VOLUME II OF III

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Horry County

Honorable Steven H. John, Circuit Court Judge

JULIA SHAWNETTE GORMAN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-000908

APPENDIX

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one that are absolutely necessary to aiding Dr. Abel.

You know that's a large number of them and I don't think that probably all of them are necessary and if we could just, I mean from my standpoint on behalf of Mr. Palmer if we could just run through those, get a, and make sure that they're not duplicative, and when they were taken, I know Dr. Abel took them but like I said I believe some of them are duplicative and I would just like to make sure that those are not entered.

The Court: Which ones do you feel are duplicative?

Ms. Grabert-Lowenstein: I, I believe, Your Honor, that there's some that show the, like a purported bruise close up.

The Court: And then a measurement.

Ms. Grabert-Lowenstein: Right, and there's ---

The Court: Well they show two different things, do they not? One shows the location of the bruise; the other shows the measurement of the bruise; isn't that what it does?

Ms. Grabert-Lowenstein: I think the far away picture and I believe they all have measurements can also show that and that's, that's really my point. We don't need duplicative pictures. A close up of a bruise is no more frankly assisting than one that's further away that

shows it's location. In fact I would argue that that's more accurate because it shows closer the location and it's hard to tell in the close ups which one is which, you know, which part of the body is being photographed.

The Court: And aren't some of the bruises very light or light colored bruising?

Ms. Grabert-Lowenstein: Some are, and there probably are a couple of different colors in there but I'm more concerned with the shear number and the same pictures of the same bruise.

The Court: If these are all of one bruise I would agree with you but they seem to be many many different locations and some are of the bruise itself taken from a distance to give an idea of the location of the bruise and then others of maybe the same bruise or appear to be the same bruise with a measuring device to say how big the bruises were. Let me hear from you, Ms. Lively, are you going to do this witness?

Ms. Lively: Absolutely, Your Honor, and thank you, the State would just first of all say that I took real effort in pulling out the pictures that were duplicative. The ones that show it maybe from a distance and then close up are specifically because close up you don't know which limb you're looking at. I tried to put them in order so they would be understood by the jury and not cumulative.

Dr. Abel clearly in her expertise, which she will be testifying as a child abuse pediatric, she has to look at those in order to indicate and give her opinion.

Also under State V. Martucci and State v. Holder, Your Honor, clearly because the State has to show that what happened to this child rose to the level of extreme indifference to human life, Every single injury to that child is crucial and Mr. Galmore has brought up, you know, he said that there's some who said that they didn't see any bruising and there was Tina Millan who documented it in her nurse's notes that there was bruising but we didn't have pictures of that; so it's extremely important for the State to be able to show that those bruises are, they were there, an expert who does this for a living documenting it and we have it now that we can show to the jury so --

The Court: I'm going to allow them.

Ms. Lively: Thank you.

The Court: Okay, all right, call your witness and bring in the jury, please.

Ms. Lively: Dr. Ann Abel.

Madam Clerk: Do you want to swear her now or wait for the jury?

The Court: Wait for the jury, she should be sworn in the presence of the jury.

(Whereupon, the jury returns to the courtroom at

3:00 p.m.)

The Court: All right?

Ms. Lively: Thank you, Your Honor, the State once again calls Dr. Ann Abel to the stand.

Dr. Ann Abel

being first duly sworn, testified as follows:

Madam Clerk: Please state your full name and spell your last name for the Court?

The Witness: My name is Dr. Ann Abel, my last name is spelled a-b-e-l.

Direct Examination

By Ms. Lively:

Q Dr. Abel, where do you work?

A Medical University of South Carolina.

Q And how long have worked there?

A About five and a half years.

Q And what are your duties at the MUSC?

A I'm the director of the Violence Intervention and Prevention Division in the pediatric department.

Q Okay, and could you, please, give the jury the benefit of your education and background?

A Okay, I have a bachelors degree in chemistry and biology, a masters degree in physiology. I did pediatric residency the first two years in Indianapolis

and the last year in Columbia, South Carolina. I was in practice in general pediatrics. I then did a fellowship in child and adolescence psychiatry and for many years did a practice of behavioral issues in children and development. Then I, I was working in the field of child maltreatment through the mental health aspect and then I started doing the pediatric aspect and then I did a fellowship in forensic pediatrics and then I worked full time at Children's Hospital in Washington, D.C., Children's National Medical Center as a director of their child abuse program, and I returned to South Carolina and worked part time, for a period of time due to my husband's health, and then I took a job at Charleston in 2006 as the child abuse pediatrician.

Q Okay, and are you board certified?

A Yes.

Q In what area?

A I'm board certified in general pediatrics and I also am board certified in child abuse pediatrics which is a new field.

Q Okay, and what does child abuse pediatrics include?

A It's a field, it's a sub-speciality of pediatrics. You have to be a board certified pediatrician to be able to sit for the test. You have to be qualified

to sit for the test and the field is the evaluation and management of cases when someone is concerned of possible abuse or neglect of a child or a teenager and so it's a medical sub-speciality and it's largely outpatient work but some of it is in patient consults.

Q Okay, and since this is something that you become board certified in is it something that the, that is recognized throughout the United States of America as a qualified board certified specialty?

A Yes, this, this field is officially approved by all the accrediting bodies and the first test for people that were qualified to take the test was in 2009 and, yes, it's a recognized field.

Q All right --

Ms. Lively: Your Honor, at this time the State would offer Dr. Ann Abel as an expert in pediatrics and especially the sub-specialty of child abuse pediatrics.

Ms. Grabert-Lowenstein: No objection on behalf of Mr. Palmer.

Mr. Galmore: Your Honor, I would object. She has just testified that this is an entirely new field of child pediatric, child abuse pediatrics since 2009. I would ask the Court to inquire of whether or not she has any, has ever testified in court as a child ---

The Court: I'll allow you to do that right now.

Mr. Galmore: Yes, sir.

Voir Dire Examination

By Mr. Galmore:

Q Dr. Abel, have you ever testified in court as a child abuse pediatric expert before?

A Yes.

Q Since 2009, right, because the field did not exist beforehand; is that correct?

A The field existed, the sub-speciality test hadn't been given yet, but I testified, I've been testifying for many years as a child abuse pediatrician or forensic pediatrician. My fellowship certificate says forensic pediatrician.

Q So you are trained as a pediatrician, that's correct?

A I am a board certified pediatrician and I'm also board certified in child abuse pediatrics.

Mr. Galmore: No further questions on the topic, Your Honor.

The Court: All right, she's admitted as an expert.

Ms. Lively: Thank you, Your Honor.

Q (Continuing) Now —

The Court: In those fields.

Ms. Lively: Thank you, Your Honor,

Q (Continuing) Dr. Abel, whenever, how do you get involved in a particular case with a patient such as [redacted]?

A All right, your question I think refers to like an in patient consult.

Q Correct?

A My team gets a call from a care giver at the hospital such as a physician or a social worker. It always has to have a physician's name attached and we're being asked to consult to come and evaluate and to give our information.

Q And who all is on your team?

A Well my division it has three doctors, two nurse practitioners, one physician's assistant, and two administrative assistants.

Q And so what part do each of these individuals play in the process?

A At the current time only two of us are doing, two physicians are doing inpatient consults. There is one nurse practitioner that sometimes does it but she's always accompanied by one of the physicians.

Q And whenever you're doing an assessment do you consider things like child development, age, or all those things included in your consultation?

A What happens in a consultation is that we

find out why we're being asked to consult. We go to the bedside; we examine the child. We talk to the care givers that are there. We look at the medical records that are available at the time. We look at all the x-ray images, the blood test reports, We talk to the family about, we do a total history and physical which we find out what, what were the signs and symptoms or how did they come to medical, how did they bring this child to medical attention, past medical history as much as they can tell us. Oftentimes we can later get more information from the other doctors that were involved in the past.

We get a review of systems, like we go head to toe, we talk about neurological, skin, breathing, digestion, all of the bodily systems, we review that, has the child ever had problem in this area, talk about the child's development, what the child can do. We ask when was the last the child last totally normal. We find about any past testing that was done. We ask about family history, if there are any family history of various kinds of diseases that are occasionally associated with what we're seeing in front of us.

Q That's quite an extensive list, Dr. Abel?

A Social history, yes, it is very extensive, yes.

Q Okay, and is that a part of the speciality

underneath pediatrics that you're referring to the child abuse pediatrics?

A Yes, what I just described is a typical evaluation that would be done in a case like this.

Q Okay, would it be fair to say you take in the subjective information as well as the objective documentation you're able to see?

A Right, we listen to what the family is telling us and we record it, writing it down, and we get all the objective or things we can see with our eyes and the physical exam. We make pictures, if we can see any lesions on the child's body we'll take a picture of it so for further review.

Q And in regards to, to [redacted] [redacted] on July the 15th, 2008, did you make notes and take pictures in regards to this particular problem?

A Yes.

Q Okay, well what date exactly were you brought in as a consult on this particular patient?

A The 15th of July.

Q Okay, it was the 15th, all right?

A Yes.

Q And would you, please, tell the jury what information you had prior to walking into that consult so you'd know what to expect and what to be looking for?

A I recall being told that the child had been in an outlying emergency department, had been brought there on an emergency basis, had skull fractures, had bleeding within the skull, inside, and that the bab -- and the child, it was a baby, it was a toddler, the toddler was unconscious, and there was concern about possible non accidental trauma.

Q Okay, and when there's a concern for possible non accidental trauma is that what triggers you coming in to get a consult?

A Yes, there's other kinds of cases where it isn't trauma, it's something else, but in this case trauma, yes.

Q Okay, and, Dr. Abel, whenever you actually went in for the consult did you observe the child yourself?

A Yes.

Q Okay, and please tell the jury what you recall the first time that you observed the child [redacted]?

A He was a little white toddler; he was unconscious. He was on the respirator; he was very thin for his height. I examined him head to toe, listened to his heart, watched the monitors, you know, felt his belly, turned him side to side with the help of the nurse so I didn't dislodge his breathing tube, made photographs of the

bruises that I saw. He was, he was flaccid, he had no muscle tone. He was totally unconscious; his eyes were fixed and dilated.

Q Were you aware at that time as to what his prognosis was?

A It was grave, yes.

Q And what were the chances at that point in time for any meaningful recovery?

A Well normally that call's made by the pediatric intensivist so I, I usually let them address that issue but I was very concerned.

Q You were concerned?

A Yes.

Q Okay, now tell us who, if anyone, you spoke to to try and get a history on this child, non medical?

A Non med, okay, I spoke to the maternal grandmother and her boyfriend.

Q Okay, did you speak with them separate or together?

A I spoke to them separately and I had with me the hospital social worker, Natasha Simone-Major, so there were two of us talking to each one of them separately, is my recollection.

Q All right, and did you document or take notes of those particular meetings?

A Yes, that's in my report.

Q Okay, and Dr. Abel, if you need to look at your report to refresh your recollection would you, please, tell us what was relayed to you regarding the history of this child from the maternal grandmother?

A Just a minute; the child had been eating normally and went to the swimming pool on the evening of July 13th. They came back home and then on the morning of the 14th the grandmother went to work really early in the morning around five.

Q Okay, and who was he, who was he left in the care of according to his maternal grandmother?

A With her boyfriend.

Q Okay, and then what else was reported to you?

A Now the part that the boyfriend talked about was that the child ate breakfast about 9:30 in the morning and then went back to sleep, then he ate lunch around noon, and then he took a nap, and when the mother came back from work around 3:30 in the afternoon the child was asleep, and then together, I mean they both separately gave the same history that around 6, around 6:00 when the grandmother went to get the baby up for supper he was apparently having a seizure, so 911 was called.

Q Okay, now, Dr. Abel, was, did either the

maternal grandmother or the boyfriend ever give you any type of indication that the child had had some type of injury while in their care?

A They both denied that there had been any injury the day that the child came to the emergency room. They both described several incidents that were approximately two weeks before, one where he was in a stroller, let me get the words here, "he was in a stroller that fell backwards down a few stairs and he got a little bump on his head but seemed okay," and the other was that, let's see, that "a puppy dog had pushed him over and he had," "he had seemed normal after that," and those were both about two weeks prior to the 13th.

Q So they gave you that time frame prior to that was two weeks that these events occurred?

A Yes.

Q And either one of those incidents did they tell you he required medical attention?

A Neither case.

Q Okay, all right, was any other information given to you regarding any type of family history or genetic disorders or anything at all that would have been important in your consultation?

A We're interested in cases of sudden unexpected death of infants and toddlers, if there's any

underlying or genetic disorder or metabolic disorder and there was no family history of any children that had that and that this child had not been known to have anything like that. Now this history is coming from the grandmother, her comment about the child was that he arrived at her house very malnourished. She claimed he weighed about fifteen pounds when he arrived and he was, well at that point he would have been about sixteen months of age and that would have been quite underweight and that he was ravenously hungry.

Q And in regards to his appetite, and I'm referring to, you provided the consultation report, about three weeks prior to July the 14th how did she describe his appetite?

A Ravenous.

Q And, and again on the date of July the 14th, 2008, the information that you have from the boyfriend as well as the maternal grandmother was that he had eaten that day?

A Yes, he had eaten breakfast and lunch.

Q All right, now, Dr. Abel, once you've gathered this information and were you aware, you said that you knew that he was grave, were you aware of what was going on inside of his head, the injuries to his head?

A I was able to look at the head C.T. and

able to see that he had very, very significant comminuted fractures of both parietal bones and had evidence of subdural bleeding and I thought some subarachnoid bleeding, too.

Q All right, and in regards to seeing those type of fractures on a child what were you expecting in your experience as a child abuse pediatric to hear that was the mechanism for how this child ended up with these injuries?

A The kind of fractures he had they were not simple linear skull fractures that occasionally can occur when a child falls in a normal household fall. His were huge big complex comminuted fractures, the kind, it's been described it's like a cracked pot where there's been severely forceful impact of the head against a hard surface and it was on both sides.

Q And whenever you see a patient with these type of injuries, especially a toddler in your, in your experience, would you expect that child to be functioning or eating with those type of fractures?

A The degree of fracturing is an indication of the degree of force so the degree of force that was applied to the head on both sides was massive and I would expect the child to be unconscious immediately.

Q And, Dr. Abel, in regards to other things

that you looked at, documentation that you did in this particular case, were you the one that actually photographed the body of the child?

A Yes, I photographed him.

Q Okay, and whenever you photographed the child what exactly are you looking for on the exterior?

A I use more or less standard technique where we identify the child, make a picture of the total self, the total body, and then we focus on the areas that appear to be injured and take a more distant shot and then we get a little closer and put a measuring device and so that you can accurately see exactly how big it is, what color it is.

Q As a child abuse pediatric in your consult were there any outside evidence of injuries to this child that gave you concern?

A Yes, he had multiple bruises, many of which in places that are not typical for normal childhood falling.

Q Okay, and what would you expect to be typical bruising for a child who falls?

A Okay, so a toddler this age, if they fall down at home, which they all do, it's very typical to get bruises on the forehead so they go, they pitch forward and they knock their head, or they get it on their extensor surfaces like this part of their arms or the fronts of

their lower legs, their shins, those are typical places. Occasionally if they're really awkward they'll hit the side of their hip, just like all of us can do if we run into something, but frankly it's more common to get it here and on the front of the shins and on the front of the forehead.

Q Okay, thank you, Dr. Abel --

Ms. Lively: May I approach, Your Honor, and retrieve those?

The Court: Certainly.

Ms. Lively: Thank you.

Q (Continuing) For the record this is State's Exhibit Number 38 through 55, I'm just going to ask you do you recognize these, Dr. Abel?

A Yes.

Q Okay, and those are the photos, once again, that you actually took at the, in, in the pq at MUSC?

A Yes.

Ms. Lively: Your Honor, at this time the State would move 34 through 55 into evidence on behalf of the State?

The Court: Your objections are noted.

Mr. Galmore: Thank you, sir.

Ms. Grabert-Lowenstein: Thank you.

The Court: And the photographs are admitted.

Ms. Lively: Okay, thank you.

(Whereupon, State's Exhibits Numbers 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, and 55 entered into evidence.)

Ms. Lively: (Continuing)

Q Now, Dr. Abel, if you would, please, in each of the photos if you would, please, describe to the jury, and I'll let you look at it first, we'll do 30, I'm sorry, I said it wrong, they're State's I.D. they're 38 through 55, I think I said 34, I apologize, so this is 38 and 39; is this the same area that was this photograph?

A Yes.

Q The same bruise?

A Yes.

Q Okay, all right, and once again this is [redacted] what concerned you about this particular bruise that we're seeing here?

A There's a bruise on his chest wall on the left side and that's on the trunk of the body and it's unusual to have a bruise on the trunk of the body in a toddler without a real good explanation.

Q Did the maternal grandmother or boyfriend give you a good explanation?

A No.

Q Did they give you any explanation?

A No.

Q All right, State's 40?
A Yes.
Q Okay, what is State's 40 showing?
A This is the same bruise, the child has been turned a little bit more, you can see it.
Q So you can see the angle better as to where it's located?
A Yes.
Q Okay, all right, and 41, if you would, please, look at that and tell me what that is documenting?
A This is the right hip area upper thigh and this is my hand, this is a tape measure, this is a yellow greenish bruise on the lateral side of the right hip thigh area.
Q Okay, and you mentioned that possibly getting a bruise on the hip may not be ---
A Yeah, you can get, you can run into something and get a bruise there, yes.
Q Okay, all right, and I know that you're going to be asked this so I'll go ahead and ask, is there any significance in regards to the color of these bruises when you're seeing them on the 15th?
A No, we used to think we could time bruises by the color changes cause we knew that hemoglobin changed in a certain sequence but there's been lots of recent

articles that that's really not true so we've given up trying to date or time how old a bruise is by the color.

Q Okay, all right, so you just in your field you document it?

A Yes.

Q Okay, now in regards to State's Number 42, and I believe 43 goes along with that?

A Yes.

Q Okay, and if you'll, please, tell the jury why you took 42 and 43?

A There's a bruise on the right upper thigh at the back of the thigh really close to where the guteal crease is and that's a fairly protected area. That's not a typical place for a normal household bruise fall.

Q Okay, and ---

A Yeah.

Q And so it's not a typical place?

A No, it's not a typical place.

Q All right, and was this toddler, did you know whether he was still in diapers or not?

A I don't know the answer to that.

Q And that's fine, that's fine. I just, now if you could, please, tell me what it is that we're seeing here in 44 and 45?

A All right, there's a faint bruise on the

right lateral thigh way up high.

Q And then 45 is just a close up of it?

A Yes, and, and there's a red mark that appears to be a crease mark from laying on the padding of the bed and that's not what I'm looking at.

Q Okay, all right, now in regards to this bruise what, if any, concerns did you have regarding the placement of this particular bruise?

A Okay, so let me see that again, okay.

Q I'm sorry?

A Well again that's the lateral, that particular bruise all by itself you would wonder how it got there but it could be accidental.

Q Okay, all right, that's fair, now, please, tell the jury what we're seeing in, in 46?

A All right. This appears to be the, the right hip, the leg is folded forward and there appears to be a bruise up high closer to the waist.

Q Okay, closer to the waist, all right, and you've measured this particular bruise?

A Yes.

Q Okay, it's about how big?

A About one by one inch.

Q Okay, and based on the placement of this did that give you any concern?

A Yes.

Q Okay, is that atypical spot for a toddler?

A Yes, it's atypical, that's not on an extensor surface and it is on a trunk.

Q Okay, all right, and tell us what is in 47, 48?

A Okay, there is a larger bruise on the left lateral thigh up high; it's one and a half by one and a half centimeters.

Q Okay, could that bruise be from vaccinations?

A Not usually.

Q Okay?

A I'm not aware he got any vaccinations within a week of this either.

Q Okay, if you knew that he had gotten any vaccinations on July the 8th, would you believe that to be a possible cause?

A Possible.

Q Okay, what's the more probable?

A It's not likely he would get it in that location, the nurse would have been not following normal spot to give the immunization. That's not where you normally give it.

Q Okay, and does it normally look like this?

A Not normally, no.

Q Okay, tell me what we see on 49?

A All right, you got a lower leg and you've got a bruise on the shin.

Q Okay, and you already testified that a child would have bruises on the shin?

A Easily.

Q Easily on the shin, right?

A From accidents, yes.

Q All right, and you document every bruise; is that correct?

A Yes.

Q Okay, all right, then what are we seeing in State's Exhibit 50?

A It appears to be a slight scab on the lower, I believe that is, yeah, that is the right lower leg and then above it something is healing like possibly a little insect bite.

Q Okay, and did you ever receive any information from, from the history from the family that he had had an episode with ants?

A Yes, I did.

Q Okay, all right, so, so were you told that he was given any type of medication for ants and/or other reason; do you recall?

A Yes, I recall he went to a doctor and was given some kind of treatment for ant bites.

Q Okay, you don't recall what that medication was?

A I remember from the record, from the medical record it was an antihistamine, yeah.

Q Okay, all right, I'll ask about that in a minute, let me get through these if you don't mind. What does State's Exhibit 51 show us?

A A slight bruise of the lower leg, I'm going to say left lower leg because I can see the sites for the tubes that are central and it looks like a bruise on the shin, again kind of medial, kind of inside the leg.

Q Okay, I was going to say because this up here ---

A Yeah.

Q --- appears to be ---

A That's the shin.

Q --- the shin and this appears to be where?

A It's inside the leg, so that's a little atypical for a site for a normal fall.

Q Okay, just have a few more, and in State's 52 and 53; do you know what that is?

A I think on the flip there's a mark from probably an attempt to do an I.V. in a recent past and then

there's a area that looks it's a, insect bite or something that's been scratched and it has a small mound of superficial infection in it.

Q Okay, and once again as a part of what your consult is do you document every single thing?

A Yes.

Q And, Dr. Abel, in all fairness in your experience in what you're doing are you necessarily wanting to find abuse or what is your job?

A No, my job is to come to an accurate medical conclusion is there medical evidence that points to maltreatment or does it point to something else, so that's why I ask extensive history and sometimes do extra tests that are highly unusual to be sure the child doesn't have an unusual condition.

Q Okay, all right, and then just briefly the last two photos 54 and 55, what are these showing?

A The top photo shows some scratching, I believe it was on one of the shins, just a simple linear scratch, and then the bottom photo, it's hard to see it, I was trying to show slight scratching on the chest near the lower rib cage on the right, very faint.

Q Okay, all right, you did, however, use a tape measure to attempt to document that as well?

A Yes.

Q All right, now, Dr. Abel, after you had --

Ms. Lively: Your Honor, may I publish this to the jury, this particular one that's difficult to see?

The Court: Certainly.

Ms. Lively: Thank you.

Q (Continuing) Now, Dr. Abel, and you can refer to, to any of your notes if you need to, let me just step back for a second and I had asked you about the child being given medication, would you, please, look in your records to determine what type of medication he was given?

A It wasn't on my consult because at the time I talked to the family they weren't telling me that. I found it on the report done a few hours earlier, see if I can find it here. I can't read the writing, here it is, Xyzal.

Q Okay, and, and what is Xyxal used for?

A It's a antihistamine used for allergy symptoms of nose or skin.

Q Okay, and in regards to a child his age do you know what, were you told or were you able to find out through your research what this child was being given, what dosage?

A I don't know the dosage.

Q Okay, that's fair, now do you know what kind of side effects that Xyzal would have on a child this

age?

A I looked it up and the side effects are similar to other anti, antihistamines, you can be drowsy when you take it, that's the main one.

Q All right, now let me get to, let me get back to his skull fractures. Dr. Abel, when after you got all the history from the maternal grandmother and the boyfriend and you looked at the bruising and you considered the findings, the radiological findings, at that time were you able to come up with a conclusion within a reasonable degree of medical certainty as to whether or not this child suffered from an accidental or non accidental injury?

A Well I also check, you know, blood count, chemistries, urinalysis, the normal things and he had abnormal clotting test that is a kind of abnormal clotting that we see with massive head trauma and the family history and the boy's history gave no history that he had any kind of clotting problem when he was a younger child, normal circumcision, no problem, so, so there was no evidence of an underlying clotting disorder. There was a clotting disorder as part of the injury that he now had, so when you have massive head injury like this, you know, your clotting mechanism goes awry.

Q And just so you said something about the

circumcision, did you actually review his well baby check records information?

A Yes, I have had a chance now to review all of his well child records up till nine months of age.

Q Okay, and, and you mentioned the circumcision was there anything, so there was nothing in what happened to this child that gave concerns as to blood disorder or genetic disorder?

A No, he was a normal child; he was developing normally; his language was developing. He was, his motor skills were developing normally up until nine months of age and then, and then there are no more records until he comes to this area and is seen several times.

Q Are you aware of the fact that he was seen at Conway Medical Center a week before he presented at the E.R. on the 14th?

A Yes.

Q Okay, and did you have an opportunity to review those records as well?

A Yes.

Q Okay, and based upon the information that you had and the severity of the injuries that you saw on the 15th, do you believe it would have been possible for this child to have had those type of injuries on the 7th?

A No.

Q Okay, all right, based upon your experience as a child abuse pediatric and knowing how children basically function and act would this child be immediately symptomatic once the injury was inflicted to his head?

A The head, the skull fractures ---

Q Yes.

A --- were massive and in my judgment he would have been unconscious immediately.

Q Okay, and I believe you said that earlier, I just want to make sure, and I'm asking you, would the child have eaten breakfast that morning if he had these massive skull fractures?

A No.

Q Would the child have been able to sit up and eat lunch if he had these massive skull fractures?

A No.

Q So when you're provided that history regarding the child and you have, I believe you said the other two events were the puppy dog knocking him over and the stroller; is that right?

A That history was given but it was much earlier.

Q I understand, that's what I mean from two weeks out?

A Right.

Q Without any other information other than that and that the child was functioning that day in your opinion within a reasonable degree of medical certainty can you tell us when you think the injuries would have had to have been inflicted?

A The day he presented to the emergency department was the 14th, right, 14th.

Q All right, and why is that?

A Because he was in extremist and he was having seizures and, and he, so also the blood, the blood that the radiologist they can tell just from the imaging how old the blood is in the head so we knew that the blood was no more than three days old and probably less, no more than three days, and then just the fact that such a massive fractures that he wouldn't have been able to function. Now part of the dilemma is the history and all I can say is that the history I was given does not match what I was seeing at all.

Q And so what conclusion did you come to regarding whether this was and as I stated earlier and with all that information whether this was accidental or non accidental?

A Well I put in my final report inflicted trauma, inflicted head trauma.

