

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Appeal from Lexington County

S.C. SUPREME COURT

Honorable Eugene C. Griffith, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TIMOTHY RAY JONES, JR.,

APPELLANT.

APPELLATE CASE NO. 2019-001008

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THE FOLLOWING DOCUMENTS ARE ON FILE WITH THIS COURT:

STATE’S EXHIBIT #177 (PHOTO-KNEE), STATE’S EXHIBIT #206 (BODY RECOVERY VIDEO), STATE’S EXHIBIT #207 (ELIAS BODY RECOVERY PHOTOS), STATE’S EXHIBIT #207A (PHOTO-ELIAS), STATE’S EXHIBIT #207B (PHOTO-ELIAS), STATE’S EXHIBIT #208 (MERAH BODY RECOVERY PHOTO), STATE’S EXHIBIT #208A (PHOTO-MERAH), STATE’S EXHIBIT #208B (PHOTO-MERAH), STATE’S EXHIBIT #209 (GABRIEL BODY RECOVERY PHOTO), STATE’S EXHIBIT #209A (PHOTO-GABRIEL), STATE’S EXHIBIT #209B (PHOTO-GABRIEL), STATE’S EXHIBIT #209C (PHOTO-GABRIEL), STATE’S EXHIBIT #209D (PHOTO-GABRIEL), STATE’S EXHIBIT #210 (ABIGAIL BODY RECOVERY), STATE’S EXHIBIT #210A (PHOTO-ABIGAIL), STATE’S EXHIBIT #210B (PHOTO-ABIGAIL), STATE’S EXHIBIT #211 (NAHTAHN BODY RECOVERY PHOTO), STATE’S EXHIBIT #211A (PHOTO-NAHTAHN), STATE’S EXHIBIT #211B (PHOTO-NAHTAHN), STATE’S EXHIBIT #211C (PHOTO-NAHTAHN), STATE’S EXHIBIT #211D (PHOTO-NAHTAHN), STATE’S EXHIBIT #212 (AUTOPSY-ELI), STATE’S EXHIBIT #212A (PHOTO-ELI), STATE’S EXHIBIT #212B (PHOTO-ELI), STATE’S EXHIBIT #212C (PHOTO-ELI), STATE’S EXHIBIT #213 (AUTOPSY-MERAH), STATE’S EXHIBIT #213A (PHOTO-MERAH), STATE’S EXHIBIT #213B (PHOTO-MERAH), STATE’S EXHIBIT #214 (AUTOPSY-GABRIEL), STATE’S EXHIBIT #214A (PHOTO BODY-GABRIEL), STATE’S EXHIBIT #214B (PHOTO SHIRT-GABRIEL), STATE’S EXHIBIT #214C (PHOTO SLIPPER-GABRIEL), STATE’S EXHIBIT #214D (PHOTO JOURNAL-GABRIEL), STATE’S EXHIBIT #214E (PHOTO DIAPER-GABRIEL), STATE’S EXHIBIT #214G (PHOTO BODY-GABRIEL), STATE’S EXHIBIT #215 (AUTOPSY ABIGAIL), STATE’S EXHIBIT #215A (PHOTO BODY-ABIGAIL), STATE’S EXHIBIT #215B (PHOTO BODY-ABIGAIL), STATE’S EXHIBIT #216 (AUTOPSY NAHTAHN), STATE’S EXHIBIT #216A (PHOTO BODY-NAHTAHN), STATE’S EXHIBIT #216B (PHOTO BODY-NAHTAHN), STATE’S EXHIBIT #216C (PHOTO ELBOW-NAHTAHN), DEFENDANT’S EXHIBIT #135 (CD DR. BIGLER-IMAGES), DEFENDANT’S EXHIBIT #137 (POWERPOINT), COURT’S EXHIBIT #90 (VIDEO-CYNTHIA TURNER)

1 remarkable after all she's been through, but her
2 credibility comes from the fact that she made it through
3 that. But she still had faults and failures as a
4 consequence of things that happened to her that were not
5 her fault. And I think the jury is entitled to know the
6 full story so that they can judge Ms. Thornsberry as
7 somebody who was struggling and trying very hard, but was
8 struggling as a consequence of things that were not her
9 fault and were -- she was traumatized by people earlier in
10 life. And that's a theme in this family, a tragic and
11 horrific theme in this family. And the jury, in order to
12 assess whether or not Mr. Jones was mentally ill, not
13 guilty by reason of insanity, guilty but mentally ill at
14 the time of this horrible tragedy, they need to know these
15 themes that have gone through this family.

16 THE COURT: All right. I don't find it relevant
17 anything that happened before he was born is a tragedy to
18 him. It's tragic to the family, I give you that. It's
19 not a tragedy to Tim Jones, Jr. So why would testimony --
20 other than for the medical providers, why would this jury
21 need to hear something that happened to Tim, Jr. if Tim,
22 Jr. wasn't there? 20 years before Tim, Jr., 30 years
23 before Tim, Jr., certainly, that's family history and
24 medical providers can get that history. Whether it be
25 physical, like we're talking about and all that, get the

1 medical history, get the psychological history. They
2 did -- I know they did. Y'all have not led me to believe
3 they didn't. Why is an event that is 30 prior to Tim
4 Jones, Jr. being born -- now, you can ask her, did you
5 have -- come from a broken home, sure, but family history
6 of mental illness is not being challenged. I don't think
7 that's a question of fact. I think y'all have gone over
8 it a lot.

9 MR. SECOR: I would just say in response to that,
10 Your Honor -- and again, if you want me to stop talking, I
11 will.

12 THE COURT: No, I want to hear just a little more.

13 MR. SECOR: I would respectfully say to Your Honor
14 that the standard for relevance and for admissibility, of
15 which I know Your Honor is aware, but it's not whether or
16 not it's being challenged, that's -- you know, just
17 because something is admissible doesn't mean --

18 THE COURT: It's relevant --

19 MR. SECOR: Yeah, just because they're not
20 challenging it doesn't mean I shouldn't bring it in. And
21 I think that -- I would be surprised if there's anybody in
22 this courtroom who heard what Ms. Thornsberry just
23 testified to who doesn't think to themselves that sounds
24 like an awful lot of horrible things to happen inside her
25 family.

1 THE COURT: To her.

2 MR. SECOR: To her and the whole family. And I think
3 that people -- I think that, generally speaking, we as
4 human beings, we have that sense of thinking the apple
5 doesn't fall far from the tree. And once you look at the
6 whole tree and you look at the apples that are on the
7 ground, you can see well, now, I know why that apple is
8 rotten because I see a lot of other rotten apples on the
9 tree. And I don't mean that to be disrespectful to Ms.
10 Thornsberry. It's an analogy. And so when you look at
11 the tree -- and sort of going back to what Mr. Madsen said
12 in opening, you look at the tree and you look at the whole
13 root system and you look at the soil. And when you find
14 that those things are poisoned or rotten, then it explains
15 that the fruit that's falling from the tree and the
16 condition that it's in when it falls. That sounds sort of
17 silly and simple, but it feels like the best way I can
18 explain it.

19 THE COURT: Okay. Let me hear from Mr. Graham.

20 MR. GRAHAM: Your Honor, my suggestion would be what
21 happened to her was horrible. The jury doesn't need to
22 hear it. If they want to talk about where genetically he
23 comes from, why she might have behaved the way that she
24 did during her childhood, I thought we were going to talk
25 about her diagnosis. To me -- what I know is that gave me

1 something saying she's diagnosed with depression, I
2 believe bipolar and then self-reported for schizophrenia.
3 If that's what they've got and that's what they can prove,
4 then why don't they ask her if she has those conditions
5 and when she was diagnosed with them? But to go back and
6 explain events -- I mean, those questions weren't even
7 offered and I thought that's what we were going to talk
8 about. Your Honor understands where I'm coming from.

9 MR. SECOR: The only thing I would add, Your Honor,
10 is that -- can I -- I know this is difficult for
11 everybody. Nobody has ever been in one of these cases and
12 I know Your Honor is doing everything he can to make
13 things move along and we are, too. I would just say that
14 this is a unique situation. This is a situation where the
15 Defense has a burden of proof. It's not a situation where
16 we are just trying to defect the evidence that's being
17 presented by the State. We have an affirmative burden of
18 proof at this stage in the trial. And I don't feel that
19 we can do that effectively without presenting the family
20 history and social history, which involves and includes
21 members of Timmy's family and events that occurred prior
22 to even his birth. I understand -- my assumption is the
23 Court disagrees with me on that, but I feel like I needed
24 to put that on the record. And I do think that the social
25 history has been used by the State in response to some of

1 our witnesses and so I think their use of it in crossing
2 or attacking our witnesses is evidence that social history
3 is very relevant.

4 THE COURT: All right. Here's what my ruling is. I
5 don't find to be relevant Ms. Thornsberry's childhood and
6 social history to her current diagnosis, whether it's
7 diagnosed by a physician or self-diagnosed. I think she
8 can testify to her current and/or former physical and
9 emotional condition. I do not believe it's relevant to
10 prove the affirmative defense that Ms. Thornsberry's
11 childhood of being raised in an orphanage or being
12 assaulted by her stepfather and having Tim, Sr. at age 12
13 is probative toward Tim's current or former condition.
14 All of that can be utilized by the experts in whichever
15 field of psychology or psychiatry in their presentment of
16 their opinions. I think Ms. Thornsberry's testimony as to
17 the behavior of Ms. Turner is relevant to Tim's
18 upbringing. I think she can testify that Turner was a
19 handful and unpredictable and had emotional issues. I do
20 not believe that it's relevant that there was an episode
21 in the bathroom with another child. Now, she can say I
22 had a troubled youth. I think that's as far as she needs
23 to go for purposes of this trial. I don't think her
24 social history is relevant to the issue whether Tim is --
25 on that night -- that's what we're getting at, one night,

1 one event versus a family history of mental illness.
2 That's the difference, I guess. So that's where I'd like
3 to limit the Defense's presentation of Ms. Thornsberry's
4 involvement with Tim, Jr. Do you understand my ruling?

5 MR. SECOR: I just -- I need to ask some questions to
6 make sure I do. I guess the Court's order is that I begin
7 at the time of Tim, Jr.'s birth, is that correct?

8 THE COURT: Yes, sir. Now, you can ask her about her
9 medical history to what extent you want, but not tell me
10 everything that happened to you as a youngster and that's
11 how you got that medical history. I mean, y'all showed
12 some medical history, y'all were exchanging it, I didn't
13 review it. But am I wrong, you didn't get that far. She
14 had been treated for, by physicians over the years for
15 different issues. I think that's relevant for you, that
16 she's -- you know, has -- she was a caregiver, so she
17 would have been challenged. Y'all did proffer that, so
18 I'm guessing -- I think her social history behind Tim,
19 Jr.'s birth is not relevant to the jury's determination of
20 his mental condition in 2014.

21 MR. SECOR: May I briefly state my objection?

22 THE COURT: Yes, sir. Thank you for your patience.

23 MR. SECOR: I appreciate you allowing me to make the
24 record, I do. Your Honor, I would argue that Ms.
25 Thornsberry's social history, family history and history

1 of trauma to her throughout her life is specifically
2 relevant to the issue of not guilty by reason of insanity.
3 The Defense has a burden in this case to present evidence
4 of that. And our evidence -- the one primary factor in
5 our evidence is Tim's diagnosis of schizophrenia, which
6 has been described by experts as being a consequence of
7 genetics and environmental factors. I would argue that
8 the environmental factors experienced by Ms. Thornsberry
9 are environmental factors that flow through families as
10 being abandonment, neglect and violence and mistreatment
11 of children and, therefore, becomes relevant to the
12 environmental factors affecting Tim's condition from birth
13 forward. But, also, the genetic predisposition that he
14 was born with. The environmental factors that he grew up
15 around were affected by the environmental factors that Ms.
16 Thornsberry experienced. And I would argue that the Court
17 limiting us from presenting this evidence violates Mr.
18 Jones' right to due process under the Fifth and Fourteenth
19 Amendments of the United States Constitution, Article 1,
20 Section 314 of the South Carolina Constitution, also, his
21 right to a fair trial under the Sixth and Fourteenth
22 Amendments of the United States Constitution, Article 1,
23 Section 14 of the South Carolina Constitution. I would
24 also argue that his violation of the heightened
25 reliability and the prohibition against cruel and unusual

1 punishment under the Eighth Amendment of the United States
2 Constitution, Article 1, Section 15 of the South Carolina
3 Constitution. And I would cite Bobby Lee Holmes vs. South
4 Carolina as the case that stands for the proposition the
5 Defense is entitled to present a full and complete
6 defense. And if I may just check with Mr. Young. Mr.
7 Young just ask that I respectfully ask that the Court
8 adopt the same argument regarding the video of Cynthia
9 Turner.

10 THE COURT: Yes, absolutely. It is very, very -- my
11 analysis and reasoning and your objection to the video now
12 being shown and the proffer on Ms. Thornsberry's
13 testimony, in my opinion, is basically the same issue. So
14 yes, you're protected on both with that argument.
15 Absolutely. I don't see any problem with that at all.

16 MR. SECOR: And I know we've had a slow morning, I'm
17 not blaming anybody for that, but I am going to need some
18 time to regroup about my questioning of Ms. Thornsberry.

19 THE COURT: All right. You want to go to lunch until
20 1:15?

21 MR. SECOR: That would suit me.

22 THE COURT: Is that enough time? The jury is going
23 to a buffet, so I've got them pretty well covered. It may
24 be 1:30. They're going to a buffet where the food's ready
25 and they're going to serve themselves and be able to sit

1 down and eat.

2 MR. HUBBARD: That will be fine. Judge, just so you
3 know, there is a jury book one of the jurors left --

4 THE COURT: I'll get the SLED team to come pick it
5 up.

6 MR. HUBBARD: Yes, sir. We're fine however you want
7 to do it.

8 MR. SECOR: May I ask for one--

9 THE COURT: -- sure.

10 MR. GRAHAM: The only other thing, Your Honor, is I
11 saw a bunch of exhibits being premarked, so we probably
12 would want to have time to review those.

13 COURT REPORTER: And, Judge, that's Defendant's 138,
14 which is the flash drive, and then 139 through 164, which
15 are photos.

16 THE COURT: These exhibits that were premarked, Mr.
17 Young, are they his or yours?

18 COURT REPORTER: They're Secor's, Mr. Secor's.

19 THE COURT: Tell the jury to go to lunch. And I want
20 this book, there's one Juror, take it back to them.

21 (WHEREUPON, the jury was excused for a lunch break.)

22 (Whereupon, a lunch break was taken.)

23 MR. YOUNG: Your Honor, with consent of the State, we
24 have Defense Exhibit number 165 through 211. These are
25 the photographs of the items identified by my investigator

1 and gone through on the stand yesterday that we will
2 substitute for the record for the actual items.

3 MR. HUBBARD: The State concurs, Judge. I went
4 through them all and we're fine.

5 THE COURT: Are they in or just ID?

6 MR. HUBBARD: I'm fine if they're in, that's fine.

7 (WHEREUPON, Defendant's Exhibit numbers 165 through
8 211 were admitted into evidence.)

9 THE COURT: Bring the jury in.

10 (Whereupon, the jury came into open court at
11 approximately 1:40 p.m.)

12 THE COURT: Call your witness.

13 MR. SECOR: Your Honor, the defense calls Roberta
14 Thornsberry.

15 ROBERTA THORNSBERRY, being
16 first duly sworn, testified as follows:

17 THE CLERK: If you'll have a seat over there, please.
18 State your name and spell your last for the record.

19 THE WITNESS: My name is Roberta Thornsberry,
20 T-H-O-R-N-S-B-E-R-R-Y.

21 DIRECT EXAMINATION

22 BY MR. SECOR:

23 Q Good afternoon, Ms. Thornsberry.

24 A Good afternoon.

25 Q If you would, just tell the jury who you are?

1 A I'm Timothy Ray, Jr.'s grandmother.

2 Q And that would make you the great-grandmother of who?

3 A Yes, Merah, Eli, Elaine, Nahtahn.

4 Q And Gabe?

5 A And Gabe.

6 Q Yes, ma'am. You took the stand a little bit earlier
7 today, we had a hearing. And based on that hearing, we're
8 going to start at the point in your life when you got
9 together with Larry Thornsberry, is that okay?

10 A That's okay.

11 Q And he's your current husband?

12 A Yes.

13 Q How old were you when you and Larry got married?

14 A Eighteen.

15 Q And you're still with Larry today?

16 A Yes.

17 Q But your relationship had its problems early on,
18 right?

19 A Oh, yeah. Yes.

20 Q And based on various things that were going on in
21 your life at that time were some drugs and alcohol
22 involved with your relationship with Larry and your lives,
23 right?

24 A Yes.

25 Q Sometimes that bubbled over into violence between

1 y'all?

2 A Yes.

3 Q And one time y'all actually got divorced, right?

4 A Yes.

5 Q And while you were divorced, did you marry somebody
6 else?

7 A I did.

8 Q Who was that?

9 A Phil Caliendo.

10 Q Phil Caliendo. But you and Larry ended up getting
11 back together after that?

12 A Yes.

13 Q If you would, tell the jury a little bit about your
14 son, who you call Big Tim, right?

15 A Yes.

16 Q And that's Timmy's daddy?

17 A Right.

18 Q And Timmy's mom, Cynthia, when they got together,
19 they were living with you, right?

20 A Yes.

21 Q And how old were they, do you remember?

22 A They were, I think, 19.

23 Q Okay. And when Cynthia was pregnant with Timmy, they
24 were living with you, right?

25 A Yes.

1 Q And tell the jury, if you would, about things that
2 you started noticing about Cynthia when she became
3 pregnant with Timmy.

4 A She just -- you know, she went to herself. She was
5 more like alone. She would go to her room. She wouldn't
6 come out of her room after my son would go to work. He
7 would come home and ask where she was at and I would think
8 she was there because I never would see her go out and
9 come to find out, she would crawl through the windows and
10 leave. And then one time, he came home and he couldn't
11 find her and she was in the closet cutting up all of her
12 clothes, had all of her clothes cut up and was hiding in
13 the closet. You know, just strange things. She was
14 nutty, nutty as a fruitcake, bed bug, whatever you want to
15 call it. But there was something going on.

16 Q But you cared about her?

17 A I did. I loved her.

18 Q And if you would, tell the jury about once Timmy's
19 born, how did you see Cynthia's interactions with Timmy as
20 an infant?

21 A It was just -- once again, it was a strange
22 relationship. She never -- I was a mother, so I never
23 seen her to be the mother that we normally are, you know,
24 how you cuddle your babies and if they cry, you run to
25 them immediately. She didn't do those things. She would

1 let him lay and cry. She would let him lay in urine. And
2 I would have to attend to him. And then she would tell
3 me, I wish he would just shut the fuck up. I mean, she
4 didn't even want to hear him cry. She didn't really want
5 any part of him.

6 Q And when she said that -- of course, everybody excuse
7 our language, but when she said she wished Timmy would
8 shut the fuck up, he was an infant, is that right?

9 A Yes.

10 Q In terms of other things that she did to Timmy when
11 he was an infant in terms of dressing him and things, will
12 you tell the jury about that?

13 A Oh, it would be 90 degrees outside and she would put
14 him in flannel jeans and a flannel shirt with a tee shirt.
15 And I would be telling her, Cindy, it's so hot. He would
16 be sweaty. His little hair will be wet with sweat. And
17 she would say, he needs to be covered. His body needs to
18 be covered. She would bath [sic] him in cold water. She
19 would give him laxatives to cleanse his body. She would
20 not feed him because she didn't want a fat baby. She just
21 let him cry constantly.

22 Q And did you ever get to the point where you thought
23 it was unsafe for Timmy to be in her care?

24 A Oh, I did.

25 Q And did you sometimes not know where she was with

1 Timmy?

2 A Lots of times, I didn't know where she was at with
3 him.

4 Q Eventually, Big Tim had Cynthia committed, is that
5 right?

6 A Yes.

7 Q And when I say committed, committed to what?

8 A A mental part of the hospital.

9 Q Okay. And that was as a consequence, I guess, of the
10 things that you've told the jury about?

11 A Right.

12 Q Big Tim and Cynthia's relationship obviously started
13 falling apart?

14 A Very much.

15 Q Yes, ma'am.

16 A Yes.

17 Q Did they begin to fight and argue over custody of
18 Timmy?

19 A I didn't see that part, but I know there was a lot of
20 it because Tim would find her and he would bring Little
21 Tim back. And then she would come back for a day or so
22 and as soon as he would go back to work or something, she
23 would take Little Tim and off she'd go again. And then he
24 might not find her for another week or so.

25 Q Okay.

1 A I mean, it was just on and off.

2 Q Yes, ma'am. And did Big Tim eventually get custody
3 of Little Tim?

4 A Yes.

5 Q And did the police eventually have to get involved
6 because of the custody issue?

7 A Yes.

8 Q And will you tell the jury about that?

9 A Her and her sister came to my house and they were
10 going to kidnap Little Tim. And she was upstairs talking
11 with me and her sister said she needed to go to the
12 bathroom. And she went into the bathroom and tried to
13 crawl -- she crawled out the window with the baby and was
14 going over the fence in my yard and my daughter stopped
15 her. And the police were called and her and Cynthia both
16 were arrested. And we had Little Tim, though. She didn't
17 get to take him that time.

18 Q And he would have been about how old at that point?

19 A Probably at that time, he was probably maybe a year
20 and a half old, two, somewhere in that area.

21 Q When Big Tim gets legal custody of Timmy, that sort
22 of means by default that you have custody of Little Timmy,
23 too, because you're one of his -- you became one of his --

24 A They were with me and I watched Timmy when my son
25 worked.

1 Q Okay. So at that point, you're the closest thing he
2 has to a mother, is that correct?

3 A Yes.

4 Q As he's growing up with you and Big Tim and Larry, of
5 course, right, and other family members?

6 A Right.

7 Q There still is in your family, based on a variety of
8 issues people have, issues with alcohol and drugs, right?

9 A Right.

10 Q And still, there are times when it bubbles over into
11 violence?

12 A Yes.

13 Q And in the sort of the mid-1980's as Tim's growing
14 up, there are times that the police have to come to the
15 house, right?

16 A Yes.

17 Q And that's for things like fighting?

18 A Yes.

19 Q And, at least, on one occasion, a shooting?

20 A Yes.

21 Q And issues involving drugs, right?

22 A Yes.

23 Q And those are things that Timmy was around as a young
24 kid?

25 A Yes.

1 Q Now, I know you've told me in the past one of the
2 strengths of your family is that people can get into very
3 heated fights and arguments and then they get over it,
4 right?

5 A Right.

6 Q Who in your family couldn't sort of do that?

7 A Little Tim.

8 Q And why do you think that was?

9 A He just had his own little way, you know. When
10 things didn't go his way, then he didn't like you that
11 day. He wouldn't talk to you.

12 Q So would he shut down?

13 A Yeah, he'd shut down.

14 Q Did he seem more sensitive and delicate to you than
15 other people?

16 A He was very sensitive when he was little.

17 Q Did he talk to you a lot about where his mom was?

18 A He asked a lot for his mom.

19 Q And at that point, I guess you didn't have any idea
20 where Cynthia was?

21 A I didn't.

22 Q What about Timmy growing up and friends, did he have
23 a lot of friends?

24 A He didn't have a lot of friends, no, not a lot. He
25 was more to himself.

1 Q Do you remember having birthday parties for him where
2 friends came over?

3 A Not so much friends, but we had such a large family
4 that it didn't -- we didn't have to invite friends. We'd
5 have 20, 25 kids just with the family.

6 Q Tell the jury about your impression of Tim growing up
7 in terms of his -- I know you always said he was smart,
8 but about him being sort of gullible and naive.

9 A He was, but he was so intelligent. He was smart and
10 he was -- he believed so much, you know.

11 Q Did you get the impression that he just would believe
12 things, though, without investigating very much? I think
13 you've told me about --

14 A Yes, he would.

15 Q -- him seeing infomercials.

16 A He would believe that he could feed the VCR, you
17 know, try to feed it dog food. Because it had an opening
18 on it, that was a mouth. I'm like, no, that's not a
19 mouth. You cannot feed the VCR dog food.

20 Q Who was Elaine? Tell the jury who Elaine was?

21 A Elaine was my daughter.

22 Q Your daughter. And how far apart in age were Elaine
23 and Timmy?

24 A Twenty years.

25 Q So they were close, I guess, growing up?

1 A Yes.

2 Q And tell the jury what happened to Elaine.

3 A Elaine died of cancer when she was 29.

4 Q And Timmy was about 13?

5 A Yes.

6 Q Was that a pretty big blow to your family?

7 A Oh, yes.

8 Q And I think I'm right that your daughter, Elaine, who
9 died became the reason why Timmy and Amber decided to call
10 Abigail Elaine, is that right?

11 A Yes.

12 Q When you daughter, Elaine, died, she had three
13 children?

14 A Yes.

15 Q And what happened to those three children?

16 A It was a nasty court battle. I fought their father
17 for custody and the Judge basically said he wasn't a good
18 dad, but he was their dad and it was all they had. So he
19 put the kids back with him, but I ended up getting the
20 kids later because as they got older and started getting
21 in trouble, he would just drop them off one by one.

22 Q Did you have some problems with their dad?

23 A Oh, yes. I had to get an order of protection against
24 him. He would call me up and threaten me that he was
25 going to kill, numerous things.

1 Q And that was a time when Timmy was living with you,
2 right?

3 A Yes -- well, Timmy wasn't living with me, but he
4 lived close to me. He was there a lot.

5 Q Because he was back and forth, I guess, from your
6 house to Big Tim's house?

7 A Right.

8 Q You remember the car accident that Timmy got in when
9 he was 15?

10 A Yes.

11 Q Tell the jury what you remember about that.

12 A I just remember my son telling me, Mom, Tim's been in
13 a bad accident. And we went to the hospital. He appeared
14 to be okay as far as we knew.

15 Q And did you think that Timmy changed from the car
16 accident?

17 A Not really. I just thought Timmy was becoming a
18 teenager, yeah. I seen the place on his head that never
19 went away. I was always concerned about that, but my son
20 assured me that the doctors said that he was okay.

21 Q Yes, ma'am. And so the things that may have changed
22 about him, you attributed to being a teenager?

23 A Right. I mean, you know, Tim did a lot of silly
24 things, but, you know, it was always like, you know, he's
25 getting older. You know, it's just part of growing up.

1 Q Yes, ma'am. But before he had been a pretty -- a
2 good student, sort of a quiet --

3 A He was always a good student.

4 Q Yeah. And then afterwards, he had a little trouble
5 more in school and you knew that he got arrested for some
6 things?

7 A Yes.

8 Q And you knew that he tried to get into the Navy,
9 right?

10 A Yes.

11 Q And was that a strange choice, did you think, for
12 him?

13 A The Navy?

14 Q Yes, ma'am.

15 A No, because he was -- you know, he wanted to be, you
16 know, something special.

17 Q Yes, ma'am.

18 A So it wasn't a strange choice. I was just shocked
19 that I never knew why he got out of the Navy.

20 Q Yes, ma'am.

21 A I mean, I always was told from him that it was
22 something to do with his ear because he couldn't hear. I
23 did not realize that it was because of mental conditions.
24 I didn't know that until just recently.

25 Q Yes, ma'am. Timmy goes to prison for the things that

1 he was arrested for, right?

2 A (Nods head.)

3 COURT REPORTER: Is that a yes?

4 MR. SECOR: I'm sorry. Ms. Thornsberry, just say yes
5 or no for the Court Reporter. Is that a yes?

6 A Yes.

7 Q Okay. Tell the jury the biggest change you see when
8 Timmy comes out of prison. What's the biggest change in
9 him to you?

10 A The religion.

11 Q And tell the jury what you mean by that.

12 A When he came out of prison, it was just like
13 everything was about the Bible. I mean, he couldn't talk
14 to you without it being involved in the Bible. He would
15 tell me, you know, the church I was going to, the religion
16 I believed in, I wasn't going to get to heaven, that I
17 needed to go to the type of religion that he was in. I
18 needed to learn how to speak in tongues. And I would just
19 tell him I don't believe in that. You know, that's not
20 the way I was brought up. But he really tried to force
21 the religion. It was constantly. It was religion.

22 Q And was he aggressive about the way that he presented
23 it to you?

24 A At times, yes.

25 Q And do you remember him speaking in tongues?

1 A Yes.

2 Q And I think in the past you've told me that you felt
3 like it would -- he had been pulled in by a cult, is that
4 right?

5 A I did. That's the way I totally felt.

6 Q And did you get the feeling as though he thought that
7 he had a superior knowledge to other people about
8 religion?

9 A Yes.

10 Q What about reading the Bible to the kids? I think by
11 that point Merah and Eli were born.

12 A He read the Bible to his children all the time. I
13 mean, there was -- you know, they weren't allowed to watch
14 TV. They weren't allowed to listen to music and stuff. I
15 mean, it was all religion.

16 Q Do you remember thinking to yourself that you thought
17 the kids might like some normal kids books?

18 A Well, I remember I wanted to buy Merah some little
19 capris and little shirts for the summer and he literally
20 told me to go to the part of the store I was at and look
21 at the restroom and tell me what I seen on the doors. And
22 I'm like, I see stick people. He says, what do they have
23 on? I'm like, well, you know, the little boys got like on
24 pants on, I guess, and the little girls like a dress on
25 the women's washroom. And he says, that's because that's

1 what they're supposed to wear, Grandma. And I just
2 thought that was, you know, so strange.

3 Q Yes, ma'am. Did you talk to him about your concerns
4 about his religious beliefs?

5 A There was no talking to Tim about what he believed in
6 religion, no.

7 Q Did he -- he would just shut down?

8 A Shut down and wouldn't talk to me for a while.

9 Q If you would, Ms. Thornsberry, tell the jury about a
10 visit with Cynthia down in Mississippi. And Cynthia,
11 again, is Timmy's biological mom?

12 A Yes.

13 Q But none of you had seen her since when?

14 A I had not seen her since he was like two and a half
15 years told, two years old. And he just kept insisting --
16 in his mind, he thought that his dad and I had hid her
17 away from him and wouldn't let him see her. And I always
18 tried to tell him this is not true, Tim. Your mom was
19 sick. He wouldn't have it. So, finally, somehow I found
20 out where she was at in Syracuse, New York. And so I
21 called there and I talked to the hospital and they told me
22 that I couldn't talk to her. They would get a message
23 back to her. And she called us and then my son arranged
24 for her to come to Mississippi to see Little Tim. So she
25 came to Mississippi to see Little Tim, but when she got

1 there, he didn't want no part of her. Because he seen
2 just how sick she was and he didn't want her around his
3 kids. So she ended up staying at my house for like five
4 or six days because that's where she wanted to stay. And
5 I slept in my room with a chair up against my door. I was
6 afraid of her.

7 Q How did she look to you?

8 A She looked -- when she got off of the bus, she had on
9 men's trousers and had like a rope tied around them and a
10 man's shirt and men's shoes. She was very, very heavy,
11 overweight. She just looked like she had never been taken
12 care of.

13 Q Did you recognize her at all as the Cynthia that you
14 had known back in the -- around 1980?

15 A No.

16 Q At this time, you are living in Mississippi around
17 this time with Larry, correct?

18 A Right.

19 Q And your son, Big Tim, is living in Mississippi as
20 well?

21 A Correct.

22 Q And Little Tim and Amber are living in Mississippi?

23 A Right.

24 Q And they have Merah, Eli and Nahtahn at that point?

25 A I'm not sure if they had -- yeah, they did have

1 Nahtahn, I think.

2 Q Yeah. And they lived down in Starkville,
3 Mississippi, I believe, right?

4 A At that time, I think they were still in Fulton,
5 Mississippi.

6 Q Okay.

7 A I could be wrong, but I think it was Fulton.

8 Q But they would come sometimes to Amory, where you
9 lived to visit, right?

10 A Yeah.

11 Q And tell the jury about the visits and who liked to
12 come spend the night at your house?

13 A Oh, well, he wouldn't let any of the children spend
14 the night with us, but when summer came that he was no
15 longer with Amber and the kids came down, my son would let
16 the kids come and spend the night with me. Merah would
17 come and she'd bring her little backpack and all her
18 little pajamas and stuff and she would spend the night.
19 Eli would come and he would spend the night the next
20 night. And then it would be Nahtahn's turn. And Nahtahn
21 would come over and he would stay for a little while and
22 then he would say, Granny, I want to go back to my Papa's
23 house at the big house. I want to go to my Papa's. And
24 he wouldn't stay, I had to call my son, Timothy, to come
25 and pick him up.

1 Q Because that's who Nahtahn was talking about, his
2 Papa, is Big Tim?

3 A Yeah, Papa, he called him Papa.

4 Q Yes, ma'am. Will you tell the jury about Eli's
5 garden at your house?

6 A Eli, when he would come and spend the night with me,
7 he would stay in the daytime with me. One time we were
8 doing some yard work and I had a lot of little pavers and
9 stuff. And he was like, Granny, let's build a garden.
10 And I'm like, Okay, let's build a garden. So he carried
11 all the rocks and he put them all around this tree. And
12 now we call it Eli's garden.

13 Q Okay.

14 A And he worked so hard in his little garden and he
15 picked all the weeds out of it. And we planted the
16 flowers. And now there's five little angels in the
17 garden.

18 Q It's all right. Take a deep breath.

19 MR. GRAHAM: Your Honor, I'm going to object to this
20 line of questioning. It's not relevant to what we're here
21 for.

22 MR. SECOR: I'm going to move on.

23 THE COURT: I sustain the objection --

24 MR. SECOR: Yes, sir.

25 THE COURT: -- going forward.

1 MR. SECOR: May I approach, Your Honor?

2 THE COURT: Yes, you may.

3 Q Ms. Thornsberry, I'm just going to ask you to
4 identify some -- or I'm going to ask you if you can
5 identify some pictures. Let me just read off the numbers
6 on them because I messed them up. But this would be
7 Defendant's marked for identification purposes 139, 140,
8 141, 142, 144, 146, 148, 149, 150, 151, 152, 153, 154,
9 155, 157, 158, 160, 162, 163 and 164. Are those pictures
10 that you've looked at before?

11 A Yes.

12 Q And are these --

13 A Family pictures.

14 Q Family pictures, okay. Thank you, ma'am.

15 MR. SECOR: I would offer those into evidence.
16 Permission to publish these.

17 THE COURT: Subject to your objection you made
18 previously in a hearing as to relevance, your objection is
19 noted. They are allowed in over that objection.

20 MR. SECOR: Thank you, sir.

21 (WHEREUPON, Defendant's Exhibit numbers 139, 140,
22 141, 142, 144, 146, 148, 149, 150, 151, 152, 153, 154,
23 155, 157, 158, 160, 162, 163 and 164 were admitted into
24 evidence.)

25

1 (Whereupon, Defendant's Exhibit 143, 145, 147, 156,
2 159, 161 were marked for identification only.)

3 Q Ms. Thornsberry, I'm just going to put some pictures
4 up on the screen and if you'll just tell the jury who's in
5 the picture and anything that comes to your mind about
6 that person or that time. Is that all right?

7 A Yes. That is Cindy. That is Little Tim's mother.

8 Q And do you remember where that picture was taken?

9 A That picture was taken at my house and that was her
10 baby shower.

11 Q Baby shower for Little Tim?

12 A For Little Tim.

13 Q And that's 139. This is 140. Who's that?

14 A That is my son, Timothy, and Little Tim.

15 Q Okay. This is 141. Who's that?

16 A That is my son, Timothy, and Cindy and Little Tim and
17 somebody's head there. I think it was -- that was at a
18 Thanksgiving dinner.

19 Q Little Tim is the --

20 A That's Little Tim sitting in Cindy's lap, yes.

21 Q How about that?

22 A That's my son and Little Tim.

23 THE COURT: Number 142?

24 MR. SECOR: I'm sorry, 142. Yes, sir.

25 Q And this is 144. Who's that?

1 A That's Little Tim and myself.

2 Q And where was that taken?

3 A That was taken out on the boat. We were boating.

4 Q Yes, ma'am. This is 146. Who's in that picture?

5 A That is my son, Larry, and Little Tim playing around
6 at my house.

7 Q And that's Little Tim in front?

8 A That's Little Tim in the front, yes.

9 Q And tell the --

10 A Larry, Jr. in the back.

11 Q And tell the jury about Larry, Jr.

12 A Larry, Jr. got killed when he was 23 in a motorcycle
13 accident.

14 Q That was 146. How about -- this is 148. Who's that?

15 A That's my sister and Merah.

16 Q And was that at your house?

17 A Yes.

18 Q And this is 149. And I think you talked about this,
19 but --

20 A That's Little Tim, Amber, Merah, Eli and that's
21 Cindy.

22 Q That's his mom?

23 A That's his mother. That's when she came to my house.

24 Q Yes, ma'am. And I think 150 is just another picture
25 from that visit?

1 A That's Little Tim, his mother and Eli and Merah.

2 Q This is 151. Tell the jury who is in this picture.

3 A That is Jackie, my granddaughter, and that is Merah.

4 I think Eli is over on this end, that's Nahtahn and that's
5 Gabe that she's holding.

6 Q Gabe is the little --

7 A And that's myself.

8 Q That's somebody's birthday?

9 A I think it was my birthday or some -- I don't know.
10 It was somebody's birthday. I think they were all singing
11 happy birthday to me.

12 Q And this is your home in Mississippi?

13 A Yes.

14 Q I'm going to show you 152. Who's that?

15 A That's Merah and myself.

16 Q And how about 157, who's that?

17 A That's Merah.

18 Q At your house?

19 A That's at my house, yes.

20 Q And who's in the red there?

21 A That's Amber.

22 Q I'm going to show you now 160. Who's -- I know it's
23 a little blurry, but tell the jury who that is.

24 A That's myself and Elaine.

25 Q And where were you?

1 A This was in Atlanta.

2 Q And 162?

3 A That is my husband. That is all the
4 great-grandbabies and myself. We're all in the bed
5 together.

6 Q And Elaine is --

7 A This is in Atlanta.

8 Q That's the same from Atlanta as well?

9 A Yes.

10 Q Elaine's not in that picture, though, right?

11 A No, Elaine wasn't in there. She was asleep on the
12 sofa.

13 Q Okay. And then the last one I want to show you is
14 164, which I think is the same trip as that. Is that
15 everybody?

16 A That's the same trip with my husband. That's all of
17 us in Atlanta, yes.

18 Q All right. The trip to Atlanta, it was in August of
19 2014, is that right?

20 A Yes.

21 Q And that was very close to the time that the babies,
22 as I think your family referred to them, that they --

23 A The trip to Atlanta was -- you know, we went there to
24 meet Tim and the grandbabies. And, first of all, he was
25 late showing up and we waited. And then when I seen him,

1 he had lost so much weight. And he had on a hot pink
2 shirt and his shirt was drenched with sweat. And I'm
3 like, why are you sweating like this? And then he was
4 drinking and smoking cigarettes. And I had never seen
5 this from him before. I had never seen him drinking. And
6 then we went there and him and my husband went to get
7 pizza because everything was closed and they walked to get
8 the pizza. And Tim came back and he said he was going to
9 get the car and go back and pick up my husband. Well, my
10 husband called and asked me, he says, where's Little Tim?
11 I'm like, well, I don't know, he come to get you. And so
12 my husband walked back and Little Tim showed up after
13 that. And once again, he was just so wet with sweat and
14 just, you know. I knew something was wrong and I didn't
15 know what. I mean, just intuition and you know. You know
16 something wasn't right, but you couldn't put your finger
17 on it. And we tried to get him to let us bring the
18 youngest children home with us because he was supposed to
19 come down the end of that month or the next month,
20 somewhere in there. But anyway, we tried to get him to
21 let us bring the ones that weren't in school. And he told
22 me, he said, Grandma, I can't be away from my babies and
23 he wouldn't let us bring them.

24 Q Tell the jury about what -- when he came back to the
25 hotel late that night what he said about Elaine.

1 A Well, he had asked if we'd watch the kids while he
2 went out that night and I'm like well, yeah. And the next
3 morning, he was there and he says, Grandma, he says you're
4 not a very good babysitter. He says I came back at 3:30
5 and Elaine was behind the couch screaming and crying. And
6 I'm like, really? And I, you know, didn't go into great
7 details with him, but then I asked my husband, I'm like,
8 Larry, was Elaine not in the bed with us? And said,
9 Bertie, Elaine was in the bed with us. She wasn't in the
10 living room screaming and crying. He said, she took a nap
11 in there, but after that, Elaine slept. When we got ready
12 to go to sleep, we put her in here, too.

13 Q Ms. Thornsberry, if you'd thought that the children
14 were in any danger, you'd have done something?

15 A Oh, I would have -- yes. I would have -- if I'd had
16 to fight him or whatever, call the police or whatever, I
17 would have never let him touch those kids if I thought
18 they were in danger.

19 Q Yes, ma'am.

20 MR. SECOR: May I approach again, Your Honor?

21 THE COURT: Yes, sir.

22 Q Ms. Thornsberry, I just want to show you what's been
23 marked for identification purposes as Defense Exhibit
24 number 138. Do you recognize that?

25 A Yes.

1 Q What is it?

2 A That's a video of Atlanta.

3 Q Of the trip that you were just describing?

4 A Yes.

5 MR. SECOR: Your Honor, I would ask to move Defense
6 Exhibit 138 into evidence and publish it as well.

7 MR. GRAHAM: No objection.

8 THE COURT: No objection to 138.

9 (WHEREUPON, Defendant's Exhibit number 138 was
10 admitted into evidence.)

11 Q You remember -- who is in this video for the most
12 part? Do you remember, Ms. Thornsberry?

13 A The grandkids, Little Tim, myself and my husband.

14 Q Before we play it, I guess that's Little Tim in the
15 pink shirt you were talking about?

16 A In the pink shirt I was describing, yes.

17 Q And then who's on the couch there?

18 A That's me with Elaine and Merah in front of her dad.

19 Q And are you and your husband, Larry, the only members
20 of the family that ever met Elaine?

21 A Yes.

22 MR. SECOR: We're going to play it if that's all
23 right with Your Honor.

24 (WHEREUPON, a video was published to the jury
25 starting at 2:17 and finished at 2:18 p.m.)

1 MR. SECOR: I'm going to stop, Ms. Thornsberry, but I
2 appreciate you sharing your memories with the jury. And I
3 thank you so much for that. The State might have some
4 questions for you, okay?

5 THE WITNESS: Thank you.

6 THE COURT: Mr. Graham.

7 CROSS-EXAMINATION

8 BY MR. GRAHAM:

9 Q Ms. Thornsberry, I'm sorry you have to be here today.

10 A Thank you.

11 Q The video that we just watched, that was in Atlanta

12 --

13 A Yes.

14 Q -- in August? Do you know when in August that was?

15 A I think it was like August the 3rd.

16 Q August the 3rd?

17 A (Nods head.) It was early August.

18 Q And your grandson, Tim, had come and met you all in
19 Atlanta?

20 A Yes.

21 Q How many days did y'all spend there?

22 A Pardon me?

23 Q How many days did you spend there?

24 A Did we stay there?

25 Q Yes, ma'am.

1 A Just overnight.

2 Q Just that one night?

3 A (Nods head.)

4 Q Took the kids to the aquarium?

5 A No. We kind of thought we were going to go somewhere
6 with them on Sunday, but when he got up Sunday morning, he
7 was ready to leave. He had already checked us out. He
8 was ready to leave. We had breakfast and he left.

9 Q And I think I read somewhere that he was drinking
10 that night that you saw him?

11 A He was drinking that night, yes.

12 Q That was something new that you hadn't seen?

13 A Right.

14 Q Since then, you've learned that he was smoking spice?

15 A I have heard that, yes.

16 Q You didn't know that at the time?

17 A No, sir.

18 Q Was he smoking cigarettes at the time?

19 A Yes, sir.

20 Q Did he ever explain to you where he went during the
21 time that he disappeared and left your husband at the
22 pizza place?

23 A No, sir.

24 Q So you don't know what he was doing?

25 A No, sir.

1 Q When he came to Atlanta, did he seem happy to see
2 you?

3 A Yes, sir.

4 Q And you were happy to see your great-grandbabies?

5 A Yes.

6 Q And how did Tim get along with your husband?

7 A Very good.

8 Q They got along well?

9 A Very well.

10 Q Tim was happy to see him and --

11 A Oh, yes.

12 Q And Tim -- I saw in the video, it looked like --
13 there was a lot of noise. I guess the TV was on, is that
14 what that background noise is?

15 A They were playing music.

16 Q So that's what Tim was paying attention to, I guess?

17 A Probably.

18 Q But he did play with the children, right?

19 A Yes, he did.

20 Q And he smiled and he laughed?

21 A Yes.

22 Q So since Tim was born, honestly, you've been his
23 mother?

24 A Tried to be.

25 Q And you've done the best you could?

1 A Yes.

2 Q Tim, Sr., his dad, loves Tim?

3 A Very much.

4 Q And the whole family loves him?

5 A Yes.

6 Q In fact, you said that he didn't have a lot of
7 friends, but he had so much family?

8 A Right. We had a large family.

9 Q And there may have been some chaotic times, but there
10 were a lot of good times, too, weren't there?

11 A More good than bad.

12 Q There was a question about the car wreck when he was
13 15. And you remember that when he got that skull
14 fracture?

15 A I do.

16 Q And as far as his intelligence, the way he behaved,
17 how he interacted with people, you didn't really see a
18 difference in the way he was after the wreck as before the
19 wreck is what I heard you say?

20 A Well, he was different after the wreck, but I think
21 that was because he had gotten in trouble with his dad and
22 just, you know, he was getting older. So, you know, he
23 was a teenager.

24 Q Fifteen going on 20, right?

25 A Right, so, I mean, you know.

1 Q Earlier, I heard you say that he was special and he
2 could do anything he wanted, is that right?

3 A He was.

4 Q He was very goal oriented. He would set a goal for
5 himself and then he would work to make it happen, correct?

6 A Yes.

7 Q He went to school. He did well. He succeeded --

8 A Very well in school.

9 Q Very smart, there's no question --

10 A We were very proud of him.

11 Q Very proud of him when he graduated with honors --

12 A Very proud of him.

13 Q -- from Mississippi State?

14 A So proud of him as a person, as a father. He was
15 just a great person.

16 Q Was he the first one to graduate from college --

17 A Pardon me?

18 Q Was he the first to graduate from college?

19 A Yes.

20 Q And then when he got his job at Intel?

21 A My husband was so proud to just drive by that place.

22 Q And you knew he was working as a validation engineer?
23 I'm sure he told you, right, as part of the team?

24 A Oh, he would try to explain it to me.

25 Q You never heard of him getting in trouble, any kind

1 of behavior problems at work?

2 A No.

3 Q Or in college?

4 A No, sir.

5 Q And he married Amber and wanted to have a good
6 marriage? That was one of the goals I think he told he
7 wanted to have.

8 A They appeared to be very happy.

9 Q You said that after he came out of prison, though, I
10 guess he found religion?

11 A Yes.

12 Q And that that -- his beliefs were different than how
13 you all had raised him?

14 A Right.

15 Q And you mentioned something about a cult, but, I mean
16 --

17 A To me, it was just he was so into the religion, it
18 was just -- you know, he'd eat, drink and sleep it. You
19 know, there was just, you know -- you couldn't go
20 swimming, you know, you couldn't do this, you couldn't do
21 that. It was just -- you know, to me, it was just -- it
22 was a lot.

23 Q It was a lot. But he still during that -- how old
24 was he during that time?

25 A Maybe 25.

1 Q So was he working at the time?

2 A I think he was going to school after he came out of
3 prison. He started to go back to school, he was working,
4 he met Amber.

5 Q So he became very religious with very conservative
6 views, but he also was going to school, working and was
7 married?

8 A Yes.

9 Q Do you remember filling out an affidavit for the
10 Department of Mental Health, Ms. Thornsberry?

11 A Do I remember filling it out?

12 Q Yeah.

13 A For myself or --

14 Q I have a document with your signature on it.

15 A I don't have my glasses on. I remember, yeah,
16 signing that.

17 Q You don't remember signing it?

18 A I do remember.

19 Q Oh, you do remember signing it. I think the
20 Department of Mental Health had sent you a questionnaire
21 and asked you to fill it out. Does that sound correct?

22 A That sounds about right, yeah.

23 Q One of the things that is noted in here is -- there
24 was a question about aggression. And your answer was, He
25 had normal tantrums like any other kid, but he wasn't

1 aggressive at all. He was kind as a child. And I'm on
2 the second page if you want to follow --

3 A He was kind as a child. I mean, you know, yes, he
4 had to be the center of attention, but he was -- you know,
5 he was kind.

6 Q And he wanted to obey the rules?

7 A Yeah, he obeyed the rules, yes, till he became to a
8 certain age like any other child.

9 Q There was a question about mental health problems he
10 had and your answer was, not that I know of that he ever
11 went to the doctor for?

12 A I didn't know of it, no.

13 Q If you would have seen something, you would have done
14 something about it, wouldn't you?

15 A Well, as he got older, he was not around me much. I
16 mean, he would -- if he was talking to his dad, he didn't
17 talk to me. If he talked to me, he didn't talk to his dad
18 as he got older. After he got with Amber, it was -- it
19 was all about Amber and the kids.

20 Q Did Tim talk to you about problems that he had?

21 A As far as what?

22 Q When he was growing up.

23 A He talked a lot about -- you know, he would cry a lot
24 about not having a mom. Mother's Day, you know, why
25 didn't his mom love him, things like that.

1 Q Things that bothered him, he would talk to you about?

2 A Yeah.

3 Q You noted that he never told you that he heard any
4 voices? He never said to you that he heard voices, did
5 he?

6 A No, he never told me that.

7 Q Did he ever tell you that the children were trying to
8 harm him?

9 A He would make little comments every once in a while,
10 like, sometimes, Grandma, I think they're out to get me.
11 But, you know, just kind of a normal comment to me.

12 Q Joking comment?

13 A Yeah.

14 Q He never told you that he was really afraid of his
15 children, did he?

16 A No.

17 Q There's a note in the answer form, which I'm on like
18 the third page now where it says Page 11, it's asking you
19 some questions about the trip to Atlanta. And it said, He
20 got up early the next morning, was ready to go. He seemed
21 like he was in a hurry to leave. Do you remember what he
22 said?

23 A Do I remember what he said when he had to leave?

24 Q Uh-huh.

25 A No, just something about he had to get home.

1 Q Okay.

2 A I mean, once again, we were shocked that we weren't
3 spending the day together that day.

4 Q And I think you said that you offered to take, at
5 least, the babies, I guess?

6 A We actually tried to get him to let us take the two
7 small ones. Not the ones that were in school because we
8 knew they were in school, but the babies that weren't in
9 school, let us take them home with us because he was going
10 to be coming in.

11 Q Because he was going to come visit for Labor Day?

12 A Yes. And he says, Grandma, I can't be without my
13 babies. You know, he says, I drove every weekend when dad
14 had them to see them. He says, I can't -- I can't be
15 without my babies.

16 Q If you would have thought there was something wrong
17 with him and he was a threat to the children, you would
18 have taken those babies then and there, wouldn't you?

19 A Yes.

20 Q All five of them?

21 A Yes.

22 Q Do you remember having a telephone conversation with
23 a doctor named Dr. Frierson, who's the Court-appointed
24 psychiatrist?

25 A Yes.

1 Q A phone conversation with him?

2 A I don't remember what it was about, but I remember
3 him calling me. I think it was something about this paper
4 here.

5 Q I think you're probably right --

6 A Right, it was just a very short conversation. And
7 he's the one that actually let me know that it was the 3rd
8 of August that I was there because I seem to keep thinking
9 that it was like a week before all this and it wasn't
10 that.

11 Q And he notes that in his report?

12 A Yes, he did.

13 Q He wrote down, and you tell me if this is true,
14 talking about you, Ms. Thornsberry reports that as a
15 child, Tim's father spoiled him beyond recognition?

16 A Oh, yes, he was very spoiled.

17 Q You told Dr. Frierson that your grandson, Tim, was a
18 good child and did not get in much trouble?

19 A True.

20 Q You have no knowledge of him ever doing anything to
21 harm himself?

22 A No.

23 Q And, in fact, he's got you quoted, and you tell me if
24 this is true, He would never do that. He loved himself to
25 death.

1 A Yeah, he would never hurt himself. But I never
2 thought he would ever hurt his children either.

3 Q Yes, ma'am. The plan was -- the plan was that he was
4 going to come where for Labor Day, he and the children?

5 A His father's --

6 Q To where?

7 A -- with the children. His father's. To my house.

8 Q In Mississippi?

9 A Yes.

10 Q State's Exhibit 77 in evidence has some
11 communications off of Tim's phone and there's some things
12 from you. On the morning of the 28th, which would have
13 been that Thursday, there's a call from you to him that
14 last about eight minutes and 53 seconds. Do you remember
15 what that call was about?

16 A No.

17 Q Would it -- I'm asking, could it have been about him
18 coming to see you all for Labor Day or --

19 A It could have been, yes.

20 Q How often did y'all talk?

21 A We talked about two or three times a week maybe.
22 Sometimes more, sometimes less.

23 Q Did you text as well or you usually talked?

24 A We did text. We texted occasionally.

25 Q So you would talk two or three times a week and then

1 text in between?

2 A Yeah.

3 Q Was he always good about answering you?

4 A He actually called me all the time. I never really
5 had to initiate the calls. I got calls from him
6 constantly.

7 Q He called you?

8 A Yes, he called me a lot.

9 Q Okay.

10 A He called his grandfather a lot. He didn't always
11 just talk to me, sometimes he would call and just talk to
12 his grandfather.

13 Q If you did call him or text him, he'd respond,
14 though?

15 A Yes.

16 Q I know his records show that on Friday, the 29th, in
17 the afternoon starting around 2:00 o'clock, there's a
18 series of probably seven or eight calls from you?

19 A I was worried.

20 Q Why were you worried?

21 A Because he wasn't answering my call and that was
22 unusual.

23 Q Well, I guess that's when the -- from the records,
24 you all had talked Thursday morning. Did you -- was a
25 normal day he would have called you on Friday?

1 A Yeah, he would have called me.

2 Q When was he supposed to come down?

3 A Pardon me?

4 Q When were they supposed to come down?

5 A They were supposed to be leaving Friday morning.

6 Q They were supposed --

7 A And coming to our house, yes.

8 Q So he was supposed to be driving in --

9 A Right.

10 Q What time did you expect him to be there Friday?

11 A I expected him to probably be there by, you know,
12 2:00 or 3:00 o'clock in the afternoon.

13 Q And when he didn't show, that's when you began to
14 call?

15 A Right. And when I didn't get in touch with him, I
16 was just petrified they had been in an accident or
17 something. You know, why isn't he answering my calls.

18 Q And it looks like there's another missed call. So
19 you had several around 2:00, 2:30, and then you tried
20 again around 4:13. And then there's actually a 31-second
21 call where it says -- it looks like that he connected to
22 you. I don't know if you left a message or you actually
23 --

24 A I left a message probably.

25 Q No, this would have been him calling you?

1 A He could have left me a message.

2 Q Do you remember any messages that he left?

3 A No. Not on Friday, no.

4 Q And it continues on for you trying to get in touch
5 with him and him not answering. And then you send texts,
6 Where are you? Are you getting my messages? And you're
7 worried?

8 A Yes. The same way you'd be worried if any kid was
9 traveling and then all of a sudden you don't hear --
10 you're not hearing from them.

11 Q Yes, ma'am. And then it looks like on -- late in the
12 evening on the 29th at 6:40, he sends you a text that
13 says, sorry, tied up today, not going to be able to make
14 it today. You remember getting that text?

15 A I do.

16 Q And, in fact, you responded back that says, Call me,
17 please. What's going on, Sweetheart? Call me.

18 A (Nods head.)

19 Q And he didn't call?

20 A No.

21 Q And you kept texting him, worried about him, worried
22 about the children?

23 A Yes.

24 Q And he doesn't respond?

25 A No.

1 Q Never, did he?

2 A The next thing I heard was on Wednesday, my husband
3 was in Birmingham at an auto auction and my phone rings
4 and it was the Principal or either the Assistant Principal
5 at the children's school. And they told me that the kids
6 had not showed up at school. And that was just unusual,
7 you know, for Little Tim. So then I -- I knew then
8 something was wrong. So I called my son and that's when
9 my son, I think, in return, called the police there. And
10 I also called a gentleman at his work. The Principal gave
11 me the number to a friend of his at work that he worked
12 with and I called and they said he hadn't been in at work.

13 Q One last question, ma'am. If your grandson would
14 have called you and said I need you to come pick up four
15 of my children, something happened to Nahtahn, what would
16 you have done?

17 A I would have been right there.

18 MR. GRAHAM: Thank you, ma'am.

19 REDIRECT EXAMINATION

20 BY MR. SECOR:

21 Q You all right?

22 A (Nods head in the affirmative.)

23 Q Just one last question I wanted to ask you.

24 A Okay.

25 Q You told Mr. Graham how happy you and Larry were to

1 see Timmy and the kids in Atlanta, right?

2 A Yes.

3 Q Had it been a long time since Timmy had come to
4 visit?

5 A Yes.

6 Q About how long?

7 A It had been the Christmas before that, I think '12,
8 2012 or something.

9 Q Christmas of 2012?

10 A Yeah. It had been like -- it had been over a year
11 because we had never seen Elaine.

12 Q Right. So it had been almost, I guess, a year and a
13 half since you had seen them?

14 A Somewhere in that area.

15 Q Since you had seen him or any of the babies?

16 A Right.

17 Q And just -- you don't have to go into a lot of
18 detail, but what happened in the Christmas of 2012 in
19 Mississippi that stopped his normal regular visitation
20 there?

21 A He came to my house for Christmas and, you know, he
22 just -- he wasn't happy. You know, he just seemed
23 miserable or something. And I don't know what happened
24 after he left and went back to my son's. But my son told
25 me the next morning, he says, Mom, he wanted to argue and

1 I told him I wasn't arguing with him. And he just chunked
2 the kids and he left.

3 Q And he didn't -- he left in the middle of the night?

4 A Left in the night. Didn't even come and say goodbye
5 or anything.

6 Q Do you know whether Timmy and Big Tim communicated
7 during that year and a half?

8 A I'm not quite sure if they did or not. I know Timmy
9 called me a lot during that time, but he never came to see
10 us or anything, but we talked on the phone.

11 Q Yes, ma'am.

12 A That was the time when he wasn't probably talking to
13 his dad, so he talked to me.

14 Q Yes, ma'am.

15 MR. SECOR: Thank you very much, Ms. Thornsberry.

16 MR. GRAHAM: Nothing further.

17 THE COURT: You may step down, Ms. Thornsberry.

18 Y'all want a quick break? Want to call the witness? Keep
19 going, okay. Call your witness.

20 MR. MADSEN: Call Detective Brian Travis.

21 BRIAN TRAVIS, being
22 first duly sworn, testified as follows:

23 THE CLERK: Have a seat over there, please. If
24 you'll state your name and spell your last for the record.

25 THE WITNESS: Brian Travis, T-R-A-V-I-S.

DIRECT EXAMINATION

BY MR. MADSEN:

Q Detective Travis, where are you employed?

A I'm employed at the Lexington County Sheriff's Department.

MR. MADSEN: Judge, I would ask to be able to lead under 611(c)?

THE COURT: Mr. Graham?

MR. GRAHAM: I'm sorry, Your Honor.

THE COURT: He asked to --

MR. MADSEN: I asked to lead under 611(c).

MR. GRAHAM: I don't think he's shown himself to be hostile.

THE COURT: I'll allow it.

Q How long have you worked at Lexington County?

A I've been employed there for 12 years.

Q And what is your position there?

A I'm a detective assigned to the criminal intelligence unit as a criminal intelligence analyst.

Q And so is that your only law enforcement experience?

A I've been at the sheriff's department the whole time. I've served many different roles at the sheriff's department.

Q And what is your position now?

A I'm a detective in the criminal intelligence unit and

1 so my actual position is a criminal intelligence analyst.

2 Q Can you tell the jury what a criminal intelligence
3 analyst does?

4 A Sure. So intelligence is just information. And so
5 when you look at criminal intelligence, it's information
6 about crimes. And so my job as a criminal intelligence
7 analyst is to take the information that's provided about
8 the crimes and the people that committed them and to
9 create actionable plans and patterns and recognition,
10 things like that.

11 Q And you kind of -- within that criminal intelligence
12 area, you kind of have a specialty?

13 A I mostly deal with communications analysis and
14 geographic location analysis. So people using phones,
15 cell phones specifically, and then where their locations
16 are from that.

17 Q And can you take that data -- and you analyze it.
18 Can you also utilize that in mapping?

19 A I do.

20 MR. MADSEN: Judge, at this point in time, we would
21 offer him as an expert in cellular analysis and mapping.

22 THE COURT: Any voir dire?

23 MR. GRAHAM: Not on that, Your Honor.

24 THE COURT: The detective can offer opinions as to
25 cellular data of cell phones and mapping thereof.

1 Q Did you have an occasion to become involved in this
2 case?

3 A I did.

4 Q Was that -- you were asked, I guess, by Captain
5 Fossum to begin collecting and analyzing some information?

6 A He was -- he's been my captain the whole time. I,
7 honestly, at this point don't remember if he specifically
8 started it or if it was the major crimes unit. But my
9 help was requested in the case back in 2014.

10 Q And, initially, you're provided phone numbers and I
11 guess maybe some associated names with those phone
12 numbers, correct?

13 A Generally, yes.

14 Q And you're able to use some online search material
15 that's available to you to gather some additional
16 information?

17 A So I have what's provided to me, both through the
18 cell phone records or any report information. I do use
19 open source intelligence when available. And then I have
20 several computer system programs that we have that are
21 utilized for doing the analysis for mapping.

22 Q And I think you were given some of Tim's T-Mobile
23 phone records, is that correct?

24 A Correct.

25 Q And wasn't there kind of a snafu initially about

1 maybe a couple of numbers being transposed?

2 A That, I couldn't tell you about. That might have
3 happened before the records were given to me.

4 Q Okay. And you were asked to make a hot list,
5 correct?

6 A Uh-huh.

7 Q Can you tell the jury what a hot list is?

8 A So when you're looking at, generally anything, but
9 specifically, in this case and cellular records, a hot
10 list is going to be who the person is speaking to the most
11 over that span of records. It's generally considered the
12 top ten or so. And so you look at a call frequency, how
13 often did these two phone numbers talk to each other and
14 then it counts those out. So you'll have a phone number
15 and an amount of transactions between them.

16 Q And were you able to take those numbers that you
17 developed into that hot list and kind of put names and
18 associate those?

19 A I think almost all of them we were able to associate
20 to someone or a business.

21 Q And at some point in time, did you receive copies of
22 or receipts that came out of Tim's car?

23 A Yes.

24 Q And were you able to take those cell phone records
25 that you have and those receipts and create a timeline?

1 A I was.

2 Q Let me show you what's been marked as Defense for ID
3 212. Is that the timeline that you created?

4 A It's one of them.

5 Q And is that a fair and accurate representation of
6 that timeline?

7 A Yes.

8 Q And I think initially you --

9 MR. MADSEN: Well, Judge, at this point in time, we
10 would move Defense 212 into evidence.

11 MR. GRAHAM: No objection.

12 THE COURT: 212, the timeline and cell phones
13 accepted without objection.

14 (WHEREUPON, Defendant's Exhibit number 212 was
15 admitted into evidence.)

16 Q I think, initially, when you did -- you had the
17 cellular data, then also the receipts, but then you
18 received some banking information after that and kind of
19 added that onto here, correct?

20 A So that timeline started off as kind of a work in
21 product. We had a big piece of paper and were kind of
22 handwriting a lot of information in. So it looked at the
23 cell phone location we had, it looked at some of the
24 receipts we had and then it also looked at the financial
25 transactions from bank records that were returned.

1 Q And I think when I asked you or told you that I was
2 going to ask you about this, I think you looked at it the
3 other night and found a few errors and had corrected
4 those?

5 A Correct.

6 Q This is kind of large. Let me show -- I'm going to
7 have you just kind of go over, once I put it on the
8 overhead. Can you just kind of explain to the jury what
9 are they just kind of seeing here?

10 A So it's pretty much, at the time, the most basic
11 timeline I could have created. And so from the left side
12 of the paper moving towards right, it moves from the
13 oldest date towards the newest date. And so then any
14 place we were able to put a location to, we put on there
15 in sequential order.

16 Q So it kind of follows all the way down?

17 A Uh-huh.

18 Q So we're starting, I guess, on the 28th, is that
19 correct?

20 A Correct.

21 Q And then it appears the first thing you have is a
22 call from Amber Jones on the 28th in Lexington, South
23 Carolina, correct?

24 A That's the first one that's on that, yes.

25 Q And then the next one is also another Lexington,

1 South Carolina call from Amber?

2 A Correct.

3 Q And then because of space limitations, you have to
4 jump sometimes up and sometimes below, but just putting
5 those sequentially, correct?

6 A So I used a program called Microsoft Vizio to make
7 that. And, basically, it automatically did that for me to
8 fit the timeline.

