here today?

17 A Yes, ma'am.

18 Q Can you please point him out for the jury.

19 A (Indicating). The gentleman with the blue shirt
20 and blue tie sitting at the defense table.

21 THE COURT: He's identified the defendant.

22 MS. SIMPSON: Thank you, Your Honor.

23 MR. STAGGS: Thank you, Your Honor.

24 THE COURT: Yes, sir.

25 **CROSS-EXAMINATION**

1 BY MR. STAGGS:

2 Q Investigator Carter, you prepared a report in
3 this case; didn't you?

4 A I did.

5 Q And that report has times on it; doesn't it?
6 Time of events, you report times of the events?

7 A Yes, sir.

8 Q And this report reflects that you were with
9 Antwan or Antwan was in the room you until 19:35,
10 right?

11 A Yes, we were with him, yes.

12 Q Okay. But that statement was over at 18:28?

13 A Yes.

14 Q Who all was in the room him between 18:28, 19:35?

15 A When I got up next to the room Investigator
16 Preston was.

17 Q So someone was sitting with him the whole time?

18 A Right.

19 Q But there's no record of anything that was
20 discussed or talked about from thereon out?

21 MS. SIMPSON: Objection, Your Honor, may
22 we approach.

23 MS. CAMPBELL: Objection.

24 (WHEREUPON, counsel approached the Bench
25 for an off-the-record discussion.)

SW - R. CARTER - CROSS

1 BY MR. STAGGS:

2 Q Thank you, Investigator. Now ---

3 MS. SIMPSON: Your Honor, if I may, I
4 believe the Defense indicated he was going to
5 withdraw the question.

6 MR. STAGGS: Yes, the question is
7 withdrawn, the previous question, your Honor, I
8 apologize.

9 BY MR. STAGGS:

10 Q Investigator Carter, you said you've been in law
11 enforcement for 17 years; is that correct?

12 A Yes, sir.

13 Q And you served on the special victims' unit for
14 nine years?

15 A No, sir, six-and-a-half.

16 Q I didn't actually catch when you told the jury
17 what your assignment is now.

18 A I'm currently assigned to the motor vehicle theft
19 unit.

20 Q Motor vehicle theft. Okay, I want to talk to you
21 a little bit about what you did first. Your report
22 says Sergeant Faust called you at 2:45?

23 A Yes.

24 Q And you responded to the scene. You told
25 Ms. Simpson you went to the apartment; is that

1 correct?

2 A Yes.

3 Q And you spoke with Mr. Brown?

4 A Yes.

5 Q You didn't take a written statement him, did you?

6 A No, sir.

7 Q But your report reflects your conversation with
8 him?

9 A Yes.

10 Q Okay. Why didn't you take a written statement
11 from him?

12 A At the time it was — he didn't have any
13 information that was, you know, he didn't observe or
14 see anything first hand.

15 Q Now your report indicates that he had had
16 conversations with Ms. Miller in the past, correct?
17 They'd had communications about noise between the
18 apartments; is that correct?

19 A Yes.

20 Q All right. But you didn't feel like that was
21 significant at all. You didn't feel like it was
22 significant enough to reduce it to writing?

23 A Not at that time.

24 Q Okay. And you were sent over there in an attempt
25 to locate Antwan, right, and secure the scene?

SW - R. CARTER - CROSS

1 A Yes.

2 Q And you were unsuccessful with that so you
3 proceeded on to Palmetto Richland, or Richland; is
4 that right?

5 A Yes.

6 Q Okay. And when you got there, when you got there
7 you spoke with Doctor Rosa for a while, correct?

8 A Yes.

9 Q And you communicated the contents of that
10 conversation to Sergeant Faust?

11 A Yes.

12 Q Okay, I have just a couple more questions. At
13 any point did you speak with any of your other
14 superior officers that evening?

15 A Lieutenant Scott.

16 Q Can I direct your attention to the bottom, I
17 believe this is page three of your report,
18 Investigator. It's right there where you spoke with
19 Major Smith.

20 A Yes, Major Smith.

21 Q Okay, so you spoke with Major Smith. Major Smith
22 told you you should wait until Doctor Rosa completed
23 her medical report; is that correct? Does your
24 report reflect that?

25 A Yes.

1 Q Okay. Beg the Court's indulgence for a moment.
2 Investigator, did you at some point in time that
3 evening return to headquarters?

4 A I'm sure I did.

5 Q Was it at that time that you provided the
6 statements that were taken that evening, I'm sorry,
7 for Faust to review?

8 A Yes, I, I was on evening shift so I was working
9 at nights. I imagine I probably left them for him
10 at headquarters.

11 Q Where is your office located? Is your office at
12 headquarters?

13 A No, sir.

14 Q It's not? All right, that's all I have right
15 now. Thank you.

16 THE COURT: Anything?

17 MS. SIMPSON: One moment, Your Honor.
18 Nothing further.

19 THE COURT: All right, thank you. You may
20 step down.

21 MS. SIMPSON: The State calls Investigator
22 Oates.

23 WHEREUPON,

24 **ROBERT OATES,**

25 having been duly sworn by the Clerk, testified as

SW - R. OATES - DIRECT

1 follows:

2 THE CLERK: Thank you. Please have a seat
3 in the witness stand. State your name for the
4 record and please spell your last name.