Q And once again, Dr. Abel, were you able to

talk to, or I didn't actually ask you this, were you able to talk to the biological mother and biological father about this child?

A No, they had not arrived and I never met them.

Q You never did, okay, so the information that you received was just from, I mean the social history was from the grandmother?

A Correct.

Ms. Lively: One moment.

Q (Continuing) And, Dr. Abel, were you up to date on all the literature regarding traumatic abuse, traumatic skull fractures and abuse of children?

A Well I'm doing the best I can. There are hundreds of articles published every few months because this is a very hot topic and I, I can't read them all.

Q Okay, all right, and in regards to your experience as a child abuse pediatric in causes of death in children is it, what is one of the highest causes of death in children this age under two?

A Abusive head trauma.

Ms. Grabert-Lowenstein: Objection, Your Honor, relevance.

The Court: I would sustain that objection.

Ms. Lively: Okay, thank you.

Ms. Grabert-Lowenstein: Thank you, Your Honor.

Ms. Lively: (Continuing)

Q And, Dr. Abel, after you actually did your consultation on that day did you then follow up and include in your records information you received from the autopsy?

A I have read them but, no, my report was made before I had an autopsy report or other records.

Q Okay, all right, so everything you had was based on what you saw from the 15th?

A And what, what the grandmother and the boyfriend told me and from the medical records that were in the I.C.U. chart. Some of them were from the outlying emergency room and some of them, of course, had been generated right there at the MUSC in pediatric intensive care.

Q And, Dr. Abel, when you're seeing these type of skull fractures in a child what normally do you hear as a mechanism for that, for that particular injury?

A Well the type of comminuted skull fractures that are seen would be like if a child had fallen from a three story building and somehow managed to hit two surfaces or if the child had been ejected from a moving car and had landed on concrete thirty feet away.

Q So in your opinion would the force that you're talking about be something that would be readily

visible or apparent to the person or someone watching this injury take place?

A Okay, I think I understand the question, the question being that would a person observing this appreciate the magnitude of the force?

Q Yeah, the level of the force, the severity of the force?

A Yeah, a person with normal observation would perceive that this was tremendous force.

Q To the child?

A To the child, yeah.

Q And finally were you given any historical information that would have put [redacted] in the care of anyone other than the maternal grandmother and the boyfriend on July the 14th, 2008?

A No.

Q In regards to his development, just quickly cause I know we've gone through a lot, but in regards to [redacted] development was there anything in his development that gave you concerns?

A The history from the grandmother was indicative that he had severe developmental problems and behavioral problems but that didn't match what I got from the well child check, very detailed pediatric notes, and he had had faithful visits to the pediatrician when they

documented his development and his growth and all of that, so the grandmother is describing a child that only can say one word and is clingy and whiny and wants to be held all the time. That doesn't match what's described in his first nine months of life where he already had four or five words at nine months of age and was developing, his motor skills were developing normally.

Q And were you given any records whatsoever that he had ever been in a motor vehicle accident or dropped from a two story building?

A I was not told that.

Ms. Lively: Thank you, answer any questions the defense might have for you.

The Court: We're going to take a quick break, five minutes, ten minutes.

(Whereupon, the jury retired to the jury room at 3:45 p.m.)

(Whereupon, a recess was taken and the following takes place on the record after the recess.)

The Court: Yes, sir?

Mr. Galmore: One issue has come up while we were in our recess. It has come to my attention that the same juror may have been asleep during the course of Dr. Abel's testimony. I have spoken with Ms. Grabert-Lowenstein and with Ms. Lively and I feel that the best

thing to do at this point is to remove the juror and seat an alternate, and I do not think that anyone is opposed to that motion.

The Court: Counsel?

Ms. Lively: Your Honor, I, I'm torn because we've been through so much of the testimony but Ms. Cote I asked her to, please, watch again as well as my assistant, Amy Ayers, and they both reported back to me that he's once again been nodding off and one of the other jurors sitting next to him has had to consistently get his attention. You know I know this is tough testimony. I don't know how the Court ---

The Court: Well it's an important case and the juror must ---

Ms. Lively: Well that's what I mean it's ---

The Court: --- must remain awake.

Ms. Lively: Yes, sir.

The Court: I agree with you that he must be removed, however, the selection of the replacement is not by order of selection, it's by lot. I will have my Clerk, that would be alternate Franklin Kolbe or alternate Schafehen. I will, how do you suggest that we do this?

Ms. Lively: Your Honor, you can just write down their names throw it in a cup and pick one out. I've seen the judges do that before. I don't have a problem with

doing that.

The Court: That's the way I have done it in the past and what I'll do is write the two numbers, they were 47 and 48. Do you have any objections to the Deputy, Ms. Graham, making the selection?

Ms. Lively: No, Your Honor.

Mr. Galmore: No, sir.

Ms. Grabert-Lowenstein: No, Your Honor.

Deputy Graham: Number 48.

The Court: The other pad that I had in was 47 so that would be Mr. Schafehen. Would you bring Mr. Buie in?

Deputy Graham: Yes, sir.

(Whereupon, Juror Number 42 enters the courtroom.)

The Court: Mr. Buie, it's come to my attention twice during this trial that you're unable to stay awake during the testimony. I've observed you dozing off during the testimony, therefore, I have no alternative than to remove you from this jury. Thank you for your service thus far. If you would show Mr. Buie out and then bring me the rest of the jury.

Deputy Graham: Yes, sir.

(Whereupon, Juror Number 42 exits the court room.)

Ms. Lively: Your Honor, we'll need to pick a new foreman as well.

The Court: I will.

Ms. Lively: Yes, sir.

(Whereupon, the jury returns to the courtroom at 4:02 p.m.)

The Court: Ladies and gentlemen, I was compelled to remove the juror from your jury, that was your foreperson. Occupying the foreperson's seat now is Mr. --

Jury Panel Member: Robert Kidd.

The Court: Mr. Kidd, Mr. Kidd, you will assume the duties as foreperson. Mr. Schafehen?

Jury Panel Member: Yes, sir.

The Court: Would you move over by Mr. Kidd?

Jury Panel Member: Yes, sir.

The Court: And from this point forward you will be a, a member of the jury panel and, Mr. Kolbe, you will remain as an alternate, thank you.

Witness?

Ms. Grabert-Lowenstein: Thank you, Your Honor.

Cross Examination

By Ms. Grabert-Lowenstein:

Q Good afternoon, Dr. Abel?

A Afternoon.

Q Could the bruises that you observed that

you testified to have occurred at the same time as the skull fractures?

A They could have.

Q Okay, and could the skull fractures have happened given all the information that you looked at, which if I might, you looked at all the medical evidence, the radiology, correct?

A Yes.

Q Okay, taking all of that into account could they have happened within an hour of him being seen by EMS?

A They could have.

Q Okay, thank you. Now you saw no evidence as to heel cuts?

A I, right, he had tiny little scraps that were healing.

Q Was there indication of some bug bites?

A Yes.

Q Okay, and you saw no evidence of old broken bones?

A Correct.

Q The only broken bones were the skull fractures?

A Correct.

Q Okay, as a pediatrician would the allergies it was described to you he was treated for would that have

made him maybe whiny during that period, maybe a little uncomfortable?

A If children are uncomfortable they can whine.

Q Okay, and likewise he was seen for stomach problems on the 7th for the vomiting?

A Yes.

Q Could that make a child uncomfortable and whiny?

A Yes.

Q Okay, you indicated the antihistamine would make him groggy?

A That's a side affect some people have.

Q Okay, and, Doctor, how long would have taken to, to make the injuries that you saw on the skull fractures?

A Less than a minute.

Q Okay, and someone that didn't see the mechanism, obviously, couldn't appreciate the force or what was going on, correct?

A Well that's incorrect, the degree of damage is an indication of a force.

Q I mean let me rephrase the question, if a person didn't see the damage being inflicted they would have no knowledge of the damage, correct?

A No, that's incorrect, a medical person that's seen the evidence would see the damage.

Q Okay, let me, let me rephrase again, I'm sorry, it's getting kind of late in the afternoon?

A Okay.

Q If a layperson did not see the damage being inflicted they would have no knowledge of the mechanism of the damage?

A Correct.

Q Okay, and if someone did not see the symptomology they would not appreciate that something had been done to the child?

A If, if an observer didn't see any symptoms in the child they wouldn't appreciate that something had happened to the child?

Q Yes?

A Correct.

Q Okay, thank you, now in your extensive history as a pediatrician and then a forensic pediatrician have you gotten into the sociology behind when children, especially toddlers, are hurt?

A I've done a lot of reading; there is no profile of someone that hurts toddlers that is a hundred percent accurate.

Q Okay, are there, from your consultations

are there some more common scenarios as to when injuries are inflicted?

A There are risk factors, risk factors are well known, however, sometimes children are purposely hurt by people with no known risk factors.

Q Okay, are one of those risk factors somebody for a low tolerance to stress?

A Yes.

Q And including a low tolerance to the demands of a toddler?

A Yes.

Q Okay, thank you, Doctor, I have no further questions.

The Court: Mr. Galmore?

Mr. Galmore: Thank you, sir.

Cross Examination

By Mr. Galmore:

Q Dr. Abel, I believe you testified that you were the director of the child abuse program at Children's Hospital in Washington, right?

A Children's National Medical Center.

Q Yes, ma'am, when were you director of that program?

A The year 2000 through 2003.

Q And when did you become director of the

Violence Intervention and Prevention Program at MUSC?

A I came as the medical director in 2006 and I became the director I believe in 2010.

Q So you were medical director and then you became --

A Director.

Q Director?

A Correct.

Q Now you were called in to consult on this case; is that correct?

A That's correct.

Q And who were you called in by?

A Dr. Tecklenburg.

Q And who is Dr. Tecklenburg?

A He's the intensivist, pediatric intensivist at MUSC; he was taking care of this child.

Q Okay, so Dr. Tecklenburg was [redacted] physician at MUSC?

A He, yeah, he was the attending physician.

Q Okay, and is part of the consultation one of the first things you need to do is try to establish a history for the patient; is that correct?

A Yes.

Q And in this case you did that by talking with the maternal grandmother and her boyfriend?

A Correct.

Q All right, did Ms. Gorman refuse to speak to you?

A Ms. Gorman is the maternal grandmother?

Q Yes, ma'am?

A No, she spoke with me.

Q Okay, did she have the choice to refuse to speak to you?

A Yes.

Q And when she spoke with you I believe she told you that she went to work at 5 a.m. that morning?

A I believe I testified to that, yeah.

Q Yes, ma'am, is that correct?

A That's correct.

Q Okay, did you get that same information from the boyfriend?

A Yes.

Q So that particular piece of information was verified by both people; is that correct?

A Yes.

Q Okay, now I believe you received information that the patient ate breakfast at 9:30 and went back to sleep and then ate lunch around noon and took a nap?

A Yes.

Q Okay, where did you get that information?
A That came from the mother's boyfriend.
Q Okay, now at this particular time ---
A The grandmother, excuse me, grandmother's boyfriend.
Q Yes, this would have been at a time when the grandmother was at work?
A That is correct.
Q Okay, were you able to independently verify the claim that the child had breakfast at 9:30 and went to sleep and had lunch at noon and went back to sleep again?
A No.
Q Well so what you're saying, were you, were you able to contact or speak to any other people to, to tell you that that is what happened?
A I spoke to the people that were telling me they were the ones that was present and my job is to get the medical history ---
Q Yes, ma'am?
A --- you know, there is law enforcement investigation and DSS investigation and they may have done other things, I don't know.
Q Okay, but on that particular issue of waking up having breakfast, going back to sleep, waking up and having lunch, going back to sleep, that information

came from a single source; is that correct?

A Yes, that's from maternal grandmother's boyfriend, yes.

Q I believe they also told you that the child fell in the stroller a couple of weeks earlier ---

A Correct.

Q --- but they did not think that that was a significant injury?

A Correct.

Q And they also told you that the puppy knocked the child over but they did not think that was a significant injury?

A Correct.

Q Did both people tell you both of those incidents?

A Yes.

Q Okay, the social history says that the mother returned home around 3:30 p.m. and the child was asleep?

A The maternal grandmother?

Q Yes, well your, the report says mother but I believe you're referring to the maternal grandmother?

A You're right, yes.

Q Okay, where did you receive that

information, from whom?

A From the maternal grandmother.

Q Okay, was the boyfriend able to verify that the maternal grandmother came home around 3:30 and the child was asleep?

A Their times were very similar; I think one of them said 3:30 and one of them said 4:00 but the stories they both told were matching.

Q Okay, so they both told you that she had went to work and come home later that day?

A Right.

Q I think you said you had an opportunity to review the wellness records for [redacted] [redacted]; was that correct?

A Yes.

Q Okay, and there was a gap in his, in his records from nine months up until he was treated at Aynor Family Practice on July 1st?

A Correct.

Q So he did not have any follow up visits for eight months?

A I don't know, the mother wasn't there to tell me if she had taken him to another doctor so I just don't know.

Q Okay, but your records have an eight month

gap in there?

A Yes, well is that eight months, it goes from nine months to sixteen months, yeah.

Q Yes, ma'am?

A Yeah, so seven months.

Q Yes, ma'am?

A Yeah.

Q I think you received information from the maternal grandmother that the child was malnourished?

A Correct.

Q Did you have an opportunity to weigh [redacted]

[redacted]

A He was weighed at the hospital and his weight was nine kilograms and that is less than the fifth percentile which is underweight.

Q So he was in fact underweight?

A He was in fact underweight, now that's after he had been, he had been in the home of the maternal grandmother for several weeks but he was still underweight.

Q So you, your testimony is that his actual weight to in your medical opinion was underweight?

A It was and compared to his previous growth charts, I took all the data from the well child visits and I plotted it and he had been average height for his age each month but he had always been like the twenty fifth

percentile, in other words the lower one quarter in terms of weight but he had grown steadily and that pattern went all the way to the ninth month and then the record stopped and then when we're measuring him during the hospitalization his height was normal. He's around the fiftieth to seventy-fifth percentile but his weight is now less than the fifth percentile.

Q Yes, ma'am, now let me ask you about the photographs that you went over with the jury, the pictures, you stated that some of them appeared to be ant bites; is that correct?

A There were several.

Q Okay, and you stated that the parents, excuse me, the maternal grandmother and her boyfriend did not give you an explanation for those bruises?

A Correct.

Q Okay, can you tell the jury when these bruises were inflicted?

A No.

Q Can you tell the jury who inflicted these bruises?

A No.

Q Do you have any idea how many people handled [redacted] from the time 911 was called until you had an opportunity to see him on the 15th?

A I don't know.

Q Do the records indicate that he was unconscious during that entire period?

A Yes.

Q So he wouldn't have been able to get on the stretcher on his own?

A Right.

Q He wouldn't have been able to get in the helicopter on his own?

A Uh-huh.

Q So someone has to actually physically pick him up and put him on a stretcher, is it possible that these bruises are the result of several different people handling the child?

A It would be unusual to get bruises on the trunk in the process of resuscitation. Sometimes with resuscitation, a vigorous resuscitation, children or adults will get bruises here where the person's forcefully lifting their chin to try to get the airway, sometimes they'll have bruises on their extremities where people have tried to put in I.V.'s especially at the I.V. sites like here on the inner elbow or in a baby in his case I think I saw one like that on his foot where it looked someone had tried to put an I.V. in his foot.

Q Okay, so bruising does sometimes occur

during resuscitative efforts?

A In, in specific locations, yes.

Q Based on your training and experience are you able to give this jury an estimate for when the skull fractures would have been inflicted?

A Skull fractures, there was no evidence of healing but the healing of skull fractures is an area where they don't heal like a long bone. When a long bone heals there's a cuff of new bone formation that looks like an onion that goes around where the fracture is that makes it easier to figure out how old they are cause the radiologists are used to looking at that, but the bones of the head when they're fractured and they start to heal they just sort of melt back together again slowly and it's really very difficult to age healing. Now there's no sign of any healing at all on these. We know that from the blood products in the brain that shouldn't have been where they were that the injury that associated with the bleeding in the head and the skull fracture most likely were all associated at the same time that, that it was less than three days.

Q Okay?

A Now the degree of injury to the skull with the shattering of the bones meant a tremendous amount of force and I would say the child was unconscious, as I have

said earlier he was unconscious. Now the problem to figure out is which story is accurate about when he became abnormal, when he started acting abnormal and so that's the difficulty.

Q Right..

A We apparently have some people that observed him the night before in the condition that was not terribly abnormal so he, he did not have those skull fractures the night before.

Q But your, your, your testimony, and correct me if I'm wrong, is that these skull fractures can be no older than three days?

A The blood says they're no older than three days. The clinical story if you take the accuracy of the other people that saw him at the swimming pool they couldn't have been there. It would have been after that because he could not have been acting normal.

Q Well, well let me say it like this, we've had testimony that 911 was contacted on Monday the 14th at 6:06 p.m.

A Yes.

Q I'm trying to figure out when in relationship to that time 6 p.m. when this injury would have been inflicted on [redacted] What is your medical opinion?

A My opinion it would have occurred that day, possibly the night before, but after he was seen by other people and was normal.

Q So are we talking three hours, six hours, twelve hours?

A Again the problem with this is that the history is coming from the defendants and so it's very difficult to assess the veracity of the history.

Q Yes, the problem is the history, yes?

A Correct.

Q Well let's take the history out of it and just look at the wound itself?

A Yes.

Q Without referencing the historical information that was given to you, can you tell us to a reasonable degree of medical certainty when the skull fracture was inflicted?

A I would, if you have no history at all it would have been fairly soon around the time the child was brought to medical attention because he would have proceeded to die if he hadn't been put on the respirator, so my judgment is it would be that day.

Q Sometime that day that's your answer? I'm not trying to put words in your mouth.

A That day, the middle of the night the night

before, but it had to have been after he had neutral people say he looked normal.

Q Okay, so your answer is some time after he returned from the swimming pool?

A Yes.

Q Could hitting your head on the side of the swimming pool, if it's a cement pool, could that cause these type of skull fractures?

A This type of skull fracture would be if his head had been slammed forcefully against the pool and the problem is it's both sides of the head, so it would have been two blows and that's not consistent with a normal accident in a swimming pool and there's no history of an accident in the swimming pool, to my knowledge.

Q Okay, so your testimony is that some time after he returned from the pool up until the Monday at 6 p.m. somewhere in there is where the injury occurred?

A Yes.

Q Can you narrow it down any more than that?

A Not really.

Mr. Galmore: All right, thank you very much.

The Court: Let's wait and see if Ms. Lively has any further --

Ms. Grabert-Lowenstein: I'm sorry, Your Honor.

The Court: Ms. Lively, do you have any further

questions?

Ms. Lively: Yes, sir, I was just got used to her going.

Ms. Grabert-Lowenstein: Sorry.

Redirect Examination

By Ms. Lively:

Q In regards to two issues, first of all do you have any information in your records to show that [redacted] had to be resuscitated or CPR given to him at any time?

A Only as part of EMS being called the night of the 14th.

Q Okay, and I'm specifically asking if there's any indication that he received chest compressions or resuscitation or did he just receive oxygen, in your records does it show?

A It's not in my records; it's in the EMS record.

Q Okay.

A And I could look in it if you want me to look at it.

Q Okay, and if it's not in the EMS record would it be that it didn't happen; could you tell us?

A I couldn't tell you.

Q Okay, will you look in the record then and

tell us whether it's documented that he received CPR or any type of resuscitative maneuvers on his body?

A You know, I don't have that record; do you have that record?

Q I do.

Ms. Lively: If I may approach, Your Honor?

The Court: Certainly.

Ms. Lively: (Continuing)

Q So we would have to leave that up to the EMT's; is that right?

A Yes.

Q Okay, that's fair. Well let me ask you this, I'm looking over your consultation report in regards to the timing, which we've gone over et nauseam, but let me ask you this, when you did your final assessment based on all the information you had, including the two-week-old potential puppy dog stroller issue and the history that was given to you by the defendants in your assessment, you were able to give a clearer time line in regards to when you believed this child would have had the inflicted injury; would you please look at your report and refresh your recollection for the jury?

A Yes.

Q Okay, and if you would, please, and I know this case is from 2008 so read through that and refresh

your recollection, based on all the information you were given at that time, what was your opinion regarding the time line for the injuries to this child based on the information that was given to you?

A That the head injury was no more than three days old and if timed by both the head imaging and the time of the sudden change in his clinical status as given by the maternal grandmother and her boyfriend was no more than three hours old.

Q Three hours old from what?

A From the time he was taken to the outside emergency department.

Q Okay, so three hours from the time he got to the Conway E.R.?

A Right.

Q All right, which was, do you know was that approximately 6:58 p.m.?

A I don't recall the exact time.

Q Okay, all right, and that was your documentation from three years ago when you actually were involved in your consult?

A Yeah, three and a half years ago, yeah.

Ms. Lively: Okay, thank you, Dr. Abel, that's all.

The Court: Ms. Grabert-Lowenstein?

Ms. Grabert-Lowenstein: Thank you, Your Honor.

Recross Examination

By Ms. Grabert-Lowenstein:

Q Doctor, if the child was sleeping normally at 4:30 p.m. does that lessen the time frame that the injuries could have occurred in?

A If the child is sleeping normally, one of the difficulties is that children with head injuries if the person doesn't tell anybody that they did a head injury and, and the child is unconscious it's very difficult for another observer who doesn't know about the head injury to realize that the child is unconscious.

Q But if indeed the report is accurate that the child was sleeping ---

A Yes.

Q --- and sleeping normally that would narrow down that, that time much less than the three hours, correct, Doctor?

A It's very difficult cause when you're sleeping you're not doing anything, you know, you're just laying there breathing and so it's hard to assess how normal a person is when they're asleep.

Q Let me ask you a hypothetical. Again, if you have the information that the child is sleeping normally that there's no sounds, nothing to indicate that

he's not sleeping normally, that would lessen that time frame a great deal from the three hours maximum, correct?

A That's very hard to answer because it's, the signs of head trauma are changing consciousness, sometime seizures, sometimes breathing abnormalities. They, they don't all happen at once, so a child could have a head injury and be quietly breathing and apparently sleeping but actually unconscious and it would not be possible for a person who didn't know that they had had the head injury to realize it until later, until something more started happening.

Q Right, and ---

A Yeah.

Q --- but you would expect to see, would you not, breathing and, you know, breathing difficulties and the seizure activity?

A I would expect that after the head injury this child sustained he would be unconscious so he'd be quiet, flaccid, probably still breathing and as the swelling in the brain got worse and he's getting worse and worse then he might start to breathe more slowly and possibly have a seizure and become more abnormal as things go on.

Q And, Doctor, is your hesitation the fact that you weren't there, you didn't actually have an

opportunity to see the exact sequence of what occurred?

A No, my hesitation is that your characterization doesn't make sense.

Q I'm asking you if the facts are that everything is normal at 4:30 wouldn't that lessen the time frame for when the injuries could have occurred?

A You're assuming that the observer is able to detect things that maybe aren't detectable yet.

Q Okay, and aren't you assuming that the child being reported as sleeping normally is incorrect?

A I'm telling you that's a real possibility; I don't know.

Q Okay, and you don't know because you weren't there?

A Correct.

Q Okay, but the fact of the matter is this, this injury didn't necessarily have to occurred at the full end of the three hours?

A Can you rephrase that?

Ms. Lively: Your Honor, I just want to object to asked and answered, it seems like it's just continuously going on.

The Court: One more, one more, Ms. Grabert-Lowenstein.

Ms. Lively: Thank you.

Ms. Grabert-Lowenstein: (Continuing)

Q You indicated in your report that based on everything no more than three hours?

A That's assuming that the history given by the defendants was accurate.

Q And are you assuming that it wasn't?

A I'm, I'm saying I don't know.

Q Okay, and my point being that if it was accurate that just reduces the time frame drastically from the maximum of three hours?

A Yes.

Q Okay, thank you, Doctor, just a couple of more questions. Could any of the bruises you observed have occurred if, if [redacted] hit something as he was seizing?

A If he fell off of a, off of a bed and landed on something, possibly; I didn't get any history like that.

Q Okay, but that is, that is a possibility. The other thing is if he's seizing and posturing as we've heard testimony as and the paramedics were trying to work on him would they have not had to restrain him to, to work on him?

A Yeah, they would have to hold him down enough to get an I.V. in and I believe they did get an I.V. in.

Q And could that have caused any of the bruising?

A Usually the bruising with that kind of thing would be on the extremities of being held or like I mentioned if they have to tilt his chin up to put in that intratrachial tube.

Ms. Grabert-Lowenstein: Okay, all right, I have nothing further, thank you, Your Honor.

Mr. Galmore: Very briefly, Your Honor.

The Court: Yes.

Recross Examination

By Mr. Galmore:

Q Dr. Abel, if a child has been struck in the head and lost consciousness and that child was not seizing and not posturing is it possible that that child would appear to be asleep?

A Yes.

Q Now if someone attempted to wake up a child believing that this child was asleep and the child was in fact unconscious and not seizing and not posturing, if that person attempted to say pick the child up to wake him up could that cause seizing?

A No.

Q Could it cause posturing?

A No, posturing is part of the seizing.

Q Yes, ma'am.

A And so the seizures caused by brain wave activity and in normally handling picking up a child wouldn't cause a seizure even, even ---

Q Yes, ma'am.

A --- to my knowledge even in a brain damaged child that had just been struck.

Mr. Galmore: Okay, thank you very much.

Ms. Lively: That's all, Your Honor.

The Court: You may step down, Dr. Abel.

Ms. Lively: May this witness be excused from her subpoena?

The Court: Any objection?

Mr. Galmore: No, sir.

Ms. Grabert-Lowenstein: No objection, Your Honor.

The Court: You're excused and released from your subpoena, Dr. Abel, thank you for coming.

Witness?

Ms. Cote: Your Honor, we have to take up a brief legal issue before we call our next witness.

The Court: All right.

(Whereupon, the jury retired to the jury room at 4:34 p.m.)

Ms. Cote: Thank you, Your Honor, this is an

issue that we brought up briefly in our pretrial motions a couple of weeks ago. Our next witness is Dr. Jean Allen and she's being called because she received a phone call from defendant Julia Gorman. We were concerned about bringing up any of Cesalee's, the victim's mother, any of her prior mental history because Ms., Ms. Allen, Dr. Allen did treat Cesalee in some form or fashion. She wasn't an official patient of hers. I believe Dr. Allen qualified herself sort as a safe person, safe adult for Cesalee. I'm limiting my questioning of Dr. Allen, and I've instructed her about this, specifically to the phone call she received from Julia Gorman.