9 Q And so, the next thing that you have was on the 29th
10 at the Exxon in Lexington, South Carolina?

11 A Correct.

12 Q And these up here indicate that those are calls.
13 Would this down here indicate that it was not a call and
14 maybe a receipt?

15 A Correct. In that specific, it was definitely from a
16 receipt that was found in the vehicle.

17 Q And you denote those on there if they are from say, a
18 call or from some of those cellular analysis or those
19 phone records you received, correct?

20 A Correct.

21 Q And so the next then on the 29th, I believe, is at
22 the Mountain Express in Thompson, Georgia, is that
23 correct?

24 A Uh-huh.

25 Q And then we follow up a call from Lithonia, Georgia

1 to Zam Zam and that's also on the 29th?

2 A Yep.

3 Q And then we've got one right here, it's got two lines
4 and they kind of intersect. Both of them on the 29th and
5 both of them appear to be calls. What does it mean that
6 the line -- that it's showing that it's intersecting
7 before it's kind of hitting the timeline?

8 A It's just the way the program -- because the times
9 are so close, it's just the way the program did it.
10 Because when you look at the whole span of the timeline,
11 you're talking, I think, it was nine days. So it's got to
12 fit enough blocks in there for 24 hours a day times nine
13 days, so it just compresses everything. So because the
14 calls were only about a minute apart, it just -- if you
15 were able to zoom in all the way down really, really
16 small, you would see a minute space between them, but when
17 it prints out like that, it just looks like it's all one
18 line.

19 Q I got you. And that says call to Cook Springs,
20 Alabama. So that means that that phone is in Cook
21 Springs, Alabama when they received the call from, I
22 guess, Roberta Thornsberry?

23 A Correct.

24 Q So then we jump down to the bottom. And again, on
25 the 29th, this time, it's at the Marathon Gas Station in

1 Birmingham, Alabama?

2 A Correct.

3 Q It appears then on the 29th, we're in Tuscaloosa,
4 Alabama and that appears to be a call, correct?

5 A Right.

6 Q And then on the 29th, Lithia Springs, Georgia, and
7 that is a call, also?

8 A Correct.

9 Q And then we are next on the -- again, on the 29th at
10 Bumper to Bumper in Washington, Georgia?

11 A Correct.

12 Q So that is not a call? That's based on some kind of
13 documentation you received?

14 A Correct.

15 Q And then we've got one here on 8/30 in Lexington and
16 then below on 8/30 at Lexington and it appears that those
17 are about a minute apart. And is that what you said that
18 -- those if you got down kind of microscopic, there might
19 be a small little thing, but because of the pixilation in
20 that, it looks like it's kind of intersecting, but those
21 are two different times --

22 A Yes, because they're so close together, you can't see
23 separation.

24 Q And then it looks like there's a space here on the
25 31st to the 1st. So you don't have anything for that time

1 period, correct?

2 A Correct.

3 Q And then the next thing that we see is on the 1st at
4 the Citgo in Clinton, South Carolina, correct?

5 A Correct.

6 Q And then we jump down again on the 1st at the Dunkin
7 Donuts in Spartanburg, South Carolina?

8 A Correct.

9 Q And we go to the top in Winnsboro on the 1st. And
10 that is a call from Winnsboro to Christina Ehlke?

11 A Correct.

12 Q And that has a time associated with it. And then
13 we're down at the bottom on the 1st and a call in Lugoff
14 from Amanda Jones. So she has called his phone and that's
15 where it's hitting is in Lugoff?

16 A Correct.

17 Q And then it looks like we jump to the next day, and
18 on 9/2 at the Kangaroo in Folly Beach?

19 A Correct.

20 Q And then later on 9/2, we're at West Columbia, the
21 Quick Pantry?

22 A Correct.

23 Q And then later on 9/2, in Aiken?

24 A Correct.

25 Q And then at the Race Trac on 9/2 in Athens, Georgia?

1 And then I guess we jump another call and this is in -- on
2 9/2 and this is in Lawrenceville, Georgia?

3 A Correct.

4 Q And then later in 9/2, in Macon, Georgia, and then
5 there's another one below that's also Macon, and then I
6 think that there's also one down kind of at the bottom
7 from Macon. And those kind of look like they intersect,
8 but they're just --

9 A Correct.

10 Q -- spacing? And then on 9/3, we're at the Wal-Mart
11 in West Columbia?

12 A Yes.

13 Q Followed up on 9/3, Sunoco in Cayce?

14 A Yes.

15 Q And then later on 9/3, at the Advance Auto Parts in
16 Lake City?

17 A Correct.

18 Q And then we jump to the next day, Charleston. I
19 think that that kind of intersects with another call
20 showing that that's in Charleston?

21 A Yes, it does.

22 Q And then at Blue Water Exxon in Mt. Pleasant on 9/4?

23 A So just to clarify that point, back in 2014, we
24 thought it was in Mt. Pleasant. Later on, we learned that
25 we couldn't place an exact location where that was other

1 than it was somewhere in the Charleston County area.

2 Q Okay. But then we know later on 9/4 in Camden buying
3 gas?

4 A Correct.

5 Q And then later that same day at the Dollar General in
6 Orangeburg?

7 A Correct.

8 Q And then in Lexington on 9/4?

9 A Correct.

10 Q And then we jump to the 5th, and we're in Louisville,
11 Georgia?

12 A Correct.

13 Q And that appears to be the only thing on the 5th.
14 And then 9/6, in Greenville, Alabama at the Bypass Food
15 Mart?

16 A Correct.

17 Q And then at a bank in Camden, Alabama on the 6th?

18 A Correct.

19 Q And then a Taco Bell in Laurel, Mississippi?

20 A Correct.

21 Q So the timeline goes from August 28th to September
22 6th?

23 A Right.

24 Q And just kind of looking from beginning to end and
25 jumping all around, it didn't appear to be any kind of

1 pattern or reason that someone would be from one area to
2 the next and back and forth, does there?

3 A When you take in the totality of the information, if
4 you look at only locations, it can be a bit confusing, but
5 when you look at the context of what gave us those
6 locations, almost every one of those locations appears to
7 be goal driven. There was a specific thing he was trying
8 to get to or do at that time and then his plans changed.
9 I can't say what changed his plans, but we were given lots
10 of information since that timeline was made.

11 MR. MADSEN: That's all the questions I have.

12 THE COURT: You need a break? Step in the jury room,
13 have you back in a few minutes. Don't talk about the
14 case.

15 (WHEREUPON, the jury was excused from the courtroom
16 for a break.)

17 (Whereupon, a short break was taken.)

18 THE COURT: Y'all ready? All right. Bring the jury
19 in.

20 (Whereupon, the jury came into open court at
21 approximately 3:15 p.m.)

22 CROSS-EXAMINATION

23 BY MR. GRAHAM:

24 Q Mr. Travis, you said your title at work was a
25 criminal intelligence analyst, is that right?

1 A Correct.

2 Q What is a criminal intelligence analyst?

3 A So as I said before, criminal intelligence is
4 information about crimes. It can be the who, the whats,
5 the wheres, the whens, the hows, the whys. And then -- so
6 the job of an analyst is to take that criminal
7 intelligence and develop patterns and predictions,
8 operational plans, staffing, all different things like
9 that.

10 Q And what's your background, education, training and
11 experience in that position?

12 A So I've been in this current position for five years,
13 five and a half years. Before that, I worked as a major
14 crimes detective. Before that, I was a property crimes
15 detective, a field training officer and I started off as a
16 road deputy at the sheriff's department. Education-wise,
17 I have a Bachelor's and a Master's from physics from USC
18 in Columbia. I've been to over 600 hours of training
19 related to law enforcement. Included in that, I've been
20 to the International Association of Law Enforcement
21 Intelligence Analysts basic intelligence course. I've
22 been through the International Association of Crime
23 Analysts training symposium. I have numerous certificates
24 from both of those organizations about crime analysis and
25 intelligence analysis.

1 MR. GRAHAM: Your Honor, the State would offer
2 Detective Brian Travis as an expert in the field of
3 criminal intelligence analysis.

4 THE COURT: Any voir dire on that field?

5 VOIR DIRE

6 BY MR. MADSEN:

7 Q Just with the analysis, you can determine patterns?

8 A So it's more than just patterns. Some people -- I
9 don't like to use the word, but you hear profiling,
10 criminal profiling, that comes into it. You look at
11 patterns of crimes. You look at similarities,
12 differences. And now the biggest push, of course, the key
13 kind of catch word now is predictive policing, that is
14 intelligence lead policing. So you take criminal
15 intelligence, you look at historical data and use it to
16 model and what we typically call forecasting or a general
17 idea of where a crime may happen based on historical
18 dates.

19 Q And when you say that, that just means you get a
20 bunch of -- a rash of breaking into motor vehicles and can
21 determine a pattern that might give you a prediction of
22 where that might go next?

23 A That's part of it.

24 Q But it doesn't give you like a crystal ball?

25 A No, no, no.

1 MR. MADSEN: Judge, we would object to his
2 qualifications.

3 THE COURT: Get a little bit more voir dire if you
4 like, Mr. Graham.

5 MR. GRAHAM: Your Honor, that's his job title, that's
6 what he's been trained for and that's what he does. He's
7 got over 600 hours of police experience. He's been doing
8 the job for several years. He takes records of different
9 kinds. He takes statements and puts them together and he
10 explains what happens to the best he can. I'm not asking
11 that he guess, I'm asking him to look at data and explain.

12 THE COURT: I think with his training, he can do
13 exactly that in this case. He's not giving an opinion, is
14 he or is he?

15 MR. GRAHAM: Only to the extent that Mr. Madsen in
16 his last question asked him and he said that his actions
17 were goal driven. We're going to go through and he's
18 going to explain why he thinks they're goal driven based
19 on the data that he sees.

20 MR. MADSEN: Judge, that would be similar to a
21 criminal profiler that has been consistently held to be a
22 problem in the courts of South Carolina. Basically, hey,
23 I see this and -- I mean, it's just basically all
24 speculation.

25 THE COURT: He's been qualified as an expert in cell

1 phone and cell phone tower data analysis right now,
2 correct?

3 MR. MADSEN: Yes, sir.

4 THE COURT: We'll go forward with that expertise in
5 offering opinions and see where we get. So I'm going -- I
6 think I need to hear more information about what data he's
7 analyzing before I'm going to move forward to the more
8 general qualification expert you asked for. But he's been
9 qualified as an expert in data analysis from cell phones
10 as well as cell towers and other electronic devices.

11 BY MR. GRAHAM:

12 Q Detective Travis, when you testified before the
13 break, the timeline that you put up was the timeline that
14 you created at the actual time the crime occurred, when it
15 was first being investigated, correct?

16 A Correct.

17 Q Since that time, you've had an opportunity to get
18 more records and make a more detailed list?

19 A Correct.

20 Q You considered the Defendant's call detail records,
21 which are his phone records that would show incoming and
22 outgoing phone calls and locations for some of those
23 calls?

24 A Yes.

25 MR. GRAHAM: Your Honor, the State would offer what's

1 already marked as State's 33 in evidence, which are the
2 Defendant's T-Mobile records.

3 THE COURT: Subject to prior objection pretrial?

4 MR. MADSEN: Can I see those?

5 THE COURT: Sure.

6 (Whereupon, State's Exhibit 33 was admitted into
7 evidence.)

8 (Whereupon, State's Exhibit 33A was marked for
9 identification, admitted.)

10 Q State's 33 is the Defendant's call detail records?

11 A Correct.

12 Q That is something that you would have used to
13 construct the more thorough timeline, correct?

14 A I actually had used it on that timeline and then have
15 revisited it several times since then.

16 Q Let me show you State's 137 for ID at the moment and
17 ask if you recognize those?

18 A I do.

19 Q And those are the bank records from State Federal
20 Credit Union of the Defendant, correct?

21 A Correct.

22 MR. GRAHAM: Your Honor, the State would offer 137
23 into evidence.

24 MR. MADSEN: No objection.

25 THE COURT: No objection, 137 is in.

1 (WHEREUPON, State's Exhibit number 137 was admitted
2 into evidence.)

3 Q So now you have phone records, you have the State
4 Federal Credit Union records and then you also had copies
5 of receipts that were found in the vehicle when he was
6 stopped in Mississippi, correct?

7 A Correct.

8 Q And let me show you some photographs and ask you if
9 you recognize those as being the receipts?

10 A Yes, I do recognize those as being receipts.

11 Q And, specifically, I'm referring to the receipts that
12 are in the photographs State's Exhibit 61 through 68.
13 Now, did you take all of that information and combine it
14 together to show the Defendant's movements?

15 A Yes, along with his phone bill.

16 Q And that would have been the cell phone extraction
17 that Mike Phipps did?

18 A Correct.

19 Q Let me show you what's been premarked as 202 and ask
20 if that's the document that you created for the time
21 period of August 28th through the time the vehicle was
22 stopped?

23 A It is.

24 Q And does that fairly and accurately combine all the
25 information from the different sources that we've

1 discussed?

2 A Yes, it has.

3 MR. GRAHAM: Your Honor, the State would offer that
4 in evidence at this time.

5 COURT REPORTER: What's that number again?

6 THE COURT: 202.

7 COURT REPORTER: Timeline, okay.

8 MR. MADSEN: Judge, we would object. I think
9 consistent with your ruling, he can testify to it, but
10 actually putting the -- basically, an amalgamation of all
11 the information.

12 THE COURT: That didn't require his expertise, it
13 required his organizing the data.

14 MR. MADSEN: We would think he could testify to it
15 instead of putting it together and putting it in.

16 MR. GRAHAM: Judge, they put a timeline in.

17 THE COURT: Y'all put a timeline in. It's your
18 witness. I'm going to let it in.

19 (WHEREUPON, State's Exhibit number 202 was admitted
20 into evidence.)

21 Q Do you have a copy of this up there with you?

22 A I do.

23 Q And it looks really small and it's really detailed,
24 but, in essence, in general terms, overall, what is that?

25 A So it has a date and the time from when the event

1 happened. I tried to label what the event was as
2 concisely as I could and give it a label. And I did all
3 this with the intent of putting it on a map. This was my
4 list to use for mapping purposes.

5 Q And you talk about a map, let me show you what's been
6 premarked as 203. Is this the map you're talking about?

7 A It is.

8 Q And did you prepare this map?

9 A I did.

10 Q And does it correspond to explain the movements that
11 we see up in 202?

12 A It does.

13 MR. GRAHAM: Your Honor, the State would offer this
14 into evidence.

15 THE COURT: So that map is a location of all the time
16 points on Exhibit 202?

17 MR. GRAHAM: Yes, sir.

18 (Whereupon, a bench conference was held in the
19 presence of the jury but out of the hearing of the
20 jury.)

21 MR. GRAHAM: So your ruling on the map is?

22 THE COURT: Since the map wasn't given earlier, I'm
23 going to keep it out. Marked for identification.

24 (WHEREUPON, State's Exhibit number 203 was marked for
25 identification.)

1 BY MR. GRAHAM:

2 Q You're also familiar with State's 77, which was the
3 extraction report prepared by Investigator Phipps?

4 A Yes.

5 Q In combining all these together, let's talk about
6 your entry points on here, it looks like there's 44 of
7 them, and what's going on.

8 A Okay.

9 Q Starting on your first entry, I believe that would
10 have been, from testimony earlier, that the children were
11 picked up at approximately 6:15, correct?

12 A Yeah, I was able to use a video to time stamp.

13 Q Moving down to the second entry and the third entry,
14 those were the incoming calls from Amber?

15 A Correct.

16 Q The times on those two calls on the night of the 28th
17 are what?

18 A The first one was at 7:19 p.m. and the second one was
19 at 9:34 p.m.

20 Q During those times or phone calls, were you able to
21 determine where that phone was physically located?

22 A The only thing we could determine is which tower the
23 phone had hit off of during that time. And that's what
24 the GPS locations are is the tower's location.

25 Q So where I have the light, the latitude and the

1 longitude, those are the coordinates from the cell tower
2 that that phone pinged off of?

3 A Correct.

4 Q And is that in the area of the Defendant's home?

5 A It is.

6 Q Down to the fourth entry, 1:50 a.m., now on the
7 morning of the 29th, correct?

8 A Correct.

9 Q And you've got down bought cigarettes from Cooper's
10 Corner. How do you know that?

11 A We got both financial records and the receipt for
12 that, and so we knew from the receipt what was purchased.

13 Q Do you remember how much the amount of the purchase
14 was or how many cigarettes were purchased?

15 A Ten packs of cigarettes and I believe the total
16 purchase price was 42.15.

17 Q Now, Cooper's Corner is located where?

18 A It's -- 1910 South Lake is right at the intersection
19 of South Lake Drive and Platts Springs Road.

20 Q And how far away is that from the Defendant's house?

21 A Roughly, maybe a half mile at the most. Just down
22 the road.

23 Q So the next thing you see after the purchase of the
24 cigarettes at 1:50 a.m. is what?

25 A At 10:32, there was a purchase at the Mountain

1 Express Truck Stop in Thompson, Georgia.

2 Q So we're now at 10:32 a.m. So that's the first time
3 you see him moving away from the house?

4 A Correct.

5 Q And this is on the morning of the 29th?

6 A Yes.

7 Q Looking at State's 77, which was Investigator Phipps'
8 forensic examination of phone, what's going on prior to
9 and up to 10:32 a.m. on the morning of the 29th, starting
10 from 1:50 -- starting from your time of 1:50 for the
11 cigarette purchase?

12 A There's several calls coming into the call log. And
13 on the extraction it shows them -- several of them as
14 missed calls. And it shows a rejected call as well -- oh,
15 I'm sorry, I think I'm on the wrong day. Missed calls and
16 then text messages.

17 Q The text messages are the ones back and forth to the
18 babysitter, Christina Ehlke, correct?

19 A Correct.

20 Q So at 10:52 -- well, let's start back. At 9:38,
21 Christina Ehlke text and says, Just wondering if the kids
22 are coming. And then time-wise, the next thing that
23 happens is he is in Mountain Express Truck Stop, which is
24 where?

25 A Thompson, Georgia.

1 Q He's in Thompson, Georgia. And then at 10:52, a few
2 minutes later, he text what to Christina Ehlke?

3 A The text message says, Don't worry about this
4 morning. I'll see you later next week.

5 Q And then the response from her is what?

6 A So are they coming Monday or when?

7 Q And his response?

8 A Tuesday.

9 Q The next entry you have after Mountain Express that
10 shows location is what?

11 A Somewhere around the area of Decatur, Georgia.

12 Q What part of Georgia, I'm sorry?

13 A Decatur, it's a suburb of Atlanta.

14 Q And what time is that?

15 A 12:14 p.m.

16 Q And what -- where are you pulling that item from?

17 A That came from the phone records.

18 Q And you said that was 12:14, right after lunch? Am I
19 right?

20 A Yes.

21 Q Described as an outgoing call to Zam Zam?

22 A Yes.

23 Q What is Zam Zam?

24 A So using the number that was called from the phone
25 records, we were able to find out that it belonged to a

1 Zam Zam, I believe it was herbal incense shop, I believe
2 is what it was titled, in Atlanta, Georgia.

3 Q Going back to State's 77, the forensic examination of
4 the phone, the call was 12:14 in the afternoon on the
5 29th, what were the Google search at 12:11?

6 A At 12:11, herbal incense, Atlanta, Georgia.

7 Q And the web history one minute later?

8 A It was from yellowpages.com, herbal incense smoke
9 shops near Atlanta, Georgia with reviews, YP mobile.

10 Q And Scooby Snax or that type of spice was not -- was
11 legal in South Carolina at the time, correct?

12 A Correct.

13 Q It was illegal in Georgia at that time, wasn't it?

14 A I believe so.

15 Q And Alabama?

16 A Correct.

17 Q And Mississippi?

18 A Correct.

19 Q So the next time that you can place him physically
20 anywhere is seven and eight, 2:20 in the afternoon on the
21 29th. Where do you have him at that time?

22 A When I focused in on the GPS, it came up as Pell
23 City, Alabama for the first one and Moody, Alabama for the
24 second one. And both of those are right along I-20.

25 Q The time period is what for those two? 2:20 and --

1 A 2:20 and 2:21.

2 Q Going back to 77, the phone examination, 1:17 p.m. on
3 the 29th, the bottom of Page 2, there's a Google search at
4 1:17 in the afternoon. What's that search for?

5 A The search is for herbal incense illegal in Alabama.

6 Q And then following up with the web history at 1:19
7 and 1:51, what's he doing on his phone?

8 A The first one was a web history that says Georgia
9 issues alert over herbal incense. The second one is a
10 search from Google for herbal incense Alabama.

11 Q And then there's three additional web history related
12 to the same item, isn't there?

13 A Then supernova herbal incense and others available
14 for sale from Alabama, Alabama head shops and smoke shops,
15 bongs, kratom, glass pipes, pipe shops, vaporizers in
16 Alabama. And then Zero Gravity Smoke Shop in Decatur,
17 Alabama, 35601.

18 Q Thank you, Detective. Moving down, the next call or
19 purchase is at 2:54. That will be your item nine, I
20 believe. Do you see that?

21 A Yes, sir.

22 Q So where are you getting that information from?

23 A That's from the bank records.

24 Q Do you know what he bought?

25 A I do not.

1 Q And where is he at at that time?

2 A Birmingham, Alabama.

3 Q All right. The next entry, number ten, we're now at
4 4:30 p.m., you've got down misdialed call to Roberta. Why
5 is it a misdialed call to Roberta?

6 A When you look at the numbers, there was an extra
7 number in there that would have kept the call from
8 completing, but the rest of the number was her number.

9 Q And what time was that again?

10 A 4:30 p.m.

11 Q All right. Going back to State's 77, the forensic
12 examination, what does the web history show for 3:06 p.m.?

13 A Delusions Smoke Shop in Birmingham, Alabama 35205,
14 Cloud Nine Southside Tattoo and Piercing Smoke Shop in
15 Birmingham, Alabama 35205.

16 Q As far as him traveling across east to west, leaving
17 Lexington going to Alabama, the farthest you get him at
18 that time is on that missed call, is that correct?

19 A Correct.

20 Q And he makes it to the far side of Birmingham,
21 Alabama?

22 A Correct.

23 Q What's the next physical location you can place him
24 at?

25 A After that, it's Lithia Springs, Georgia.

1 Q What time are we at now?

2 A 8:04 p.m.

3 Q On the 29th?

4 A Correct.

5 Q Let's back up then. So before he makes it back to
6 Lithia, Georgia, at 8/29 -- on the 29th at 4:41, what is
7 he searching for on Google?

8 A Herbal incense Mississippi legal, Mississippi
9 lawmakers snuff out spice.

10 Q And then at 4:44, it's a misspelling, so spell it the
11 way that he typed it.

12 A It's C-A-M-P-U-N-G.

13 Q And then the associated web history at 4:45?

14 A Reserveamerica.com, campgrounds and camping
15 reservations.

16 Q And I had you coming back and we had made it to --
17 back to Georgia. And you got that record for 8:04 p.m. on
18 the night of the 29th from his phone records?

19 A Correct.

20 Q And you identified it as a call to Market Traders
21 Institute. What is Market Traders Institute?

22 A From looking it up, it appears to be like a stock
23 trading company that teaches you how to do day trading and
24 things like that.

25 Q The next physical location that you can place him at

1 is where?

2 A Washington, Georgia.

3 Q Now, is that continuing coming back towards the
4 Lexington area?

5 A Yes.

6 Q What time is that at?

7 A Washington, Georgia was at 10:29 p.m.

8 Q So we're on Friday the 29th at 10:29 p.m.?

9 A Correct.

10 Q Now, where does that entry come from?

11 A It was both a receipt and what was on the bank
12 records.

13 Q And it says made a purchase at Bumper to Bumper for
14 \$30.18?

15 A Yes.

16 Q Does the receipt show you what he bought?

17 A The receipt's not in here, but if memory serves, it
18 was a gas receipt.

19 Q Moving on down to the next time you physically place
20 him somewhere, it's now the next morning, correct?

21 A Correct, 10:53 a.m.

22 Q And we're on the 30th, is that correct?

23 A Correct.

24 Q And you identify it as ATM use, correct?

25 A Correct.

1 Q So what did you find out?

2 A \$500.00 dollars was withdrawn from his account at a
3 Palmetto Citizens Federal Credit Union ATM.

4 Q And then one minute later, you show him at the Quick
5 Serve?

6 A Yeah, we were able to see that there was a time
7 difference with the bank records. So what it most likely
8 meant was that the time at the two different banks wasn't
9 the same. Because the time we were able to reconcile it
10 to was 10:48 a.m., so that's six minutes in between the
11 two locations.

12 Q Those two locations, the ATM withdrawal and the Quick
13 Serve purchase, the addresses, where was he at?

14 A Red Bank in the Lexington area of South Carolina.

15 Q The next time you see him somewhere else is when?

16 A The next one is in Spartanburg at Dunkin Donuts.

17 Q And what date and time are we then?

18 A That is September 1st at 4:02 p.m.

19 Q And where is he at?

20 A Spartanburg, South Carolina.

21 Q And what was the time again, I apologize?

22 A 4:02 p.m.

23 Q Prior to that, prior to 4:02 p.m., let's go back to
24 State's 77, the forensic examination. Starting with the
25 internet searches and web history on the 1st, prior to the

1 Dunkin Donuts. Do you see those starting at 10:08 in the
2 morning?

3 A I do.

4 Q Would you tell the jury what searches and what web
5 history was going on the phone that morning?

6 A So the first search item through Google search was
7 again that C-A-M-P-U-N-G, which then has a pound sign Q
8 equals camping South Carolina. Then
9 Southcarolinaparks.com, tent and RV camping in South
10 Carolina State Parks, campground cooking in South Carolina
11 State Parks, boating and camping at Devils Fork in Cheraw
12 State Parks, trailside camping in South Carolina State
13 Parks, South Carolina dumps, Lexington County's website
14 for collection and recycling centers, the index page C&D
15 Landfill, Lexington County, construction and debris
16 landfill, items accepted, home animal services.

17 Q And then there's some YouTube searches still that
18 morning as well, correct?

19 A Yes.

20 Q What are those?

21 A Stix Long Arm of the Law, Stix Long Arm of the Law
22 lyrics, Comfortably Numb, Pink Floyd lyrics.

23 Q All right. Now, we find ourselves at a Dunkin Donuts
24 in Spartanburg, is that correct?

25 A Yes.

1 Q And the approximate -- not the approximate, the time
2 on that is 4:02 and 4:05 p.m. in the afternoon on the 1st?

3 A Yes.

4 Q Do you have receipts for those and do you know what
5 was purchased?

6 A Yes. We have both receipts and video. So the first
7 purchase was six doughnuts totaling \$4.35, that was paid
8 with a Visa. And the second order was a iced coffee,
9 large, original blend with some kind of discount. It was
10 -- totaled a dollar eight, paid with cash.

11 Q And where does he go from there?

12 A The next time -- location recorded was in Winnsboro,
13 South Carolina.

14 Q And what time was that?

15 A 6:20 p.m.

16 Q And then the next location?

17 A Lugoff, South Carolina at 7:00 p.m.

18 Q And we're on September 1st, correct?

19 A Yes.

20 Q And the next location?

21 A The next location is the 2nd of September, 1:29 a.m.,
22 the Kangaroo Express in Folly Beach, South Carolina.

23 Q And the next location after that?

24 A The Quick Pantry gas station in West Columbia at
25 10:59 a.m.

1 Q And what day are we on right now?

2 A Still on the 2nd.

3 Q And what time?

4 A That one was at 10:59 a.m.

5 Q If you look on State's 77, just prior to that 10:59
6 a.m. entry when he is back in West Columbia, there is some
7 YouTube searches that begin at 10:35. You see those?

8 A Yes, sir.

9 Q So what were the searches for?

10 A The YouTube -- the first search was a YouTube search
11 for dog search for body in landfill. Then clean -- same
12 thing, YouTube search clean pool -- I'm going to spell it
13 since it's spelled wrong, M-U-R-A-T-I-C acid. Then the
14 next one, a YouTube search again, M-U-R-A-T-I-C acid burn.
15 Then it switches to a Google search for camping Columbia,
16 SC, which takes it to a web history for River Bottoms Farm
17 and has Yogi Bear's Jellystone Park Camp Resort, Columbia,
18 SC, goodsamcamping.com, Columbia, South Carolina
19 campgrounds, RV parks camping info, Good Sam camping. The
20 next item is a Google search that says what does no
21 extradition laws mean.

22 Q What does extradition mean, do you know?

23 A Extradition is the process of bringing someone from
24 one location to another to stand trial for criminal
25 charges.

1 Q Continue on, please?

2 A Web history for five countries with no U. S.
3 extradition treaty hyphen fine law blotter. Than MPR.org,
4 you face a U.S. legal problem, where should you run,
5 parallels MPR.

6 Q Now, we were at 10:59 a.m. on the 2nd. There's also
7 some text that occurred between the Defendant's phone and
8 Christina Ehlke at that time. Do you see those?

9 A Yes.

10 Q Will you tell the jury what texting is going on at
11 that moment?

12 A The first one is from Christina, it says, Can you
13 send me a text saying I have permission to enter the house
14 and clean and keep what I want just so I DNT get in
15 trouble? He responds back, Sure. Go ahead and clean up.
16 And a few seconds later, Everything is going okay,
17 question mark.

18 Q And then his next search term a few minutes later at
19 11:04 a.m., what is he again looking for?

20 A Camping Route 77, Exit 88, South Carolina.

21 Q And then location-wise, where are you finding him
22 next?

23 A Clinton, South Carolina.

24 Q What date and time are we on now on yours?

25 A The search was at 11:04. The location we had was at

1 3:22 p.m.

2 Q What item number was that, 22?

3 A Yes, sir.

4 Q And it's the Citgo Corner Mart, is that correct?

5 A Yes.

6 Q And were you able to determine what he purchased?

7 A No. That was from a bank record.

8 Q Next, where do you physically find him?

9 A At 4:19 p.m., Athens, Georgia.

10 Q And where is he at? What's he doing?

11 A Buying gas.

12 Q And that's the \$78.29?

13 A Correct.

14 Q And where to next?

15 A Lawrenceville, Georgia.

16 Q And what time and day is that?

17 A The same day at 6:04 p.m.

18 Q And then where does he go?

19 A Gray, Georgia.

20 Q And what time is that?

21 A 10:06 p.m.

22 Q And it looks like there's three calls in a row that
23 you keep him -- you place him in Gray, Georgia, is that
24 correct?

25 A Correct.

1 Q And now, we move on to -- that's the end of the
2 entries for the 2nd, correct?

3 A Correct.

4 Q And now we're moving on to the 3rd?

5 A Yes.

6 Q The first place you put him on the 3rd is where?

7 A The West Columbia Wal-Mart.

8 Q Referring back to 77, there's some incoming read
9 texts coming from -- starting at 4:41 p.m. and going
10 through 5:33 p.m. that are from Travis Jones -- the first
11 two are from Travis Jones and the next two are from
12 Roberta Thornsberry. Would you read those texts out loud?

13 A The first one from Travis Jones says, Hey, call me
14 when you can. The second one says, It's an emergency.
15 The first text from Roberta says, Timmy, please, please,
16 baby, let grandma know where you're at. Please, please,
17 call me, please. The second one says, I can do your
18 sweetheart so scared, please call, babe.

19 Q All right. The stop at Wal-Mart, which was that day
20 at 11:05 a.m. and you've actually seen the receipt and you
21 know the items that were purchased, correct?

22 A Correct.

23 Q And those are the items that have been previously
24 testified to, the five-gallon bucket, the blades, the saw,
25 the dust mask, the goggles and the acid?

1 A Correct. Just to clarify, those text messages that I
2 read were not read on the phone until the following day.

3 Q That's the West Columbia Wal-Mart?

4 A Yes.

5 Q He goes from the West Columbia Wal-Mart to where?

6 A Cayce, South Carolina.

7 Q And he goes to a Sunoco gas station. Is that also
8 for gas?

9 A It's from the bank records, but it fits along with
10 his other gas purchases.

11 Q The next item, item number 30, you've got him at an
12 Advanced Auto?

13 A Yes, in Lake City, South Carolina.

14 Q Where is he at?

15 A Lake City, outside of Florence.

16 Q Do you know what he bought?

17 A We have a receipt for it. I know there was oil and
18 oil filter, pliers and a drain plug for a 2006 Cadillac
19 Escalade.

20 Q Pliers, drain plug and oil?

21 A Oil, pliers, an oil filter and a drain plug.

22 Q After that purchase at Advance Auto for an oil
23 change, where do you place him at?

24 A The next morning, he's in Charleston, South Carolina.

25 Q The first entry you have on the next day on the 4th

1 is at what time?

2 A At 3:41 a.m.

3 Q And where do you place him at those times?

4 A Charleston, South Carolina. Specifically, it's -- I
5 think James Island is where the tower is.

6 Q Now, at the same time or approximately the same time
7 on State's 77 on the last page, 3:44 a.m., what's the web
8 history? 3:44 a.m. on September 4th?

9 A The best nonextradition countries to be invisible
10 slash is not available.

11 Q And then the next Google search at 3:47:30 a.m. in
12 the morning on September 4th was what?

13 A Missing children, Tim Jones.

14 Q And you have him in Charleston during the time of
15 that search roughly -- you have him there at 3:43 and the
16 search was at 3:47, is that correct?

17 A Correct.

18 Q All right. After Charleston, where does he go?

19 A Camden, South Carolina.

20 Q And how do you know that?

21 A We have receipts, video and I think we also have --
22 it was also on the bank records.

23 Q Do you know what he purchased there?

24 A He made one purchase for gas and then one purchase
25 was food and cigarettes.

1 Q The next place you put him?

2 A The Dollar General in Orangeburg, South Carolina.

3 Q And what date and time was that?

4 A 5:17 p.m. on 9/4.

5 Q And that's where the purchase was for trash bags, I
6 believe, is that correct?

7 A Trash bags, Mentos, Red Bull and sunglasses.

8 Q Sunglasses. After the Dollar General, where does he
9 go?

10 A The ATM in Lexington.

11 Q So we're back in Lexington on Augusta Road. That's
12 the State Federal Credit Union ATM?

13 A Correct.

14 Q And what time is it?

15 A The first item -- the first time we put him there is
16 6:33.

17 Q So there are four or five transactions at the ATM
18 right in a row, correct?

19 A Correct.

20 Q What's the first transaction done at the ATM at that
21 time?

22 A An account balance check.

23 Q Do you know how much the account was -- the balance
24 was at that time?

25 A I don't recall offhand.

1 Q What's the next transaction at the ATM?

2 A He took \$40 out of the ATM.

3 Q And then what's the next transaction?

4 A He deposited \$3,518.49.

5 Q He deposited \$3,518.49. Do you know where that --
6 were you able to determine in your investigation and the
7 documents that you had available to you where that money
8 came from?

9 A It came from UBS Financial. It was employee stock
10 purchase plan funds.

11 Q So Intel stock that got sold?

12 A Correct.

13 Q Do you know when he initiated that transaction?

14 A Not offhand, but it was -- it was not -- you know, it
15 was something that was initiated. It wasn't automatic.

16 Q Let me show you a document and ask if that refreshes
17 your memory?

18 A Yes. The check was issued on 8/26/14.

19 Q But he had to initiate the request for the check, so
20 when was that made?

21 A 8/19.

22 Q So he asked for the check on 8/19, the check was cut
23 on the 26th, correct?

24 A That's what it shows.

25 Q And where was it mailed to?

1 A P.O. Box [REDACTED], Columbia, South Carolina 29221.

2 Q I'm sorry, city and state again?

3 A Columbia, South Carolina.

4 Q Columbia. So P.O. Box in Columbia, South Carolina
5 was where that check was mailed?

6 A Yes.

7 Q And that shows an amount of \$3,518.49, correct?

8 A It does.

9 Q And that was deposited at a State Federal Credit
10 Union where, Augusta Road?

11 A Augusta Road.

12 Q After that deposit, what's the next transaction?

13 A Then he withdrew \$260 from the same ATM.

14 Q And that takes us to the 5th, correct?

15 A Correct.

16 Q Where is the next physical location you can place
17 him?

18 A Louisville, Georgia.

19 Q Where is Louisville, Georgia?

20 A It's kind of east of Macon, I believe.

21 Q So was it before -- and if I'm incorrect, correct me.
22 The first time we tracked to the far side of Birmingham,
23 Alabama, we were on the interstates?

24 A Yes.

25 Q This time, are we on interstates or are we below the

1 interstates in rural areas?

2 A As far as I'm aware, it's a rural area. I have never
3 been down there, but it is not along I-20. It looks like
4 a state highway.

5 Q And is that from bank records or receipt?

6 A That one's from bank records.

7 Q The following location is a whole day later, correct?

8 A Correct.

9 Q And where do you place him then?

10 A Greenville, Alabama.

11 Q And that's -- we're far past using call records or
12 phone extractions, you're just now solely relying on bank
13 records and receipts, correct?

14 A Yes.

15 Q And where is he at that time?

16 A Greenville, Alabama.

17 Q And it shows two purchases there, is that correct?

18 A Correct.

19 Q From the Bypass Food Mart?

20 A Yes.

21 Q And then the next one -- and the time of those is
22 9:18 on the 6th, correct?

23 A 9:14 and 9:18.

24 Q The next physical place you can put him is where?

25 A In Camden, Alabama at 1:06 p.m.

1 Q And what happens there?

2 A Withdrew \$500 from a Community Neighbor Bank ATM.

3 Q Are you aware of where the children's bodies were
4 recovered?

5 A Vaguely.

6 Q Do you know whether it is between Greenville, Alabama
7 and Camden, Alabama?

8 A It is.

9 Q The last purchase that you show is on the evening of
10 the 6th at 6:09 p.m., correct.

11 A Yes.

12 Q And where is that at physically?

13 A Laurel, Mississippi.

14 Q And then your last entry shows the traffic stop at
15 approximately 7:57 p.m. that night?

16 A Correct.

17 MR. GRAHAM: Thank you, Detective Travis.

18 MR. MADSEN: No further questions.

19 THE COURT: You may step down. How are we doing?
20 Okay. We did videotapes earlier, a couple of them. This
21 one is about two hours and 20 minutes. We can come back
22 and do it Tuesday and break for the day or we can do an
23 hour of it today and come back and do an hour of it--

24 THE FOREPERSON: Could you repeat yourself, Your
25 Honor?

1 SPEAKER: The next witness is a videotape --

2 THE COURT: Two hours and 15 minutes if my
3 recollection is right. He came and testified, it's been
4 recorded and it's on there, we play it up there. So I can
5 tell you how long it will go. It will go two hours and 15
6 minutes. We can watch an hour and come back and watch an
7 hour Tuesday or we can break for the day.

8 THE FOREPERSON: I think it would be best if we
9 watched it Tuesday in its entirety.

10 THE COURT: I kind of agree with y'all. It makes
11 better sense if you don't break it up. All witnesses do.
12 I'm not just commenting on his witness.

13 THE FOREPERSON: We want to be able to focus.

14 THE COURT: Now, let's talk about the weekend. We've
15 got a long weekend. We're coming back Tuesday at regular
16 time. Y'all enjoy your weekend. Get some rest. Enjoy
17 time with your family. Do whatever you're supposed to do.
18 Don't fret over the case, don't worry over the case, try
19 not to think about the case. That's what I'm going to do
20 and I want y'all to do the same. Do not do any
21 independent research on the internet. Don't watch any
22 news accounts. That's my instruction and advise to you.
23 So if anybody tries to contact you and communicate with
24 you, I'd like to know about it. All right. Enjoy your
25 weekend. Put your stuff up. I'll see you Tuesday

1 morning.

2 (Whereupon, the jury was excused from the courtroom.

3 The trial will resume on Tuesday, May 28, 2019.)

4 THE COURT: You ready?

5 MR. YOUNG: Mr. Secor is meeting with some people,

6 but he's aware that we're starting.

7 THE COURT: Okay.

8 (Whereupon, the jury came into open court at

9 approximately 9:00 a.m.)

10 THE COURT: All right, folks, everybody have a good
11 weekend? Anybody get interfered with, communicating, any
12 attempts of that from anybody towards y'all?

13 (Whereupon, the jury indicated in the negative.)

14 THE COURT: Ready to continue on? The Defense is
15 still presenting their side of the case, so we'll start
16 on. If y'all need a break -- this is two hours and 10, 12
17 minutes?

18 MR. MADSEN: Yes, sir.

19 THE COURT: We'll try to get it all done in one run
20 or we'll take a break, a lengthy one. If something
21 happens in that, get my attention. All right, Mr. Young.

22 MR. YOUNG: Your Honor, the Defense calls Dr. Lipman.
23 He's testifying by video. Due to a scheduling conflict,
24 we videotaped his testimony here in this courtroom.

25 THE COURT: It will be presented just like we did the

1 other gentleman from Las Vegas?

2 MR. YOUNG: Yes, sir.

3 (WHEREUPON, the videotaped witness of Jonathan
4 Lipman, who testified on May 21, 2019, was played for
5 the jury starting at 9:03 a.m, ended at 11:40 a.m.
6 The transcript of this testimony is on pages
7 3363-3453.)

8 THE COURT: Step in the jury room, don't talk about
9 the case. Have you back in here and we will finish up and
10 go to lunch.

11 (Whereupon, the jury was excused from open court for
12 a break.)

13 THE COURT: We will mark this as 213.

14 (Whereupon, Defendant's Exhibit 213 was admitted into
15 evidence.)

16 THE COURT: Mr. Young, we had a brief bench
17 conference about some counseling records, calling a
18 counselor of children. Tell me her name again.

19 MR. YOUNG: Kimberly Fender.

20 THE COURT: Fender? So, Ms. Fender talked with two
21 of the children that I have records on, Elias and Merah,
22 correct?

23 MR. YOUNG: Correct.

24 THE COURT: What's your -- the State thought we
25 needed to, perhaps, hear some of this. The records may be

1 protected under some fashion, they had concerns.

2 MR. YOUNG: You know, the State elicited testimony
3 from what Merah had told one of the babysitters, Christina
4 Ehlke. This is -- would be statements both Tim and the
5 children made to a counselor. It's the same facility
6 where Tim was seeing Dr. April Hames at that time. And
7 then Dr. Hames talked about recommending that he bring the
8 kids in for counseling and he did bring Elias and Merah
9 in.

10 THE COURT: All right.

11 MR. YOUNG: I mean, I just don't understand how the
12 State's allowed to elicit testimony from one witness but
13 then trying to object to it from another. All of these
14 statements are made for the purposes of treatment.
15 They're all outside of the hearsay rules. And Ms. Fender
16 should be allowed to testify as to what Tim and the kids
17 told her about why they were coming there, what he was
18 trying to get them help with, and what they said.

19 THE COURT: All right, Solicitor, what's the State's
20 position?

21 MR. HUBBARD: The State's position is she was
22 treating the two children, not Mr. Jones, and that is
23 protected under 19-11-95. Mental health records of a
24 patient are confidential by law. We also say that Amber
25 Kyzer is a parent. She has as much right to say what is

1 and is not to be waived with her children. And she is
2 represented by an attorney. We reached out to her, she
3 strenuously objects. We're trying to reach her attorney
4 right now just to see what his position would be. So,
5 Your Honor, I would suggest if they really want to pursue
6 this, let's set it aside for right now so that you can
7 hear from the other parent, either through her or by her
8 attorney. I think they have a right to be here. They
9 have a right to be heard. Basically, our concern is this,
10 too, the Defendant was taking his kids to this therapist
11 and our contention is going to be much of what they're
12 going there for is because of what he told his children.
13 So it's basically like getting in hearsay through the
14 kids, but that helps him because of the position he's put
15 these little children in. That's why I think Ms. Kyzer
16 has a right to be heard on this by way of her attorney, if
17 she chooses. But she's expressed to us she absolutely
18 objects to this. These are her children. I think by law
19 under section 19-11-95, she has a right to be heard on
20 that.

21 MR. YOUNG: They've had these records for over a
22 year. They've known about it for over a year. Ms. Fender
23 has been on our witness list for months. And to bring
24 this up now is just a delay tactic.

25 MR. HUBBARD: It's not a delay tactic. Your Honor

1 saw there were 300 plus witnesses. We didn't know who
2 they were going to call. We find out today that after Dr.
3 Lipman, they want to put her up. So Your Honor, this is
4 the first time we've been put on notice she's actually
5 being called. We object.

6 MR. YOUNG: Your Honor, Amber was asked to read the
7 letters that she had written to the children and that
8 also--

9 THE COURT: Is there anything else we can do pending
10 hearing from Ms. Kyzer's attorney? Can we do something
11 else before lunch and then use the lunch break to just
12 work on it, I can't say you can't do it. I don't want to
13 sit here and squander time.

14 MR. HUBBARD: While they're looking at that, my
15 second objection is going to be relevance for what the
16 kids say about what's going on, something prior to this --
17 prior to their killings.

18 MR. YOUNG: We have another witness here.

19 THE COURT: You got one? Let's bring the jury in and
20 work until about 12:30 or so, break time and then we'll
21 take lunch and then we'll address counselor's hearing
22 today.

23 (Whereupon, the jury came into open court at
24 approximately 12:00 p.m.)

25 THE COURT: Call your witness, please.

1 MR. MADSEN: Your Honor, we would call Sherry Henry.

2 SHERRY HENRY, being

3 first duly sworn, testified as follows:

4 CLERK OF COURT: Have a seat up there, please, ma'am.

5 Once you're seated, state your full name, spelling your

6 last, please.

7 THE WITNESS: My name is Sherry Knight Henry, middle
8 name, Sherry Denise Henry.

9 DIRECT EXAMINATION

10 BY MR. MADSEN:

11 Q Ms. Henry, how are you doing today?

12 A I'm good. Thank you.

13 Q She's got to take down everything you say, so if
14 you'll just make sure you speak up. She can't get down
15 heads nods, so yes or no.

16 A Okay.

17 Q Do you work anywhere now?

18 A No, I'm retired.

19 Q And you're retired from where?

20 A The Lexington County Department of Social Services.

21 Q How long were you there?

22 A I was there for 27 years.

23 Q Now, you ended up as a case manager. When you
24 started out, what was your job?

25 A I came in as a temp and was working part-time and

1 took on a case load, and I guess they liked my work. And
2 I progressively did investigations as a TPS assessment
3 worker and then I worked myself up, I guess, into
4 supervision.

5 Q And can you tell the jury what does a case worker do?

6 A A case worker, slash, I'll say investigator goes out
7 on a case once it has been -- a report has been received
8 into the agency. And what that case worker's main job is
9 to do is to go out and assess risk, to make contact with
10 the child, do any type of safety prevention for that
11 child. And then if the case is -- you know, meets a
12 certain criteria, there will be further intervention into
13 the family. You have like 60 days in order to investigate
14 that case.

15 Q So is that generally the case, that when you get a
16 case, you've got 60 days to investigate it?

17 A Each and every case, yes.

18 Q And I believe that DSS was involved with the Jones
19 family three times, correct?

20 A Yes.

21 Q The first time in 2011 when Tim and Amber were
22 together and I guess the house was kind of messy?

23 A Yes, and I think it was something about him having
24 tools scattered in the living area.

25 Q And I guess there was some -- that creates a

1 dangerous condition for the children because I guess there
2 was some remodeling going on at the trailer and you don't
3 want the kids and tools and those things around?

4 A Yes.

5 Q And that was what DSS determines is called a neglect
6 case, correct?

7 A Yes.

8 Q And you were not the worker on that, but I guess you
9 were the supervisor of the worker?

10 A At that time, yes.

11 Q And, ultimately, that case was closed, correct?

12 A Yes, I think it was substantiated and closed.

13 Q Substantiated for just neglect?

14 A Yes.

15 Q And when they go out there, they take a look at the
16 kids to make sure there's no physical abuse or anything
17 else like that --

18 A Exactly.

19 Q -- even though it was dealing with a messy house?

20 A Exactly, yes.

21 Q And then you became involved on a second case on May
22 5th of 2014, correct?

23 A That's correct.

24 Q And that came in as a zero to two PA case. Can you
25 tell the jury when it says -- first of all, what does PA

1 stand for?

2 A Okay. Well, again -- well, if I can say it like
3 this, there's different levels of intervention for DSS.
4 And if I recall, we would have a zero to two, which meant
5 that we need to get out there within two hours to assess
6 risk. So that is a high priority case. And then there's
7 a 12 to 24 that we're allowed to -- as long as we make
8 contact with that child within that timeframe. But either
9 case, each time you make the contact, you're going to be
10 assessing the same thing, any risk to the children.

11 Q And so since you got that as a zero to two, you went
12 out to Saxe Gotha within a couple of hours, correct?

13 A Absolutely, yes.

14 Q And you met with Nahtahn?

15 A Yes.

16 Q He didn't seem to indicate any fear of his father,
17 did he?

18 A No, not at that time. And, also, while, you know,
19 making that contact, there were teachers -- there was two
20 teachers in there with me, also. And, you know, a lot of
21 times, you know, DSS will allow that because it allows the
22 child to see someone familiar and to relax them.

23 Q Let me show you what's been marked as Defense 104
24 through 108. Those are the photographs that were taken of
25 Nahtahn that day, correct?

1 A Correct.

2 Q And I believe one of the teachers took those?

3 A Either the teacher or I took them.

4 Q So --

5 A I'm sure I took these.

6 Q So once you ended up meeting there at the school, did
7 you then call Tim and have him come meet you some place on
8 that same day?

9 A Yes, after seeing the marks and knowing of the
10 allegation, I telephoned Mr. Jones, and he was at work.
11 And told him that we had received a report because, you
12 know, we have to let the parent know that we're involved,
13 and asked him to come up to my office, yes.

14 Q And did you have a couple of officers there at your
15 office with you?

16 A Yes. Because of the nature of the report, I felt
17 that it -- you know, I didn't know if I needed to go ahead
18 and look -- you know, it was a high level, so had two
19 detectives from Lexington County Sheriff's Department to
20 come and we did a joint interview with Mr. Jones. And
21 then -- if I recall correctly, then one of the detectives
22 went one-on-one with him just to further assess and get a
23 feel for him, yes.

24 Q And so, you spoke to Tim about the incident?

25 A Yes, read the allegations. It's not any type of

1 paraphrasing. It's this is what has been reported to DSS.

2 Q And, ultimately, I guess he told you something about
3 he and Elias had put a train set together and I guess
4 Nahtahn had gotten jealous and broke it?

5 A Right, that's what he said. He said that they had
6 worked really hard on this train track and he said that he
7 think -- he said that Elias just destroyed it, that was
8 his word --

9 Q You mean Nahtahn?

10 A Nahtahn, yeah, Nahtahn destroyed it. And that was
11 upsetting to him.

12 Q And I guess he told you that he had kind of jerked
13 him up by the collar and spanked him?

14 A Yes. That was the main thing, to get an
15 understanding as to where, you know, the marks had come
16 from. And he never stated that he had choked him. He
17 demonstrated to us that he had jerked him up from, like,
18 his collar and he demonstrated this.

19 Q And you were able to determine also through that
20 interview where the children went after school?

21 A Yes.

22 Q In other words, did they have a babysitter?

23 A Yeah, yeah, yeah. You know, it's just a protocol
24 thing. Knowing that he works and everything, you know,
25 well, who's keeping the children. So, yes.

1 Q And that babysitter was Sue Dockery?

2 A Yes, at that time, yes.

3 Q And so, you did -- at that point in time, do you do
4 what's called a safety plan with him?

5 A Once we had -- the first thing was that we had to
6 assess if these children needed to come out immediately,
7 okay, that was with law enforcement and myself as well as
8 other agency staff members. And after that had been
9 decided that not -- that that was a no, then a safety plan
10 was implemented. And again, with that safety plan, of
11 course, you would be restricting whatever that behavior
12 is. If it was a dirty house, then you need to clean up
13 the house. If you need to take the kids to the doctor,
14 you need to take the kids to the doctor. But in this
15 case, because of the physicalness and the marks on the
16 child, it was that you will use no discipline with them.
17 You will not horseplay. You will not wrestle with the
18 children.

19 Q And so after you met with Tim at the office, did you
20 go back to the house -- or to Tim's house?

21 A Yes. After -- you know, with myself and law
22 enforcement, I just wanted to -- and I guess it's just me,
23 yes, I did follow him back to the house.

24 Q And can you tell the jury kind of what your thought
25 process -- why are you going out to the house after

1 meeting at the school and the office? And that's all on
2 the same day?

3 A Yes, all on the same day.

4 Q And what's your reasoning for going out to the house?

5 A One thing is that we do have to set foot in the home
6 environment. We have to see where -- you know, what the
7 children are living in. And so, again, I wanted to see
8 exactly that. I wanted to know because I knew it had --
9 you know, you don't have a chance to go in there and clean
10 up because I just followed you from work, so I'm going to
11 see it as it is. So I did follow him back in. And I also
12 wanted to observe the interaction of his presence with the
13 children.

14 Q And what did you observe?

15 A Well, at that time, you know, they -- you know, they
16 were fine.

17 Q And I notice your notes say that the house was
18 cluttered, but not unsafe, so not like the 2011, just --

19 A Oh, no, no. No, it's just -- well, it's a man with
20 five children and a -- you know, a baby. And it's just,
21 you know, clothes. Nothing that was of a health hazard.
22 You know, nothing -- feces and all that on the floor, just
23 a little cluttered, clothes everywhere.

24 Q I notice that your report also says excessive
25 religious items. Do you recall what you meant by that?

1 A Well, I just remember that I can recall, you know, I
2 saw like, you know, crosses on the wall. I think I may
3 have seen a Bible. I may have seen some, you know,
4 little, you know, like religious little phrases, that type
5 of thing.

6 Q And once you got done at the house, did you do what's
7 called a placement staffing or a placement evaluation?
8 And can you describe to the jury kind of what that is and
9 why you do that in a case like this?

10 A Yes. That next morning, I did ask for a placement
11 staffing, which, at the time, was a procedure that DSS
12 will do that even though, you know, law enforcement had
13 decided as well that night that -- you know, that evening,
14 that prior evening that the children did not need to come
15 out, to discuss if DSS needed to do any type of extra
16 intervention in removing the kids. And it was decided at
17 that present time no. That's a formality, a policy.

18 Q So in other words, on the 5th, no one is -- you or
19 law enforcement didn't decide that the children needed to
20 be taken into emergency protective custody. I guess, the
21 next day, that's kind of an additional layer?

22 A Yeah, another precaution, another assessment, another
23 fact checking.

24 Q And it appears that you went back to Saxe Gotha then
25 that next day on the 6th?

1 A Yes. Again, that was a procedural-type thing and was
2 just something that I, you know, wanted to do. I wanted
3 to find out if the child had been pressured or what
4 happened after I left. Because this incident has
5 occurred, if there had been any other repercussions to the
6 child. And at that time, he was a little reserved, but he
7 said no. Again, I had, I think it was a nurse, school
8 nurse sat in on that interview as well.

9 Q And you didn't see any other marks or bruises --

10 A No.

11 Q -- or anything that caused you concern?

12 A No other marks, nothing.

13 Q It looks like next, you ended up going back to the
14 house and made an unannounced home visit on May 15th.
15 Kind of -- I think it's kind of self-explanatory, but
16 explain to us what does an unannounced home visit mean?

17 A Unannounced visit is just where there's no like
18 pre-calling saying, oh, I'm coming to your house today.
19 It's where we have to -- DSS will actually just knock on
20 the door and you're there. And again, it's to capture the
21 home environment in its natural state and the demeanor of
22 the children. And that is just something that I
23 personally always felt was a good technique to do.

24 Q And when --

25 A Even though it was required by DSS.

1 Q And when you came out on the 15th, what were they
2 doing?

3 A This is when -- I believe it was in the evening, it
4 was after hours. Merah, it was her birthday, and Mr.
5 Jones had bought cupcakes for her. And they were in there
6 and when I walked in, they were -- you know, he was -- I
7 think they may have been eating cupcakes. I really cannot
8 remember, but I just remember there were cupcakes. He had
9 the baby on his hip and they were celebrating her
10 birthday.

11 Q So all the children were celebrating Merah's
12 birthday?

13 A Yeah, they were in there eating cupcakes.

14 Q And Amber was not there, correct?

15 A No. When I came in -- I cannot remember if Tim was
16 talking to her on the phone or if she was talking to one
17 of the children, but I remember he said to her, if I'm
18 remembering correctly, that DSS is here. And so he gave
19 me the phone and that's when I spoke to her. And I
20 identified myself and then she said, you know, who she
21 was. So she knew my presence was there.

22 Q So when you go there on that unannounced, do you
23 check the children again for any marks or bruises?

24 A It was just kind of a looksie-see, I did not pull up
25 their clothes or anything like that. No, I did not on

1 that occasion.

2 Q And I think at that point in time, Tim had told you
3 that Amber hadn't physically seen the children in about
4 four months?

5 A In four months, right. And then that's -- you know,
6 he just -- yeah.

7 Q It looks like then on June 16th, you ended up going
8 to the babysitter, Sue Dockery's home. Can you kind of
9 tell me why you do that?

10 A Again, that's just follow-up. I wanted to have
11 contact with the children, see how the children were
12 doing, how they were dressed. And then I also wanted to
13 know if she had any concerns about Mr. Jones. And at that
14 time -- because I specifically asked her and at that time,
15 you know, she indicated no. She said he was a good
16 father.

17 Q So based on that, you submitted, I guess, a fact
18 sheet to the program coordinator for disposition on July
19 16th. And can you kind of tell what is that, what is that
20 procedure?

21 A Okay. Well, at that point, that would have been the
22 case decision determination and is, basically, stating
23 what is the conclusion of the investigation, what is
24 the -- and you have to state the facts of the -- of your
25 conclusions. And it's just a summation of stating if DSS

1 is going to remain involved or if the case is going to be
2 closed or unfounded. So it's a summation. And that fact
3 determination is then sent to the parent.

4 Q And it appears on 7/24, the case was unfounded and
5 closed, but that actually wasn't the way it was supposed
6 to be closed, is that correct?

7 A That's correct. That was a typographical error. The
8 case was founded.

9 Q It was founded for substantial risk of physical
10 abuse, no additional services needed?

11 A Right.

12 Q Can you just describe for the jury what does that
13 mean?

14 A Okay. Again, with that case decision, that, again,
15 is coming through a staffing with other DSS personnel
16 supervisors as well as myself. And -- excuse me, would
17 you say that again? What was I -- my mind.

18 Q Well, I was just asking you about what the
19 substantial risk of physical abuse --

20 A Right --

21 Q -- with no additional services, what does that mean?

22 A Right. It's saying that we were going to
23 substantiate the case or found the case for as like a
24 threat of harm, a possibility it could happen, okay, the
25 kids could be physically abused, but that there would be

1 no service, there would be no treatment intervention into
2 the family.

3 Q And that would mean no further -- you didn't feel at
4 that time there was any other further risks to the
5 children?

6 A Well, the agency didn't feel that there was no
7 further risk to the children.

8 Q And there's a separate one that was, I guess, you
9 could find, or just -- you can find -- or founded for
10 physical abuse, which is different than substantial risk
11 of physical abuse, correct?

12 A Right.

13 Q And, I guess, DSS deals with a preponderance of the
14 evidence standard. So y'all did not feel that there was
15 physical abuse or, at least, not beyond preponderance,
16 correct?

17 A Exactly.

18 Q And so that case is, ultimately, closed?

19 A Yes.

20 Q During -- any time during that investigation, did you
21 ever uncover anything that showed to you or made you think
22 that either Merah or Nahtahn was doing something to try to
23 manufacture a DSS case to get back to their mother?

24 A No.

25 Q Let me jump forward then. There's a second case on

1 August 7th of 2014. And I believe, is that correct?

2 A Yes.

3 Q And I believe those allegations were that -- those
4 allegations were that Tim had beat Elias, leaving
5 extensive bruises and only feeds all the children a
6 20-piece McNugget meal at a time, correct?

7 A Correct.

8 Q And how did that -- did that come in as a zero to two
9 PA case, also?

10 A I believe it did, yes.

11 Q So you're out to see the children within two hours?

12 A Yes, the case was again assigned to me, yes.

13 Q And you went out to his home?

14 A Yes. I went out there, again, with two Lexington
15 County Sheriff's deputies thinking that if this allegation
16 was true, these children were going to be removed tonight.

17 Q So you get out there and, I guess, Tim's at his
18 house, correct?

19 A Let's see, I think Tim -- I think when we drove up
20 that they had just really gotten there. Let me see. No,
21 the children were at the babysitter's, but they had just
22 driven up.

23 Q So Tim's at his house, the children are at the
24 babysitter, but I guess they're neighbors?

25 A Yes --

1 Q They live pretty close in proximity?

2 A -- in close proximity, right.

3 Q And so, do you go see -- because you've got this
4 allegation of extensive bruising, do you go see the kids
5 immediately and who do you take with you?

6 A Okay. Absolutely. It was two deputies with me. One
7 of the deputies stayed with Tim. And, you know, again, I
8 had to read him the report to let him know why I was
9 there. And then myself and the other deputy went to the
10 babysitter's house. We walked down to the babysitter's
11 house.

12 Q I believe your notes indicated that Tim seemed
13 surprised at the allegations?

14 A Yes, he did.

15 Q He told you that they had just gotten back from
16 Disney and the beach?

17 A Right.

18 Q You recall that? And had mentioned something about
19 maybe a disgruntled babysitter had called in the report?

20 A Yeah, he just kind of mumbled that out, yeah.

21 Q And I think they had also told you about Elias
22 injuring an eye?

23 A Yeah, when I got into the house, I saw the Band-aid
24 and I just thought oh, okay. And then they explained to
25 me what had happened, that the little girl had, I think,

1 hit him with the door knob and the babysitter -- and she
2 affirmed that, the child did. And then the babysitter
3 also said that's what had happened and that she had called
4 Tim at work to take the child to Doctor's Care.

5 Q And it looked like there was some kind of medical
6 intervention to you to fix the --

7 A Yeah, I was -- yeah.

8 Q And you took a look at all the children?

9 A Yes, myself as well as the deputy. We looked
10 underneath. We -- we looked.

11 Q And besides the injury to the eye and I guess some
12 diaper rash on --

13 A Right.

14 Q -- Elaine?

15 A Right. When we were looking at the baby, you know,
16 because I wanted to see, I made them pull the diaper down
17 and the baby had a diaper rash. And the babysitter said
18 that she thought that he might -- that Mr. Jones might be
19 buying cheap diapers and that that was irritating the
20 baby. So I addressed that with him.

21 COURT REPORTER: Judge, I'm going to mark some
22 exhibits right quick.

23 Okay, Judge, that's 214 through 234.

24 (WHEREUPON, Defendant's Exhibit numbers 214 through
25 234 were marked for identification.)

1 Q I'm going to show you what's been marked as
2 Defendant's for ID 214 through 226 and ask if you
3 recognize those photographs?

4 A Okay. That's the deputy back there.

5 Q Are those the photographs you took of the children
6 that day?

7 A (Witness nods in the affirmative.)

8 MR. MADSEN: Judge, we would move --

9 THE COURT: I didn't hear an answer.

10 THE WITNESS: I'm sorry, yes.

11 THE COURT: Okay.

12 MR. MADSEN: Judge, we would admit Defendant's 214
13 through 226 into evidence.

14 MS. MAYES: No objection, Your Honor.

15 THE COURT: 214 through 226 inclusive, all admitted
16 without objection.

17 (WHEREUPON, Defendant's Exhibit numbers 214 through
18 226 were admitted into evidence.)

19 Q Now, with these photographs, there were some other
20 ones that you took, I guess, of the diaper rash, some
21 backsides, correct?

22 A Yes.

23 Q 214 would be a picture of Nahtahn?

24 A Yes.

25 Q 215, I guess, that's where you have them pull up the

1 shirt to make sure there's no bruising?

2 A Correct.

3 Q And then 216, you do kind of the same thing with the
4 back?

5 A Yes.

6 Q 217 is another one of the children, I can't see the
7 face. But that's just the chest area?

8 A Yes.

9 Q 218, I believe, is the same thing, but the backside
10 again?

11 A Yes.

12 Q 219, it's a little bit hard to see, but it looks like
13 just kind of shooting down?

14 A Yes.

15 Q And 220, one of the younger children, I believe that
16 looks down and you can kind of see the belly button and
17 the diaper?

18 A Yes.

19 Q 221 is a picture of Merah?

20 A Yes.

21 Q 222 is kind of her stomach area?

22 A Yes.

23 Q 223 is her back?

24 A Yes.

25 Q 224 is Elaine?

1 A Yes.

2 Q 225 is Elias?

3 A Yes.

4 Q And then on 226, that area right there is just kind
5 of where he had hit his eye?

6 A Yes, that's correct.

7 Q Playing around with Merah on the knob?

8 A Right.

9 Q And so, after you speak with them and you take the
10 photographs -- well, let me back up. And you talk with
11 the babysitter to see if she has any concerns?

12 A Yes, I did.

13 Q Was there anything to report? Did you find any
14 bruising, anything that caused you concerns at that point
15 in time?