5 THE WITNESS: Robert Oates, O-A-T-E-S.

6 **DIRECT EXAMINATION**

7 BY MS. SIMPSON:

8 Q Investigator Oates, where are you employed?

9 A The Richland County Sheriff's Department.

10 Q And what, how long have you been with the
11 Sheriff's Department?

12 A I've been with the Richland County Sheriff's
13 Department for 14-and-a-half years.

14 Q And what is your current position there?

15 A Crime scene investigator.

16 Q And as a crime scene investigator what do some of
17 your duties include?

18 A Some of our duties are to respond to any crime
19 that's been established, or crime scene established
20 in Richland County. And once we're on scene we
21 document, we photograph, videos. We collect
22 physical evidence and then we also process physical
23 evidence with powders and different chemicals.

24 Q And your agency actually works in an accreditable
25 lab, correct? Your lab is accredited?

SW - R. OATES - DIRECT

1 A Yes, it is.

2 Q And do you work with a number of other crime
3 scene investigators?

4 A Yes, I do.

5 Q And depending upon what you're called upon to do,
6 does that impact how you assess a scene and what
7 goes on when you get there as far as crime scene
8 investigation?

9 A Yes.

10 Q And how long have you been a crime scene
11 investigator?

12 A Nine years.

13 Q Nine years? All with the Richland County
14 Sheriff's Department?

15 A Yes.

16 Q Did you have occasion to become involved in this
17 case?

18 A Yes, I did.

19 Q Can you tell us how you were notified and where
20 you were asked to go?

21 A Yes, I was notified by Sergeant Faust to respond
22 to 220 Springtree Drive, apartment ■4, to assist
23 him in initiating a search warrant there.

24 Q And as 220 Springtree Drive apartmen ■4 located
25 leave in Richland County?

SW - R. OATES - DIRECT

1 A It is, yes.

2 Q And do you recall what time you actually arrived
3 on scene?

4 A 16:07 hours, or 4:07, was when I was, when I
5 received the call to respond. I arrived at 16:24 or
6 4:24 p.m.

7 Q So that's about, what, 4:24 in the afternoon?

8 A Yes, 4:24 in the afternoon.

9 Q And you indicated that you were notified by
10 Sergeant Faust to help process the location ---

11 A Right, yes.

12 Q ---in reference to a search warrant?

13 A Yes.

14 Q So when you arrived on scene who did you make
15 contact with?

16 A Sergeant Faust and also Corporal Enzor with our
17 uniform division, he was also present, and a manager
18 with the apartment complex was also there.

19 Q Okay. And the search warrant had already been
20 obtained?

21 A Yes.

22 Q Once you arrived, in a typical scene what's your
23 first -- what do you do first?

24 A The first thing that we go is assess the
25 situation or the scene, basically go through, look

SW - R. OATES - DIRECT

1 through the different areas. Also ask the
2 investigators, in this case, where do I need to
3 focus, where do I start exactly when I start
4 processing a scene. So I would walk through and
5 then assess it and then start documenting from then
6 on.

7 Q And as far as crime scenes that you've responded
8 to, what types of scenes have you responded to?

9 A From simple vandalisms all the way to homicide.

10 Q And so murder scenes where blood would be
11 present?

12 A Yes.

13 Q Or clear crime scenes?

14 A Yes.

15 Q And in this case when you arrived and made
16 contact with Sergeant Faust what were you requested
17 to do?

18 A After I was told where my focus or where I need
19 to, you know, start search, processing crime scene
20 was left rear bedroom or child's bedroom.

21 Q And were you aware that you were out there
22 because of a child case, or injured child?

23 A Yes.

24 Q And did Sergeant Faust indicate to you whether---

25 MS. PINNOCK: Objection, leading.

SW - R. OATES - DIRECT

1 THE COURT: Sustained.

2 BY MS. SIMPSON:

3 Q What were you notified of?

4 A That there was a search warrant to be exercised
5 or completed and my assistance was needed there to
6 process it.

7 Q And were you directed to any specific points
8 within the home as to where an incident may have
9 occurred?

10 A Yes. Sergeant Faust instructed me to start in
11 the left rear bedroom and search for possible
12 evidence there.

13 Q And did you do the initial walk through first ---

14 A Yes.

15 Q ---throughout the house?

16 A Yes.

17 Q And once you did your initial walk through what
18 was your next step?

19 A Okay, after the initial walk through the next
20 step is to remember the evidence basically that I
21 observed and basically I would get my digital camera
22 and I'd return to that area and start taking
23 photographs before anything else is done of the
24 sane, any possible evidence.

25 Q And I'm gonna show you --- and the Defense has

SW - R. OATES - DIRECT

1 been shown these as well -- what has been marked as
2 4 through 18 and 76 through 85, as well as State's
3 Exhibit 87 through 93 for identification purposes
4 only.

5 MS. PINNOCK: I'm sorry, Judge, we looked
6 at a lot of pictures. Can I take a look before,
7 just to make sure I know which ones we're talking
8 about.

9 THE COURT: Yes, yes.

10 BY MS. SIMPSON:

11 Q Have you had a chance to review all these
12 pictures?

13 A Yes, I have.

14 Q And do they fairly and accurately depict the
15 scene as you observed it?

16 A Yes, it did.

17 Q And what items you found?

18 A Yes, they do.

19 Q I'm also gonna show you what has been marked --
20 and beg the Court's indulgence though -- as State
21 Exhibits 19 through 75, 86, as well as State's
22 Exhibit 94 through 106. That's a large number of
23 pictures but did you have a chance to review these?

24 A Yes.

25 Q Prior to?