The Court: As I remember I, I was of the opinion that this had absolutely no relevance.

Ms. Cote: Well there's a lot of statements against interest made by Julia Gorman and so I was just making sure as long as I don't bring up any of Cesalee's mental history or any of her prior relationships with Cesalee I don't want the defense to be able to go into that.

The Court: Well now the defense may decide otherwise, what do you say about that?

Mr. Galmore: I think she said that it was just unusual that she received this telephone call because she hadn't been in contact with Ms. Gorman for several years.

I think the fact that she received a phone call from Ms. Gorman after these injuries were –

The Court: Asking about her daughter.

Mr. Galmore: Right, I, I don't think it's relevant to the issue.

The Court: What relevance does that have, Ms. Cote?

Ms. Cote: Your Honor, Ms. Gorman called Dr. Allen out of the blue.

The Court: Out of the blue but she ---

Ms. Cote: And telling her ---

The Court: It wasn't out of the blue, she knew her.

Ms. Cote: But they hadn't spoken in four or five years. She didn't even have the same phone number as when they knew each other. They weren't, they weren't friends, they didn't socialize together, and she out of the blue said that Cesalee must have done something to this child, so this is starting pro-crafting the story of coming up with reasons for what happened to [redacted] and that's the State's position.

The Court: Okay, is that all you want her to testify to is she got an unexpected call?

Ms. Cote: She talks about some other things, Your Honor; she talks about [redacted]'s head. She talks about

[redacted] development which is spoken about by other witnesses and she gives some stories about what happened when she came home from work that day. It's just for, the defendant gave a lot of inconsistent statements to different people, Your Honor. Her stories never match up and this is another one of those inconsistent statements.

Mr. Galmore: This testimony does not advance the ball as far as what happened to [redacted] and who did it, so again, Your Honor, it's not relevant evidence.

The Court: Well if it's an inconsistent statement of what occurred, if it's inconsistent with other statements she's made perhaps it is relevant.

Mr. Galmore: Well what statements have they introduced that she's made? I mean the only thing that we've heard was ---

The Court: That's the problem I have. I mean you want to essentially impeach her with this witness; is that right, but we don't have any information about any other statements that she made. Well we have had some statements or reports from the doctors and things of that nature.

Mr. Galmore: Social history.

The Court: Social history.

Mr. Galmore: And actually her statements to Dr. Allen would be consistent with that.

Ms. Cote: Consistent with what, the social history, Mr. Galmore?

The Court: Tell me is this offered at this time for any other reason than impeachment of a witness who has not testified?

Ms. Cote: Well, Your Honor, part of the State's theory is that the defendant Gorman was telling a variety of different stories, she was pointing fingers wherever she could. She pointed the finger ---

The Court: But I haven't heard her point her finger, she apparently called and made a statement about, what exactly did she say?

Ms. Cote: Well, Your Honor ---

The Court: Let's hear it, let's proffer the testimony.

Ms. Cote: Okay.

Dr. Kathryn Jean Allen

being first duly sworn, testified in camera as follows:

Madam Clerk: Please state your full name and spell your last name for the Court?

The Witness: Dr. Kathryn Jean Allen, a-l-l-e-n.

Direct Examination

By Ms. Cote:

Q Dr. Allen, do you know the defendant Julia Gorman?

A Yes.
Q How do you know her?
A I went to church with her in the early part of 2000.
Q And where was that location?
A In Greensboro, North Carolina.
Q Okay, and how would you classify your relationship with her?
A Casual, I mean we talked, we'd see each other at church; we'd talk at the snack table.
Q Did you socialize?
A No.
Q Did she contact you regarding this incident involving her grandson [redacted]?
A Yes.
Q And before you talked to her in July of 2008 when was the last time you had spoken to her?
A Four and a half, five years maybe.
Q Did you even have the same phone number ---
A No.
Q --- when she called you back in 2008?
A No.
Q So did she have to do some research to find you?
A I have no idea how she, how she found us.

She called me at work and we had moved and were not able to keep our same phone number.

Q Okay, did you take notes while you were speaking with her?

A Yes, ma'am, I routinely do that.

Q Okay, did she give you a reason for calling when she did call you?

A She just said I just want you to know Cesalee's little boy is in the hospital; he had skull fractures.

Q Did she tell you how [redacted] came to be in her care, in Julia's care?

A She did, she said that Cesalee and the baby came to their house on June the 2nd and that they had stayed for about a month and that she said that Cesalee didn't want the baby anymore and that Cesalee left on July the 2nd to go back to Arizona.

Q Did she talk to you about the medical care that [redacted] had received while with her?

A She did say that she had taken [redacted] to the doctor and, and I asked her when, I think, you know, and she just said Cesalee had to hurt this baby and then she goes into this story about that on July the 1st that he had been taken to the doctor because he had gotten bitten by fire ants and she said at that point something seemed

wrong with his head and I asked her well the doctor did check him over well and she said well they didn't do anything, you know, they didn't, they didn't say anything about it; and she said then he went back to the doctor on July the 7th and actually then said, no, he really went, we took him to the emergency room because he was throwing up and then he went back to the doctor again on July the 8th to get shots, but that the doctor hadn't given to him because he said he had a virus.

Q Did she tell you anything regarding [redacted] development cognitively, behaviorally?

A She did say that [redacted] was very small and that he really had, I think her language was he was just speaking in gibberish, that he really didn't have any words, but that he understood more what people were talking to him than he could, than he could speak.

Q What, if anything, did he tell you, did she tell you about July 14th, a Monday?

A She said I went to work and because she had told me, because she had initially told me that he was in the hospital and he had skull fractures, I said had you taken him to day care, you know, who was watching him, and she said that Robert, that she had left the baby at home with Robert and then she just went through this kind of litany then she said ---

Q Go ahead, I will let you.

A She said I got home, Rob said the baby was sleeping. I went ahead and cooked dinner, we ate dinner, Robert walked the dog, then I went to check on [redacted] He was not breathing well, I picked him up. He started seizing; I handed him to Rob, I called 911.

Q Did you even know who Rob or Robert was?

A No.

Q They weren't, were they together when you knew her?

A No, I had, I did, I had no idea, I mean I didn't know if she had remarried or --

Q Did she tell you whether or not she had spoken to Cesalee?

A I don't, she, I, I think I said is Cesalee there and I think she said, no, don't think that she had talked to Cesalee.

Q Did she tell you who was at fault for [redacted]s injuries?

A Only at that very beginning part when she said Cesalee must have done something to hurt the baby but she had already explained to me that she had put Cesalee on a plane on July the 2nd.

Q What was her demeanor like when she was on the phone with you?

A Very flat affect, no, I mean, no real emotion, it was almost, was almost robotic and that was one of the reasons that concerned me that.

Q Did she ask you to do anything for her to help her in any way?

A No, she did not.

Q And, Dr. Allen, do you have your Phd?

A I do.

Q And what is that in?

A Child development and family relations.

Q Did she ask you any questions regarding your expertise in those areas?

A No, she did not, she just said she wanted me to, to know.

Q Did she tell you where she was located while you were talking to her?

A I, well I think I asked her are you at the hospital and she said, no, I needed to get my car out of the shop.

Q And did she tell you what state Aydian was in at that time?

A Not in that very sentence but one of the last things that she said during this phone call is they're going to pull the plug tomorrow.

Q And what did you do after speaking with Ms.

Gorman?

A I was so taken back by this call I did, I made a call to the University Medical Center and called the pediatric intensive care. Julie had mentioned that the police had already been to her house so I knew that police were involved. I asked if there was an officer there and they told me, no, so I called the Charleston Police Department and told them why I was calling. I talked with an investigator and she said that the Charleston Police Department knew, were aware of this case but they were not doing the investigation and that she would make a call to Horry County and someone from Horry County would give me a call back.

Q And is that what happened?

A Yes.

Q Did you speak with a detective of Horry County?

A I, yes.

Q And is that the extent of your involvement with this case?

A Yes.

Ms. Cote: Your Honor, that's all I have for this witness.

The Court: What's probative about any of that?

Ms. Cote: Your Honor, it goes to ---

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The Court: What?

Ms. Cote: Ms. Gorman's story about what happened and her, we've heard several versions ---

The Court: Isn't that exactly what she has been telling all along?

Ms. Cote: No, Your Honor, she told her that she didn't check on the child when she went home and she hasn't told anybody else that although we, her testimony from it that she's blaming it on Cesalee, her daughter and she told her flat out Cesalee had to have done something to this child. It goes to her demeanor at the time this happened.

The Court: All right, so now what you want me to do is this, essentially let you have your cake and eat it, too. You want me to let you question this witness about Mr. Galmore's client's allegations that the mother must have done something to the child and yet you do not want me to allow Mr. Galmore to elicit any information from this witness that she may have concerning the stability or issues concerning the mother; is that correct?

Ms. Cote: That's correct, Your Honor, the issues of Cesalee aren't at issue here. She's, that's not relevant, her prior mental history and any help that Dr. Allen had given her in the past ---

The Court: I don't know if it's relevant or not. Mr. Galmore?

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Mr. Galmore: Well, Your Honor, I would submit that all of this is hearsay, first of all, to the extent that ---

The Court: Yeah, but this is, it's a statement by party opponent.

Mr. Galmore: Yes, sir, yes, sir, so I think that Ms. Gorman must first testify, give a statement. She then must be given an opportunity to admit or deny whatever this prior statement is.

The Court: Now I think you're getting cart before the horse, Ms. Cote, by putting this witness up now. I'm not going to allow it at this juncture.

Ms. Cote: Thank you, Your Honor.

The Court: All right, all right, next witness, bring in the jury.

Ms. Lively: Your Honor, that's the last witness we have -- we've got Detective Troxell who's next and that's going to be an hour and forty-five minutes of the defendant's statement of one defendant and then another almost ---

The Court: Is that your last witness then?

Ms. Lively: We have the DSS caseworker as well, oh, and Marsha Bessant, I forgot about her.

The Court: How about either of those witnesses?

Ms. Lively: Okay, if the Court will give me

just a minute let me ask Ms. Ayers if either one of them are out in the lobby.

The Court: Okay, let's check on that, didn't I see Mr. Whiteis?

Ms. Lively: Yeah, I thought that he was here, too, usually he's around for DSS, can you give us like five minutes, Your Honor?

The Court: Sure.

Ms. Lively: I'll see if we can grab him, thank you, Your Honor.

The Court: How about Dr. Allen?

Ms. Lively: That is Dr. Allen, you just talked to her.

The Court: Okay, all right, okay, I'm sorry.

Ms. Lively: And then Marsha Bessant and like I said and then Troxell, who's going to be the one that the video statements come in through, and the DSS witnesses, Your Honor, will be short. They were very limited involvement, both of them.

My assistant, Ms. Ayers, she said both of them were in a meeting and that's the reason why that they weren't still outside.

The Court: All right.

Ms. Lively: I apologize.

The Court: All right, we'll break for the day,

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bring the jury in.

Mr. Galmore: Your Honor, could you once again admonish them about media.

The Court: I will.

Mr. Galmore: Yes, sir, thank you.

Ms. Grabert-Lowenstein: Thank you, Your Honor.

The Court: Ms. Lively, don't let your witness Dr. Allen get far, I --

Ms. Lively: Well, Your Honor, she's from Greensboro so it's kind of, that's --

The Court: Well the thing that concerns me about you wanted me to cut her off and not let Mr. Galmore, well Mr. Galmore may want to call her.

Mr. Galmore: Call who?

The Court: Dr. Allen.

Mr. Galmore: No, thank you, no, sir.

Ms. Lively: Thank you, Your Honor.

The Court: All right.

(Whereupon, the jury returns to the courtroom at 4:55 p.m.)

The Court: All right, ladies and gentlemen, you've been working hard today. We have, I would like to say that I'm such a kind hearted and gentle person that I just want to send you home, but in reality we ran out of witnesses. We're going to adjourn until tomorrow morning.

I would ask you to be back at the same time that you've been coming. Mr. Ropp, what you going to have for them?

Mr. Ropp: Biscuits.

The Court: All right, well you talk to Mr. Kidd about that, Mr. Kidd may have something else to say about that.

Mr. Kidd: If it was mine I'd give to the doughnuts.

The Court: All right, well, Mr. Kidd, you're in charge. I want to admonish you again not to allow anyone to speak to you about this case and don't seek out any information on your own, I mean any of the electronic internet services or anything of that nature, don't read about it in the newspaper. I notice there was an article this morning in the paper; I don't know if there will be one tomorrow, please don't read it. I want you to keep an open mind and have a fresh and original approach to this case when we come back tomorrow, okay, thank you very much, you're excused for today.

(Whereupon, the jury was excused for the evening at 5:00 p.m.)

The Court: We'll start at 9:30 in the morning.

(Whereupon, court resumes on November 17, 2011 at 9:30 a.m.)

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(Whereupon, State's Exhibit Number 63 marked for identification.)

The Court: Any matters we need to take up?

Ms. Lively: Not from the State, Your Honor.

The Court: The defense?

Mr. Galmore: No, sir.

Ms. Grabert-Lowenstein: Just very briefly, Your Honor, I've discussed the scheduling issue with counsel. I'll have other witnesses ready this afternoon if we get to that point. I have one character witness who is a seventy-year-old neighbor of my client. She had a medical procedure yesterday and she needs to have some antibiotics and some time to recover. I've told counsel I'd like to call her Friday morning and I just want to make ---

The Court: No, ma'am, this case has been set for a day certain for six months; is she under subpoena?

Ms. Grabert-Lowenstein: No, she's willingly coming. Your Honor, the problem is ---

The Court: You have not subpoenaed her then?

Ms. Grabert-Lowenstein: Because she's going to willingly come. I'm just asking, counsel's indicating no problem, it's just ---

The Court: I have a problem with it. If we have not finished this case and it carries over naturally fine but I'm not going to delay it.

Ms. Grabert-Lowenstein: No, I understand that.

The Court: For an un-subpoenaed witness.

Ms. Grabert-Lowenstein: Right, Your Honor, I understand that and I don't believe that that will be an issue.

The Court: All right, are you ready to go?

Ms. Lively: Yes, sir, Your Honor.

(Whereupon, the jury returns to the courtroom at 9:35 a.m.)

The Court: All right, we have our jurors back in the courtroom. Ms. Lively?

Ms. Lively: Thank you, Your Honor, the State would call Marsha Bessant to the stand.

Marsha Regina Bessant

being first duly sworn, testified as follows:

Madam Clerk: Please state your full name and spell your last name for the Court?

The Witness: My full name is Marsha Regina Bessant, and --

Madam Clerk: Spell your last name.

The Witness: My last name is spelled b-e-s-s-a-n-t.

Direct Examination

By Ms. Lively:

Q Ms. Bessant, will you just make sure you

kind of scoot up so we can hear you?

A Okay, is that better?

Q That's much better, thank you, now, Marsha, tell the jury who you are and where you live?

A My name is Marsha Bessant. I've lived here all my life and my parents, my grandparents, and great grandparents. I live ---

Q Are you working?

A Yeah, I work for my father and --

Q What area of Horry County do you live in?

A I live on Party Pines Road, it's like upper Conway lower Aynor right off 501 down behind Larry Hardee Auto Sales.

Q Okay, and do you have any children?

A I have one daughter, she will be fourteen in January.

Q Okay, now, Marsha, do you know the defendants Julia Gorman and Robert Palmer?

A Yes, I do.

Q Okay, first of all how do you know Julia Gorman?

A I know Julia Gorman from Robert and Robert was friends with my brother and they moved down here from Virginia.

Q Who's they?

A Robert and Julia.

Q Okay?

A Moved together. My brother was friends with Robert and they brought, you know, Julie to my home, you know, cause she didn't have no friends here and she was new and, you know, we would have coffee, and you know, do girl things while they would, you know, go hunting, fishing, do boy things.

Q Okay, and what kind of a, well did ya'll become friends?

A Yeah, we become friends, you know.

Q And what, if anything, did you know about her family?

A Not very, very little.

Q Okay, and had you ever met her daughter Cesalee, who's seated right here?

A Yes, I had met Cesalee when she come [sic] down with [redacted] They come to my home and --

Q Well before that let me just ask you, had you spent a lot of time with Mr. Palmer when he was hanging out with your brother?

A No, they were usually the boys would go or the men and like the women would be together.

Q Okay, and were they living together, Robert and Julia at that time?

A Yes, they were.

Q And where were they living?

A Off Highway 319 and they were living in a home rented by the same man that the mobile home was rented by but he had a house and then when her other two children left to go Hawaii, [redacted], they moved into the single wide trailer like two, two doors down, like two, two houses down.

Q And when you say the two children, [redacted] and [redacted], whose two children are you referring to?

A Those would be Julia's children.

Q Okay, and what were their ages; do you recall?

A [redacted] was about ten and [redacted] was twelve.

Q Okay, were you aware if Mr. Palmer had any children?

A Yes, I was aware that he had a son [redacted] with Amanda Tyler.

Q And how old was [redacted] around that time?

A Approximately three.

Q Okay, now, Marsha, whenever, do you recall spending some time with, well before Cesalee actually came in June of 2008, please tell the jury what the relationship that you observed was like between Robert and Julie.

A Very stressed, Julie was, there was a lot

of problems, financial.

Q Who told you that?

A Julie, Julie had told me, you know ---

Mr. Galmore: Objection, hearsay, Your Honor.

The Court: I'll admit it.

Ms. Lively: Thank you.

Q (Continuing) What did she tell you, Marsha?

A She would tell me that, she told me they had a joint checking account and it was her account and she had put Robert on the account and, you know, he would take money out because, you know, he could and she would check sometimes on my home computer, you know, I can't believe he's taken this money out, and, and he ---

Q Where was he working at the time?

A I don't think he had a job at the time, she was the only one working and she was working at the ---

Ms. Grabert-Lowenstein: Objection, speculation, lack of foundation.

The Court: All right.

Ms. Lively: Okay.

Q (Continuing) Do you know for sure whether he was working or not at that time?

A I do not.

Q Okay, and whenever, would you have

conversations with Julie about, about any other issues with herself, Robert, or anything?

A Yes, she was like distraught. Robert would want to go out like with his friends and she would cook dinner, he wouldn't come home, and she would, you know, call me crying, you know, Robert took money out the bank or I cooked he didn't come home, and --

Q And how did she handle those situation when she was talking to you; what were those conversations like?

A I mean she would, she cry and it would, she was very upset and, you know, I told her, you know, as a friend to that if he was doing those things, you know, to pack his crap, I said a different word, but and put it on the porch or go home, take his name off your checking account and, you know, and she never did any of those things.

Q Okay, and whenever, when did you learn that Cesalee and [redacted] were coming into town?

A Julie had told me maybe two weeks before Cesalee and [redacted] had arrived.

Q Okay, and how, and how was she when that conversation regarding meeting, well do you know if she had ever seen her grandson?

A No, I mean maybe through pictures but never in person.

Q Okay, and so when she told you that a couple of weeks before they got there that he was coming how did she act?

A She acted happy, you know.

Q And how did you feel knowing about their relationship about Cesalee coming with [redacted]

Ms. Grabert-Lowenstein: Objection, relevance.

The Court: What's the relevance of that?

Ms. Lively: The relevance, Your Honor, is that she was aware of Julia and Palmer's problems financially.

The Court: You asked her how she felt.

Ms. Lively: I'm sorry?

The Court: Didn't you ask her how this witness felt about it?

Ms. Lively: Yes, and her own personal feelings regarding having ---

The Court: Why don't you ask her if she had any concerns about it.

Ms. Lively: Right.

The Court: Why don't you ask her that if she had any concerns?

Ms. Lively: (Continuing)

Q Did you have any concerns regarding Cesalee and [redacted] coming knowing their, what you had heard Julie

say about their financial problems?

Ms. Grabert-Lowenstein: Objection, relevance.

The Court: I'm going to allow it.

Ms. Lively: (Continuing)

Q Did you have any concerns?

A You know, I thought maybe it would, you know, make her happy to see her daughter and her grandson and, you know, but financially and her stress level I felt like, I feel like, you know, I didn't know that Cesalee was going to stay a month. I thought just a visit, you know, I didn't realize she was staying a month.

Q Okay, that's fair, and so, Marsha, did you have the opportunity when Cesalee got here with [redacted] to spend some time with them?

A Yes, I did.

Q Okay, tell the jury the first time that you actually met Cesalee and [redacted]

A The first time I had met Cesalee and [redacted] Julie had drove them to my house and they stayed about an hour. Cesalee was, I give Cesalee a big Texas cinnamon bun and she kind of, you know, pinched off little pieces and give to [redacted] and he was like right at his mother's, you know, arms, you know. She wouldn't let him like get away or I mean, you know, she was, he was clinging to his mother, you know.

Q And was this, this was the first time you met him?

A This is the very, the very first time I had met him.

Q Okay, and how, how long was it you said they were there in your house?

A Forty-five minutes to an hour.

Q And based upon your observations was Cesalee attentive to the child?

A She was very attentive, you know. She, the whole time that they were there [redacted] was in her arms or if he would get down I have ceramic tile flooring in the kitchen and she was like, you know, very careful to hold him and like, you know, so that he wouldn't fall.

Q Was he walking at that time?

A Yeah, he was walking.

Q What were your observations of his physical appearance?

A He seemed a little tired, you know, but he could have just woke up or he just like clung to Cesalee like, you know, he was in a new environment and, you know, he had never been in my home or met me and he just, I mean he just like clinged to his mother like, you know, he felt safe and I would, you know, say, hey, buddy, and, you know, try to get him to interact and he would just kind of just

shy away.

Q But did he react to you?

A Yeah, I mean he would, you know, with a smile or, you know, and he would say Mama to Cesalee and --

Q And what, if anything, before Cesalee got there and you met her and [redacted] did Julie tell you about Cesalee?

A She said that she would be happy to have time with her alone, that Cesalee would be happy to have time with Julie alone because [redacted] and [redacted], Julie's other two children, were gone.

Q So that was part of timing of her coming or do you know?

A Yes, that was when she was coming, that Cesalee would be happy to have her, Julie all to herself.

Q Okay.

A And --

Q Now after that visit did you have an opportunity to spend any time with Cesalee and Aydian again?

A Yes, I did, we had went to the Myrtle Beach State Park one day.

Q Okay, do you remember about when that was?

A Seems like it was like later on that week or maybe the beginning of the next week.

Q So sometime in June 2008?
A Yes, it was the day the photos were taken.
Ms. Lively: Okay, if I may approach, Your Honor?
The Court: Yes.
Ms. Lively: (Continuing)
Q I'm going to show you one of these State's Exhibit 10 and State's 8, they're both in evidence and ask you which one of these do you recognize as being the day that you were at the beach with them? I know it's been a long time; do you recall?
A I recall going to the beach and --
Q If you don't that's okay?
A I can't remember Cesalee. I feel like she was wearing this pink bathing suit but I can't be for sure.
Q That's fine, that's fine, but you did go to the beach with them?
A I did, yes.
Q Okay, and who all was with ya'll whenever you went to the beach?
A It was me, Julia, Cesalee, and [redacted]
Q Okay, now, Marsha, tell this jury what you observed, the behaviors of [redacted] whenever you were there at the beach that day?
A Well he, you know, Cesalee played in the

sand with him and, you know, he smiled and like he would like get, try to get away and she would, you know, make sure he didn't get too far. She was real attentive a lot after him and, you know, she, he seemed to enjoy the day at the beach, you know.

Q And while he, while, how long were ya'll there; do you remember?

A Probably an hour and forty minutes to two hours.

Q Okay, and during that time while you were there who was the one that watched over and, and caretaker for [redacted]

A Cesalee.

Q Did you ever see her with [redacted] get frustrated or punish him in any way?

A Never.

Q And how was Aydian towards his mother? Did you ever see him be hit at her or bite her or anything like that?

A No, I never saw any of that.

Q Now whenever, were you aware that Cesalee was leaving the Horry County area without [redacted]

A No, I was unaware of that.

Q Okay, when, if ever, did you become aware of that?

A After it was on the news that's when I become aware of that.

Q Did you ever visit with Julie and Robert Palmer in their home after Cesalee had left [redacted] there?

A No.

Q Had you ever seen any of their pets in their home?

A Yes, I saw an English bulldog.

Q Okay, and had you ever had any interaction with this dog?

A Well I saw the dog and I'm not a real dog person so, no, I mean I might have petted him once or twice but --

Q And had you, you might have already answered this but let me make sure, did you ever see [redacted] and the bulldog together?

A No, I don't think so, no.

Q Now you said that you realized that Cesalee had left [redacted] after you saw the news, don't tell us about what you saw on the news, but when was the next time after that, if any, that you had any contact with Julia Gorman?

A In jail, I went, I came to visit her in jail.

Q Okay, and will you, please, tell the jury what, if anything, she said to you about [redacted] during that

visit?

Mr. Galmore: Your Honor, that would be hearsay.

The Court: Understand, I'm going to allow it.

Ms. Lively: (Continuing)

Q You can tell me what it was that she told you in regard to [redacted] when you visited her in the jail?

A Well she, she didn't really say much of about [redacted] She was just distraught and crying and worried about Robert, you know, and she would call him "Joe-Joe" that was his like nickname she would call him, is he okay, and, you know, she was very concerned about Robert.

Q Okay, did she ever say anything to you about [redacted] then?

A She did mention that he, the dog knocked him into the dog cage and she was, you know, crying and crying and --

Q And did you ask her what happened or did she just offer that?

A She just offered that, and I didn't ask her what happened.

Q Did Julia ask you to do anything for her while you were there?

A Yeah, on one of the visits she had wanted

Vol II

State of South Carolina

County of Horry

In The Court of General Sessions

State of South Carolina,

vs.

Julia S. Gorman,

Defendant.

08-GS-26-3756/08-GS-26-0841
10-GS-26-0041/10-GS-26-2194

TRANSCRIPT OF HEARING

State of South Carolina,

vs.

Robert A. Palmer,

Defendant.

10-GS-26-2195/10-GS-26-2196
08-GS-26-04120

November 14-18, 2011
Conway, South Carolina

Before:

The Honorable, Larry B. Hyman, Judge

Appearances:

By: Candice A. Lively, Esq.
Nancy G. Cote, Esq.
Attorneys For State

BY: Carla F. Grabert-Lowenstein, Esq.
Attorney For Robert A. Palmer

BY: James C. Galmore, Esq.
J. Andrew Ritner, Esq.
Attorneys For Julia S. Gorman

BRENDA R. BABB
Circuit Court Reporter

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me to go and print some pictures out of Robert and send to her and I would not. I printed some pictures of the kids and I sent those but I would not send any of Robert.