16 A No. And again, in questioning her also wanting to
17 know do you have any concerns, and she did not.

18 Q Let me show you what's been marked as Defense for ID
19 227 through 234 and ask if you recognize those
20 photographs?

21 A Yes.

22 Q And what are those photographs of?

23 A This is when myself and law enforcement went into the
24 trailer that night.

25 Q So is that after you speak with the kids, the

1 babysitter, you come back and document the condition of
2 the trailer at that point in time?

3 A Right. Because there was an officer that was up at
4 the trailer with Tim. And then that's when after I had
5 assessed -- or we had assessed the risks to the children
6 at the babysitter's, then we went up to the trailer and I
7 went inside along with the officer.

8 MR. MADSEN: Judge, we would move Defendant's 227
9 through 224 into evidence.

10 THE COURT: 234, is it not?

11 MR. MADSEN: Or 234, excuse me.

12 MS. MAYES: No objection, Your Honor.

13 THE COURT: 227 through 234, all admitted without
14 objection.

15 (WHEREUPON, Defendant's Exhibit numbers 227 through
16 234 were admitted into evidence.)

17 Q Defendant's 227, I guess, is showing a photograph of
18 the inside of the refrigerator?

19 A Yes.

20 Q 228 is just kind of documenting, I guess, an area of
21 the home?

22 A Right. I think that was stepping into the trailer.

23 Q 229 is again the freezer component?

24 A Yes.

25 Q 230 appears to be a laundry room?

1 A Yes, and a hall.

2 Q 231 is the hall.

3 A Yes.

4 Q 232 appears to be the children's room with crib in
5 it?

6 A Yes.

7 Q 233 is the restroom?

8 A Yes.

9 Q And last, 234, appears to be kind of the family room
10 looking into the kitchen?

11 A Yes.

12 Q And so, when you went out there that night, none of
13 the children refused to have their photograph taken,
14 correct?

15 A Oh, no.

16 Q Nahtahn didn't refuse to have his picture taken?

17 A No.

18 Q And that case -- you have 60 days, but that case was
19 ultimately closed because of the children's death,
20 correct?

21 A That's correct.

22 Q So that was founded for physical abuse because of
23 their deaths?

24 A Yes.

25 Q And so, the complaint for that August was that,

1 basically, substantial bruises on Elias and you documented
2 that. And you don't see any substantial bruising,
3 correct?

4 A That is correct.

5 Q You don't see any bruising, except for, I guess, the
6 eye?

7 A Absolutely.

8 Q And that feeding them a 20-piece McNugget, but you
9 didn't find any evidence whatsoever to substantiate that
10 either?

11 A Well, I mean, it was food.

12 Q Okay.

13 A I mean, you see what I'm saying?

14 Q Sure.

15 MR. MADSEN: That's all the questions I have.

16 THE COURT: Ms. Mayes.

17 MS. MAYES: Yes, sir, Your Honor, may it please the
18 Court?

19 THE COURT: Sure.

20 CROSS-EXAMINATION

21 BY MS. MAYES:

22 Q Good morning or good day, Ms. Henry.

23 A Good morning.

24 Q You've gotten a lot of questions about some of your
25 interactions with the family, so I want to try and keep

1 track of exactly the order of these events. So this
2 report here regarding Nahtahn, May 5th, 2014, with
3 bruising to the neck, that's the first one I want to talk
4 about. That report actually came into you guys at DSS
5 from Nahtahn's K5 teacher, correct?

6 A The reporter.

7 Q Okay. And may need you to speak up just a little bit
8 more if you can pull the microphone up. So just to go
9 through the process of how a report is made at DSS, it
10 comes in on the phone line to an intake worker, correct?

11 A That's correct.

12 Q And you're a case worker who goes out into the field
13 to investigate allegations?

14 A That's correct.

15 Q So you're not necessarily the person who's getting
16 the phone call when it first comes in?

17 A That's correct.

18 Q So when we talk about reports being made to DSS, a
19 school teacher, specifically, a kindergarten teacher,
20 they'd be a mandatory reporter?

21 A That's correct.

22 Q And can you tell us a little, but so the jury is
23 aware as well, what's a mandatory reporter? What's meant
24 by that term?

25 A Well, it's anyone who observes any type of

1 neglectful, any type of abusive behavior that is being
2 perpetrated on a child, they are mandated to report that.
3 And that can be teachers, nurses, any -- any professional
4 person can -- anyone from the community can also, you
5 know, call in the report, but a mandated one, they're
6 required by law to report to DSS.

7 Q All right. And do you have a copy with you today of
8 that safety plan? And that would be the safety plan, Ms.
9 Henry, that's going to go with this report regarding
10 Nahtahn, May 5th, 2014.

11 A Okay, I don't see it in this packet, unless I'm
12 overlooking it. Okay, I don't have a copy of it.

13 Q And you don't have a copy of that, Ms. Henry, the DSS
14 safety plan? Okay. I'm going to show you an item, then,
15 and ask you whether or not you recognize it. This would
16 be a duplicate of Defense 15. Just take a moment to look
17 over that and refresh your memory.

18 A Yes.

19 Q And you're familiar with that safety plan because
20 it's actually in your handwriting, correct?

21 A That's correct.

22 Q So let's go through some of the steps that led up to
23 that safety plan. So on May 5th, 2014, a school teacher
24 by the name of Amy Shearer makes a report to DSS because
25 bruising had been observed to Nahtahn's neck, correct?

1 A Correct.

2 Q And you've seen the photographs that are in evidence.
3 It also included markings to both of his forearms,
4 correct?

5 A Correct.

6 Q And so when that call comes in from Saxe Gotha
7 Elementary, you are sent out to the school to follow-up on
8 that, correct?

9 A Correct.

10 Q And at this point when you arrive at the school,
11 Timothy Jones has no idea that the school has made this
12 report?

13 A Correct.

14 Q So you, under South Carolina law, have the right to
15 go and interview children about abuse without having the
16 parent there, correct?

17 A That's correct.

18 Q And that's done as a means to allow you, DSS case
19 workers to interview children confidentially without their
20 parent interfering?

21 A Correct.

22 Q And so you arrive there at the school. And I believe
23 Ms. Shearer, that same teacher that made the report
24 regarding Nahtahn, she sat in on that interview with you
25 guys, didn't she?

1 A Yes.

2 Q And that was, I believe, back in the Counselor's
3 office there at Saxe Gotha?

4 A Yes.

5 Q Principal's office. And when you got there, you
6 actually interviewed Nahtahn yourself, didn't you?

7 A Yes.

8 Q And he told you what happened, didn't he?

9 A Yes, he did.

10 Q All right. I need you to speak up just a little bit
11 more, Ms. Henry.

12 A I was looking at my notes. I'm sorry. I'm sorry.

13 Q Okay. All right. So Nahtahn told you what happened,
14 didn't he?

15 A Yes.

16 Q And he showed you what happened as well, didn't he,
17 with his hands?

18 A He never said that he was choked that I remember.

19 Q You don't remember?

20 A Right.

21 Q You don't remember that disclosure by Nahtahn?

22 A Right.

23 Q Do you remember his teacher being in there and
24 telling you what he said and what he showed her?

25 A Yes.

1 Q And you saw the photographs as well, correct?

2 A Correct.

3 Q I believe those were taken by the school nurse, Ms.
4 Leonhardt?

5 A Okay. So I know I had taken pictures, also.

6 Q And then another thing you did after meeting with
7 Nahtahn is you pulled Merah out of her class, correct?

8 A I believe so, yes.

9 Q And Merah had no idea that you guys were even coming
10 that day, right?

11 A That's correct.

12 Q And same with Nahtahn, he had no idea that you guys
13 were even coming, did he?

14 A No, he didn't.

15 Q And so, the kids are kind of caught by surprise with
16 this report, aren't they?

17 A Yes.

18 Q And do you have your notes from when you pulled Merah
19 out of the class?

20 A No, I do not.

21 Q You recall Merah confirmed to you what she saw and
22 what happened?

23 A I -- I know I interviewed her and I believe she did
24 say that she -- that he had gotten a spanking, but I don't
25 have the notes, so I cannot --

1 Q Okay. Well, take your time then and look over that
2 safety plan.

3 A Okay.

4 Q All right. And if you could please write what you
5 wrote on the safety plan.

6 A Repeat that again. What did you want me --

7 Q If you could please write what you wrote on the
8 safety plan.

9 A Okay, you want me to read it?

10 Q Yes.

11 A What I said on the safety plan?

12 Q Yes.

13 A Okay. Yes, ma'am. As far as the control factors of
14 telling him what not to do?

15 Q What did you write on the safety plan regarding the
16 allegations, Ms. Henry?

17 A Okay. The allegations as I have here, Timothy Jones
18 had got upset with Nathan, Nathaniel or Nathan. He choked
19 him around his neck and pushed him against the wall and
20 held him there. The child has a bruise on the neck that
21 resembles a thumb or fingerprint.

22 Q All right. I need you -- I'm sorry, Ms. Henry, I'm
23 going to have to ask you to pull the microphone down right
24 in front of you.

25 A (Witness complies.)

1 Q Okay. Perfect.

2 A Okay. Then I go on -- in here, it has a section
3 where it says "action", and I have written here
4 protection. One, Mr. Jones will agree not to use any
5 physical discipline on any of the children and will use
6 restrictions, now, I have et cetera. Two, Mr. Jones will
7 keep the home clean and neat to meet the basic needs of
8 the children. Three, Mr. Jones agrees not to discuss the
9 allegations of the report with the children. Four, DSS
10 will continue to monitor the home and children. And five,
11 that Mr. Jones will not wrestle with the children.

12 Q All right. Now, that I'm going to show you what is a
13 document from the DSS case file. And it states, all the
14 children reported observing their father grab Nahtahn by
15 the chin. Do you recall making that entry?

16 A Yes.

17 Q Okay. So does that help refresh your memory?

18 A Well, I did not make this entry here. This was made
19 by the supervisor.

20 Q Okay. But as part of your -- based on your
21 interviews with the children and your contact with them?

22 A Yes.

23 Q Okay. So that would be an accurate entry, that all
24 of the children observed him grab Nahtahn by the chin,
25 correct?

1 A Yes.

2 Q So after you go to the school, you get that
3 information and you draw up the safety plan, did you meet
4 with the Defendant so he was aware of all of those
5 conditions in the safety plan?

6 A Oh, yes.

7 Q And specifically, that condition of no corporal
8 punishment, but that includes any kind of spanking?

9 A Absolutely.

10 Q And he understood that?

11 A And he understood that.

12 Q That would be by hand, by belt, anything like that?

13 A Right, he understood that.

14 Q And then I believe you testified that you went back
15 even to the school the next day because you had concerns
16 about possible repercussions?

17 A Well, yes.

18 Q Because at this point --

19 A Just as again continuing to assess risks, yeah.

20 Q Because at this point, he had actually been advised
21 now by you that hey, there's been a report by the school.
22 We're going to have you sign this safety plan. No
23 physical punishment towards the kids from this day forward
24 and he agreed to that. And when you went back the next
25 day, I believe your words were that Nahtahn was reserved

1 this day. Do you remember that?

2 A Yes, I remember.

3 Q He was, in fact, very reluctant and afraid to even
4 talk on that second day, correct?

5 A Yeah, he was reserved.

6 Q So now, we're going to move forward, Ms. Henry, past
7 May 5th, 2014. And, of course, that safety plan remains
8 in effect?

9 A Yes.

10 Q I believe Mr. Madsen was asking you about how it was
11 written up in your records and the wording was that it was
12 written up as founded for substantial risk of physical
13 abuse?

14 A Yes.

15 Q But your agency made the decision to not intervene
16 with any further treatment because you had that safety
17 plan in place?

18 A Yes.

19 Q So the safety plan is really meant to be a safety
20 measure that a parent is to follow?

21 A That's correct.

22 Q So now, moving forward to August 7th of 2014, that's
23 going to be the next report. And I believe you testified
24 on direct that when you met with him, he told you the
25 report had come from a disgruntled babysitter? That was

1 something --

2 A Yeah, he made a statement, yeah, to me like that.

3 Q That's something he just kind of said along the way
4 when you went to the house?

5 A Yes.

6 Q Now, again, the process is that it's called in by the
7 reporter, but you're not actually taking that call?

8 A That's correct.

9 Q And so, then that intake worker passes the
10 information on to you, correct?

11 A Correct.

12 Q And so by the time you went to the house to check on
13 the kids on August 7th, 2014, were you aware that that
14 babysitter, that the reporter had actually called it in as
15 a spanking incident with Nahtahn?

16 A Okay, I'm not following you.

17 Q Okay. So how was it called in? What was the basis
18 of that report on August 7th?

19 A Evidently -- I don't have the allegation in front of
20 me, but the reporter called in this is another concern
21 that we have or this is what's happening.

22 Q Okay.

23 A And I went out on the report.

24 Q Okay. And when you got there, you were kind of
25 focused on Eli because he had the visible bruise above the

1 eye that turned out to be an accidental bruise?

2 A Yes, after talking with everyone, yes.

3 Q Were you aware that when that babysitter, Joy Lorick,
4 and a friend of hers, Mary Tanner, called into the intake
5 worker, they actually were reporting that both Gabe, who
6 was two, and Nahtahn, who was six and had been the subject
7 of the safety plan, had been spanked by Mr. Jones on a
8 trip to Disney World?

9 A No.

10 Q Okay.

11 A No, I wasn't aware of any of that.

12 Q And once again, you met with him there at the
13 residence?

14 COURT REPORTER: Is that a yes?

15 Q You met with him there at the residence?

16 A What was the question? I'm sorry. Yes.

17 Q And do you recall what his reaction was to your
18 arriving there for yet another intervention by DSS
19 involving the physical abuse allegations against his
20 children?

21 A Yes. He was surprised to see me there with the
22 deputies. And so, again, I read the report to him and,
23 you know, told him that I needed to see the children. And
24 that -- as I said, that's when law -- one of the deputies
25 kept him by his trailer and I proceeded to the babysitter

1 with the other deputy.

2 Q Okay. And just to clarify, that babysitter is the
3 babysitter that lived just across the way, next door. And
4 her name's Christina Ehlke?

5 A Yes.

6 Q That sounds familiar?

7 A Yes.

8 Q And she's the one that said well, from everything
9 she's seen, it appears fine, correct?

10 A Just a minute, when you were saying the name here.
11 Babysitter.

12 Q That would be E-H-L-K-E.

13 A I have her name. Just a minute.

14 THE COURT: How much more you got, Ms --

15 MS. MAYES: Maybe ten minutes, Your Honor.

16 A Okay. Yes.

17 Q Okay. So Christina Ehlke?

18 A Yes.

19 Q And just to clarify, that is not the same babysitter
20 that would have called in the report, correct?

21 A No.

22 Q So this babysitter was caught by surprise --

23 A Yes.

24 Q -- that you guys were showing up?

25 A Yes.

1 Q And the babysitter that actually called in the
2 report, Joy Lorick, along with Mary Tanner making that
3 phone call, did you ever actually speak with either one of
4 them about --

5 A No, I did not.

6 Q Ever ask Joy Lorick what she had seen that caused her
7 to make the report?

8 A No, I did not.

9 Q And so, once again, another safety plan is signed,
10 even though that one is still in effect, correct?

11 A Correct.

12 Q And the safety plan covers all of the children, not
13 just Nahtahn?

14 A That's correct.

15 Q Every single one of the children?

16 A Yes.

17 Q And then, once again, he signs a safety plan on
18 August 7th, 2014, agreeing, yet again, that he will not
19 use any corporal punishment on any of the children,
20 correct?

21 A Correct. Correct.

22 Q Any doubt in your mind, Ms. Henry, that he understood
23 those terms and conditions?

24 A He understood, yes.

25 Q And that's pretty much how y'all left it on August

1 7th, 2014, three weeks before the homicides, correct?

2 A That's correct.

3 Q With the understanding he would not lay hands on the
4 children?

5 A That's correct.

6 Q So Ms. Henry, if he was spanking one of the children,
7 hitting on one of the children on the night of August
8 28th, he was in violation of your safety plan?

9 A That would have been a violation.

10 Q The safety plan that you had him sign because,
11 according to your agency, there was a substantial risk of
12 physical abuse?

13 A Yes.

14 MS. MAYES: Nothing further.

15 MR. MADSEN: Just a few followups.

16 REDIRECT EXAMINATION

17 BY MR. MADSEN:

18 Q Now, the first case ended on 7/24 of 2014, correct?

19 A That was the first report?

20 Q Yes.

21 A Yes.

22 Q And the safety plan is tied to that, so once that
23 case ends, the safety plan kind of goes away with it,
24 correct? In other words, DSS isn't looking at him,
25 there's no jurisdiction after 7/24? He's not being

1 investigated?

2 A Yes, I guess that would be correct.

3 Q So that safety plan would be over. And I'm going to
4 show you the --

5 COURT REPORTER: Wait.

6 MR. MADSEN: I'm sorry.

7 COURT REPORTER: Judge, this is 235.

8 Q I'm going to show you Defense for ID 235. Is that
9 that second safety plan that Ms. Mayes was asking you
10 about?

11 A I believe so. I guess.

12 Q Can you take a look down there and see the
13 conditions? Can you read what you wrote as far as the
14 conditions on that one?

15 A Yes. Protection, Tim Jones will take Elaine to her
16 pediatric/Doctor's Care for diaper rash. Two, Tim will
17 continue to provide the basics for the children and will
18 clean the trailer and remove excess clothing.

19 Q And that's all that that safety plan had in it,
20 correct?

21 A That's correct.

22 MR. MADSEN: We would move Defense for ID 235 into
23 evidence.

24 MS. MAYES: I believe it's actually already in, Your
25 Honor.

1 MR. MADSEN: It might be.

2 MS. MAYES: I believe the safety plan from August
3 2014 is already marked as a Defense Exhibit.

4 THE COURT: If it's already in.

5 MR. MADSEN: We'll just mark it as ID?

6 THE COURT: Yes.

7 MR. MADSEN: I think it is, but I think we had
8 trouble finding it.

9 COURT REPORTER: Okay. I'm going to mark it ID for
10 right now until we find it.

11 THE COURT: If we can't locate the other one, then
12 that one's coming in. That way, we, at least, have one of
13 the two, same report.

14 (Whereupon, Defendant's Exhibit 235 was admitted into
15 evidence.)

16 Q So on that second safety plan, when Ms. Mayes said
17 hey, it said no corporal punishment, that's not correct,
18 is it? It doesn't say that in there?

19 A But the intent is that he knew that he was not to
20 spank the children.

21 Q And the first one is done when that case is done on
22 the --

23 A And that is --

24 Q -- on 7/24?

25 A -- dealing with that particular allegation.

1 MR. MADSEN: That's all the questions I have.

2 MS. MAYES: Just a follow-up.

3 RECROSS-EXAMINATION

4 BY MS. MAYES:

5 Q You recall having verbal conversations with him where
6 he agreed not to spank the children, correct?

7 A Absolutely, he knew. Yes.

8 MS. MAYES: Thank you, Ms. Henry.

9 THE COURT: Thank you, Ms. Henry. You are free to
10 go. All right. I think we're done. We worked to almost
11 a late lunch. Y'all, 2:30, that will give us a little
12 more than an hour, 20 minutes, 25 minutes. All right.
13 Don't talk about the case.

14 (WHEREUPON, the jury was excused from the courtroom
15 for a lunch break.)

16 (Whereupon, a lunch break was taken.)

17 MR. HUBBARD: Have we made a decision on the
18 counselor?

19 THE COURT: I didn't know I was making a decision.

20 MR. HUBBARD: Are y'all calling the counselor now?

21 MR. YOUNG: Yes.

22 MR. HUBBARD: I just didn't want to deal with--

23 THE COURT: I know, I wish y'all had said that. I
24 didn't know y'all were waiting on me, I thought y'all were
25 going to resolve it. I have been sitting back there for

1 thirty minutes doing nothing.

2 MR. HUBBARD: Judge, I can say this. We contacted
3 Mr. Harpootlian, he objects and said he was going to email
4 you with his objection.

5 THE COURT: He did and I haven't read that. My
6 computer has been sitting out here.

7 MR. HUBBARD: That is where we are and then relevance
8 on top of that.

9 THE COURT: All right. Mr. Young, tell me again.
10 This is the counselor for the children and she's being
11 called for the purpose of what?

12 MR. YOUNG: She's being called to testify as to her
13 sessions with the children and to Mr. Jones belief that
14 Amber Jones had abandoned the kids and his abandonment
15 issues are our theory of defense and that he was abandoned
16 by his mother. He had a lot of issues with that. Due to
17 his mental illness at the time, he thought the children
18 would be better in heaven and that's why he killed them.

19 THE COURT: All right.

20 MR. YOUNG: And that's our theory of defense which
21 was laid out in a number of expert reports.

22 THE COURT: All right. Mr. Hubbard.

23 MR. HUBBARD: Yes sir, Your Honor. Your Honor, they
24 don't need this counselor for that. If they're talking
25 about Tim Jones' issues, they've put up his counselor.

1 She's already testified to that. What they would be going
2 into are statements from the kids, just two of the kids to
3 the counselor, which we believe, because of looking at the
4 notes, are things that Tim Jones told these kids
5 repeatedly, your mom doesn't want you, and they're
6 expressing that --

7 MR. YOUNG: Judge --

8 THE COURT: Wait a minute, let him finish.

9 MR. HUBBARD: I see absolutely no relevance
10 whatsoever in putting the children's counselor up.
11 They've already put Tim Jones up. He's already
12 established that he didn't think Amber wanted the kids. I
13 understand they want to say that they thought the kids --
14 he thought the kids at some point wanted to get back with
15 Amber. But Judge, this isn't how you do it. They're
16 putting up the counselor who talks with the kids. If
17 they're concerned about what Tim Jones is thinking, that's
18 not this counselor. And we think it opens the door to
19 hearsay of these little kids. It's completely irrelevant
20 to show what they want to show. But more importantly, we
21 believe there is a statutory protection. And that's why
22 we notified Mr. Harpootlian and Your Honor and we are
23 informed that Amber Jones objects. So it's two-fold, the
24 objection is one, for her; and number two, it's just
25 absolutely not relevant.

1 THE COURT: All right. Mr. Young, what else?

2 MR. YOUNG: Your Honor, the testimony of Kimberly
3 Fender is relevant to rebut the State's attempt to portray
4 Mr. Jones as intentionally keeping Ms. Kyzer from the
5 children. If the children told Ms. Fender they felt
6 abandoned or unloved or unwanted or they didn't have a
7 mother, then it would be relevant to rebut the State's
8 evidence to the contrary. Your Honor, Mr. Jones signed a
9 release for these records. Mr. Jones -- I know that
10 Solicitor Harpootlian's email was -- Senator Harpootlian's
11 email was that Ms. Jones was -- Ms. Kyzer was the personal
12 representative and Mr. Jones signed the release allowing
13 Ms. Kyzer to be the personal representative. He has an
14 absolute right to present this testimony. It's part of
15 our defense. According to our defense, it's his belief
16 that the children had been abandoned by Ms. Kyzer, which
17 is the sole basis for doing what he felt was the moral and
18 right thing at the time due to a mental disease or defect.
19 That's our whole defense. This evidence corroborates our
20 defense. The State has elicited statements from the
21 children to babysitters about Ms. Kyzer. The State has
22 tried to get -- ask Ms. Kyzer to read letters that she had
23 written to the children after they had been to the
24 counselor apologizing for the behavior that they
25 complained to the counselor about. And those statements

1 are already in evidence.

2 THE COURT: What records do you want in? Why have
3 the records become a problem? Because it didn't look like
4 there were very many records other than -- why do you need
5 those?

6 MR. YOUNG: Why do I ask her about those?

7 THE COURT: I thought you were trying to introduce
8 those. That's what the State objected to.

9 MR. YOUNG: I'm just trying to ask her about them.
10 I'm not trying to put them in.

11 MR. HUBBARD: We object to her testimony. And as far
12 as the letters from Amber and all that, they put all that
13 in, Judge. All we did is ask Amber about what she wrote.
14 It was a Defense Exhibit. They're the ones pursuing this
15 line. We were responding to what they were doing. Right
16 now, though, we've gone beyond Tim Jones, now, we're
17 focusing on the kids and what they were thinking. And,
18 Judge, it's just an easily manipulated environment.
19 Ultimately, it is completely hearsay because you have a
20 Defendant bringing his children to a therapist. He's
21 saying here's the situation. It's completely one-sided.
22 Amber is cut out of this. It's self-serving. And, Judge,
23 overall, it's irrelevant what they're saying to their
24 therapist. He's put up his therapist, his thoughts, his
25 fears, his concerns. That's good right there.

1 MR. YOUNG: He wasn't even in the room when the
2 therapist -- the therapist met with Tim and then met with
3 the kids. These are the statements to the therapist from
4 the children about what they were going through. He took
5 them to therapy because they were having issues and
6 struggling with the management issues after a contested
7 divorce.

8 MR. HUBBARD: That's already in. Dr. Hames said she
9 referred him to a therapist for the kids. She even saw
10 them in the lobby. She said he looked like a good father
11 there in the lobby. You remember all that. It's
12 absolutely irrelevant what kids are saying to a therapist,
13 particularly if he's not there. It's just absolutely
14 irrelevant and hearsay. And again, there is an objection
15 from the personal representative.

16 THE COURT: All right. Be seated. I want to hear
17 some of her testimony. I still don't understand how it's
18 relative to your defense. So call her up and let's
19 present some of it.

20 MR. YOUNG: The Defense calls Kimberly Fender.

21 KIMBERLY FENDER, being
22 first duly sworn, testified as follows:

23 THE CLERK: If you'll have a seat over there, please,
24 in the chair. State your name and spell your last for the
25 record, please.

1 THE WITNESS: Kimberly Fender, F-E-N-D-E-R.

2 PROFFER DIRECT EXAMINATION

3 BY MR. YOUNG:

4 Q Can you try it one more time just to be sure?

5 A Kimberly Fender, F, as in Frank, E-N-D-E-R.

6 Q Good afternoon, Ms. Fender.

7 A Good afternoon.

8 Q I'm just going to go straight to -- on December 12th,
9 2012, were you a therapist at the Columbia Counseling
10 Center?

11 A Yes, sir.

12 Q And on that date, did Tim Jones bring Elias Xavier
13 Jones in to meet with you?

14 A Yes, sir.

15 Q And did Mr. Jones fill out a screening form to tell
16 you, like, what was going on, why he wanted Elias to meet
17 with you?

18 A Yes, sir.

19 Q And do you recall what he said about why he wanted
20 Elias to meet with you?

21 A He wrote on this form that he wanted Elias to get
22 help with coping skills for grief over his mother.

23 Q Was there a section where he -- where there was a
24 bunch of blanks that he could check ones, the problem
25 areas?

1 A Yes, sir.

2 Q And did he check other, and can you tell the Court
3 what he said there?

4 A He wrote, Sad over mother's actions.

5 Q And then on the next page of that form, did he write
6 about any unusual fears that Elias may have?

7 A Yes. He said he was afraid of being left alone.

8 Q And then down at the bottom of that same page, did
9 you ask what, if any, disciplinary measures he used?

10 A There was a question, what methods you use to
11 discipline your child, and he wrote Biblical correction
12 and nose and toes.

13 Q And did you later come to learn what those meant?

14 A Yes, sir.

15 Q What did those mean?

16 A Biblical correction is in regards to spanking and
17 nose and toes is in regard to timeout.

18 Q Now, you're a mandatory reporter, is that right?

19 A Yes, sir.

20 Q Did you ever report Tim to DSS?

21 A No, sir.

22 Q Did you ever see anything that you thought would
23 warrant a report to DSS?

24 A No, sir.

25 Q Did Tim -- what did Tim say about the goals for

1 Elias's therapy, which is on the -- near the bottom of
2 page four?

3 A Again, that was to help him get coping skills for
4 grief over his mother.

5 Q And on that day, on the 12/12/12, did you -- how do
6 you structure your interviews? Like, do you meet with
7 Tim? Do you meet with Elias? How did that go?

8 A Usually, the first session when I'm seeing children,
9 I will interview the parents first to find out what's
10 going on with the child that a mystery, find out what the
11 goals are for counseling, how the child is doing, and then
12 I'll meet with the child after.

13 Q Okay. So you meet with the parent by themselves first
14 and then the child?

15 A I generally try to, yes.

16 Q Okay. So you met with Tim first on the 12th, right?

17 A Yes, sir.

18 Q And what did Tim tell you about Eli? Was Eli having
19 some problems in school or what was going on?

20 A I believe he said that he had been in trouble for
21 stealing from the teacher and some students and had been
22 lying.

23 Q And did Tim tell you anything about, like, he had
24 tried Biblical correction or what did he tell you?

25 A He said that he believes in Biblical correction, but

1 when that doesn't help that he will dig deeper.

2 Q Okay. And then what did he say?

3 A He said that he got out of him, those were his words,
4 that he was upset about mom, that she left the three older
5 ones alone. The children told the grandparents, you
6 aren't going to leave us alone, are you? And the animals
7 were dying and I guess Tim had figured out that maybe she
8 wasn't feeding them, the mom.

9 Q And then after that, did you meet with -- you talked
10 with Tim some more?

11 A Uh-huh.

12 Q But then did you meet with Eli by himself?

13 A I can't remember -- since he was so young, I believe
14 he was five, I can't remember if I met with him alone or
15 with Tim in the room. Usually, I will meet alone, but
16 when they're young, sometimes, they don't like to be alone
17 by themselves without the parent. So I can't -- I
18 actually can't remember.

19 Q Okay. What do your notes reflect from your meeting
20 with Eli?

21 A Usually, I would ask the child how they're feeling.
22 He said he was angry that day. He said he felt anger
23 today. He said mom upset his feelings. He was upset
24 about the animals and being left alone.

25 Q Did he say what they did when they were left alone in

1 the house?

2 A I believe he said that we scream when our momma
3 leaves us and we wake up.

4 Q Did he say that they had gone to look for her?

5 A He said, we check in her house and Cathy's bedroom.
6 Cathy was the neighbor.

7 Q And what did they find there?

8 A She is sleeping in Cathy's bed with Shawn.

9 Q And she being Amber?

10 A Yes.

11 Q Yeah. Did you meet with Eli again on January the
12 2nd?

13 A Yes, sir.

14 Q And how was he doing that day?

15 A He said he was feeling happy.

16 Q Did he say why?

17 A He said daddy is staying at the house, at the house.

18 Q What did he say about his mom?

19 A He said, I don't have a mom, I just have a daddy.

20 Q Were there notes about whether or not Tim was cooking
21 for the kids?

22 A He said, Daddy feeds me healthy foods.

23 Q Did you meet with Eli again on the 23rd?

24 A Yes.

25 Q And what did Eli tell you about his mom on that day?

1 A He said that he feels mad. Mom won't stop lying.

2 Daddy tried to call her, but she wouldn't stop lying.

3 Q Did he say what she was lying about?

4 A That she left them at the house by themselves.

5 Q On the 23rd, did you also meet with Merah Jones?

6 A I believe that was the 22nd. Let me make sure. That
7 was the 22nd.

8 Q I'm sorry. The day before Eli's last visit, you also
9 met with Merah Jones?

10 A Yes, sir.

11 Q And had Tim filled out a screening for your visits
12 with Merah as well?

13 A Yes, sir.

14 Q And did he also again talk about what he used to
15 discipline his child?

16 A He wrote Biblical correction, nose and toes and take
17 away privileges.

18 Q My notes show like a one, two, three above those.
19 Are those your --

20 A Yes, sir. I asked him what order that he uses the
21 discipline, the different discipline methods.

22 Q Okay. Do you recall whether or not your first visit
23 with Merah, did you meet with Tim by himself and then
24 Merah by herself, or do you recall?

25 A Let me look at my notes.

1 Q Yes, I met him alone first.

2 COURT REPORTER: I can't hear you. You met what?

3 THE WITNESS: I met with dad alone initially.

4 Q Okay. And what was Tim telling you about Merah's
5 problems? What did he say that she was saying?

6 A He said that she tended to hold things in and that he
7 wasn't real sure how she's doing because she doesn't talk.

8 Q Had she said anything to him that made him concerned
9 about her mother?

10 A He said she made the statement, Daddy, I want you to
11 find me a different mommy that cooks.

12 Q After you talked to Tim, did you then talk to Merah?

13 A I did.

14 Q And what did Merah tell you was going on?

15 A She made the statement, my mom left me when sleeping.
16 Then they went to the house to find her. I guess, the
17 neighbor's house.

18 Q Did Merah tell you whether or not she saw her mother
19 leave?

20 A There's a statement, told them mommy went out the
21 door. It's saying she saw her mom walk out the door, yes.

22 Q And did she say how that made her feel?

23 A She said it makes her feel mad and sad.

24 Q Did she say whether or not her mother was telling the
25 truth about leaving them?

1 A She said mom didn't tell her the truth. She told a
2 lie.

3 COURT REPORTER: Can you repeat that?

4 THE WITNESS: She said that mom didn't tell the
5 truth, that she tells us a lie. That she left us at the
6 house.

7 MR. YOUNG: Your Honor, that would be the Defense's
8 proffer.

9 THE COURT: Go ahead, Ms. Mayes?

10 MS. MAYES: Did you say go ahead?

11 THE COURT: Yeah, go ahead.

12 PROFFER CROSS-EXAMINATION BY MS. MAYES

13 BY MS. MAYES:

14 Q And just a few questions on that. Your last session
15 with the children would have been January 2013?

16 A Yes, ma'am.

17 Q And those prior sessions you had, there was an active
18 divorce or custody case during that frame, wasn't there?

19 A I'm not sure. Usually, when parents bring children
20 in, if there's a separation, I'm really clear about I
21 don't testify in court for custody. I'm not a custody
22 expert, so -- but I don't have anything in my notes.

23 Actually, I think --

24 Q The separation --

25 A Eli's -- Elias's first note, it said dad said there

1 is an emergency custody hearing and that he had custody of
2 the four kids I believe.

3 Q So you wouldn't dispute that the custody issue with
4 the children was going on during 2012, right?

5 A Yes, ma'am.

6 Q Now, did you have any consultations later in 2014
7 with the school counselors who were seeing the children
8 and working with the children?

9 A No, ma'am. After January 23rd, I didn't have any
10 contact.

11 Q So you're not aware of their disclosures to the
12 school counselor concerning physical abuse?

13 A No, ma'am.

14 Q And you're not aware of Merah's disclosure to the
15 school counselor in 2014 that she wanted to live with her
16 mother?

17 A No, ma'am.

18 MS. MAYES: Nothing further.

19 THE COURT: All right, Mr. Young. All this happened
20 18 months before the incident in question. I don't -- I
21 don't see the relevance.

22 MR. YOUNG: The Defense's position is that Mr. Jones
23 is mentally ill and based on his beliefs that the children
24 had been abandoned by their mother, that's what caused him
25 to act.

1 THE COURT: Eighteen months before.

2 MR. YOUNG: Yes, sir.

3 THE COURT: I don't see the relevance. The time is
4 too remote. I don't see how that's helpful to the jury to
5 decide whether he was knowing legally right -- moral right
6 and wrong in August of '14. I don't see how those
7 comments, isolated as they are with the children, help you
8 through that defense. I don't think they're probative of
9 anything, good or bad. I don't think they're negative or
10 positive. I think they're just 30 minutes of testimony,
11 or 20 minutes, however long she was up here. I don't find
12 they're relevant at all. I mean, she talked to the kids.
13 The kids are victims and aside from that, it sounds more
14 like they're getting keyed up for custody. That's what
15 I'm hearing. I don't think she's an appropriate witness
16 for your defense.

17 MR. YOUNG: I mean, our defense is that Tim, rightly,
18 wrongly, mentally ill believed that the kids had been
19 abandoned by their mother and it was better for them to be
20 sent to heaven. It was morally the right thing to do to
21 send them to heaven rather than live a life of having been
22 abandoned by their mother like he had been.

23 THE COURT: I don't think that the few statements
24 these two children made to this lady do that for you.

25 MR. YOUNG: I mean, you don't think they're relevant

1 to that?

2 THE COURT: Correct, they're not relevant.

3 MR. YOUNG: They don't move the ball forward--

4 THE COURT: -- don't think they do. I mean, they're
5 too remote in time for me. 2014 versus January of 2013,
6 it's 18, at least, 18 months.

7 MR. YOUNG: And I'm not arguing with the Court by
8 saying this, but not on any privilege argument, but based
9 on relevance?

10 THE COURT: Yes. Seems to me, privilege is the
11 mother's around, the father's around. It was their
12 children. I don't know why either one of them would stand
13 in a greater position. She's now the PR, but that's kind
14 of an equal switch to me or a balance for me. Privilege
15 is not -- I don't see how it's harmful to either parent
16 for that to be said, as a medical issue, it's just not.

17 MR. YOUNG: I don't disagree with the Court. I just
18 wanted to make sure that the record was clear. Of course,
19 we think that this also goes to rebut the State's position
20 or the State's inference that Tim was trying to keep the
21 kids from their mother. I think that's been their
22 statement and argument. We think this goes to rebut that.

23 THE COURT: I don't think this is relevant testimony.

24 MR. YOUNG: Your Honor, I'd like to --

25 THE COURT: I'll make that my ruling until you can

1 make your record on the grounds you want.

2 MR. YOUNG: Yes, Your Honor. We would just object
3 under the due process clause of the United States
4 Constitution, Pennsylvania vs. Ritchie, 480 U.S. 39. We
5 would also point out, of course, the heightened
6 reliability necessary in cases in which the State is
7 seeking the death penalty.

8 THE COURT: All right. You may step down.

9 MR. YOUNG: Your Honor, I'd like to make copies of
10 the records.

11 THE COURT: Sure. You can make those Court's
12 Exhibits.

13 MR. YOUNG: Will we also be prevented to say that Tim
14 took the kids to counseling?

15 THE COURT: I don't think you're prevented from doing
16 that.

17 MR. HUBBARD: That should already be in through Dr.
18 Hames. She met him in the lobby, because she referred
19 him. I think that's already in.

20 THE COURT: You got that through Dr. Hames.

21 MR. YOUNG: Well, I'd like to call her and say you
22 were the counselor, you met with the kids.

23 THE COURT: Okay. I don't know what harm that is.
24 He can call her and say the two children went to her. You
25 ready to bring the jury in?

1 MR. YOUNG: Sure. Just so I'm clear, I can't say
2 anything that Tim said about why he's bringing them?

3 THE COURT: Don't go into that.

4 (WHEREUPON, Court's Exhibit numbers 92 and 93 were
5 marked for identification.)

6 COURT REPORTER: These are 92 and 93, Judge.

7 THE COURT: 92 and 93?

8 COURT REPORTER: On the Court's Exhibits, right.

9 THE COURT: Okay. Now, bring the jury.

10 MR. YOUNG: Your Honor, the Defense would also object
11 under the right to put a complete and full defense under
12 the Sixth and Fourteenth Amendments.

13 THE COURT: You have made a record.

14 (Whereupon, the jury came into open court at
15 approximately 3:06 p.m.)

16 THE COURT: Welcome back. Ready to continue, Mr.
17 Young.

18 MR. YOUNG: Yes, sir. The Defense calls Kimberly
19 Fender.

20 KIMBERLY FENDER, being
21 first duly sworn, testified as follows:

22 THE CLERK: If you'll have a seat, please. State
23 your name and spell your last name.

24 THE WITNESS: Kimberly Fender, F-E-N-D-E-R.

25 DIRECT EXAMINATION

1 BY MR. YOUNG:

2 Q Good afternoon, Ms. Fender, again. Where were you
3 working at the end of 2012, beginning of 2013?

4 A Columbia Counseling Center.

5 Q And did you have an occasion to meet Tim Jones?

6 A Yes, sir.

7 Q And what were those circumstances?

8 A I saw two of his children for counseling.

9 Q And which two were those?

10 A Elias and Merah.

11 MR. YOUNG: Thank you very much, Ms. Fender.

12 THE COURT: Anything, Ms. Mayes?

13 CROSS-EXAMINATION

14 BY MS. MAYES:

15 Q And your last meeting with them would have been
16 January of 2013?

17 A Yes, ma'am.

18 MS. MAYES: Nothing further.

19 THE COURT: Thank you very much. Call your next
20 witness.

21 MR. SECOR: The Defense calls Brantley Brokaw.

22 BRANTLEY BROKAW, being
23 first duly sworn, testified as follows:

24 THE CLERK: If you'll have a seat over there, please.
25 State your name, spell your last for the record.

1 THE WITNESS: Brandon Brokaw, B-R-O-K-A-W.

2 DIRECT EXAMINATION

3 BY MR. SECOR:

4 Q Mr. Brokaw, how long have you known Tim?

5 A We went to college together at Mississippi State. I
6 don't know the exact time that we met at Mississippi
7 State.

8 Q Okay. And after Mississippi State, did you all work
9 together after that?

10 A Yeah, at Intel, that's right.

11 Q At Intel?

12 A Yeah.

13 Q Okay. Going back to when you first met Mr. Jones,
14 tell us how it was you came to meet him. Was it just in
15 class or on campus or what?

16 A I don't recall the exact moment that I met Tim Jones,
17 I just know we had a few courses together at Mississippi
18 State, some of our computer design courses and a computer
19 architecture course. I don't recall the very first
20 moment.

21 Q Okay. And what was your impression of him in terms
22 of his intellect?

23 A I could tell he was very smart, inquisitive, you
24 know, very up on the course, course work.

25 Q Okay. How about socially, did you see him socially

1 or just in school?

2 A Just in school.

3 Q Do you have any idea why that was, that you didn't
4 see him socially?

5 A I think he had kids at the time and a family. Some
6 of us would get together after class and meet up for study
7 groups and things like that, but I think, you know, some
8 of the folks that had kids would go home and not stick
9 around for that.

10 Q Was he sort of the typical engineering student?

11 A Yeah, I mean, I don't know if there is a typical
12 engineering student.

13 Q Why is that, just the personality type --

14 A Everybody's got different personalities.

15 Q I gotcha. And you all graduated, I think it was
16 2011, right?

17 A Yeah, 2011.

18 Q And were you -- tell the jury the job that you were
19 applying for and that Tim was applying for at the time you
20 were graduating.

21 A I think the title was either validation engineer or
22 component design engineer.

23 Q With?

24 A With Intel in Columbia, South Carolina.

25 Q Okay. And was that a pretty competitive position, do

1 you feel?

2 A Yeah, definitely. I wasn't sure I was even going to
3 get it when I applied.

4 Q And do you know whether or not -- or who interviewed
5 for it first?

6 A Tim had accepted an offer with Intel prior to my
7 interview.

8 Q Okay. Now, after you were -- you applied and got the
9 job at Intel, you then moved to South Carolina. Did you
10 move to South Carolina before Tim or after?

11 A I actually got a residence before Tim in South
12 Carolina. As far as, like, physical presence, I don't --
13 you know, he lived with me a little bit whenever he was
14 looking for a place.

15 Q So that's when he first moved here, he lived with
16 you?

17 A Yeah, I believe so. I don't know if he came prior
18 and stayed in a hotel or anything like that.

19 Q Okay. But you let him stay with you while he was
20 trying to find a place, is that right?

21 A That's right.

22 Q And when he lived with you that first time, which, I
23 guess, would have been what, the summer of 2011?

24 A Yeah, the summer of 2011. We graduated in May,
25 started June 6th, so.

1 Q What was your -- what were your interactions like
2 with Tim at the house? Was he -- did he talk a lot?

3 A It was an apartment. And Tim was very talkative.
4 Obviously, I would listen, have conversations about, you
5 know, his religious views and things of that nature. We
6 talked about work and what we were expecting to happen and
7 all that kind of stuff.

8 Q Okay. When you had these conversations, particularly
9 about religion, was it a conversation or did you feel like
10 you were just listening to him talk?

11 MR. GRAHAM: Your Honor, I'm going to object to lead
12 -- those are leading questions. I'd ask for a non-leading
13 question.

14 MR. SECOR: I didn't suggest the answer in any way,
15 shape or form.

16 THE COURT: Rephrase your question. Don't lead.

17 Q What were your conversations like with Tim about
18 religion? What was your impression of his religious
19 views?

20 A They were pretty, you know, radical. You know, there
21 wasn't much leeway for, you know, other opinions. So it
22 was just -- he was pretty talkative about those. I wasn't
23 so much, mostly listened.

24 Q Okay. Would you describe him as being passionate
25 about it or not passionate?

1 A Definitely passionate, yeah.

2 Q And did they seem like mainstream beliefs to you or
3 not necessarily?

4 A Yeah, not necessarily. More on like the Pentecostal
5 style and maybe Old Testament style.

6 Q Tell us about the story Tim told you about slipping
7 on the sidewalk in Illinois.

8 A Yeah, he did mention a story about he was walking on
9 the sidewalk when it was snowy and icy and he slipped and
10 Jesus literally reached out and prevented him from hitting
11 the ground.

12 Q Is that something he seemed to be telling you in an
13 honest way?

14 A Yeah, I believe so.

15 Q Tell us, also, about how you saw Tim's interaction
16 with other people in terms of social cues and things like
17 that.

18 A He didn't have too much of a filter. He would just
19 say his opinion on things and, you know, wasn't terribly
20 open to opinions that were exactly, you know, his views on
21 religion or anything like that.

22 Q Did he say things that sort of tried to force his
23 religious opinions on other people?

24 A I don't recall any, like, episodes like that. You
25 know, mostly the religious talks we had were just, you

1 know, in a one-on-one conversation, not around a group of
2 people. At work, I don't ever remember him talking about
3 religion.

4 Q Okay. Did you socialize with anybody with Tim during
5 that period of time when he lived with you for the first
6 time?

7 A No. I mean -- you mean was anyone else physically
8 present?

9 Q Yeah, did the two of you ever go anywhere to
10 socialize with other people when he was living with you?

11 A I don't remember anything of that nature.

12 Q Is that something that you would have wanted to do,
13 socialize with other people with Tim?

14 A I don't know. At the time, you know, we were just
15 starting our jobs, we didn't know anyone here. So I don't
16 know if I could have said in that time I would have or
17 wouldn't have in that timeframe.

18 Q Okay. Now, when he lived with you the first time,
19 the summer of 2011, he -- did he ever talk to you about
20 his wife?

21 A Yes.

22 Q So you did know that he had a wife, right?

23 A Yes.

24 Q And that he had kids?

25 A Yeah, knew that he had kids.

1 Q And what was your impression about how he felt about
2 Amber and his family?

3 A I could definitely tell that he cared about Amber a
4 lot. You know, I mean, he would talk about her. I don't
5 recall him talking too terribly much about his kids at the
6 time.

7 Q Okay. Do you ever remember anything that you were
8 aware of that Tim and Amber were arguing about during that
9 time that he lived with you in the summer of 2011?

10 A There was one instance I think he had found a home
11 that they were going to live in, it was a trailer, and,
12 you know, he had decided on the trailer and she didn't
13 really want to live there, so there was some conflict.
14 But he seemed pretty adamant about his decision.

15 Q Okay. And what was your impression of why he thought
16 that he should be the decision-maker in those types of
17 situations?

18 A He seemed to kind of have an opinion that the -- you
19 know, the man just makes all the decisions in the
20 household, that kind of view on the marital makeup.

21 Q And did you get the sense that that was sort of based
22 on his religious views?

23 A Yeah.

24 Q When you and Tim started working at Intel -- I guess
25 you did start work at the same time, right?

1 A Yeah, we started June 6th, 2011, same day.

2 Q And where did you see his strength in terms of his
3 smarts? What stood out to you in terms of what his
4 strengths were?

5 A Tim was very studious, really good at reading
6 documentation, you know, with a -- you know, just be
7 really good at reading and studying and kind of the course
8 work type of attributes to just about any technical thing.

9 Q Okay. And then where did you see where he was sort
10 of lacking in terms of his intellect?

11 A Just with, like, situations that weren't -- you know,
12 it wasn't anything that you could study. It's where you
13 have to go through a logical progression, you know,
14 debugging a problem. That's probably where he had more
15 challenges than all the course work and the studious
16 behavior.

17 Q Okay. So is it -- and correct me if I'm wrong, but
18 does that mean that where he was left to his own devices,
19 he had more trouble? Am I correct about that?

20 MR. GRAHAM: Objection, leading.

21 THE COURT: Don't lead. Rephrase.

22 Q Socially, did you ever socialize with Tim that you
23 remember while he -- during your time at Intel together?

24 A Define socialize. You mean, like, talk with him at
25 work or, like, outside of work?

1 Q I know you did that. I think you told me one of the
2 only times you saw him outside of Intel was at Wal-Mart,
3 right?

4 A Yeah, that's right.

5 Q And tell us about that.

6 A So I saw him at Wal-Mart in Lexington. His wife and
7 kids were there. Pretty much any time I'm outside in the
8 public, I really don't notice people right off, you know,
9 right away. And he said hi, this -- his wife was pregnant
10 at the time. And you know, he said hi, this is my wife
11 and my kids. Like I said, that was the first and only
12 time I saw him.

13 Q So did he approach you and introduce Amber to you?

14 A Yeah, I didn't notice Tim in Wal-Mart. You know, I
15 was just getting my stuff and getting out. He said
16 something like hey, man. I don't know exactly the
17 statement.

18 Q Did you eventually become aware of the fact that Tim
19 and Amber were having marital problems?

20 A Yeah, I did.

21 Q And tell us how that -- how you first came to know
22 about that.

23 A I was at work in my cubicle and Tim approached my
24 cube and said that he needed to talk to me. So he said,
25 you know, let's go take a walk outside. I wasn't exactly

1 sure what the conversation was going to be about. And we
2 got outside and he said he needed to have a cigarette, and
3 he doesn't normally smoke. And we took a walk around the
4 pond outside of Intel and he was telling me that he found
5 out that his wife had cheated on him with the next door
6 neighbor, who was like 17. You could tell he was really
7 distraught.

8 Q How could you tell he was distraught other than --
9 his words or what?

10 A His body language. I mean, I don't know, I would
11 imagine that gets cheated on is going to be really
12 distraught. I mean, you could just tell.

13 Q Do you remember whether he brought up religion on
14 that conversation?

15 A Yeah, I don't recall if he did or didn't.

16 Q And what was part of the conversation? What was he
17 asking from you as part of that conversation?

18 A He was looking for a place to stay for some time
19 while he was, you know, figuring things out.

20 Q And so what did you tell him about moving in with
21 you?

22 A You know, I told him he could stay with me. I
23 wasn't -- you know, had -- at the time, I had a
24 one-bedroom apartment at the Tapps building downtown.
25 And, you know, he'd have to sleep on the couch. And I

1 wasn't sure about the kids' situation, but I think he said
2 his kids were going to stay with maybe their grandparents
3 or something, but that wasn't an issue.

4 Q Now, at the time that he moved in, did you have a
5 girlfriend?

6 A Yeah, I had just recently met the girl that's now my
7 wife around that time.

8 Q And did you have any concerns about Tim living with
9 you at the time that you were beginning this relationship
10 with this woman?

11 A Yes. I was hesitant to bring her by my apartment.
12 You know, I didn't want her to think that was like, you
13 know, my best friend and staying at my place. You know,
14 he's just got some pretty abrupt views on things. You
15 know, I just wanted to control everything.

16 Q Yeah.

17 A Didn't want to blow it. Thankfully, I didn't.

18 Q In terms of your conversations during that time, did
19 you talk to Tim sometimes about why he was upset or how he
20 was upset and the reasons for the divorce?

21 A Yeah, I mean, I know we had some conversations of,
22 you know, about that he was frustrated with the situation.
23 I don't remember all the details. I do remember he was
24 doing a lot of stuff to try to figure things out at the
25 time.

1 Q Right.

2 A Running errands and doing stuff.

3 Q Do you remember whether or not he was worried about
4 the kids?

5 A Yeah, I do remember he was -- he had some concerns.
6 He really wanted to -- I think he felt like, you know, his
7 wife cheated on him, you know, she might not be the best
8 role model for the kids or something at the time. It was
9 something along those regards. I don't remember all the
10 details, just the general feeling that he wanted just to,
11 you know, make sure they had a stable home.

12 Q Did he ever express to you rage about Amber's
13 cheating on him?

14 MR. GRAHAM: Objection, leading.

15 MR. SECOR: It's a yes or no question. I just asked
16 him yes or no.

17 MR. GRAHAM: That is not how you ask a question, Your
18 Honor.

19 MR. SECOR: It's exactly how you ask questions.

20 THE COURT: No, don't argue. The answer is yes or
21 no, then you can ask him to explain his answer.

22 Q Did you ever see him express rage about Amber?

23 A No.

24 Q Did Tim ever tell you that he was taking medication
25 when he was living with you?

1 A He did. He said he had -- he kind of gave me a
2 warning to say I might be acting a little bit funny. I'm
3 on medication because I just recently got a vasectomy,
4 you know, I'm done having kids, something along those
5 lines.

6 Q Did he tell you what the medication was?

7 A No.

8 Q Did you think that was normal or did that strike you
9 as odd?

10 A Yeah, I thought it was a little different. You know,
11 I've never had a vasectomy, so I don't know, but I just
12 thought -- yeah, I wasn't totally sure if it was true or
13 not or whatever. I didn't ask.

14 Q Tell us about sort of the last straw before Tim moved
15 out of your apartment.

16 A So Tim had gone out drinking downtown. You know, my
17 apartment is downtown, so it's not that far from any bars
18 or anything. And he came back one night and had been
19 throwing up from drinking so much. He threw up against
20 the wall of my apartment and then, you know, going to
21 leave and there was like this total throw up all over the
22 wall and I just -- and, you know, he didn't clean it up or
23 anything. And I just told him, you know, I just preferred
24 that he find another place to stay. He took it really
25 well and was like -- he wasn't mad at all and seemed to

1 understand.

2 Q Did he do anything ever to express thanks to you for
3 letting him live there?

4 A Yeah, he -- for his appreciation for staying at my
5 apartment, he offered to take me to eat at Wendy's. It
6 was close to my apartment.

7 Q Were you expecting Wendy's?

8 A No, not necessarily, but I understood. He was always
9 very concerned about money.

10 Q And what happened at Wendy's?

11 A Just the -- well, so the -- when we were at
12 Wendy's -- are you talking about the situation at Wendy's?

13 Q What you told me about the past that happened, yeah.

14 A So when we were at Wendy's, we were sitting down
15 eating. And I think it was around three girls walked in
16 and I think Tim said something to the effect of, like, oh,
17 look at these girls and then just barked at them like
18 three times across the Wendy's restaurant at the time.

19 Q And how did you feel about that?

20 A I felt embarrassed. I was just ready to, you know,
21 let him move on to the next stage in his life.

22 Q Did he seem embarrassed by that?

23 A No, I don't think so.

24 Q Did you talk much after he moved out of your place
25 in -- I guess it was the summer of 2012, right? Yeah.

1 A Yeah, I don't remember the exact dates, but we -- you
2 know, mostly, it was just a working relationship after
3 that point. Occasionally, he would IM me about stuff.

4 Q Okay. Now, you've known him, I guess, it's over ten
5 years, right?

6 A Yeah, I don't even know the number. In college, it
7 was probably around -- you know, I had been there for a
8 couple of years at the time, maybe like 2009ish.

9 Q Okay. And during the whole time that you know him --
10 or the whole time that you have known him, did he ever
11 tell you that he was hearing voices?

12 A No.

13 Q During the whole time that you knew him, did he tell
14 you that he thought that his children were out to get him?

15 A No.

16 Q And during the whole time that you knew him, did he
17 ever tell you about his mother, Cynthia?

18 A No, I don't recall that. He may have, I just don't
19 remember.

20 MR. SECOR: May I have just a moment, Your Honor?

21 THE COURT: Yes.

22 MR. SECOR: That's all I have right now. Thank you,
23 Mr. Brokaw.

24 CROSS-EXAMINATION

25 BY MR. GRAHAM:

1 Q Good afternoon, Mr. Brokaw. How are you?

2 A You know, been better.

3 Q You worked with Tim Jones until he didn't show back
4 up to work in 2014, is that right?

5 A Yeah. He worked in the same building. I mean, we
6 weren't on the same team.

7 Q Did you still have contact with him?

8 A Occasionally.

9 Q Prior to -- was the contact really from graduating
10 from Mississippi State together?

11 A It was normally, you know, work related things. We
12 would just see him in the hallway, that kind of thing.

13 Q Did you ever work on the same team before at Intel?

14 A No, not real -- not definitely defined roles or
15 anything.

16 Q How long did he live with you in the summer of 2011?

17 A I don't remember the total length. I don't think it
18 was any more than two weeks.

19 Q And there was no agreement that he was going to pay
20 you money, you just --

21 A Oh, no.

22 Q -- were giving him a place to stay, right?

23 A No, I just -- he was looking for a place to -- you
24 know, find a place and I had an extra bedroom.

25 Q Because you were a nice friend and helped out?

1 A Yeah.

2 Q His religious views are conservative, is that fair to
3 say?

4 A Yeah.

5 Q But they didn't interfere with his work, did they?

6 A No, I don't remember any conflict at work with
7 religion.

8 Q He wasn't at work trying to convert people?

9 A No, not that I'm aware.

10 Q He did have a religious belief that the man should be
11 the head of the family, though, didn't he, a very strong
12 one?

13 A Yeah. And that conversation was only at the
14 apartment.

15 Q That was just you and him at the apartment?

16 A (Witness nods in the affirmative.)

17 Q Now, other than those two weeks, outside -- you said
18 outside of work, you ran into Tim one time at Wal-Mart?

19 A Yeah, besides him living with me again, but, yeah, at
20 Wal-Mart, that was the only --

21 Q And he's the one that came up and initiated contact
22 with you?

23 A That's right. From what I remember, that's how it
24 went down. You know, it's just a casual thing.

25 Q And then when he had -- he sought you out to share

1 with you in 2012, I guess, his marital problems? He asked
2 you to go for a walk?

3 A That's right.

4 Q So when he had things to talk about, he had people to
5 go to, like you and other people at Intel?

6 A Yeah, I think you could say he trusted me.

7 Q Things that were on his mind or bothering him that he
8 needed to share, there were people to talk to?

9 A Yeah, I think so. I think we're fairly approachable.

10 Q He had friends and coworkers?

11 A Yeah.

12 Q No offense when I say this, but engineers are
13 different, the way they think from other people, is that
14 true?

15 A The way they what, sorry?

16 Q The way they think.

17 A Yeah, I mean, typically, you know, just like there's
18 variation in all kind of people, right.

19 Q Well, my brother's an engineer, so I can say it --

20 A Okay.

21 Q -- but sometimes the word geek gets associated to
22 engineers?

23 A Yeah.

24 Q Tim really, the way he interacted with people was
25 really no different than anybody else? He wasn't an

1 uncommon character at Intel, was he?

2 A Yeah, I mean, even at Mississippi State, engineering
3 students are a little different, you know, had different
4 personality quirks.

5 Q The incident at Wendy's when he barked at the women,
6 you would agree with me that's obnoxious behavior, isn't
7 it?

8 A Yeah, I guess define obnoxious, I don't know. It was
9 -- it definitely made my feel embarrassed and awkward.

10 Q Did he do anything else other than bark at them three
11 times?

12 A No, it wasn't like follow-up with something else. We
13 just finished our meal and left.

14 Q As far as you know, there was never any reprimands or
15 allegations of any bad behavior or him doing anything
16 wrong while he was at Mississippi State, correct?

17 A Yeah, I don't remember. I mean, he said he had a bad
18 past, not at Mississippi State, but in his younger years.

19 Q At Intel, you're not aware that he had any behavioral
20 problems that caused a write-up?

21 A Yeah, I'm not aware of any.

22 Q In fact, you were aware that his last review in April
23 of 2014, that he actually got a promotion?

24 A At the time, I was not aware of it.

25 Q It would surprise you to know that, would it?

1 A Yeah, I mean, you know, people get promoted when they
2 do good work, so I'm not -- I wasn't on his team, so I
3 wasn't keeping up with where he was at.

4 Q You never saw him have any violent outbursts at work?

5 A No.

6 Q You never saw him lose his emotions?

7 A No.

8 Q You never saw any sign of mental instability?

9 A No.

10 Q And you continued to have contact with him, at least,
11 sporadically, until the last day he worked there?

12 A Yeah.

13 Q You never saw anything about his behavior that you
14 felt you needed to report to management?

15 A No.

16 Q And there was nothing about the way he was behaving
17 before he killed his children that when you heard about it
18 made you think oh, that's what that was? It came as a
19 total surprise, didn't it?

20 A Yeah, total surprise. I mean, I just didn't see it
21 coming, like just about everyone else.

22 MR. GRAHAM: Thank you, Mr. Brokaw.

23 MR. SECOR: Nothing further, Your Honor.

24 THE COURT: You may step down.

25 MR. SECOR: The Defense calls Brice Mankowski.

1 BRICE MANKOWSKI, being
2 first duly sworn, testified as follows:

3 THE CLERK: If you'll have a seat over here, please.
4 If you'll state your name and spell your last for the
5 record.

6 THE WITNESS: My name is Brice Mankowski, last name,
7 M-A-N-K-O-W-S-K-I.

8 DIRECT EXAMINATION

9 BY MR. SECOR:

10 Q Mr. Mankowski, tell us how you know Tim.

11 A I know Tim because I worked with him for probably
12 about two and a half years at Intel.

13 Q Okay.

14 A On his team. Me, Tim Jones, and John Querry were all
15 working under Todd Schelling -- or Todd Schelling was the
16 tech lead for us. We all worked under Jim McConnell.

17 Q Okay. So what was the timeframe you worked with Tim?

18 A From the time that I -- well, about three months
19 after I started working at Intel, I switched teams onto a
20 team with Tim and worked with him until -- directly on his
21 team until the day that he went missing.

22 Q When you were working with Tim, what did you know
23 about his own personal family?

24 A I knew that he had a wife. I knew that he had five
25 children. But I had never met any of them. I didn't know

1 anything much outside of that.

2 Q Did you know where Tim lived?

3 A I had no idea where he lived.

4 Q Did you ever socialize with Tim?

5 A The only socialization I did with Tim was within the
6 confines of the Intel building itself. I never socialized
7 with him outside of it.

8 Q Did he ever talk to you about his family, meaning
9 older generation? Did he tell you about his mother ever?

10 A No, he had never told me about his family.

11 Q Did he ever tell you about hearing voices?

12 A No, definitely not.

13 Q Did he ever tell you that he was scared of his
14 children?

15 A Definitely not, no.

16 Q In terms of his behavior at Intel, did you get the
17 sense that he had a hard time talking with people?

18 A No, quite the opposite. Most, I would say -- not
19 most, but a lot of engineers tend to be more shy, more
20 antisocial. And Tim was unique in that he was able to
21 come up to anyone and just start a conversation and talk
22 to them about anything. So that was -- especially for me,
23 I'm also kind of a shy, introverted person. Tim's
24 behavior in that regard as an engineer was very unique.

25 Q Did he have any friends?

1 A Not that I knew of. Inside -- inside work, he
2 generally seemed to keep to himself. He would talk to
3 everyone about work related items, but he didn't seem to
4 hang out with anyone in particular. The only exception I
5 guess might be Kevin McKinney.

6 Q Okay. What would you usually do for lunch with your
7 friends at Intel?

8 A So usually at lunchtime, me and my friends would get
9 together and we'd -- we would always have to leave the
10 building because Intel doesn't have a cafe at the South
11 Carolina site. And so we'd leave and we'd go play cards
12 together, a game called Big Two. Usually, it would be
13 anywhere from three to maybe eight people that would get
14 together to enjoy each other's company and enjoy lunch
15 together. And in that time, Tim was probably given the
16 opportunity to, but I had never seen him join the group at
17 all.

18 Q How would you describe his sort of normal everyday
19 state of mind in comparison to other people that you
20 worked with?

21 A In general, he had a pretty intense personality. If
22 he had a belief about something, he would let you know and
23 if there was any disagreement in that, he would try and
24 make sure that you -- by the end of the conversation you
25 agreed with him. So just very, very intense personality.

1 Q Could he be difficult to deal with sometimes?

2 A At times. There was one particular incident,
3 probably -- it was definitely in the summer of 2014, not
4 too long before the incident happened -- well, the killing
5 of his kids happened, where I went into the lab at Intel
6 and noticed that one of my fellow coworkers was talking
7 with Tim. And Tim was very -- seemed very agitated, very
8 amped up, very intense, talking very fast. And so I
9 walked up to see what was going on. And in that time, as
10 soon as the person -- the other employee noticed that I
11 was there and Tim had someone else to talk to or someone
12 else to focus their energy on, that other employee left
13 immediately. Basically, they appeared afraid for
14 themselves or they just didn't want to be in that
15 situation at all. And I came in and was talking to Tim
16 then, or, rather, listening to him because he was just
17 kind of nonstop talking very intensely. And it was almost
18 like a situation where you're with someone who's drunk way
19 too much. If you say the wrong thing to them, they might
20 get triggered, they might get angry at you. He wasn't
21 aggressive in any way, it's just that he was very -- he
22 was at the point where he could -- it seemed like he could
23 become aggressive at any point. So I tried just listening
24 to him and trying to talk him down, trying to get my
25 bearings as to why he might be in this odd state of mind.