Ms. Lively: Just a second, okay. Thank you, Marsha, I appreciate it, please, answer any questions the defense may have for you.

Cross Examination

By Ms. Grabert-Lowenstein:

Q Good morning, Marsha, you described phone calls where Julia was distraught and crying, how many of those type of phone calls did you and she exchange?

A Several.

Q Were any of them lengthy?

A Yes.

Q So was she crying during the entire phone call?

A The last phone call she was just squalling, I mean crying the whole time. I couldn't hardly, like she was crying so hard I could not like understand all of the words but it was, you know, Robert, Robert, Robert, Robert.

Q She was, she was stressed about the relationship and to your knowledge she never did anything about the relationship, correct?

A No, I told, I mean, no, I offered her advice to go home take his name off the checking account

and, you know, part company, and, you know, that wasn't what she wanted to hear.

Q Okay, and that isn't what she did?

A No.

Q Would that be correct?

A She did not.

Q How many times total did you see [redacted] when he was here, well let me, and actually let me more specific, how many times did you see [redacted] and [redacted] together when he was here?

A Twice.

Q Okay, and both of those occasions did he want to be with his mom?

A Yes, he was very clingy to his mother.

Ms. Grabert-Lowenstein: Okay, no further questions.

The Court: Mr. Galmore?

Cross Examination

By Mr. Galmore:

Q Ms. Bessant, you know Robert, right?

A Yes.

Q And you met Julie through Robert?

A Yes.

Q Is that correct?

A Yes, that is correct.

Q How long have you known Robert?

A I have known Robert since we were in sixth grade.

Q So you went to middle school together, elementary school together?

A No, I don't believe, we didn't go to elementary school, like middle school.

Q Did you go to high school together also?

A Yes.

Q And you said he played with your brother; is that correct?

A Uh-huh.

Q Do you have any friends to reward by your testimony today?

A Do I have any friends to reward?

Q Yes, ma'am.

A Am I going to receive a reward, you have to bring that down to a level I can, I'm not sure what you're asking, I'm sorry.

Q Are you testifying for the benefit of Robert Palmer today?

A No, I am not.

Q So you have no friends to reward in this courtroom?

A Absolutely not.

Q You have no enemies to punish in this courtroom?

A Absolutely not.

Q But you knew Robert since sixth grade and you knew Julia because Robert introduced you to her?

A Yes, that's correct.

Q How long have you known Julia?

A A year, maybe more.

Q Okay, and you've known Robert since sixth grade; would you consider yourself to be a good friend of Robert's?

A No.

Q Just a passing acquaintance of Robert's?

A Just a passing acquaintance, I mean he dated one of my girlfriends in middle school and then he married my brother's ex-wife's best friend.

Q That would be Amanda?

A That will be Amanda.

Q Did you testify in their divorce?

A No, I did not.

Q Well when Amanda and Robert got divorced you didn't testify in that hearing?

A I did not.

Q Before [redacted] and [redacted] got here how long had you been friends with Julia?

A Approximately a year, maybe a little longer, a little longer.

Q And what type of things would you all do?

A We would have coffee, we would cook, eat, hang out, go to the mall.

Q Well how often would you interact with Julia, once a week, once a month?

A Maybe two times a week, maybe some weeks more, maybe some weeks less.

Q Would Robert be there on those occasions?

A Usually he would be hanging out with my brother doing hunting, fishing.

Q Did Robert introduce Julie to other people?

Ms. Grabert-Lowenstein: Objection, lack of foundation and relevance.

The Court: Just ask her if she knew if she did.

Mr. Galmore: (Continuing)

Q Do you know if Robert introduced Julia to other people other than just you?

A Well I feel, you know, sure that he did; he's from here and, you know, I'm sure, I know that he was in, he introduced her to his family.

Q Let me, let me, you said you all would go out for coffee?

A We would have coffee at my house a lot

cause she didn't have a coffee maker cause she said Robert didn't drink coffee and I was like if my coffee pot broke I'd be at Walmart at 12:00 to buy me a coffee pot cause, you know, I love coffee.

Q So that was you and her or that was you and Robert or you and her and Robert?

A Me and her, that was a conversation between me and her.

Q And you and Julie would go out on occasions?

A Yeah, we would go out, you know, shopping, you know.

Q Did you go out with Robert?

A We, we went out together maybe three, four times.

Q Okay, as a group?

A As a group.

Q But it would be fair to say that you knew Robert more than you knew Julia?

A Yes.

Q Now you were not at their home on July 14th, 2008, when [redacted] was injured, were you?

A No, I was not.

Q And you can't tell us who injured [redacted], can you?

A No, I cannot.

Q You can't tell us if it was Robert or if it was Julia?

A No, I cannot.

Q You can't tell us if, tell us if it was the dog or something else?

A No, I cannot.

Q Now when did you say you first met [redacted] and [redacted]?

A At my home probably I guess a week after [redacted] arrived.

Q And you were able to judge [redacted] demeanor; how did you describe him?

A He, you know, seemed like just clingy to his mother and like, at my home is that what you're asking?

Q Yes, ma'am.

A His demeanor was, you know, he seemed normal, I mean, you know, I didn't like nothing stood out.

Q Did you testify on direct examination that he seemed tired?

A Yeah, he seemed tired.

Q And you only had met [redacted] for two times, right?

A Yes, that is correct.

Q Okay, I think you testified that you have a

child also?

A Yes, I do.

Q Did your child ever spend the night at Robert and Julia's?

A One time on Kayla's birthday party, she stayed the night one time.

Q Did your child have any complaints about conditions when your child spent the night at Robert and Julia's house?

A No, she did not, she said Robert made pancakes and she seemed to have a good time there.

Q Did she say that Julia struck her?

A No, she did not.

Q Did you ever see Julia strike [redacted]?

A No, I did not.

Q So the first time you saw Julia with [redacted] was with Cesalee at your house for an hour or so?

A Yes, correct.

Q How did he interact with Julia; you told us how he interacted with his mother, how, how was he with his grandmother?

A Well they didn't, they didn't interact a lot. [redacted] was clinging to [redacted] like, you know, and she was feeding him a Texas cinnamon, she'd just pinch off little pieces and give it to him and, you know, he really

just stayed kind of in her arms the whole time.

Q So you didn't really get an opportunity to see her, see Julia with [redacted]

A No.

Q Okay, the next time you saw [redacted] was when they went to Myrtle Beach State Park; is that correct?

A Yes, that is correct.

Q And you took them to Myrtle Beach State Park?

A No, Julia drove.

Q She drove, okay, did you get an opportunity to observe[redacted]s interaction with Julia at Myrtle Beach State Park?

A Yes, we laid out, me and Julie, and Cesalee was the main, you know, she, she took care of[redacted] and watched over him, you know. She wasn't like laying out, you know, and Julia, you know, would play with him a little bit, you know, but for the most part Cesalee watched him.

Q Was there anything abnormal about Julia's behavior towards [redacted] at Myrtle Beach State Park?

A No, nothing that stands out abnormal.

Q Did there come a time that you donated some clothes to Cesalee?

A Yes.

Q Why was that?

A Because her, I think her luggage had got lost and Robert come and picked them up for her.

Q Was there a time that you were with Julia when she bought children's clothes for [redacted]?

A Yes, that was before we went to the Myrtle Beach State Park. I do not know who purchased the clothes because I was speaking with Jenna, the owner of the store. I know a stroller was purchased and some baby clothes, that was before we went to the Myrtle Beach State Park.

Q When you said a stroller was purchased; do you recall if this was the stroller?

A Yes, that was the stroller I'm pretty sure.

Mr. Galmore: And for the record I'm showing the witness State's Exhibit 22 for identification purposes.

Q (Continuing) So this, you're pretty sure this is the stroller that was purchased?

A I'm pretty sure and it had like, it would fold over and had a hook over the top.

Q Yes, ma'am, do you know who purchased that stroller?

A I do not know who purchased the items; I was speaking with the store owner.

Q Well did Julia, well let me ask it like this, did Cesalee know of any stores in Myrtle Beach?

A This was a store in Conway.

Ms. Lively: Objection as to speculation, Your Honor.

The Court: I'll allow her to answer.

Ms. Lively: Thank you.

Mr. Galmore: (Continuing)

Q Was there anything unusual about the fact that clothes were being purchased for [redacted]

A No, I mean you purchase clothes for children all the time; they're constantly growing, that did not seem unusual to me.

Q All right, now you talked about the finances in their home; do you know if Robert was working during this time?

Ms. Grabert-Lowenstein: Objection, lack of foundation.

Mr. Galmore: Your Honor, she ---

The Court: I'll let her answer it, of course she's been asked this question already but let her answer it again.

The Witness: (Continuing)

A I don't know, at times maybe yes, at times maybe no.

Q Do you know if Julia was working at the time?

A Yes, she was working at the Bass Pro Shop.

Q You mentioned the dog, the English -

A Bulldog.

Q Bulldog, is this the dog that you're referring to?

A That is the dog.

Mr. Galmore: And for the record I'm showing the witness State's Exhibit Number 18 for identification purposes.

Mr. Galmore: (Continuing)

Q Did you have an opportunity to observe [redacted] interact with the bulldog?

A No.

Q Did you have an opportunity to see the bulldog interact with any children?

A I seen the bulldog but only for a, a brief while because they were so proud of the dog they wanted me to see it and I stopped by, I'm not a dog lover, and I act, you know, act enthused for them, you know, I petted him and but I'm not a dog lover.

Q Well let's, let's talk about your dealings in this case, how is it or when did you first speak to the police about this case?

A I do not know the exact date but it was with the lady at the back of the courtroom in Ms. Lowenstein's office, Carla, I believe is her name.

Q Would it be Carmen?

A Maybe, it's been a while.

The Court: I think he was talking about Ms. Grabert-Lowenstein.

Mr. Galmore: No, I was talking about Carman Mureddu.

The Witness: (Continuing)

A And it was at the lawyer's office ---

Q Okay?

A --- where we met.

Q Was this, was this the, the day that you heard about everything on the news?

A No, this was after the news.

Q Was it the day that [redacted] was taken to the hospital?

A I didn't even know that [redacted] had been taken to the hospital or anything was wrong with him until I seen their pictures, you know, on the news. I mean I had no idea that the child had been to MUSC or anything.

Q Yes, ma'am.

A I had no knowledge of that whatsoever.

Q How long after you saw everything on the news did you first speak to Ms. Mureddu and Ms. Grabert-Lowenstein?

A I was working in the Farm, it's a

subdivision of D. L. Horton, and I can't remember how long after it was, I just, I can't remember.

Q Do you think it would have been a year after you saw everything on the news?

A I don't think it would have been that long.

Q You think it would have been less than a year?

A Less than a year, I can't be sure on that time, I mean --

Q And so when everything happened in July 14th, did the police come to talk to you?

A No.

Q The only time someone came to talk to you was when Ms. Mureddu and Ms. Grabert-Lowenstein contacted you?

A Yes.

Q And what, what were you asked to do?

A To, you know, give information, any information of knowledge I had of the situation.

Q Well who asked you to do that, which of these ladies?

A I mean ---

Q The investigator or the defense lawyer?

A The investigator, I mean she would ask me questions and I would answer them.

Q Well let me back up, when your phone rang and someone was asking you about this case who was that; was it the investigator or was it the defense attorney?

A The investigator.

Q Okay, did she ask you to come into her office?

A No, she, well, yes, she asked could I meet her at Ms. Carla --

Q Grabert-Lowenstein?

A Grabert-Lowenstein's office, that's where we met.

Q So the Solicitor's investigator asked you to meet her at the defense attorney's office?

A Yes.

Q And you agreed to do that?

A Yes.

Mr. Galmore: No further questions, Your Honor.

The Court: Ms. Lively?

Redirect Examination

By Ms. Lively:

Q Marsha, there was some questions about the, the bulldog and several more questions about financial; were you aware of how much they paid for that bulldog?

A Yes, Julia had told me $1600 and I bout fell out, I can't imagine paying $1600 for any dog.

Q And whose dog was it supposed for?

A. For Robert.

Ms. Lively: Thank you.

Ms. Grabert-Lowenstein: Very briefly, Your Honor.

Recross Examination

By Ms. Grabert-Lowenstein:

Q Ma'am, did Ms. Mureddu ask you all the questions at my office? Was she the one who asked you the questions that you answered at my office?

A Yes.

Q Were you truthful with her?

A Yes.

Ms. Grabert-Lowenstein: Thank you, no further questions.

Mr. Galmore: Very briefly, Your Honor.

Recross Examination

By Mr. Galmore:

Q Are you saying that Ms. Gorman had $1600 in the bank with which to buy a dog?

A Yes.

Mr. Galmore: Thank you, no further questions.

The Court: All right, you may step down, any further need for this witness?

Ms. Lively: No, Your Honor, I'd ask that she be

released from her subpoena.

Mr. Galmore: We have no use for her.

Ms. Grabert-Lowenstein: No further use, Your Honor.

The Court: You are excused and released from your subpoena, thank you for coming.

A Thank you, Your Honor.

Ms. Cote: Brad Whiteis.

Brad Whiteis

being first duly sworn, testified as follows:

Madam Clerk: Please state your full name and spell your last name for the Court?

The Witness: Full name is Brad Whiteis, w-h-i-t-e-i-s.

Direct Examination

By Ms. Cote:

Q Mr. Whiteis, where are you employed?

A The Department of Social Services here in Horry County.

Q And what's your position there?

A I currently supervise the child protective services investigations unit.

Q Can you, please, tell the jury a little bit about how an investigation goes or comes about or your procedure involving a case involving child abuse?

A Sure, it all starts with our cps hotline; we've got a child protective services phone that people call in and make child abuse and neglect reports. The reports are taken by a hotline receptionist kind of a person, operator. When they take the report it's brought to me to see if it meets the criteria for an investigation. If it doesn't meet the criteria we log the report but nothing is done at that point. If the case is enough for us to look into I accept it for an investigation and assign it to an investigator.

Q Were you involved or were you working at DSS in July of 2008?

A I was.

Q Did you come to be involved in an investigation involving a child named [redacted]?

A I did.

Q How did you become to be involved in that investigation?

A That morning on the 15th the report was taken, one was forwarded to me, took for review. Of course within looking on it within a few seconds I knew it was enough for us to look into, so that's how it started.

Q I'm sorry, I didn't mean to interrupt?

A That's okay, that's how it all started with

me.

Q Okay, and what was the first step you took when you began your investigation?

A The first step would have been to immediately assign an investigator to go out, you know, the intake is the investigations that we get when they come they're rated as far as how serious they are. Of course a case like this would have been rated high, however, one thing that we as the majority of how we look at things when we know rated is child safety, and since the child was at the hospital at the time was technically safe we didn't really have a long time, actually we have twenty four hours to, to go out, but I did send Yvette Brown, assigned to her and sent her right out to MUSC at the time.

Q And what was the next thing after assigning the case to Ms. Brown, what did you personally do?

A I sent Yvette to MUSC; she got out there pretty quick, got in the car and headed out there. I wanted to call MUSC just to kind of see how things were going and I called over there to the charge nurse over at, I guess it was the intensive care unit for the pediatrics.

Q And did you speak with a nurse there?

A I did, I spoke with Chris Kluserman, would have been the charge nurse.

Q Okay, and after speaking with her what was

your next step?

A At that point I called Ms. Gorman.

Q And did you speak with Ms. Gorman?

A I did.

Q And what did your, what did she say to you in that conversation?

A My call to her was not too much of an investigative nature, it was just to since we knew the child was MUSC. It's not, it's not uncommon but it doesn't happen too much in other cases where we'll call the parent but since the child was already at the hospital I did telephone Ms. Gorman. It was basically just to get some information from her, demographics, things of that nature.

Q What information did she give you?

A We went over a few things, you know, I really didn't ask too many questions. I mean I asked her where she lived, who she lived with, things of that ---

Q Who did she ---

A --- nature.

Q I'm sorry?

A You're fine.

Q Who did she tell you that she lived with?

A She told me that she lived with her, her paramour Robert Palmer.

Q Okay, and did she tell you how [redacted], the

child you were investigating, his condition, did she tell you how [redacted] came to live with her and Mr. Gorman, Mr. Palmer?

A She did, she told me that the mother, I guess Cesalee is her name, had dropped the child off with her back on July 2nd, 2008. We didn't get too much into the specifics of that, and again going back, you know when I was talking with Ms. Gorman I didn't want to get into too much with her and the reason why is cause I knew she was going to be speaking with, with my investigator up at the, at the hospital and I knew Horry County Police was up there, too, but she, she had just advised me that she got the child on July 2nd.

Q Did she tell you how long she and Mr. Palmer had been together?

A She did, she told me four years.

Q Did she tell you about her working, was she working at the time?

A She did, she told me she worked full time at Bass Pro Shop. I, the only thing we really got into as far as her employment I asked her what her most recent schedule was, what, what day she had worked, hours and so forth.

Q Did she give you that information?

A She did.

Q What was that?

A She advised me, of course I'm speaking with her on a Tuesday, she told me that she had worked the last three days, which would have been, of course, Monday, Sunday, and Saturday, the 14th, 13th, and 12th, working from 5:45 in the morning until 3 p.m. in the afternoon.

Q And did she tell you who kept or who took care of [redacted] while she was working these hours?

A She did, she told me that when she was at work Robert watched the child, babysat the child.

Q Okay, and did he work according to her?

A He was unemployed.

Q According to her who were the primary caregivers of Aydian?

A Just her and Robert.

Q Nobody else?

A Nobody else.

Q Now going to that Monday July 14th, what did she tell you about that day

A And again I didn't ask too many questions about it, I just kind of let her tell me what had happened cause I knew she was going to be speaking with our investigator. She, she advised me that the day before, Monday the 14th, she would have got off work about 3:00. She said she got home. She said that the child was asleep.

She told me that she had checked on him shortly thereafter, after she got home. She told me that the child was acting weird, "weird." She told me about the it was foamy saliva coming from his mouth. She says when she noticed this she took the child to Robert and told him something was wrong. She said after that the child started to have some form of a seizure and that's when she called 911.

Q And did you independently investigate the fact that 911 was called?

A I did.

Q Did you find out what time that call was made?

A The call was made at 6:06 p.m.

Q And what did you do after you spoke with, oh, well did Julia give you a cause for [redacted] condition?

A She did not and I, nor did I ask her.

Q After you spoke with her did you do anything else in your investigation?

A I knew that we were dealing with a matter that, of course, law enforcement needed to be involved in. I wasn't sure if an actual police report had been completed, so I called over to county dispatch. Officer Singleton, I believe his name was, came out to my office and once we started having a conversation within the first thirty seconds he already, he was already able to confirm

that a report was done and a detective was already assigned to the case, so he left. There was no need for me to speak with him anymore.

Q And after speaking with him was that the extent of your involvement in the case?

A That's right.

Ms. Cote: Beg the Court's indulgence, thank you, I have no further questions, please answer any questions the defense may have.

The Court: Ms. Grabert-Lowenstein?

Ms. Grabert-Lowenstein: I have no questions, Your Honor.

The Court: Mr. Galmore?

Mr. Galmore: Thank you, sir.

Cross Examination

By Mr. Galmore:

Q Is it Whiteis?

A Whiteis.

Q Whiteis?

A Whiteis.

Q Yes, sir, okay?

A Close enough.

Q Mr. Whiteis, as a DSS supervisor are you authorized to arrest?

A No.

Q No, okay, so you work in conjunction with the police?

A We do.

Q And you did so in this case?

A We did.

Q You talked about the hotline, was the hotline used in this case?

A It was.

Q Okay, and what information did you receive off the hotline?

Ms. Grabert-Lowenstein: Objection, foundation of who said it and hearsay.

The Court: I think it would be, Mr. Galmore.

Mr. Galmore: Okay.

Q (Continuing) Do you know who the person was that called the hotline?

A Of course.

Q And who was that person?

A I don't think I'm able to tell that by state law as to who made the report. I think the reporter's information even in this courtroom would be still confidential.

Q Do you know if it was a hospital employee?

A I know who called.

Q All right, what time did you receive a call

on the hotline?

A They actually called us the night before. We got a call from the reporter at 8:50 p.m. and we do, the hotline is actually not on at that time. It gets re-routed to a on call investigator, someone who works after hours, and the weekends. When the report would have came in it would have been handled by our on call investigator who would have called the on call supervisor, I'm not sure who that was at the time, but I do know since the child was at the hospital it was technically safe and not in harms way anymore it was something that we could go out in the morning. It wasn't something that we were going to go out on at 8:00.

Q Okay, so the determination was made to wait until the next day?

A That's right, that's right, and, and, and I'll tell you what the main reason for that is our on-call worker is not supposed to leave the county cause if we all had a one person run it's the whole CPS show in Horry County so if they leave the county we have no one in Horry County so it's pretty common that we wait on a case like this until the morning to send a person out.

Q In this instance the child was at the hospital?

A Correct.

Q You said you called Ms. Gorman at some point?

A I did.

Q Did she take your call?

A She did.

Q Did she answer your questions?

A Yes, she certainly did.

Q Did she have to answer your questions?

A No, she did not.

Q She told you where she worked?

A She did.

Q She gave you her shift?

A She did.

Q Were you able to independently verify that information?

A I would not have done that; the investigator would have handled the case from here and her immediate supervisor actually at the time it was actually two cps supervisors who, who run that unit, Yvette Brown, who handled the investigation has an immediate supervisor, them two would have taken over from there, so anything that Ms. Gorman would have told me I would not have further looked into.

Q Okay ---

A So I did not.

Q So it would have been Ms. Brown or perhaps her supervisor who would have had the responsibility of following up on the information that was received?

A That's right, yes, sir.

Q Okay, did you do a home visit?

A No.

Q Did you ask Ms. Brown to do a home visit?

A She was, recommendations for the investigation would have came from her immediate supervisor so, no, I wouldn't have asked anything of her.

Q You wouldn't have been in the loop at that point?

A Exactly.

Mr. Galmore: I don't have any more questions, thank you, sir.

The Court: Ms. Cote?

Ms. Cote: Your Honor, I have no further questions for Mr. Whiteis.

The Court: All right, Mr. Whiteis, you may step down.

Ms. Grabert-Lowenstein: I've just one further.

The Court: I'm sorry.

Recross Examination

By Ms. Grabert-Lowenstein:

Q Mr. Whiteis ---

Mr. Galmore: I'm sorry, Your Honor, she did not cross examine the witness.

Ms. Grabert-Lowenstein: I'm sorry, Your Honor.

The Court: Okay.

Ms. Grabert-Lowenstein: That's fine.

Ms. Cote: Your Honor, may Mr. Whiteis be excused from his subpoena?

The Court: Any objection?

Mr. Galmore: No, sir.

Ms. Grabert-Lowenstein: No, Your Honor.

The Court: You're excused.

Ms. Lively: The State calls Yvette Brown to the stand.

The Court: Come around, Ms. Brown.

Yvette C. Brown

being first duly sworn, testified as follows:

Madam Clerk: Please state your full name and spell your last name for the Court?

The Witness: My name is Yvette Catherine Brown, my last spelling on my last name is b-r-o-w-n.

Direct Examination

By Ms. Lively:

Q Yvette, please tell the jury where you're currently employed?

A I'm currently employed with the Horry

County Department of Social Services.

Q How long have you worked there?

A Approximately nine years.

Q And what are your duties there?

A I'm an investigator; I work in child protective services.

Q Okay, and is Mr. Whiteis someone that you work with quite often?

A Correct.

Q Okay, who's your direct supervisor now?

A Brad Whiteis.

Q Brad Whiteis?

A Yes.

Q All right, now, Yvette, did you have the opportunity to become involved in a case with a patient by the name of [redacted] in July of 2008?

A I did.

Q Will you, please, tell this jury why you were given this case?

A Well we go by rotation so I was the next one up for the next case that was received.

Q Okay, and so you were next in line?

A Yes, I was.

Q All right, and tell the jury exactly what you did once you learned this case was assigned to you and

what you had to do?

A I had to travel to MUSC in Charleston to get the information that was going on with the child.

Q Okay, and before you actually go to, to begin your investigation are you provided with just some preliminary information about what to expect?

A Yes, I am.

Q Okay, so what preliminary information were you given regarding this particular case?

A The allegations were that [redacted], age one, was brought to the E.R. by his grandmother, the baby was dropped off at grandma's house by, by his mother a couple of days ago and she hasn't been in contact since the child, since then. The child was cranky and sleepy. The baby was diagnosed with a fractured skull and blood on the brain and he was transported to MUSC.

Q Okay, and, and based upon that information that, was that how you knew what it was that you were walking into at MUSC?

A Yes, yes.

Q Okay, now what time did you leave Horry County to go to MUSC?

A I left the office approximately 9:30, 9, 9:30.

Q Okay, and tell the jury when you got there

where did you go?

A I went straight to the NICU to check on the child.

Q All right, and whenever you got there tell the jury what it was that you observed?

A When I got there I observed Ms. Gorman, the nurse, [redacted], they were in the NICU room, I looked at the child.

Q And tell the jury exactly what you observed?

A I observed him with a neck brace on and I also observed some bruising on his thighs and his lower legs.

Q And when he was in that, in that bed what did he have on him, were there clothes or not?

A No, there were no clothes, there was just a lot of tubes, ventilators, a neck brace, and they had a little like a little pamper but it wasn't closed.

Q At that time did you personally observe any reactions or movements by the child?

A At that time, no, no.

Q Okay, now you mentioned that you saw bruises what, if anything, did you learn regarding these bruises that day?

A Well I asked the nurse initially because he

had darker bruises on his thigh area ---

Ms. Grabert-Lowenstein: Objection, hearsay, and lack of foundation for any description of the bruises, this person is not qualified.

The Court: I don't think, I don't think she said what the nurse said and she can give a layperson's description of the bruises.

Ms. Lively: Yes, sir.

Q (Continuing) Just give me your description of the bruises, not what the nurse told you, okay?

A Okay.

Q Just tell this jury what you saw?

A I saw purple bruises on his thigh and I also saw like yellow greenish bruises down on his lower legs.

Q Okay, and when you saw those bruises who, if anyone, did you ask about those bruises?

A I asked Ms. Gorman about the bruises.

Q All right, tell the jury what she told you when you asked about those bruises?

A She said he liked to pinch himself, that was the, that's what she said when I asked him how did he get the bruises, oh, he likes to pinch himself is what she said to me.

Q He likes to pinch himself?

A Correct.

Q Were you there when photos of [redacted] were taken?

A Yes.

Q Did the photos, and I'm just going to show you but you don't have to go through each one, but I'm just going to, there were several and just, if you'll just quickly look through, are these consistent with what you saw whenever you went to the hospital on July the 15th, 2008?

The Court: Identify those?

Ms. Lively: I'm sorry, Your Honor, those are State's Exhibit, I believe, Number 34 through 55, 34 through 55, Your Honor, thank you.

The Court: Very well.

Ms. Lively: (Continuing)

Q And like I said you don't have to identify each one just tell us if they're consistent with what your personal observations were that day?

A Yes, they are.

Q They are, thank you, Yvette, now what was the next step in your duties as an investigator in this case? Do you need some water?

A Please.

Q What's the next thing you have to do,

Yvette?

A I then spoke with the doctors and the assigned social worker.

Q Okay, and after you spoke to the doctors and the social worker what then were you required to do as a part of your investigation?

A I was required to speak with Ms. Gorman but that happened later on, to get demographics and stuff of that nature, to kind of find out what happened to [redacted]

Q And whenever you begin an investigation like this what are you trying to determine regarding the primary caretakers of the child?

A We're trying to determine basically what happened to the child and whose care was the child in when the injury occurred.

Q Okay, all right, and so were you aware of who the primary caretakers were at that point?

A Yes, I was.

Q Okay, and would this have been information you could have received through your supervisor Whiteis?

A With the allegations, yes.

Q Okay, now, Yvette, did you end up speaking with Defendant Gorman and Defendant Palmer on that day?

A I did.

Q Now whenever you meet with a caregiver how

do you present yourself in regards to what it is your job duties are?

A I identify myself and with whom I'm employed. I then give the state mandated brochures to let them know that they are being investigated by our department, the civil rights information and all of that, and then we proceed with the interview.

Q Do you make sure that they completely understand what your job duties are?

A Yes, they do.

Q Okay, and at any point in time do you threaten them, coerce them, or tell them you have any type of, that you could lock them up if you wanted to?

A No, ma'am.

Q Okay, all right, so whenever you talk to a caregiver how would you describe your demeanor towards this person?

A My demeanor is non threatening at all, you know, we are social services so we want to hear all parties sides of what happened.

Q Okay, all right, so who did you speak with first?

A Ms. Gorman.

Q And whenever you spoke to her tell us the environment that you spoke to her in?

A We were in a room just she and I during the interview.

Q All right, and will you, please, tell the jury what took place during that, during that conversation with Ms. Gorman?

A Like I stated she gave me all of her demographics, the state she lived in, any other minor children, where they were located, information like that.

Q Okay, and what information, if any, did she give you regarding the biological mother and father of [redacted]?

A She told me that Cesalee dropped [redacted] off and she left on July 2nd and Richard, Sr. was actually in Virginia at a military base and Cesalee went to Arizona for some personal business and I guess she was going to come back to pick[redacted] up and be united with Mr. Richard in Virginia.

Q Okay, and how did she describe [redacted] to you while he had been in her care?

A She said he was cranky, he looked underweight, undernourished, and that his head had a squishy feel to it like it didn't have bone structure.

Q Okay, did that strike you as odd?

A It did.

Q Okay, what else did, if anything, did she

tell you about [redacted] before you got to the July 14th date?

A She had taken him to a doctor and the doctor said that he was okay.

Q Okay, so she told you she had been having him treated?

A Correct.

Q All right, did she give you any information regarding any kind of injuries that [redacted] suffered while in her care?

A No.

Q At any time did Ms. Palmer, Ms. Palmer, I'm sorry, did Ms. Gorman provide you with information as to any other caregivers for [redacted] while he had been living with her?

A No one other than Mr. Palmer.

Q Okay, so just the two of them?

A The two of them, correct.

Q Okay, was she working at the time?

A Yes, she was.

Q All right, did she tell you where?

A At Bass Pro Shop.

Q All right, did she tell you whether Mr. Palmer was working?

A He was not at the time.

Q All right, now, Yvette, how did you get to

your questioning about how the child came to the E.R. on the 14th?

A I just asked her what happened and that's when she told me that he had a little, that he was seizing and that's when she called 911.

Q Did she give you any more details about specifically what happened on the 14th, like what kind of day it was, what she had done, what [redacted] had done?

A Yes, they are at, I was, she told me that they were at a picnic at Mr. Palmer's parents home and they were just at a picnic, that they had a cookout with Mr. Palmer's son and they had a little pool for them to play in and he was okay.

Q Okay, she told you he was okay?

A Right.

Q At that event?

A Right.

Q All right, what did she tell you about the 14th, the day that he was actually seen in Conway Medical Center, and if you need to refer to your notes you can?

A Okay, what was your question?

Q Okay, specifically for the day that [redacted] went to the E.R. did she give you any details about what she personally did that day?

A No.

Q Okay, all right; so what were there, if, did she tell you anything about what happened with [redacted] that day before he got to the E.R.?

A No.

Q Okay, now after you were finished interviewing her what did you do?

A I went back, that's when I was informed that the detectives were there, I'm sorry, cause I interviewed her twice, I went to the NICU twice, I then went out and spoke with Mr. Palmer.

Q Okay, and when you spoke with Mr. Palmer was it in the same environment as you were in with Ms. Gorman?

A No.

Q All right, where did you speak with him?

A Outside under the vestibule, I think, is what it's called.

Q Okay, and, please, tell the jury what Mr. Palmer, what information he provided to you?

A Just basic demographs, he was born and raised in Horry County; he had a five year old son who was currently with his parents because he goes to a camp. He, that was basically it, he, he was jut stunned, bewildered.

Q Okay, stunned and bewildered?

A Right, like, yeah.

Q Well did you ask him what had taken place on July the 14th of 2008 when [redacted] ended up in the E.R.?

A I did.

Q And what information did Mr. Palmer provide to you?

A He said he didn't know, he just didn't know.

Q He didn't know?

A No, ma'am.

Q After you did these interviews, Yvette, did you have any other duties at that time in regards to investigating this case?

A No, no.

Q And in regards to your conversations with Gorman and Palmer did you document those conversations?

A I did.

Q Okay, and since that time is the DSS case just remained open pending this case?

A No, it's closed.

Q It is closed, okay, did you speak to any other individuals other than Julie Gorman and Robert Palmer in this investigation?

A I have.

Q Who else did you speak to in your investigation?

A Ms. Gail Palmer and Mr. Palmer.

Q Mr. Palmer, would those be Robert's parents?

A Robert's parents, yes.

Q Okay, and were they able to provide you any kind of information to explain what had happened or how [redacted] got to the E.R. on July 14th, 2008?

A Not how he got to the E.R., no.

Ms. Lively: Okay, Yvette, thank you so much, please answer any questions the defense may have for you.

The Court: Ms. Grabert-Lowenstein?

Ms. Grabert-Lowenstein: Just briefly, Your Honor.

Cross Examination

By Ms. Grabert-Lowenstein:

Q Can you tell us when the call through the hotline came in?

A I didn't take the call so I cannot, I ---

Q Would it have come in prior to you getting assigned to the case?

A Yes.

Q You said that Ms. Gorman gave you demographic information, where are her other children living?

A In Hawaii.

Q With, with whom?
A With her ex-husband.
Q And did Mr. Palmer answer all your questions?
A Yes.
Q Did Ms. Gail Palmer answer all your questions?
A Yes.
Q And did Mr. James or Jimmy Palmer answer all your questions?
A Yes.
Q Okay --

Ms. Grabert-Lowenstein: If I could have just a moment, Your Honor, but I believe that's everything. I have no further questions.

The Court: Mr. Galmore?

Cross Examination

By Mr. Galmore:

Q Good morning, Ms. Brown.
A Good morning.
Q Just a few questions. So you are, what is your title with DSS?
A Investigator.
Q Okay, as an investigator are you authorized to arrest people?

A No.

Q No, okay, so you work in conjunction with the police?

A Yes.

Q I assume that you've had classes and training in investigating signs of abuse, cases of abuse?

A I have.

Q Let me ask you a few questions about your report, you said in your report that the child was dropped off at the grandmother's house by the mother a couple of days ago; how did you receive that information?

A Through our intake unit, those were the allegations. We have an intake unit where a intake hotline where all of the calls for abuse and neglect come through. Those are simply allegations at the time but then we're assigned the case and we go out and investigate the allegations.

Q So the information that the child had been dropped off a couple of days ago was on the hotline?

A That's what was on the allegations, yes, on the intake sheet.

Q Okay, did you ask Ms. Gorman for any type of documentation to verify that the child was dropped off a few days ago?

A I didn't, no.

Q Okay, I mean you're the investigator and you get a report that the child was just brought here would it be prudent to try to get a bus ticket or something?

A I asked her when, when was the mom there and when did she leave, she said she arrived some time in June, she could not remember the date, and she left on July 2nd.

Q Did you ask the same of Mr. Palmer?

A No, I did not.

Q So you had this information on the hotline and then you verified it by asking the mother; is that correct?

A The grandmother, yes.

Q Yes, the grandmother, all right?

A Yes.

Q Now your report says that the child had fractured skull and blood on the brain?

A Fresh blood on the brain.

Q Yes, ma'am, where did you receive that information?

A From Dr. Abel and from Ms. Major, the social worker at the hospital.

Q Did you ask for any hospital records to try to verify that claim?

A Not at the time because they were still

doing further testing so it wasn't conclusive; this is for the preliminary report.

Q Did you receive a report from the hospital, a written report from the hospital?

A No, I did not.

Q Did you take any steps, and I know this might sound a little ridiculous, but did you take any steps to verify the claim that the child in fact had a fractured skull?

A No, I did not because once law enforcement was involved there were no other minor children in the home I was advised by my supervisor for us to close our case and let law enforcement go with the criminal portion.

Q Okay, would it be fair to say that that information that the child had a fractured skull came from a reputable source, the doctors?

A Yes, yes.

Q When you received information from that type of source, the doctor or the hospital, not really necessary to go back and independently verify that?

A It depends on the case.

Q Okay?

A Each case is different cause you're dealing with humans and, of course, when there were, like I stated before there are no other minor children in the home our

investigation then stops.

Q Yes, ma'am, your reports says that the mother hadn't been in contact since she dropped the child off; is that correct?

A That's according to Ms Gorman, yes.

Q Okay, did you have an opportunity to talk with Ms. Carnaghie to try to verify that information?

A No, I did not.

Q You accepted what Ms. Gorman said and took it at face value?

A That was during my interview with her; I dictated what she informed me at the time.

Q Yes, ma'am, and you also say in your report that the child was cranky and sleepy; is that information that you got from Ms. Gorman also?

A Correct.

Q Were you able to verify that information?

A Like I stated before, sir, once I got the information from Ms. Gormam on the initial interview when there are no other minor children in the home we staff the case with our supervisors and I was advised at that time to close our case so our investigation stopped so, no, I didn't get any other information.

Q Okay, did you visit the home out on Highway 129?

A Yes, I did, I attempted anyway.

Q Would that have been after law enforcement was involved?

A That was after law enforcement was involved.

Q But before your case was closed?

A Correct.

Q Okay, now you said you spoke with Ms. Gorman at the hospital down in Charleston; is that correct?

A Correct, sir.

Q And she told you that the child was cranky, she told you that the child was underweight?

A Yes.

Q When, did you have an opportunity to look at the child for yourself?

A I did, I did.

Q Did he appear underweight to you?

A He appeared small, yes.

Q Okay, she also told you that his head was squishy?

A Yes.

Q Did you get an opportunity to, an opportunity to examine [redacted] head at the hospital?

A I'm not a medical doctor, sir.

Q Okay.

A I don't examine heads.

Q Yes, ma'am, and it would be kind of difficult because he had skull fractures?

A Correct.

Q Well did Ms. Gorman indicate to you that she had taken the child to a family physician for that condition?

A She did.

Q Did you talk to the family physician?

A No, I did not.

Q Would it be fair to say that Ms. Gorman answered your questions?

A She did.

Q Did Ms. Gorman refuse to answer any of your questions?

A She did not.

Q Could she have refused to answer your questions?

A Of course, yes, she could have.

Q The pamphlet you gave her said she could?

A Right.

Q So while she's giving you this information did she say I did it?

A No, she did not.

Mr. Galmore: Thank you very much, Ms. Brown.

A You're welcome.

Ms. Grabert-Lowenstein: No questions, Your Honor.

The Court: Ms. Lively?

Ms. Lively: That's all for this witness, Your Honor, if she may pleased be excused from her subpoena?

The Court: Mr. Galmore, do you have further need for Ms. Brown?

Mr. Galmore: No, sir, Your Honor.

The Court: Ms. Grabert-Lowenstein?

Ms. Grabert-Lowenstein: No, Your Honor.

The Court: You're excused from your subpoena.

A Thank you.

The Court: Thank you, all right, it's time for our morning break.

Ms. Lively: Your Honor, before you step down I do have a matter I do want to approach for just a moment.

The Court: Okay, take the jury out.

Ms. Lively: Thank you.

(Whereupon, the jury retired to the jury room at 10:59 a.m.)

(Whereupon, a recess was taken by court personnel and the following takes place on the record after the recess.)

(Whereupon, State's Exhibits Numbers 64 and 65

marked for identification.)

The Court: We had a Jackson v. Deno hearing on these interviews, I believe, is that correct?

Ms. Lively: Yes, sir, Your Honor, we did.

The Court: And I want to make sure that I've placed on the record my findings concerning that.

Ms. Lively: Yes, sir.

The Court: I did?

Ms. Lively: You did at that time was that you found that they were voluntary and ---

The Court: I have considered these based upon the age and education and physical aspects of both defendants. I have considered the circumstances under which they were taken such as where they were taken, the length of the interrogation, the type of interrogation. I find that both of these interviews or statements are voluntary. I just wanted to make sure that was on the record.

Ms. Lively: Yes, sir, and one thing so that what the State has done I've mentioned it to the defense as I actually had their statements transcribed cause at times they're kind of muffled and there's crying and, you know, a lot of emotion, so what I've done is I've prepared enough copies. I'll give one to Your Honor, one to each of the jury members while they're actually watching it, then I'll

collect them after the fact.

The Court: Any objection, Mr. Galmore?

Mr. Galmore: No, sir.

Ms. Grabert-Lowenstein: Your Honor, I have no objection to that and would just inquire if counsel intends to send a copy of each interview back in to the jury.

The Court: She says not.

Ms. Lively: I'm going to collect them back.

The Court: Just for their use as they listen.

Ms. Grabert-Lowenstein: And I have, I have no problem with it, actually what I'm asking is because I would be requesting that a copy of each one go back, I wasn't sure.

Ms. Lively: That's fine, I mean I wasn't, I know normally that defense doesn't necessarily want that. It makes no difference ---

The Court: Mr. Galmore, how about you?

Mr. Galmore: I am opposed to a copy going back. They will have the actual C.D. in evidence and the jury has the option of asking for it to be played again or come out here.

The Court: I think so and if they do I'll bring them back and I'll redistribute the written copies and let them look at it again.

Mr. Galmore: Yes, sir.

Ms. Grabert-Lowenstein: If they have a chance to hear the tape again then I have no problem, thank you.

The Court: If they request it, okay.

Mr. Galmore: One more thing, Candice, did you - -

Ms. Lively: Oh, yes, I'm sorry, and just so you know, Your Honor, when we had this at first it was in two disks but it was problematic because it started with the defendant Palmer then it went to Gorman, then it cut off then it went back to Gorman and then Palmer, so I asked Horry County P.D. to put them in, everything with Gorman on one disk, everything with Palmer on one so it will flow better. I've mentioned that to the defense and they, neither one of them indicate to me there was a problem with that and those are the ones I've had Ms. Babb mark for evidence.

Ms. Grabert-Lowenstein: No problem from the defense for Ms. Palmer, Your Honor.

Mr. Galmore: Yes, we're fine with it, sir.

The Court: All right, thank you.

Ms. Lively: Thank you, Your Honor.

The Court: Now bring them in.

(Whereupon, the jury returns to the courtroom at 11:19 a.m.)

The Court: All right, the jury is back in the

jury room, I mean in the courtroom. Are you ready to proceed?

Ms. Lively: Yes, Your Honor, thank you, the State would call Detective Tim Troxell to the stand.

Detective Timothy Troxell

being first duly sworn, testified as follows:

Madam Clerk: Please state your full name and spell your last name for the Court?

The Witness: Tim Troxell, t-r-o-x-e-l-l.

Direct Examination

By Ms. Lively:

Q Detective Troxell, where are you currently employed?

A With the Horry County Police Department.

Q And how long have you worked there?

A Nine years.

Q And what are duties there at Horry County P.D.?

A Currently I'm a supervisor in our investigations division assigned to our property crimes unit.

Q Okay, and in regards to your position in July of 2008, have they changed?

A Yes, ma'am, I was promoted in May of 2010.

Q Okay, and so in 2008 what was your position

at Horry County P.D.?

A I was a detective within our violent crimes division.

Q And in July of 2008 did you have an opportunity to become involved with the investigation of a minor child by the name of [redacted]?

A Yes, ma'am, I did.

Q Okay, please tell the jury how you became involved in this investigation?

A On the evening of July 14th, 2008, Detective David Weaver was called out to Conway Medical Center and assume the investigation on the morning of July 15th, I was tasked with assisting him on the investigation.

Q Okay, and what information were you provided that gave you an idea of what the two of you would be investigating?

A Detective Weaver provided me with the preliminary findings from doctors at Conway Medical Center of the injuries that [redacted] [redacted] sustained.

Q Okay, and based upon the information that you had was it one of those situations where you're required to follow up and investigate?

A Yes, ma'am.

Q Okay, what were the concerns?

A The severe trauma that Mr. Grimes sustained

to his head.

Q Okay, and where did you go on July 15th, 2008, as a part of your investigation?

A Detective Weaver and I traveled to the Medical University of South Carolina in Charleston.

Q Okay, and while you were at the Medical University of South Carolina on July 15th, 2008, who did you speak with regarding this case?

A We spoke with Ms. Gorman and Mr. Palmer as well as the attending medical staff at the hospital.

Q Did you speak with Dr. Abel?

A Dr. Abel and I believe Dr. Tecklenburg.

Q Okay; all right, and at that time what information did you receive as to the, the condition of the child?

A As far as which conversation are you referring?

Q Okay, in regards to the conversation that you had with the doctors, what was the condition of the child?

A The child's condition was critical; he had sustained some skull fracturing and bleeding on the brain.

Q Okay, and why do you receive this information before you go and follow up with your investigation and talking to caregivers?

A That way we can know the basis of our questions to ask whereas the location of the injuries how were they inflicted and things of that nature.

Q Okay, and so, Detective Troxell, did you speak to medical personnel first or did you speak with the defendants first?

A If I recall we actually spoke with the defendants first, this was my first involvement in the case and I wanted to get the preliminaries from them as well and then we spoke with medical staff.

Q Okay, and but at the time when you spoke with them you are, did you know about the condition of his skull and --

A Yes, Detective Weaver had obtained that from Dr. Cacace at Conway Medical Center the previous evening.

Q Okay, and when you spoke with the defendants at MUSC tell the jury how that came about?

A Detective Weaver and I arrived at the hospital and they were, I believe, in a NICU unit with Mr. or Baby Grimes, and we asked to speak with them in one of the consultation rooms.

Q Okay, and whenever you spoke to the two of them were they separated or were they together in the room with you?

A They were together.

Q All right, and if you will tell this jury at that time was the, was the interview a custodial interview or were you gathering information, would you explain to the jury what you were doing at that time?

A We were merely trying to gather the facts to determine what could have happened to the child to where he sustained these injuries.

Q Okay, so did you have any history at that point other than the condition of the child?

A No, ma'am.

Q All right, so when you went into this interview room with Palmer and Gorman what information were you able to obtain regarding their care of the child?

A We were able to obtain that they were the primary and sole caregivers for [redacted].

Q Okay, all right, and where were they living; did they give you that information?

A They were living at [redacted] in the Galivants Ferry section of Horry County.

Q All right, and were you given any information as to why the child was in the care of Gorman and Palmer?

A Ms. Palmer or Ms. Gorman's daughter had come to the area, I believe, in June of 2008 and had left

the area on July 2nd and left temporary guardianship to Mr. Palmer and Ms. Gorman.

Q Okay, and did you do a follow up to confirm that, that Cesalee had actually left in July?

A Yes, ma'am, I obtained the airline itinerary from Delta Airlines for Ms., for Cesalee's plane ticket.

Q Okay, all right, and --

Ms. Lively: If I may approach, Your Honor?

The Court: Certainly.

Ms. Lively: (Continuing)

Q I'm just going to ask you, this is already in evidence, Cesalee's plane ticket?

A I believe I have a copy in the file.

Q You do have a copy?

A Yes, ma'am.

Q Okay, if you don't mind looking at your copy, it is actually in evidence? I'm sorry, here's State's 15 in evidence; is that what you're referring to?

A Yes, ma'am.

Q Okay, so once you received this information at that point in time what does that do regarding your time line of who you're looking at as caregivers of the child?

A It will narrow down the caregivers and obviously removed Cesalee from being a caregiver.

Q Okay, so as you're talking to Gorman and Palmer at that time what other information were you able to gather in that particular interview?

A We were trying to obtain their activities over, from what the doctor had explained initially they thought the injuries were sustained one to three days, so we were trying to go back three days and get a time line down of their activities and who was in care custody of the child.

Q Okay, and based upon that information that you received what conclusions were you able to arrive at regarding who had care and custody of the child?

A Ms. Gorman and Mr. Palmer.

Q All right, did they ever place the child alone with any other caregivers?

A Not in that weekend span, no, ma'am.

Q Okay, now, Detective Troxell, will you tell us what, what particularly, what information was provided to you about [redacted] as a child during that interview at MUSC, if anything, the type of child he was or anything like that?

A Nothing out of the ordinary was obtained.

Q Okay, were you given any type of explanation or concerns of potential causes of injury that they knew about?

A The two explanations ---

Ms. Grabert-Lowenstein: Objection vague as to source.

Q They being Palmer and Gorman when you were interviewing them?

A Yes, ma'am.

Ms. Grabert-Lowenstein: Compound, Your Honor.

The Court: I'll allow it.

Ms. Lively: (Continuing)

Q Okay, as to, I'm sorry --

The Court: I'll allow it, go ahead and ask the question.

Ms. Lively: Thank you, Your Honor.

Q (Continuing) As to Gorman and Palmer were you provided any reasons why this child may have been injured?

A The two explanations that we were provided initially neither one of them knew anything, couldn't, couldn't provide an explanation and ultimately it came down to the bulldog potentially knocked him over or a stroller falling down the stairs.

Q Okay, and once again were you interviewing the two of them together?

A Yes, ma'am.

Q All right, did you record this interview by

chance, Tim?

A I attempted to record it but I had a new camcorder the county had just issued us and it was malfunctioning and it did not record.

Q Okay, in regards to what was told to you for potential injuries to [redacted] did they give you a time line was to when those things had occurred?

A The initial findings from the doctors at Conway Medical Center and preliminary from MUSC was one to three days, of course all their testing wasn't completed at that time but that was the time frame we were given.

Q Okay, what about the time frame that was given from Gorman and/or Palmer during that interview as to when the bulldog incident and the stroller occurred?

A The stroller occurred prior to July 2nd when Cesalee was in town; the bulldog I don't recall if there was a date given for that.

Q Okay, all right, did they ever tell you he had been hospitalized or cared for while they had him in their care?

A I believe there was a prior hospital visit maybe a week before at Conway Medical Center.

Q Now, Detective Troxell, after you spoke to the two of them that day on the 15th did you do any other investigative work in this case during that day?

A Yes, ma'am, I believe on the 16th Detective Weaver and I went to their residence on Highway 129.

Q Okay, so this was the next day?

A Yes, ma'am.

Q And how did you know to go to their residence on the 16th?

A Based on the information that we got from medical personnel this did not appear to be accidental so Detective Weaver and I wanted to go, I guess look at the crime scene on the residence where [redacted] lived.

Q Okay, and when you got there on the 16th about what time of day was it, do you recall?

A It was in the afternoon, if I'm not mistaken.

Q And at that time, and let me just back up for a second, while you were there on the 15th did you ever come into contact with the biological mother or biological father of [redacted] [redacted]?

A No, ma'am, I, until this week I had not met the biological parents.

Q Okay, whenever you, how did you know when you went on the 16th that you were going to be able to gain entry to the home?

A We didn't.

Q Okay, did you have a search warrant?

A No, ma'am.

Q So tell the jury then when you got to the home on the 16th how you were able to gain entrance?

A We met with Mr. Palmer and Ms. Gorman outside the residence and they provided us with a consent to search form for their residence.

Q So, so both of them were at the home?

A Yes, ma'am.

Q And this was July 16th?

A Yes, ma'am.

Q Okay, and at that time was [redacted] still alive or not?

A Yes, ma'am, he was.

Q Did you have any information that that condition was going to change at any time soon?

A Based on our conversations with medical staff on the 15th we were informed that he was on life support, that in essence he was brain dead and that would be, the prognosis for him making a recovery was minimal.

Q Okay, at that time what, based upon that information in your mind as a detective what did you believe this investigation was leading you to?

A When the time came this was coming to be a homicide.

Ms. Grabert-Lowenstein: Objection, relevance,

it's his belief.

Ms. Lively: Based upon the medical information.

The Court: I'll allow it.

Q Okay, just based on the medical information that you had to know what it was that you were going to potentially be looking for what did you think this case was going to be?

A Based on the information provided to us by the doctors that [redacted] was on life support the injuries appeared non accidental it appeared these were inflicted severe injuries that would lead us to a homicide investigation.

Q Okay, based upon that information so you had that information as a detective before you walked into that home?

A Yes, ma'am, we did.

Q All right, now whenever you went into that home, Detective Troxell, were you prepared with a camera, other devices, to help you to document what you were seeing?

A Yes, ma'am, we had a digital camera for still photographs.

Q Okay, and were photographs taken of the home at that time?

A Yes, ma'am, they were.

Q. Okay, and those photographs did you save them into evidence and provide them to me for this case?

A Yes, ma'am, they were.

Q Okay --

Ms. Lively: Your Honor, may I approach the witness?

The Court: Yes.

Ms. Lively: Thank you.

Q I'm going to show you what's been marked for I.D. purposes State's 17 through 34, which actually removes one of the pictures that had been previously marked for State's I.D. but now is in evidence as Defense 1, I'm going to let you hold that one that's already in, but if you would, please, State's Exhibit 17 through 34 ask if you recognize these photos and are these the photos that were taken in your presence?