1 So this was a very unusual situation that happened, kind
2 of, a few months before the incident, I think.

3 Q Did you feel physically threatened at that time?

4 A No, I never felt physically threatened at the time.

5 Q Did you feel like it could have gotten to that point
6 if something --

7 A Had I been more confrontational or had I disagreed
8 with him in any way, I could easily have seen him becoming
9 violent or not being able to control how he felt at that
10 time.

11 Q And at that time, was it clear to you what was
12 agitating him or did you not know?

13 A I mean, I walked into the lab. The lab was very
14 noisy. I hadn't -- I had no idea what Tim or the fellow
15 coworker were talking about, so I was kind of walking into
16 completely blank, right.

17 Q Okay. Now, I want to back up from that point a
18 little bit, if you don't mind, and just go to -- talk more
19 about the summer of 2014, but before that incident that
20 you talked about. What did you notice about -- what did
21 you notice that changed about Tim in that summer?

22 A So before the incident, Tim was always -- had always
23 seemed to come to work earlier than me. I came in usually
24 around 9:00. He was also there before me. And he always
25 left earlier. And I believe that was because he had

1 children to take care of. Me, as a single guy without any
2 kids, I had no idea what he was going through or what he
3 was doing. But then as time progressed, around the summer
4 of 2014, there were incidents where he would show up
5 tardy. Instead of showing up before me, he would show up
6 at 11:00. Sometimes he would miss one of our meetings,
7 one of our team meetings. And we would all kind of look
8 at each other and be like, where is Tim? It's very
9 unusual for him to not be here. And then that kind of
10 slowly over time, over the next couple of months
11 progressed into not just tardiness, but absences that were
12 first put on our work calendar. So whenever someone
13 leaves work or knows that they're going to be off from
14 work, whether they have a vacation or anything else like
15 that, they would -- or have a dentist appointment, they
16 would put that on our kind of global calendar so everyone
17 else gets an email immediately when they send out the
18 notice. So everyone on his team would know when he's
19 going to be out. So his unexplained absences for team
20 meetings was highly unusual. And as I mentioned, it kind
21 of progressed. It went from him telling us he was going
22 to be tardy or he was going to be out for a day to some
23 days, he would just go missing and there was no notice of
24 that. And that kind of -- at first, you know, he was
25 tardy and then it was days missing and then it was -- then

1 it was a day missing and then it was multiple days
2 missing. So it was very -- very strange that there was a
3 progression of his behavior getting more and more erratic.
4 And there was never an explanation within our team as to
5 what might be going on with him. And I always figured
6 that our team lead or manager would have known more about
7 what was going on. And it's not my business to really ask
8 what was happening there.

9 Q Were the days that he missed comparable to the days
10 that other people missed in terms of numbers?

11 A No, not at all. Like, me and many of my fellow
12 workers, we try and not miss a single day of work, but
13 because of sickness. But Tim would have sick days all
14 over the place. He would have a vacation in there. So we
15 were technically given an allotment of 15 days of vacation
16 days and as much sick leave as you want. Most of us, I
17 would say, hardly used sick leave unless it was very
18 serious. Tim seemed to take day after day. Like, at
19 least, every two weeks during that timeframe, he seemed to
20 be sick.

21 Q And I want to go back just a little bit further if we
22 can to before you started noticing these changes in his
23 coming to work. And just tell us about your -- Tim's
24 opinions about things and your impression of his opinions
25 about things when you talked to him.

1 A So Tim was a very, I guess, I would say, a
2 hard-headed person. If he had an opinion about something,
3 he definitely wanted you to know about it. And if you're
4 any different from him, you'd be having an argument about
5 it for sure. There was one incident -- in general, you
6 could never convince him of anything. He already had --
7 was stuck in his ways and he knew what he believed.
8 Nothing you could say could change that. There was one
9 incident in general that I remember where me and him were
10 discussing a competitor's server chip versus our server
11 chip. And he was like, oh, this competitor is going to
12 absolutely crush us. And I looked at the data and was
13 like, no, it's nowhere comparable to it. I don't
14 understand where you're coming from with this. This makes
15 no sense. How are you coming to this conclusion? And at
16 the time, he just -- there's no way you could convince him
17 otherwise. He had made up his mind that this other
18 competitor's chip was going to destroy us. And then about
19 two weeks later, it was very surprising to me, he came to
20 my cube and he was like, yeah, man, I think you're right.
21 That competitor's chip is not going to be a problem. And
22 that was the first time I'd ever seen him be convinced by
23 someone else or by me about an argument. Only time it
24 ever happened with my two and a half years with being with
25 Tim.

1 Q When he had a really strong belief, was it -- was it
2 a -- was it a belief that was rational always?

3 A No, definitely not. I mean, it was hard for him to
4 connect the dots in a logical manner sometimes. Once he
5 reached a -- once he had a conclusion, it didn't matter
6 what logical connections could be made to get there, he
7 would find a way to try and connect them. So, in general,
8 it was an irrational way of thinking.

9 Q And could he be swayed by a reasonable argument from
10 you?

11 A Except for that one instance, no.

12 Q When he had -- when he took these irrational
13 positions, was he mean about it?

14 A No. Tim was never mean about his positions. He was
15 very opinionated, but he never would verbally assault
16 anyone in that manner. It was all very -- as an engineer,
17 you debate. And that's totally fine. There's nothing
18 wrong with that.

19 MR. SECOR: May I have just a moment, Your Honor.
20 Thank you, Mr. Mankowski. I appreciate it.

21 CROSS-EXAMINATION

22 BY MS. MAYES:

23 Q Good afternoon, Mr. Mankowski.

24 A Hello.

25 Q Just a few questions to follow-up on that. I believe

1 you just said just seconds ago, as an engineer, you
2 debate?

3 A Yes, that's correct.

4 Q And, specifically, you were talking about having a
5 position on something that maybe not everyone agrees with?

6 A True.

7 Q And you gave us an example of a time that he finally
8 admitted that he was wrong about something?

9 A That's correct.

10 Q And I believe you had made some previous statements
11 just in interviews you did leading up to this trial that
12 that's the only time you can ever remember him admitting
13 he was wrong about something?

14 A That is correct.

15 Q But when you talk about as an engineer, you debate,
16 when you said before that there were things that you
17 didn't agree on, is that what it is? Is it about
18 work-related solutions or is it about religion, is it
19 about women? If you could elaborate just a little bit
20 more on that.

21 A So I never discussed religion with Tim. It was
22 usually about work-related things. I guess, sometimes it
23 might have been financial-related things. He's very
24 interested in finances and getting ahead in the world. I
25 don't think it was ever about women either.

1 Q All right. So I just wanted to clarify that a little
2 bit more so we'd know what it is you're talking about when
3 you say that if he had a position, he wouldn't want to
4 change it. Based on what you just said, it's almost
5 always going to be work-related, other than sometimes it
6 was about financial issues?

7 A Agreed, yes.

8 Q And with that, I'll just come out and say it, he was
9 known around Intel as being cheap, right? Didn't want to
10 spend a lot of money?

11 A I actually didn't know that because I'm a very cheap
12 person. As engineers --

13 Q Many of us are.

14 A As engineers, a lot of us are very cheap. So I have
15 actually no idea. That's news to me.

16 Q All right. So can you elaborate a little bit more
17 when you say that there was a financial debate between the
18 two of you?

19 A Sure. I don't know if it was a debate. It was more
20 I got the notion from our talks in the halls of Intel that
21 he was very interested in wanting -- he talked about going
22 to medical school. I figured that was because of money.
23 Two, he was always interested in the stock market. He
24 wanted to find a way to make money so he wouldn't have to
25 work anymore. I don't know if those were debates at those

1 times. It was more just he was talking about what he was
2 interested in.

3 Q All right. So just positions he had that he would
4 share with you. And one of those would be, ultimately, to
5 have a job where maybe he wouldn't have to show up
6 everyday and he would be financially enough to not have to
7 work a 9:00 to 5:00 job?

8 A I think a lot of people dream of that, yeah.

9 Q So I want to talk a little bit more about what you
10 said regarding how you recall him initially, that he could
11 have a conversation with anyone. I think that's the way
12 you put it earlier?

13 A What's the question?

14 Q That he would just come up to anyone and talk about
15 anything, at least, initially?

16 A I don't follow the question.

17 Q So how long did you know him at Intel? He began
18 there in 2011. Were you already there?

19 A No, he started in the summer of 2011 and I came in in
20 October. So he was there a couple months before me.

21 Q So when you first met him initially, I think the way
22 you described him was that he would just come up and talk
23 to anybody about anything. He wasn't introverted?

24 A Agreed, yeah.

25 Q And then eventually, I think towards the end of your

1 testimony on direct examination, you mentioned that you
2 did see a change over the course of the summer. And that
3 would be the summer of 2014?

4 A Correct.

5 Q I just want to ask you a little bit more about that.
6 So from October of 2011 through early 2014, you remember
7 him being less introverted, I think you said than
8 yourself, but a lot of other engineers there, correct?

9 A True.

10 Q And then by the summer of 2014 -- and I think one of
11 your previous statements was that you actually noticed it
12 over the course of that summer, leading up ultimately to
13 his arrest in August. Do you recall that, making the
14 statement that I only started to see it within the last
15 two months, when his attendance started to shift and wax
16 and wane?

17 A Right, right.

18 Q All right. So we're talking then about the last two
19 months, basically, that you noticed that change that you
20 described earlier?

21 A Two months is approximate. It's going to be the
22 summer of 2014.

23 Q Right.

24 A More or less, yes.

25 Q And where, ordinarily, you'd have these team

1 meetings -- and they're weekly meetings, right?

2 A At least, weekly, if not more than that.

3 Q And team members are supposed to be there, they're
4 supposed to interact, engage with one another, all those
5 things?

6 A Somewhat, yeah. I mean, a lot of that was actually
7 led by the team lead. The team lead would kind of
8 describe where everyone was at and where we're going. And
9 then if there's specific issues that we have, we would
10 bring them up and talk about where we're at with those
11 issues.

12 Q And for you guys, the team lead was Todd Schelling?

13 A That's correct.

14 Q So you have these weekly meetings and everything
15 appeared all -- appeared to be normal with the Defendant
16 until you get to the summer of 2014?

17 A Correct.

18 Q And now he's not showing up on time or he just
19 doesn't show up at all, right?

20 A Correct.

21 Q Did you know at the time that he was using the drug
22 AB Pinnaca?

23 A I had no idea.

24 Q He never spoke to you that he was using spice?

25 A No.

1 Q And when you have these team meetings, there was
2 never a situation where he had some violent outbursts
3 during that team meeting, was there?

4 A No, definitely not.

5 Q There was never a time that he couldn't control his
6 emotions and you had to call human resources or bring in
7 management, correct?

8 A No, of course not.

9 Q So he could always control his emotions in those team
10 meetings?

11 A In the team meetings, yes.

12 Q And that one instance that you spoke of where you saw
13 him having a conversation with somebody, and I think you
14 said he was speaking very rapidly, that was also in those
15 last few months, wasn't it?

16 A That's correct.

17 Q When you didn't know he was taking spice?

18 A Correct.

19 MS. MAYES: Nothing further.

20 MR. SECOR: Nothing further, Your Honor.

21 THE COURT: You may step down.

22 THE WITNESS: Thank you.

23 THE COURT: All right. We're due for a break. Step
24 in the jury room. We'll be back out here in a few. Don't
25 talk about the case.

1 (WHEREUPON, the jury is excused from open court for a
2 break.)

3 THE COURT: All right. Stand down for a few minutes.

4 (Whereupon, a short break was taken.)

5 THE COURT: Bring the jury in.

6 (Whereupon, the jury came into open court at
7 approximately 4:20 p.m.)

8 THE COURT: Call your witness.

9 MR. SECOR: Thank you, sir. Defense calls Todd
10 Schelling.

11 TODD SCHELLING, being
12 first duly sworn, testified as follows:

13 THE CLERK: If you'll have a seat over there, please.
14 State your name and spell your last for me for the record.

15 THE WITNESS: My name is Todd Schelling,
16 S-C-H-E-L-L-I-N-G.

17 DIRECT EXAMINATION

18 BY MR. SECOR:

19 Q Mr. Schelling, tell us how you know Tim?

20 A I was the team lead of the team that Tim was on --

21 Q Hang on just one second.

22 THE COURT: They're off. Fire them up.

23 Q Let me ask you again. How do you know Tim?

24 A I was the team lead for the team that Tim worked on
25 while he was employed at Intel.

1 Q And who did that team include other than you and Tim?

2 A It was John Querry and Brice Mankowski and there were
3 a few others that have come and gone since Tim was a team
4 member.

5 Q So how long did you work with Tim here?

6 A I don't remember the exact day that he joined the
7 team, but somewhere in the neighborhood of about three
8 years, two and a half to three years.

9 Q Okay. Tell us -- before we get into your specific
10 memories of Tim, just give us a little bit about what
11 Intel is like in terms of work life, balance,
12 conversations that happened at work, social activities,
13 that type of thing.

14 A Sure. So Intel is an I-tech company. It's a lot --
15 like a lot of other I-tech companies, it demands a lot.
16 What was interesting about the facility here in Columbia,
17 it was very small and the group was very tightknit, so
18 there were times that we worked very, very hard and very
19 close together and then there were times when things were
20 a little bit easier, but it was a good company to work
21 for. And I think the people that worked together here
22 were pretty close because it was so small compared to the
23 size of the company a lot.

24 Q Okay. What did you -- what do you remember hearing
25 about or knowing about Tim when he was first interviewed

1 and right before he started to work with y'all?

2 A Yeah, I think Tim's interview went very well. He was
3 made an offer. Everyone I knew that met him liked him.
4 He was easy to talk to. He joked a lot. In our team
5 meetings, he was easy to get along with.

6 Q What did you know about his background in terms of
7 did he come from the type of background that most Intel
8 types come from?

9 A As we learned -- you know, as he was on the team
10 longer, we learned a little bit more about his background.
11 We learned that he had been in the Navy for a while. I
12 knew that he was older. I knew that he was married and he
13 had kids. And I think when he joined, he didn't have all
14 five children at that time. I think it was four. So as
15 a -- he was not kind of a normal example of the type of
16 person you would hire straight out of school. You know, a
17 lot of people that come straight out of school would be
18 unmarried, they'd be single, they'd be closer to the
19 mid-twenties and Tim was closer to 30, so his background
20 was a little bit different.

21 Q What about, did he -- did you know whether or not he
22 came from a type of family that had people in professions
23 like Intel?

24 A I think -- if I recall correctly, I think Tim was the
25 first person in his family to achieve a college degree. I

1 mean, that was very -- it was very impressive to me. In
2 my family, my father was the first one of his family to
3 get a college degree and he also achieved it in part
4 through the Air Force. So when I met Tim and learned that
5 about him, I had a lot of respect for that.

6 Q You've told us already a little bit about the Intel
7 office here in Columbia. Give us an idea -- well, when
8 you were working there, did the future of that office seem
9 certain to you and the other people that worked there?

10 A No. The -- again, Intel's a very large company and
11 the site here was remote. It was relatively small, maybe
12 200 people. And I think everyone at the site each year
13 felt some nervousness that they could decide to close the
14 site. And we worked very hard to try to make ourselves
15 indispensable and define ourselves as experts in our
16 field. So I think everyone at the facility was kind of
17 drawn together by that need to make sure that we excelled.
18 And we supported each other a lot as a result and worked
19 together as a single-arch team even though as an
20 organizationally, we were a lot of small teams, but people
21 pulled together a lot. I had one manager that was very
22 proud of the fact. He said I built a team that's kind of
23 ready to go to war for each other. We're always there to
24 support each other.

25 Q So in terms of that, the Columbia Intel office trying

1 to prove itself, did that sense of having to prove one's
2 self also exist within that office in terms of competition
3 amongst employees?

4 A I'm trying to understand the question.

5 Q Yeah, that was not well said, I agree with you. How
6 were people sort of ranked in the office in terms of their
7 value?

8 A Sure. So Intel has what's called meritocracy where
9 you are awarded based upon how much you contribute and
10 whether you're an expert in your field as opposed to being
11 awarded just by how many years you've been there. So
12 there is a culture of ensuring that you perform and that
13 you do a good job because you do -- at Intel, you are kind
14 of examined against how well you're doing compared to
15 other people doing a similar job to what you're doing.
16 And those that do those jobs better are more likely to get
17 a promotion or a raise. It's not poisonous or overtly
18 bad, but there is some competition amongst people. It's
19 worked very, very well for Intel and it ask people to
20 excel and they typically do.

21 Q And is this something that just sort of the
22 administration knows or is this something the employees
23 are aware of?

24 A No, employees understand as well.

25 Q And despite that, though, I think you've already said

1 it was sort of like a family in the Columbia office?

2 A Absolutely.

3 Q How many people approximately in the whole office?

4 A About 200.

5 Q And the people that you knew, did you interact with
6 outside of the office?

7 A Some, yes.

8 Q What about, do people's kids get together?

9 A Yeah. So a lot of my closest friends are people I
10 met at work through Intel. My wife's best friend is the
11 wife of a person that I worked with at Intel that we met
12 through work. There was a lot of interaction outside of
13 work and inside of work. Intel hires sometimes in waves,
14 so it was more common to maybe be closer friends with
15 folks that you maybe got hired with or, at least, were
16 around the same age or were in the same kind of phase of
17 your life, whether you had kids or not or what
18 neighborhood you lived in. There was a lot of interaction
19 amongst a lot of different people.

20 Q So the people that you knew or that you were hired in
21 the same wave or were on your team, did you know who their
22 wives or spouses were?

23 A Yeah, I transferred here from Oregon originally about
24 20 years ago, so I kind of came in outside of the wave,
25 but I kind of adopted the next group after that and we're

1 still friends. Even though many of us have moved to
2 Austin, Texas, we actually still live in the same
3 neighborhood and we still keep in touch and do things on a
4 regular basis.

5 Q And the things that you knew about other people that
6 you worked with, did you know those things about Tim? For
7 instance, did you know where he lived?

8 A I did not know where he lived.

9 Q Did you know that he had a family of his own?

10 A Yes, I knew that he was married and he had four kids
11 and then a fifth one later.

12 Q Did you ever meet Amber?

13 A I did not.

14 Q And did you ever meet any of his children?

15 A I did not.

16 Q Tell us, if you would, initially about Tim's work
17 ethic and performance for you on the mesh team?

18 A Yeah, Tim was a very hard worker. He was very
19 excited, I think, about learning -- many people that come
20 out of college are very excited about getting in the
21 workplace and using what they learned and Tim was no
22 exception. I found it easy to work with him. It may be
23 being kind of the team lead and someone that he either
24 looked up to or -- it's a little bit tricky. I wasn't an
25 actual manager, so I was the person that was responsible

1 for helping him solve technical problems. And I always
2 found it easy to work with him and always was impressed
3 with the work that he did. And he was very enthusiastic
4 about it. And he would volunteer to do things even though
5 he may not have understood them to start and he would go
6 try to read about them and learn about them and figure
7 stuff out.

8 Q Did you get the feeling that he cared about doing a
9 good job?

10 A Yeah, he very much cared about doing a good job.

11 Q Was he always consistent?

12 A Not always. I think early on, he was more consistent
13 than closer to the death of his children. I also noticed
14 some more absences, but, you know, at that time, we were
15 aware that Tim had gone through a divorce and he was a
16 single father trying to care for five children. I mean, I
17 have two kids had been in and out of the hospital and I
18 could understand some of the challenges with raising
19 children. And we assumed he just needed some time and
20 some space and he was under a lot of stress. So I think
21 we tended to give him a little bit of latitude that maybe
22 not everyone else needed.

23 Q I understand. And I'm going to ask you more about
24 the summer of 2014, but I want to go back to before that
25 if that's all right with you.

1 A Sure.

2 Q In terms of -- well, you talked about his work ethic.
3 What about his -- sort of his demeanor, just his mood?
4 Was his mood consistent?

5 A His mood was consistent for sure early on.

6 Q And did that -- did you ever see that change or was
7 he always that way up until the summer of 2014?

8 A Up until the summer of 2014, I think he was
9 consistent. There was only one occasion later in the
10 summer of 2014 that I recall where his demeanor changed a
11 little. Again, at Intel, as part of the demonstrating
12 that you're an expert, there's a culture that's called
13 constructive confrontation, which is a way to interact
14 with people. I think we heard someone call them debate
15 earlier, but it's a way to challenge how people think to
16 try to arrive at a better decision. And to do it well, it
17 takes some practice so that people don't think you're just
18 attacking them. And I think later in the summer of 2014,
19 I think Tim was trying some constructive confrontation
20 techniques and maybe went a little over the top. That's
21 the only time that I can remember him not being
22 consistently reasonable to work with.

23 Q Do you remember when he first -- or do you remember
24 when you first heard about him having marital problems?

25 A I don't remember the date.

1 Q Okay. But did you ever talk to him about it?

2 A Yeah, it came up at some point in one or more of our
3 team meetings. I don't remember how we arrived at the
4 subject, but it was clear around that time that he was
5 under a lot of stress. And I imagine we asked him what
6 was happening and he shared with us that he was going
7 through a divorce and there was a custody battle. He
8 shared of the details about why the divorce was happening
9 and he was -- I mean, he was very -- he was very
10 distraught and visibly shaken and angry that -- I mean, in
11 a way you might expect someone to be angry going through
12 the kind of divorce he was going through.

13 Q And did he seem concerned about his kids?

14 A Yeah, definitely. So his -- I believe he related to
15 me that -- I mean, there was the divorce, but then there
16 was a custody fight. And Tim was very clear that he felt
17 that he would be the better parent than Amber would be.
18 And I know that he was fighting very hard because he
19 wanted to make sure that the kids got the type of
20 upbringing that he believed was the better one.

21 Q Now, given the nature of the job that y'all had at
22 Intel and what you knew of what he had in his personal
23 life, did that seem to you like a manageable amount of
24 things for a person to deal with?

25 A No, I was very surprised that Tim was able to

1 continue to function as well as he did at work given what
2 he was going through in his personal life as well. I --
3 I -- I was impressed and surprised by the way that he was
4 able to juggle and balance. And that's not to say there
5 weren't times that he suffered a little at work, but I was
6 surprised at how well he handled it.

7 Q And in the -- after he and Amber were separated, did
8 you know that his kids went to live in Mississippi with
9 their grandparents?

10 A I remember him driving back and forth for some number
11 of weeks. And he, I think, would leave after work, maybe
12 he would leave a little early on a Friday, he would make
13 the drive straight through and go see the kids. And he
14 would either roll back in having driven all night Sunday
15 or early Monday. I mean, he looked exhausted and he was
16 still there. He still came to work. But I know he was
17 making that drive for a couple of weeks if not a couple of
18 months.

19 Q Tell us about your experience with being concerned to
20 bring to your supervisor at Intel concerns that you have
21 about work.

22 A Yeah, so, again, Intel is a great company, but it can
23 be very stressful. And there were times in my career that
24 I felt like my balance had shifted too much onto the focus
25 of work and not enough on my family. And I felt that the

1 stress was enough that I needed to have a discussion about
2 reducing what I was taking on at work. And I've been at
3 the company a long time and Intel provides a lot of
4 services for that, but it was still a very difficult thing
5 to do for me to have a discussion with my manager about
6 needing to take a break from things. Because you kind of
7 feel like you're taking your foot off the gas and it is a
8 very difficult thing to do in your workplace, is to kind
9 of back off.

10 Q So were you -- in bringing that information to the
11 attention of your supervisor, were you worried about how
12 they might view you after that?

13 A Yeah. I think if I hadn't been at the site here so
14 long and I hadn't had the type of friendships and
15 relationship with the people I worked with, I think it
16 would have been much more difficult for me to have brought
17 that up. My manager, I had known for 10 or 15 years and I
18 was able to have a private and discreet conversation.

19 Q Now, at some point, I think you became aware that Tim
20 was considering leaving Intel and leaving South Carolina?

21 A Yes.

22 Q Tell us how you became aware of that.

23 A I think Tim and I maybe discussed it at the beginning
24 or end of one of the team meetings. I know Tim mentioned
25 that it was hard for him here because he didn't have the

1 support network, he didn't have family. And that trying
2 to raise five kids was a tremendous job and that if he
3 moved home, he thought that he might have more support
4 there. At the time, I told Tim that I thought that he
5 achieved a tremendous amount at Intel, he had a college
6 degree. There wasn't going to be the kind of job back
7 home that he would be able to have here. And I said that
8 you should try to stay and stick it out and that job
9 provided kind of a gateway financially for him to be able
10 to provide better for his children.

11 Q And did you get the sense that he was coming to you
12 for advice on that situation?

13 A I don't know -- I mean, I don't know if he -- I mean,
14 I think he was just asking my opinion on what the pros and
15 cons were. I don't know.

16 Q Is that the time you had known that he was truly
17 struggling, I think you probably would have told him
18 something different, you think?

19 A I -- I mean, I replay that conversation in my head a
20 lot. And I often wonder if I had told him something else
21 if we wouldn't be here today, so, yes.

22 Q I want you to understand, no one is blaming you for
23 anything.

24 A I understand.

25 Q The summer of 2014, just tell us about -- we've

1 touched on this already somewhat, but what changed in Tim?

2 A In the couple of months leading up to the killing, I
3 mean, Tim did become -- his work degraded some. He was
4 absent from work more. There were a couple of times that
5 I noticed he seemed to be sweating a little bit more or
6 had a sheen. He wasn't at every team meeting. I know
7 this was something that he and Jim McConnell had discussed
8 and I -- again, at Intel, there's kind of a technical
9 leader and a personnel leader and Jim had the discussions
10 with Tim about work performance and my role would have
11 been to try to make sure we can still get the project
12 done. We did notice those things. I think -- I believe
13 it was likely a result of the stress, so trying to raise
14 the five kids as well as the travel back and forth. You
15 know, I have two kids and a wife that spends a tremendous
16 amount of time taking care of them while I'm at work and I
17 don't know how someone would do five alone.

18 Q How about his mood or his demeanor, did that change?

19 A I think just that kind of one instance I talked about
20 somewhat with the constructive criticism. He was a little
21 bit more aggressive with someone on the phone that was
22 supposed to be providing him some information that he
23 couldn't get. Other than that, I don't recall him having
24 wild mood swings or something noticeable that I felt was
25 out of character.

1 Q Okay. Did you ever suspect that he was on drugs?

2 A No, never.

3 Q Tell us how you felt when you heard about Tim's
4 arrest.

5 A I mean, everyone was in shock. It was -- I always
6 get them confused. It was Labor Day weekend and he was
7 out Friday and didn't come back Tuesday. I think it was a
8 couple of days before we had learned what had happened,
9 even though we knew he was missing. I mean, it was
10 unbelievable. It wasn't something that anyone thought
11 that he was capable of or that it would happen. I mean, I
12 remember the day we kind of found out for sure. I tried
13 to carry on kind of in denial. I think I went to go get a
14 haircut. I kind of sat down on the sidewalk and just
15 cried on the phone with my wife. And I remember being --
16 making a trip over to my church and speaking with my
17 priest for a while. I think everyone was surprised and
18 shocked. I don't think anyone saw anything coming.

19 Q How did it feel to sort of look back and not be able
20 to identify any lead up to this?

21 A From my perspective, I always considered the site
22 here as an extended family. And I didn't have family that
23 lived here in Columbia when I lived here. And a lot of
24 people at work helped me get through some very difficult
25 situations and I was there for a lot of other people when

1 they needed help. And it tears me up that somehow how I
2 thought we were at that site that no one was there.
3 Whatever help might have helped him, I just feel like
4 somehow I let him down.

5 Q The whole time you knew Tim, did he ever tell you
6 that he was hearing voices?

7 A No.

8 Q Did he ever tell you that he was scared of his kids?

9 A No.

10 Q Did he ever tell you about his mother, Cynthia?

11 A No.

12 Q Did he ever tell you about any other family members
13 that he had with mental illness?

14 A No.

15 Q If he had come to you and genuinely asked you for
16 your help, would you have helped him?

17 A Absolutely.

18 MR. SECOR: May I have just a moment, Your Honor?

19 Thank you, Mr. Schelling. I appreciate it.

20 CROSS-EXAMINATION

21 BY MS. MAYES:

22 Q Good afternoon, Mr. Schelling.

23 A Good afternoon.

24 Q I'm Suzanne Mayes. You and I have spoken on the
25 phone several times leading up to today?

1 A Yes, ma'am.

2 Q Along with Solicitor Hubbard and Deputy Solicitor
3 Graham?

4 A Yes, ma'am.

5 Q Mostly about what you just described, your utter
6 shock and belief -- disbelief that he ended up in this
7 situation, correct?

8 A Yes, ma'am.

9 Q Because there at Intel, he had been hired as an
10 employee that was expected to achieve a lot of potential,
11 correct?

12 A Yes, ma'am.

13 Q And you had actually been part of that hiring process
14 there at Intel back in 2011, correct?

15 A We talked about that on the phone and then later I
16 remember those conversations I had with him weren't at the
17 initial hiring, they were conversations we had later.

18 Q Soon after the hiring process --

19 A Yes, ma'am.

20 Q -- but somewhere in that range of 2011?

21 A Yes, ma'am.

22 Q He was still kind of being brought in and learning
23 the process there at Intel?

24 A Yes, ma'am.

25 Q And one of the things that you mentioned on direct

1 examination is that up until the summer of 2014, his moods
2 had always been consistent?

3 A Yes, ma'am.

4 Q I want to talk a little bit more about that. During
5 that timeframe that he worked there with you, 2011,
6 2014 -- through 2014, that's a three-year period. You're
7 dealing with him pretty much on a weekly basis?

8 A Yes, ma'am.

9 Q And during the course of that employment, you were
10 known as the team leader?

11 A Yes, ma'am.

12 Q And so part of his engineering group, they break out
13 into these small groups and you're the team leader, but
14 it's about problem resolving?

15 A Yes, ma'am.

16 Q And throughout all those weekly meetings, he was able
17 to interact and control his behavior and control his
18 emotions throughout that process?

19 A Yes, ma'am.

20 Q In fact, I think you said you never saw any
21 indication of violence or anger from him during that
22 period of time?

23 A No violence. There were certainly times when he was
24 going through his divorce that he was agitated, but I
25 wouldn't characterize it as anger.

1 Q And I think one of the things you said leading up to
2 this was that he was easy to work with, happy and
3 positive?

4 A Yes, ma'am.

5 Q And you described him as being able to express
6 emotions. I think you said he smiled and laughed a lot?

7 A Yes, ma'am.

8 Q Another thing you said is that he would light up when
9 he'd talk about certain things?

10 A Yes, ma'am.

11 Q You said he was performing better than anyone there
12 would have expected, including yourself?

13 A Yes, he was a very good performer.

14 Q And one of the things you noted about him was that
15 his interpersonal skills, his ability to be liked by his
16 peers seemed better than you saw in other team members?

17 A Yes, ma'am.

18 Q He did not have a hard time talking to people?

19 A Correct, yes.

20 Q You noted that his attitude remained positive
21 throughout that time, leading up to the summer of 2014 and
22 that his outlook was always good?

23 A Yes.

24 Q So now we're going to move forward to the summer of
25 2014 because that's where you note there's some type of

1 change?

2 A Yes, ma'am.

3 Q One of the words that came up repeatedly, both in our
4 phone conversations and in the notes of interviews that
5 you did with part of the Defense team was the word,
6 agitated?

7 A Yes, ma'am.

8 Q You recall in the summer of 2014, you recall him
9 being agitated now and you had not seen that before?

10 A Correct.

11 Q Another thing you noted in addition to the agitation
12 was sweating. That you would see him in team meetings
13 sometimes and him have sweat across his brow?

14 A On a few occasions, yes, ma'am.

15 Q And that stood out to you as unusual because you
16 hadn't seen that before?

17 A Correct. In hindsight, yeah.

18 Q And, of course, during that time when you see these
19 symptoms, you're not close enough to him to really smell
20 his clothing or his hair?

21 A I mean, we would sit right next to each other. It
22 was a small room. There were four of us there. So yeah,
23 I sat very close to him.

24 Q Do you recall him smelling like smoke?

25 A On occasion, I do recall him smelling like he had

1 been smoking.

2 Q At that point in time, you weren't aware that he was
3 using or smoking the drug known as spice, were you?

4 A No, ma'am.

5 Q That's not something he disclosed to you, even though
6 you were seeing no sign of that?

7 A Correct, he did not disclose it.

8 Q And up until that summer where you noticed the
9 sweating and the agitation in those meetings, there had
10 never been an incident where you felt you needed to alert
11 management because he was harassing other employees or
12 being difficult?

13 A No, never a time.

14 Q In fact, he had volunteered with the robotics club at
15 a local high school, correct?

16 A I don't specifically remember that.

17 Q But you certainly didn't have any concerns about his
18 interactions with his peers?

19 A No.

20 Q How close in time -- I know you said the summer of
21 2014, but how close in time was it up until the murders --
22 the homicides and killings of the children?

23 A I'm sorry?

24 Q The sweating, the agitation?

25 A I would say probably the last three months or so.

1 Q Definitely after May 2014.

2 A Yeah, I think it was in September or August, so
3 definitely after May.

4 Q And so everything appeared normal other than the
5 sweating and the agitation, and then suddenly, on Tuesday,
6 after Labor Day 2014, he doesn't show back up at work?

7 A Yes, ma'am.

8 Q I believe you also had some communications with his
9 direct manager, which would have been Jim McConnell, about
10 exactly where he was, trying to locate him, figure out
11 what's going on?

12 A Right. So when he didn't come to work on Tuesday --
13 and I can't remember if we were expecting him to be on
14 vacation Friday or not. I contacted Jim -- we all sit in
15 the same small area. And I contacted Jim and I asked him
16 if he knew where Tim was. I know earlier you had talked
17 about the sweating and the agitation. There were some
18 additional absences leading up to that. So it was
19 completely unusual for Tim to not make it into work, but
20 he was pretty good, at least, letting Jim know that he
21 wasn't going to be there. So I checked in with Jim on
22 Tuesday to find out if he knew that Tim was planning to be
23 in work or he had been out an extra day or two.

24 Q Okay.

25 A And then I'm trying to remember. It was several days

1 -- it was Wednesday or Thursday that I think Jim said that
2 there was more going on than Tim being absent, that he was
3 actually missing and there were people looking for him.
4 And then again, I can't remember the exact date we learned
5 about what had happened. I don't know if it was that
6 Friday or the next week.

7 Q And when you did learn, as you said, it was complete
8 shock and disbelief there at Intel?

9 A Yes, ma'am.

10 Q Because there had never been any indication of mental
11 instability, correct?

12 A Correct.

13 Q And there had never been any concerns that you
14 personally had about his mental status, correct?

15 A Correct.

16 MS. MAYES: Nothing further.

17 REDIRECT EXAMINATION

18 BY MR. SECOR:

19 Q Mr. Schelling, I think you said when we were talking
20 before that you never suspected that Tim was on drugs, is
21 that right?

22 A That's right.

23 Q And State's list here of side effects from AB Pinaca,
24 does that describe Tim to you in the summer of 2014, that
25 list?

1 A I can recall him being agitated and the sweating, but
2 I don't recall confusion, paranoia, hallucinations,
3 excited delirium, slurred speech, drowsiness. I mean, I
4 don't know about his heart rate. So a couple of those,
5 but two.

6 MR. SECOR: Thank you, sir.

7 RECROSS-EXAMINATION

8 BY MS. MAYES:

9 Q And, certainly, with the hallucinations, he never
10 reported any hallucinations to you, did he?

11 A No, ma'am.

12 Q Or anyone else to your knowledge?

13 A No, ma'am.

14 Q And you never saw any indications of that? He wasn't
15 talking to other people --

16 A No, ma'am. I'm -- yeah, I'm sorry. I didn't see any
17 weird behavior like talking to no one or swatting at
18 things that were invisible.

19 Q Right. When you're having a team meeting, he's not
20 talking to people who aren't there --

21 A No.

22 Q -- correct?

23 A Correct.

24 MS. MAYES: Thank you. Nothing further, Mr.
25 Schelling.

1 THE COURT: You may step down.

2 THE WITNESS: Thank you.

3 THE COURT: Who's up next?

4 MR. SECOR: One more if you'd like to continue?

5 THE COURT: Sure. If you have one more that won't be
6 too long.

7 MR. SECOR: Defense calls Jaimeet Aneja.

8 JAIMEET ANEJA, being
9 first duly sworn, testified as follows:

10 THE CLERK: If you'll have a seat over there. State
11 your name and spell your last for the record.

12 THE WITNESS: My name is Jaimeet Aneja. Last name is
13 spelled A-N-E-J-A.

14 COURT REPORTER: And how do you spell your first
15 name?

16 THE WITNESS: First name is spelled J-A-I-M-E-E-T.

17 DIRECT EXAMINATION

18 BY MR. SECOR:

19 Q Mr. Aneja, tell us how you know Tim?

20 A I worked with him at Intel.

21 Q For about how long?

22 A The whole time he was there.

23 Q Which was about 2011 --

24 A Three years or so.

25 Q Okay. Were y'all on the same team or no?

1 A Yes. I was not on his same mini team, but we
2 reported to the same manager.

3 Q Okay. And did you know that he had a family of his
4 own?

5 A Yes.

6 Q And did you ever meet Amber?

7 A No.

8 Q And did you ever meet any of his children?

9 A No.

10 Q Before we -- before I ask you about your specific
11 memories of Tim, I just want to ask you a couple of
12 things. While you knew Tim, did he ever tell you that he
13 was afraid of his kids?

14 A No.

15 Q Did he ever tell you that he was hearing voices?

16 A No.

17 Q Did he ever tell you about his mother, Cynthia?

18 A No.

19 Q How did you become aware, at least, from Tim that he
20 was going through a divorce?

21 A We went out one weekend and he got relatively drunk
22 and he told me that he was going through a divorce. He
23 talked to me quite a bit that night.

24 Q Okay. And what was your impression of how it was
25 affecting him?

1 A He was pretty devastated. He was very insulted by
2 the fact that she had cheated on him with -- insulted by
3 who she had cheated on him with. And that was basically
4 it. He felt that he had done really well for himself. He
5 was the first person to go to college in his family. And
6 this was a kid and he was insulted by that.

7 Q Okay. Did you all socialize a lot like that?

8 A No, that was actually the one and only time I
9 remember.

10 Q Now, when -- when Tim and Amber got separated, did he
11 end up living with you?

12 A Yes. So right after he lived with Brantley, he moved
13 in with me for a few months.

14 Q And how was it he wound up moving in with you?

15 A So I think he must have mentioned something to Jim
16 McConnell about needing a place and Jim mentioned that I
17 have a house with a spare bedroom.

18 Q And that was summer of --

19 A I am actually not sure. I think it was either '12 or
20 '13, whenever he was going through the divorce.

21 Q Right. 2012?

22 A Yes. Yes, 2012 or '13.

23 Q And did you know where his kids were that summer?

24 A Yes. So the night we had gone out drinking is when
25 he had told me his kids -- this was before he had moved in

1 with me. And, in fact, he moved in very soon after that.

2 He told me his kids were in Mississippi with his parents.

3 Q What was your reaction to Jim McConnell telling Tim
4 you had an extra bedroom?

5 A I was not very happy about that.

6 Q Okay. Why?

7 A I always got a strange vibe from Tim. I couldn't
8 really put my finger on why, but I always thought he was
9 like an odd duck. And it was just -- I was just mildly
10 uncomfortable with that.

11 Q Okay. So why did you do it? Why did you say yes?

12 A He needed help. He was going through something and I
13 can't imagine how rough it was. It wasn't a big deal, it
14 just -- mild discomfort is not reason enough to say no.

15 Q Okay. What was it that gave you a strange vibe? Why
16 was he weird?

17 A So before he moved in, I couldn't really put my
18 finger on what it was. I mean, I'm not sure I could now,
19 but there were some incidents after he moved in that kind
20 of confirmed that for me. The one I remember is he made
21 his food for himself, ate by himself, didn't really
22 socialize much, which is very unlike the way I live. He
23 -- my living room had a computer and a projector screen,
24 so I didn't really have a TV, I had a computer and a
25 projector screen. And I created an account for him on

1 that computer for him to be able to use -- to get on
2 Facebook, et cetera, and he was very anti-Facebook. For
3 some reason, he had like a conspiracy theory about it and
4 how they can do things and they can find him and track
5 him. It was just way out there. And it was very tin foil
6 hat kind of thing to me.

7 Q Okay. You mentioned that he did stuff alone. Is
8 that something that was consistent over the time that he
9 was with you?

10 A Yes. I remember him hanging out in the living room
11 maybe once or twice over the course of a little over two
12 months that I think he was there, maybe three months.
13 Even if I had my girlfriend over and we were watching a
14 movie, he never stayed out there.

15 Q Did y'all invite him to watch movies with you?

16 A A couple of times. I mean, I didn't make it a point.

17 Q Right.

18 A But if he came in and something was going on, yes.

19 Q Okay. Did he ever express to you that he wanted to
20 be social?

21 A Yes, he did. I used to go out a lot with friends.
22 And -- a lot of Intel friends at that. And he would
23 mention wanting to go out, yes. Never did.

24 Q Other than that one time?

25 A Other than that one time before he moved in, yes.

1 Q Okay. When he was living with you, did he talk to
2 you about his children?

3 A Yes. He would mention them and he would mention how
4 he was going to go see them. And then he would every
5 Friday, usually straight from work without even stopping
6 by the house, he would just drive all the way to
7 Mississippi and then I would see him Monday at work. I
8 don't -- I'm not even sure I remember him stopping by the
9 house on Monday morning. I think he just basically got on
10 the road at midnight Sunday or something.

11 Q And what did that -- what did that say to you about
12 him and his relationship --

13 A He was devoted to them. I can't think of anything
14 but the fact that he really loved them.

15 Q Did he mention to you that he missed them during the
16 week?

17 A Yes, he did.

18 Q Did he ever complain to you about being a father?

19 A Not that I recall, no.

20 Q In terms of the Tim that you know and the Tim that
21 I'm sure you've read about since his arrest, how does that
22 -- how do you feel about him now?

23 A I can't reconcile those two people at all. It was a
24 complete shock when I found out and it still surprises me
25 to this day.

1 MR. SECOR: Thank you, sir. I appreciate it.

2 CROSS-EXAMINATION

3 BY MR. HUBBARD:

4 Q Is it Aneja?

5 A Yes.

6 Q Okay. I'm good at butchering names, so I'm going to
7 butcher yours.

8 A You actually got that right. Better than most.

9 Q Let me ask you, the Defendant lived with you for a
10 while, but at the office, did y'all interact much?

11 A We weren't on the same team, so we did interact, not
12 quite as much as the other two, like Brice or Todd, but
13 yes, we did interact.

14 Q And although, initially, you were apprehensive about
15 him moving in, he wasn't a bad roommate?

16 A No, he was just almost antisocial. It was just not
17 -- I mean, we never ended up becoming friends, which is
18 unusual for me.

19 Q You had a girlfriend?

20 A I did at the time.

21 Q You know what a third wheel is?

22 A Sure.

23 Q Okay. Was he a little bit older than you?

24 A My --

25 Q Was he?

1 A No, I think he's a little bit younger than me.

2 Q Little bit younger than you?

3 A Yes.

4 Q Okay. But he had his own family?

5 A Sure.

6 Q And although he wanted to do things, his family and
7 his kids were out of state?

8 A Right.

9 Q And so, he just kind of hung to himself and then
10 Friday comes along, he'd go see his kids?

11 A Right, that's pretty much what would happen.

12 Q Yeah.

13 A He would want to go out and he never ended up doing
14 it. And my guess has always been that he didn't have the
15 time. He wanted to hang out with his kids instead.

16 Q So he had work and he had his kids?

17 A Yeah, absolutely.

18 Q And he seemed to be managing both?

19 A Seemed to be.

20 Q I mean, that's a lot to handle?

21 A Yeah. I mean, I don't know how well he was managing
22 work because I didn't work with him closely enough to give
23 you an idea of that, but --

24 Q You did know he got a raise in, I believe, it was
25 March or April of 2014, got promoted?

1 A A lot of people do.

2 Q Yeah. He must have been doing all right?

3 A Yes.

4 Q Okay. You mentioned that he was devastated going
5 through a divorce, but mostly about who his wife actually
6 had picked over him?

7 A He was insulted by that.

8 Q Insulted?

9 A Yes.

10 Q Because Mr. Jones had a good job?

11 A Yes, a good job.

12 Q Good money?

13 A Went to college. He was very happy -- he was very
14 proud of the fact that he was the first person in his
15 family to go to college and I thought that was a big deal,
16 too.

17 Q She dumped him for a kid, is that what --

18 A Those might be words, not his, but that's the
19 impression I walked away with, yes.

20 Q You say he's a little odd. He made his own food, ate
21 by himself. He just didn't bother you?

22 A No, but he wasn't social at all. He was -- it was
23 odd. I mean, I've had other roommates. It was odd.

24 Q He wasn't a bad guy -- he wasn't a bad guy to have --

25 A No, he wasn't, no.

1 Q He seemed to understand how to do his work, how to
2 interact?

3 A Sure.

4 Q And he just chose to let you be?

5 A Yes.

6 Q Okay. And you mentioned a bit about Facebook, about
7 people are suspicious of things?

8 A They are now.

9 Q And come to find out, there's probably good reason.
10 They're out selling your personal information, right?

11 A Perhaps.

12 Q Maybe that's not so odd after all?

13 A I'm not sure I agree with you on that.

14 Q There's a lot of us kind of shy away. Your life goes
15 on there, everybody gets to read it?

16 A Sure.

17 Q And then you've got a company that sells it?

18 A Your life goes on there as much as you choose to put
19 on there.

20 Q Some people like being private?

21 A I agree. It did sound odd to me.

22 Q Not quite a tin foil hat?

23 A I'm sorry?

24 Q Not quite a tin foil hat?

25 A We'll agree to disagree.

1 Q All right. We'll end it on that. Thank you.

2 MR. SECOR: Nothing further.

3 THE COURT: You may step down.

4 THE WITNESS: Thank you.

5 MR. SECOR: Nothing further today, Your Honor.

6 THE COURT: All right. Y'all enjoy your evening.

7 Don't talk about the case. Step to the jury room. See
8 you in the morning same time.

9 (Whereupon, the jury was excused from open court for
10 the day.)

11 THE COURT: All right. Anything y'all need to do
12 tonight?

13 MR. SECOR: No, Your Honor.

14 May 29, 2019.

15 THE COURT: We have a new agent, while we are down we
16 will get him sworn in.

17 DONALD EVATT, being
18 first duly sworn, testified as follows:

19 THE COURT: Let's bring the jury in.

20 (Whereupon, the jury came into open court at
21 approximately 9:07 a.m.)

22 THE COURT: Let's get to work. I have one request to
23 stop promptly at 5:00, request granted. The lawyers now
24 know we're going to stop promptly at five, so that's an
25 easy request for me. We got business to tend to.

1 Anything happen last night? Everybody good? Nobody
2 communicating with you. Y'all have been very patient. I
3 appreciate y'all's attention. Call your next witness.

4 MR. MADSEN: We call Jodie Durney.

5 JODIE DURNEY, being
6 first duly sworn, testified as follows:

7 THE CLERK: Have a seat up there, ma'am. Once you're
8 seated, state your full name, spelling your last.

9 THE WITNESS: Jodie Niko Durney, D-U-R-N-E-Y.

10 DIRECT EXAMINATION

11 BY MR. MADSEN:

12 Q Jodie, do you work anywhere right now?

13 A I do.

14 Q Where do you work?

15 A At Key Choice Home Healthcare.

16 Q And what do you do with them?

17 A I provide healthcare as a CNA.

18 Q How long have you been doing that?

19 A I've been there for six months.

20 Q Prior to that, did you provide childcare for the
21 Jones children in 2011?

22 A I did.

23 Q Can you kind of tell me how that came about, please?

24 A I ran ads on Craigs List and FaceBook and he
25 responded to an ad.

1 Q And initially, where did you provide the childcare
2 at?

3 A In my home.

4 Q At that point in time, you only had the four
5 children, correct?

6 A Correct.

7 Q Merah, Elias, Nahtahn and Gabriel?

8 A Yes, sir.

9 Q Do you recall approximately what times you had them
10 at your home?

11 A Tim usually dropped them off at 7:30 and he was there
12 by 6:00.

13 Q Was he punctual?

14 A Yes, he was.

15 Q How about when he dropped the kids off, did he drop
16 off the diaper bag?

17 A Yes.

18 Q Can you kind of tell me about that?

19 A He normally -- he did like a parent would do, he
20 provided their diapers and their wipes, their clothes. If
21 -- Gabriel was usually the only one that would soil pants
22 or whatever. He would -- I'd put them in a plastic bag.
23 He'd take the plastic bag out, put fresh clothes in. It
24 was -- he was -- it was always tidy. And anything that
25 was used was replaced.

1 Q Did he -- when they came, did he bring them with
2 snacks?

3 A He did.

4 Q Now, when they stayed at your house, did you provide
5 certain meals to them?

6 A I did.

7 Q What meals did you provide?

8 A Breakfast and lunch.

9 Q How about toys, did he bring toys with them?

10 A He did.

11 Q Can you -- was there a particular one -- you have
12 something with a driveway?

13 A Yeah. My driveway was slanted and it was also
14 circular, so they had riding -- you know, little riding
15 toys that they could get on that would pick up speed.

16 Q When you say they, who's they?

17 A Eli and Nahtahn, Merah, also. Gabriel was, of
18 course, still a little bit too young for that, or too
19 small for that kind of toy.

20 Q Did the children appear to enjoy that?

21 A Oh, yes, they loved it.

22 Q And at some point, did that daycare at your home end?

23 A It did.

24 Q Can you tell me about that, please?

25 A I wound up -- well, it wound up slowing down, slowing

1 down. I was going to try to slow it down and just get out
2 of it altogether. I wanted to go back to school to pursue
3 health science. Tim had left and was going to try to make
4 things work with his wife. And just a few weeks after
5 that, he wound up coming back and asked me to reconsider,
6 that things did not work out with Amber and asked me if
7 I'd come to his home and watch the kids.

8 Q Can you kind of tell me -- when he told you that
9 things didn't work out, can you tell me about that
10 conversation with him?

11 A I don't remember the details of it, but just that --
12 I know he was very upset. He really wanted the
13 relationship to work out. We never really discussed it in
14 a year and a half of prior to them talking. I didn't even
15 realize that that was a possibility that he would go back
16 because he was a pretty strong person and parent. I
17 remember worrying when he told me that he was going to go
18 back to her slightly, but it was not my personal business
19 to get involved, so I just remember him saying that, you
20 know, he was going to go back. Then when it failed, he
21 then came back and he was obviously very upset.

22 Q When he told you that he was getting back together
23 with her, how did he appear?

24 A Very happy. He was ecstatic. I remember the day he
25 was grinning ear to ear.

1 Q Did you have any type of social relationship with
2 Tim?

3 A No.

4 Q Was it just professional?

5 A Just professional.

6 Q Was Tim a socially awkward person?

7 A I suppose. He was just more parental and he never
8 changed. You know, like, Tim was always what you see is
9 what you get. He was never -- he -- I don't know, it's
10 just like he wasn't a happy, happy person. He didn't
11 volunteer anything extra. Our time was so limited, like,
12 as far as dropping off and picking up, so that was really
13 the only time that I got. You know, maybe once every two
14 or three weeks, it would past that where he might discuss
15 something with Amber or maybe something like with his
16 church, you know, something extra that didn't involve me
17 babysitting.

18 Q Did you ever see anything that led you to believe
19 that Tim was using drugs?

20 A No.

21 Q He ever talk to you about hearing voices?

22 A No.

23 Q He ever talk to you about his mother?

24 A No.

25 Q He ever tell you or you ever seen anything that made

1 you think that he was afraid of his children?

2 A No.

3 Q I need to ask you, also, you got a conviction for
4 shoplifting in 2013, correct?

5 A I do.

6 Q And then forgery, also, in 2013?

7 A Yep.

8 Q Petty larceny in 2015?

9 A Yep.

10 Q And an obtaining signature property by false
11 pretenses in 2015 and 2017, correct?

12 A Yep.

13 Q Did you -- the ones -- you ended -- or you said that
14 he had ended the daycare or coming to you and then came
15 back and asked you to keep the kids again?

16 A Correct.

17 Q What was your initial thought about that?

18 A Initially, I didn't want to do it, but I was trying
19 to go back to school. I mean, obviously, I've had some
20 things go on, so I'm trying to -- you know, I've steady
21 been trying to make changes for years.

22 Q Did he talk you into coming back?

23 A He did. It wasn't hard because I love kids. I
24 really enjoyed being around the kids, plus it was just
25 kind of -- in other words, I wasn't going to be in my

1 home. It was like a normal job, just leave my house, go
2 to work, come home.

3 Q When the things didn't work out with Amber, was he
4 upset -- was part of that because she was pregnant again?

5 A No, I think he was ecstatic about the pregnancy. He
6 was happy.

7 Q And so you ended up, I guess, watching the kids the
8 summer of 2013?

9 A Yes, sir.

10 Q Was that back in your house?

11 A No, that was back -- that was -- that was in his
12 home.

13 Q And so you had the four children then and then was
14 Elaine a baby?

15 A And the baby, yep.

16 Q Do you recall kind of the times that you would go
17 over there?

18 A Same times, nothing changed. I was over there at
19 7:00 o'clock in the morning and when he got in is when I
20 would leave, which was usually by 6:30.

21 Q Can you describe Tim as a father from what you saw?

22 A Tim was an amazing father. He was an amazing father.
23 I can't begin -- I've met a lot of parents. I'm a mom.
24 And I could say in taking care of my own kids, I remember
25 having to hustle up in the morning and get them off to

1 school and get the trash taken off and get myself to work
2 or get my husband to work or go to school myself. And
3 trying to do everything and have it done by a certain time
4 in the morning is kind of hard. You know, then when
5 it's -- you know, when you clocking out of work and have
6 to pick back up to that mom again. You're cooking and
7 cleaning and washing clothes. That is the parent that Tim
8 was. Tim was amazing.

9 Q How did he interact with the children?

10 A He was -- he was wonderful. He was -- I know --
11 there's so many things that I can recall that I remember
12 that he did with those kids on a weekly basis.

13 Q Such as what?

14 A He would take them skating. He would take them to
15 church. Any opportunity that he had to be a parent to
16 them was just like any of ours. And he took advantage of
17 every opportunity. He did school functions, church, you
18 know, the skating, camping, hiking.

19 Q Did the kids appear to enjoy that?

20 A They did.

21 Q Did you ever see Tim interact with the kids as far as
22 any type of discipline?

23 A Uh-huh, I did.

24 Q Can you tell me about that?

25 A Yeah. As far as the discipline, usually, he would

1 just take away things that made them happy, like those
2 ride-on toys, you know, if he -- if Tim came to my house
3 and he was upset because of a report card, he would come
4 in and he would pick it up himself and remove and say, you
5 know, you don't ride that tomorrow, something like that.
6 I mean, he would just take away something that -- or like
7 if they -- we're going to go skating on Wednesday, this
8 one wasn't going to skate.

9 Q And that's how he would handle it?

10 A That's exactly how he handled it.

11 Q Did you ever see any bruises on the children?

12 A Nope.

13 Q Would you have had an opportunity?

14 A I would have.

15 Q Was there any point in time that they would be
16 outside during that summer running around in the
17 sprinkler?

18 A Yes, sir. He -- he purchased a slip and slide and a
19 swimming pool, sprinkler. They played that summer outside
20 a lot in the back yard at his house. And I was,
21 obviously, out there with them.

22 Q So you would see them without --

23 A Absolutely, in their trunks and -- yeah, yeah.

24 Q Never saw anything that made you have any concern?

25 A No. No.

1 Q Now, I think you had told me the kids would play
2 pretty hard, wouldn't they?

3 A They did.

4 Q And something about Elias wanting to do something
5 with the vent?

6 A He always threw his toys in the vent. I don't --
7 that was only at Tim's house, he didn't do that at my
8 house. He would throw his toy in the vent and then want
9 to stick his hand down there and try to get it. And I
10 just recall, at least, one time with me anyway, he got his
11 hand down in there and it took 15 -- it took 15 minutes to
12 get the vent cover off his arm. You know, just little
13 things like that. But even that didn't leave a bruise.

14 Q When you were over at Tim's house, what was the
15 condition of his home?

16 A His home was immaculate.

17 Q Was there sufficient food there?

18 A There was.

19 Q Did he ever take the kids out to get something, any
20 type of treats?

21 A Yeah. I mean, they did normal things. He'd take
22 them to McDonald's. He would take them, you know, to
23 Sonics and get little drinks and there was -- he did the
24 normal stuff, you know.

25 Q Would they eat when they were at the house with you?

1 A Yeah, we all ate all day.

2 Q How about, did they have kind of a favorite snack?

3 A They did, and Tim provided those.

4 Q What was that?

5 A Well, the number one thing -- well, at his house was
6 the smoothies. He had --

7 Q When you say smoothies, what do you mean?

8 A The smoothies that you drink.

9 Q And what would he provide --

10 A Fruit smoothies.

11 Q What would he provide for that?

12 A Well, the milk and frozen fruit bags.

13 Q And so you would make those for the kids?

14 A Uh-huh. They would help make them.

15 Q Just kind of overall, can you just tell me what kind
16 of father he was?

17 A Overall, Tim was better than your average parent. He
18 was probably a better parent than I've been.

19 MR. MADSEN: Thank you. That's all the questions I
20 have.

21 THE WITNESS: Thank you.

22 CROSS-EXAMINATION

23 BY MS. MAYES:

24 Q Good morning, Ms. Durney.

25 A Good morning.

1 Q Just a few questions.

2 A Okay.

3 Q When you spoke with law enforcement after the
4 children were killed, I believe it was Detective Dykes
5 that came to speak with you. One of the questions he
6 asked you was whether Timothy Jones appeared to have any
7 type of mental illness or mental defect to you. And what
8 was your response to that?

9 A No, he did not appear to have any kind of mental
10 illness.

11 Q And so in your interactions with him leading up to
12 the summer of 2013, you had a chance to communicate with
13 him pretty much on a regular basis that summer?

14 A Yes, briefly, when he would drop the kids off and
15 pick them up.

16 Q It was just a business relationship?

17 A Yes, ma'am.

18 Q But when you did have the opportunity to communicate
19 with him, he always appeared to understand those
20 communications, right?

21 A Yes, ma'am.

22 Q He was able to converse with you in a clear and
23 rational manner, right?

24 A Yes, ma'am.

25 Q And he never appeared to be afraid of the children,

1 correct?

2 A No.

3 Q You never had any reason to believe that he was
4 mental, unstable, right?

5 A No, ma'am.

6 MS. MAYES: Nothing further.

7 MR. MADSEN: We call Ruby Durney.

8 RUBY DURNEY, being
9 first duly sworn, testified as follows:

10 THE CLERK: Have a seat right up there, ma'am. Once
11 you're seated, state your name for the record, spelling
12 your last.

13 THE WITNESS: My name is Ruby Gail Dur -- excuse me,
14 Durney, D-U-R-N-E-Y.

15 DIRECT EXAMINATION

16 BY MR. MADSEN:

17 Q How are you doing, Ms. Durney?

18 A I'm good.

19 Q Do you work anywhere right now?

20 A No, sir, I don't.

21 Q And who is Jody Durney to you?

22 A She's my daughter-in-law.

23 Q Did you also provide childcare with her to the Jones
24 children?

25 A Yes, I did.

1 Q And can you kind of tell me how that came about?

2 A We ran ads on CraigsList so we opened up in-home
3 daycare. And Tim came to us because he had four children
4 at the time. And the reason why he came to us because we
5 was in the area where his children went to school.

6 Q Would you sometimes drop the older children off at
7 school?

8 A I would take them to school and I would pick them up
9 after school.

10 Q And was there -- did Tim have a concern about
11 splitting the kids up as far as four children?

12 A No, because he wanted all his kids to be together.
13 He didn't want to put the older two in after-school
14 daycare and we keep the younger two because he wanted all
15 of his children to be together.

16 Q When Tim dropped the children off, was he punctual?

17 A Punctual as could be.

18 Q Did he bring all the necessities with him?

19 A Yes, he did. He brought Gabriel's diaper bag that
20 had everything that Gabriel needed in it. He brought
21 after-school clothes for the children to change their
22 school clothes in and he brought extra clothes for Tahn in
23 case he needed them if he had an accident.

24 Q Can you just kind of tell the jury overall what kind
25 of father was Tim?

1 A Tim was a very good father from the time that we had
2 them kids. And I never had no problem communicating with
3 Tim. If he was my children's father -- I would have him
4 as my children's father. He was very punctual with his
5 kids and his kids loved him. When he would pick them up
6 at 6:00 or 6:30, depending on the traffic, they were glad
7 when they're dad walked in the house. And one favorite
8 thing that I remember about Tahn was, he came in one
9 morning and he told me, he says, Ms. Ruby, he says, my dad
10 took me to Wal-Mart and he bought me some man spray. And
11 we looked at him and we said, Tahn, what in the world is
12 man spray? He said, You know that stuff you put under
13 your arms. But he was, he was a very good father. And I
14 would never -- this really was very surprising because I
15 would never think anything like this would have happened.
16 Because my daughter-in-law smoked and one of the other
17 girls that worked with us in the daycare smoked and he
18 brought it to our attention. He said, I don't smoke in my
19 home, I don't smoke, and if y'all do smoke, please, smoke
20 outside, not in the home around my children. And
21 therefore, they did, they smoked outside.

22 Q He seemed pretty protective of his children?

23 A Yes, he was very protective of his kids.

24 Q Did he ever talk with you or open up to you about his
25 problems with Amber?

1 A Well, we have talked with each other about Amber.
2 Because he would ask me, he said, you know, their mother
3 would call me and ask me to make arrangements so that she
4 could visit and see them. And I would tell the kids we're
5 going to go see their mom, then when we would go to meet
6 her, she wouldn't never show up. Therefore, it would make
7 Eli and Merah really upset. Because Tahn is -- Gabriel
8 was a baby. He was still about four, five months old.
9 And Eli, you know, he would tell his dad, why don't momma
10 show up when she comes to see us? He says, Hon, I can't
11 explain why your momma's like that, but it's going to be
12 okay. Things are going to get better.

13 Q Did that appear to upset mainly, I guess, Merah and
14 Elias?

15 A Yes, the older two because they could understand it
16 more.

17 Q How about Nahtahn?

18 A Tahn, he really didn't -- it really didn't affect him
19 a lot because he had his dad and his dad, you know, gave
20 them a lot of attention and all. But Merah, I really
21 think it hurt her a lot because her being the only girl
22 and you know how daughters want their mothers. And
23 therefore, you know, she was with dad and three brothers.

24 Q Did you ever go with Tim to take any of the children
25 to counseling?

1 A I did. The only one that was going to counseling at
2 the time was Tim and Eli. I went with him to two sessions
3 because he asked me if I would go and I told him I would.
4 And the sessions went good with him and Eli. I never did
5 go in the rooms to hear their conversations. But when he
6 had something that was going on with them, he had asked me
7 if I would accompany him and I told him I would.

8 Q Did you ever see anything that would have led you to
9 believe that Tim was using drugs?

10 A No, sir. He wouldn't even smoke and he definitely
11 didn't drink.

12 Q Was he -- did he ever tell you about hearing voices?

13 A No, sir, he did not.

14 Q He ever tell or did you see anything that indicated
15 that he was afraid of his children?

16 A That he was afraid of his children? No, sir.
17 Because him and his children were very close.

18 Q Did he ever talk to you about his mother?

19 A No, sir, he didn't. He did his dad, he talked a lot
20 about his dad.

21 Q Not his mother?

22 A Not his mother.

23 Q Can you just kind of -- overall, what kind of a dad
24 was he?

25 A He was a good dad. He was a very respectable dad

1 with his children. I don't think anybody could go wrong
2 if he was the father of their kids.

3 MR. MADSEN: Thank you. No further questions.

4 CROSS-EXAMINATION

5 BY MR. GRAHAM:

6 Q Ms. Durney, what time periods was it that you were
7 involved with Mr. Jones and his children?

8 A You talking about the length of time or the hours?

9 Q Both times. Were you involved in the 2011 time?

10 A Yes, sir. From the time that Tim -- Tim's kids --
11 Tim Jones' kids were with us, yes, I was.

12 Q And then also 2000 -- the summer -- I guess it was
13 just the summer of 2013?

14 A The whole time, 2012 and '13, I was working at the
15 time with my daughter-in-law, went back to his home to
16 take care of the children.

17 Q So when was your interaction? When was your last
18 interaction, I guess?

19 A My last interaction with Tim was right at the middle
20 of 2013.

21 Q So the summer of 2013?

22 A Because when we moved the -- when we moved the
23 in-home daycare where we were at at first on Old Barnwell,
24 we moved over there off of Nazareth in the subdivision
25 there because it was a bigger place. And we had them

1 there. Then when we closed the home down, the daycare
2 part down, I went back to my job. And that's when Tim
3 came to my daughter-in-law and asked her if she would
4 please come to the home and take care of the kids because
5 he knew they were in good hands with her.