A Yes, ma'am, they are.

Q Okay, and are those an accurate representation of the photos that you took on that date?

A Yes, ma'am.

Ms. Lively: Your Honor, at this time the State would move to introduce 17 through 34 into evidence?

Ms. Grabert-Lowenstein: And if I could briefly see?

Ms. Lively: Sure.

Ms. Grabert-Lowenstein: No objection on behalf of Mr. Palmer, Your Honor.

The Court: All right.

Mr. Galmore: No objection.

The Court: Without objection, they're admitted.

Ms. Lively: Okay.

(Whereupon, State's Exhibits Numbers 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 entered into evidence.)

Ms. Lively: (Continuing)

Q Now, Detective, Troxell, I'm going to hand you these and I'm going to ask you about individual photos; in State's Exhibit number 17 is that you standing in that photo?

A Yes, ma'am

Q Okay, what was the purpose of you taking a tape measure in State's Exhibit Number 17?

A We were trying to acertain the height from the top rail of the playpen where [redacted] slept to the floor in the trailer.

Q And once again who was in the home with you other than Weaver when you were taking these photos?

A Ms. Gorman and Mr. Palmer.

Q Who was providing you information regarding where [redacted] slept?

A Both of them.

Q And about how high was the top of this playpen, I know it's hard to see but maybe if you recall when you measured it?

A It appears to be your standing playpen I'm assuming maybe thirty inches, I can't read the ruler that well.

Q Okay, it seems to come up to about your lower thigh; is that fair to say?

A Yes, ma'am.

Q Will you stand up for us? All right, just walk around here, so it comes up to about your lower thigh so about there, okay, all right, thank you. Now I'm going to ask you about State's 18?

A That would be the bulldog in the home in his pen or crate.

Q In his crate, okay, did Gorman and/or Palmer tell you this was the bulldog they were referring to when they told you about [redacted]?

A Yes, ma'am.

Q Okay, so is that why you took this picture?

A Yes, ma'am.

Q Okay, was he aggressive towards you when you went to the house?

A No, ma'am.

Q Okay, I'm going to show you State's 19, 23, now one of the other things that was told you, I believe you've already testified to, was that a stroller and a set of stairs came into play at some point?

A Yes, ma'am.

Q Okay, I'm going to show you 19 and 23 and ask you if you recognize why you took those particular photos, and here I'm going to hand you 34 as well?

A To document again the height from the stairs to the ground had [redacted] fallen from that height to the ground.

Q Okay, and actually, Detective Troxell, it appears you took several photos of those stairs?

A Yes, ma'am, I believe we actually ended, ended up taking a photograph of each individual step to the ground.

Q Okay, do you remember what the highest level of the stairs were that you, that you looked at?

A If I may?

Q That's fine, just tell which exhibit it is that shows it from the top from the highest step, please?

A That would be, that would be State's 33.

Q Okay?

A And I can't make out the measurement.

Q Okay.

A But again it comes to just above my thigh.

Q Just above your thigh again, okay, and in State's Exhibit Number 22, why did you take a picture of that particular item?

A To document the stroller that was in the acertation of falling down the stairs.

Q Okay, so you were provided information that this was the stroller?

A Yes, ma'am.

Q Okay, and once again why are you documenting all these things?

A Again to either prove or disprove if these injuries were accidental or intentionally inflicted.

Q Okay, and once again the information you had regarding the statement that there was a fall down the stairs occurred when?

A Prior to July 2nd.

Q Okay, and I see that we, now did Ms. Gorman or Palmer tell you which set of stairs it was that, that this occurred on?

A I believe so because they were the front stairs.

Q The front stairs, okay, why did you take a picture of the back stairs?

A Just in case it may have been the back

stairs to fully document everything.

Q Okay, and once again that would be in 20 and 21?

A Yes, ma'am.

Q Okay, so you took that as well just in case?

A Yes, ma'am.

Q All right, now, Detective Troxell, will you, please, tell us about how big of a home this was?

A It's your standard single wide mobile home, metal or tin, two bedroom, one bath, I believe.

Q Okay, and I'm going to show you State's 24 and ask you what is that depicting, what room is that?

A That would be the first bedroom where we were told [redacted] and [redacted] were staying.

Q Okay, and would that be 27 as well?

A Yes, ma'am.

Q Okay, and I see that you actually used the tape measure to measure the height of that bed that was next to his playpen, correct?

A Yes, ma'am.

Q Okay, and why was it so important for you to measure height of different objects in the home?

A Again based on the medical information the doctors indicated to us the only way that these injuries

could have been sustained would be either a motor vehicle accident or a fall from a great height so we were trying to document the items in the home that [redacted] could have had access to and had he fallen would that height have been great enough to inflict these injuries.

Q And I'm going to show you 31 and ask you where that picture was taken?

A That's the rear bedroom or the master bedroom of the home.

Q Okay, all right, and once again that's you with the tape measure, correct?

A Yes, ma'am.

Q Okay, were you ever provided any information from either Gorman or Palmer that the child had ever slept on that bed?

A No, ma'am.

Q Okay, but you measured it anyway?

A Just to be sure.

Q Okay, and here's another picture of the dog?

A Yes, ma'am.

Q Okay, all right, and what area of the house is that?

A That would be living room area.

Q The living room area, okay, all right, now

tell the jury why you took pictures of the items that are in 25 and 32?

A We had been told that [redacted] had been under the care of a doctor, Aynor Family Medicine, and we inquired as to was he under any, any medicine and these were the medicines that we were told had been provided to him.

Q Okay, and will you tell the jury what medicines that you see if you can tell from those pictures?

A There's baby Tylenol and it appears to be baby ibuprofen, ora-jel and some prescription cream, I'm not sure what kind of cream that is.

Q Okay, that's fine, did you ever come into contact with a prescription by the name of Xyzal; does that sound familiar?

A No, ma'am, I have not had that before.

Q Okay, that's fine, and once again why do you take photos of any prescriptions or medicines of a child?

A It was to document that he had been under the care of a doctor and in case given the information we had that this would be a homicide any other medicine that shown up in the toxicology and the autopsy.

Q Okay, and then finally, Detective Troxell, what is this a photo of?

A That would be a photo from the Highway 129 looking back at the residence.

Q So is this a pretty good indication of the outside size of the mobile home?

A Yes, ma'am.

Q Okay, and have you looked at the diagrams that's in evidence which has their home to scale?

A Yes, ma'am, I have.

Q All right, oh, and let me just ask you, what's in Defense Exhibit Number 1?

A A trampoline.

Q Why did you take a picture of the trampoline?

A Detective Weaver took that picture, I asked him this morning and he didn't know.

Q Okay, fair enough, all right, but, but this was on the property?

A Yes, ma'am, it was on the rear of the house.

Q Okay, all right, thank you, okay, now as far as the home, okay, and will you, please, if you don't mind stepping down, I'm going to have you right here in front of the microphone, okay, okay, now if you will tell the jury where [redacted] bedroom is in this, in this scale?

A It's marked bedroom number two.

Q Okay, and, and so would this be Julia and Robert's bedroom?

A Yes, the master bedroom at the rear of the home.

Q Okay, and let me ask you because how much time did ya'll spend in the home that day; do you remember?

A If I recall it was forty five minutes to an hour, not very long.

Q Okay, when you were walking throughout the home did you notice anything about how, you know, the walls or the doors or anything regarding the home?

A The doors were hollow, you could hear, if Weaver was back here and I was at the living room we could hear each other.

Q Okay, all right, and in regards to the, the master bedroom and bedroom number two, did ya'll find any type of indication anything like holes or any damage to those particular rooms?

A No, ma'am.

Q If you had would you have noted that?

A Yes, ma'am.

Q Okay, did you look for it?

A Yes.

Q Okay, all right, and were you able to locate any type of potential places of impact?

A No, ma'am.

Q All right, okay, but did you look for it?

A Yes.

Q All right, and once again who let you into the home that day?

A Ms. Gorman and Mr. Palmer.

Q Okay, and how long had [redacted] been away from the home by that time, when was he taken to the E.R.?

A He was taken to the emergency room on the evening of the 14th and this was on the afternoon of the 16th so maybe two days.

Q Was the house clean?

A Yes, it was.

Q All right, was it organized?

A Yes.

Q Was [redacted] room clean?

A Yes.

Q Have a seat, and if you don't mind just for demonstrative purposes for the jury's benefit, I'm going to have you hold this, will you tell me by looking at this, and it's at the end of this scale, what was the width of this home?

A Thirteen feet nine inches.

Q All right, let me see here, will you hold this for me, thirteen point nine?

A Yes, ma'am.

Q Was the width of the home?

A Yes, ma'am.

Q Was the, was there a need for you to try and do any type of fingerprinting or DNA analysis in this particular case?

A No, ma'am, in a standard criminal investigation DNA and fingerprints are used for identification purposes. In this particular case we knew who the residents of the home were, [redacted], Mr. Palmer, and Ms. Gorman, so there was no need to gather that kind of evidence.

Q Now when was the next time that you had any contact or let me ask you this, when you left that day did you do anything else additional regarding the investigation on the 16th?

A No, ma'am.

Q Okay, what was the next thing that you did in furtherance of the investigation into [redacted] condition?

A On the morning of the 18th Detective Weaver and I again met with Ms. Gorman and Mr. Palmer outside the residence and requested they come to the Horry County Police Department for an actual videotape interview.

Q Okay, and did they agree?

A Yes, ma'am.
Q Okay, so they came willingly?
A Yes, ma'am.
Q Okay, and at that time what, what had happened to [redacted] by then?
A He had passed away.
Q So on the, on July 18th of 2008 were you involved in the interview of Julia Gorman and Robert Palmer?
A Yes, I was.
Q Okay, were you present for those interviews?
A Yes, I was.
Q And during the interviews, Detective Troxell, did you do anything to ensure that the defendants would understand why they were there and the potential statements they were giving?
A Yes.
Q And what was that?
A Are you referring to the being advised of the Miranda rights?
Q Absolutely?
A Yes, ma'am, both defendants were advised of their Miranda warnings.
Q Okay, and when you advised them of their

Miranda warnings did they waive those warnings and agree to speak with you at that time?

A Yes, ma'am, both did.

Q Okay, do you mind retrieving your Miranda warnings for the benefit of --

A I believe they're still in evidence from the Jackson v. Deno hearing, I never received them back.

Q Okay, all right --

Ms. Lively: Your Honor, may I approach?

The Court: Certainly.

(Whereupon, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury and the court reporter.)

Ms. Lively: (Continuing)

Q Whenever you, after you gave them Miranda warnings and they waived them, who did you interview first?

A Mr. Palmer.

Q Okay, and whenever you interviewed Mr. Palmer at that time did you, did he appear to be under the influence of any alcohol or drugs?

A No, ma'am.

Q Was he, did he appear to be incoherent or not understand your statements?

A No, ma'am.

Q All right, and based upon how he appeared

to you did you go forward with the interview and record it?

A Yes, we did.

Q Okay, all right, let me show you what's already been marked as State's Exhibit Number 64 and ask you if you've looked at this before and you're familiar with it?

A Yes, this would be the DVDR containing the interview with Mr. Palmer.

Q Okay, thank you --

Ms. Lively: Your Honor, at this the State moves State's Exhibit 64 into evidence.

Ms. Grabert-Lowenstein: Your Honor, we have seen this, no objection on behalf of Mr. Palmer.

Mr. Galmore: Sixty-four is the interview with Mr. Palmer?

Ms. Lively: Correct.

Mr. Galmore: No objection.

Ms. Lively: Thank you.

(Whereupon, State's Exhibit Number 64 entered into evidence.)

Ms. Lively: (Continuing)

Q And same questions basically, Detective Troxell, in regards to Ms. Gorman, did she appear to be under the influence of any alcohol or drugs?

A No, ma'am.

Q Was she, did she appear coherent and ready to answer your questions?

A Yes, she was.

Q Okay, and once again you already said she did sign the Miranda form regarding the waiver?

A She did.

Q Okay, and let me show you what's been marked as State's Exhibit Number 65, and ask you is this what you have reviewed and seen as her interview from July the 18th?

A Yes, it's the DVDR containing the interview with Ms. Gorman.

Ms. Lively: Okay, Your Honor, the State would move to introduce State's 65 into evidence at this time?

The Court: Can I see counsel?

Ms. Lively: Yes, sir.

(Whereupon, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury and the court reporter.)

Ms. Lively: And as for State's Exhibit Number 65, Your Honor, that's been marked for I.D.?

Mr. Galmore: We had previously placed our objection but subject to that.

The Court: All right.

Ms. Grabert-Lowenstein: No objection on behalf

of Mr. Palmer.

The Court: Okay, all right.

Ms. Lively: Okay, thank you.

(Whereupon, State's Exhibit Number 65 entered into evidence.)

Ms. Lively: (Continuing)

Q Now, Detective Troxell, before I publish these to the jury let me ask you something, whenever you went to interview Ms. Gorman did you notice anything that she may have brought with her?

A She had a notebook in her possession.

Q Okay, and what was that notebook?

A I believe if I recall correctly it was a journal that she maintained of Cesalee's teenage years and some issues that she was having with him or with her that she was documenting.

Q Okay, and did you ask her to bring that with her?

A No, ma'am.

Q And whenever you, and it shows on the interview, but let me ask you, whenever the, when you saw the notebook did you seize it or take it from her?

A No.

Q Okay, why not?

A Again based on the, the evidence that we

had from the medical professionals that this was a fresh injury and having information from Delta Airlines that Cesalee was not here it was irrelevant to us.

Q Okay, all right, so when she brought it to your attention that she had this information what did you do with it?

A To be frank we discarded it. It didn't matter to us, Cesalee wasn't here, therefore, and based on the medical evidence couldn't have inflicted the injuries.

Q Oh, let me back up for just a second before we publish these, did you receive any information from either Julia or Robert that, that Julia had gone anywhere other than work and home that day of July 14th?

A No.

Q Okay, did you receive information from me later on that there was a possibility she had stopped off somewhere before she went home?

A Yes.

Q Okay, and where was that?

A The IGA grocery store in Aynor.

Q Okay, and what did I ask you to do in regards to the possibility that she had stopped by there on the way home?

A I was requested to get the distance to drive the distance and get a approximate time that it would

take to travel from the IGA to their residence?

A Okay, and will you tell this jury how far the IGA is from that home they lived in?

A The IGA is one point eight miles from their residence.

Q Okay, and how long driving the speed limit did it take you to get to their home from the IGA?

A It took me three minutes and forty seconds.

Ms. Lively: Wait just one minute, okay? Your Honor, at this time the State is prepared to publish the interviews of the, oh, wait, no, I'm not, I forgot, one thing that I have right here that I need to address, I apologize.

Q (Continuing) Let me show you what's been marked as State's 63, I'm sorry, I forgot to ask you about this, Detective Troxell. Did you obtain information to confirm the whereabouts of Ms. Gorman during those days before [redacted] went to the E.R.?

A Yes, she informed us that she was at work at the Bass Pro Shops.

Q Okay, and did you get documentation from Bass Pro Shop as to the times that she would clock in and clock out each day?

A Yes, ma'am.

Q Okay, and is that what's related to State's

Exhibit Number 63?

A Yes, this is the actual punch detail history from Bass Pro Shops.

Ms. Lively: Your Honor, we'd move to introduce this as State's Exhibit 63 at this time.

The Court: Mr. Galmore?

Mr. Galmore: I need to see it for a second, may I obtain it from the witness, Your Honor?

The Court: Yes.

Mr. Galmore: No objection, Your Honor.

The Court: Ms. Grabert-Lowenstein?

Ms. Grabert-Lowenstein: Your Honor, objection as Detective Troxell is not a custodian of records and we don't know about the validity of the record.

The Court: She objects, I guess that's a hearsay objection.

Ms. Grabert-Lowenstein: Hearsay.

Ms. Lively: Well, Your Honor, at this time I can ask for a person's name for a better foundation for this particular, cause he's obviously not the custodian from Bass Pro Shop.

The Court: I understand so I don't think it comes in.

Ms. Lively: Okay, that's fine. All right, Your Honor, now the State is prepared to, to publish their

statements and as I stated before we brought the jury back in, Your Honor, my office has actually had these statements transcribed and we've discussed this with defense and they do not object to me providing to the jurors a copy of each one of the recorded statements for help and during times when they cannot understand or hear what is being said during the interviews.

The Court: All right.

Ms. Lively: If I may distribute them at this time?

The Court: Yes, you may.

Ms. Lively: If I could have Ms. Cote assist me?

The Court: Could I see the last proffered document?

Ms. Lively: Your Honor, if I may approach I'm going to provide you with copies as well.

The Court: Ladies and gentlemen of the jury, sometimes it may be difficult to hear what's being said on the videotape. In that regard the Solicitor has prepared transcripts of this particular tape. You may not even need it, you may be able to hear it just fine, but it's provided for you just in case you wanted to flip along or you maybe didn't hear something you could refer back to it or look at it and see what was said, okay.

Ms. Lively: Are we ready, Your Honor?

The Court: Yes.

Ms. Lively: Thank you.

The Court: And I would remind you that those transcripts are not the evidence, the evidence is what is here on the screen.

(Whereupon, State's Exhibit Number 64 is played in open court.)

Detective Troxell: How you doing with everything?

Mr. Palmer: Not good.

Detective Troxell: How's Julia holding up?

Mr. Palmer: Not good, like I said we tried to lay down last night and just tossed and turned, tossed and turned. It seemed like the later it got the more I went to sleep. I ended up, got out of bed and went around to the other side of the bed cause she had got on, you know, just tossed and turned and just ridiculous.

Detective Troxell: Have you talked to or has she talked to Cesalee?

Mr. Palmer: Yes, she was up here yesterday when she got there I guess, you know, everything was kosher. Everybody was just, you know, in a state of shock. She stayed around, picked her Mama up from the bus, bus station, but she was, she didn't sleep once again the whole night and she came home yesterday and she's just like

entirely whipped cause she didn't get back till about 7:30, 8:00 last night, back to South Carolina from Conway. She went up there after we talked to ya'll the last time and come out and took pictures, and she went up there and I guess maybe slept maybe thirty or forty minutes the whole time, so.

Detective Troxell: I can imagine that's a helluva weight to bear, especially, I mean, you've only known him a couple of weeks, but --

Mr. Palmer: Yeah.

Detective Troxell: It's still a little baby.

Mr. Palmer: Yeah, you're exactly right.

Detective Troxell: What we need to do is kind of like I said when we talked to you in the hospital my tape recorder died.

Mr. Palmer: Okay.

Detective Troxell: And we kind of need to go back over and ---

Mr. Palmer: Okay.

Detective Troxell: --- some of the things that happened and I know with the way things have been going we'll start say when the baby went in the hospital and just kind of go backwards as ---

Mr. Palmer: Which time do you want me to talk?

Detective Troxell: The most recent.

Mr. Palmer: The most recent when we went in Monday?

Detective Troxell: Yeah, when you went in Monday and go backwards, but being that [redacted] has passed away, or whatever, and this investigation has taken more of a serious note instead of just trying to get information we've got to advise everybody that we talk to from this point forward of their Miranda rights. It doesn't mean you're under arrest or anything like that; it's just before we talk we've got to advise everybody of these, okay. Richard, what is your highest level of education?

Mr. Palmer: Robert.

Detective Troxell: I'm sorry, Robert, Richard is the victim.

Mr. Palmer: Yes.

Detective Troxell: Robert, what is your highest level of education?

Mr. Palmer: Twelfth grade, I graduated high school.

Detective Troxell: You under the influence of any narcotics right now?

Mr. Palmer: No.

Detective Troxell: Alcohol?

Mr. Palmer: I had a couple last night.

Detective Troxell: You fine to drive?

Mr. Palmer: Yeah.

Detective Troxell: Not got any, you got your mental capacity?

Mr. Palmer: Say it again?

Detective Troxell: You've got your mental capacity; you know what we're talking about?

Mr. Palmer: Yeah, yeah.

Detective Troxell: How about narcotics or pills?

Mr. Palmer: None.

Detective Troxell: Okay, I'm going to read these to you and what I want you to do is just after I read these I want you to put your initials on those lines indicating that you understand those, okay?

You have the right to remain silent. Anything you say can and will be used against you in a court of law; you understand that?

Mr. Palmer: Yes.

Detective Troxell: Put your initials there. You have the right to talk with a lawyer and have him present while you are being questioned; you understand that?

Mr. Palmer: Okay.

Detective Troxell: Initial there. If you cannot afford to hire an attorney one will be appointed to

represent you before any questioning if you so desire; if you understand that put your initials there.

And if you make a statement or answer any questions you have the right to stop me at any time; do you understand that, put your initials there. You understand everything that I have read to you?

Mr. Palmer: Yes.

Detective Troxell: Okay, put your initials there. You want to talk to me about what happened to [redacted] and answer our questions?

Mr. Palmer: Yeah.

Detective Troxell: Okay, put your initials there and sign. It's 9:07 on the 18th, just put 9:07 or 7-18-08 and then 9:07 there.

Mr. Palmer: What was that again, 9:07?

Detective Troxell: Yeah, 9:07 is the time on 7-18.

Mr. Palmer: 9:07 on 7-18.

Detective Troxell: Yeah, all right, like I said I just kinda want to start Monday, what time did you go to the hospital on Monday?

Mr. Palmer: Monday evening?

Detective Troxell: Yeah?

Mr. Palmer: Probably around six, 6:15, somewhere around that time frame. Like I said the

paramedics showed up at our house, I had like I said they showed up at the house, took [redacted]. It seemed like they took the scenic route; they went around and this and that but ended up at Conway Hospital. I met them up there at Conway Hospital; they took him in around six, 6:15 around that time.

Detective Troxell: Julia was working on Monday night?

Mr. Palmer: Yes.

Detective Troxell: What time does she go in?

Mr. Palmer: I want to say, she had to be there about six, so she got up around like 4:45 in the morning.

Detective Troxell: Did she check on [redacted] that morning?

Mr. Palmer: I don't know.

Detective Troxell: You don't?

Mr. Palmer: I don't recollect.

Detective Troxell: All right, so she got up at 4:45, what time did you get up?

Mr. Palmer: About that time cause she is real loud when she wakes up.

Detective Troxell: When did you first check on [redacted]?

Mr. Palmer: I went in there at 9:30 and woke him up.

Detective Troxell: Okay, and what was he doing when you --

Detective Troxell: He didn't want to get up. He was just laying there and was, you know, just like tired, like he had never slept but, you know, I picked him up and took him to the kitchen, got him something to eat, and tried to play with him for a little while, but he just wanted to lay down so I was let's play with your toys and he'd act like he wanted to lay down again so I put him on the couch, let him lay up there and watch t.v. and he was just like, you know, tossing and turning.

Detective Troxell: Okay, did you feed him lunch or anything?

Mr. Palmer: Yeah, I fed him lunch.

Detective Troxell: About what time was that?

Mr. Palmer: I want to say about 11:30 or 12, somewhere around that time frame. I tried to get him to eat some stuff. He ate a little bit of chicken, a little bit of this and that but, you know, he just seemed like he was tired so I was going to lay him down, laid him down. He just, just tossed and turned, whined out a couple of times.

Detective Troxell: What time did you lay him down?

Mr. Palmer: I laid him down, made him stay in

there for about, you know, thirty, thirty something minutes to see if he would go to sleep but he just kept whining, whined a little bit, just not like whining, it was like a whimper. It was like kind of, like if you met him and seen him he would just hold his hands out, whine, whine like, you know, come pick me up, come pick me up, so I let him lay there for a while. I picked him back up, took him back in the living room, tried to get him to play with some more toys and tried to get him to, you know, watch t.v. and just stay awake, and just try to, you know, work itself out of whatever it is that he was doing but just, you know, it seemed like it was not going to stop, the whining and just tried acting so around like three, 3:30 I put him back down, laid him down and he went to sleep that time and like I said Julie came home around four, 4:15 around that time frame. She came in, she said, where's he at, I said, he's laying down, taking a nap. I said, you want to check on him, we walked in, both of us walked in to the edge, edge of the door.

Detective Troxell: And that's the room that we went into?

Mr. Palmer: Yes, sir, yes, peeked in and like that and he was just asleep.

Detective Troxell: Okay, that was about four, 4:15?

Mr. Palmer: Around that time frame.

Detective Troxell: And what did you and Julie do after that?

Mr. Palmer: After that we went outside, I mean, went, went out and talked for a little bit, you know, just telling me what, how her day was and this and that and, you know, just talked and started prepping dinner. We had tacos and so we cut up all the stuff and had everything ready, cooked, and then we sat down around like six to eat dinner and she said do you want to wake him up now or do you want us to eat first and I was like, well let's eat and that way, you know, if he wants to act up or something happens, you know, we, we'll both of us be able to take care of him, so she went in there and that's when she found him having like a seizure thing.

Detective Troxell: Can you kind of describe what he was doing?

Mr. Palmer: When she picked him up and brought him around the corner his, I mean his head was just like limp, his body, his arms. It's kind of hard, it was, his arms and everything was like bowed up at, it was, acted like, it was like a seizure. I mean I've never seen anything like that, so she gave him, I said give him here. I said get me a wet washcloth on his head right here and set him on the end of the couch and had him at like a forty

five degree angle and was holding him like that. I said call 911, something's wrong, you know; and cause I was talking to him and he was just, he was swinging with his, I mean his fist balled up sideways like that and was swinging it and hitting me in the face and I was sitting there and I was just shaking cause I didn't what was going on and she called 911 and the paramedics came and then they took him to Conway.

Detective Troxell: Sunday, what happened on Sunday?

Mr. Palmer: Sunday?

Detective Troxell: Did Julia work on Sunday?

Mr. Palmer: Yes, yes, she, she went to work Sunday, I talked to my Mom and Dad, they asked us ---

Detective Troxell: What time did she go to work, I'm sorry?

Mr. Palmer: I don't know if it was six or eight that morning, I don't really remember.

Detective Troxell: But you got up in the morning and --

Mr. Palmer: Yeah, she got up in the morning again I talked to my Mom and Dad the day before and they wanted us, me and [redacted] and Julie to come over to the pool in their neighborhood, so I was like okay. I said when he gets up, which once again at 9:30 Sunday I had to wake him

up cause he didn't want to get up, went in there and got him up and got him, you know, his bag together, swimming clothes, and extra diapers and snacks, and this and that. My Dad came and picked me up around like 11, 11:30; we went over to my Mom and Dad's. I took him over there cause my son [redacted] wanted to go to the pool so my, me, [redacted] and my Dad and [redacted] went over there. I had one of those little floatie round things for small children, I set him in it and he just laid there.