6 Q And you never saw any signs of any kind of mental
7 issues?

8 A No, sir, there wasn't, no. Not as far as problems
9 between him and his children, no, and there was never none
10 spoke of. Now, I know when Tim took me with him to the
11 two sessions with him and Eli, he said he was taking Eli
12 because Eli was having problems dealing with his mother
13 not being there.

14 Q And that was the last contact you had with him?

15 A That was the last times that I went with him to their
16 sessions.

17 Q But the summer of 2013, I guess, is the last time
18 that you saw Tim Jones?

19 A Yes, it was.

20 Q Last time you talked to him?

21 A (Witness nods in the affirmative.)

22 Q So if he started using drugs after that, you don't
23 know anything about it?

24 A No, sir, I don't. But the way he was against cig --
25 you know, smoking cigarettes or alcohol or any of that, I

1 cannot say that he did and I can't say that he didn't. I
2 never seen no activity of him using drugs or what would
3 I -- you know, occurred. And I have been around people
4 who have been on drugs --

5 Q Yes, ma'am.

6 A -- and my daughter taught me how to look and be aware
7 of the signs.

8 Q And you didn't see anything in him during that time?

9 A I didn't see nothing like that in him at all.

10 Q But after the summer of 2013, you don't know what
11 happened?

12 A No, I do not, sir.

13 MR. GRAHAM: Thank you, ma'am.

14 THE WITNESS: You're welcome.

15 THE COURT: You may step down, ma'am.

16 THE WITNESS: Okay. Thank you.

17 MR. YOUNG: Your Honor, our next witness is not in
18 the courtroom.

19 THE COURT: All right. You can get them.

20 MR. YOUNG: Your Honor, the Defense calls Chrystal
21 Ballentine.

22 THE COURT: Chrystal Ballentine. Come forward and be
23 sworn.

24 CHRYSTAL BALLENTINE, being
25 first duly sworn, testified as follows:

1 THE CLERK: Have a seat right up there, ma'am. Once
2 you're seated, state your full name, spelling your last.

3 THE WITNESS: My name is Chrystal Ballentine,
4 C-H-R-Y-S-T-A-L, B-A-L-L-E-N-T-I-N-E.

5 DIRECT EXAMINATION

6 BY MR. YOUNG:

7 Q Hey, Chrystal.

8 A Hey.

9 Q Take deep breaths. You all right?

10 A Yeah.

11 Q All right. Can you tell me about when you met --
12 first met Tim Jones?

13 A I met him through Tammy. It was supposed to be just
14 babysitting, but turned into more.

15 Q So you started babysitting for him around the end of
16 2013?

17 A Yes, sir.

18 Q And about when did y'all's relationship sort of turn
19 into more?

20 A Probably about a month after I was there.

21 Q Okay. And at that time, did you move in with Tim?

22 A Yes.

23 Q And you had your daughter with you?

24 A Yes.

25 Q And y'all all lived together with Tim and his kids?

1 A Yes, sir.

2 Q Was that about the same time that Elaine came to live
3 with you?

4 A Yes, she came roughly about two months after I was
5 there. She showed up and I took care of her as my own.
6 She was only like four months old at the time.

7 Q Were you there when Tim actually got Elaine from Ms.
8 Kyzer?

9 A I wasn't -- I don't think I was with him. I might
10 have been in the car, but he went in and got her himself.

11 Q Did he bring back any diapers, bottles, diaper bag?

12 A Nothing but herself and the clothes that she had on.

13 Q So for the first couple of months, how was y'all's
14 relationship?

15 A It was all right. I mean, it was decent. He took
16 care of us.

17 Q This is during the -- Merah and Eli were in school?

18 A Yes, sir.

19 Q And then you had Nahtahn, Gabriel, Elaine and Trinity
20 at the house with you?

21 A No, Nahtahn was in school, too.

22 Q Okay.

23 A It was just Gabe and Elaine and Trinity.

24 Q And so what did y'all do all day?

25 A I'm sorry, what?

1 Q What did y'all do all day?

2 A Just normal stuff, playing, chores, stuff like that.
3 It was just little kids, so they really didn't do
4 anything.

5 Q Did you keep the house clean?

6 A Yes, sir.

7 Q Did you cook?

8 A Yes, sir.

9 Q Did Tim seem to appreciate that?

10 A Yes, sir.

11 Q In February of 2013, did Tim start to change?

12 A Yeah. He got more stricter, more controllive. He
13 wanted things done his way. A lot of things changed. He
14 didn't want me to dress the way I did. He didn't want me
15 to -- he was just really controllive over a lot of things.

16 Q Were you going to church with Tim?

17 A Yes.

18 Q And can you tell the jury what church was like with
19 him?

20 A It was speaking in tongues. It was -- it was holoco
21 -- I don't know if it was called holoco -- I'm not exactly
22 sure.

23 Q Pentecostal?

24 A Pentecostal. There we go. It was where you speak in
25 tongues. It was a decent church all in all.

1 Q Would people like fall out and roll around?

2 A Yes.

3 Q And that was sort of a common occurrence at the
4 church?

5 A Yes.

6 Q And they had rules about how women should dress?

7 A Yes.

8 Q And what were those?

9 A Dresses go below the knee, covering yourself. I
10 mean, it was really mostly about manners and how you
11 respect yourself.

12 Q And did Tim want you to dress that way?

13 A Yes.

14 Q Did y'all go to places to buy dresses?

15 A Yes.

16 Q And can you tell the ladies and gentlemen of the jury
17 what was that like? What was --

18 A It was what he wanted. He'd let me have some choice
19 in certain dresses, but it was all dresses and mostly his
20 decision on them. If he agreed onto it, then, yes.

21 Q Did he start talking to himself?

22 A Not -- he would mumble things like what most people
23 would. Like, oh, darn, I forgot something, you know,
24 stuff like that. But it wasn't nothing out of the
25 ordinary.

1 Q And you gave a statement in this case, right?

2 A Huh?

3 Q You gave a statement to law enforcement?

4 A Yes, sir.

5 Q And that was on September the 9th of 2014, right?

6 A Probably. I'm not one-hundred percent sure.

7 Q It was after the kids were missing?

8 A Yes, sir.

9 Q And I don't know if you knew they had been found at
10 that point in time?

11 A No, I didn't. They kicked in my door at 3:00 a.m.
12 They didn't tell me anything. They said they were still
13 searching for them. They woke up my kids, looked at them
14 and everything. They didn't tell me one word.

15 Q Okay. Have you reviewed your statement that you gave
16 to law enforcement?

17 A I can't read it. My eyes, I'm legally blind. I
18 can't see small handwriting and it was an officer who
19 wrote it.

20 Q Okay. The officer wrote it for you at your request?

21 A Uh-huh, yes. So I'm pretty sure most of it's true.

22 Q Okay. Now, the officer wrote, February of 2013, Tim
23 started talking to himself. He would have a conversation
24 with himself. That was something that you said?

25 A No, he -- there was times where he was talking in a

1 room. It sounded like he was talking to himself, but he
2 always had his phone. It was more like he was talking on
3 the phone.

4 Q Okay. He said, you said, sometimes he would talk to
5 himself about what he needed to do and what the kids
6 needed to do?

7 A Yeah, that was him mumbling, oh, I forgot to do this
8 or he'd be like, oh, I need to get -- you know, just the
9 stuff that a lot of people or parents or anything does.
10 You know, when you're frustrated or mad, you sit there
11 like oh, I forgot this or oh, you know.

12 Q You said it was like someone started -- someone said
13 something and he would answer them?

14 A I wouldn't quite say that. He wasn't answering
15 himself in that type of category. He would say stuff, but
16 it was mostly things he needed to do or things that he was
17 mad about. You know, oh, I wish you'd change this, you
18 know, stuff like that.

19 Q So if the --

20 A And he was mumbling --

21 Q So if the officer --

22 A -- as he was walking away.

23 Q I'm sorry.

24 A I'm sorry. Keep going.

25 Q So if the officer wrote down, It was like someone

1 said something and he would answer them, the officer got
2 it wrong? That's not something you said?

3 A Huh-uh. No, sir.

4 Q Your testimony is that that's not something you said?

5 A No, sir.

6 Q And then there was an incident around March of 2013
7 where you heard two different voices coming from his room?

8 A That's what it sounded like. I don't know if he was
9 on the speaker phone or what was going on. It did sound
10 kind of like there was two different voices, but it could
11 have been him on speaker. I'm not one-hundred percent
12 sure on that.

13 Q So if the officer wrote, he wasn't on the phone and
14 there wasn't a TV and there were two voices coming from
15 the room and he was in there by himself. The officer
16 would have gotten that wrong?

17 A Yes. Because it wasn't -- I mean, he had -- he
18 always had his phone. And I don't know, I was locked out
19 of the room. It could have been he was on speaker phone.
20 Honestly, I've never seen him have any kind of symptoms of
21 being insane in any kind of way.

22 Q Okay. And that was your statement in September of
23 2014. That was right after everything happened, right?

24 A Yes, sir.

25 Q At the end of your statement in 2014, you said, he

1 started acting like he had mental problems?

2 A No, after I left, he did have categories where the
3 place was a mess, he looked kind of rough. Like, he had a
4 stained-up shirt, growing out his beard, he didn't -- you
5 know, he was acting off. But I don't know if it was
6 insanity, I don't know any of that. I don't think it was.
7 I think he was just overstressed.

8 Q Okay. So you never told the officer that he started
9 acting like he had a mental problem?

10 A No.

11 Q And you never told the officer he started talking to
12 himself and acting obsessed about the kids studying
13 everything.

14 A He was obsessed with them studying. He was very much
15 on wanting them to make sure they did something with their
16 life. And the times, as I said, with him talking to
17 himself, it was more of him mumbling things that he needed
18 to get done, you know, or this and that. It wasn't him
19 having a conversation with himself or --

20 Q Or answering somebody else?

21 A Yeah.

22 Q You're saying it wasn't that?

23 A Yeah, it wasn't like he was answering himself or
24 anything.

25 Q So you wouldn't have told an officer that it was like

1 somebody --

2 A No.

3 Q -- he was answering somebody else? Do you recall
4 when y'all broke up?

5 A I'm not exactly sure. It was -- I know I came back
6 from friends and got in an argument and I just wind up
7 leaving. It was, I don't know, roughly about six months
8 or so after.

9 Q Okay. So did you send Tim an email in June of '13
10 saying, you know, sorry to bother you. I can tell you
11 don't want to talk to me no more. I'll leave you alone.
12 I guess that means you don't want me to go to your church
13 and call you ever again. So sorry, Tim. I don't know how
14 to prove I'm sorry. I wanted us to still be friends. I
15 didn't know this was going to happen. I wish you'd just
16 talk to me and say something, just anything to let me know
17 that you read this email and I won't bother you again.
18 Does that sound right?

19 A It probably is. I can't remember. I'm pretty sure
20 probably something around it.

21 Q Okay.

22 A Because I know he got to where he didn't want to talk
23 to me and stuff, you know.

24 Q After y'all broke up and you moved out, I'm going to
25 guess it was around June of 2013, is that right?

1 A Uh-huh.

2 Q At some point in time, you came back to the house?

3 A Yeah, I came back to visit the kids and stuff. And
4 then one time, he got me a ride from a taxi and I went
5 over there one night to hang out with him.

6 Q Okay.

7 A But other than that, no.

8 Q And what was the house like when you went back over
9 there?

10 A When I went back to see the kids, it was after the
11 time I went over there for the night to just spend time
12 with him. It was kind of a wreck. He was kind of a
13 wreck. It was --

14 Q I mean, it was a mess?

15 A Yeah. He had trash that was overflowing. He had
16 stuff everywhere, dishes piled up.

17 Q And I think you've already told us a little bit about
18 how he looked?

19 A Yeah, he was pretty rough. His shirt was stained.
20 He had like a white t-shirt on. It was stained up. He
21 didn't shave. His hair was already grown out and stuff.
22 He was looking pretty rough and he's normally clean cut,
23 you know, it's not -- it wasn't him.

24 Q That was unusual?

25 A Yes.

1 Q And did you help him with the house? What did you
2 do?

3 A Yeah, I went and started helping clean up and then me
4 and him talked some in his room. And then I wind up
5 leaving shortly after that. I was already with another
6 man at the time and he was sitting out on the porch. He
7 had to sit out there while I was in there helping him and
8 everything. And that was the last visit that I had with
9 him.

10 Q Did you leave to go get some food for the house?

11 A I think I went and got two Little Caesar pizzas and
12 brought back to feed the kids, but, yeah.

13 Q But no groceries?

14 A Yeah.

15 Q And then you met with some people from the
16 Solicitor's office in March of 2019, is that right,
17 earlier this year?

18 A Might have.

19 Q Do you recall who you met with?

20 A In March?

21 Q Yeah.

22 A I think it was the lady and gentleman right there.

23 Q Ms. Mayes?

24 A Yes.

25 Q And was Mr. Martin back there with her?

1 A Yes.

2 Q And is that when you told them you didn't know if Tim
3 was on the phone or not when you heard the two voices
4 coming from the other room?

5 A I mean, I don't know, I was locked out of the room,
6 but it very well could have been. I'm not one-hundred
7 percent sure.

8 MR. YOUNG: Beg the Court's indulgence.

9 (Whereupon, Defendant's Exhibit number 267 was marked
10 for identification.)

11 Q Chrystal, let me show you what's been marked as 267.
12 I know you can't read it, but is that your signature down
13 there at the bottom?

14 A Yes, sir, that is my signature. I do remember
15 signing it.

16 Q And is this your signature on the second page?

17 A Yes.

18 Q And is this your signature on the third page?

19 A Yes.

20 MR. YOUNG: Your Honor, at this time, we would offer
21 Defense Exhibit No. 267 into evidence.

22 MS. MAYES: Your Honor, I don't believe it comes in
23 at this time. I think if there's a specific portion that
24 he wants to have the witness refresh her memory with, we
25 could do it that way. But I don't think there's been a

1 proper foundation laid.

2 MR. YOUNG: She's denying the statements that are in
3 here and I think it should come in.

4 THE COURT: You can question her about it.

5 MR. YOUNG: I did. She denied making them.

6 MS. MAYES: She would have the opportunity to review
7 the statement, Your Honor. She has not done that.

8 MR. YOUNG: She said she can't read it.

9 THE WITNESS: Yeah, because of my eyes. I'm
10 considered legally blind. I went to the school for the
11 deaf and blind.

12 (Whereupon, a bench conference was held in the
13 presence of the jury but out of the hearing of the
14 jury.)

15 THE COURT: 267 is in subject to the objection.

16 (Whereupon, Defendant's Exhibit number 267 admitted
17 into evidence.)

18 MR. YOUNG: Ms. Ballentine, that's all the questions
19 I have at this time. Thank you.

20 THE WITNESS: Okay. Thank you.

21 THE COURT: Ms. Mayes.

22 CROSS-EXAMINATION

23 BY MS. MAYES:

24 Q Ms. Ballentine, I'm going to show you that document
25 which was just admitted, I believe Defendant's Exhibit

1 267, just so you'll have it here in case you need to
2 refresh your memory at any point.

3 A Okay.

4 Q I want to start by clearing up the timeframe. I
5 believe when Mr. Young was asking you questions just a few
6 moments ago, he indicated that you -- or I think his
7 question was did you work for the Defendant at the end of
8 2013. But it was actually the end of 2012?

9 A That sounds a little bit more like it probably.

10 Q And Chrystal, how old were you then?

11 A I was 17.

12 Q And --

13 A Just turned 17.

14 Q If you could pull that microphone up a little bit
15 closer to you.

16 A I'm sorry.

17 Q All right. So it's the end of 2012. Does October of
18 2012 sound right?

19 A Yeah, it was around right when I turned 17.

20 Q All right. And at that point in time, you were a
21 single mom?

22 A Uh-huh.

23 Q You already had Trinity?

24 A Yes, ma'am.

25 Q And you were looking for a job as a babysitter?

1 A Yes, ma'am.

2 Q And you learned about the Defendant needing a
3 babysitter, I think you said from your friend, Tammy
4 Monts?

5 A Yes, ma'am.

6 Q So around October, you began keeping the children?

7 A Yes, ma'am.

8 Q And this was before Abigail, also called Elaine, was
9 born?

10 A Yes, ma'am. It was roughly -- she was about three,
11 going on four months when we got her.

12 Q So you start around October, but by December, just
13 that two-month period, the relationship had already
14 changed, right?

15 A Yes, ma'am.

16 Q And you're now not only dating him, but he wants you
17 to move in with him?

18 A Yes, ma'am.

19 Q And you were 17, he was going through a divorce at
20 the time, correct?

21 A Yes.

22 Q And when you moved in with him, did it begin right
23 away as a full relationship?

24 A You could say that. It was kind of just sexual at
25 first. It wasn't really a relationship relationship. I

1 was just the babysitter and then it kind of turned into
2 more where I was sleeping in his room at night, you know,
3 and things like that.

4 Q All right. Now, during the daytime when he would go
5 to work at Intel, who would usually be home with Nahtahn?

6 A I was the one that was home with the children and got
7 them onto the bus and off of the bus in the evening.

8 Q All right. What concerns -- take us through the
9 concerns that you had for the children, Chrystal, once you
10 started living in the home?

11 A His discipline. The way he would whip them, you
12 could hear it through the walls. He would take them to
13 the bathroom. The way he made them do exercises and stand
14 on their tippy toes in the corner. He -- he finally
15 moved -- after we argued so much about his discipline
16 actions, he wind up moving to just exercises, tippy toes
17 in the corner.

18 Q When you say that eventually you started arguing
19 about it, it's because his discipline became excessive?

20 A Yes, ma'am.

21 Q And when we talk about excessive, you were actually
22 seeing bruises on the children?

23 A Yes, ma'am. On their back end, on their legs, going
24 down their legs. Of course, they probably was moving.
25 Because you could hear it through the walls, he was

1 hitting them pretty hard.

2 Q And what tone of voice would he be in when he would
3 be disciplining the children?

4 A Very angry. You could tell he was over angry. He
5 should have calmed himself down before he took discipline
6 actions.

7 Q When you would hear these things happening, is there
8 anything that the children could do or say to make him
9 stop?

10 A They would ask him to please stop. I could hear it.
11 And I couldn't do nothing about it because every time when
12 I would -- me and him would get into it about it, he would
13 say they're his kids, which they were, and it just -- it
14 caused a lot of conflict.

15 Q And then, eventually, was there something that you
16 witnessed with Merah?

17 A Yeah, with the bruises down her legs and all. It was
18 her and Nahtahn. I think they were playing around and
19 Nahtahn busted the window. He didn't mean to, he fell and
20 he busted the window. And he whipped him pretty hard and
21 then they had to stay in the corner on their tippy toes
22 all day long.

23 Q About Merah, Ms. Ballentine, I know you addressed it
24 in your statement that's in evidence, but was there a time
25 that you witnessed something happen with her? You could

1 hear something happening with her?

2 A Yeah, you could definitely hear him the way he was
3 beating her and, you know -- and she was -- you could see
4 the marks afterwards. She definitely had marks.

5 Q And in that occasion that you were talking about in
6 the Defense Exhibit, which is in evidence, it was because
7 Merah wouldn't admit something to him?

8 A Yes. He kept going on and on -- I don't forgot what
9 it was. I think it was if she was using a hairbrush or
10 something because she wind up getting lice. Who she got
11 lice from? Whose brush and stuff that she was using? And
12 he wouldn't stop and she's like, I don't know. I don't
13 know. And he would not stop until she came up with some
14 kid's name. And it was -- it was on for hours.

15 Q And is this something you witnessed with Merah one
16 time or more than one time?

17 A There's more than one time. Not just particularly
18 with Merah, but with all the children. It's just whoever
19 was doing something bad that day or who he thought done
20 something bad that day.

21 Q And this information that you witnessed these things
22 and saw marks and bruises on the children, you gave that
23 to law enforcement right from the beginning?

24 A Yes.

25 Q And I think you mentioned they actually came to your

1 house when the children were missing, right?

2 A Yes, ma'am.

3 Q Because law enforcement had learned that you had been
4 a babysitter along the way and actually had a relationship
5 with him. So there was a hope maybe that the children
6 were in your house and that they were safe?

7 A Yes, ma'am. But they neglected to tell me that they
8 already had the kids. They already knew they were, you
9 know, so I don't know what the whole reason that was about
10 because they woke up my kids at 3:00 a.m. and kicked down
11 my door and saying that they found him, but no kids.

12 Q All right. Did you know at the time that he had made
13 some false statements to the police that the children were
14 safe back in South Carolina --

15 A No, ma'am.

16 Q -- with a female?

17 A No, ma'am. I didn't know any of that. All I know is
18 what they wrote on there saying that they knew where the
19 kids were at that time when they did it.

20 Q So the relationship has progressed now in December of
21 2012, you're living with him. During that time, Ms.
22 Ballentine, was he using drugs and alcohol?

23 A Smoking marijuana and he would drink.

24 Q And when you say he would drink, what kind of alcohol
25 would he normally drink?

1 A Mostly Crown and then Smirnoff's here and there.

2 Q And when he would drink, where would he drink?

3 A In his room.

4 Q Now, were there times -- do you know where he was
5 getting his drugs from?

6 A No, ma'am. I was never with him when he got them.

7 Q Were there times that he would disappear from the
8 home while you were there with the children?

9 A Yes, ma'am.

10 Q Tell us about that, what you remember about that.

11 A He would leave out at night and stuff and sometimes
12 stay gone until 3:00 a.m. He would keep his door locked,
13 pad locked it. It was just different times, but it
14 started getting more frequently toward the end. I don't
15 know what it was all about. He would say he was meeting
16 up with friends or, you know, different things.

17 Q All right. And when he would buy drugs, would it be
18 with you or without you?

19 A When he bought them, no. It would be without me. I
20 never was with him when he got them. He would show up at
21 home with them.

22 Q Okay. And one of the things law enforcement asked
23 you about was, does he have any mental or medical problem
24 that you know of?

25 A No, he definitely does not.

1 Q And one of the things that you had described is that
2 there were times when you would hear him mumbling to
3 himself?

4 A Yes. It was mostly him beating himself up because he
5 forgot something or he had done something wrong or he was
6 at the kids and say oh, why they got to keep doing it.
7 You know, stuff like that. That was the mumbling. It
8 wasn't oh, hey, what's up? Oh, no, no, you know, it
9 wasn't nothing like that.

10 Q All right. You never heard it appear as if he's
11 talking to someone who's not there?

12 A Yes, it was never like that.

13 Q It appeared to you as if he's talking to himself?

14 A Yeah. Or sometime -- and when he was in his room, it
15 was like he was on the phone or something. I mean, I'm
16 not one-hundred percent sure on those times, but I'm
17 pretty sure he was on the phone. He always had his phone
18 with him.

19 Q Was there ever a time, Ms. Ballentine, that you felt
20 that he did not have touch with reality?

21 A Huh-uh, he was always with reality. He was always
22 progressive on getting what he wanted done, making money
23 the way he wanted, if he wanted an extra job, if he wanted
24 extra income. He was always very sure about himself.

25 Q And he was a planner?

1 A Yes.

2 Q Was there ever a time that you had to tell him where
3 he was or who he was?

4 A Huh-uh, no, ma'am.

5 Q He was always aware of his surroundings?

6 A Yes, ma'am.

7 Q And one of the questions you got before was about
8 going to church. Did he have very stiff beliefs about
9 what he felt was right and wrong?

10 A Yes, ma'am. He was very -- seemed very religious.
11 We read from the Bible. The church that we went to was
12 like speaking in tongues, people did flop around and stuff
13 like that. And always dress code, you had to dress a
14 certain way. He was all, you know, furnish your own --
15 guys provide the money and women being nurturers, you
16 know, having children and being a parent.

17 Q And at that time, you were 17?

18 A Yes, ma'am.

19 Q And you were relying on him for your income?

20 A Yes, ma'am.

21 Q So, initially, did you go along with these ideas that
22 he had about women?

23 A Yeah. I mean, I put on dresses, I did what I needed
24 to do until I finally got enough of it.

25 Q And when you say you got enough of it, tell us about

1 that. What led you to finally deciding that you weren't
2 going to be in the relationship anymore?

3 A One thing was him being so controllive. I didn't
4 even have a mind for myself to do anything. Another thing
5 was discipline actions towards my child that wasn't even a
6 year old, trying to whip her.

7 Q Trinity?

8 A Yes. One time, he wrapped her up too tight that I
9 don't -- you know, I don't agree on and -- because she
10 wouldn't go to sleep that night. It was just -- it was a
11 lot of things that led up to that point.

12 Q All right.

13 A It was just the final draw was him trying to whip her
14 the last time and I was gone off with friends at the time.
15 And I come home to him the way he was acting and I just
16 left.

17 Q And when you say he tried to whip Trinity, she was
18 not a year old yet?

19 A She wasn't a year old. She was just now holding onto
20 things walking. She knocked over a drink or something and
21 looked like he went to go try to whip her and I said,
22 huh-uh, no, and I grabbed her up. He didn't get to whip
23 her, but it was leading up to that point.

24 Q Is there any doubt in your mind, Ms. Ballentine, that
25 he always knew what he was doing?

1 A He definitely knew what he was doing. He knows what
2 he did when things happened, I'm pretty sure of it. And
3 he still knows what's going on.

4 Q And when he would talk to you or express to you his
5 feelings about what was right and what was wrong, did he
6 ever seem to not know the difference between right and
7 wrong?

8 A No. He knew it was right and wrong. He knew about
9 God. He knew about what you should do in life. He -- he
10 was pretty sure of himself and pretty sure of everything.

11 Q During those times that you say you heard him talking
12 to himself, was that also during the timeframe that you
13 knew him to use alcohol and marijuana?

14 A Yes. And, you know, he would be pretty buzzed. He
15 liked his Crown. Everybody knows that liquor gets you
16 drunk quicker. And he was -- he would get buzzed quite a
17 bit.

18 MS. MAYES: Nothing further.

19 REDIRECT EXAMINATION

20 BY MR. YOUNG:

21 Q Ms. Ballentine, did he tell you about his mother?

22 A Yeah, I've heard about it.

23 Q What did he tell you?

24 A That she was in a crazy place. About as far as that
25 went. He didn't get into too much detail about his

1 family.

2 Q Did you describe him as being depressed most of the
3 time when you were there?

4 A Yes, he was depressed. I could tell he was, with the
5 divorce of his wife and everything. He was still trying
6 to settle being a single dad. I mean, he was depressed.

7 MR. YOUNG: Thank you, Ms. Ballentine.

8 THE WITNESS: You're welcome.

9 THE COURT: You may step down.

10 THE WITNESS: Thank you.

11 MR. YOUNG: Defense calls Sandra Black.

12 SANDRA BLACK, being
13 first duly sworn, testified as follows:

14 THE CLERK: Have a seat, please, ma'am. Once you're
15 seated, state your full name, spelling your last.

16 THE WITNESS: My name is Sandra Black, B-L-A-C-K.

17 DIRECT EXAMINATION

18 BY MR. YOUNG:

19 Q Good morning, Detective Black.

20 A Good morning.

21 Q I'm going to skip to, you work for the Lexington
22 County Sheriff's Office?

23 A Yes, sir.

24 Q And were you working for the Lexington County
25 Sheriff's Office in September of 2014?

1 A Yes, sir.

2 Q And did you interview Chrystal Ballentine?

3 A Yes, sir.

4 Q And you wrote a report about your interview with
5 Chrystal Ballentine?

6 A Yes, sir.

7 Q And is your report complete, truthful and accurate?

8 A Yes, sir.

9 Q Did Ms. Ballentine tell you that around March of
10 2013, she heard two voices coming from Mr. Jones' room
11 when she -- when he was the only one in the room? She
12 said he was not talking on the phone or watching TV, but
13 she heard two different voices coming from the room?

14 A Yes, sir.

15 Q Is that what she told you?

16 A Yes, sir.

17 Q And you put that in your report?

18 A Yes, sir, I did.

19 Q After talking with her, did you ask her to write a
20 statement?

21 A I did, yes, sir.

22 Q And did she say that she couldn't write a statement?

23 A She said that she would, but she couldn't write it
24 and asked me if I would write it for her.

25 Q And did you write it for her?

1 A Yes, sir, I did. I told her I would write it for
2 her, but I would only write what she told me, exactly what
3 she told me.

4 Q Okay. Let me show you what's in evidence as Defense
5 Exhibit number 267 and ask you if that's the statement
6 that you wrote for her?

7 A Yes, sir.

8 Q And you wrote it as she told it to you?

9 A Yes, sir.

10 Q On page two, the third line down, did she tell you
11 that Tim started talking to himself, he had had
12 conversations with himself?

13 A Yes, sir.

14 Q Did she say, sometimes he would talk to himself and
15 what he needed to do, what the kids needed to do? It was
16 like someone said something and he would answer them.

17 A Yes, sir.

18 Q That's what she told you?

19 A Yes, sir.

20 Q At the end of the statement, did she say, he started
21 acting like he had mental problems?

22 A Yes, sir.

23 Q Talking to himself and being obsessed about the kids
24 studying everything?

25 A Yes, sir.

1 Q But he was never diagnosed with mental problems that
2 I know of?

3 A Correct, yes, sir.

4 Q And those are Ms. Ballentine's words written in your
5 hand?

6 A Yes, sir.

7 MR. YOUNG: Thank you, Detective Black. That's all
8 the questions I have.

9 CROSS-EXAMINATION

10 BY MS. MAYES:

11 Q And Detective Black, you were talking with Chrystal
12 at what time of day or night?

13 A I don't know the exact time.

14 Q Did you have that on your report?

15 A I don't believe I have it on this report where I put
16 what time it was. I have the day, that was September 9th,
17 but I don't -- I don't have the time.

18 Q Do you remember that it was during nighttime hours?

19 A I really don't recall. It may have been. I don't
20 recall, though.

21 Q And where were you, Detective Black, when you wrote
22 this statement?

23 A When I wrote the statement for her I was at 191
24 Blackville Road in Gaston.

25 Q Her house?

1 A Correct, yes, ma'am.

2 Q So her house in the middle of the night sounds right
3 to you?

4 A Her house, yes, ma'am. I'm not sure of the date or
5 time, no.

6 Q And during this time, she had been woken up by law
7 enforcement, correct?

8 A No, ma'am.

9 Q Do you remember those details?

10 A No, ma'am.

11 Q So when you're writing the statement for her?

12 A Yes, ma'am.

13 Q You're asking her about everything she remembers
14 about Timothy Jones at this point in time, right?

15 A Yes, ma'am.

16 Q And she's giving you a whole lot of information that
17 you're including in this statement?

18 A Yes, ma'am.

19 Q She's telling you that they met when she was 17.
20 About two months later, she had moved in with him?

21 A Yes, ma'am.

22 Q She's telling you that she witnessed him leaving
23 bruises on the children. And you documented all of that
24 in the statement?

25 A Yes, ma'am.

1 Q She's telling you specifically about bruises that she
2 witnessed on Merah and a specific event where he had left
3 bruises on her?

4 A Yes, ma'am.

5 Q She's telling you that he was controlling towards her
6 and the children. I believe her words were Tim was very
7 controlling to both me and the kids?

8 A Yes, ma'am.

9 Q And then at the end -- or towards the end, at some
10 point, you start asking about whether or not he had any
11 mental conditions, correct?

12 A Correct.

13 Q And she does disclose to you that he was using both
14 alcohol and, at least, marijuana at the time, correct?

15 A Yes, ma'am.

16 Q And she's telling you that he would usually drink in
17 his bedroom, correct?

18 A Yes, ma'am.

19 Q She'd go on to tell you that he would also use what
20 she referred to as weed in his bedroom, correct?

21 A You said referred to as weed?

22 Q Correct.

23 A Yes, ma'am.

24 Q He would also tell the kids that their mother did not
25 love them?

1 A Yes, ma'am.

2 Q That's something you noted. That's one of the things
3 you talked about that was important to her --

4 A Yes, ma'am.

5 Q -- to let you know? That Tim would always tell the
6 kids that their mother did not love them, that she was not
7 coming back for them, that she ran away with another man,
8 correct?

9 A Correct, yes, ma'am.

10 Q And so one of the things that you noted toward the
11 end is that he does not have any medical or mental
12 problems that I know of, correct?

13 A Yes, ma'am.

14 Q When you asked her does it appear that he has any
15 mental problems, the only thing that she could think of is
16 that she had heard him talking to himself in another room,
17 correct?

18 A Yes, ma'am.

19 Q She never told you about any hallucinations that he
20 had, correct?

21 A No, ma'am.

22 Q She never told you about any time he had a break with
23 reality and didn't know where he was, correct?

24 A No, ma'am.

25 Q She never told you that there was a time that he

1 didn't know the difference between right and wrong,
2 correct?

3 A Correct.

4 Q Just that he would use alcohol in his room, he would
5 use drugs in his room and she would hear him talking to
6 himself?

7 A Yes, ma'am.

8 Q At least, on one occasion, correct?

9 A Correct, yes, ma'am.

10 MS. MAYES: Nothing further.

11 THE COURT: Anything else?

12 MR. YOUNG: Nothing, Your Honor.

13 THE COURT: You may step down. How long is your next
14 witness?

15 MR. YOUNG: Thirty, forty-five minutes.

16 THE COURT: You want to break now. Take a few
17 minutes. Bring you back in here. Don't talk about the
18 case.

19 (Whereupon, the jury is excused from the courtroom
20 for a break.)

21 MS. MAYES: Your Honor, it appears there's going to
22 be multiple exhibits relating to the Disney World trip. I
23 believe their next witness is going to address that as
24 well. And then there is also a video. We would just
25 object to the numerous photographs in terms of relevance

1 and the video as well. I think if they want to put in a
2 single photograph that should suffice.

3 THE COURT: All right. Mr. Young, what you got?

4 MR. YOUNG: Your Honor, these are videos and photos
5 that Tim took while he was on a trip with his kids to both
6 Myrtle Beach and then a second trip to Disney. It's a
7 handful of photos that show the kids.

8 THE COURT: A handful, it took Joy 15 minutes, how
9 many was it, 25 or 30?

10 COURT REPORTER: Yeah, it was a bunch.

11 THE COURT: Looks like a representative of five to
12 eight would be a gracious plenty.

13 COURT REPORTER: I've marked them all as ID, so
14 whatever doesn't come in, I'll just keep them as ID.

15 THE COURT: Y'all are overwhelming Joy's sticker
16 demand. If she runs out we are in trouble.

17 MS. MAYES: I believe there are one or two
18 photographs that we don't have any objection to, Your
19 Honor. Of course, as long as its strategic in nature
20 because, ordinarily, these would not be admissible in the
21 guilt phase.

22 THE COURT: Not marking all of these things and going
23 over it earlier cost us thirty minutes. Bring in the
24 jury.

25 (Whereupon, the jury came into open court at

1 approximately 10:50 a.m.)

2 THE COURT: Call your witness.

3 MR. YOUNG: Your Honor, the Defense calls Joy Lorick.

4 JOY LORICK, being

5 first duly sworn, testified as follows:

6 THE CLERK: Have a seat right up there, ma'am. Once
7 you're seated, state your full name, spelling your last,
8 please.

9 THE WITNESS: Joy Goldie Lorick, L-O-R-I-C-K.

10 DIRECT EXAMINATION

11 BY MR. YOUNG:

12 Q Ms. Lorick, I need you to speak right into the
13 microphone, okay? Is that comfortable?

14 A Uh-huh.

15 Q You need water?

16 A No.

17 Q Okay. Ms. Lorick, you were one of the babysitters
18 for the Jones family, is that right?

19 A Yes, sir.

20 Q Can you tell me, how did you get to know Mr. Jones?
21 How did you come to be involved?

22 A Through my friend, Christina Ehlke.

23 Q Okay. Can you tell me a little bit more about that?

24 A What do you mean?

25 Q Well, were you working for somebody else and then

1 started working for Tim?

2 A Yes. Yes. I was babysitting for another family.

3 And the husband was -- the husband had put me through --
4 tried to put me through in their family stuff and I got
5 out of it. And Ms. Ehlke was like well, Tim's looking for
6 somebody to come keep the kids in his home. So I was like
7 okay.

8 Q And this was during the summer of 2014?

9 A Yes, sir.

10 Q And did you go to Tim's house?

11 A Yes. I kept the kids at the house.

12 Q And what was -- what was the condition of the house
13 when you saw it?

14 A It would be like dishes, clothes everywhere, trash
15 overflowing.

16 Q Were there bugs?

17 A Oh, yeah. It was like a few roaches.

18 Q It was dirty?

19 A Yeah.

20 Q Did you try to clean it up?

21 A Yeah, I tried to, like, wash the dishes and tried to
22 pick up a little bit while I was there.

23 Q And how did that go? How was keeping the kids there?

24 A Huh?

25 Q How was keeping the kids there?

1 A Oh, it was fine.

2 Q You had all five children there?

3 A I had all five.

4 Q Because they weren't in school at that time?

5 A No, at this time, everybody was out of school.

6 Q For the summer?

7 A For the summer.

8 Q And did y'all decide to take a trip?

9 A Yes, sir.

10 Q And where did you go?

11 A We went to the beach.

12 Q Is that Myrtle Beach?

13 A Myrtle Beach, yes, sir.

14 Q Do you recall when that was?

15 A I don't know the specific time. I know by the time
16 we got to the beach, it was about 4:00 or 5:00 that
17 morning. It was like early that morning. And then we got
18 up, Mr. Jones went and got some food from McDonald's. The
19 kids ate and then we went down to the beach for a little
20 bit. And then after that, we left.

21 Q And went back to Lexington?

22 A Went back to South Carolina -- I mean, you know, went
23 back home, so.

24 Q Let me show you what's been marked as Defendant's
25 Exhibit number 296 for identification. Do you recognize

1 the date on there?

2 A Yes.

3 Q Is that 6/27 --

4 A Seven, uh-huh.

5 Q 6/27/14 to check out 6/28/14?

6 A Yes, sir.

7 Q And that's for parking for Myrtle Beach?

8 A Beach, yep.

9 MR. YOUNG: Your Honor, at this time, Defense would
10 offer number 296 in evidence.

11 MS. MAYES: No objection, Your Honor.

12 THE COURT: 296 in without objection.

13 (Whereupon, Defendant's Exhibit number 296 was
14 admitted into evidence.)

15 Q While y'all were at the beach, did y'all -- did y'all
16 go down to play in the ocean?

17 A Yeah. Mr. Jones and the three oldest kids went down
18 to the ocean and I stayed up ahead with the babies, with
19 the two babies.

20 Q Okay. Was there a time where Tim and the kids went
21 swimming?

22 A There was a time where the kids was, like, up towards
23 the water, where the sand, where the water comes up and as
24 I looked down, I could hear somebody screaming, like, come
25 on, come on, come get in the water, y'all missing out.

1 And I looked further on and Mr. Jones was like further out
2 in the water, like way out there in the water.

3 Q He was trying to get the kids to come out to him?

4 A It was like he was calling the kids, he was calling
5 everybody out. He was telling everybody they missing out
6 on being in the water.

7 Q And that was the first time he had ever been to the
8 beach?

9 A Huh?

10 Q Did he tell you that was the first time he had ever
11 been to the beach?

12 A No, sir.

13 Q Was it the first time the kids had ever been to the
14 beach?

15 A Not that I can recall. I don't know.

16 Q Was there a video taken while y'all were there?

17 A Not that I know of.

18 Q Have you watched a video from the beach this morning?

19 A Yes. I seen it this morning, but I don't remember
20 that.

21 MR. YOUNG: Your Honor, at this time, the Defendant
22 would offer 298, a minute video from the beach.

23 MS. MAYES: No objection, Your Honor.

24 THE COURT: Without objection.

25 (Whereupon, Defendant's Exhibit number 298 was

1 admitted into evidence.)

2 (Whereupon, a one-minute video was played for the
3 jury.)

4 Q Is that Elaine down there at the beach?

5 A That was Elaine.

6 Q And if Elaine was down there, do you think that you
7 were there, too?

8 A It could have been. I just remember having her with
9 me, so, you know, that's far back. So I can't recall them
10 even coming to get her from me and taking her down because
11 it was so long ago.

12 Q Did -- shortly after that trip, you came back to
13 Lexington, didn't you?

14 A We went back to Lexington. Mr. Jones dropped me off
15 at my friend, Christina's house. Her daughter was doing
16 this type of television show thing that day, so he dropped
17 me off there and then he went on home with his kids.

18 Q Y'all had another trip planned?

19 A We had another trip planned. Maybe about -- I can't
20 remember the time, but maybe about two, three weeks after.
21 It could have been longer than that. We went to Florida.

22 Q Where were you going in Florida?

23 A Sir?

24 Q Where were you going in Florida?

25 A We was going to Disney World. And he wanted to take

1 the kids to Sea World.

2 Q Let me show you what's been marked for
3 identification, Defense Exhibit number 297. That's a
4 receipt from Orlando, Florida?

5 A Uh-huh.

6 Q And does it have a date on it?

7 A That's June 30, 2014.

8 Q Okay. So that would have been about two days later?

9 A I think about two days later, yeah. Because I don't
10 know the specific -- I said it could have been two, three
11 weeks later, but it could have been around that time, too.
12 I don't know.

13 Q So it could have been just a couple days?

14 A Yeah. I'm not too specific about the time.

15 Q Okay.

16 A I mean, the date.

17 Q All right.

18 A Yeah.

19 MR. YOUNG: Your Honor, Defense would offer 297 into
20 evidence.

21 THE COURT: Any objection?

22 MS. MAYES: No objection, Your Honor.

23 THE COURT: No objection.

24 (Whereupon, Defendant's Exhibit number 297 was
25 admitted into evidence.)

1 Q Now, on the way to Florida, did anything happen in
2 the car?

3 A As we was driving -- well, anybody that knows kids,
4 like, when you driving a short -- a long period of time,
5 kids tend to get agitated. So the kids started, like,
6 moving around, yelling and jumping around and stuff. And
7 Mr. Jones told them that he going to pull to the side of
8 the road and make them get out and do squats. And I was
9 like oh, no, you know, so.

10 Q You thought he was serious?

11 A Oh, yeah, yeah.

12 Q And you stopped it?

13 A Yeah, I was like, no, but he just kept on driving.
14 But once he told the kids that, they just settled down.
15 And he was like y'all just take a nap and go on to sleep
16 and that's what they did.

17 Q Okay.

18 A Yeah.

19 Q And how long did y'all stay in Disney World?

20 A We got there that night. Mr. Jones was like -- there
21 was a bar across the street. He was like, I'm going to go
22 over across the street, and I was like, okay. And I
23 stayed and I kept the kids while he went across. So we
24 stayed like a night and then a day and then we went home
25 that next day after Disney. After we left out Disney

1 World, we was supposed to go to Sea World, but he was like
2 a storm was coming, so we end up leaving that same -- the
3 next day.

4 Q Let me show you what's been marked for ID as Defense
5 number 292. Are those the tickets to Sea World?

6 A Those was the tickets.

7 MR. YOUNG: We'd offer Defense number 292 into
8 evidence.

9 MS. MAYES: I believe there's no date on this, Your
10 Honor. If we could just have a stipulation as to the date
11 of this event. I would have no objection as long as
12 there's a stipulation to the date of the trip and the date
13 of this event.

14 THE COURT: Did she say late June of '14?

15 MR. YOUNG: Yes sir, but it's early June.

16 THE COURT: Okay. Early June of '14.

17 MR. YOUNG: Early July 2014.

18 THE COURT: So it was late June?

19 MR. YOUNG: Late June, early July, yes, sir.

20 THE COURT: See, I was listening.

21 MR. YOUNG: I'll get the exact dates and we'll put
22 them on here.

23 THE COURT: All right. They'll be admitted subject
24 to the date within reason, late June, early July.

25 COURT REPORTER: And that's 292?

1 MR. YOUNG: Yes.

2 (Whereupon, Defendant's Exhibit number 292 was
3 admitted into evidence.)

4 Q Now, Ms. Lorick, did Tim ever talk to you about his
5 family?

6 A No.

7 Q Did he ever talk to you about his mother?

8 A No.

9 Q He never told you his mom would cut her hair off and
10 bury it in the garden?

11 A No.

12 Q Did you give a statement in this case around
13 September the 11th, 2014?

14 A About?

15 Q Did you give a statement --

16 A Just a statement?

17 Q Yeah, just a statement --

18 A Yes, sir.

19 Q -- to law enforcement?

20 A Yes, sir.

21 Q Have you reviewed your statement?

22 A Not in a while.

23 Q Okay. Is this your handwriting?

24 A Yes.

25 Q And is that your signature?

1 A Yes.

2 Q I'll just give you that to let you refresh your
3 recollection.

4 A Okay. Yes, I did, wrote it, but he didn't tell me
5 that, the kids.

6 Q Oh, the kids told you --

7 A The kids told me that, Merah.

8 Q About his --

9 A Uh-huh.

10 Q About their grandmother?

11 A Mr. Jones never told me, the kids told me.

12 Q Okay. And what did -- what did the kids tell you?

13 A That she had cut her hair off and buried it in the
14 ground and something about bones or whatever. I can't
15 remember. I just remember that, so, you know. Kids tell
16 you stuff like that, you know, you just kind of be like
17 oh, okay. I was just like oh, okay.

18 Q Was there an incident that happened in the hotel room
19 while y'all were at Disney?

20 A Yes.

21 Q And what happened?

22 A What end up happening, after Mr. Jones went across
23 the street to the bar, Nahtahn started jumping around and
24 I asked him to stop. And Gabe just started screaming,
25 like squealing to the top of his lungs, and I kept asking

1 Gabe to stop. Well, by that time, Mr. Jones came back and
2 heard it. And he was like didn't she -- I know I just
3 heard her tell y'all to stop, y'all didn't. And he pulled
4 down both their pants and spanked them with a belt.

5 Q And that was in front of you?

6 A Yes.

7 Q And what did you do?

8 A I was just like after -- you know, I was just like,
9 don't -- you know, stop.

10 Q Okay. Did he stop?

11 A Yes.

12 Q Did you have some concerns about what the children --
13 whether or not they were getting enough to eat?

14 A Yes.

15 Q And why was that?

16 A It was like when he would -- like, McDonald's, like,
17 it would be, like, only one 20-piece nugget with two large
18 fries and, you know, they would have to share that
19 20-piece nugget. Me being at the house and feeding the
20 kids oatmeal all day. It wouldn't really be -- I probably
21 remember one time he came back with Little Caesars pizza.
22 It was like only one box of Little Caesars pizza. But
23 other than that, that's what I fed the kids all day is
24 oatmeal.

25 Q So you were never there when he fixed dinners?

1 A Oh, no. By that time, I would leave. I worked there
2 from 7 a.m. to 7 p.m. at night.

3 Q And the one time that he bought a 20-piece nugget was
4 with you when he was in Florida?

5 A I don't recall the 20-piece nugget when we was in
6 Florida. I remember stopping by Chick-Fil-A --

7 Q Okay.

8 A -- and he went in there and he got food while me and
9 the kids was outside. He walked inside and got food and
10 brought it out.

11 Q Okay.

12 A Yes.

13 Q But you don't remember this 20 --

14 A No, I don't remember no 20-piece nugget. We never
15 stopped by McDonald's.

16 Q In Florida?

17 A In Florida.

18 Q On the 30th?

19 A No, not that I remember of, but I remember it was a
20 Chick-Fil-A.

21 Q Okay.

22 A Yes.

23 Q I'm going to show you a couple of pictures, which I
24 believe are Defendant's 268 and 269 and 270, 271, 280, 281
25 282, 286 and 289.

1 MR. YOUNG: We would offer these into evidence.

2 MS. MAYES: No objection, Your Honor. Those are the
3 ones previously agreed upon.

4 THE COURT: All right.

5 (Whereupon, Defendant's Exhibit numbers 268, 269, 270
6 271, 280, 281, 282, 286 and 289 were admitted into
7 evidence.)

8 (Whereupon, Defendant's Exhibits 272-279, 283-285,
9 287, 288, 290, 291, 293-295 were marked for
10 identification only.)

11 Q And these are pictures from when y'all were in
12 Florida, right?

13 A Yes, sir.

14 Q Can you tell the jury who all is in that picture?

15 A That is Nahtahn, Merah and Eli. That is Elaine,
16 Merah, Nahtahn, Eli and Gabe.

17 Q That picture has got everybody in it? Everybody
18 except for you and Tim were in that picture?

19 A Uh-huh. That was Merah, Eli and Nahtahn.

20 Q Now, they appear to have badges on?

21 A Yeah, it was like the -- if I can recall, I think it
22 was the things to Sea World. It was like -- I can't
23 recall what it was, it was. It was, like, badges or
24 something. And I want to say it was, like, the badges to
25 Sea World, like, when we go in Sea World or to the park.

1 I can't -- it was so far back, but I know it was some type
2 of badge or something around their necks.

3 Q And they each one had their name on it?

4 A I want to say yeah. If I'm not mistaken, it's so far
5 back, so.

6 Q But that's how you -- you used to ride rides and you
7 get into places and buy stuff?

8 A It was something. That is Merah, Nahtahn and Eli.

9 Q And the hats on their heads, do you recognize those?

10 A Not that I can recall. Not that I can remember.

11 Q Do you ever recall those hats being put up in their
12 rooms back at the house?

13 A No. That is Merah, Eli and Nahtahn.

14 Q And do you know the characters that they're with?

15 A Woody, and I can't think of the -- that other
16 character's name.

17 Q And was anybody particularly fond of Woody?

18 A Nahtahn. That is Merah and I think Nahtahn. Yeah.
19 And I don't know who that is.

20 Q Is that Eli over there?

21 A Yeah, looks like him.

22 Q Do you know who this character is?

23 A No.

24 Q With the long hair?

25 A I don't know, maybe Cinderella, I'm thinking, or

1 Sleeping Beauty.

2 Q Could it be Rapunzel?

3 A It could be.

4 Q Did Merah have a particular affinity for Rapunzel?

5 A Not that I can recall. That is Eli, Nahtahn and
6 Merah and that is Cinderella.

7 Q And then this -- was this at Disney or was this
8 somewhere else?

9 A That had to be somewhere else.

10 Q Okay.

11 A I don't recall that picture at all.

12 Q But it's Gabe and Elaine eating?

13 A Yes, that's Gabe and Elaine eating. That's Merah and
14 I want to say that's Nahtahn. I'm not too sure, because
15 the head's turned.

16 Q And they're eating lunch, too?

17 A Yes.

18 Q Now, while y'all were at Disney, did you notice Tim
19 doing any drugs?

20 A Sir?

21 Q Did you notice Tim doing any drugs?

22 A No, sir.

23 Q Did you ever think that he was high?

24 A Not that I know of. I do remember one morning -- I
25 knew he smoked cigarettes, I do know that. I remember one

1 morning of me going to the house -- like I say, had to be
2 there at 7:00 o'clock. And I remember one morning going
3 to the house -- going to the house, I pulled up and there
4 was like this smell, like this chemical smell. It wasn't
5 bleach. I clean with bleach, so I know what bleach is,
6 but it was just like an awful smell. It makes my nose
7 burn. And when I asked him about it, he was like, I don't
8 know what you're talking about. And I was like, oh, that
9 is awful. He was like, well, I got to go. I'm on my way
10 to work. So I walked in, I checked on Elaine. She was
11 sleeping beside her playpen in the living room. I went
12 and checked on the other kids. And I opened up the front
13 door to try to air it out. When the kids got up, I made
14 them something to eat and I was like we're going outside
15 until -- because they was like, what is that? And I was
16 like, I don't know. It was just like an awful, awful
17 smell. Don't know what it was. Don't know what he was
18 doing when I got there, before I got there, but --

19 Q That was back here in Lexington, right?

20 A Yes, Red Bank, yes.

21 Q So after y'all came back from Disney World, how much
22 longer did you work with Tim Jones?

23 A Not too much longer after that.

24 Q Okay.

25 A Yes.

1 Q What happened?

2 A I was using my dad's car and my thing was that when I
3 got off -- my step-mom worked at the airport. So when I
4 got off, I would have to -- sometimes I would have to go
5 pick her up. And it was just this one particular time I
6 got off and my dad had already picked her up. And I got
7 to the house and I had a phone call from Mary Tanner, was
8 like I had some mail at her house. So I was like, okay.
9 So I went up there and I got my mail. And I came back and
10 I could tell it was tension. So when I -- me and my
11 sister rode to the gas station. I was like, what's going
12 on? And she was like, I'm not getting -- I said, no,
13 you're going to tell me what's wrong, you know. I said, I
14 don't like walking back into the house and something going
15 on. So my sister was like, well, daddy and them said that
16 you don't put gas in the car. And I did, I just didn't
17 put it in when they wanted me to put it in. And so I got
18 gas that morning and I was just like, that's it. I'm
19 going to give them back the car. I'm not keeping nobody's
20 car. I just won't have no way to work. So that's the
21 reason that I stopped keeping the kids. It was not about
22 financial reasons. It was about that I could not make it
23 to work without having transportation there.

24 Q Did Tim think that you owed him money?

25 A Yes. He told me that I -- he had paid me two weeks

1 in advance, but I know he didn't. So he had told Ms.
2 Ehlke, Christina, he had told her, he was like, I know
3 that's your -- she told me that he was like, I know that's
4 your friend, just let her know that if she doesn't pay me
5 back, then I'll have to take further actions as far as
6 taking her to court for my money. So my reply back to her
7 was, well, you tell Mr. Jones he does what he has to do.
8 Whatever he has to do, he does it.

9 Q Okay.

10 A Yes.

11 Q And that was shortly before you called DSS?

12 A That was way -- that was like before, yes.

13 Q And you called DSS in August of 2014, right?

14 A I think it was around about August, I want to say,
15 yeah.

16 Q Now, this call to DSS in August of 2014, had you been
17 with the kids that day? Had you been with the kids in
18 August of 2014?

19 A Not that I can recall of. You talking about when I
20 made the call?

21 Q Yes, ma'am.

22 A No, I wasn't nowhere around the kids then.

23 Q Okay.

24 A I just remember after I stopped keeping them, I asked
25 Ms. Ehlke to please make sure that she fed them because I

1 wasn't too sure how he fed them at nighttime. I just
2 remember me feeding them oatmeal all day and I remember a
3 certain time when they had told me -- there was one day
4 that he was getting off work and they just kept asking for
5 oatmeal all day and I fed them. You know, any kids, I'm
6 going to feed them. I don't care how much that kid done
7 ate like an hour, two hours ago, I'm going to feed them.
8 And I remember they said, Ms. Joy, could you not tell
9 daddy you just fed us because he might not feed us again.
10 And I said, I would never do that to y'all.

11 Q Were there times when there was leftover food in the
12 fridge that they were supposed to eat?

13 A It was one particular day, I got there to the house
14 and -- I watched the kids Monday through Friday. And I
15 got back -- I forgot what specific day this was, but I got
16 back and there was something where Gabe wouldn't eat his
17 food. And I remember I had made the kids food. I had
18 cooked them -- was cooking them oatmeal that day. And I
19 remember -- I can't remember who it was, but they went in
20 the refrigerator and they pulled out this bowl. And I was
21 like, what is that? And they was like, what's what daddy
22 made a couple nights before, but Gabe wouldn't eat it, so
23 he said Gabe has to eat it. They said, So Ms. Joy, Gabe
24 has to eat that food. And I said, no, he's not. He's
25 going to eat what we're eating now. I'm not making him.

1 And I threw it away.

2 Q And that was because it was Tim's policy that if the
3 kids didn't finish their food --

4 A They had to eat it.

5 Q -- they had to keep eating until --

6 A Yes. And there was also one particular time that
7 Gabe -- it was something with Gabe. I could never figure
8 out what it was with him, but Gabe would, like, smile,
9 like, he would have like this smile on his face or when he
10 chewed, he chewed with his mouth open. And I knew it was
11 something special. And one day, I didn't know what was
12 wrong. I said, Gabe, I said, let's chew with your mouth
13 closed. And he closed his mouth and he opened it again.
14 So I was like, okay, I'm not going to pressure him because
15 something, something's wrong. And I never questioned what
16 it was. And I remember the kids was, like, Gabe move from
17 the table. And I was like, why? And they was like, well,
18 last night when we was eating dinner, dad made Gabe move
19 from the table. And he made him move from the table while
20 the rest of them finish eating. And when they finished
21 eating, Gabe was able to come back to the table to eat.
22 And I was like, I'm not doing him like that.

23 Q Were the kids ever scared of Tim?

24 A No, not that I -- you know, I mean, they're kids.

25 You have kids that even if they're -- you know, they loved

1 their daddy and I know they loved their daddy. But they
2 just knew when they did something, you could tell that
3 they knew they was going to get in trouble or not. But
4 no, they never seemed like they was scared of their dad.

5 Q Was there a time where I think you took Merah to a
6 place where a friend painted her nails?

7 A It was a time that she was at Ms. Ehlke's house. I
8 wasn't there and I had called to check on them. And she
9 was telling me that her daughter had painted Merah's
10 nails. And, I guess, you know, Merah just enjoyed getting
11 her nails painted. And once she realized they was
12 painted, she starts freaking out and was like -- Ms. Ehlke
13 said she just started freaking out saying, get it off, get
14 it off before my daddy come. And he end up coming and he
15 was like, Merah, you know better.

16 Q Because that was against the rules?

17 A Because that was against the rules. They -- you
18 know, Merah had to wear like long dresses or, like, you
19 know, pants and stuff. Like, she couldn't wear, like,
20 shorts or whatever or, you know. But just certain ways
21 that he wanted his kids to dress. And fingernail polish
22 was out of the ordinary. But no, I was not there that
23 day. I called to check to see how they was doing and
24 that's when Ms. Ehlke said that she -- they had painted
25 them, when she realized they had painted, then she started

1 freaking out.

2 Q You thought Tim was weird?

3 A Yeah, yeah.

4 Q He never told you he heard voices?

5 A No.

6 Q He never told you that he was afraid of the kids?

7 A Oh, no.

8 MR. YOUNG: Thank you, Ms. Lorick. Please answer any
9 questions that the State has.

10 THE WITNESS: Okay.

11 CROSS-EXAMINATION

12 BY MS. MAYES:

13 Q Ms. Lorick, one of the reasons you ended up in that
14 job is because you love kids?

15 A Oh, yes.

16 Q Everybody knows that about you?

17 A Oh, yes.

18 Q And these kids, you loved with your whole heart?

19 A Oh, yes. Yes.

20 Q All five of them?

21 A Yes.

22 Q And when you saw what you saw at Disney World, did
23 you know at that time that there had been a DSS action
24 where he was not supposed to lay hands on those children?

25 A No, ma'am.

1 Q He never told you that?

2 A Oh, no, no.

3 Q That whole time you were working for him that summer,
4 he never once told you there is a DSS case and I'm not
5 allowed to discipline my children --

6 A No, ma'am.

7 Q -- by hand or by belt?

8 A No.

9 Q And y'all spent that whole time together on the trip
10 down there?

11 A Uh-huh.

12 Q Eight hours, pretty much, to Orlando?

13 A Uh-huh.

14 COURT REPORTER: Is that a yes?

15 THE WITNESS: Uh-huh.

16 Q And we'll just need you to say yes or no --

17 A Yes, I'm sorry.

18 Q -- so she can write it down.

19 A I'm sorry.

20 Q But y'all were in the same hotel room?

21 A Uh-huh. Yes, ma'am.

22 Q And then the ride back together, you were in that
23 same car?

24 A Car, yes, ma'am.

25 Q Before that, you had taken the trip together to

1 Myrtle Beach?

2 A Myrtle Beach, yes.

3 Q Same car?

4 A Same car.

5 Q Same hotel room?

6 A Same hotel room.

7 Q So you spent hours upon hours with this man, didn't
8 you?

9 A Yes, ma'am.

10 Q And during that whole time, Ms. Lorick, there was
11 never a single sign that there was anything wrong with him
12 mentally, was it?

13 A Oh, no, no.

14 Q He always knew exactly where --

15 A Oh, yes --

16 Q -- he was?

17 A Yes.

18 Q What he was doing?

19 A Yes. He knew who I was and the kids was.

20 Q Never had any type of situation where he had a break
21 from reality?

22 A No.

23 Q He always knew right from wrong?

24 A Yes, ma'am.

25 Q So he chose not to tell you that he wasn't supposed

1 to lay hands on the kids, but when you saw it, how did it
2 make you feel?

3 A Kind of bad, you know. It made me feel real bad for
4 them.

5 Q Nahtahn was six?

6 A Nahtahn was six.

7 Q Were his pants on or down?

8 A Down.

9 Q And was that with his hand or with a belt?

10 A With a belt.

11 Q Gabe was two?

12 A Two, yeah.

13 Q And he had that two-year-old pull his pants down,
14 too, didn't he?

15 A Yes, ma'am.

16 Q Struck him with a belt, too, didn't he?

17 A Yes, ma'am.

18 Q Repeatedly?

19 A Yes.

20 Q That stayed with you, didn't it?

21 A Oh, yes, yes.

22 Q So when you made that call to DSS, Ms. Lorick, you
23 were there with Ms. Tanner --

24 A I was right there with her. I got to her house that
25 day and I was just -- because we hadn't seen each other in

1 a while. And she just basically asked me how I was doing
2 and I got to talking. And when I talk, I just start
3 rambling on. And I started talking about Merah and them
4 and stuff that I felt -- you know, that I knew they was
5 going through. And I was like, I feel like if I make that
6 call to DSS, there's nothing going to be done. And she
7 said, well, we're going to make this call together. And I
8 said, okay. And that's exactly what they did, they did
9 nothing.

10 Q So that's one of the things that weighed on you. You
11 felt like you needed to report it, but you weren't sure
12 whether it would lead to anything?

13 A Yes.

14 Q Still weighed on you and you talked to Ms. Tanner
15 about it. And the decision was made to call DSS?

16 A Yes.

17 Q Even though in your heart you felt like --

18 A Yes.

19 Q -- they wouldn't do nothing --

20 A Yes.

21 Q Those are your words?

22 A Yes.

23 Q And you were right there when that call was made?

24 A Oh, yes.

25 Q That call into DSS, did it name Nahtahn as the person

1 that had been hit at Disney World?

2 A Yes.

3 Q Did it name Gabe, the two-year-old, as the person
4 that had been hit at Disney World?

5 A Yes.

6 Q Did DSS have that information?

7 A Yes, ma'am.

8 Q That trip to Disney would have been early July, I
9 think is the stipulation?

10 A Yes.

11 Q So we're talking roughly seven weeks, maybe --

12 A Yes.

13 Q -- before the children were killed?

14 A (Witness nods in the affirmative.)

15 Q And up until that very last time that you saw Timothy
16 Jones and had communication with him --

17 A Yes.

18 Q -- Ms. Lorick, was there any doubt in your mind that
19 he understood the communications between you?

20 A Yes. He knew.

21 Q He was clear and rational?

22 A He was clear, yes. When I work for a family, I like
23 to know the parents, the grandparents. It was one
24 particular time there was a photo album under some clothes
25 and, I forgot, it was one of the kids that pulled it out.

1 I said, oh, a photo album. When I go to people's house, I
2 like to look at pictures. I like to ask questions, who is
3 this in your family? And I was like, can I look at the
4 album? And one of the kids pulled it out and we were
5 looking at it and they seen their mom, they see the
6 picture of their mom. And I said, who's that? And they
7 said, that's mommy. I said, that's mommy? They said,
8 yeah. They said, Ms. Joy, I wish you could meet our
9 mommy. I said, I wish I could meet mommy, too. Because
10 me working for a family, regardless if you a single mom,
11 single dad, I like to know grandparents, aunt and uncles.
12 You know, I would like to get to meet the family and
13 stuff. And I felt that even though their mom -- even
14 though I never got to meet their mom and no matter what
15 her and Mr. Jones was going through, I felt that it was
16 right that she had a right to know who was keeping her
17 kids. That's just me. You know, I would want to know
18 who's keeping my kids. And they did, they said that we
19 wish that you could meet our mommy and I said, I wish
20 that, too.

21 Q And they spoke good of their mommy?

22 A Oh, yes, they loved their mom, yes. They told me
23 they could not wait till they got ready to see her.

24 Q And how did the children react about that photo album
25 when they thought their dad was coming home?

1 A They hurried up and put it back. They -- I was
2 like -- once we finished, they put it right back. They
3 was like, don't tell daddy that we showed you this photo
4 album. I said, I won't.

5 Q Because in his presence, did you ever witness the
6 kids being able to talk positively about their mom --

7 A Oh, no.

8 Q -- in his presence?

9 A No. They was never allowed to talk about their mom.

10 Q Do you remember the Defendant telling you, well, the
11 children don't have no respect for women?

12 A Yes.

13 Q And what was your response to that?

14 A I told him, I said, well, with me being a woman, if
15 I'm going to be around them, they will have respect for
16 me. So my thing with that was, you know, he had his
17 opinion or whatever, but, you know, so.

18 Q Do you recall telling Mr. Jones that it was, in fact,
19 him who didn't have respect for women?

20 A Uh-huh.

21 Q Those were your words?

22 A Yes. You could tell he was -- there was just
23 something about women. Women should be seen and not
24 heard.

25 Q You mentioned earlier on direct examination that the

1 kids were hungry. How often did you see that?

2 A A few times. A lot of times and stuff. Elaine,
3 like, if I would be cooking or whatever, she would start
4 and I'd be like -- I'd be like, Baby, it's almost done.
5 Like, she would go, like, screaming, like, screaming
6 hungry, like, she hadn't even eaten.

7 Q What would you normally feed them, Joy?

8 A Ma'am?

9 Q What would you normally feed the children?

10 A Oatmeal.

11 Q Was there ever a time that the Defendant seemed -- do
12 you remember a time where he seemed concerned about a
13 delivery?

14 A Yes. It was supposed to be something delivered to
15 the house from UPS. And I remember him asking me had --
16 he called me and asked me did the package arrive yet and I
17 said no. Then I remember shortly after that, he ended up
18 coming home. I don't know what he was looking for, but it
19 was just something important that he was looking for.

20 Q Some type of package --

21 A Some type of package, yes.

22 Q Do you remember a time where you described him
23 smelling like an herb cabinet?

24 A Yes. It was just something -- I don't know, it was
25 just a faint smell.

1 Q And then the time you recall that there was some type
2 of chemical that you could smell?

3 A Yeah, it was a type -- I got there that morning and
4 it was just type of -- like, you could smell it coming
5 through the house. Coming from the house before I even
6 walked into the house, you could just smell it. When I
7 got in the house, it was just awful. It made my nose
8 burn.

9 Q Do you think that was around the time of the Disney
10 trip? Sometime that summer?

11 A It was sometime that summer, maybe early on before.
12 I'm not too sure.

13 Q And what do you remember about the condition of the
14 home?

15 A Clothes everywhere, trash overflowing, dishes
16 everywhere. And there was a few -- there was roaches.

17 Q You described seeing him use physical punishment on
18 the children. What --

19 A Oh, yeah.

20 Q -- other forms of punishment do you remember seeing
21 that appeared unusual to you?

22 A It was where they would have to stand with one leg
23 up, one arm out, squats. It was like different stuff.
24 Then I remember one day Merah and Eli was like -- they
25 called something -- it was a type of name they called

1 something. And he was like -- Mr. Jones was like, oh,
2 goodness, like that. And he was like, well, go show Ms.
3 Joy what y'all talking about. I forgot the name of it.
4 And they walk out -- Merah and Eli walks out with this big
5 bed post, like this. And I said -- he said, well, show
6 Ms. Joy what y'all have to do with that. And so they had
7 it like this and they're bending down doing this. And I'm
8 just like oh, my goodness, like, they're kids, like--

9 Q Did that appear unusual punishment to you?

10 A Yes, oh, yes.

11 Q Ms. Lorick, you didn't know about the DSS action?

12 A No, ma'am.

13 Q And when you made that call to DSS, you weren't aware
14 of it?

15 A No, ma'am.

16 Q Had there ever been a time where you, yourself, were
17 concerned about the health of the children?

18 A Oh, yes.

19 Q And the environment that they were in?

20 A Yes, ma'am.

21 Q And that led you to ultimately make that call to DSS?

22 A Yes, ma'am. Even though this time, Ms. Ehlke was
23 keeping them, like I said, I would call her and I would
24 inform with her that before they leave your house, you
25 make sure you feed them. Make sure you give them

1 something to eat because I'm not too sure what he's
2 feeding or how much he's giving them. And she was like,
3 you know I'm going to feed them. And I said, okay.

4 Q And you not knowing about that DSS plan, was there a
5 time that you had a discussion with him, do you remember
6 him having a discussion about not wanting the kids to be
7 in school anymore?

8 A Not wanting them to be in school. I never knew about
9 DSS, I just know that he wanted the kids to be in
10 school -- didn't want them to be in school and asked me
11 would I teach them at home. And I'm like, I don't have
12 credentials for that.

13 Q All right.

14 A So when he would go to work, his thing was they had
15 little laptops at the house. So when they got up, I was
16 cooking -- Merah loved to help me cook. She loved to help
17 me cook. And so, a lot of times she would come in the
18 kitchen and help me. And the other ones, Nahtahn and Eli,
19 would start doing, like, stuff, like, reading or doing
20 math stuff. So he always wanted them to do, like, math or
21 reading or science stuff on their little laptops or get a
22 book out and read. So I would -- you know, I would let
23 them do that, but yeah. I told him I did not have the
24 credentials for them to be homeschooled.

25 Q So it was sometime after May of 2014, sometime after

1 the school had made that report regarding Nahtahn he
2 decided he didn't want his kids to be in public school
3 anymore?

4 A I would assume so, yes.

5 Q And actually wanted you to be the one homeschooling
6 them?

7 A Yes.

8 Q And you told him no?

9 A I told him no, because I didn't have the credentials.
10 I can't homeschool a child if I ain't got credentials to
11 do it.

12 MS. MAYES: Thank you, Ms. Lorick.

13 REDIRECT EXAMINATION

14 BY MR. YOUNG:

15 Q Ms. Lorick, when you called DSS --

16 A Yes.

17 Q -- in August, right?

18 A Yes.

19 Q And you told them that the children had been beaten
20 black and blue?

21 A I don't recall that. I recall telling them that they
22 was spanked with a belt, but I never said black and blue.

23 Q Okay. So if they wrote that down, they got that
24 wrong?

25 A Yes.

1 Q And you told them that they weren't getting enough
2 food?

3 A Yes.

4 Q And that was the 20-piece chicken nugget?

5 A That was the 20-piece chicken nugget and me feeding
6 them oatmeal like all day, but that was me feeding them,
7 yes.

8 Q Now, you said he always knew the difference between
9 right and wrong?

10 A Yes.

11 Q You said he was always rationale?

12 A Sir?

13 Q You said he was always rationale? Rationale, he knew
14 what he was doing?

15 A Oh, yes.

16 Q Spanking a two-year-old with a belt is not rationale,
17 is it?

18 A It's wrong.

19 Q It's wrong?

20 A Yes.

21 Q Making a two-year-old eat days old leftovers because
22 they didn't finish their meal, that's wrong?

23 A That's wrong.

24 Q The way that Tim disciplined his children, that was
25 not rationale to you?

1 A No, it was wrong.

2 Q And you had to tell him that was wrong?

3 A Yes.

4 Q And there were times when you would tell him it was
5 wrong and he would listen to you?

6 A Well, he would listen. He would -- his thing was
7 that women should be seen, not heard and those was his
8 kids.

9 Q When you told him don't pull the car over on the way
10 to Florida, he didn't do it, right?

11 A He didn't do it, but he did state to me those was his
12 kids.

13 Q And when you told him to stop spanking them in
14 Florida, he listened?

15 A He stopped, but I was informed those was his kids.

16 MR. YOUNG: Thank you, Ms. Lorick.

17 RECROSS-EXAMINATION

18 BY MS. MAYES:

19 Q So the bottomline is, he was going to do what he
20 wanted to do?

21 A What he wanted to do because those was his kids.

22 Q Right or wrong --

23 A Right or wrong --

24 Q -- he was going to do what he wanted to do?

25 A Yes.

1 Q And you weren't going to tell him otherwise?

2 A No.

3 Q Because in his mind, those were his kids?

4 A Those was his kids.

5 Q And about the black and blue, do you remember seeing
6 marks on Gabe after he got that whipping?

7 A Not that I recall.

8 Q Do you remember the Defendant telling you that it was
9 your business to keep the kids and his business to
10 discipline them?

11 A Yes.

12 MS. MAYES: Nothing further.

13 THE COURT: You may step down.

14 (Whereupon, a bench conference was held.)

15 THE COURT: Next witness will be -- we're going to
16 have to break them up around lunch. I'm just trying to
17 decide whether to go ahead and go now or not. We're going
18 to take some testimony, then break for lunch, then we'll
19 come back.

20 MR. YOUNG: Two minutes?

21 THE COURT: Sure. You want to send them out?

22 Y'all want to sit here for two minutes or go to the
23 jury room for five?

24 SPEAKER: We're good.

25 THE COURT: All right, sit right here. Got two

1 minutes.

2 (Whereupon, a short break for Mr. Young.)

3 THE COURT: All right. Call your witness.

4 MR. SECOR: Thank you, sir. The Defense calls
5 Carolyn Williford.

6 CAROLYN WILLIFORD, being
7 first duly sworn, testified as follows:

8 THE CLERK: Have a seat, please, ma'am. Once you're
9 seated, speak up loud and clear, state your full name,
10 spelling your last.

11 THE WITNESS: I'm Carolyn Williford,
12 W-I-L-L-I-F-O-R-D.

13 DIRECT EXAMINATION

14 BY MR. SECOR:

15 Q Ms. Williford, tell us how you know Tim?

16 A Junior or Senior?

17 Q Well, start with Junior?

18 A He is my stepson.

19 Q Okay. And so you were married to big Tim, Tim, Sr.,
20 at some point?

21 A Correct.

22 Q And then what was the timeframe of y'all's marriage?

23 A Well -- the timeframe, well, we were together for a
24 total of about 15 years.

25 Q And was it about 1991 that you were married?

1 A That is correct, April.

2 Q And how old were you then?

3 A Nineteen.

4 Q Was that your first marriage?

5 A Yes.

6 Q And how old was Tim, Jr. at that point?

7 A He was ten years old.

8 Q All right. And did you and Tim, Sr. have any
9 children of your own?

10 A Yes. We have two boys.

11 Q Two boys. And they are?

12 A Tyler and Travis.

13 Q Okay. And when were they born?

14 A Tyler was born in '91 and Travis was born in '92.

15 Q All right. So, I guess, the difference in age
16 between Timmy and Tyler and Travis is about ten years, is
17 that right?

18 A Ten or eleven years. They're Irish twins.

19 Q Okay. Did you know members of Timmy's -- little
20 Tim's mom's family, Cynthia's family?

21 A Yes, I did.

22 Q And I probably should have started with this. Where
23 were y'all living at this time, when you and Tim, Sr. got
24 married?

25 A Well, we moved into Carpentersville.

1 Q In what State?

2 A Illinois.

3 Q And you knew members of Cynthia's family from that
4 area?

5 A Yes, I did. Ingleside is the town that they resided
6 in.

7 Q Did you know them before you and Tim, Sr. got
8 together?

9 A No, I did not.

10 Q All right. And what members of Cynthia's family did
11 you know?

12 A I knew his Auntie Martha, which would be her sister,
13 and I also knew her other sister, Linda, and I also knew
14 her brother, Domingo.

15 Q Okay. And did you know Christopher?

16 A Yes, I met him as well as Eddie and his grandmother,
17 Maggie.

18 Q All right. And did you know an aunt named Sheila?

19 A Yes.

20 Q And those all would have been siblings to Cynthia --

21 A Right.

22 Q -- Tim's mother? All right. And I'm not asking you
23 to try to make a diagnosis, but in your interactions with
24 those members of Cynthia's family, were they normal people
25 or did they strike you as abnormal?

1 A They struck me as abnormal. I had a -- I just felt
2 that there was something wrong that the grandmother never
3 came to visit her grandson or participated in events, just
4 great events that go in your life, you know. I don't
5 know, you're in gymnastics and you see him up there
6 jumping around, it's a great thing, you know, sharing
7 birthdays, sending a Christmas card, just love, I don't
8 know.

9 Q Yes, ma'am. And that was Maggie?

10 A That is correct.

11 Q And Domingo, that was an uncle of Tim's, right?

12 A That is correct.

13 Q And did he die recently?

14 A That is correct. He's -- he actually -- I'm very
15 good friends with his wife. And he committed suicide and
16 shot himself. I think it's almost two years now.

17 Q Oh, okay. Two years ago?

18 A Uh-huh. Maybe less.

19 Q When you and Tim, Sr. got married and had Tyler and
20 Travis, what is -- what is Tim, Jr.'s sort of role in the
21 family now that you have your own sort of little family?

22 A Well, he's their big brother and, I don't know,
23 family. All together as one.

24 Q And you wanted to make him part of your family?

25 A Absolutely.

1 Q Did problems arise in your marriage with Tim, Sr.?

2 A I think in every relationship, there are problems,
3 yes.

4 Q Yes, ma'am. And did alcohol play a role in the
5 problems that you and Tim, Sr. had?

6 A Yes.

7 Q And did your relationship ever get physically
8 violent?

9 A Yes.

10 Q Were there ever times that the police were called
11 because of the violence in your home?

12 A That is correct.

13 Q And was the violence that was occurring in your home,
14 were those things that were witnessed by Tyler and Travis
15 and Tim, Jr.?

16 A Unfortunately, yes.

17 Q Was there ever a time that you know that one of your
18 young boys actually was the person that called the police?

19 A Yes. He was actually the one. He crawled out of a
20 window and he went over to my neighbors and had asked them
21 to call the police.

22 Q And that was because of violence between you and Tim,
23 Sr.?

24 A Correct.

25 Q When Tim, Jr. was little, Tim, Sr. loved him?

1 A Absolutely.

2 Q Was he also hard on him?

3 A I think yes, he was. Like all parents, they expect
4 certain expectations for our children to meet,
5 achievements, education, social skills. You know, what I
6 think every parent wants for their kids.

7 Q Okay. Were there times that you thought that he went
8 too far in terms of him being rough on Tim, Jr.?

9 A Yeah, I do believe that there was times that he was
10 rough on little Timmy. You know, short fused, I guess is
11 what you could say about Tim, Sr., but, you know, there
12 was times that I think that he could have refrained from
13 certain verbiage.

14 Q Yes, ma'am. And you loved Timmy, I know. You've
15 told me that before.

16 A Uh-huh.

17 Q Can you tell me, though, was there a time ever when
18 he was young, growing up in your household where -- is it
19 possible that things that you did or said to him could
20 have made him feel unwanted or unloved?

21 A In all honesty, there may have been times where I
22 have said things to him that I may have hurt his feelings,
23 absolutely.

24 Q Now, when things were rough at your house when Tim,
25 Jr. was growing up, where would he go sometimes to spend

1 time?

2 A So, a lot of times, if he would be angry or he would
3 get upset with me, like, most, I guess, moms, you know, it
4 would be pick up your clothes, you know, clean up your
5 room, why do you have that dish in the bedroom, you know I
6 don't like that, you know, because we're going to get
7 bugs, just things in general. And I also believe that
8 he -- you know, he -- there was -- it was kind of a
9 respectful thing and a disrespectful thing. He didn't
10 like rules and he would get upset with me and then he
11 would go outside. A lot of times, he would just go in his
12 room, depending on the home that we had. We lived in two
13 residences, one was in Carpentersville and the other one
14 was in Algonquin, Illinois.

15 Q And did he ever go spend time at his grandmother's
16 house, Roberta's house when things were rough at your
17 house?

18 A Yes.

19 Q Now, would you consider the environment at Roberta's
20 house at that time, was it much better than what was going
21 on in your house?

22 A I don't think so.

23 Q And why is that?

24 A Well, I believe that there was, you know, a lot of
25 partying going on. She also had a teenage son, so, like,

1 I guess, most teenagers, you know, they tend to drink or
2 party or whatever. And I think that there was smoking
3 going on. I don't know exactly to what extent, but, you
4 know, so -- I mean, those things are going on in my home,
5 so what you decide is correct or wrong. I think any time
6 probably drugs or alcohol is around is probably not a good
7 environment for anybody.

8 Q Yes, ma'am. But you knew that there was violence in
9 Roberta's home as well, too, right?

10 A Yes.

11 Q And the people there, adults and nonadults, were
12 drinking and doing drugs at times?

13 A Uh-huh.

14 COURT REPORTER: Is that a yes?

15 THE WITNESS: Yes. I'm sorry.

16 Q Tell us about Tim, Jr.'s relationship with his Aunt
17 Elaine.

18 A Well, I think his relationship with Auntie Elaine, it
19 was great. I mean, if you knew Elaine, she was oh, my
20 goodness, sorry, she was just a great lady and she was a
21 good auntie. And it was a really hard time because I
22 think he missed her because, I don't know, Elaine could
23 pick anybody up and give you a hug and you just knew her
24 presence. I don't know how to explain it. She was just
25 beautiful from the inside out.

1 Q And she died pretty young, right?

2 A Yes, she was very young. And there were three other
3 children that were her children. It was a very tough and
4 hard time.

5 Q And I think Timmy was around 13 years old when Elaine
6 died?

7 A I believe so.

8 Q Tell us about the effect Elaine's death had on the
9 family.

10 A I would think that -- I don't know how every family
11 can explain cancer. I don't think there's a word that
12 describes it. I think it emotionally takes you from the
13 inside out and you have a lot of strains. My husband, he
14 drank a lot. Probably for good reason, they were very
15 close. I don't know, the car broke down, you picked her
16 up, you'd find her. The kids needed to be watched, we
17 watched. You know, I don't know, all the kids -- Timmy, I
18 think it was hard on him. I mean, you see her laying on
19 the couch and, you know, you don't want to put her in a
20 facility because it's family. You don't do that.
21 Everybody pitches in. And Timmy saw that on a daily basis
22 and I can't imagine it was easy. It was not easy for us,
23 I can't imagine it was easy for the children either.

24 Q And she had children, too, isn't that right?

25 A That is correct. Bubba, Jennifer and JoJo.

1 Q And when Elaine died, where did her three kids go to
2 live?

3 A Well, they were having a custody battle. And again,
4 Timmy's around this. You know, it's a -- it's just a very
5 ugly situation, two people struggling to hold onto
6 something that they loved. And there was just a lot of
7 going back and forth. The kids did stay with us in our
8 home in Algonquin. And I think of that -- I think our
9 house in Algonquin was beautiful, beautiful yard. The
10 kids played all the time, forts, laughing. I don't know,
11 it was just a, they were good kids.

12 Q I think you already mentioned that after Elaine's
13 death, Tim, Sr.'s drinking got worse, is that right?

14 A It did.

15 Q Did his violence increase in the home?

16 A It did.

17 Q And what was one of the signs that you saw during
18 that period of time that you knew you were going to have
19 an unpleasant evening when you saw Tim?

20 A Well, pretty much, I can say if Tim came home with a
21 bottle of Crown Royal, I was pretty sure we were going to
22 have a hard night. Any bottle at that point, too, I would
23 say would be a hard night. You know, when somebody is
24 drinking and they're upset and there's a lot of emotions
25 going on, yeah.

1 Q And --

2 A And little Timmy knew it, too. He knew when his dad
3 was drinking he was not the nicest person either. I mean,
4 it's very hard. You know, he's always tried to do the
5 right thing, applying himself, showing us he could make
6 good grades, you know. I mean, he got a job at Wal-Mart.
7 I thought it was pretty amazing. He would get on that
8 bicycle and he would ride to his job, which, I mean, it
9 was probably, I'm going to say, seven to eight miles
10 uphill, which I could never do. But, you know, he would
11 go, he would put his backpack, get his bottle of water,
12 he'd go to his job, he'd come home. He was pretty good.

13 Q Yes, ma'am. And there were times that the police
14 came and Tim, Sr. was arrested, right?

15 A That is correct. There were times when the police
16 came and they knew -- so we're in kind of a, I consider it
17 a small town. I'm born and raised there. And the police
18 would just take him away for 24 hours off the premises,
19 you know, because they knew the situation that was going
20 on at my home.

21 Q But it wasn't only just take him away, sometimes he
22 was actually charged, right?

23 A That is correct.

24 Q Tell us, if you would, just about when Timmy starts
25 going to church.

1 A So he would go to church on Sunday mornings. A bus
2 would come pick him up and he would go off to this Baptist
3 Church. And they would pick him up pretty much about, I
4 don't know, 7:30, 8:00 and then he wouldn't come back
5 until, like, 12:30, 1:00, 1:30. I find it kind of odd.
6 I'm a born and raised Lutheran and I would go to church.
7 And the only time I was in church for more than usually an
8 hour and a half is communion because, obviously, communion
9 is a little longer service for everybody, you know, to
10 take the blood and body of Christ. So it was just
11 different. I thought it was very odd that he was
12 attending this Baptist Church and gone for so long. I
13 didn't understand what that church was really about.

14 Q And how old was he when he started doing this?

15 A So he was going there, I would say definitely -- we
16 were living -- so he was 10 years old, 11 years old, 12
17 years old.

18 Q And when he got home from his time at church, what
19 types of things would he do on the weekends?

20 A So like every kid, he'd come running up from the
21 church with his Bible in his hand, happy about what he had
22 heard for that time. He would eat, interact with his
23 brothers a little bit and then he would go off on his own
24 to his room.

25 Q And was that a normal thing for him to do?

1 A It was a normal thing.

2 Q Throughout the time that you lived with Timmy, that
3 you were a part of that family, did he ask you about
4 Cynthia, his mother?

5 A Yes, he did ask about his mom. And it wasn't really
6 so much that he was asking me about his mom. You have to
7 realize that I have two children that Tim and I share.
8 And when you are hugging them or loving them or kissing
9 them, you could see that he was yearning. He was wanting
10 this, too. You know, it's very hard to have a connection
11 with a 12-year-old and to step in the picture and try and
12 be a good person. But, you know, the kids were -- he
13 interacted with the boys. But, again, it was -- you know,
14 Tyler and Travis took a lot of my time. You got to
15 imagine, they were 11 months apart. So, pretty much, they
16 walked at the same time. They talked at the same time.
17 So it was like having twins. So it was lot of -- it was a
18 lot of times with everything going on.

19 Q Yes, ma'am. When he did ask about Cynthia, though,
20 what types of things did he want to know about her?

21 A If I knew her, if I heard stories about her. He
22 would sometimes tell me that, you know, she was -- and I
23 hate using this terminology, she was nuts, crazy, which I
24 don't particular care for that word as well, but it was
25 asked. And I would be like, I don't know, Timmy. I have

1 never met your mother. She's never contacted us. I have
2 never -- this is back in the day when you have a home
3 phone, not phones everywhere. And she never visited, she
4 never sent cards, she never -- nothing with him. Again, I
5 don't understand that part of it. That was -- and I felt
6 for him. I mean, you know, here he is doing this stuff,
7 you know, looking for a pat on the back or, you know, a
8 hug and a kiss. You know, I remember him graduating, it
9 was huge. But yeah, I don't, he just, she never -- he
10 would just ask. And I didn't have the answers,
11 unfortunately.

12 Q Yes, ma'am. You were -- or Tim was living with you
13 when he got into that first car accident, is that right?

14 A That is correct.

15 Q And he was 15, I think, is that right?

16 A Yes.

17 Q Tell us what you knew about the circumstances of him
18 and his cousins using the car and what happened.

19 A So Tim and I went out for the night and we had let
20 Timmy go to his cousins' house. We always tried to get
21 him to go with his cousins because we thought it was
22 important for him to be, you know, around his mom's family
23 so that -- you know, that he could have a relationship
24 with his cousins, his aunties and uncles. And we had
25 received a phone call that he was in an accident. It was

1 a bad one from what we could gather. We didn't get all
2 the details, we just knew that he was at Good Shepherd
3 Hospital. And off the top of my mind, you know,
4 there's -- maybe I might not have been his biological
5 mother, but in an instant, I knew Martha's phone number
6 right off the top of my head.

7 Q And tell us again who Martha is.

8 A Martha is Timmy's aunt, who he was with those
9 cousins.

10 Q And that's on his mother's side?

11 A That is correct. And so we got to the hospital and
12 -- you know, of course, we were grateful that he was okay.
13 I mean, it was awful. I'm sure -- and I don't mean to
14 sound selfish because I'm sure everybody's a parent or
15 grandmother or whatever -- whatever you are or what role
16 you play in your family, it was devastating. And, you
17 know, we were worried about him. And they did the proper
18 medical examinations that we truly believed that were
19 followed.

20 Q Yes, ma'am.

21 A I will tell you, it put a very bad strain on the
22 relationship that I had with his aunt and uncle because I
23 had trusted, we had trusted that those kids, when we give
24 them to them that they are to watch them and make sure
25 that they're okay and not get in situations as best as

1 they could.

2 Q Yes, ma'am. So were you upset about them letting the
3 kids use the car?

4 A I was just upset in general that -- yes, they were
5 using the car and yes, that they were drinking. And if
6 they knew it, it shouldn't have happened, you know. He's
7 my son, what do you expect. You know, I'm protecting him.
8 I'm sure I probably said some terrible words to them and
9 to be honest to you, to this day, I don't regret them.

10 Q Yes, ma'am. After Tim's accident and head injury,
11 did you notice a difference in his personality, his
12 behavior?

13 A No. He was a normal teenager to me.

14 Q Right. And the things that you noticed going
15 forward, you thought were just part of puberty,
16 adolescence, becoming a teenager?

17 A Yeah.

18 Q And what types of things did you see in him during
19 that period of time?

20 A During that period of time, he was, you know, I just
21 thought was a normal teenager, just talk back, yeah,
22 whatever, you know. And I would be like Tim, why do you
23 have to walk on my clean kitchen floor. If anybody knows
24 me, I have a very clean kitchen floor. And I'll be honest
25 with you, it was just stuff like that, just in general.

1 He was just a teenager, I don't know. Pick up your bike
2 in the driveway, you know, I don't know.

3 Q Did he become more isolated after that?

4 A I feel he was. He was by himself a lot and it was
5 bothersome. I had talked to Tim and told Tim, you know,
6 Tim, I don't know what's going on with him, but
7 something's going on with him. I don't really know. He's
8 a teenager. Talk to him about, as everybody else would
9 talk to their children, I'm sure I'm probably not the only
10 person, drugs, sex, life.

11 Q And did you know that he started smoking pot after
12 that?

13 A I did know that he was smoking pot after that. I had
14 brought it to Tim's attention because it was just a
15 different Timmy. I could just tell. You know, the Timmy
16 that would look at you that would get mad at you because
17 he left a dish in his room was one thing. This was a
18 different Timmy that was coming home. And you could tell
19 there was definitely something going on where he was
20 probably participating in, yes, I would say marijuana.

21 Q And those things were, obviously, different from the
22 way he was when he was younger?

23 A Well, yeah, when he was younger, yeah.

24 Q But you didn't think that it was the car accident
25 that caused those things?

1 A Honestly, I'll be very -- I did not know that there
2 was that extent of that injury. I blame myself today
3 because if I would have known that he needed medical
4 attention or, you know, something that was going to cause
5 him to create chaos in his life or maybe not have him be
6 able to participate in a sport or further education, I
7 would have had him examined.

8 Q Yes, ma'am. After the car accident and Timmy
9 becoming a little bit older of a teenager and some of
10 these behaviors, how are things between Tim and Big Tim?

11 A Well, it got a little rougher because, unfortunately,
12 we lost another family member, which was Tim's brother. I
13 called him Little Larry.

14 Q And what was the effect on the family of Little
15 Larry's death?

16 A That was -- the first strike when Elaine was gone, it
17 was a tornado. The second strike with the brother being
18 gone was just a monsoon. It was an aggression of
19 drinking, verbiage. I think it was -- it was a tough time
20 and I know it was tough on Timmy. You know, here we are
21 seeing every family member in every direction being broke.
22 Sort of like, you know, you look around and you're just
23 trying to every day wake up and make it a good situation
24 and try and get through the best that you can. Timmy was
25 close with Little Larry. They were only a few years

1 apart. They played games together, video games together,
2 you know, swam in the swimming pool. I mean, they were
3 like brothers in a sense because they were closer in age
4 as opposed to his brothers.

5 Q Yes, ma'am. Were there confrontations in the home
6 between Tim, Sr. and Tim, Jr.?

7 A Yes. Confrontations meaning, like, I don't know,
8 Timmy would get a little sarcastic from time to time
9 because he thought he was right. Didn't really want to
10 hear anything that Big Tim had to say because he thought
11 it was wrong. Timmy was pretty smart. So there is some
12 times when I have to say that I've learned some stuff from
13 him. I'm not embarrassed to say so. But it was butting
14 heads. They butt heads quite often with just arguing
15 about stuff.

16 Q Were there times that you actually had to get in
17 between them?

18 A Yes. There was times where I would get in between
19 Tim, Sr. and Tim, Jr. And once again, I protected him. I
20 wouldn't let anybody harm him or hurt him. And I just --
21 they just both needed to separate, just take a breath,
22 just, guys, just - and I don't know how to explain that
23 because unless you're in the situation, you really can't.

24 Q Yes, ma'am. How did you feel about Tim, Jr.'s
25 decision to go into the Navy?

1 A In all honesty, I was shocked.

2 Q Why?

3 A Well, if he couldn't listen to simple instructions
4 like picking up your room, I couldn't see where he would
5 go into the service and they would be telling him what to
6 do, how to dress, just whatever they asked in the service.
7 Because I don't think -- I just thought wow, he's really
8 going to listen to somebody that's going to tell him what
9 to do? It just shocked me, to be honest with you. I did
10 not expect him to go to the service.

11 Q Did you think he was tough enough to handle it?

12 A I didn't think he was tough enough to handle it
13 either. He was -- he was very emotional. And his
14 feelings were genuine, don't get me wrong, but he had
15 issues.

16 Q And what was your understanding of why he made it
17 such a short period of time -- I shouldn't say made it,
18 didn't make it, but was only in the Navy for such a short
19 period of time?

20 A So it was my understanding that he had popped his ear
21 drum to get out. Now, I was not with Mr. Jones, Tim, Sr.,
22 so I don't know, but that was what I was told. And I did
23 not even know that he had a -- that he was discharged for
24 mental evaluation.

25 Q After he comes home from trying to get into the Navy,

1 does he move back in with you?

2 A No. Tim and I were done at that point.

3 Q Okay. He ends up getting arrested for some things
4 that involved you, right?

5 A Correct.

6 Q And tell us what those were.

7 A So I was missing some checks in my checkbook and
8 there was some credit cards that were used. They were
9 pretty high. And, unfortunately, back in the day, we
10 didn't have a lot of money, so it was really -- and
11 things, obviously, I don't know if they have changed or
12 not, but I'd be glad to know that now. But it would be
13 for everything -- or for every check that was bounced, it
14 was like \$125 charge. Charges I think were at one time
15 for the credit -- for the checking account was \$2800. I
16 can't remember all of the details, but it was a pretty
17 good amount that I know that we couldn't take care of.

18 Q That's money that Tim, Jr. had taken from you through
19 your checkbook or credit card?

20 A Correct.

21 Q And he had some other charges as well, isn't that
22 correct?

23 A That is correct. He was -- I believe he was high.
24 I'm not sure what he was on, but he had taken a vehicle.
25 And that was pretty much the extent of that.

1 Q And you're aware, obviously, that he went to prison?

2 A Correct.

3 Q And when he gets out of prison, are you and Tim, Sr.
4 communicating still or not?

5 A Yes, but not really. You have to understand, I have
6 Tyler and Travis as well. Not saying -- pushing Timmy
7 aside at this time, but I have to focus on the things I
8 need to do to take care of my family and to make sure that
9 we're okay.

10 Q Yes, ma'am. But had things gotten bad enough that
11 you had left that relationship?

12 A Yes. You can't fight every battle. You know, you
13 have to pick your choices. That's the way I've been
14 raised. You make decisions and then -- you know,
15 obviously, you want to make the right ones. When things
16 happened with Timmy -- I know that you say it was prison.
17 In my mind, it was never prison, I thought it was boot
18 camp. I thought he was going to go to a boot camp and he
19 was going to work on himself and they were going to
20 provide the service for him to make sure that he gets on
21 the correct path. So in my mind, he was on the correct
22 path. He had made the decision and he knew what he was up
23 against and he -- I believe it was a good one. Then I no
24 longer really speak to Tim that much because I am making
25 sure that I am now going on, I guess you would say, my

1 boot camp.

2 Q And I think you're right, it was a type of boot camp,
3 but it was part of the prison system. But you're right,
4 it was a boot camp.

5 MR. SECOR: May I have just a moment, Your Honor?

6 MS. MAYES: Objection to relevance, Your Honor, and
7 remoteness in time.

8 MR. SECOR: May I approach?

9 THE COURT: This would be a good time to break. The
10 jury can go on to lunch and we'll take that up. Go to
11 your jury room. Don't discuss the case. Do what you want
12 to do. We'll be back at 1:45.

13 (Whereupon, the jury was excused from the courtroom
14 for a lunch break.)

15 THE COURT: Proffer your examination.

16 MR. SECOR: Thank you, sir. May I approach?

17 THE COURT: Yeah.

18 Q Ms. Williford, I'm just going to show you what's been
19 marked for identification purposes Defense 262, 263, 264,
20 265 and 266. Do you recognize those photos?

21 A I do. They're family portraits.

22 Q Let's talk about 262. If you will, just tell us what
23 that's a picture of.

24 A That's Easter. That's Tyler, Travis and Timmy.

25 Q And Tyler and Travis are your two kids?

1 A That is correct. And this was actually after an
2 accident with little Timmy?

3 Q How can you tell?

4 A Because the cast on the leg.

5 Q 263, tell us what's in that picture.

6 A So this is the boys' birthday party. Actually, I
7 believe this is their fifth and sixth birthday party at
8 our house in Algonquin.

9 Q When you say the boys, you mean Tyler and Travis?

10 A Tyler and Travis and Timmy.

11 Q 264, what's in that picture?

12 A That's Timmy -- I believe that's Jordan in the middle
13 and then myself and we're at Kiddie Land.

14 Q And do you remember what the name of that ride is?

15 A The scrambler.

16 Q The scrambler. And 265?

17 A That's at Great America on the log ride with Tim,
18 JoJo and Timmy.

19 Q And who is JoJo?

20 A JoJo is Elaine's youngest daughter.

21 Q And number 266?

22 A That is Tyler, Travis and Timmy at Christmas at our
23 house.

24 Q Thank you very much.

25 MR. SECOR: Your Honor, Defense Exhibits 262, 263,

1 264, 265, and 266 just described by Ms. Williford depict
2 the period of time that Timmy lived with Ms. Williford and
3 depict people that she testified to, specifically, her two
4 sons, Tyler and Travis, as well as the daughter of Tim's
5 Aunt Elaine that died and shows the relationship between
6 Tim and his two half brothers. If they were not
7 admissible because of remoteness in time as alleged by the
8 State, then the entirety of Ms. Williford's testimony
9 would not be relevant. It obviously is relevant. The
10 jury just heard it. The photographs help to substantiate
11 it, corroborate it, give the jury a depiction of that
12 period of time. And I think that it is clearly and
13 unequivocally relevant to her testimony and to help the
14 jury understand that period of time and the relationships
15 of the people that she testified about.

16 THE COURT: Your definition of relevance and mine is
17 slightly different. Y'all have put up a lot of testimony.
18 The State has been very, very relaxed in objecting to
19 relevance. I agree with you, it's consistent with her
20 testimony. I don't -- how does that -- other than the one
21 picture of Tim, Jr. with a cast on his leg showing a time
22 when he was injured just after the car wreck, how is that
23 relevant to his mental condition in 2014? I mean, the
24 injury, I'm going to stretch and give you that one. Sure,
25 it's childhood pictures of him and his dad and them and

1 Christmas and Easter, whatever, but how is that probative
2 for your case of mental issue, challenge, whatever --
3 however you characterize that, but your defense?

4 MR. SECOR: Yes, sir. As testified to by Dr.
5 Agharkar as well as I believe Dr. Bigler, the social and
6 family history is a necessary component of an expert's
7 evaluation of a criminal defendant for purposes of a
8 defense of not guilty by reason of insanity. And that is
9 because many mental health conditions or diseases are a
10 combination of genetic inheritable characteristics in
11 combination with the environment in which those
12 inheritable characteristics are raised and grow. It is
13 our position and substantiated by our experts that Tim has
14 the genetic components for serious mental illness. We
15 are, therefore, I believe entitled to present as part of
16 our defense a necessary component of it, the environmental
17 factors that contributed to his mental health condition.
18 Ms. Williford has testified to the period of time that she
19 lived with Tim, Jr., which was a very traumatic time
20 period, death of two significant family members, violence
21 in the home, alcoholism --

22 THE COURT: And those don't show that.

23 MR. SECOR: No, but they show -- they show that that
24 was --

25 THE COURT: They show otherwise.

1 MR. SECOR: Which is an important component because
2 the point is not to say that it was all a disastrous,
3 violent nightmare, that there were good moments. Because
4 it is not my intention to present these witnesses as
5 people that are somehow not to be respected. My point is
6 for them to elicit information that is sometimes difficult
7 and embarrassing, but also to say that they loved Tim and
8 they were trying hard. And these photographs show that
9 they were doing so and I believe helps to preserve their
10 dignity and their credibility with the jury.

11 THE COURT: All right. Let me hear from Ms. Mayes.

12 MS. MAYES: Yes, sir, Your Honor. Our objection is
13 that they are not relevant or probative to any issue
14 currently before the jury. They are remote in time.
15 We're talking before 2000. I don't believe the witness
16 put a date on those, but the high school graduation would
17 have been around 2000. Those photos appear to be before
18 that period of time.

19 THE COURT: She named the cast on the leg as near the
20 wreck, 15 years of age. She named that.

21 MS. MAYES: As Your Honor has said, if you're
22 inclined to let that in as corroboration of that event,
23 it's the other pictures, Your Honor, that are just
24 cumulative at this point of everything else that's already
25 been offered. In the penalty phase, it's an entirely

1 different story, but in this phase, Your Honor, they're
2 not relevant and remote in time.

3 THE COURT: Anything else, Mr. Secor?

4 MR. SECOR: May I have just one moment?

5 THE COURT: Sure.

6 MR. SECOR: Your Honor, I would just add in addition
7 to my other arguments that I believe the photographs are
8 corroborative of testimony from Ms. Williford, testimony
9 that was not objected to and I believe that, therefore, it
10 is by definition relevant. And that's all I have.

11 THE COURT: All right. I'm going to admit subject to
12 your objection the picture of the three of them with the
13 cast on the leg. The other ones, I can't imagine the
14 State challenging. I don't think the other ones are
15 probative or relevant to his turmoil at home if that's one
16 of the environmental factors the experts testified to.
17 I'm not following that. So I think it's 262 is the --

18 MR. SECOR: Yes, sir.

19 THE COURT: -- one with the leg.

20 MR. SECOR: Yes, sir.

21 THE COURT: So that will come in. The other three, I
22 don't see the relevance. I think they're cumulative.

23 (Whereupon, Defendant's Exhibit 262 was admitted into
24 evidence.)
25

1 (Whereupon, Defendant's Exhibit 263 through 266 were
2 marked for identification only.)

3 THE COURT: Anything else we need to proper from her
4 before we go to lunch or when we come back?

5 MR. SECOR: No, sir.

6 THE COURT: Okay. Then we'll be down till 1:45.
7 That's an hour and 15 approximately.

8 MR. SECOR: And Your Honor, may I just note my
9 objection to the Court the suppression of those additional
10 photographs?

11 THE COURT: Sure. Yeah, you made a good record of
12 that.

13 MR. SECOR: Thank you.

14 (Whereupon, a lunch break was taken.)

15 THE COURT: Bring the jury.

16 (Whereupon, the jury came into open court at
17 approximately 1:40 p.m.)

18 THE COURT: Ms. Williford, you're still under oath.
19 Mr. Secor.

20 MR. SECOR: Thank you, sir. May I approach?

21 THE COURT: Yes.

22 CONTINUED DIRECT EXAMINATION

23 BY MR. SECOR:

24 Q Ms. Williford, I'm going to show you what's been
25 marked for identification purposes as Defense Exhibit 262

1 and just ask if you recognize that?

2 A Yes.

3 Q And what is that?

4 A Family picture from Easter.

5 Q And who is in that?

6 A Travis, Tyler and Timmy.

7 MR. SECOR: Your Honor, at this time, Defense would
8 offer Defense 262 into evidence and ask for permission to
9 publish.

10 THE COURT: Sure. And then when you put it up there,
11 let her describe who they are left to right.

12 MR. SECOR: I will, yes, sir.

13 THE COURT: That way, we'll have it on the --

14 MR. SECOR: Yes, sir.

15 THE COURT: -- record.

16 MR. SECOR: Yes, sir.

17 (Whereupon, Defendant's Exhibit number 262 was
18 admitted into evidence.)

19 Q Ms. Williford, if you will, just tell the jury who's
20 who in that picture?

21 A Travis is in the Superman, Timmy is in the middle and
22 Tyler is next to Timmy.

23 Q And what's that on Tim's leg?

24 A That is the cast from the accident he was in.

25 Q Okay. Is that the same accident where he sustained

1 the head injury?

2 A That would be correct.

3 Q Tell the jury about the relationship between these
4 three?

5 A They were -- they were definitely three, three
6 brothers. Laughing, Easter, a lot of grass everywhere.
7 Just part of our little holiday fun time.

8 Q And what was it like for them -- from your
9 perspective, obviously, what was it like for them when Tim
10 moved away from Illinois?

11 A When Tim moved to Mississippi?

12 Q Yes, ma'am.

13 A It was -- it was hard on the kids. It's a
14 separation. And, you know, it wasn't something that maybe
15 30, 40 miles away, it's an entire different state, so
16 things were not included, like, he wasn't there for a lot
17 of stuff the kids participated in.

18 Q Yeah. What's the role that you see that Tim has in
19 Tyler and Travis's life?

20 A He was good to his brothers. When they needed
21 advice, you know, they would call. If they just wanted a
22 laugh or goof around, they always seemed to goof around a
23 lot. More importantly, Timmy was always about telling
24 them to do better and make sure you stay in school and get
25 educated. So he was like a -- he was definitely like a

1 father role. It was very good for the boys.

2 Q And did that continue when Tim was living in South
3 Carolina as well?

4 A Yes.

5 Q Has it continued since Tim's arrest?

6 MS. MAYES: Objection to relevance, Your Honor.

7 THE COURT: I'll allow it. Overruled.

8 Q Has he continued to encourage them, do you believe?

9 A Yes, absolutely.

10 Q You testified about the real serious problems that
11 existed in your marriage to Tim, Sr.?

12 A Uh-huh.

13 Q Are you here at this trial with other members of
14 Tim's family?

15 A I am here with my husband and my children -- well, my
16 one son is here right now.

17 Q And you're here with Tim, Sr --

18 A Tim, Sr.

19 Q -- and his wife, Julie?

20 A And Julie, yes.

21 Q And I'm sure that's in some ways difficult, bringing
22 up the past?

23 A It's very difficult.

24 Q Yeah. But are you trying to work through that?

25 A I am. And I think -- I think -- fortunately, I

1 believe that we're doing a pretty good job supporting and
2 loving each other for the person that we love, which is
3 Little Tim.

4 MR. SECOR: Thank you, ma'am. I appreciate it.

5 THE COURT: Ms. Mayes.

6 MS. MAYES: Yes, sir, Your Honor. May it please the
7 Court?

8 THE COURT: Yes.

9 CROSS-EXAMINATION

10 BY MS. MAYES:

11 Q Good afternoon.

12 A Good afternoon.

13 Q So just to get the timeline right, you married
14 Timothy's father, the Defendant's father around 1992?

15 A That would be 1991.

16 Q All right. And then he moved in to live with you and
17 his father around 1992, does that sound right?

18 A That would be correct.

19 Q And then he continued living with you guys up through
20 his high school graduation?

21 A Yes.

22 Q In 2000?

23 A Yes.

24 Q And then, ultimately, you and his father were
25 divorced in 2002?

1 A That would be about the timeline, correct.

2 Q About 17 years ago. Now, part of what you know about
3 the Defendant is that he was abusing both alcohol and
4 drugs during high school, correct?

5 A That would be correct.

6 Q And one of the drugs that he was using in high school
7 was a hallucinogenic, LSD, also known as acid, correct?

8 A I do not recall that.

9 Q He didn't inform of that -- he hasn't informed you of
10 that since?

11 A I was never told about LSD.

12 Q And did you ever say to the Defendant when he was a
13 child that, quote, I don't like you. You are in the way?

14 A I do not recall that.

15 Q That would be a false statement?

16 A I can't say something that I don't remember.

17 Q And you and his father were divorced in 2002, so
18 when's the last time you actually saw the Defendant or had
19 any contact with him?

20 A Well, so you have to imagine like when he would talk
21 to his brothers, you know, it was kind of speaker, so it
22 was probably, I don't know, in the driveway of my house.
23 I can't give you an exact date, but when they would talk
24 to their brother, it would be like hi, Timmy, how's it
25 going or, you know.

1 Q Has it been within the last five years?

2 A Well, it would be before --

3 Q The last ten years?

4 A Before the children --

5 Q Before the --

6 A -- passed.

7 Q -- children were born?

8 A No. It was -- the children were born.

9 Q Before he killed the children?

10 A Yes, before he killed the children.

11 Q So by 2000, 2001, when he was still living at that
12 home with you guys, after the Navy didn't work out, at
13 that point, he advanced onto hard drugs, such as crack
14 cocaine and heroin. Were you aware of that?

15 A Absolutely not.

16 Q Okay.

17 A Absolutely not.

18 Q I know you had alluded earlier during your testimony
19 of some of the legal issues that he had at the time --

20 A Correct.

21 Q -- his arrest and his incarceration. That was drug
22 related, as a result of crack cocaine, are you aware of
23 that?

24 A I did not know the specifics of what drugs that he
25 was on when he was arrested.

1 Q Was he still living with you guys during that
2 timeframe?

3 A Yes.

4 Q One of the things you mentioned during direct
5 testimony was that he didn't seem a fit for the Navy in
6 your eyes. I think you put it that you were surprised
7 because he really had -- he didn't want to follow even
8 simple rules, like cleaning the room?

9 A From a mother's perspective view, yes, I would be
10 surprised that he would do well there considering there's
11 a lot of instructions when you join the service.

12 Q And I think one of the things you said on direct
13 examination was he didn't like rules?

14 A He didn't like his mom's rules, which were my rules
15 of picking up, cleaning, stuff like that.

16 Q Ordinary rules that teenagers would follow?

17 A Yep, any regular teenager, yes.

18 Q And then when he was living in the home with you and
19 his father, you guys did your best as parents to teach
20 right from wrong, correct?

21 A I feel we did, yes.

22 Q And he understood those teachings, correct?

23 A I believe so, yes.

24 Q But he didn't like rules and you kind of saw from the
25 outset that he probably wasn't going to be a good fit for

1 the Navy?

2 A I don't really understand that question. Could you
3 maybe repeat it for me?

4 Q So he lasted in the Navy about six weeks. Does that
5 sound right to you?

6 A That would be correct.

7 Q And I think one of the things you testified to on
8 direct examination was that you were thinking he was let
9 go or that there was a discharge due to a medical
10 condition, right?

11 A I was due to believe that it was because of his ear
12 drum.

13 Q Are you aware that it also included -- the discharge
14 included defective enrollment because of his addiction to
15 alcohol and drugs?

16 A I did not know why Timmy was let go.

17 Q And then he came back and resided with you guys again
18 for a little while until he got into the drugs and the
19 arrest that we've already talked about?

20 A Yes.

21 Q So with all that in mind and your last contact with
22 him having been somewhere around the time of the kids have
23 been born, but it was just brief contact in the driveway,
24 right?

25 A No. Timmy visited me. He brought his children and

1 Amber to my home to see his brothers, and he did stay with
2 us.

3 Q Did you ever travel to their home here in Lexington
4 County to visit?

5 A No, I did not.

6 Q And you were not in contact with the Defendant on the
7 night of August 28th, 2014, correct?

8 A I was not.

9 Q You don't have any personal knowledge regarding the
10 events of that night, correct?

11 A No, I do not know any of those details from that
12 night.

13 MS. MAYES: Thank you.

14 THE COURT: Mr. Secor.

15 MR. SECOR: Just briefly, Your Honor.

16 THE COURT: Sure.

17 REDIRECT EXAMINATION

18 BY MR. SECOR:

19 Q Ms. Williford, you said that you did the best to
20 teach your kids right from wrong when they were growing
21 up, is that right?

22 A Yes.

23 Q And did you mean that for Tyler, Travis and Timmy?

24 A Yes.

25 Q And I don't doubt that you tried to do that, but do

1 you think that the example that was being set in your
2 family and in Timmy's family, was that one that is -- that
3 you would describe as being healthy all the time?

4 A It's not healthy at all times.

5 Q Because there was violence between adults in the
6 family?

7 A There was violence between my husband and I, yes.

8 Q And there was serious substance abuse?

9 A There was definitely substance abuse.

10 MR. SECOR: Thank you, ma'am.

11 THE COURT: You may step down.

12 MR. SECOR: Your Honor, the Defense calls Tim Jones,
13 Sr.

14 TIMOTHY JONES, SR., being
15 first duly sworn, testified as follows:

16 THE CLERK: Have a seat, sir. Once you're seated,
17 state your full name, spelling your last.

18 THE WITNESS: Hello. My name is Tim Jones,
19 J-O-N-E-S.

20 DIRECT EXAMINATION

21 BY MR. SECOR:

22 Q Mr. Jones, you have -- you've testified before in
23 some hearings about this case, right?

24 A Correct.

25 Q And based on that testimony, we're going to begin --

1 we're going to begin your testimony around Timmy's birth,
2 okay, which I understand is not your whole story, but it's
3 the story from Timmy's birth forward. Is that okay with
4 you?

5 A Yes, sir.

6 Q Who was Timmy's mom?

7 A Cindy Granado.

8 Q And how old were you and Cindy when you got together?

9 A We were 16, just about 17.

10 Q And how quickly did y'all get pregnant after you met?

11 A It wasn't very long. It was, you know, just a dating
12 thing.

13 Q Yes, sir. Tell the jury about Cindy when you --

14 A Oh, she was a lovely girl. I mean, I had known her,
15 you know, through a few other people. She was very
16 pretty, you know. Different ethnicity than me, but I sort
17 of liked it.

18 Q Yes, sir. Did she start to change when she was
19 pregnant with Timmy?

20 A Well, of course, you know, you're pregnant, so that
21 and other things, yes.

22 Q Did she start acting bizarrely or just normal --

23 A Well, I mean, I was a kid. I didn't know what a
24 pregnant woman was supposed to act like anyway, you know.

25 Q Okay.

1 A So, you know, she'd get mad and cut up some clothes,
2 I would think it was because she gained some weight.

3 Q Okay. When Timmy was born, how did she interact with
4 Timmy as an infant?

5 A Well, when I was around, seemed to be a good mother,
6 you know. Other people around, you know, they say no.
7 But you also know mother-in-laws and father-in-laws. So
8 I'm the guy that sort of believes, you know, out of a
9 hundred percent, maybe 60/40, 70/30, but, you know, she
10 seemed to be trying real hard.

11 Q Did she seem to have motherly instincts in terms of
12 being drawn to Timmy?

13 A Yeah, I mean, I thought so. But again, you know, I
14 was a young -- I was a kid.

15 Q Yeah, I understand. Did she start -- or did you
16 start having problems in your relationship with Cindy?

17 A Yeah, she was -- she was a bit violent, so, I mean,
18 we had a lot of trouble that way. And then, you know, she
19 did a lot of weird things with Timmy as it got -- you
20 know, after about six months, eight months, a year.

21 Q Okay.

22 A It got a little crazy.

23 Q And what do you mean by weird things?

24 A Oh, you know, wanted to feed him certain foods and
25 actually make him flush himself out. You know, you're

1 going to flush out a one-year-old baby. He's going to
2 flush hisself out, isn't it?

3 Q So what do you mean? What would she give him to
4 flush --

5 A Well, she would give him laxatives and stuff.

6 Q Okay.

7 A And I didn't believe it. My mom actually told me. I
8 was like, no, there's no way. And I asked her and she
9 said, oh, yeah. I said, what, isn't that bad for him?

10 Q Who were you and Cindy living with at this point?

11 A When Timmy was first born, we were living in my
12 mother's basement.

13 Q And where was that?

14 A In Elk Grove Village.

15 Q In Chicago?

16 A No, it's a Northwest suburb about maybe 20 miles out
17 of Chicago, 25 miles out.

18 Q Okay. And did you -- so did you and your mom discuss
19 Cindy's behavior or how she interacted with Tim?

20 A Yeah. Yes, sir.

21 Q And did you and -- your mother's Roberta, right?

22 A Yes, sir.

23 Q And did you and Roberta, did you disagree about how
24 Cindy was treating --

25 A Very much so.

1 Q And did you think it was okay or did you think it was
2 not okay?

3 A Well, I didn't really know, you know. So hindsight
4 is 20/20, I found out later that, you know, what she was
5 saying was true. She was doing all kinds of goofy -- I
6 mean, giving him cold baths and stuff and, you know,
7 yelling at him for crying. He's a baby. You got to pick
8 him up once in a while. I understand don't pick him up
9 too much. We know what that results in.

10 Q Okay. And you were working at the time?

11 A Oh, yes. I've been working since I was 12.

12 Q So Timmy was with Cindy during the day while you were
13 at work?

14 A Yes, sir.

15 Q And how old was Timmy when you and Cindy got pregnant
16 for the second time?

17 A It wasn't long, you know. I got 11 months apart with
18 Carolyn. It was probably the same area. I was a kid.

19 Q Pretty close?

20 A Yeah.

21 MR. SECOR: Your Honor, can the Solicitor and I
22 approach just for a quick moment?

23 THE COURT: Sure.

24 (Whereupon, a bench conference was held in the
25 presence of the jury but out of the hearing of the

1 jury.)

2 Q Mr. Jones, you got pregnant for a second time, okay.

3 And --

4 A Pardon me?

5 Q You and Cindy got pregnant --

6 A With William.

7 Q -- for a second time?

8 A It was William. He was a baby.

9 Q And we're not going to go into details, but that baby
10 was lost, right? William was lost?

11 A Correct.

12 Q Okay. And tell us about Cindy's behavior after
13 William was lost?

14 A Well, she sort of really -- I mean, she was really
15 getting, you know, off the charts. Before pregnant one
16 time, she cut up some clothes because I thought she gained
17 some weight. Now, she cut up everything she owned. She
18 was just -- she would just sit in the corner off by
19 herself and the baby would be crying. I mean, just it was
20 really messed up. So I thought something was wrong.
21 Something's got to be wrong. I'm going to sleep with my
22 eyes open.

23 Q And why are you going to sleep with your eyes open?

24 A Because she was just going off the charts with weird
25 stuff. I mean, somebody takes scissors to cut up some

1 clothes. She's in there with a knife. And she just
2 really wasn't stable. I mean, I was scared.

3 Q When you say that she would -- the baby would be
4 crying, talking about Tim as a baby?

5 A Yes.

6 Q And you're saying that she was not being responsive
7 to him?

8 A No. I started coming home early from work and
9 finding that, you know, this is getting really bizarre.

10 Q And did you do something to try to get her help?

11 A I did.

12 Q What did you do?

13 A I signed her into a mental health facility.

14 Q Where was that?

15 A Lexington Brothers Hospital, Elk Grove Village.

16 Q And how long was she there?

17 A It was like a week. It wasn't long.

18 Q Did you --

19 A I signed her out because she just -- I couldn't take
20 it.

21 Q Okay. And once she got out, did she start
22 disappearing?

23 A Yeah, that was the second phase of this whole thing,
24 was now, you know, trying to work it out, trying to get
25 her help. I mean, literally. She'd just take off, man.

1 And she started taking off with the baby a couple times,
2 you know, got the baby from her sister or something. Then
3 it got progressively worse and she was -- you know, now
4 she's like basically wanting to kidnap the baby and I'm
5 like, come on now. And as we were living together, she
6 left and she had taken everything I owned, you know, what
7 we owned anyway. And drained the waterbed in the floor
8 and she baked me a cake and left it in the living room
9 floor.

10 Q So that's -- when you came home and she was gone for
11 good, that's what you found?

12 A Yes.

13 Q And where was Tim?

14 A With her.

15 Q Did you know where she was or where Tim was?

16 A Had no clue.

17 Q And how long did that go on where you didn't know
18 where she or Tim was?

19 A Well, first, I stayed in the apartment for like two
20 weeks, you know, clean it out, of course, you know. I
21 didn't really want to tell nobody, you know, so I just
22 stayed there to figure out what the hell I was going to
23 do. And then moved back in with my parents, of course,
24 because I couldn't find my wife. Her mom, Maggie, Linda,
25 Martha, Robert, you know, they were all lying to me

1 telling me they hadn't seen her, don't know where the kids
2 are, you know.

3 Q And during that period of time, tell the jury about
4 where you saw a picture of Cindy.

5 A Well, we were working one day with my cousin, Ricky
6 Ames, and he come and told me I got something I got to
7 show you, man. You ain't going to believe this. You
8 know, it's been -- I don't know how many months we've -- I
9 hadn't seen her or Timmy, for that matter. And they had
10 found a picture of her in the back of a nudie magazine for
11 a prostitute, I guess. I mean, she had an ad for
12 nighttime -- what do you call them --

13 Q There was a picture of her?

14 A Yeah, they had, like, a picture of a bunch of
15 girls --

16 Q Yes, sir.

17 A -- you can call for a date and her picture was in
18 there.

19 Q And during that period of time, as far as you knew,
20 Tim was with her?

21 A Correct.

22 Q And how old was he?

23 A I want to say a year and a half, almost two maybe,
24 two and a half. I mean, somewhere in there. I mean, it
25 was sort of a time after all that that you really didn't

1 want to try to remember him.

2 Q Yes, sir. And where's the next time you heard --
3 where you actually knew where Cindy was?

4 A I was working in Chicago and I got a phone call that
5 said we have -- your wife, Cindy Jones, just gave us this
6 number. This is the Fort Lauderdale Police and we picked
7 her up for loitering.

8 Q And what did you ask the police?

9 A I told the police to tell her that I would be gladly
10 willing to bail her out, however, I wanted the kid first.

11 Q And what did the police say to you?

12 A He was a little stumped and I think sounded like he
13 was a little pissed because there was no kid. He said,
14 She ain't got no kid. She didn't say nothing about no
15 kid.

16 Q Okay.

17 A And he said he would call me back.

18 Q So what happened -- did you eventually -- where did
19 you eventually find Tim?

20 A Pardon?

21 Q Where did you eventually find Tim?

22 A Oh, Tim, I found him at Maggie's, the mother's.

23 Q Is that in Chicago?

24 A No, that was in Round Lake, Illinois.

25 Q Okay. And then what steps did you take to try to

1 protect Tim at that point?

2 A Well, I got -- I did bail Cindy, you know, because I
3 had my brother there, you know, half brother. And I told
4 him hey -- he lived in Fort Meyer, so he went and got the
5 bail money. I was like, look, here's a bus ticket as
6 well. Just go ahead and put her on a bus, you know, and
7 send her own back and we'll see what we can do. I'm
8 assuming she's going to tell me where Timmy was, you know.
9 So my brother gets her out and as soon as he gets her out,
10 he calls me up and said, man, she runs like a deer, dude.
11 As soon as she got out, she took off. So I said, you
12 know, there's gotta be -- I've got to do something. I go
13 get an attorney. Might as well get divorced, obviously.
14 I mean, I really didn't want to get divorced, but it was
15 pretty bad. And I did love the girl and I loved my baby.
16 So I get an attorney, we go to court and the Judge says
17 you filed for a divorce. Where is the party, you know,
18 the wife? And I was like, well, I haven't seen her, you
19 know. It's been, like, almost three months now. And he
20 says, well - he gave me custody papers over Timmy for
21 temporary custody and says and then we'll see you back in
22 six months. If this girl does not show up -- and I guess
23 they subpoena her or whatever they do. And if she does
24 not show up, we're going to consider her an abandoned
25 mother. And so they give me a subpoena, I go to Round

1 Lake, of course, and go to the police station and say I've
2 got papers to get my son. You know, I know he's at that
3 house, so on and so forth. They tell me okay, we can go
4 over there with you, but unless -- you know, you can walk
5 up with us, but when you open that door if you cannot see
6 that child, we can't get him. You know, you can't just
7 ambush her house. They're going to hide her, you know,
8 now if they see me, see you. And he said well, that's the
9 law. So as we walk up, they knock on the door and who
10 looks through the blinds? Timmy. And that's how I got
11 him.

12 Q So you eventually -- through the court system, you
13 got custody of him?

14 A Yeah, through the courts. And I had temporary
15 custody, of course. I went back in six months, she didn't
16 show. And I didn't hear from her for 20 something years.
17 After it was all said done. I mean, there was a couple of
18 times she would come back and we'd, you know, but nothing
19 to -- you know what I mean. I knew it was over and she
20 had totally went a different way. And I didn't want no
21 child support, I didn't want nothing. I was just like,
22 you know -- I thought it would be a lot easier to raise
23 him.

24 Q Who becomes at this point in Timmy's life -- and he's
25 about what, three?

1 A Yeah, two and a half, yeah.

2 Q Who becomes sort of his default mother figure at that
3 point in his life?

4 A My mother.

5 Q And that's Roberta Thornsberry, right?

6 A Yes, sir.

7 Q Tell us about Roberta at that point in Roberta's
8 life.

9 A When Timmy was born?

10 Q No, no, no, when she sort of becomes his --

11 A Oh, oh.

12 Q -- default mother figure, what's --

13 A Well, I mean, my mom's my mom. You know, it's like
14 any of you guys' mom. I mean, come on. Your son comes
15 home with a baby and he's the only one got him. I mean,
16 what is your mom going to do? She's going to take over.

17 Q Right.

18 A And what is a teenage boy going to do? Well, I'm
19 almost 20 by now. Still, you know, like, yeah, because I
20 still was young, figured I still had a good life left.
21 And a baby, you know.

22 Q So you're saying she took on a big role in terms
23 of --

24 A Well, she took on a very big role, yes, you know,
25 while I was there. We didn't stay there forever, you know

1 what I mean.

2 Q What was her relationship like with Larry at that
3 point? Did they have problems?

4 A Well, they've had problems all their life. So, yes.

5 Q And I know that you obviously know the problems that
6 Roberta and Larry have had, but the jury is not as
7 familiar with it. But at that point in their life when
8 Timmy is about three, is there still violence in that
9 home?

10 A Oh, yeah. There's still violence in that home today.
11 I mean, not major. She's older, they slowed down. That's
12 their love for each other. It's weird.

13 Q And what types of things happened between them,
14 between Roberta and Larry?

15 A What do you want to know? I mean, as far as
16 violence?

17 Q Yeah.

18 A I mean, they just fight. My mom is a real dominant
19 woman, you know. Of course, my dad, you know, he's my
20 dad.

21 MR. HUBBARD: I'm going to object. Unless it
22 pertains to the Defendant himself being there, I'm not
23 sure there's relevance --

24 THE WITNESS: Well, my son was there when all this
25 was going on.

1 THE COURT: Wait,--

2 Q Timmy lived in that home?

3 A We lived in that home. We lived in that home a few
4 times.

5 THE COURT: To the extent it's relevant, Tim present,
6 Tim is not present.

7 Q Stuff that Tim was exposed to as a child?

8 A Yeah.

9 Q In that home?

10 A True.

11 Q Was there violence?

12 A Off the charts.

13 Q Was there alcoholism?

14 A Off the charts.

15 Q Was there drug use?

16 A Yep. Not no LSD and shit like that, no. No.

17 Q Okay. Now -- hang on just one minute. Was there a
18 girlfriend that you had that your mother one time
19 attacked?

20 A Yeah. Yes.

21 Q And Tim was present for that?

22 A Yes.

23 Q Okay. Tell us about that.

24 A Her name was Marie. I was with her for a while. My
25 wife, Carolyn, knows her. And my mom and her -- my mom

1 don't like anybody with her son. I mean, I'm 56 years old
2 and she still don't like my wife now. I mean, that's just
3 the way my mother is. So this girl disagrees with my mom
4 and, of course, she's staying over there with us because
5 she got kicked out wherever she was living. And next
6 thing you know, she's all -- you know, she's beat up. You
7 know, blacked her eye and slapped her around pretty good.

8 Q And did you try to come to her defense?

9 A I did. As I was leaving, I was, like, yelling at my
10 mom. You know, I was like, you know, why don't you hit
11 somebody who can, you know, maybe hit you back. Man, she
12 smacked me in the nose, made me buckle my knees and I just
13 got in the car and left.

14 Q Was that the first time she had ever hit you?

15 A No, my mom's hit me before, but, I mean, not -- I
16 mean, I did some shit wrong when I was young and my mom
17 whipped my ass.

18 Q Yeah.

19 A It's just the way it was for me anyway. I mean, my
20 mother was -- you know, she definitely wore the pants in
21 the family.

22 Q Yes, sir. Tell us about Timmy growing up. What was
23 he like as a child after he was living with you and
24 Roberta and Larry? He's getting a little bit older, but
25 still a child.

1 A Yeah, I mean, he was -- a child raising a child, I
2 thought he was pretty good, you know. And next thing you
3 know, he's smart as hell.

4 Q Was he outgoing or was he shy?

5 A No, very shy. I babified him too much. I didn't
6 want him to grow up like I did.

7 Q Was he somebody that liked to be around others or was
8 he more of a loner?

9 A No, he was definitely a loner. I mean, he had a few
10 friends, but he had maybe two, three tops. He couldn't
11 have more than three friends because it was like they
12 couldn't give all their attention to each other, I guess.