Detective Troxell: Okay.

Mr. Palmer: He just laid there, I mean he didn't, didn't splash in the water, didn't do anything.

Detective Troxell: No movement at all in the water?

Mr. Palmer: I mean he just, he'd lay there and he'd whine and whimper.

Detective Troxell: Okay, what time did Julia get to your Mom and Dad's house?

Mr. Palmer: I want to say it was around three, 3:30, around that time frame.

Detective Troxell: Did you guys all stay there?

Mr. Palmer: We, we ate, Mama went to the store and picked up some food at Food Lion down the road here. We had like a chicken, we picked the chicken off of the, you know, the rotisserie chickens, got one of those and

picked the chicken off of that. We had like, you know, some other stuff, we ate, and then, you know --

Detective Troxell: Who went to the store?

Mr. Palmer: My Mom.

Detective Troxell: Your Mom, okay, then you and Julia obviously go back home?

Mr. Palmer: No, no, we stayed at my Mom and Dad's, I said you want to go to the pool and I asked her and she said, yeah, so we went back again for the second time to the pool but this time it was my Mama, my son [redacted], [redacted] Julie, and me.

Detective Troxell: Okay, what time did you finally leave your Mom and Dad's house?

Mr. Palmer: I want to say like 6, 6:30.

Detective Troxell: And you and Julia go back to --

Mr. Palmer: Our house.

Detective Troxell: Okay, did anybody go with you, is there anyone else there, just you and Julia?

Mr. Palmer: Yeah.

Detective Troxell: Okay, and that's where you remained until 9:00 that next morning when --

Mr. Palmer: Yes.

Detective Troxell: Okay, how about Saturday; do you remember Saturday?

Mr. Palmer: Saturday, I don't, I don't have a clue about Saturday. Saturday, oh, Saturday Julie went to work, I was at home with [redacted] and, you know, I mean the same thing, tried to get him up around 9:30, he acted like he didn't want to do anything, tried a little bit of breakfast. He wanted to get right back, you know, I asked him to go play with his toys and, you know, just to try to do something because I mean he wasn't active at all. He'd just, he'd walk over there and pick up something just look off, look off and look at you like can I please go sit down or something, I mean it was just, that's all he did.

Detective Troxell: Okay, did anything, did you guys go anywhere Saturday, do anything?

Mr. Palmer: No.

Detective Troxell: I meant go to dinner and t.v. that?

Mr. Palmer: Yeah, well that evening, that evening we went to dinner. I mean, but that was around like six, seven that evening.

Detective Troxell: Okay, did anyone go with you or was it just you, Julie, and [redacted]

Mr. Palmer: Yeah, just me, Julie, and [redacted].

Detective Troxell: And for time we're going to speed up a little bit and going back further but you guys got [redacted] from Julie's daughter, [redacted]?

Mr. Palmer: Yes.

Detective Troxell: And from what I can remember the temporary guardianship was signed over July 1st?

Mr. Palmer: Right.

Detective Troxell: And she left maybe the day or day after that?

Mr. Palmer: Yeah, the next day she left.

Detective Troxell: And since then you guys, you and Julia have been the primary caregivers?

Mr. Palmer: Right.

Detective Troxell: And providers?

Mr. Palmer: Well mostly, I guess you would say me because Julia has a job and --

Detective Troxell: That's, and that's, yeah.

Mr. Palmer: And I'm unemployed.

Detective Troxell: During the day when Julia is working and you're the only one that cares and provides for [redacted]?

Mr. Palmer: Yes.

Detective Troxell: Okay, does anyone else come over and assist you and help you?

Mr. Palmer: No.

Detective Troxell: Okay, at night when Julia comes over does anyone come over to help and assist you guys?

Mr. Palmer: When Julie comes home?

Detective Troxell: Or when Julia comes back from work, yeah, I'm sorry, does anybody else come over and --

Mr. Palmer: Like I said the only time we only had our neighbor just come over and, you know, the one's you talked to, come over and talked to us for a little bit, I mean, you know, other than that, that's it.

Detective Troxell: And they babysat him when?

Mr. Palmer: The date, I'm not exactly sure, I want to say it was right after Cesalee left so it might have been around the first week in July.

Detective Troxell: Third, fourth, fifth, sixth?

Mr. Palmer: Somewhere around that time frame, yes.

Detective Troxell: Okay, and since then no one else has watched or cared for [redacted] or been alone with [redacted] no other adults? Okay, Weaver, you got anything?

Detective Weaver: Julie over the weekend she was working, did, did she have any problems a work that you know of; did she come home --

Mr. Palmer: She's had ---

Detective Weaver: Did she talk about work or anything?

Mr. Palmer: Yeah, they've had, I guess they've

had different people in, cause a lot of people, the higher ups are, are I guess getting fired, getting this and that and I mean she's always, it's always something going on she says, you know, in the cash office, that's where she works at, the Bass Pro Shop.

Detective Weaver: Did she, did she come home agitated or upset?

Mr. Palmer: Yeah.

Detective Weaver: Any date?

Mr. Palmer: It's like an every day thing, you know, I mean she, when she's ---

Detective Weaver: Right.

Mr. Palmer: Well she's steady putting in applications trying to get out of there.

Detective Weaver: She's not happy there?

Mr. Palmer: Well with the drive, the gas prices, and, you know, just one week they tell you, you know, you can get thirty something hours and the next week maybe you can get forty hours and then they keep, it keeps going back and forth, you know, it's --

Detective Weaver: When she comes home from work does she pretty much take over the primary duties of taking care of [redacted]?

Mr. Palmer: Yeah, I mean she misses him and she wants to, you know, see him.

Detective Weaver: So she, she takes cares of him?

Mr. Palmer: Pretty much, yeah, she asked me, you know --

Detective Troxell: So you pretty much relinquish the duties?

Mr. Palmer: Yeah.

Detective Weaver: When she comes home?

Mr. Palmer: Yeah, yes, yes.

Detective Weaver: Okay.

Mr. Palmer: Whenever she, you know, she wants to do nothing when she comes in, hey, she calls him, hey, Buttercup, and this and that, I mean she's, she misses him. I guess it's like having one of her own, you know, but it's just --

Detective Weaver: Okay.

Detective Troxell: You said when the paramedics got there you had [redacted]?

Mr. Palmer: At a forty five angle sitting up like this.

Detective Troxell: And he was shaking and --

Mr. Palmer: Shaking and he was like swinging, one of his arms was swinging, I don't know which, I want to say it was his right arm.

Detective Troxell: You look like something is

weighing heavy on you, Robert; what's on your mind? I know you're upset cause of the passing of [redacted] but is there something else?

Mr. Palmer: No.

Detective Troxell: Okay, here's the situation?

Mr. Palmer: I'm sitting here.

Detective Troxell: Here's the situation, listen, just listen to me, hear me, okay, we've talked to the doctor's. We've spent a week doing this, okay, there's been no one else around. We know when this happened to [redacted] and we've got it down medically and scientifically. We've already discussed and we've covered when the doctor's said it happened, okay. If it was an accident or something happened at this point in time we need to know?

Mr. Palmer: No.

Detective Troxell: No.

Mr. Palmer: No.

Detective Troxell: There's nothing?

Mr. Palmer: No, I'm telling you right now truthfully, I don't know what happened. I don't know what the doctors have told ya'll but I'm telling you I've not hurt that child; I would not hurt a child.

Detective Troxell: And we're not saying you did.

Mr. Palmer: Well you're sitting here and

telling me ---

Detective Troxell: No, no.

Mr. Palmer: You ---

Detective Troxell: You, you're crying and you're upset and that's fine, I understand that, but what I'm saying to you is now we've got to get to the bottom of this.

Mr. Palmer: I understand.

Detective Troxell: And the explanations and the things that have, the dog knocking the baby over and the stroller, those are the only things you know that have happened to [redacted]?

Mr. Palmer: When I was there with her, yes, I mean [redacted], yes, that's the only things I know of but like I said she was with him.

Detective Troxell: And him falling off the bed, those are the only three explanations that have been given to us about what happened to [redacted], correct?

Mr. Palmer: Like I said, yeah.

Detective Troxell: Okay.

Mr. Palmer: The only ones I know of.

Detective Troxell: Well the experts at MUSC are saying that's not possible. What happened to [redacted] was recent, it was when he was in your and Julia's care. Now if Julia did something and told you we, we've got to get to

the bottom of it?

Mr. Palmer: I understand.

Detective Troxell: And it ---

Mr. Palmer: I've been cooperative so far.

Detective Troxell: And I know you are and we appreciate that. You, we've went and woke you up at 8:00 this morning, we're not by any means saying you're not cooperating, but what I'm saying is you've got a lot to loose in this for a kid that isn't even ---

Mr, Palmer: She, she's ---

Detective Troxell: --- doesn't even have any relation to you?

Mr. Palmer: --- a girlfriend, I understand.

Detective Troxell: And ---

Mr. Palmer: I understand and I'm sitting here, like I said.

Detective Troxell: And now you can't even see your five year old kid anymore.

Mr. Palmer: Right.

Detective Troxell: You probably won't be able to see him for a while ---

Mr. Palmer: Well ---

Detective Troxell: --- until this is resolved and you're going to end up going down a road that you don't need to go down. If there was an accident or something

happened to [redacted], if Julia told you, this is what happened.

Mr. Palmer: I don't know, she never said anything out of the way, I mean she, to tell me anything, I mean I don't know. I wasn't with her Friday, that Friday that just, Friday and, you know, Friday and Saturday and Sunday and a Monday, that, that Friday I was not with her, I went out with the next, with my next door neighbor for a little while.

Detective Troxell: Where did ya'll go?

Mr. Palmer: We went to Beef O'Brady's in Conway.

Detective Troxell: Okay, that's the first time we've heard of that.

Mr. Palmer: You've only asked for, you know, ya'll keep wanting to say Saturday and Sunday, I mean Sunday and Monday, you know, that's what you --

Detective Troxell: Like I said there's a reason for that.

Mr. Palmer: Okay.

Detective Troxell: And the doctors have explained to us that whatever happened to [redacted] happened in a certain time frame ---

Mr. Palmer: I do not believe.

Detective Troxell: --- within, you're not going

to believe that?

Mr. Palmer: I'm just telling you that, that ---

Detective Troxell: Do you want to read where the doctor wrote that?

Mr. Palmer: No, no, I don't want to read it. I had a doctor tell me that the other day in, in the hospital when we got there at like 4:00 in the morning, he said, this is recent. I said, there's no way, there's nothing that, that, he's been around me that would have caused something like that, there's nothing.

Detective Troxell: We're not saying you're a violent, mean person.

Mr. Palmer: Well --

Detective Troxell: Accidents happen, frustration kicks in, it's not your kid, but if, if something happened at this point we've got to get that out on the table so we can address it and move forward.

Mr. Palmer: Okay.

Detective Troxell: By stalling and going here and staying here then we're not going to be able to move forward and deal with the situation at hand.

Mr. Palmer: Okay.

Detective Troxell: And I'm not accusing you of doing anything mean, I don't think you have a malicious bone in your body. I've done a background on you; I know

you ain't, you've never been in trouble. You're trying to do right for your kid and this is just a bump in the road.

Mr. Palmer: A huge bump.

Detective Troxell: That we're all going to get through and we're going to get past, but it's going to take someone owning up and admitting what happened because the doctors are putting it in yours and Julia's hands; I'm going to put it point blank to you.

Mr. Palmer: That's all right.

Detective Troxell: I'm not going to beat around the bush, I'm not going to bullshit you.

Mr. Palmer: I know, I know, that's why ---

Detective Troxell: So you and Julia, you're going to end up going to jail for this.

Mr. Palmer: I've never even been in one, I don't even know what it looks like.

Detective Troxell: And you've got the most to loose ---

Mr. Palmer: I understand.

Detective Troxell: --- out of this whole deal and the most to gain, and help me, help me understand, explain it to me cause I've got you guys saying there ain't no way in hell cause the baby's been like this since Thursday when I can prove scientifically, no, it happened recently.

Mr. Palmer: I don't know what to tell you cause I haven't hurt him, I haven't done anything. I've been trying to give him more than what he came with.

Detective Troxell: Exactly, you've done nothing but care for this baby and he ain't even yours. I'd say you have no ties with him. You've been there from six in the morning till three in the afternoon caring for a kid that you've got no ties to. You're a caring person. You're upset that you've lost a kid that you don't have anything but three weeks invested in. That shows a lot to your character and a lot to the person you are. We've met your parents and they've spoken highly of you.

Mr. Palmer: This is, I don't know, I have no clue what to tell you.

Detective Troxell: Have you ever seen Julia loose her grip and loose her control with [redacted]?

Mr. Palmer: Not while I was there.

Detective Troxell: Not while you were there; does she ever loose her grip and go out of control with you? Has she got a temper?

Mr. Palmer: I mean just normal things like I said, everything that's happened to us it seems like are happening bam, bam, bam, you know, the car, me getting laid off, you know, Cesalee coming, and all this with [redacted], a number of things. I wish there was something I could help

you with but I'm --

Detective Weaver: What do you think, what do you think happened to him?

Mr. Palmer: I don't have a clue, I wish I knew, I mean, like I said he was, she left --

Detective Weaver: But the time frame we have, we know is, we know it, it just happened, okay, it happened, we know the time, we know, we know the time frame, this is your opportunity to tell us what happened, Robert, it's very important.

Mr. Palmer: I'm telling you.

Detective Weaver: Listen to me, listen to me, you're a military guy, right?

Mr. Palmer: I was, yes.

Detective Weaver: You're a Navy guy, right?

Mr. Palmer: Yes.

Detective Weaver: You served your country, right?

Mr. Palmer: Yes.

Detective Weaver: You have integrity, right?

Mr. Palmer: Yes.

Detective Weaver: You're right, you did an honorable thing serving our country. Why don't you do an honorable thing right now and tell us what happened? This is your time, buddy, this is your time cause you're going

to go to jail?

Mr. Palmer: Okay, that's fine.

Detective Weaver: And you need to tell us what happened?

Mr. Palmer: I don't do anything.

Detective Weaver: If it was an accident we need to know that?

Mr. Palmer: I didn't do anything.

Detective Weaver: Did you ever see Julie?

Mr. Palmer: I don't ---

Detective Weaver: Hurt him?

Mr. Palmer: Not when I was there, no, I'm telling you I don't know. I just, you know, if I had known this was going to happen I would have sit here and got a lawyer, I mean cause ya'll sitting here and accusing me of this.

Detective Weaver: We're not, we're trying to find out what happened. Listen, listen to where we're coming from, okay, we've got a little boy that's dead.

Mr. Palmer: I understand.

Detective Weaver: We're just trying to find out the facts.

Mr. Palmer: I'm living with that.

Detective Weaver: I understand that, but we've got to find out what happened to him. That's, that's what

we have to do, and we're up to this point whatever you're telling us is not adding up. What the doctors tell us ain't adding up.

Mr. Palmer: That's fine, I don't know either.

Detective Weaver: We need some answers.

Mr. Palmer: I can't help you, all I know is that this is crazy.

Detective Weaver: I'm trying to help you, man.

Mr. Palmer: That's fine, I understand that.

Detective Weaver: But you've got to help me.

Mr. Palmer: I'm not hiding anything, if I was hiding anything wouldn't I come up clean; I don't want to go to jail.

Detective Weaver: I know you don't.

Mr. Palmer: I've never been in jail.

Detective Weaver: How long you been with Julie?

Mr. Palmer: About four years.

Detective Weaver: Four years, is she worth going to jail over?

Mr. Palmer: What do you think, nobody's worth going over to jail.

Detective Weaver: I'm, I'm asking you?

Mr. Palmer: No.

Detective Weaver: Well then you need to tell us if you know something about Julie you need to tell us?

Mr. Palmer: I don't know, I don't know. It seems like the more we, investigating, the more I find out about her and Cesalee and everything they've had. I don't know, but this was all new to me and I didn't know all this stuff about Cesalee, didn't want her to come in the first place, her and Julie couldn't get along.

Detective Troxell: How is not being able to see [redacted] affecting you or not even being able to bring [redacted] over to your house by yourself?

Mr. Palmer: I mean, well how do you, what would you feel?

Detective Troxell: I can't imagine, I don't have children of my own, but I can imagine it is possibly tearing you up.

Mr. Palmer: It's awful.

Detective Troxell: And you're fine with sitting here and going to jail and possibly not seeing him for a real long time because it's you or Julia, we're throwing Cesalee out, okay, it didn't happen. Cesalee was gone, we've already covered that. We've got her airplane documentation, date, time, flight numbers, when Cesalee left Myrtle Beach, okay. She is not in, in the realm of possibility. The only thing she may be guilty of is being a bad, horrible mother, but she wasn't here when these injuries were inflicted to [redacted], okay, and we can go

ahead and throw Friday out the window when you, you were out with your neighbor, it didn't happen Friday, okay. We've got the doctors saying within x amount of time from when we got [redacted] is when this happened, and you're fine with going to jail?

Mr. Palmer: No, I'm not fine with going to jail, I mean seriously I don't know what to tell you. What you're looking for you're not going to find it in me cause I've not done anything out of the way to that child.

Detective Troxell: Okay.

Mr. Palmer: So I mean if, if I gotta go to jail then I guess I gotta go to jail, so --

Detective Troxell: And you're just going to leave it at that?

Mr. Palmer: What do you want me to do? I can't, I --

Detective Troxell: You've got to know something. There's no way you don't, that trailer isn't that big?

Mr. Palmer: I understand.

Detective Troxell: What's, what happened to [redacted] ---

Mr. Palmer: Yes.

Detective Troxell: --- was a violent enough act that it would have been known immediately. He would have

shown symptoms, he would have been symptomatic immediately, that is straight from, and I'll read all her credentials.

Mr. Palmer: I, you don't have to go through the, I mean it's, she's a doctor, right?

Detective Troxell: Dr. Anna Able, Medical Director of the Violence Intervention Prevention Center. This lady's an expert, she's the one who's, it's not going to be me and Weaver sitting on the stand, well we think this, it's going to be an expert. I know this is what happened.

Detective Weaver: That all she does, man.

Mr. Palmer: That's fine.

Detective Weaver: She's an expert. It's all she does.

Mr. Palmer: I understand, I --

Detective Troxell: And you're going to chalk it up to that's fine.

Mr. Palmer: No, I mean what do you want me to say?

Detective Troxell: I don't understand.

Mr. Palmer: What do you want me to say?

Detective Weaver: Do you, do you have any knowledge at all? Have you talked about it? Has Julie said anything to you about it?

Mr. Palmer: No, she hasn't been around. She

came home last night around 7:30.

Detective Weaver: No, I'm talking about Monday or Sunday or any time?

Mr. Palmer: We hadn't been ---

Detective Weaver: Have you talked about it?

Mr. Palmer: We hadn't been alone. I mean it's been in, in and out of questioning and going to see [redacted].

Detective Weaver: You've been in automobiles. You've been driving together.

Mr. Palmer: Yeah, I mean she's talking on the phone.

Detective Weaver: You've been at the hospital together.

Mr. Palmer: She's been talking on the phone to all kinds of people. I've been doing all the driving. She's been talking on the phone, you know, telling, you know, I don't know what, like I said I'm finding more and more out now that, about Cesalee and her relationship, you know, that I had nothing, I had no clue of. I don't, I don't know what to tell you.

Detective Weaver: I talked to your parents. I know what kind of person you are.

Mr. Palmer: I understand that, I mean --

Detective Weaver: Okay, you're a good person.

Mr. Palmer: Right.

Detective Weaver: But things happen. Maybe it was an accident, we need to know right now, man. We need to know cause, once we walk out of this room, we need to know right now.

Detective Troxell: But there's no coming back here.

Detective Weaver: We need to know what happened.

Mr. Palmer: That's fine.

Detective Weaver: Like I said I, I know what kind of person, we've checked around.

Mr. Palmer: That's good, I mean, you know, it's not going to do me any good now because of you guys.

Detective Weaver: You feel the same way about Julie?

Mr. Palmer: Huh?

Detective Weaver: You feel the same way about Julie. You think she's a good person?

Mr. Palmer: From what I've seen of her, yes. I, I don't know what you want me to say and I'm not going to say anything.

Detective Troxell: We're coming to you first. There's a reason ---

Mr. Palmer: That's fine.

Detective Troxell: --- we came to you first.

Mr. Palmer: And I know there was a reason you came to me first cause you wanting, this is all cause I'm the one that gave him primary care.

Detective Troxell: Wrong.

Detective Weaver: No.

Detective Troxell: Wrong, you're the only one that in the entire time that we've talked to you that has showed any care or compassion or has remotely teared up. When we sat down in that hospital room Julia was stone cold straight faced and we talked. When you came in and when you were describing how you held [redacted] and he was shaking you got teary then. That showed me what kind of person you are. It shows me what kind of character you have. It also leads me to believe that if there was something that might have happened you would be the one to step up and say, you know what, someone needs to speak for this child.

Mr. Palmer: I understand.

Detective Troxell: He can't speak for himself.

Mr. Palmer: I understand. I, I, if I could help you I would, I told you that. I'm not going to change my story. I, I have nothing to hide.

Detective Troxell: Okay, nothing to hide, nothing else you want to add, nothing? You can't, think back, let me, we'll step out and give you a few minutes to think, maybe something happened, maybe he fell off

something, he did something, I don't know, something happened.

Detective Weaver: Think hard, man. Hey, look at me, this is the most important day in your life right now, okay?

Mr. Palmer: You're telling me.

Detective Weaver: So you need to think about it.

Detective Troxell: Have you been able to possibly think of anything, any explanation as to why we're here and going through what we're going through?

Okay, do you know what's going to happen from this point forward?

Mr. Palmer: Yes, I do.

Detective Troxell: Not only with you but with [redacted]?

Mr. Palmer: I guess I'm going to jail.

Detective Troxell: We're going to the autopsy. Detective Weaver and I are going to attend that and we're going to photograph that, and we're going to have the radiographs, our photographs that we take, the forensic pathologist, and we're going to examine the skull, and there is [sic] ways that we can medically and scientifically prove that the fractures on it are, are fresh fractures, and the way they can prove that is the

fractures aren't healed nor are they calloused, okay.

There is going to be a mountain of evidence that's saying something happened in that house or something happened while, as you put it, you and Julia were caring for the child, cause no one else could have done it. No one else had access. There was no one else but you guys so I am going to have all this over here and you're saying I don't know, and then you're saying I guess I'm going to jail.

Mr. Palmer: What do you want me to say? I mean ---

Detective Troxell: You're at a crossroads in your life, like Weaver said, your life, your life is never going to be the same as, once we walk out of this, this office, the next time we walk out of here.

Mr. Palmer: It seems like that for the last two years, so I mean nothing's changed, steady going downhill, you do something nice and look where it gets you. I'm in here talking to ya'll two.

Detective Troxell: But you can change it?

Mr. Palmer: I, I, I ---

Detective Troxell: You have the power to change it.

Mr. Palmer: Listen to me, I did not do anything to that child. All I did was try to care for him.

Detective Troxell: I'm not saying you did anything to that child and I know you tried to care for it, at no point have we said, Robert, you did something to that kid, did we?

Mr. Palmer: I'm the primary caregiver, that's what I'm trying to --

Detective Troxell: You're the primary caregiver, yeah, but there's also times where the care isn't in your hands, there's Julie.

Mr. Palmer: Right.

Detective Troxell: The hand of one is the hand of all, if you know something, if she did something I'm telling you now you need to tell us cause you're going to go down, you're going down a path you don't need to.

Mr. Palmer: I understand, but I, if I knew I would tell you, I don't know anything. She has not said anything. I haven't done anything. I don't know what to tell you. I mean, when I'm not there exactly what, I'm not there. I don't have a camera, you know, a camcorder going the whole time saying this is what she did while I was gone, no, I don't know what, while I was not there.

Detective Troxell: But she, you don't think she's capable of doing something?

Mr. Palmer: I don't know, I don't know.

Detective Weaver: I find it hard to believe the

last couple of days ya'll didn't talk about what you felt happened to Aydain? You didn't talk about it at all, what happened to him?

Mr. Palmer: Yeah, we, yeah, what we said was, I guarantee it was Cesalee.

Detective Weaver: Not possible.

Mr. Palmer: Okay, then ---

Detective Weaver: Medically it's not possible.

Mr. Palmer: Okay, that's fine. That's what we said, you know, I mean she left.

Detective Troxell: Don't you think it's a little odd that she was so quick to throw Cesalee under the bus? So quick to not say maybe it was an accident but that ---

Detective Weaver: Her own daughter, flesh and blood, thrown under the bus.

Detective Troxell: That she could care less, she could care less about her daughter?

Mr. Palmer: Well that must say something that I'm not the one, wouldn't you think?

Detective Troxell: But the hand of one is the hand of all and if you ---

Mr. Palmer: I understand.

Detective Troxell: --- don't know anything you can't say anything.

Mr. Palmer: I don't know anything, I don't. That's what I'm trying to tell you. I do not know what happened to that child.

Detective Troxell: So you're going to roll the dice on Julia maning up and saying I did something because if she doesn't then both of you are going to end up going to jail?

Mr. Palmer: What I know that's what, I can't stop this, this is the way the justice system works. What do you want me to say?

Detective Troxell: It's not the justice system. It's not anything being put on you, it's what we can prove.

Mr. Palmer: That's ---

Detective Troxell: We don't go to Court with assumptions, we go to Court with fact.

Mr. Palmer: I got you, I understand that.

Detective Troxell: Didn't you think it was odd that we came in there and we didn't just measure the bed? I measured every damn thing in your house that had a flat surface ---

Mr. Palmer: I know, I ---

Detective Troxell: --- to disprove that he could have fallen from anything.

Detective Weaver: Yes, there's no way. I knew that.

Detective Troxell: All of that has been chucked out the window.

Mr. Palmer: Okay, I don't know what, what you want me to say. Do you want me to just to fess up and say, hey, I did this, I'm not going to do that. I did nothing to that child. I'm, I'm not going to change my story. I did not do anything to this child. Whatever you want me to say, I'm not going to say it. I did nothing to this child.

Detective Troxell: At no point, I don't want you to say that, if you didn't do it. All I can ask you to give me is the truth.

Mr. Palmer: It seems like ya'll want me to, you walk out and then you come back in and want me to think of something, I don't know, I'm trying to.