13 Q Okay. And was he a loud kid or a quiet kid?

14 A He was loud, you know -- I mean, quiet. You know, he
15 could be loud once in a while, but he was pretty sneaky.

16 Q And as a kid when he starts getting into school, is
17 he a kid that cares about school or a kid that --

18 A Oh, man, he's just -- you know, you couldn't be
19 prouder.

20 Q Did you think that he was exceptionally smart?

21 A I did.

22 Q Tell us about the first computer you ever got Tim.

23 A I got it for him for, I don't know, whenever he asked
24 for it because he was just going to be -- I mean, he was
25 just that smart. So I got him -- and I spent like \$2,000

1 on this. And this is back -- you know, quite a ways back,
2 probably about 10 grand now, you know. And he got it, he
3 was all excited. I was down there helping him hook it up.
4 And I don't know nothing about no computer. I took typing
5 in school, failed, you know, so. I go downstairs and he's
6 got this thing taken apart. I mean, piece -- there's
7 pieces everywhere. And I was like, what are you doing?
8 I'm fixing it. I just bought it, how are you fixing it?
9 Well, it needs this and it needs that. I ain't buying you
10 another, man, so I don't know what to tell you. I came
11 down the next morning and it was all put back together.
12 And he was showing me how he made it faster, did this and
13 that, you know.

14 Q The jury has heard from Carolyn already today about
15 that period in your life. I just want to ask you a little
16 bit about it.

17 A Sure.

18 Q Was Timmy jealous of Carolyn and your two new boys?

19 A Timmy was jealous of anybody that had -- you know,
20 with me. And that's where I -- I want to believe
21 everything my son tells me, you know, that's the way you
22 want to be, of course, just like any parent would want,
23 right? But, you know, I know he was jealous and -- you
24 know, so you listen to so much, right? Kids just jealous,
25 so, you know, I think there was a lot of hearsay--

1 Q Okay. During that period of time, you and Carolyn
2 had some serious problems in your marriage. We heard
3 about all that.

4 A Yeah, I was not a really good husband, you know. I
5 probably wasn't much better of a dad at that point because
6 losing my sister, you know.

7 Q Yes, sir.

8 A And I let things sort of get away from me, I guess.

9 Q And there were people in your family that suffered
10 because of the way you were at that time?

11 A Of course.

12 Q And was Timmy around when there was violence between
13 you and Carolyn?

14 A Yes.

15 Q And Tyler and Travis, too?

16 A Yes.

17 Q And on, at least, a couple of occasions, you were
18 arrested for domestic violence charges?

19 A Yeah, I mean, but -- yeah.

20 Q And those resulted in convictions, right, two of them
21 did?

22 A Yeah, I had to take some anger management classes and
23 stuff, you know.

24 Q Yes, sir.

25 A I'm not proud of it.

1 Q Yes, sir.

2 A Then I lost my brother.

3 Q I know.

4 A So it continues.

5 Q I know. And that was Little Larry, right?

6 A Correct. You talk about jealous, those two were
7 jealous over each other. Good God.

8 Q Little Larry and Tim?

9 A Oh, yeah. It was a tug of war.

10 Q And how far apart were the deaths of Elaine and
11 Little Larry?

12 A Seemed like yesterday, but four or five years maybe.

13 Q Not long, right?

14 A No, not long, no.

15 Q And how did their deaths affect your mom?

16 A Killed her. It just -- you know, losing a child is
17 losing a child, man.

18 Q But did she get more out of control?

19 A I mean, of course, you know, because Elaine really --
20 I mean, we watched Elaine die, basically. And I took
21 videotapes of her as she was dying to give to her kids,
22 you know --

23 Q Yes, sir.

24 A -- stuff like that. You know, talk about birthday,
25 you know, birthday and stuff like that. So when you watch

1 something like that happen, it's pretty -- I mean, I don't
2 know how strong everybody is, but it took a toll on us.

3 Q Yes, sir. And around the time that Elaine died was
4 Tim's first car accident, right?

5 A Yes.

6 Q And you've already said that, you know, growing up he
7 was shy and a loner and quiet and worked hard in school?

8 A Yeah.

9 Q Are those things that changed after his car accident?

10 A Everything seemed to change after his car accident.
11 You know, I mean, it was just -- to me -- I mean, he was
12 turning into an adult. He was smart, almost -- well, too
13 smart for his shoes, I used to say, you know. And,
14 unfortunately, I didn't teach him no common sense.

15 Q And you're saying becoming an adult, but he was only
16 15 at the car accident, right?

17 A Yeah, but I mean, hey, I was an adult at 15. I
18 promise you.

19 Q Good point. But at the time, the changes that you
20 saw in Tim, did you think they were because of the car
21 accident?

22 A No. No. And again, you've seen the pictures
23 earlier, right? You seen him in the cast, but you didn't
24 see nothing wrong with his head. I mean, there was a
25 Band-aid up there. You know, only thing -- like I told

1 you, the only thing I can -- is it stayed, his head grew,
2 I mean, because it progressively got worse.

3 Q Okay.

4 A And I didn't really so much, because he was off to
5 school and he used to have hair. And back in the 70s, we
6 really believed in hair, so. But, you know, he didn't --
7 I just didn't see it. And I don't even know what time --
8 I mean, it was just -- I don't know when I really noticed,
9 but there was one day I just looked over and said, what in
10 the hell happened to your head? Man, you get in a wreck
11 or something? And he said, no, that's from the car wreck.
12 Like I said, I don't remember how old he was, but I was --
13 I was amazed. I couldn't believe it.

14 Q So the things that changed about him, you didn't
15 think it was the car accident, you thought it was --

16 A I thought it was adolescence, you know, manhood.

17 Q At that point, going forward in Tim's life, was he
18 somebody that acted his age?

19 A Oh, hell no. Still don't.

20 Q And how does he act relative to his age?

21 A Well, Timmy is 26 going on 16. He just, you know,
22 the mind of a giant, body of a baby.

23 Q And you said that you didn't feel like he had common
24 sense. What -- give us an example of that.

25 A Well, stealing the car. You going to steal a car,

1 right? Who the hell steals a car in the winter with the
2 car is running and there's another car running next to it?
3 You steal this one and the guy just got behind and
4 followed him, called the cops. That's when he went to
5 jail and everybody says it was prison.

6 Q Right. When it comes to stuff that you're good at,
7 work around construction and stuff like that, could he
8 help you when it came to stuff you wanted --

9 A Sure. I taught him -- I mean, he wasn't the best
10 guy, but he does some math. He could lay it out, you
11 know.

12 Q Right. But did you have to instruct him on how to do
13 things?

14 A Well, yeah, I mean, you know, kids don't want to
15 listen to their dad, you know. I had one teenager tell me
16 they were going to put a cap in my ass once. My son.
17 That's a different one, but my son.

18 Q What about his work? Did he start getting jobs? How
19 did that go?

20 A Yes, Timmy, he's a hard-working young man.
21 Everything he does is a hundred percent. I disagree with
22 a lot of folks that says that every goal he set, he made,
23 no.

24 Q Did he keep the same --

25 A Navy Seal, no.

1 Q Did he keep the same job for a long period of time
2 when he was a teenager or did he go from job to job?

3 A No, you know, I mean, I sort of felt like that was
4 the right way to do it anyway. He was a journeyman, you
5 know, he was just feeling it out. He ain't going to work
6 at the grocery store all the time. You know, try a
7 restaurant, you know, or this guy do some shingle humping,
8 stuff like that. Makes you more well-rounded, I think.

9 Q What about the choice to join the Navy, was that a
10 good choice in your mind?

11 A Hell, no.

12 Q Why not?

13 A I know they tried to twist Carolyn up here, but, you
14 know, the boy wasn't physically made for it. Again, what,
15 ten percent of them make it? You know, he weighs a buck
16 and a quarter. I'm like, dude, as soon as they put that
17 log on you, you're done.

18 Q So did you think that his goal of being a Navy Seal
19 was realistic?

20 A I didn't tell him that, but there was no chance.

21 Q So were you surprised when he came home so quick?

22 A That, I was surprised about. I mean, I figured he
23 would make it through, at least, boot camp, shit, you
24 know.

25 Q And when he comes home, what's your relationship

1 like?

2 A Well, he's pissed off, of course. He's really pissed
3 off at me, I guess, probably because I said, you know -- I
4 mean, I basically told him when he went -- matter of fact,
5 there's pictures of us when we went to the baseball game
6 with his little brothers. I'm a White Sox fan. And
7 that's where we gave him his send off. And all I ever
8 asked was like, do you have a backup plan because, you
9 know, what if you don't make it? Oh, no, I'm going to
10 make it. I was like eeh, you know. He kept saying, I'm
11 going to make it. And, of course, I leave there saying
12 better come up with something else because he's not going
13 to make it.

14 Q So you said he didn't have a backup plan?

15 A No.

16 Q Now, what does he start getting involved in once he
17 doesn't make it in the Navy?

18 A Well, then, he comes out, of course, and he's just --
19 you know, he was per se living with me and Carolyn because
20 we're having our issues as it is. He's just in and out,
21 all over the place, you know, hanging with the wrong
22 crowd. And, you know, I mean, it's like you just don't
23 see nothing good coming out of it. Here's a kid that went
24 through his junior year of high school who was going to be
25 anything he wanted, anything he wanted. He was going into

1 physics.

2 Q And did he start getting -- well, you already
3 mentioned the car, but did he --

4 A Yeah, he started hanging with the wrong people and
5 drinking and smoking, you know, doing the shit his dad
6 did, you know.

7 Q Did you see him arguing with law enforcement officers
8 sometimes?

9 A Yeah, and that -- I mean, it was like -- I know
10 you're referring to when he got arrested with the
11 strippers.

12 Q Yes, sir.

13 A You know, sorry, ladies, but as a dad, you know, you
14 don't think it's that big of -- you know, I was like,
15 okay. So when I go, I pick him up and I talk to the
16 officers, of course. And they're you know -- once again,
17 sorry, ladies, but the officer was like look, it's
18 nothing. We're going to slap his hand and let him go.
19 And, you know, I'm like thank you and I'll have a talk
20 with him. And he's -- you know, as they're bringing him
21 out, he starts cussing and yelling at the cops. And I
22 tell him, look, they're letting you go, man. Shut up, you
23 know. What are you doing? You don't know -- I was like,
24 shut the fuck up, okay. Let's get out of here before you
25 go to jail. So, of course, we argue all the way home.

1 And I'm going there with the intention of saying, you
2 know, okay, you go to strip clubs, but don't sit out in
3 the parking lot with -- in the car with alcohol in there.
4 I mean, damn. And, you know, it just turned into a big
5 fight after that.

6 Q He eventually gets locked up, right?

7 A For that one?

8 Q Well, no, I'm sorry, for the cars and the --

9 A Yeah, well, the car thing was -- again, I was a role
10 in that, too. He has my name, Timothy Jones, Jr. Hell, I
11 didn't think nothing about it, man. I did my checkbook in
12 my head for years. So I guess he got a little math from
13 me maybe, but not very good. Because now, all of a
14 sudden, you know, you miss \$20, \$20 bucks, eeh, you know,
15 I must have made a mistake here, \$30 or \$40 here or there.
16 Next thing you know -- what Carolyn was referring to
17 was -- I want to say it was \$2800 to bail his friend out
18 of jail with my checks and my name that he's been writing
19 for, like, a year. You know, and I find out because I
20 start looking, it's like, holy -- you know, just off the
21 charts, you know. At the time, we're trying to buy a
22 house, so they're like well, you've got two options here,
23 either you press charges against him or we press charges
24 against you because somebody -- you know, the bank's
25 gonna -- they want one of you. I didn't have the money

1 because I had already put down on this house. So it was
2 like -- it was a big mess. And Timmy stole this van
3 before -- you know, before this all started, he stole a
4 van at a college party. And it was a van for the
5 University. So he's off with his friend's partying,
6 having a good old time and they get pulled over in this
7 van. Cop pulls him over, checks him out, tells him okay,
8 slow down. Sends him on his merry little way. They
9 hadn't called the van in stolen yet. So that's when he
10 decided, I guess, to get brave when he was back home and
11 takes the car that was in the driveway. Well, again, he
12 took the wife's car, the husband got in his car, followed
13 him, called the police. They picked him up right there.

14 Q So between the cars and the checks and the drugs, he
15 ends up getting about a one-year sentence, is that about
16 right?

17 A Yeah, actually, I think it was like a boot camp, you
18 know, something like that.

19 Q Right. But a one-year sentence, right?

20 A Yeah, yeah, yeah. And so when the -- even before he
21 actually got sentenced, I took his two brothers and went
22 through McHenry County jail, sat in front of them and told
23 them, you know -- and I still believe this to this day,
24 look, you did the crime, you do the time.

25 Q Right.

1 A You know, you give us a call when they're setting you
2 free, you know, we'll pick you up. You know, I told his
3 brothers, say goodbye to your brother.

4 Q And were you there for him -- were you there for Tim
5 when he was released.

6 A Just like I said, yes.

7 Q What was the biggest change in Timmy when you see him
8 when he gets released?

9 A The religion.

10 Q Tell us about it.

11 A Oh, man. Where you want me to begin? Shit. Well,
12 you guys met his priest the other day, didn't you.

13 Q Yeah.

14 A Right. Well, me and that guy, we really -- you know,
15 we clashed right away because Timmy goes and finds this
16 church and he's the pastor. All of a sudden -- you know,
17 I've got his brothers there. I'll still trying to get him
18 back to somewhat of a normal life. I'm like, look, you
19 can fix this. You know, it's not a big deal because
20 you're smart as hell, man. I mean, you shouldn't be here,
21 but. You can't go swimming with them. You can't -- you
22 can't go places -- you can't see any kind of flesh of a
23 woman, you know, bikini or any shit like that. So I was
24 like we'll go at night, you know. No, we can't do that.
25 And I talked to his pastor, I was like, man, what are you

1 teaching my son? Oh, this is the way we believe and this
2 and that. I'm a Baptist. And, I mean, come on, man, this
3 is crazy, you know. So his pastor -- I mean, to me
4 personally, I thought it was a damn cult. And I talked to
5 this guy, and he's changed his whole world because, you
6 know, he pretty much thought he was in a damn cult.

7 Q And was Timmy -- when he gets out, is he still
8 drinking and doing drugs?

9 A No, no. I mean, look, he didn't drink and do drugs
10 before. All this shit happened all because -- you know,
11 because he didn't make it in the military thing. The high
12 school thing, he started hanging -- like I said, in there
13 with a couple bad kids. I think they got him with a
14 little bit of marijuana and maybe a little bit of cocaine.
15 It was never no damn crack or acid or nothing like that.
16 You know, I mean, he did -- he was just so religious now.
17 I mean, it was like I'm trying to get back to my son, you
18 know, go have some fun or something, you know. Not doing
19 drugs or nothing, but just to have fun. And he just could
20 not do nothing but sit there with that Bible. I mean, it
21 was like what are you doing, you know? I mean, you got to
22 spend some time with us. He just went to church and the
23 Bible and that was it. He had to live with me because he
24 was under house arrest for a while. That was a condition.
25 Q And it's around that time that he meets Amber, right?

1 A Yes.

2 Q And how did you feel about their -- them getting
3 married at first?

4 A I didn't like it. I didn't like it one bit. I
5 begged them not to, but I'm also the one that took them.

6 Q Did you think they were too young?

7 A Well, not just -- no, not just too young, but he
8 wasn't in the right place to get married. I didn't know
9 this girl. I mean, I still yet to meet her parents man.
10 I mean, come on.

11 Q Now, what did you -- what was your name to refer
12 Amber and Tim's kids collectively? What did you call
13 them?

14 A What did I call them?

15 Q Yeah.

16 A They're my babies.

17 Q You called them your babies?

18 A Yeah.

19 Q And where was -- where were you and Julie when Merah
20 was born?

21 A I believe we -- we lived down there, excuse me, and
22 then we'd go there.

23 Q And they lived in Pennsylvania?

24 A Yes, sir.

25 Q Okay. And were you the first people to them after

1 Merah was born as far as you know?

2 A Yeah, I'm pretty sure, yeah. I thought maybe I'd
3 meet -- because she's from Pennsylvania. Maybe that's why
4 they moved down there, you know.

5 Q Yes, sir. What about when Eli was born, were you
6 there for that?

7 A You know what, I was there for all them. I mean, in
8 my heart, I was there for all them, so it don't matter.

9 Q But physically, you were there when Eli was born?

10 A Yes.

11 Q And your wife, Julie, was there, too?

12 A Yes.

13 Q And that was in Mississippi, wasn't it?

14 A Yes.

15 Q And what about when Nahtahn was born, were you and
16 Julie there, too?

17 A Yes.

18 Q When Amber and Tim and Merah, Eli and Nahtahn lived
19 in Mississippi, did they come and visit you sometimes?

20 A Every weekend. While Timmy was still going through
21 school. When Timmy was talking to me, of course.

22 Q When you say when Timmy was talking to you, what do
23 you mean?

24 A Well, he was my son, so if I pissed him, you know, I
25 couldn't -- you know, 26 going on 16, you know, I had to

1 treat him like a young little boy. If I didn't give him
2 his damn way, he wouldn't -- he just wouldn't talk to me.
3 He wouldn't see me. You know, I'd go to the house and try
4 to apologize, he still wouldn't -- you know, he just
5 didn't care. He was pretty hard headed.

6 Q Do you remember -- after Nahtahn was born, do you
7 remember if Amber had a miscarriage?

8 A Yes.

9 Q Okay. And do you remember whether or not Tim and
10 Amber named that baby?

11 A They did.

12 Q Tell the jury how that miscarriage affected Tim?

13 A Oh, shit, man. I mean, I was -- you know, of course,
14 we lost William, you know, with Cindy. And when it
15 happened, you know, I mean, William, he was eight months
16 old, so we actually had to do the whole little shindig.
17 And -- I don't mean it like that --

18 Q When you say shindig, do you mean funeral?

19 A Yeah. I mean, it was like a little mock funeral. I
20 mean, again, we were kids.

21 Q Yes, sir.

22 A But I'd always remembered something the doctor told
23 me, you know. And he was damn right on it, too. He was
24 like, you know, sometimes the Lord has a way of taking
25 care of things you can't.

1 Q Yes, sir. And that was something -- did you tell
2 Timmy that trying to make him feel better?

3 A Yes. It didn't help. He was off the charts. I
4 mean, you'd thought he lost his -- me or something, you
5 know.

6 Q And when you say off the charts, are you talking
7 about sad?

8 A Oh, God. I never seen nothing like it. I mean, even
9 my wife was like (shrugs shoulders).

10 Q Have you ever seen him as upset as he was by that?

11 A No, not that, like, no, not like crying. He was just
12 devastated. I mean, personally -- again, I feel terrible
13 for even saying this, but I'm thinking, you know, my God,
14 you know, once again, the Lord has a way of taking care of
15 things that you don't. You don't need more kids. There's
16 even some letter somewhere that Amber had wrote saying,
17 Dad should leave us alone and let us have more kids. Why?
18 He's still in school, man. Stop.

19 Q At this point, how do you feel about Timmy as a
20 father to Merah, Eli and Nahtahn?

21 A I didn't think either one of them were worth --
22 worthy enough to raise the kids. And I told them that.

23 Q Did you think that his religious views were a problem
24 in terms of his parenting?

25 A I did.

1 Q And tell us why.

2 A Well, you know, spare the rod bullshit, that's
3 bullshit. You know, you don't need to be hitting no kid.
4 And that shit didn't happen at my house. And again, Timmy
5 did it once, I gave him shit, I don't see him for six
6 months.

7 Q Did he have the kids celebrate Christmas?

8 A He did for me per se because I pretty much forced it,
9 you know what I mean. There was even times I got pissed
10 off and say you know what, screw it, man. I tried to read
11 The Night Before Christmas and he would just interrupt me
12 and interrupt me, oh, that's a lie. You don't know --
13 that ain't in the Bible. You know, screw it, I ain't
14 going to read it. That happened once.

15 Q So he was -- you felt like everything had to be
16 decided through the lens of the Bible?

17 A Timmy thought he was going to live and breath every
18 page of that damn Bible. And look, like I said, I'm
19 Baptist and I preached to this boy, look, the Bible is a
20 guideline to life. For every ying, there's a yang. You
21 know, you cannot live it, it's impossible. And right now,
22 a modern woman is not going to live with you like that.
23 You can't keep her -- never cut their hair, you know. I
24 mean, why don't you just go and be Amish. I mean, because
25 I talked to my friend and he was like, yeah, you know,

1 only difference is we don't have electric. You know,
2 because he was -- you know, Amber agreed with that shit.
3 I'm like oh, God, man, what's wrong with you? If he loves
4 you, he'll do whatever you want as far as -- if a man
5 loves a woman, let's face it, he's going to follow her to
6 the end of the earth.

7 Q Did you see him combining physical discipline of the
8 kids with preaching to them?

9 A I heard it once and seen it -- well, sort of heard
10 it, seen it at the same time, yeah. He had spanked Merah
11 and I walked in because I heard it, you know, and that
12 wasn't going to happen. As I walk in, he started
13 preaching to her. And I was like -- man, I got really
14 pissed. You going to beat her ass and then you're going
15 to preach to her? That's bullshit. What did she do? I
16 mean, I don't even remember what she done because it
17 didn't matter. I was like, you know, you can't do that.
18 You know, it's just not going to work.

19 Q Yes, sir.

20 A But I mean, Timmy believed in this so hard is because
21 Amber had him believing in it as well. I mean, she was a
22 big part of this. Timmy, you know, he wanted to make her
23 happy. He truly thought she was happy that way. I knew
24 she wasn't. You know, I could see it. I talked to the
25 girl. You know, it was a train wreck.

1 Q Now, Timmy gets a job in South Carolina, right?

2 A Yes.

3 Q And he and Amber and Merah, Eli and Nahtahn move to
4 South Carolina, right?

5 A I moved them here.

6 Q You moved them there?

7 A Yes, me and my wife and my kid.

8 Q Okay. And --

9 A Sorry, didn't mean to move them here.

10 Q And you -- tell us about coming to visit them and
11 trying to help with their home here in South Carolina?

12 A Well, let's start where it starts, you know. Tim
13 comes back from North Korea or something, you know, doing
14 something with school, Mississippi State, because, you
15 know, his accolades are off the charts again. I mean,
16 this kid, anything he wanted. His mind was just so sharp.
17 And man, I said this same shit, too, all his life. I
18 said, man, you know, fine line, man, you're riding the
19 rail, you now, just don't fall off of it. And I was so
20 proud of him, man. It's like he got what he wanted. He
21 got the job at Intel. You know, they're going to give him
22 a little money to move here and so on and so forth. You
23 know, Timmy seemed to be, you know, really going in the
24 right direction, right pace. You know, it was like -- you
25 know, again, smart people are sort of fragile, if you know

1 what I'm saying. And Amber, 360, man. She was just so
2 pissed. I mean, she thought that this was it. He finally
3 got a big Intel job, you know, my life is -- I'm going to
4 get some nannies and, you know, big beautiful home. And
5 I'm like, honey, that's -- you ain't going to be able to
6 do that for a while, but you know what, hey, it is going
7 to happen. It's there, you know. He'll probably start
8 out \$80,000, \$90,000 a year. Before you know it, he'll be
9 whatever he wants. And when she found out he bought that
10 trailer over there, oh, God, you should have seen it. I
11 mean, she was so pissed. And then, of course, they were
12 fighting all the time over it. You know, I'm talking to
13 her saying look, I'm going to come help you, man. You
14 know, I'll come down there. I brought them washer, dryer,
15 stove, refrigerator, I mean, I put in a new toilet, sink.
16 I mean, I was doing everything I could do, you know.
17 Timmy was helping, you know. But Amber just didn't -- you
18 know, I just seen something in her at that time, I knew it
19 was, once again, a train wreck. She just didn't give a
20 shit. She wasn't going to touch nothing. She hated it.
21 And she didn't want to be there.

22 Q But, I mean, the place was in rough shape, was it
23 not?

24 A It was real bad, man, real bad. I mean, I stayed
25 there for a week and I think the day I left, I got it to

1 where, you know, you could, at least, use the bathroom and
2 stuff. But, I mean, it wouldn't take much. I mean, I own
3 a little construction company, you know, it can be done.

4 Q Yeah.

5 A And I had faith in Timmy. He really wanted it. But
6 Timmy, once again, he set that goal thing they're talking
7 about, he gets a little too high. Look, you got to -- you
8 chop your tree down here. You just don't chop the
9 whole -- you got to do a little at a time. And Amber
10 didn't want it. And Timmy loved it. It was almost like
11 watching Green Acres.

12 Q When you and Julie went to their new home and did
13 things around the house to help --

14 A No, not just around, outside, too. I mean, man, a
15 week of hard -- I mean, I felt like I was at boot camp.
16 Clean it up.

17 Q When you left to come home to Mississippi and when
18 you came back to visit again --

19 A Well, when I -- when we were finishing up, I said
20 well, all right -- it was the weirdest little thing
21 because it was just something -- you know, it was simple,
22 man. I mean, there was some garbage over there and I had
23 swept it up and put it into the corner because I couldn't
24 find a dustpan. I told Amber, I said, look -- as we're
25 leaving, I said -- she said, you don't have to do that,

1 I'll do that. Yeah, right. And I sweep it into the
2 corner. I was like, yeah, we'll be back in about two
3 weeks -- I still got my other job, my company to run --
4 and we'll do more, you know. You know, we'll start
5 working on the outside because it was like trees
6 everywhere. And it was real bad because there was a lot
7 of glass and stuff, so I was scared for the kids, so we
8 cleaned out a good section and fenced it off a little bit.
9 And that little pile of dirt -- and the countertops --
10 because I put in a new stove and the countertops, of
11 course, you ever take out a stove, you notice it's got a
12 lot of grease right there and it's just a little gunked
13 up. I was like Amber, clean this up, you know. She was
14 like, I will. And we'll be back in a couple of weeks. I
15 come back in two weeks and that shit is still there and
16 that damn little pile of dirt that I swept in that corner
17 is still there. So at that point, I knew -- you know,
18 that's when me and Julie started talking, you know, what
19 are we going to do? I mean, this is not -- this is ugly.
20 I mean, she's doing nothing. Now, Tim can't work and do
21 his damn job, straight out of college because he's going
22 to have to bust his ass, you know, make sure he's trying
23 to make a name for hisself, and come home and do this,
24 too. You know, she's not -- she don't give a shit. I
25 mean, I'm telling you. I told my wife, I said, she gave

1 up a long time ago, man. When she was at home and she
2 knew she was getting that trailer, she was one pissed
3 woman. And there's nothing worse than a scorned woman.

4 Q But you weren't happy with it as a place for your
5 grandbabies?

6 A I wasn't happy for it for none of them, but, you know
7 what, it could be temporary. It was a beautiful -- you
8 know, Timmy had a good little plan. He was like, you
9 know, he's paying cash for everything. So, you know maybe
10 four or five grand to pay it off. Well, that's a good
11 plan, because you just dump money after money into it, you
12 know, you put five or six grand in anything, you know, you
13 can make it look better.

14 Q Not long after that, their marriage falls apart,
15 right?

16 A Yes.

17 Q And was Timmy devastated by that?

18 A He acted like he wasn't, you know. Once again, here
19 it comes -- again, we see it coming, it's a big shit
20 sandwich coming our way and, you know, these babies are
21 going to be in the middle of it. So it happens. Tim
22 says, she's having an affair. I sort of made a joke, like
23 how in the hell did she have an affair, ain't nobody out
24 there, you know. And there really wasn't. It was like
25 this house and this house next to it. And he was like, it

1 was the neighbor. And I'm thinking well, ain't he a
2 little old? And he's like, no, it was the neighbor's son.
3 I said, you talking about the teenage boy? He said, yeah.
4 And I was like, look, let her take the kids, pay your
5 child support, be the hero every two weeks. That's the
6 best advice I can give you, because, you know, that's a
7 lot of children. And once again, of course, I hate to say
8 it, but I'm like, I told you so, you know, dammit. You
9 can't have so many kids until -- especially with the
10 relationship -- I mean, hell, they met, a week later, they
11 got married. That just don't last anyway. You don't know
12 nobody. But after all the years and Amber had stayed, it
13 seemed like she wanted to be that way. I mean, she just
14 360'd. She did not want -- I mean, she wanted to be able
15 to wear jeans and, you know, show some cleavage. I think
16 that's just the kind, I mean, I talked to her. I love
17 her, don't get me wrong. I'm not trying to bash her in no
18 form, way or fashion. I'm just saying they -- they short
19 of bullshitted each other, you know what I mean. They
20 shouldn't have been together. And so now the kids are the
21 ones tore in the middle. And Timmy is absolutely apeshit
22 for his kids. And this is -- I mean, you can come by my
23 house, I'll show you 50 people that will tell you the
24 exact same thing, you know. And they're all freaked out
25 by it. They just can't believe it because -- you know, he

1 said I want to take my kids. And I'm like, well, get
2 ready. He was like, what you mean? I said, I hope you
3 got a lot of damn money because, man, you can't take a kid
4 from his mom. I was like, Dude, that's like impossible,
5 you know. And it was just like no time, all of a sudden
6 he -- you know what I mean, he's got custody of all three,
7 you know, all three kids. He didn't take them, she was
8 going to give them to him or some shit. I was like, what?
9 I don't think she even filed yet. She literally said, you
10 can, you know, take them. And so now, I'm like, oh, you
11 know. What are you going to do? Well, he takes his
12 brother with him and they go get the kids and bring them
13 back, you know. I'm just -- I mean, you could knock me
14 over with a feather. Because I just don't know no one --
15 I've never met any woman that I've known in my life, other
16 than my grandmother, that didn't fight for her kids.

17 Q Did you keep in touch with Amber after they
18 separated?

19 A Well, I didn't really keep in touch with her after,
20 you know, Timmy got the kids. Well, I guess, she changed
21 her mind for some reason or another -- I don't know, maybe
22 it was about four, because we went and got Gabriel after
23 that. We'll start from there, that way it will be a
24 little easier. We went -- so Timmy got the three, right?
25 And I'm like, okay, you know. He said, I got to go get

1 Gabriel. I was like, Tim, man, that one's in diapers,
2 man. I mean, we just now getting through that, you know.

3 Q Let me just ask you, is this the summer of 2012?

4 A This is the summer they split up, so whenever that
5 was.

6 Q Right.

7 A I mean, I really didn't keep up with years and all
8 that because I was just having too much fun with my kids
9 and shit.

10 Q But Merah, Eli and Nahtahn come to --

11 A Yes, they're all three with me.

12 Q In Mississippi?

13 A Yeah. You know, and Timmy, too, of course. Timmy's
14 there.

15 Q With Julie?

16 A With Julie and our children, yes.

17 Q And the plan is for them to stay there for the summer
18 with you?

19 A Oh, whatever. You know, I'm trying to get Timmy, you
20 might as well quit your job. I own a house next door.
21 You can move over there because, shit, man, you're going
22 to need some help. Three kids is a lot.

23 Q But he's still working in South Carolina?

24 A Right.

25 Q Okay. And during that time, Gabe is in South

1 Carolina?

2 A Yes.

3 Q And how did Gabe wind up coming to Mississippi also
4 for that summer?

5 A Well, I literally argued with Timmy for a day or two,
6 you know, because he was like, I'm going to get Gabriel.
7 And I'm -- don't get me wrong, I'm not trying to hurt the
8 baby. It was like surely to God, she can take care of one
9 damn baby, right, I mean. And, man, why would you take
10 all the responsibility away, son? You know, not to
11 mention, you're going to be working and we got to watch
12 all these babies. Not that we care, but what -- I mean,
13 what the hell are you going to do? You know, I mean, let
14 mom have the baby. He's young. He really needs to be
15 with his mother. And he fought me and said, No, I'm
16 going. You can go or not go. So, all right. So we go
17 out -- I want to say it was a Sunday or Monday, you know,
18 whenever we get, me, our son, Chad, and Timmy. And we
19 pull up to the trailer and, I mean, it's just a wreck. I
20 mean, now what -- the little bit we had fixed, I don't
21 know how in the hell they did what they did. I mean, it
22 was just -- it looked like a damn bomb went off. So I was
23 like, she's living here? And he's like, yeah. Well, we
24 go in there and, sure enough, you got to walk through a
25 little opening here. And as soon as -- I mean, as soon as

1 you like turn the corner, you can't get in for the
2 clothes, the garbage and the shit. And then there's a
3 playpen sitting right there and she's sitting on the couch
4 with a beer in her hand. And I look over there and sort
5 of shaking my head. I walk over to the fridge, the first
6 thing I do. I do it with all the kids, they get pissed at
7 me, but I want to make sure they got food. And I open the
8 door and there's beer sitting there. So I look over and
9 she's like, oh, it's Tim's fault. He don't buy no food,
10 blah, blah, blah, blah, blah. And these guys been
11 separated for a while, so I mean, I was like, look, what
12 ever Amber. I go over there and pick up Gabriel and I
13 hate -- this sounds -- and I'm not making it up. I picked
14 that baby up and I swear it was like I dumped him in water
15 and pulled him up in the air, that's how much piss rolled
16 off him. And I looked at her and I say, you change this
17 fucking baby right now. I'm out of here -- I go out. I
18 couldn't believe it, you know. Timmy's still in love with
19 her, you know. So he's like, you know, but he wants to
20 show he can be whatever the hell I guess she wants him to
21 be or something. I don't know what they were trying to
22 do, but he still loved her. And so I get on the phone
23 right away, of course, I'm talking to my wife. I was
24 like, man, I can't fucking believe this out here. I mean,
25 this is just ridiculous --

1 THE COURT: Salty language, slow it down. You're too
2 salty.

3 A Sorry. So I tell her I can't believe what's going on
4 here. I mean, I never seen a place this dirty. You
5 wouldn't recognize it. And about that time, this little
6 boy comes walking out of the house.

7 Q What do you mean this little boy?

8 A The neighbor boy. I don't know his name.

9 Q Is this --

10 A The one she was having an affair with, because I
11 asked him. I was like, who are you? He's like -- I mean,
12 he's in his sock feet, you know. And he wasn't in the
13 area we walked in, of course. I mean, I walked in the
14 kitchen area and in the living and he wasn't in there, so
15 he had to be in the bedroom or the bathroom or something.
16 He comes out and I asked, you know, who are you a little
17 harder. And he walks up and he's like, you know, I'm the
18 neighbor. I was like, are you the boy screwing around
19 with my daughter-in-law? And he was like, yes sir. And I
20 asked him even how long and he was like, six months.

21 MR. HUBBARD: Your Honor, Your Honor, I think we're
22 getting a little side tracked. Let's get back to --

23 THE WITNESS: This has effected Timmy, man. I'm
24 telling you, he went nuts.

25 THE COURT: Hey, I'll deal with the lawyers. You

1 just answer questions, okay?

2 THE WITNESS: Oh, I'm sorry.

3 THE COURT: This is -- you answer the questions
4 they're asking you. Let's redirect it back to the subject
5 matter at hand, please.

6 MR. SECOR: Yes, sir.

7 Q Rather than going into what people are saying, okay,
8 what I want you to tell the jury is, was there a
9 confrontation between Timmy and this guy that Amber was
10 having -- or was together with at that point?

11 A No. I mean, that's what I -- no.

12 Q And why was that -- why did that surprise you?

13 A I think it would surprise anyone, wouldn't it? You
14 walked in and caught your wife with another guy.

15 Q And then, so did you bring Gabe back to Mississippi?

16 A We did.

17 Q Okay. And that was to be with his siblings for the
18 summertime?

19 A Yes.

20 Q Or, I guess, at that point, it was --

21 A He was to be with us because that baby was in
22 trouble.

23 Q Okay. And shortly after you got back to Mississippi
24 with Gabe, did Amber come to see you in Mississippi?

25 A She did.

1 Q And again --

2 A She decided --

3 Q I'm not going into what people say, but --

4 MR. HUBBARD: Objection to relevance of this.

5 MR. SECOR: It's been testified to.

6 MR. HUBBARD: If the Defendant is not there, what's
7 the relevance?

8 MR. SECOR: It's an event that's been testified to
9 already.

10 MR. HUBBARD: It's --

11 THE COURT: Hang on, Solicitor. We've been going
12 about an hour and ten minutes. Let's take a break, kind
13 of get back on our feet. Y'all step in the jury room.
14 Don't talk about the case.

15 (Whereupon, the jury was excused from the courtroom
16 for a break.)

17 THE COURT: Mr. Secor, what was your question that
18 the Solicitor objected to? What was the objection?

19 MR. SECOR: It was asking about how after Mr. Jones,
20 Sr. brings Gabriel from South Carolina back to Mississippi
21 where Merah, Eli and Nahtahn are at Mr. Jones' house for
22 the summer. I was going to ask him about Amber Kyzer
23 coming to try to get her kids from Mr. Jones, Sr., which
24 is something that Ms. Kyzer testified to, that she drove
25 to Mississippi to get the kids.

1 MR. HUBBARD: I just don't know how that's relevant.
2 How is that relevant to--

3 THE COURT: I don't want to get too in-depth of the
4 custody dispute, but the temporary custody had already
5 been decided at that time, had it not?

6 THE WITNESS: No, sir.

7 MR. SECOR: I'm trying to think.

8 THE COURT: You hush while we are--

9 THE WITNESS: Yes, sir.

10 MR. SECOR: I'll have to check the date of the
11 official custody, but I don't believe by the summer of
12 2012, I don't believe it had been --

13 THE COURT: I thought he had temporary custody
14 already.

15 MR. HUBBARD: He did.

16 THE COURT: And temporary versus permanent is one
17 thing in family court. A temporary order or emergency
18 order of some type had been filed because she had no money
19 to fight it, that's what she said.

20 MR. SECOR: Yes, sir.

21 MR. HUBBARD: Part of my objection is this.
22 Obviously, Amber's not here, so the way this is laid out,
23 she's abandoned her children and then all of a sudden she
24 has a change of heart. She's driving out to Mississippi
25 to get her kids. Well, the Defendant's not there, he's

1 working. So why is this even relevant? The grandfather
2 has the grandchildren, that's great. But why is it the
3 Amber story? How does that have anything to do with their
4 case? It doesn't. I mean, I think it's a sideshow. And
5 Judge, I've let a lot go on and Your Honor understands
6 why --

7 THE COURT: Yeah.

8 MR. HUBBARD: -- and just trying to let it go, but I
9 think it's gone too far.

10 THE COURT: I want to get back to what's going on in
11 South Carolina. I understand she went out there, the
12 kids, I don't remember it being too big of an issue. She
13 was told no.

14 MR. SECOR: Yes, sir. I think it's relevant for Mr.
15 Jones to convey his version of that same event. Because
16 the jury has Ms. Kyzer's version of it and I think that
17 it's important for the jury to know the reasoning why Mr.
18 Jones didn't just relinquish the children to Amber.

19 THE COURT: Oh, I think he's done that.

20 MR. SECOR: Well, I would just -- I mean, I can ask
21 him the question in front of Your Honor so that you --

22 THE COURT: He said, they don't need to be with their
23 parents, I mean, he said that.

24 MR. SECOR: Yes, sir.

25 THE COURT: I think that's very clear that he wasn't

1 on the same page with Amber.

2 MR. SECOR: Yes, sir.

3 THE COURT: Ever.

4 MR. SECOR: Yes, sir.

5 THE COURT: You don't have an issue there?

6 MR. SECOR: No, sir. I would just -- I would just
7 add that what his testimony would be about the actual
8 interaction is that Ms. Kyzer arrived in Mississippi to
9 pick up her four children in a pickup truck without any
10 car seats. And that's what Mr. Jones would testify to.

11 THE COURT: I just don't, leave that alone. Go on to
12 something else. We need to get done before July. If we
13 rehash every single conversation that's not relevant to
14 what he's testifying to, I am sure it happened. The State
15 has got no way to challenge it.

16 MR. SECOR: I understand, but I believe that it's
17 relevant to explain some of Tim, Jr.'s later conduct in
18 terms of not having Ms. Kyzer on the children's school
19 paperwork, reasons for why he may have been concerned for
20 Ms. Kyzer to be involved in the children's lives. I think
21 this is a veniette that shows why.

22 THE COURT: No, moving on. Let's take a break.

23 MR. SECOR: Yes, sir.

24 (Whereupon, a short break was taken.)

25 MR. SECOR: May I, Your Honor?

1 THE COURT: Sure. Go ahead.

2 BY MR. SECOR:

3 Q Mr. Jones, I wanted to ask you outside the presence
4 of the jury when Ms. Kyzer, Amber, came to Mississippi to
5 get the kids?

6 THE COURT: They're coming, so you better talk fast.

7 Q Can you tell the Judge what happened?

8 A When we got the baby?

9 Q No, no, when Amber came to pick up the kids.

10 A She just come in a pickup truck to try to take the
11 kids, a pickup truck.

12 Q Was she with anybody?

13 A Yeah, she was with that little boy --

14 Q -- okay. Did they have any car seats with them?

15 A No.

16 Q And did you -- what did you tell them about whether
17 or not they could take the kids?

18 A Well, I just told her, come on, you know, you guys
19 figure this out. You can't take the kids.

20 Q And that was because --

21 A Timmy had went to a lawyer and he had temporary
22 custody and I was scared for them.

23 THE COURT: If you need to proffer more you can
24 proffer more.

25 MR. SECOR: Yes, sir. Thank you.

1 (Whereupon, the jury came into open court at
2 approximately 3:45 p.m.)

3 THE COURT: All right, Mr. Secor.

4 MR. SECOR: Thank you, sir.

5 CONTINUED DIRECT EXAMINATION

6 BY MR. SECOR:

7 Q Mr. Jones, I want to talk to you about the summer
8 that you had the babies at your house with you and Julie
9 in Mississippi, okay. I just want you to tell the jury,
10 what was that period of time like for you and your family?

11 A Well, I mean, it was -- it was, you know, a great
12 time. We had the kids with us. I taught how Gabriel -- I
13 taught them all how to swim, actually, but I taught
14 Gabriel. He was only six months. He was like a little
15 tadpole. Pretty cute, it was fun.

16 Q And the pool that you had at your house, did you put
17 that in for the babies?

18 A Yes.

19 Q And how -- over the course of that summer, where was
20 Tim?

21 A Timmy was traveling back and forth from South
22 Carolina to Mississippi every weekend.

23 Q And was he still with Intel at that point.

24 A Yes.

25 Q So when would you see him every week?

1 A Well, he'd leave after work Friday, of course, and
2 it's approximately an eight-hour drive. So he'd get there
3 way late in the morning, get up real early, play with the
4 kids for the day. You know, we had lunch, dinner,
5 whatever, swim, just have some fun. He'd go to bed, get
6 up, have breakfast and, you know, lunchtime, he'd head
7 back to South Carolina.

8 Q Were you concerned about him making that trip?

9 A Yeah, I actually -- after I think like a month and a
10 half or so, I told him he's got to go every two weeks.
11 Can you talk to your boss and maybe work something out
12 where you can leave early Friday, you know, late Monday or
13 something where you could make it a little longer. Every
14 two weeks, it wouldn't be so bad.

15 Q Yes, sir. Now, at the end of that summer, I think,
16 the babies went back to live in South Carolina, right?

17 A Yeah. Well, we was hoping he was going to come with
18 us. We had already registered them for school, you know,
19 the whole nine yards, but Timmy wanted them with him.

20 Q Yes, sir.

21 A And they're his kids and I know he loved them. I was
22 just scared for all of them because I knew he was still in
23 love with Amber.

24 Q Now, I want to skip forward about just a few months,
25 from the end of the summer until Christmas 2012.

1 A Yeah.

2 Q Did Timmy and the babies come to Mississippi for that
3 Christmas?

4 A Yes.

5 Q And when they arrived, what was your immediate
6 impression of Timmy at that point?

7 A Something was real wrong with Tim. He was -- it
8 wasn't Timmy. He was pissed off. I mean, he was just --
9 I mean, I could just see it, you know what I mean. He
10 just -- he never told me what he was mad about, but, I
11 mean, I even called my mother and stuff. Because we had
12 set up Christmas dinner at my mom's house. Christmas Eve
13 at my -- or Christmas Eve at my mom's and Christmas at my
14 house. I called my mom because she knows him as well I
15 do, of course, and said, you know, you got to be real
16 careful tonight, you know, Timmy's -- something's wrong.
17 I don't know, he's pissed off. And we go through it and
18 he's just, all night, he's just irritated. And I know
19 what it is, you know, it's the time of the holidays, you
20 with your family, your wife, your loved ones and he ain't
21 got it and it's hurting him. So he's trying to take it
22 out on us.

23 Q Did he leave Mississippi angry?

24 A Very. Yeah. This is -- yeah, it was Christmas at
25 about -- well, actually, day after Christmas, it was about

1 12:30, 1:00 in the morning. Again, we've been dealing
2 with this a day or so now. He's picking at his sister,
3 Jackie. And I tell him, you know, finally, I just say,
4 she's like, Dad, will you tell Timmy to stop? I said,
5 Tim, man, leave her alone already. Go to bed. And he
6 went slap off. He just told me I never loved him. You
7 know, how he couldn't stand me, didn't want to be around
8 me. You know, stick this there, stick that there. You
9 know, he's out of here. He took his kids and -- you know,
10 I've done this with Timmy more than once. This is not
11 something -- like I said, if I made him mad, gone for six
12 months, a year. And I was just sort of upset because not
13 only have I been helping him, you know, been doing
14 everything I can, you know, all of us. And it was like
15 it's just disrespectful. I don't raise my kids to be like
16 that.

17 Q Yes, sir.

18 A And so I said, you know what, you're going to
19 apologize or I'm done. He never apologized.

20 Q When he left, was that the last time you ever saw the
21 babies?

22 A Yep.

23 Q How long had you gone in the past when Timmy was mad
24 at you before one of y'all finally reached out to the
25 other?

1 A Maybe a year at the most.

2 Q Now, after Christmas 2012 when he leaves mad, when's
3 the first time that you talk to him or communicate with
4 him after that?

5 A Couple days before the babies died.

6 Q And what were you talking to him about?

7 A Coming down for a holiday weekend.

8 Q You're talking about coming to Mississippi?

9 A Yes, sir.

10 Q I guess that was Labor Day?

11 A Labor Day.

12 Q And did you reach out and start that communication or
13 did he?

14 A I did.

15 Q Were you --

16 A I called and apologized.

17 Q You apologized to him?

18 A (Witness nods.)

19 Q Were you excited that he was coming?

20 A Oh, yeah, real excited.

21 Q Yeah. Now, your mom and dad -- we call Larry dad,
22 he's not your biological dad --

23 A Yeah, he's my dad. Yeah.

24 Q Yes, sir. Your mom and dad had seen Timmy and the
25 babies before you started talking to Tim?

1 A Yeah, you know, with Timmy, it was all or nothing
2 pretty much. He didn't talk -- like my mom told you the
3 other day, if he wasn't talking to her, he was talking to
4 me, so we always had communication one way or another, you
5 know. I didn't necessarily talk to him -- I mean, I
6 didn't talk to him, but I knew what was going on. You
7 know, he sent back how it was so easy to raise the
8 children. He don't understand how everybody has such a
9 hard time. You know, it was just like a stab at me, you
10 know. Of course, it was like he's full of it. I raised
11 three kids.

12 Q But did your mom and dad's visit with Timmy and the
13 babies in Atlanta, did that play a role in your reacting
14 out to Tim?

15 A It was the reason.

16 Q And why? What did they --

17 A My dad seen something wrong.

18 Q And your dad tell you, I want you to talk to Timmy?

19 A Yes, sir.

20 Q How did you first find out about the babies and --
21 well, the babies being missing?

22 A My mother, you know, because I think he took me off
23 the emergency list and put my mom on it, of course, so
24 they called my mom.

25 Q At the school, you mean?

1 A Yes, sir.

2 Q So you found out from your mom?

3 A Yes.

4 Q And what did you do when you found out from the
5 school that the babies were missing?

6 A I started calling, of course, the police. I called
7 Intel, you know, to see if Timmy had been there and they
8 told me he hadn't been there in the last few days. And I
9 just called the school, you know. I mean, I called
10 everybody I could call. I even asked well, can't we put
11 an Amber alert out? Can't do that because he has custody
12 of the children. That's not considered an Amber alert, I
13 guess.

14 Q Did you eventually start talking with police officers
15 and law enforcement in South Carolina?

16 A Yeah, I had them go to Amber's house -- actually, I
17 think I had Mr. Kennedy go to his house, possibly to
18 Amber's house as well, and police, whoever. I mean, I was
19 doing anything.

20 Q But this is still when you -- it's just that they're
21 missing, right?

22 A Yes.

23 Q Timmy hadn't been arrested.

24 A Timmy had the children, yes.

25 Q And was one of the people that you talked to during

1 that time Investigator Creech from the Lexington County
2 Sheriff's Department?

3 A Yes.

4 Q All right. And when you were talking to him, did you
5 tell him that you were worried that Timmy might have an
6 undiagnosed mental health problem?

7 A Well, I mean, yeah, I was worried he got it from his
8 momma. I seen him going through some crazy -- he was just
9 off the charts, man.

10 Q Yes, sir.

11 A And he scared the hell out of my parents, you know,
12 and it scared the hell out of me.

13 Q How did you find out that Timmy had been arrested in
14 Mississippi?

15 A I was called by the -- I believe Sheriff Crumpton.

16 Q From Smith County, Mississippi?

17 A Yes.

18 Q Somebody from that department?

19 A Yes. I'm pretty sure it was Mr. Crumpton.

20 Q And based on your conversation with him, at that
21 point, did you have any idea that the babies were dead?

22 A No.

23 Q What did they ask of you that first night, which I
24 guess was the --

25 A They told me not to come, but I was already in the

1 car, you know. I was literally in the car and I was
2 heading that way and he said you can't. And I was like,
3 well, I'm coming anyway. And he said, well, you're going
4 to sit out there. You're not coming in.

5 Q Okay. And this is the night that Timmy was arrested?

6 A Yes.

7 Q Okay. Did they ask you to come back the following
8 day?

9 A Yes.

10 Q Okay. Who went with you to Raleigh, Mississippi to
11 meet with law enforcement?

12 A My wife.

13 Q Julie?

14 A Julie.

15 Q When you get to Raleigh, Mississippi, who did you
16 meet with?

17 A With Mr. Crumpton, the Sheriff, of course, the
18 sheriff and a few other folks. I don't remember exactly
19 who all was there.

20 Q And what was your -- what was your impression of what
21 they wanted you to do? What role --

22 A Well, we all sit and talked, you know, because they
23 still had nothing. Well, thought they had nothing. And
24 we just discussed, you know, where would Timmy take the
25 kids. I mean, you know, we discussed a little bit of

1 everything and just tried to see what the hell was going
2 on.

3 Q And did you know that Timmy hadn't given them any
4 information yet?

5 A Well, I know that I had raised all my children to say
6 that -- and I didn't raise my kids to be bad, but I seen a
7 lot of people get hurt from getting arrested. So I told
8 them you never talk to cops. You asked two things, lawyer
9 and my father.

10 Q And so did you assume --

11 A I assumed that's what he had said to them, yes.

12 Q And did you think that you might be able to have an
13 influence over him? You might be able to get him to talk?

14 A Well, yeah, this is a little different circumstances.
15 I didn't care about what he said. I was like, let me in
16 the room, I'll get him to talk.

17 Q Because you wanted to know where the babies were?

18 A Well, yeah.

19 Q Did they bring you into an interview with Timmy on
20 the 7th of September, 2014?

21 A Yes.

22 Q And tell the jury the Tim that you saw when you
23 walked into that room in the Court House in Smith County.

24 A Well, I know Mr. Crumpton and them, you know, from
25 him sweating and stuff, but he was -- I mean, he even

1 asked me when we left do you know that boy, I was like, I
2 don't know who the hell that was. I mean, he was off the
3 charts. I mean, he was just ramping and raving, you know.
4 And it was just -- it wasn't -- it wasn't -- it wasn't my
5 son. I mean, I tried, we tried everything. We tried
6 being nice to him. I tried making him mad, you know, just
7 anything to try to tell us where the kids are because he's
8 talking crazy stuff, like, dropped them off at Wal-Mart,
9 couple seconds later, well, I kicked one out the car while
10 it was moving, you know. I was like, what the hell is
11 wrong with you, man?

12 Q Was he saying things about Cynthia, his mother?

13 A Cynthia's in my head and the only way you can get her
14 out is shoot me. You know, just -- you know, I absolutely
15 thought that was it, you know, he snapped. I didn't feel
16 like it was a good -- good for the kids at that point.

17 Q In terms of you thought they were probably dead?

18 A Yeah, it was pretty high.

19 Q And did anything -- did anything happen during that
20 interview that made you -- that confirmed in your mind
21 that the babies were dead?

22 A Yes.

23 Q What's that?

24 A When we were in there talking about -- the officers
25 were telling me how they pulled him over, of course, and

1 arrested him and they had found a little bit of blood in
2 the car. That's how they said it, a little bit of blood
3 in the car and they weren't sure if it was human or
4 animal. And about three-quarters into this little
5 interview thing we were trying to get him to talk, one
6 guy, I don't know who exactly he was, one guy got mad and
7 jumped up and yelled out, there's a substantial amount of
8 blood in that vehicle, now where the hell are them kids.
9 And I just knew beyond a shadow of a doubt because I was
10 told a little. You know, substantial tells me they're
11 dead.

12 Q Yes, sir. There's been some testimony from some law
13 enforcement officers about that interview you were
14 involved in on the 7th of September, 2014.

15 A Wonderful bunch of fellows.

16 Q Yes, sir. And they told the jury about an incident
17 where Timmy put his hands up to your throat. And I want
18 the jury to hear, what was your impression of how that --

19 A Yeah, I think their impression was a little different
20 than mine because, at that point, like I said, I was
21 trying to make him mad. You know, to see if I could piss
22 him off and he's say something, he's slip up or something,
23 you know, anything. And I get him, of course, he was mad
24 and he ran up to me and said, you know, I could kill you.
25 And I was like, you can't, I love you. It don't matter.

1 You can't kill me. You know, it's okay, whatever it is.
2 Of course, he just moved his hands toward my throat. He
3 never even touched me. And then, he pulled away and
4 continued crying and just going crazy.

5 Q Yes, sir.

6 A But I tried, man, I tried so hard.

7 Q Yeah. I think the officers agree that you did try
8 hard. And you came back the next day because they asked
9 you to, correct?

10 A Yes.

11 Q And I think that they didn't bring you actually into
12 that interview, but they asked you to talk to Timmy at the
13 end of it, is that right?

14 A Well, I mean -- and I understand what Mr. Creech and
15 the FBI fellow was saying, but it wasn't really explained
16 to us quite that way. We were all sitting at, like, a big
17 round table, you know, and trying to come up with ways to
18 make this boy talk, you know. Or if he did do something,
19 which I figured at this point, he has, you know, where the
20 children are at and so on and so forth. So I guess you'd
21 call it brainstorming, you know, know this, try that, we
22 got the pictures, we try that. It was like if that don't
23 work, you know, if he don't tell you nothing, then I can
24 go in and put on some more, you know. But, obviously,
25 they got what they wanted. But, I mean, I felt like they

1 were involved in this, so it was a little -- I don't want
2 to call it misleading, just, you know, sort of
3 heartbreaking a little bit because I thought I was trying
4 to help and they sort of made it like they didn't need me
5 at all, which, they go to school for that, of course. I
6 just wanted my babies.

7 Q Were you trying to help them in any way that you
8 possibly could?

9 A Yes.

10 Q And do you have any animosity about those officers?

11 A No, no, no, not at all. Not at all.

12 Q Are you grateful to them?

13 A Very, very grateful to all of them.

14 Q And when you talked to Timmy after he was interviewed
15 on the 8th, that's when he was interviewed by Detective
16 Creech and Special Agent Mackey, did you go -- or did they
17 ask you to go in and have a conversation with Tim about
18 going to find the babies remains?

19 A Yes, they did. And, of course, when I went in there
20 because, you know, we had discussed it, whatever happens,
21 they were going to let me spend a few minutes with him,
22 you know, just to let him know I love him and hopefully
23 things were going to be okay. And they don't know where
24 the babies are. And I told him, you know, please just
25 show them, man. I'll go with you, whatever I have to do.

1 Q So you offered to go with him to find the babies
2 remains?

3 A Yeah, I told Timmy I'd go with him if that's what it
4 took.

5 Q And did he want you to go with him?

6 A No. He said he didn't want me to, he said, but I'll
7 tell them. I'll show them.

8 MR. SECOR: Just a moment, Your Honor.

9 May I approach, Your Honor.

10 THE COURT: You may.

11 Q Mr. Jones, I'm just going to show you what's been
12 marked for identification purposes Defense Exhibit 243,
13 252, 251, 253, and 259. Just tell me if you recognize
14 those?

15 A Yes, I recognize them.

16 Q And are they photographs, family photographs?

17 A Yes, sir.

18 MR. SECOR: Your Honor, I'd offer these exhibits into
19 evidence and permission to publish them so Mr. Jones can
20 describe them.

21 THE COURT: Those are -- we discussed at sidebar,
22 that's a representative sample of some of the family
23 events that were had in the Jones family involving Mr.
24 Jones and young Mr. Jones.

25 MR. SECOR: Yes, sir.

1 THE COURT: Make sure Joy has the numbers that are
2 now in.

3 MR. SECOR: Yes, sir.

4 THE COURT: And they were subject to an objection on
5 relevance.

6 (Whereupon, Defendant's Exhibit numbers 253, 251,
7 252, 243, and 259 were admitted into evidence.)

8 (Whereupon, Defendant's Exhibit 260 and 261 were
9 marked for identification only.)

10 Q Mr. Jones, if you would, tell the jury who's in that
11 picture?

12 A Merah, Eli and Nahtahn. It was Fourth of July,
13 obviously.

14 Q Is this at your house in Mississippi?

15 A Yes -- oh, that's my parents' house.

16 Q Your parents house, okay. That was 243.

17 A Me and Timmy.

18 Q And when do you think that was approximately? Is
19 that when the babies lived with you?

20 A Yeah, this is when he was -- the babies were with us
21 and he was traveling back and forth, I believe.

22 Q This is 251.

23 A That's the babies in the swimming pool.

24 Q And who else is in that picture?

25 A Up top is me and my two sons, to the left is Travis,

1 to the right is Tyler. Down one row is Jackie holding my
2 niece's baby -- my cousin's baby, sorry. That's Julie and
3 Timmy and Tahn and, of course, Merah and Eli.

4 Q Is that you think summer of 2012 when they lived with
5 you?

6 A Yes. Yes.

7 Q What about 253?

8 A Yeah, this is Merah, Eli and Nahtahn outside at a
9 cookout, obviously, of course, say grace.

10 Q Is that something that they did on their own?

11 A Yes, they did.

12 Q And the last one I want to show you is 259. Do you
13 remember when that was taken?

14 A Yeah, again, that's -- you can see his tags on his
15 pants, matter of fact, from his job in -- that's when he
16 was working at -- you know, traveling back and forth.

17 Q Do you know who else is in that picture?

18 A Merah.

19 Q Is that Nahtahn?

20 A And Nahtahn. He sort of blended in there a little
21 bit. I didn't see him.

22 MR. SECOR: May I have just a moment, Your Honor?

23 THE COURT: Yes, you may.

24 Q Mr. Jones, the Timmy that you know now, that you've
25 spoken to since his arrest, since the babies were killed,

1 is this a different Tim than you knew before?

2 A This is the Tim that I was scared I was going to see
3 one day. I mean, he's got some relatives and his mother,
4 unfortunately, they're not right, you know. And I seen
5 his mother go through it. I seen her brothers, Eddie,
6 Chris, Arthur and Domingo killed his damn self. I mean,
7 it's unfortunate. It's just bad DNA, I guess. It just --
8 I -- he's sick, man. That's all there is to it. That's
9 all I can really -- I mean he's -- Cindy has -- and you've
10 seen the pictures of her and it's just the look. I just
11 don't know how to explain to you folks. I seen it when I
12 was a young man and, hell, I seen it come again. You
13 know, it's a nightmare.

14 Q If you'd ever thought that the babies were in danger
15 --

16 A Come on. There ain't no way I would let anybody
17 touch them babies, you know. And I -- I could have talked
18 to him that day and I didn't because my son would never do
19 such a thing.

20 Q Yes, sir.

21 A But the woman I knew as Cindy and then -- you know,
22 yes. I mean, I don't know how to explain it, but I guess
23 you have to sort of live it and know it and see it. I
24 mean, that's all I can tell you folks. It's real sad.

25 MR. SECOR: Yes, sir. Thank you, Mr. Jones.

1 THE WITNESS: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. HUBBARD:

4 Q Mr. Jones, you and I have met a few times, haven't
5 we?

6 A Yes, sir.

7 Q I think back September 29th of 2017, you and your
8 wife, Julie, drove and sat in my office?

9 A Yes, sir.

10 Q The other prosecutor, Suzanne Mayes, Shawn Graham?

11 A Yes, sir.

12 Q Adam Creech was there?

13 A Yeah, there was a bunch of folks, yes.

14 Q Again, this year, January 21st, you let us into your
15 house?

16 A Of course.

17 Q We sat down at your dining room table and we talked?

18 A Yes, sir.

19 Q And this past March, you came back down to South
20 Carolina. We had some hearings and you and I got to talk
21 again?

22 A Uh-huh. Yeah, you got me.

23 Q During all these discussions, we talked about who
24 your son was growing up, what you gave to him growing up,
25 what you did as a father growing up, right?

1 A Yes, sir.

2 Q Now, you had mentioned his mom, Cindy, having mental
3 health issues?

4 A Yeah.

5 Q But you also said when he was growing up, he had no
6 memory of her whatsoever, right?

7 A Well, he obviously had a memory of her. I mean, I
8 never said nothing bad about her. I didn't bring it up
9 because she was a sick lady. And I always brought him
10 around his family so he would know that I wasn't, you
11 know, bashing his mother.

12 Q But he had no memories of all those bad things you've
13 talked about --

14 A I don't see how he could have. I mean, he was two
15 and a half. I don't remember nothing from two and a half,
16 do you?

17 Q That's what you told us?

18 A Right.

19 Q All those things that Cindy was doing that you
20 couldn't understand, those things that were just way off
21 the chart --

22 A Right.

23 Q -- cutting up clothes, hiding in the closet --

24 A Scaring the hell out of me.

25 Q Picking all the leaves off the tree out in the front

1 yard?

2 A Man, that was -- yeah.

3 Q He had no memories of those things?

4 A No.

5 Q He was just too young?

6 A No.

7 Q That's a blessing?

8 A I thought.

9 Q You said the whole time he was growing up, because of
10 what you saw in Cindy, you wanted to make sure you didn't
11 see it in your boy?

12 A Yes.

13 Q You always looked for it?

14 A I did.

15 Q Despite all the chaos that's been described about
16 your family, you loved your son?

17 A Still do, always will.

18 Q Absolutely?

19 A A hundred percent.

20 Q And as he grew up -- or as a little boy, you noticed
21 he was well behaved?

22 A As a teenager, I thought so, yeah. As a man now, I
23 probably would do differently if that's what you're asking
24 me.

25 Q He wasn't a bad kid?

1 A No, no, no.

2 Q He worked hard at school?

3 A Yes.

4 Q And your son loved pleasing you with those good
5 grades?

6 A Yeah, I mean, yes.

7 Q You were proud of him?

8 A Hell, yeah.

9 Q And you let him know you were proud of him?

10 A I did.

11 Q You weren't one of those fathers that would just kind
12 of keep that to yourself. You always let him know you
13 loved --

14 A I don't think there's a parent who wouldn't.

15 Q Well, there's some out there.

16 A I don't know none.

17 Q But you're not one of them?

18 A No.

19 Q So your son grew up not with a cold distant father,
20 but you'd tell him I love you?

21 A Still do to this day.

22 Q Absolutely. And you always said I'm proud of you?

23 A Yes.

24 Q And I think you went so far as to say you kind of
25 overindulged and spoiled him because of what he had missed

1 with a mom, you tried to make up for it?

2 A You could say that, but I do that with all the kids.
3 I give them anything not to cry.

4 Q You're the softie?

5 A Pretty much.

6 Q And when he went through school, you said he was so
7 bright, you mentioned going to --

8 A Fermilab.

9 Q Is it Fermilab?

10 A Yes, it's called Fermilab in Batavia, Illinois.

11 Q What is that?

12 A It's a super conductor place where they got some kind
13 of magnets or something they run around, plus atoms, stuff
14 we don't see, I guess.

15 Q And he was in eighth grade?

16 A Yes, eighth grade, freshman, something, yeah.

17 Q You had to be hand selected for that, right?

18 A Yeah, very few kids in the State went there.

19 Q I think you described him as being like Sheldon off
20 of Big Bang Theory?

21 A Yeah, Sheldon, Einstein-type.

22 Q But he wasn't just a geeky kid, he actually tried to
23 participate in school activities. Wrestling?

24 A He tried wrestling. He did gymnastics.

25 Q Gymnastics.

1 A He liked bowling. He hated football, baseball, you
2 know, all the good stuff.

3 Q But when he had an event, you'd go?

4 A Of course.

5 Q You weren't one of those parents that were a no-show
6 so your son's looking out in the bleachers and dad's not
7 there?

8 A No.

9 Q He could always see you?

10 A Yes.

11 Q You're always there?

12 A Yes.

13 Q Bottom line --

14 A Well, don't get me wrong, I might have missed a few
15 because of work or something --

16 Q Sure.

17 A -- but very, very, very rare.

18 Q But if you did, it wasn't because you didn't want to
19 be there?

20 A Had to be a hell of a reason, yeah.

21 Q During that time, you weren't seeing Cindy in your
22 son at all?

23 A No. I mean, he had the family's resemblance. They
24 all sort of had the same --

25 Q Sure.

1 A -- beautiful skin, you know, didn't have to deal with
2 my stuff.

3 Q Would you say even as he's growing, certainly, when
4 he's getting in his teens, he started pushing back,
5 challenging you?

6 A He started doing what you supposed to do trying to
7 turn into a man, yeah.

8 Q Young men sometimes do that. They sharpen themselves
9 on their dad?

10 A Well, I mean, that's what we're here for, right.

11 Q You didn't see anything unusual?

12 A I mean, my son was always on the edge. You can ask
13 anybody that knows me, I always said he is so smart, he
14 scares the hell out of me because it's -- you know, I did
15 research on it, you know, Einsteins and stuff, these guys
16 flip out. They're riding a rail. There's a fine line
17 between brilliance and insanity.

18 Q You were seeing insanity --

19 A No.

20 Q -- you were seeing brilliance?

21 A I was seeing no insanity, a lot of brilliance and
22 then, of course, my son. You know, like -- I don't know
23 --

24 Q You saw a teenager?

25 A Yeah, he wasn't -- you know, he wasn't Detective

1 Creech or, you know, or a lawyer. I mean, he was still a
2 little geeky, you know, sort of like a video game freak.
3 But he's my baby, I wasn't going to let nobody bother him,
4 of course.

5 Q By the time he got in his mid-teens, 15, he got in
6 that car wreck?

7 A Yes, that was with his family, yes.

8 Q And we've heard, there was some drinking involved?

9 A From what I understand now, I mean, I don't know if
10 any of them had a tox test or anything like that, but the
11 boy that was driving was Robert's brother, Rudy, it was
12 his son that was driving and Robert's son, Roger, Jr., was
13 in the passenger seat and Timmy was in the back seat. And
14 they were doing something and I don't know -- I mean,
15 there was a lot of stories told, you know. I never got
16 the true truth, but it was supposed possibly drinking and
17 marijuana, stuff like that, and they hit a tree.

18 Q You remember telling us he had the head injury, but
19 the big injury appeared to be the broken leg?

20 A Yeah. I mean, snapped his leg pretty good. And then
21 he hit the back of the seat, obviously, with his head. He
22 had a little Band-aid.

23 Q Now, we've heard that he spent a week in the
24 hospital-

25 A No, no.

1 Q -- but I think your memory was he spent a night?

2 A Yeah, there wasn't no week in the hospital. Yeah,
3 maybe a day or two for his leg, but no, no.

4 Q And it's not that you --

5 A They ran tests -- they ran tests, of course, you
6 know, every type. He seemed okay.

7 Q Everything appeared okay at the time?

8 A Right.

9 Q Everything that followed, he was still just being an
10 adolescent?

11 A Yeah, I mean, he was -- he was starting to hang
12 around with some kids that I didn't care for much. And
13 then, of course, you know where that leads. You
14 understand. You don't want to tell them not to because
15 you push them harder to it. That's what I always thought
16 anyway. That's the way I felt, so I tried to treat him
17 with kid gloves again.

18 Q When you were asked if you saw any change, you
19 remember telling Dr. Frierson that you didn't see any
20 personality or behavior changes after that wreck?

21 A As far as?

22 Q Dr. Frierson?

23 A As far as what?

24 Q Personality or behavior changes in your son after the
25 wreck?

1 A Other than turning into a young man. I mean, it's
2 sort of hard for anyone to say because he's 14 and, you
3 know, 14 and 19, man, a whole lot of shit changes, you
4 know.

5 Q Sure. Sure. He had already started experimenting
6 with marijuana, drugs and alcohol, experimenting?

7 A If he did, it was unbeknownst to me. Yeah, but, I
8 mean--

9 Q I think you even made a statement one time that any
10 talk about your son drinking heavily during high school
11 and being drunk all the time, that's an exaggeration
12 coming from your son?

13 A Damn right. I just wanted to know where I was, like,
14 oh, wait, whoa, whoa. I mean, it was actually him that
15 said it. I was like, I don't remember that. If you were
16 doing it, it wasn't here.

17 Q Yeah. So your son exaggerated that?

18 A I'm hoping so, you know.

19 Q Well, you didn't see it?

20 A Well, I did not.

21 Q And listen, you've admitted that you had your issues,
22 but you were watching to make sure he didn't have your
23 issues, too?

24 A Of course. I didn't want him to be like me. He's
25 too smart.

1 Q You wanted good for him?

2 A I think we all do.

3 Q As he went through high school, you kind of dealt
4 with these changes were going on?

5 A Correct.

6 Q Just like every parent does?

7 A Exactly.

8 Q But you never saw him being out of control in high
9 school?

10 A No, sir. No. I mean, he got in a little trouble,
11 like I said, a little marijuana or something once, but
12 this is all what's leading to this Navy thing.

13 Q Well, as far as how he acted before he went in the
14 Navy, your thought was that it was normal for the age he
15 was and for the times he lived in?

16 A Yeah. I mean, we'd have a father/son argument here
17 and there, but nothing I didn't think out of the ordinary.

18 Q And you didn't think there's any -- you even
19 described maybe he did less than a lot of the other kids
20 his age?

21 A As far as?

22 Q Alcohol, drugs?

23 A Well, I know he would have to because he was -- he
24 was a geeky kid, I mean.

25 Q He did good in school?

1 A That, too. You don't see a whole lot of potheads
2 going to Fermilab.

3 Q Even after the wreck, he was doing good in school?

4 A Well, again, like I said, it all started, that
5 five-year span there just got, you know.

6 Q Through all this time, through his upbringing, you
7 always supported him?

8 A Yes, sir.

9 Q You always told him you loved him?

10 A I do.

11 Q And as he became a man, you felt certain that you had
12 instilled in him what every man should know, right from
13 wrong?

14 A Yes.

15 Q No matter what you had gone through, you made your
16 son know that?

17 A Yep, all of them.

18 Q All your kids?

19 A Yes, sir.

20 Q You talk about he tried to go in the Navy. You knew
21 that wasn't going to work right out of the gate?

22 A He didn't have the physique. I mean, it just wasn't
23 there. You know, the heart, you know, the mind do
24 anything he wants, but there was just no way. I would
25 have been absolutely amazed.

1 Q You never saw that athleticism or the physical side
2 in your son --

3 A Not to be a Navy Seal. I mean, he was a pretty
4 gymnast. Of course, you know, my thoughts was please, you
5 know, maybe he will. He's surprised me with other things.
6 But I didn't -- I never told him, of course.

7 Q You supported him?

8 A Of course. I went with it.

9 Q But isn't it true you also had some questions, just
10 like Carolyn had, about could he take orders from people
11 without finally just saying, you know, I've had it?

12 A Sir, all my kids are like that. I tell them the
13 straight truth. If you can't live by rules, how you going
14 to live by laws.

15 Q So he knew that growing up?

16 A They all did, yeah.

17 Q Then he gets in trouble and makes it into a boot
18 camp. That was a good thing for him?

19 A Yes, it was.

20 Q It started turning him around?

21 A Well, but, also, that's when I started worrying
22 because that was the same age as his mother sort of went
23 off the edge. So yes, you know.

24 Q For you, with him, your concern was his religious
25 persuasion? Very different from yours?

1 A Well, that was after jail. I mean, yeah.

2 Q But it happened during jail, didn't it?

3 A I guess in.

4 Q Isn't that where he got introduced to it?

5 A In jail, yeah. But, you know, as a kid, he was -- my
6 grandparents were, you know, really big in church and, you
7 know, I went sometimes. Lord knows I should go more. But
8 that -- that seemed like a cult. You know, like I said,
9 it's something you can't live and it gets too much for any
10 -- for one, the woman and her child. I mean, you can't
11 live like that.

12 Q Sure. It was hard, but he chose it?

13 A Yeah, he chose it. And again, starting to think, my
14 God, it's Cindy, oh, Lord.

15 Q Well, you recall talking to us. We never -- Cindy
16 was never in the picture even then, right? Cindy never
17 did that?

18 A What?

19 Q Cindy was never Pentecostal and speaking in tongues?

20 A No, she was a devil worshiper, that's why she pulled
21 all the leaves off the trees and she shaved all her hair
22 off and buried and all that. She believed in Satanism,
23 that's what her father, her real father, Domingo, I guess
24 the original.

25 Q Okay. So now -- but Tim, he went to a church with

1 people who believed just like him?

2 A Well, I don't know. They --

3 Q For better --

4 A -- were pretty weird.

5 Q It wasn't just your son doing this. There was a
6 community of people --

7 A There was about four or five of them. I mean, it
8 wasn't a big church. There wasn't many of them. I mean,
9 there was -- there wasn't this many people.

10 Q But you know there's churches all over --

11 A Yeah, and that's why I told --

12 Q -- that accept this?

13 A -- him to get in a church that makes some sense.

14 Q Bottom line is, though, he started turning his life
15 around?

16 A Well, yeah and no. I mean, yeah. Yeah, he was doing
17 the right thing, but it was too weird that he was going
18 that hard.

19 Q Listen, that wasn't all of Tim at that part in his
20 life. He started looking at college. He started going to
21 school?

22 A Yeah, I mean, that's the first thing -- actually,
23 when he came out, that's the first thing he wanted to do
24 was go back to college.

25 Q You son was going to do what you did, pull himself

1 out of what he came from and make himself better. And he
2 was working on that?

3 A Well, he didn't really have to pull himself out -- I
4 mean, are you saying like because he got in trouble, pull
5 himself out of it?

6 Q Uh-huh.

7 A Yeah. Because I grew up in the ghettos of Chicago,
8 which is a little different pulling yourself out of that.

9 Q He got himself in trouble and he's getting his life
10 back together?

11 A Well, I forced him to do that because, once again, I
12 took them to see him in jail. Call me when you get out
13 because I don't believe in -- you know, if you do it, you
14 do it. You earn it, you learn it.

15 Q But he started going to school trying to make a
16 better life for himself, right?

17 A Well, no, because before that, he decided he was
18 going to get married to Amber.

19 Q He was in school already when he met her?

20 A He was doing a part time little thing in school, but
21 he was working as well, yes.

22 Q Meets her?

23 A Uh-huh.

24 Q He's young, she's young?

25 A Uh-huh.

1 Q They get married way too soon?

2 A Yeah.

3 Q That sounds familiar, doesn't it?

4 A Yes, it does, don't it.

5 Q In fact, a lot of ways, he's a lot less like Cindy
6 and a lot more like his dad?

7 A Not really. I only got married because she was
8 pregnant. I wouldn't have married her any other reason.
9 He married her just to sleep with her. That's sort of
10 nutty, isn't it?

11 Q But it ends up being the same thing?

12 A No, I think he's crazy. You don't -- like I told
13 him, if you bought a new car -- I mean, I hate to be mean
14 and cruel, but wouldn't you test it? You've known this
15 girl a couple days and you want to marry her because you
16 want to make love to her or something. I mean, what's
17 wrong with you? I mean, date her for a while, see if you
18 like her. You know, of course, his religion thing was so
19 hard, once again, you think oh, Lord, here we go.

20 Q He believed she was the one?

21 A He did. And for a long time, I was happy for them.
22 I mean, I would still be happy for them today.

23 Q He was doing what his momma was incapable of doing,
24 he was changing his life, going to school, making
25 something better of himself.

1 A Yeah, in that sense, yes.

2 Q By the time his mother was committed, it wasn't that
3 she just was bad with kids, it's almost like she didn't
4 even know she was handling the child. It was that bad,
5 right?

6 A A good example, Timmy got in touch with her once --
7 when we got in touch with her, he said, this is your son.
8 And she says, which one? So yeah.

9 Q You never saw him that bad?

10 A I never saw him that bad what you're trying to think
11 I want to see, but did I see him in a whole different
12 Timmy. Of course, his religious thing was off the charts
13 weird. I thought he was damn crazy. Why would you get --
14 I mean, and then I thought Amber was even crazier for
15 staying with him. But yeah, I mean, in one sense, he did
16 great. He was doing the right thing and I understood it.
17 It was great. But what's this thing to the right here,
18 this religion chain, man, it's just -- I couldn't believe
19 it. It was just -- it was still what I'm seeing now, it
20 was coming. I mean, I knew it. I hated it, but it was
21 coming. I mean, Timmy was losing his damn mind, I guess.

22 Q You remember talking to us and even then, you were
23 telling us that the first time you saw Cindy in your son
24 was after he was sitting in prison?

25 A Yeah. I mean, I always see him in there, of course,

1 but I'm just saying that person I was always terrified
2 that was coming back, yeah.

3 Q That was your fear?

4 A And I see him now, too.

5 Q That was your fear?

6 A It is. And it came true, didn't it?

7 Q You believed that Amber, they got married. Ends up,
8 eventually, they move back to Mississippi?

9 A Uh-huh.

10 Q Goes to Itawamba Community College?

11 A Yep.

12 Q Making 4-0's?

13 A Yep.

14 Q Providing for her. They start having kids right
15 away?

16 A Yep.

17 Q Transfers to Mississippi State?

18 A Uh-huh.

19 Q Graduates in the top one percent of his class, high
20 honors, highest --

21 A Yeah, man, you couldn't look for a prouder parent.
22 There's no doubt about that.

23 Q And he did it --

24 A But I was just so worried about him, you know, I
25 didn't believe this is real and he's still going. I

1 figured in the beginning it was going to be a phase. And
2 it didn't, it just continued and the religious thing still
3 continues today.

4 Q But you keep focusing on that, but what's happening
5 at the same time, he's raising a family, he's working and
6 he's making better grades than kids who are spoon fed by
7 their parents in school? Your son's doing something.

8 A Imagine if he didn't have the dent.

9 Q What's that?

10 A Imagine if he didn't have the dent in his head how
11 much more he could have been.

12 Q Well, it never showed up in his schoolwork, did it?

13 A No, and it still don't, that I know of anyway, it's
14 been a long time.

15 Q By the time he's in Mississippi State, he's got three
16 kids. He's got Merah, he's got Elias and Nahtahn, right?

17 A Yeah.

18 Q He's got a wife that stays at home working -- her
19 hands are full. No education for her?

20 A Her choice.

21 Q She -- I think you told us when he met her, you
22 thought she might even be homeless at the time?

23 A She was homeless.

24 Q She really, really had nothing to fall back on, did
25 she?

1 A I never met not a family member from her, not a
2 parent.

3 Q Well, that's right.

4 A And they're alive, so I mean, I don't know what went
5 on on that end, I don't know.

6 Q But she saw something in your son, too. Here's a
7 bright, bright guy that sees something in her?

8 A You don't want to ask me that question.

9 Q No?

10 A You don't want to ask me that question. She didn't
11 -- she was just looking for somebody to take -- you know,
12 to help her because she was in a bad spot. I don't think
13 she looked at my son as love in the beginning, no, I do
14 not.

15 Q Nine years of marriage?

16 A I do not. Looking at the beginning when they met, I
17 was there and it wasn't that.

18 Q So that was a case of Tim loved Amber and Amber
19 didn't love him?

20 A No, I'm not saying that. I'm just saying that she
21 was looking to hook onto anybody because she was homeless,
22 literally.

23 Q Not that she finally had the attention of somebody
24 who was brilliant, going places and it was a wow, he sees
25 something in me nobody else does?

1 A I think it was the other way, she sees something in
2 him. You know, when you talk to him when he's like that,
3 he's so -- I mean, he's -- he's brilliant. He don't
4 always get what he wants, again, but he's brilliant.

5 Q And as they started life together, you begin to see
6 things that you didn't like in the way he treated his
7 wife, Amber?

8 A That's right. It was this Bible thing once again.
9 You can't make this woman walk around in a damn dress. I
10 mean, come on, man. She's not allowed to cut her hair.
11 She can't do this. She can't put on fingernail polish, no
12 makeup or nothing. But she is like oh, it's okay, dad. I
13 like it. When I'm trying to help her, she's flipping me
14 under the bus. You know, it's just a revolving circle.

15 Q I think you used the word dominant?

16 A Dominant.

17 Q That your son was dominant over her?

18 A Well, I'm the dominant one. Timmy, he's not strong
19 enough to be dominant.

20 Q You haven't described him as that before? You
21 remember talking to --

22 A I probably have. Hey, look, I was telling you
23 anything. I wanted this shit over with, that's all I
24 wanted.

25 Q You're not saying you told me something that wasn't

1 true?

2 A No, I didn't tell you nothing that wasn't true. I
3 mean, I've called him -- yeah, you can call him dominant.

4 Q You remember that you were so concerned -- telling us
5 that you were so concerned, at one point, you approached
6 Amber and asked her had Tim ever been violent towards her?

7 A I asked her that pretty every weekend, every other
8 weekend. He was weird. And I worried about her.

9 Q He was the head of the house?

10 A Yeah. He went to school. You know, he worked for me
11 part time with my business. And I just seen things that I
12 didn't think -- you know, I was worried that he was
13 hitting her. And I begged her, Amber, if he's touching,
14 if he's doing anything, please not only call the cops on
15 him, but tell me and I'll kick his ass.

16 Q In fact, you even told us you confronted your son
17 saying if you ever lay a hand on her, he's going to deal
18 with you?

19 A I tell that to all of them.

20 Q But you told that to him specifically?

21 A Probably more than once.

22 Q You agree with me there's a line a man shouldn't
23 cross?

24 A You damn right.

25 Q You raised your son to know that?

1 A Yes.

2 Q Now, before the separation, the divorce, Amber had
3 not just a miscarriage, she actually went full term and
4 had a stillborn child, isn't that true?

5 A Like eight-month-old, eight months, yeah.

6 Q She was never the same after that?

7 A No, she was fine. I mean, you know, she cried a
8 little bit, you know. Timmy's the one that got all freaky
9 on it.

10 Q You notice Tim -- how it affected your son, Tim, and
11 here's a lady who carried a dead child and delivered a
12 dead child and you're saying it didn't affect her once she
13 cried?

14 A She didn't seem to be not as bad as Tim. She was
15 hurt, don't get me wrong, I'm not saying she wasn't hurt,
16 but nothing like Tim. I mean, he was -- I mean, I'm
17 waiting for sort of like the church thing, what's he going
18 to do, start flipping around in the damn floor.

19 Q Isn't it true your son's response to that was get
20 Amber pregnant again? She got pregnant like that, right,
21 again?

22 A Well, I think it takes two to get pregnant, don't it.

23 Q It does, but who's head of that house?

24 A So how bad can she feel if she gets pregnant again.

25 Q Okay. I'll let you hold that thought. Amber's not

1 here.

2 A I love Amber. And I'm not here to hurt Amber at all.
3 I just think that everybody should know everything, you
4 know.

5 Q They start going through this divorce, you invited
6 your son to just go ahead and move to Mississippi. Bring
7 those kids here and you'll help take care of them?

8 A You can't take care of that many kids. What human
9 can?

10 Q You offer to help him and take care of those kids?

11 A I did.

12 Q You believed he was still obsessed with Amber?

13 A No doubt about it.

14 Q It's kind of on the one hand, he loved her, but on
15 the other hand, he hated her?

16 A Nutty, isn't it?

17 Q Huh?

18 A Sort of nutty, huh?

19 Q It's love and hate?

20 A Fine line.

21 Q Couldn't let go of her, though?

22 A He couldn't let go of her, but she did not want him.

23 Q And wasn't one of the big blows to him is that she
24 rejected him? He didn't like rejection, did he?

25 A Protected him?

1 Q Rejected.

2 A Oh, rejected. I wouldn't call it rejected. I'd call
3 it hated.

4 Q Well, let's back up. Back when Carolyn came into
5 your life --

6 A Sure.

7 Q -- and you married her, Tim was jealous?

8 A Very.

9 Q He wanted you?

10 A Yes.

11 Q He didn't want to share you with Carolyn?

12 A Not many ten-year-old kids do when they've been with
13 their father for ten years by their self -- I'm sorry,
14 eight years, seven and a half.

15 Q You made a statement that he didn't want any woman
16 near you?

17 A He wanted his father. You know, he didn't want
18 nobody -- me and him -- his life was perfect, you know. I
19 sort of ruined it by being with another woman is the way
20 he -- I felt that he felt anyway.

21 Q And he took it as you choosing her over him. You
22 rejected him?

23 A I guess you could say that. I mean, I'm pretty sure
24 that's not the case, but you can say that, I guess, if you
25 want.

1 Q He felt like his mother, birth mother, Cindy, even
2 though she was mentally ill, she never left him, she had
3 -- she had to go, she was sick?

4 A He didn't know she was mentally ill until later in
5 life.

6 Q He grew up thinking she rejected him, too?

7 A No, no, I just told him his mom was real sick. I
8 never -- I mean, that's something he picked up on his own.
9 I mean, I did not ever tell him his mom was mentally ill
10 until he was older.

11 Q I'm not saying you instilled that in him.

12 A Uh-huh. Like I said, I never told him that. Now, if
13 the other family -- his sisters -- or her sisters, you
14 know, family on that side, if they said something to him,
15 I didn't --

16 Q Bottom line is, he felt Amber had picked somebody
17 else, somebody who -- some kid?

18 A Yeah.

19 Q And here he is, he's got a college degree?

20 A Uh-huh.

21 Q He's got a great job making great money. He's given
22 her kids. Why not me?

23 A What do you mean?

24 Q He felt like she rejected all of that for this little
25 kid next door?

1 A If you'd have seen him, he seemed like he was okay
2 with it. I mean, I would have threw the guy out the
3 trailer through the wall or something. I mean, he let him
4 walk out.

5 Q What your son explained to you, he was never mad at
6 that guy. He was --

7 A He wasn't even mad at Amber.

8 Q -- mad at Amber?

9 A Nope. No. He loved Amber.

10 Q You don't remember him ever saying --

11 A He loved Amber.

12 Q You don't remember him every saying?

13 A Saying what?

14 Q About blaming Amber? That it's her fault?

15 A For, the divorce?

16 Q Yeah, the whole thing?

17 A Well, I mean, somebody's got to blame somebody, don't
18 they? I mean, Timmy wasn't mad at Amber, man. He loved
19 her. To me, that was the sick part. I was like, you
20 love, but she's just throwing these kids in your lap. I
21 mean, what kind of damn mother is she?

22 Q While Amber is seeing somebody, your son, Tim, starts
23 seeing somebody, too, somebody who just turned 17?

24 A I have no knowledge of that, but you know what, it
25 wouldn't shock me because now, they're getting at each

1 other. That's why the kids didn't belong with either one
2 of them.

3 Q So about those kids, while he's going through this
4 process of divorce and separated, they stayed, was it
5 about six months with you? Or how many months?

6 A Yeah, something like that. I didn't pay attention.
7 It was too short.

8 Q For all you went through in life, all the good and
9 the bad in your life, that six months was the best part of
10 your life?

11 A I wouldn't call it the best part of my life. It was
12 the best part of the kids' life, I thought. They knew a
13 normal damn family, not this crazy ass don't do nothing
14 mother and this crazy ass son that's going to preach shit
15 to them, yeah. I know they had fun. They had stable
16 everything. We tried to make it perfect for them.

17 Q And you loved every second of it?

18 A Of course. I thought I was a much better grandfather
19 than I was a father, yes.

20 Q You learned a lot along the way?

21 A Yes, sir, a lot of bruises.

22 Q Your son knew if he ever had any trouble, if anything
23 ever came up, he could always turn to his dad for help
24 with his kids --

25 A Every one of them know this.

1 Q That he could always turn to you?

2 A Any time.

3 Q Any time day or night?

4 A 365, 24/7.

5 Q You talked about Christmas of 2012. Do you remember
6 telling us -- he's going through the separation. I think
7 the divorce is finalized the next month or so?

8 A Once again, I -- dates don't do nothing for me.
9 Certain things, you really want to forget.

10 Q Remember saying to us that he appeared to be just
11 pissed off at women?

12 A He was pissed off at women at our house, yeah. I
13 mean, there was no other women around. The only one he
14 wasn't pissed off was with my mom. Well, you can't be
15 pissed at my mom because she'd probably kick his butt.

16 Q He was picking on your wife, Julie?

17 A No, you don't really pick on Julie. Julie can handle
18 herself to, but he went after our daughter, Jackie, yes.

19 Q Jackie.

20 A Uh-huh. Yeah, I told you that.

21 Q You stepped in, told him to knock it off -- this is
22 your house?

23 A Yes.

24 Q And he did what he did when he was a little kid,
25 packed up, went away?

1 A Yeah.

2 Q He did that even when he was little. If he got
3 angry, he'd go off somewhere --

4 A No, he didn't do it when he was little. He did that
5 when he became his own man. When he was living at my
6 house, he didn't do that, no, I mean when he was a young
7 boy.

8 Q You remember telling us when he was younger, if he
9 got ticked off, he would just --

10 A Well, if he got ticked off, he didn't talk to me, but
11 he couldn't leave. He lived with me.

12 Q But he'd like go to his room, cut you off?

13 A Well, I might send him to his room. No, no, no, he's
14 my child. I'm going to make him follow the rules. I
15 mean, if I said something like that, it must have been out
16 of -- you know, misconduct.

17 Q Tim gathers his kids up Christmas Eve, drives them
18 all the way back to South Carolina, about eight hours?

19 A Uh-huh.

20 Q Doesn't talk to you for how long?

21 A Until three days before the kids were dead. I mean,
22 roughly. I don't want to give an exact.

23 Q August 2014?

24 A Somewhere in there. It was Labor Day weekend coming.
25 I talked to my son after my father told me he seems -- you

1 know, seems to be something wrong with him. I talked to
2 him on the phone. He seemed fine. I apologize first, of
3 course, because it -- and, obviously, it's a little game
4 with us, you know, that he thinks he's always got to win.
5 And he won again. And I apologize to him and, of course,
6 he apologized back, said listen to this and, you know. He
7 said, you want to talk to the babies? I said, no, I'll
8 wait to see them the weekend and surprise the hell out of
9 them. They'll freak out. And I never seen them again.

10 Q If you hadn't have called Tim, he wouldn't have
11 called you?

12 A I mean, he hadn't so far.

13 Q So all of 2013 and most of 2014?

14 A Uh-huh. My son was trying to prove to me that he was
15 a better father than me. And God knows, I'm okay with
16 that. I was good with that. That was his big thing, I'm
17 going to prove to you I can do this.

18 Q He did it by not talking to his dad?

19 A You know, my mom told me what was going on. And then
20 when they seen something they thought was not right, they
21 told me and it was time to intervene, and I did. You
22 know, that's all we could do. I wasn't -- I was tired of
23 being told you didn't love me. It just made me feel bad
24 because I love my kid more than anything. I dropped out
25 of school for this boy. I mean, I worked ten hours, 12

1 hours a day and cried for two damn weeks because I had to
2 do it. I thought my God, my life is wrecked. For that
3 kid. And I thought he disrespected me because he's
4 getting divorce, something I learned him about, told him
5 what was going to happen and he did it anyway. Now, look
6 where we're at.

7 Q He didn't listen to you?

8 A No, hell, no.

9 Q And when he went home and took his kids home, he
10 didn't just bring the kids home and not talk to you, he
11 took you off the list of being able to pick them up at
12 school?

13 A Oh, I don't know that. I'm just saying -- you know,
14 I used to be on the other one --

15 Q Like an emergency list?

16 A I was on his emergency list at work, I think. Like I
17 said, when he gets mad, he does stupid shit. If he had a
18 insurance policy, I promise you -- I'll put it to you this
19 way. If my son had an insurance policy from age 18 to the
20 age now, it would probably have been changed about 38
21 different times between Roberta and Tim.

22 Q That's just the way it was with him? It was like
23 walking on eggshells at times with him?

24 A Always.

25 Q Always?

1 A Yeah, you just didn't know which Tim you were going
2 to get that day.

3 Q And although you told him you loved him all the time,
4 you remember saying that he never really responded in
5 words back to you?

6 A You talking about when he was going through his
7 divorce? He responded to no one.

8 Q No, just growing up?

9 A I mean, he would say he loved me. I mean, he wasn't
10 like me, you know. I'm a father, I'm telling you I love
11 you everyday. Kids are like, yeah, whatever. Shit like
12 that. And then they're little, of course, they love you
13 to death. They love the hell out of you. They turn into
14 -- I told my wife, it's like puppy dogs. They're
15 wonderful, they're cute. They turn into dogs. They get
16 mean, they bite you.

17 Q You reach out --

18 A I still love him.

19 Q You reach out to him. You make arrangements for him
20 to bring the kids to come by Labor Day. Of course, that
21 doesn't happen?

22 A Pardon?

23 Q That doesn't happen. You get a call from, who is it,
24 law enforcement or the school or who called you first or
25 do you even remember?

1 A Yeah, I remember. The principal called my mother.
2 Then, of course, she called me. Then it wasn't -- oh,
3 again, my mother is a part of my son's life just like a
4 mother, so we're blowing up everybody trying to find him.
5 I thought personally, and I was happy for it, I thought
6 that's what it was, I thought he and Amber had gotten back
7 together and he was afraid to say anything. I hoped so
8 because these kids needed two stable parents. If
9 something don't happen, me and my wife already discussed
10 it, we're going to have to take these kids. But I knew if
11 I tried to take Timmy's kids, hell, he might kill me
12 because he loves them so damn much. It would be hard to
13 take his children.

14 Q By the time law enforcement got in touch with you and
15 you knew these kids were missing?

16 A Uh-huh.

17 Q You knew Tim was missing?

18 A Uh-huh.

19 Q You remember telling us you believed at that point --

20 A I believed he drove that damn truck off there and
21 just killed them both -- all, I mean, himself as well.

22 Q Yes, sir.

23 A I mean, I did not -- of course, I'm thinking the
24 worse case scenario, right. Because my son just don't go
25 missing. He don't miss work and his kids don't miss

1 school. And all of a sudden, they're all here.

2 Q And you would agree with me --

3 A And going through a terrible divorce, you know, and
4 this girl -- I mean, man, that's hard for any person to
5 deal with.

6 Q You'd agree with us, if he couldn't have them, he
7 wasn't going to let anybody have them?

8 A It's a possibility.

9 Q He sure wasn't going to let Amber have them?

10 A I don't think it was so much Amber. I mean, he
11 wanted Amber back, so I don't see -- that's what I said,
12 it's all sort of screwy. He wanted her back and he was
13 willing to do anything. Look, I don't blame her for not
14 -- I don't blame Amber for not taking her back, you know.
15 I thought they'd arrange something, you know, where you --
16 you change this and I'll change that. I mean, that's what
17 usually folks do. I don't know -- I don't know their
18 arrangement, but I do know that she was leading him on,
19 you know, so that made it even worse. So it's like -- I
20 did know that because he had told me. And I even told,
21 son, you can take her back if that's what you want,
22 whatever you want, but these kids need something. You
23 know, you can't keep doing this.

24 Q September 7th, you're in Smith County, Mississippi.
25 You meet Sheriff Crumpton, under Sheriff Marty Patterson

1 and some other officers --

2 A Wonderful guy.

3 Q They are wonderful, aren't they?

4 A Yes, they are.

5 Q They believe in what they do?

6 A Thank God for people like that.

7 Q Lord knows, they wanted to help, didn't they?

8 A Yeah. There was no doubt. Yeah, they wanted--

9 Q When you walked in there, they didn't have to twist
10 your arm to say hey, can you help us find your babies?

11 A Yeah, hell, no. What I need to do to help you? You
12 know, something's not right.

13 Q I think you had even told us that if they didn't ask
14 any questions, you were going to ask a bunch of questions?

15 A If I could have. I mean, if they let me, yeah.

16 Q And they did?

17 A I would have grabbed him and choked the shit out of
18 him to get the answers, yeah.

19 Q I think you had even mentioned that, that you might
20 have been a lot rougher on your son --

21 A Very possible.

22 Q -- if they weren't there?

23 A Yeah. I mean, the way he was acting, yeah, some --
24 yeah, I want to know where the damn babies are now. You
25 know, what human wouldn't.

1 Q They let you know some of the stuff they found in the
2 car, but you understand law enforcement is not going to
3 give you a full display of what they found?

4 A Yeah, no, no, I disagree with that. Again, wonderful
5 guys, but they damn sure misled me, yes, sir.

6 Q But you wouldn't have changed a bit of how you were
7 asking questions of your son?

8 A I'll never have that chance to know, but I don't
9 think so, no.

10 Q You weren't concerned about your son, you were
11 concerned about your babies?

12 A Yeah, right, but, I mean, I don't know. I don't know
13 if -- we'll never know because I didn't know.

14 Q Those guys were trying to do their best?

15 A You damn right.

16 Q To find those kids?

17 A And I'd do anything to help them, yes, sir. I think
18 they was a little deceitful, though. They could -- when
19 you know decomp, you know, and enough blood and a piece of
20 scalp in the damn vehicle, you know damn well someone's
21 dead. They never told me that.

22 Q They didn't know who or how many?

23 A That don't matter, they know something was. One of
24 them was damn sure dead.

25 Q They needed to find those babies dead or alive?

1 A That's fine, you know, but they don't need to be
2 deceitful to the father. I mean, it worked. Whatever it
3 is, it worked, you know, we're here. But it was -- again,
4 no disrespect for those gentlemen, they're doing their job
5 --

6 Q Well, let's move on. Let's move on. Your son looked
7 wild that day?

8 A Yes.

9 Q He lied about what he did with the kids that day?

10 A He lied about everything pretty much, didn't he.

11 Q Next day, when Adam Creech got there, they had the
12 FBI there. You got to see your son and he -- I think you
13 described him, my boy was back?

14 A Yeah, that was my son.

15 Q That was your son?

16 A Yeah. He was just a heartbroken, lost little boy.

17 Q The change of one day, he goes from wild animal to
18 Tim, Jr.?

19 A I really don't know how to answer that.

20 Q Let me ask you this --

21 A Five babies are dead, somebody's got to be fucking
22 crazy, I'm sorry.

23 Q Let me ask you this, Mr. Jones. You think it's
24 possible that the biggest, too, is not just in his
25 behavior and not telling you what happened to those kids

1 is that he couldn't tell you what he did, he couldn't tell
2 his dad what he did to his babies?

3 A No, I mean, I -- if I had been in there, he would
4 have said something. I mean, he would have talked one way
5 or the other, I think. Because the pictures and stuff, I
6 mean -- I don't know, maybe not, maybe not.

7 Q Bottom line is 9/8/2014, your son looks normal and
8 that's when he talks to Adam Creech and the FBI?

9 A Yeah, if you want to call it normal, yeah. I mean,
10 that's normal, I guess.

11 Q Throughout his life, you always looked to see if you
12 saw signs of Cindy. You told us you never saw it up to
13 that point ever?

14 A No, like I told you, in the 20's that's when I saw
15 all that stuff that was a sign, but I let him go to jail
16 and he came back out. And again, I didn't see signs of
17 Cindy, I seen signs of who the hell is this religious
18 freak.

19 Q Okay. And your son knew no matter what, he could
20 always turn to you?

21 A True.

22 Q He knew you still loved him?

23 A Obviously, he didn't because that's why he left,
24 remember? Because I didn't love him, I loved everybody,
25 but him. So, I mean, he was having issues, dude, there's

1 no way around it.

2 Q Tim loves himself?

3 A Oh, that's bullshit, sorry. There's no way Timmy --
4 Timmy don't love himself. Timmy don't even know himself.

5 Q Bottom line is this, these five babies could have
6 come to you and they'd be fine?

7 A Well, yeah.

8 Q Your son chose not to do that?

9 A I don't know what he chose, I wasn't there. I wish I
10 was and we wouldn't be here, would we?

11 Q Those babies didn't deserve what happened to them?

12 A Nobody deserves what happened, buddy, nobody. Not
13 him, not me, not my family. And that's what's the problem
14 with everything, it's five years of this. You know, it's
15 ripped my whole family apart, me, my son. I mean, there's
16 not a person in my family or in my life that's not been
17 affected by this. We would have done anything.

18 Q No one is affected more than those five little
19 babies?

20 A Well, no, there's six. I lose all six of my kids.

21 MR. HUBBARD: Mr. Jones, I appreciate you talking to
22 me.

23 THE WITNESS: Uh-huh.

24 MR. SECOR: May we approach?

25 THE COURT: Yes.

1 (Whereupon, a bench conference was held in the
2 presence of the jury but out of the hearing of the
3 jury.)

4 THE COURT: All right, folks. We're going to stop
5 there for the day. Put your stuff in the jury room. Be
6 back here tomorrow same time. Don't talk about the case.
7 Enjoy your evening.

8 (Whereupon, the jury was excused from the courtroom
9 for the day.)

10 THE COURT: All right. The jury is out.

11 Mr. Secor, do you want to play the video proffer in
12 here or do you want me to see it in chambers?

13 MR. SECOR: Oh, I'm sorry, I was going to proffer the
14 testimony from Mr. Jones about his life prior to Tim, Jr.
15 If Your Honor wants to watch the video after court, that's
16 fine with me.

17 THE COURT: All right. This is consistent with my
18 ruling all along, with the witnesses who testify about the
19 social history is, my directive was start with Tim, Jr.
20 1981 and come forward. This is pre-'81, background and
21 social history?

22 MR. SECOR: Yes, sir.

23 THE COURT: And you've done that with several
24 witnesses.

25 MR. SECOR: Yes, sir.

1 THE COURT: At my direction.

2 MR. SECOR: Yes, sir. Thank you. Your Honor, if I
3 may just quickly before I do that, I just wanted to
4 identify the photographs that had been, were offered.
5 There were five photographs at the Court's instruction
6 that I chose from the stack and I just wanted to note for
7 the record that the ones that were excluded are 236
8 through 242, 244 through 250, 254 through 258. Obviously,
9 those numbers are referred to as Defense Exhibits. I
10 would just ask that those be made Court's Exhibits for the
11 purposes of my objection.

12 THE COURT: Joy, how do you regard those? Defense
13 Exhibits for ID only?

14 COURT REPORTER: They're just marked for ID and I
15 just leave them as ID and leave them with me.

16 THE COURT: They'll be Defense Exhibit for ID by
17 those numbers.

18 MR. SECOR: Yes, sir.

19 (Whereupon, Defendant's Exhibit numbers 236 through
20 242, 244 through 250, 254 through 258 were marked for
21 identification only.)

22 THE COURT: Not admitted. And my ruling, obviously,
23 was the pictures represented photos from Tim, Sr.'s
24 involvement with the son and the five grandchildren.

25 MR. SECOR: Yes, sir.

1 THE COURT: And that was the basis of my ruling on
2 this duplicate evidence. It represented photos from that
3 group, which you did, those are the ones I excluded.

4 MR. SECOR: Yes, sir. Thank you. And, Your Honor, I
5 would also just for the record for purposes of my
6 objection to Tim, Sr. not being allowed to testify as to
7 the circumstances of when Ms. Kyzer came to Mississippi to
8 get the children. And I would just, for purposes of
9 trying to further explain my argument of its relevance, is
10 that in the divorce file that is in evidence, there are
11 filings by Mr. Jones in that case requesting emergency
12 hearings for custody of the children. And in one of those
13 filings is a description of Ms. Kyzer going to Mississippi
14 to try to get the children under those circumstances. And
15 I just wanted to state that for purposes of my argument
16 for relevance.

17 THE COURT: And that was just in your proffer before
18 the last break?

19 MR. SECOR: Yes, sir.

20 THE COURT: Okay.

21 MR. SECOR: Thank you.

22 PROFFER EXAMINATION

23 BY MR. SECOR:

24 Q Mr. Jones, just want to talk to you a little bit
25 about your life prior to Timmy's birth, okay? How old --

1 your mother is?

2 A Roberta Thornsberry.

3 Q How old was Roberta when you were born?

4 A From what I'm understanding, 12.

5 Q Twelve, okay. And your father's name was?

6 A Ted Montaine.

7 Q And what was Ted Montaine's relationship to Roberta?

8 A I mean, before?

9 Q Yeah.

10 A It was her dad.

11 Q Step --

12 A That would be her stepfather.

13 Q Stepfather?

14 A Yeah.

15 Q Is that right? Okay. So that makes Ted Montaine --

16 A Grandpa dad.

17 Q Father and step-grandfather to you, is that right?

18 A Right.

19 Q Tell us about Ted Montaine. What do you remember
20 about Ted Montaine?

21 A Very few things. You know, he used to beat my
22 mother.

23 Q How did he beat your mother?

24 A Well, one time, he stuck her head through a glass
25 door because she grabbed the keys.

1 Q Did he ever tie her up?

2 A Yeah, he tied her up. He hit her in the head with a
3 hammer and throw water in her face to wake her up.

4 Q After you were born, did Ted Montaine take you and
5 your mother, Roberta, away from the rest of the family?

6 A He did.

7 Q Where did he take you?

8 A We was pretty much landing everywhere, wherever he
9 wasn't running from the law.

10 Q Did he continue to abuse your mom throughout this
11 period of time?

12 A You know, like I said, I remember just a few years of
13 it, but it was not good. Yes, he beat my mom all the
14 time.

15 Q And how many years were you with him and your mom
16 moving around the country?

17 A I think I was like five or six when she finally got
18 away from the guy.

19 Q So it would have been from the time that you were
20 born --

21 A Yeah, but, I mean, I only remember maybe three and a
22 half, four, just a couple -- two or three years.

23 Q And what do you remember about your life during that
24 period of time?

25 A It was just always, you know, walking on eggshells

1 around him or you'd get hit.

2 Q And you were -- your mom gets away from Ted when you
3 think you're about five or six, is that right?

4 A Yeah. Like I said, he beat her steadily. Hell, that
5 might be why I always worried about Amber and somebody
6 touching her. I just don't agree with that.

7 Q After your mom left Ted, did you and your mother have
8 to try to hide from Ted?

9 A Yeah. I mean, I remember quite a few times, I would
10 hear them -- I mean, you just heard the name and it was
11 like everybody freaked out. I remember all of a sudden
12 running and hiding. It was just crazy. My uncles were
13 relatives, I mean, it was just crazy times back then.
14 Yeah, my mom was always terrified, always till later on.

15 Q She eventually met and married who?

16 A Larry Thornsberry.

17 Q And is he the guy that you sort of consider to be the
18 father in your life?

19 A Yes, sir.

20 Q And where were you living at that time when she
21 marries Larry?

22 A I want to say we were in Kentucky. I'm not exactly
23 sure. It was either Kentucky or -- it had to be Kentucky,
24 that's where Larry was at.

25 Q And did you eventually move to Illinois with them?

1 A Yes.

2 Q And what was the environment that you lived in in
3 Illinois when you first --

4 A Oh, we lived on the south side of Chicago, what they
5 call -- it was the ghettos, basically, but it's called
6 Doubly Heaven.

7 Q Okay.

8 A Back then, anyway.

9 Q And did your mom divorce Larry at some point?

10 A Yes.

11 Q And who did she marry?

12 A She married this Italian guy named Phillip.

13 Q What was your life like when your mom was married to
14 Phillip Caliendo?

15 A Well, let's just put it this way, I took a can of red
16 spray paint and painted his brand new Riviera.

17 Q So you --

18 A I didn't like him.

19 Q You didn't like him.

20 A Didn't want him, hated him.

21 Q Did he mistreat your mother?

22 A Oh, God, no. He treated her like a queen.

23 Q Did he mistreat you?

24 A No.

25 Q But your mother was not satisfied with him, right?

1 A No.

2 Q Do you have any idea why that was?

3 A I really don't. I know my mom loved the hell out of
4 Larry, if that's what you're asking.

5 Q Well, she started having violent outbursts --

6 A Oh, she was always violent with everybody.

7 Q Okay.

8 A I still to this day feel bad for my dad. Because my
9 mom, she's rough.

10 Q And when you came home -- when you were living with
11 Phillip and your mother was married to Phillip, how would
12 you find the house sometimes when you came home?

13 A If he pissed her off, I mean, she'd take out the
14 whole house. Elk Grove, she did a real number. Foxwood
15 Drive, she did a real number. When she'd get pissed, she
16 tear off everything and anybody.

17 Q What do you mean she did a good number, what did she
18 do?

19 A She destroyed the home inside. I mean, just busted
20 everything, busted everything, she busted every window in
21 the house out. This house had 18 windows.

22 Q When she and Phillip gets divorced, who does she
23 marry at that point?

24 A She married my dad again.

25 Q That was Larry Thornsberry?

1 A Yeah.

2 Q And where did you all live at that point when she
3 remarried Larry?

4 A Well, we moved from the ghettos to rich, back to the
5 ghettos.

6 Q That's outside of Chicago?

7 A Yeah, it was a little trailer park.

8 Q Okay. And tell us one of the major things that
9 happened while you were living in that trailer park.
10 Coming home from school one day on your bike, I think.

11 A In the trailer park?

12 Q Yes, sir.

13 A Oh, where the plane wrecked?

14 Q Yeah.

15 A Yeah, that was a DC10. Well, I used to ride my
16 motorcycle behind the trailer park in this little track
17 all us boys made up. And, you know, a plane that took off
18 from O'Hare and lost, lost an engine or something. But it
19 was fully fueled for, to California. And it was like up
20 and then straight back down and landed right and took out
21 a few trailers. And I was actually on my way home from
22 school. We got out early and one of the teachers, she
23 brought us home. And about the time that she was dropping
24 us off at the corner because she had to go the other way,
25 which is maybe a mile away, this plane had crashed. And

1 it was -- you know, unfortunately, I've lived a little bit
2 of a rough life, you know. And I guess that's what so
3 upsetting about the decomp because I've smelled dead
4 bodies, burnt and not, so I know that smell. And anybody
5 knows that smell, that smell knows damn well that
6 something is dead.

7 Q How old were you back then?

8 A Then, I had to be 13, 14, freshman in high school. I
9 had smelled a dead body younger in the apartment.

10 Q That was in Chicago?

11 A That was actually in Interloo Apartments, (phonetic).

12 Q You told me before your mom has had period of times
13 when she had -- was very violent and was drinking way too
14 much.

15 A My mom was off the charts, you know, when she was
16 younger. And it's sad to say, I grew up with my mother's
17 friends, you know. Because, hell, she's 12 years older
18 than me. So when she's 24, I'm 12, so on and so forth.
19 So, I mean, I knew more than I needed -- I knew more than
20 I should have known about her life. And I understood, you
21 know, per se why, but at the same time, do something to
22 help yourself.

23 Q When you were growing up, did she threaten people in
24 the home when you were there?

25 A Oh, yeah. I mean, she would go on a tirade. You

1 know, dad made her mad and he likes to make her mad. But
2 I don't think he did so much back then.

3 Q Do you remember her threatening people, you and
4 people in the family?

5 A Hell, yeah. She'd pull her gun and say I'll kill all
6 you guys.

7 Q She would point a gun at people?

8 A Yeah, deadly, it has a hair trigger on that thing.
9 She used to think we had ghosts on Foxwood Drive. That
10 was the place she was going to shoot them.

11 Q Did you save your mom one time when she tried to kill
12 herself?

13 A I did, Elk Grove Village. My mother always argued
14 and my Aunt Louise, my dad's sister, and Aunt Shirley.
15 And they always fought all the time. I don't even know
16 what the hell for. And my mom and dad -- we were staying
17 with my Aunt Shirley and she just couldn't take. The next
18 thing I know, my aunt's like, yeah, I think your mom took
19 a bunch of pills. Where is she at? I don't know. So I
20 had to go run out the door, just screaming her name, you
21 know. And she finally walked out, I guess she went in
22 there to die, I don't know. She would have if I wouldn't
23 have been there, that's the truth. I know damn well,
24 there was no way in that house she was going to get any
25 better.

1 Q There are a lot of people with what you perceive to
2 be mental health problems?

3 A Well, my mom has them because -- I don't know where
4 exactly, but, you know, all the shit that went on with
5 her, I mean, I don't know how she wouldn't. And then Ted
6 is just off the damn charts. There's no other way to say
7 it other than he's just a sick son of a bitch.

8 Q Yes, sir. Drugs and alcohol a problem with people in
9 your family?

10 A You know, on my mom's side, but Ted is even worse
11 because there was nothing. He didn't smoke or drink,
12 nothing. He did this shit normally.

13 Q Yes, sir. And there's a number of people I think in
14 your family who have committed suicide, right?

15 A A few of them.

16 MR. SECOR: May I have just a moment, Your Honor.
17 Your Honor, I don't believe the Solicitor has any
18 questions. I would just ask permission to make my
19 argument on that testimony in the event that the Court's
20 ruling is consistent with previous rulings.

21 THE COURT: My ruling is going to be the same as
22 earlier in the trial, so if you want to make your
23 argument, go ahead.

24 MR. SECOR: Yes, sir. Thank you. Your Honor, I
25 believe that kind of dovetail from the testimony that we

1 proffered with Ms. Thornsberry, that her past and family
2 history was extraordinarily traumatic and marked by abuse,
3 severe physical, psychological and sexual abuse by her
4 stepfather. And that the way that -- I was going to say
5 the way that she was raised. I mean, she was only 12 when
6 Mr. Jones was born, so she was still, in essence, a child
7 and a traumatized child at that. And we believe that
8 consistent with the testimony of our experts that that is
9 relevant to the conditions under which Tim was raised by
10 Tim, Sr. because of the historical abuse and, in some
11 ways, depravity handed down from generation to generation
12 in this family that it's manifested in different family
13 members in mental illness, violent episodes, alcohol and
14 drug abuse. And it would be our argument that this is
15 directly relevant to Mr. Jones' mental health condition
16 and claim of not guilty by reason of insanity because our
17 experts have testified that the condition that he suffers
18 with is a consequence of both genetics and environmental
19 factors. Environmental factors being the social and
20 family environment in which a person is raised. We would
21 argue that our right to present this proffered evidence --
22 the proffered evidence should be admitted to the jury
23 pursuant to the holding of Bobby Lee Holmes vs. South
24 Carolina 547 U.S. 319, which was a unanimous decision by
25 United States Supreme Court holding that exclusion of

1 evidence under evidentiary rules is limited by the
2 guarantee that criminal defendants be given a meaningful
3 opportunity to present a complete defense which is
4 protected by the compulsory process clause of the Sixth
5 Amendment and the due process clause of the Fourteenth
6 Amendment.

7 THE COURT: Y'all read that same case in the last few
8 arguments. You don't need to read the whole thing.

9 MR. SECOR: Yes, sir.

10 THE COURT: I've heard the argument three times and
11 still disagree with it. Tim, Jr.'s environment been
12 testified to by all the family members to some extent, the
13 expert has been given everything in considering and making
14 their professional opinions. And I don't think that my
15 limiting the testimony of the social history of Tim, Jr.'s
16 life only and excluding anything prior has affected his
17 right to a fair trial, it has been a fair and complete
18 defense. I just don't believe it.

19 MR. SECOR: Yes, sir.

20 THE COURT: You got to draw the line somewhere. So
21 I've drawn the line and I'm sticking with it.

22 MR. SECOR: I would respectfully request you note our
23 objection. Thank you.

24 MR. YOUNG: One other thing, I've given the State and
25 the Court a copy, the Defense anticipates calling Dr.

1 Frierson as a witness tomorrow and we will be requesting a
2 limiting instruction be given to the jury prior to his
3 testimony.

4 MR. HUBBARD: We'll have something to say about it.

5 THE COURT: 8:45?

6 MR. HUBBARD: Yes, sir.

7 THE COURT: Sounds good to me. We'll talk about it
8 at 8:45. See you in the morning.

9 (Whereupon, the trial will resume the next morning at
10 8:45 a.m.)

11 May 30, 2019

12 THE COURT: I want to deal with the video that I was
13 perusing yesterday afternoon first. This is two videos,
14 it's one of -- I don't know, one is about 10 minutes.
15 It's the pinata and the kids are at -- looks like a
16 birthday party with somebody and the SpongeBob Squarepants
17 pinata.

18 MR. SECOR: Yes, sir.

19 THE COURT: And the other one was, I don't know,
20 minute maybe swimming, two children, with Tim, Sr.

21 MR. SECOR: Yes, sir.

22 THE COURT: I think it's redundant. I don't think it
23 adds anything that you haven't already presented through
24 your other exhibits. And so I don't think -- I think it's
25 duplicative. I don't think it adds anything for you.

1 Certainly, it's similar to the other evidence you've
2 already presented with the photographs showing a very good
3 home recreation of the grandkids and Tim, Sr. It's very
4 representative of that, but I think you've got
5 representations of that throughout the record and
6 throughout his testimony. I don't see any benefit in the
7 jury seeing it.

8 MR. SECOR: I understand that. I just respectfully
9 request that you note our objection to the Court's ruling
10 on that.

11 THE COURT: Now, so that would end Tim, Sr.'s
12 testimony. He was still on the stand when we adjourned
13 yesterday, correct?

14 MR. SECOR: Yes, sir.

15 THE COURT: Okay. What's y'all's plan this morning?
16 I know there was a memo sent to me or handed up, I read
17 that.

18 MR. YOUNG: Yes, sir. There's a motion from the
19 Defense to issue a limiting instruction prior to testimony
20 of Dr. Frierson. In addition to the authority and case
21 law cited in our motion, I would point the Court to the
22 form order issued by the South Carolina Supreme Court,
23 which can't be -- which in and of itself says it shall not
24 be altered or amended. I don't have a copy of the signed
25 order for Dr. Frierson, but the order authorizes the State

1 to conduct a criminal responsibility evaluation that says
2 that the report shall be inadmissible in any other
3 proceeding except as expressly permitted by South Carolina
4 law. Examiners and agency staff may not be compelled to
5 testify regarding statements made --

6 THE COURT: You're going fast.

7 MR. YOUNG: I'm sorry.

8 THE COURT: Tell me what you want to say, I mean,
9 without reading that.

10 MR. YOUNG: Dr. Frierson's testimony is not
11 admissible for any other purpose other than --

12 THE COURT: Do you intend on calling him?

13 MR. YOUNG: Yes, sir.

14 MR. HUBBARD: I've got a proposed instruction for
15 you. I've got instruction that conforms to requirements
16 of the law.

17 MR. YOUNG: I disagree.

18 THE COURT: Go ahead with your argument. You want to
19 call him for the limited purpose of?

20 MR. YOUNG: To determine criminal responsibility.
21 And the jury should be instructed that the only admissible
22 purpose and the only consideration they can give to his
23 testimony would be as to the determination of criminal
24 responsibility. And that would be the entirety of his
25 testimony, it can be only be considered -- when a

1 defendant claims not guilty by reason of insanity, they
2 necessarily give up certain rights, one of which is
3 they're compelled to participate in State or Court ordered
4 evaluations.

5 THE COURT: Right.

6 MR. YOUNG: Those evaluations are limited in scope
7 and purpose to determinations of criminal responsibility
8 and are not admissible for any other purpose.

9 THE COURT: What do you anticipate the other purpose
10 being?

11 MR. YOUNG: I anticipate the State saying, we move
12 his testimony in at penalty, if we get there. And that
13 would be the inadmissible purpose of Dr. Frierson's
14 testimony. So the jury should be given a limited
15 instruction that they're only able to consider his
16 testimony as to the issue of criminal responsibility.

17 THE COURT: Okay. I see what you're saying.
18 Solicitor -- I mean, it seems like it's premature, but if
19 you're not going to get a limiting instruction, then
20 you're not going to call him, is that you're telling me?

21 MR. YOUNG: No, I think the limiting instruction is
22 required by the court order.

23 THE COURT: I mean, I don't disagree with you in
24 substance, I don't. I mean, I think there needs to be a
25 limiting instruction, but why are you telling -- arguing

1 right now that that's his purpose, saying he can't testify
2 later?

3 MR. YOUNG: The limiting instruction should be told
4 to the jury now, that his testimony is only available for
5 the purpose of determining criminal responsibility and not
6 for any other purpose.

7 THE COURT: All right. And the State's limiting
8 instructions goes towards that.

9 MR. YOUNG: The State says that only the statements
10 from the Defendant should be limited. Dr. Frierson, of
11 course, in conducting his evaluation spoke with numerous
12 other people and conducted a social history, which is
13 important --

14 THE COURT: I mean, the jury has got to know that he
15 talked to everybody he could find, he didn't just talk to
16 one person. I mean, doesn't he have to -- I mean, you
17 can't just say all right, what was the end result. I
18 mean, you can't just start at the end of the line, right?

19 MR. YOUNG: Sure. But his testimony can't be used to
20 impeach those people. His testimony can't be used to say
21 well, didn't somebody tell you something different? He's
22 allowed to talk to those people and form his conclusions.
23 But it's inadmissible to use his testimony to try to
24 impeach any prior witnesses or to use it for any other
25 purpose at some other phase of the case.

1 THE COURT: Solicitor, what do you --

2 MR. HUBBARD: Several things here. There was so
3 much there, so if I miss something --

4 THE COURT: I kind of didn't expect that, I guess.

5 MR. HUBBARD: First of all, we've never intended on
6 bringing him up in a penalty phase should we get there.
7 He was ordered in to do a diagnosis, does he or does he
8 not --

9 THE COURT: In his professional opinion have --

10 MR. HUBBARD: Right, on two issues.

11 THE COURT: That was his tasks, two tasks.

12 MR. HUBBARD: Two issues, whether he's not guilty by
13 reason of insanity, knows the difference between right and
14 wrong. And the second was capacity to conform, which they
15 want to say he can't even offer an opinion on. The
16 problem is this, this limiting instruction goes to
17 statements of the Defendant. The only one whose rights
18 are in play here is the Defendant's. He waived his Fifth
19 Amendment right for this purpose of submitting to Dr.
20 Frierson. What the jury needs to know, whatever
21 statements he made to Dr. Frierson don't go to the issue
22 of, basically, whether he's guilty or not. They can't be
23 used substantively, but they go to the issue and can only
24 be used for the issue of did he know the legal or moral
25 difference between right and wrong and did he have the

1 capacity to conform his conduct to the requirements of the
2 law. And that's all Frierson is going to be offered for.
3 Now, as far as what other people told him, it is critical
4 to know what information was given to him because if
5 information from those same people are given to --
6 different information from those same people to another
7 expert, I can ask those experts about that. He didn't
8 tell you -- or you weren't provided A, B, and C? That's
9 just cross. You know, did you not have sufficient
10 information? Because, as you know, psychiatrists always
11 get as much information as they can, but, ultimately,
12 their opinions are based on their interaction with the
13 Defendant, with the suspect as they question him. So all
14 that's open. It's the Defendant's statements that are in
15 play here. And this instruction addresses the totality of
16 that.

17 THE COURT: All right. You're saying what
18 information to be given and Mr. Young is saying used to
19 impeach other witnesses. That's a different
20 characterization. I think y'all are saying the same
21 thing.

22 MR. YOUNG: I think that everything Frierson did is
23 limited and can only be used by the jury to determine the
24 issue of criminal responsibility, not guilty by reason of
25 insanity, guilty but mentally ill, guilty, not guilty.

1 But they can't use anything that he did for any other
2 purpose --

3 THE COURT: How is it prejudicial for another purpose
4 if Dr. Frierson was told by -- the only example I can
5 think of. Dr. Frierson was told that Tim was taking
6 Chantix. Then someone else said, well, he bought 18 packs
7 of cigarettes on the seven days after the event. So he's
8 taking Chantix or smoking cigarettes. Which were you
9 told? Which do you assume? Why is the jury not able --
10 why is that not relevant to how he formed his opinion as
11 to Tim's condition?

12 MR. YOUNG: Here's what happened is that the State
13 impeached Tim's grandmother with statements that she made
14 pursuant to the social history questionnaire sent out by
15 Dr. Frierson. And that was an improper use. And I didn't
16 object, wrongly didn't object. But that's the situation
17 where the State should not -- they can't use Dr. Frierson
18 to impeach other witnesses.

19 THE COURT: I don't think they're -- I mean, you're
20 calling him. I don't think they're going to do that.
21 They're just going to make certain it's clear -- or as I
22 understand it, I think the only thing they're allowed to
23 do is make it clear what Dr. Frierson based his opinion
24 on, not another statement. I think that's where I'm kind
25 of -- I agree with you, but you're losing me in your

1 argument as to impeaching other witnesses. As long as
2 it's clear what he was told and what he based his opinion
3 on, then that's what he based his opinion on. If he was
4 given something that differs from someone else, then
5 that's just part and parcel of the whole case.

6 MR. HUBBARD: Judge, if I can interject at this
7 point. I think whatever Dr. Frierson sees as relevant
8 coming from the Defendant for his diagnosis, he's got to
9 be able to testify about that. That's what he does as a
10 professional. The Court has always let doctors do what
11 they think they have to do as professionals. The
12 information he's given comes from both sides, he's going
13 to say that. He's a neutral party. Whatever he hasn't
14 been given, he can be confronted, well, did you not know,
15 did you not know. As far as other witnesses, Judge, no
16 one else testifying has a Fifth Amendment right. So
17 grandmother, we can -- we're not limited in our cross.
18 That has nothing to do with the Defendant's rights, which
19 he waived sitting down with Dr. Frierson by asserting the
20 not guilty by reason of insanity. Dr. Frierson should be
21 able to give a full and complete report, why he gave it,
22 and whether he deems as an expert was necessary to reach
23 it. Anything else, absolutely hobbles him. And then,
24 frankly, Judge, we're not putting up experts. We're
25 relying on his good, honest, neutral opinion. And what

1 the Defense wants to do is say let's limit him, so,
2 therefore, the State's hobbled. And it's here we are in
3 the third week, into the third week oh, can the State go
4 hire a witness. Oh, no, you can't because you didn't do
5 that. We didn't need to.

6 THE COURT: Okay. Let me come back to Mr. Young.
7 Mr. Young, how do you envision --

8 MR. YOUNG: We're not asking to limit his testimony
9 in any way. He can testify to his evaluation, what he
10 relied on, the information that he collected as part of
11 the process of his evaluation, that he reached out and
12 talked to other people, all the records that he collected,
13 that's fine. He can testify to that fully. That's not
14 the purpose of the limiting instruction. The purpose of
15 the limiting instruction is to inform the jury that this
16 testimony is only admissible for a very narrow purpose,
17 and that purpose is for the determination of not guilty by
18 reason of insanity. They can't use it for any other
19 purpose.

20 THE COURT: All right. What other purpose --

21 MR. YOUNG: Malice, they can't use it to determine
22 malice.

23 THE COURT: Not to comment on the facts in front of
24 the jury, but he doesn't need to comment on malice.

25 MR. YOUNG: He doesn't.

1 MR. HUBBARD: And that's what -- but what the Defense
2 is leaving out, his conclusion wasn't just as to not
3 guilty by reason of insanity. You instructed him and
4 asked him, as an expert, to also address his capacity to
5 conform, that was addressed. So that is also in here
6 limited. So what we've asked -- and it's directed to the
7 jury. They can take whatever he says and consider it on
8 those two issues. Because those are -- you've let this
9 jury know there's four verdict forms, four possibilities.
10 To say that they can't consider guilty but mentally ill
11 and that Dr. Frierson can't even render an opinion on
12 that.

13 THE COURT: Wait, y'all can -- in your closing
14 instruction can say, we don't think not guilty is even on
15 the table because we, more or less, had to admit the act.
16 I don't know whether you argue that or not, but I don't
17 think I can instruct the jury on that because that's me
18 commenting on the facts. I think I've got to say the
19 State has the burden of proving beyond a reasonable doubt
20 this, this and this. The inference of the not guilty by
21 reason of insanity plea, then places the burden upon the
22 Defense for a preponderance to show the greater weight of
23 the evidence is whether or not his capacity to conform,
24 knowing legal right from wrong, that issue brought up.

25 MR. YOUNG: What I'm trying to do, Judge, is that the

1 jury needs to be told, prior to hearing from Dr. Frierson,
2 that his testimony is only admissible for a limited
3 purpose. That way, before they hear it, they know how to
4 appropriately use that information. If we wait until and
5 if we get into a penalty phase and say all right, well,
6 now, you can't consider Dr. Frierson's testimony anymore,
7 then it's too late. They need to be told that beforehand.

8 MR. HUBBARD: And I'll agree. I think if you read
9 this before he testifies and then read it with your jury
10 charge. Dr. Frierson is not coming in on the penalty
11 phase. He is for this phase.

12 THE COURT: So does that help you, Mr. Young, if he's
13 telling you he's not going to call him in the penalty
14 phase?

15 MR. YOUNG: Or rely on anything he did.

16 MR. HUBBARD: That second phase, don't rely on what
17 he did. Here's the one issue. Now, if we get into the
18 penalty phase and they start bringing up schizophrenia
19 again and we've already shown by expert testimony that was
20 not in play, we might -- if they bring it up, I might be
21 sitting down with you, Your Honor, and we might be
22 revisiting that. We have no intention of going there. We
23 have no intention. This is really a guilt phase issue.
24 So I'm fine with this instruction before Dr. Frierson
25 testifies. I'm fine with this instruction when you read