Detective Troxell: I'm just giving you a chance to job your memory.

Detective Weaver: We just want the truth.

Detective Troxell: And to stress the things that ---

Mr. Palmer: I, I want the truth.

Detective Troxell: And to stress the things that have happened over the course of the week, if you take time to think, you haven't slept, probably haven't eaten, you haven't got adequate rest, things jog your memory. I'm not trying to give you, give me an explanation, that's not

what I want.

Mr. Palmer: I didn't, you know, after everything that happened Monday or, and Tuesday, where, you know, we was questioned and brought in by different people, nobody once give a rip about how much sleep we had, so right now that's not here nor there.

Detective Weaver: That's not true, I asked you a couple of times you getting any rest, how you doing?

Mr. Palmer: I didn't get any. I got maybe thirty minutes in a hospital, if you know how hospitals are, it's slamming, beating, people walking, and doing this and that, not once on forty-something hours have I changed my story and I won't do it now.

Detective Troxell: Okay, that's fine.

Detective Weaver: No problem with that. This interview's over, buddy.

Mr. Palmer: All right.

Detective Weaver: Sit down, you ain't going anywhere just yet, we've gotta get a set of handcuffs for you.

(Whereupon, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury.)

The Court: All right, ladies and gentlemen, the next tape will be about an hour long so what I have

done is I've ordered some lunch for you and I'm going to let you go back in your jury room, rest a few minutes, have lunch brought to you, that way we might can save some time today, move this thing along. Mr. Ropp, if you would take them back to the room, make sure they have soft drinks and things of that nature.

Ms. Lively: Your Honor, before they go do you want them to just leave the transcripts in their seats instead of taking them back to the jury room?

The Court: Certainly, they can just leave the transcripts in their seats.

Ms. Lively: Thank you.

The Court: And we will have some lunch and get back started a little earlier than we would otherwise if everyone had to go and find some lunch.

(Whereupon, the jury was excused for lunch at 12:49 p.m.)

The Court: Okay, we're at ease.

Ms. Lively: Thank you, Your Honor.

(Whereupon, Court was recessed for lunch.)

The Court: Ms. Floyd, if you would have them bring the jury in.

(Whereupon, the jury returns to the courtroom at 1:59 p.m. and the following takes place on the record after the lunch recess.)

The Court: All right, all our jurors are back, ready to proceed, Ms. Lively?

Ms. Lively: Yes, sir, Your Honor, when we broke the State was getting ready to publish the interview of Defendant Julia Gorman and we're ready to proceed.

The Court: All right, and we're ready for you to proceed.

Ms. Lively: Thank you, Your Honor, let us have the screen.

(Whereupon, State's Exhibit Number 65 is played in open court.)

Detective Troxell: Grab a seat for me, we'll be right with you.

Ms. Gorman: Okay.

Detective Troxell: I've got to get Weaver.

Ms. Gorman: I don't like this.

(Whereupon, Detective Weaver enters the interview room with Detective Troxell.)

Detective Weaver: Hey, Julie.

Ms. Gorman: Hey.

Detective Weaver: Have a seat here.

Ms. Gorman: Okay.

Detective Weaver: That's my seat.

Ms. Gorman: That's my seat, I don't see a name tag.

Detective Weaver: We'll get to that later.

Ms. Gorman: I know, I was just reading, passing time.

Detective Weaver: Okay.

Detective Troxell: What is that, that?

Ms. Gorman: This is when she was in, when we lived in North Carolina, I had told him that remember I was looking for it for you?

Detective Troxell: Yeah, yeah.

Ms. Gorman: It was just, I wanted you to read even through school, you know, she had problems.

Detective Troxell: Y ---

Ms. Gorman: Here's her discharge papers, contract from the doctor that, you know, she was supposed to follow the rules at least for the, you know, failure to comply, what would be happening, the letter she wrote me.

Detective Troxell: Yeah, we'll get to all that in just a second, how are you doing this morning?

Ms. Gorman: How do I look?

Detective Troxell: You look exhausted.

Ms. Gorman: Robert told me, he goes, I may have went to bed last night, he was but I tossed and turned.

Detective Troxell: How you handling everything; how you dealing with it?

Ms. Gorman: Trying to stay strong, I've gotta

stay strong for everybody. I don't, I don't know, I don't if it's hit me, but I'm sure it will. I came home because I thought it best as I was telling Detective Weaver after everything that, that I was being told, things that have been said to me, I just felt very uncomfortable and felt it was best I come home.

Detective Troxell: What were you being told, what was being said to you?

Ms. Gorman: Wednesday, Tue -- Tuesday, I'm trying to get my dates right because everything just kind of comes together now, I don't know about 7:00, you know, we were leaving the hospital because we needed to get some rest, you know, we had been up for over forty hours, told the nurse, gave our cell phones, and said if Richard shows up, please, give me a call so I can come back. No phone call, so we went on, woke up at 4:00, couldn't sleep, so I left the hotel room and went to the hospital with [redacted], went to the phone and they told me I couldn't come in because no visitors were allowed for the father. Okay, I could accept that and I was in the hallway waiting for him to come up and he saw me and I put my finger up, you know, cause I was on the phone, hold on a second, and he stopped and he told me he debated on stopping or just keep walking, and he, and, and, you know, he, he told that, you know, that he was brain, you know, [redacted] was brain dead and, of

course, it's devastating and but all my, all my feelings aside I stepped up to him and gave him a hug, you know, I'm sorry, you know, I'd do that to anybody, and we talked and I told him and I said, you know, any animosity that anybody has my family, your family, you know, because both of our families don't like each other, I said this isn't about us no more. It's about [redacted], you know, so he, he agreed that, you know, I could go back in and I could see him on my own, I didn't have to have supervision or anything and I said I, I appreciate that, you know, I've been here since day one, you know, to take that away from me, you know, is, is, this is punishment enough.

It's punishment enough what I'm going through but that's even more punishment for me, so we went inside, told the nurse, he said, you know, I would be allowed back in unless there was a confrontation. I said, okay, they said, okay. I told them I was going home, you know, to get my car and everything. That's when ya'll showed up to take pictures and everything.

And when I got back, you know, and I called him and said I was on my way and that's when I got the message that [redacted] had passed, as I was driving back to Charleston, and it was just devastating. I got there, went up to the room, you know, saw [redacted], took Richard, I didn't have to go back, you know, I could have stayed home

but I needed to make sure he was okay, like or not like, make sure you're okay, too.

We went to dinner at Uno Mas and we talked and everything and he offered me to stay in his hotel room, you know, cause I told him I would sit up with a pillow and a blanket and I would sleep in my car, it was no big deal. And he goes, no, come stay there, he wasn't, I said all right, so I drive him to the Air Force Base. We went up there and we were talking and he was telling me that he'd spoke to Detective Weaver and told him, I can't do it verbatim, that it was your day off, you said you were off. He says I'm a marine, I'm in the military, I work twenty four seven, and you will do the same and if you can't comply, you know, do that then you need to give the case to somebody else because you don't get a day off. I said, okay, I didn't say nothing more. I just bit my tongue and cause he doesn't know that I've been conversing with you, you know, I've kept that to myself. I can't remember if I told him that you guys were at my house. I believe I did but I didn't tell him why you were there, and then he told me that the reason why my mother was coming here, I said, my mom didn't know anything, I mean she didn't even see, she didn't know nothing more cause I thought it wasn't good for her to know on a bus, you know, three day trip. My mom is about sixty, you know, I didn't know if she could take

that and I felt it would be better here, you know, there when she got here, if anything was to happen to her, crack emotionally, we were in a facility. They could take care of her.

He told me the reason why my mother was coming was to help get [redacted] well, and then when I was at work one day I wouldn't know when I came home from work she would have packed his stuff and left, be gone. It's very deceitful, you know, very, you know, dirty and I almost said something to him about, nothing new to me my mother's done it to me before, you know when I, when I was in high school, I was a sophomore, when I was a freshman, going into freshman high school in Kansas, we went to Kansas to visit my dad and I hadn't know, I hadn't really seen my dad in years and she made me stay. She told me I had to stay for a couple of weeks, get to know your dad and your brothers, begged and promised, please let me come home. She said a couple of weeks you can come home. After she left Kansas she called me and told me I was staying. I don't know this man from a hill of beans, I mean my dad's like hell I will tell you that, hell, couldn't tell you if he was alive, that's how I felt that year because I was angry, you know.

My sophomore year my parents remarried and they fought a lot. There were -- my mom told me that they got

into a fight again, you know, arguing, she was leaving, told me I could come with her. I said, no, I'm on the honor roll student, really good grades, really good school and I had good friends. She said, okay, permission not to come home after school I was going to the mall and my brothers called and told me I needed to come home now, I was like, come home now. When I came home our house was cleaned out except my bedroom. She took everything and left us. She already had it planned, you know, so I mean once again I've been abandoned so, you know, and, and to tell me that you're going to do this to a baby, to take him from my home without me, again abandonment, you know, you're taking from me, taking my life.

Detective Troxell: Right.

Ms. Gorman: So I didn't say nothing and then he told me, let's see, well then I told him I'll step outside and talk on the phone. I called my sister, you know, I was telling, talking to my sister and I was telling her these things. My sister's got reason to be because it's happened to her, too, you know, growing up and I said, all right, we talked about an hour and I went back inside the hotel room and sat there for a minute, couldn't sleep, very uncomfortable being here now because, and at first I didn't want to stay anyway. I was trying to be okay with everything and so I wrote him a note saying I can't sleep,

I'm going to back to the hospital to be with [redacted], call me in the morning, you know, so I left, called my sister back and I said you need to talk to me, back to the hospital so I had something to do for the, for that I don't know forty five minutes or whatever.

Then she talked to me and stayed out in the parking lot for a minute and I went upstairs and Nancy's the nurse that was there and, excuse me, and her and I talked for a long time, just talking and she told me to go, you know, cause they were checking on [redacted] and his fever and I said I was getting emotional and she says why don't you go take a break and when you come back then we'll give him a bath and change his beddings and make me feel useful so that I can do for him, went downstairs took a break, smoked some cigarettes, came upstairs and we cleaned him up, changed, you know, did everything we were supposed to do and it made me feel good.

It's something to do, it's like this, this was like my ending chapter and I don't mean it like that but it was the final thing that I could do for him and then Richard called me and asked where I was at and I said did you get my note. He goes, no, and I said it's sitting there by the keys, it says I came to the hospital. He said, okay. I stayed at the hospital and then he called me and said that they were, him and Cesalee were downstairs

and I was very hesitant to go down there because I didn't know what I was going to come into, you know, if she was going to lash out. And they walked up and I walked downstairs and I didn't touch her, didn't, we were caught up like this. I, I couldn't go to her, it's just it, it's, I was so afraid, I didn't know if she was going hit me, you know, because she has before so it, it's nothing new and --

Detective Troxell: Why do you think she would hit you?

Ms. Gorman: Angry, you know, just to be expected, you know, just I, you know, if I was in her position, you know, if it was me and I, I don't know what I would do either, you know, but because I know her background and everything and I, I was already prepared.

So we were talking and I was, you know, she said she made a scrape book and everything and asked me if I wanted to look at it and ---

(Whereupon, Ms. Gorman's cell phone rings.)

Ms. Gorman: --- stop phone, and I looked at it, you know, they asked if they could put their luggage in my car, not a problem. Before we did that, you know, we were talking and everything and I was telling, I said did they call you and tell cause it was very adamant [redacted] being in a private room and ---

(Whereupon, Ms. Gorman's cell phone rings.)

Ms. Gorman: --- sorry ---

Detective Troxell: Could you just shut that off or something?

Detective Weaver: Could you cut that off? Just, just cut it off.

Detective Weaver: A little bit of a hassle. Let's keep moving.

Ms. Gorman: --- letting them, letting them know that they decided not to move [redacted] to a private room because his blood pressure was like, you know, going up and down and they felt like if they moved him he might go into cardiac arrest. So I told him and he was mad because they didn't call him and I said because he surely didn't want information from me and I said it wasn't right that they were giving me information, I was, I just happened to be there and, and, I said so he is still in the same spot, you know. And of course Cesalee asked what cardiac arrest meant and I said it means heart failure and his comment was it doesn't mean nothing because he ain't there anyway. No that's not I mean, his heart works but it might be by machine but his heart, his lungs, his organs work so don't, you know, that upset me because he said that, to where he it, even though he's gone, his soul, but physically his body works and, and I wanted her to know that. So we walked to the car, put our stuff in the car, put their

stuff in the car and Richard had told me that him and Cesalee had talked and, and Ceslaee was standing there, that they didn't want anybody to go to jail. They said whoever did this it's punishment enough because, cause they're going to be, whoever killed my son is going to have to live with this for the rest of their life and jail is, is a privilege, a luxury. I was, like, okay, what do you want me to say, you know. Okay. So, and then, you know, at the, at the car I was telling Cesalee what had happened Monday, you know, from the time I left, the time I got home and I was telling her, you know, he was having seizures and Richard told me, he goes, he wasn't having seizures in your arms, he was dying in your arms, he was already dead. Okay. I didn't say nothing. I just, you know, Detective Weaver, I mean, this is way of grief, you know, and I accept that, you know, and that's why I bit my tongue. I didn't lash back, say anything because, you know, what am I supposed to say?

You know I, very, I called Doctor, I mean, Detective, I'm sorry, Detective Weaver, and I said he told me this stuff and I said I don't feel comfortable being here. I said I promised I would pick up my mom and I'm coming home. They were going to have him baptized, blessed and while we were at the hospital before I picked up my mother, one of the children in the hospital may have

claimed to have kidney failure so immediately they went to the family and offered [redacted] kidneys. Well, from, fortunately the child's kidneys did not fail yet and always a, a baby on one of the floors had a bad heart so they're donating his heart to that baby.

Detective Troxell: Okay.

Ms. Gorman: I, I don't know if that's how it works immediately you're a waiting list or you're on a list, you know, for all the states, I don't know how it works, and so he said that he was down, he was down getting a CAT scan to make sure all their organs, his organs were functional and being able to be able to donate. And, of course, you know me I said well as long as he's compatible, and he's like he's compatible to everybody cause he's O positive and I said, okay, I wouldn't know that, you know, I'm not a doctor. And I got a message on my, you know, Robert texted me and told me that [redacted] was on the news and I went, oh, my gosh, so, of course, my, I told Richard, my mom, Cesalee, and Richard were standing there, we were outside the emergency room because I told them to meet me there. I moved my car with all their stuff cause I was leaving. I said I got information that [redacted] been on the news. The first words out of his mouth was the airport, picks up the phone calls his Master Chief and the first thing out of his mouth is Master Chief [redacted] been

on the news, they're telling everything, you know, what's happened. I said, whoa, whoa, whoa, I said that is not what I said. I said do not put words in my mouth. I said I told you I heard he was on the news and that's it. When I get home I'll find out and I'll call you back. Robert told me, you know, because of how, you know, it keeps getting words in mouths and saying things he says don't call him back, so I would ask if you guys could let him know how it got out, you know, public information, that it's going to be, it's in the paper today because Robert said every time I tell him something it seems like things get twisted and I said, okay, so I let it be. I didn't call him back and he said all it's doing is just creating more problems.

And I have to respect that. And we stood there for a while and we talked and we went through everything and like I, you know, and before I got to the hospital --- I picked my mom up and before I got to the hospital I stopped because my mom knew and I told mom everything, you know, from basically, you know, from the weekend on and how he felt and everything and my mom cried and like I told Cesalee and my mom and Richard I said he's in a, you know, he's up in the clouds playing with Mikey and Nora, our pet dog from when the kids were little.

Detective Weaver: Who's Mikey?

Ms. Gorman: He was our dog.

Detective Weaver: Oh.

Ms. Gorman: You know, like Cesalee was little, you know, we had him since she was five.

Detective Weaver: Right.

Ms. Gorman: So until she was sixth grade and so from first grade to sixth grade he was our family dog.

Detective Weaver: Yeah.

Ms. Gorman: And we had him cremated and he's in a box.

Detective Weaver: Yeah.

Ms. Gorman: And we buy flowers for him, put them in the house, so and, you know, just to let her know that he's playing fetch and Mikey will watch over him cause Mikey was our, he was a good dog.

Detective Weaver: Yeah.

Ms. Gorman: And, of course, you know, to make some things funny and I said and the turtle, too. And Richard's like the turtle? And I said, oh, yeah, the turtle drowned in the fish tank and so, you know, you had to find some sense of humor. You had to find some things to laugh about ---

Detective Weaver: Yeah, sure.

Ms. Gorman: --- you know, to get through it and I said, you know, grandpa's there, you know, and --- but,

you know, these people are now our family and his family there's all kinds of people up there for him. And I told them I said, and I told Cesalee and I told Richard he doesn't look the same as what you saw yesterday. I said, you know, he's more swollen and I described, you know, how he looked and I said I want you to remember this, you remember [redacted] as he is, not was or when, as he is not how he looks because he, he ---

Detective Troxell: Julia, I hate to interject but now that we've, we've kind of got to the point where [redacted] is deceased. Before we talk and this is just standard practice with everybody, we did it with Robert earlier, you've got to be advised of your Miranda rights, the investigation as, you know, has taken a turn into now a death investigation.

Ms. Gorman: Okay.

Detective Troxell: Just an advisement standard policy and procedure I've got to advise you of these. These are an advisement of your Miranda rights. What I'm going to do is I'm going to read each line to you and I want you to initial beside each line.

Ms. Gorman: Okay.

Detective Troxell: Just indicating you understand them, okay. "You have the right to remain silent. Anything you say can and will be used against you

in a court of law." You understand that?

Ms. Gorman: Yes.

Detective Troxell: Okay, put your initials there. "You have the right to talk with a lawyer and have him present while you're being questioned." Do you understand that?

Ms. Gorman: Yes.

Detective Troxell: Put your initials there. "If you cannot afford to hire a lawyer one will be appointed to represent you before any questioning if you so desire"?

Ms. Gorman: Yes.

Detective Troxell: Okay. "If you make a statement or answer any questions you have the right to stop at any time." Do you understand that?

Ms. Gorman: Yes.

Detective Troxell: Okay, then put your initials there.

Ms. Gorman: I was just reading it, I'm sorry.

Detective Troxell: I'm sorry.

Ms. Gorman: You spoke fast.

Detective Troxell: You understand everything that I've just read to you?

Ms. Gorman: Yes.

Detective Troxell: Okay, initial there. Do you

want to answer my questions and continue to make a statement and stuff?

Ms. Gorman: That's fine, I don't have anything to hide.

Detective Troxell: Okay, initial, yes. It's 10:06, put 7-18 and the time there, okay, I'm sorry, I didn't mean, you can ---

Ms. Gorman: That's, that's okay, I mean you got to do what you got to do, too.

Detective Troxell: --- kinda get to the crux of it because we're running time, we've got to get down to Charleston. Monday, take us through the events of Monday. I know you've already done all this one time before ---

Ms. Gorman: I knew that.

Detective Troxell: --- but our tape recorders malfunctioned.

Ms. Gorman: Monday morning I got up 4:30, quarter to five and it's on my side hit my alarm clock a few times, getting ready, get dressed. I walk by his room, I go in, I check on him, he's sleeping good, leave. I go to work. Robert calls me 9 - 9:30 and says to me he woke him up because he, he'd been asleep for a while and, you know, that we re trying to get him out of sleeping so much, of course, because of how she was and he goes, you know, he was tired, you know, cranky. He fed him breakfast and

called me again and told me he fed him lunch and he was in there playing with his toys and everything. When I got home he was taking a nap. I went in there and checked on him.

Detective Troxell: What time did you get home?

Ms. Gorman: I want to say by four.

Detective Troxell: About four, so you ---

Ms. Gorman: Four fifteen, it just --

Detective Troxell: You left at five and got back at four?

Ms. Gorman: Yeah.

Detective Troxell: Okay.

Ms. Gorman: But, by that time I, I don't know it could be four, four-thirty.

Detective Troxell: Exactly, yeah, okay, sometime between four and four-thirty.

Ms. Gorman: I can't, because, you know, traffic and, you know, came home, walked in, and checked on him, of course.

Detective Troxell: Right when you got home you checked on him?

Ms. Gorman: Yeah.

Detective Troxell: And what was he doing when you checked on him?

Ms. Gorman: He was still sleeping, you know,

cause he was taking his nap and he takes a few hour nap, you know, and he, he was breathing fine, everything was fine. He had his blankie, so I walked out and a little bit later when Robert and I were walking by, you know, going to the bedroom we stopped and checked on him. I mean we check on him periodically, still everything was fine. So I went, you know, and cooked dinner and Robert says to me, what do you want to do about [redacted]. I said, let's eat dinner first, you know, kinda peaceful instead of trying to feed him and eat mine at the same time. So we ate and Robert took the dog out and I went back in the bedroom to get him, to wake him up, you know, because I was going to wake him up now and that's when he was making the really strange noises and slack looking, saliva.

Detective Troxell: And what time was that?

Ms. Gorman: By, by 6:00 I, I presume because it --

Detective Troxell: So sometime between, something happened between four and six-fifteen, didn't it, because when you went in at six-fifteen he was salivating, okay?

Ms. Gorman: Because, you know, when we checked on him and everything, well I checked on him even after four and he was fine so, so anywhere between dinner time, you know, as we were eating dinner until by six, whatever

time I called 911.

Detective Troxell: Okay.

Ms. Gorman: And that's on Robert's phone.

Detective Troxell: Okay.

Ms. Gorman: Cause I used his, it was the first one I could grab.

Detective Troxell: While you're at work, who cares for [redacted]?

Ms. Gorman: Robert does.

Detective Troxell: Robert, does anyone come over to assist Robert in caring for him?

Ms. Gorman: Nope.

Detective Troxell: Okay, so Robert was the only one that had access to [redacted] all day Monday?

Ms. Gorman: Yes.

Detective Troxell: Okay, Sunday, what happened on Sunday?

Ms. Gorman: Sunday, went to work because Robert didn't work. Robert called me and said his Daddy was coming over, you know, picked them up, him and [redacted], and they were going over to his parents house.

Detective Troxell: What time did you have to go to work on Sunday?

Ms. Gorman: I think I went to work at six.

Detective Troxell: You left your house at six

or you got there at six?

Ms. Gorman: I got to work at six.

Detective Troxell: Okay.

Ms. Gorman: That means I leave my house at 5:15.

Detective Troxell: Okay.

Ms. Gorman: So he called me and told me he'd fed him breakfast and they got him ready and everything, got their bags together. His daddy came and picked them up and they went over to his parents house and he called me and to tell me that, you know, they were going to the pool and stuff. I said, okay, you want me to get off now or, you know, keep working because at my job or at least what I do when I'm finished I can leave or I can stay and do other things to make time. He goes, go ahead and leave, I said, okay, so I left work, I got there about 1:00.

Detective Troxell: And you got there where, Robert's parents house?

Ms. Gorman: Robert's parents house.

Detective Troxell: Okay.

Ms. Gorman: It was one or two, I can't remember which time I clocked out, and I walked in the house and his Mama was in there so, of course, I talked to her for a minute and I asked where Robert and them were, and she said, well they're at the pool with Paw Paw and Dylan,

which is his dad, and I said, okay, and about, you know, ten minutes later Paw Paw, Dylan, Robert, and [redacted] were coming back and he goes I was waiting for you to come to the pool and I looked at him, I said, who was in the house ---

Detective Troxell: Yeah.

Ms. Gorman: --- you know what happens when Mama's in the house, so, you know, he was a little cranky and he was still tired, lethargic acting and, you know, I said, there's something wrong, and I said, I'm going to make him a doctor's appointment, you know, because my thought was he, he might have a disability because of being seventeen months and not talking very well maybe he was slow and I wanted to check on that, you know. I was concerned ---

Detective Troxell: Uh-huh.

Ms. Gorman: --- because if there was any mental problems we could start a system cause Robert says can they do that, and I said, absolutely, you know, I says young childrens is when they go and find out their chromosomes are in, you know, not together. He said, okay, you know, and we fed him lunch. He had chicken and some okra and, yuck, potato salad, some baked beans, and laid him down, take a little nap, and he wouldn't go to sleep, he just laid there with his eyes open, you know, kind of slit. He

was so tired he wouldn't go to sleep, so put his bathing suit back on and his mom and Dylan and Robert and I and [redacted] we went back to the pool and he's in this baby tube, you know, that way when he sits in it if he goes, leans forward, you know, the face can't get in the water, if he leans backwards there's a pillow behind him so they can't, they can't go nowhere sideways or nothing, so I let him, I'd hang on to the back and I'd swim with him, you know, and then I would play with Dylan. Robert's playing with Dylan, you know, and Gail would, you know, talk to [redacted] and, and we'd, you know, he was right there by my side and everything and he just sat there and, you know, most babies would kick, love water, but he was just whatever. I put some sunglasses on him, put a hat on him, you know, so I could make sure the sun doesn't, you know, get sun burnt and, you know, we put sun block on him, and I put, we put water on his face. We like watered him on his face, you know, to keep it cool and cause it's hot, it wasn't that hot, but I mean just, you know, how it is even for us, so we swam for a little bit and then we took him out of the pool and I dried him off. We sat out there in the pool area, you know, to kind of dry off our bathing suits. We went back to the house. We changed our clothes and we probably stayed about ten, twenty minutes longer, I guess, we came home and fed him.

Detective Troxell: When you say we, it was you, Robert, and [redacted]?

Ms. Gorman: Yeah, it was me, Robert, and [redacted].

Detective Troxell: Okay.

Ms. Gorman: We left his parents house and we came home, gave him something to eat and he was just, you know, he was exhausted by now. The heat makes you tired, you know, pool makes you tired, so we laid him down and he went to sleep, that was Sunday.

Detective Troxell: Okay, Saturday, you have to work Saturday?

Ms. Gorman: Yes, I did, it was my weekend to work.

Detective Troxell: What time did you go in on Saturday, six?

Ms. Gorman: No five.

Detective Troxell: What time did you get off?

Ms. Gorman: Three.

Detective Troxell: And, of course, [redacted] was being cared for by Robert?

Ms. Gorman: Right.

Detective Troxell: When you got home at three what happened?

Ms. Gorman: When I walked in the door, of

course, [redacted] making his whine, whine, whine, you know. It just gets louder when I get home, but that's just the way he is, you know. If, if I walk in the door he starts, I mean he, he, he makes noises but it just seems like when a woman walks in it just gets more loud and he comes over and he starts trying to climb up my leg and cause he wants to be carried and we don't carry him because we were trying to break a habit.

Sounds mean, sounds ugly but, you know, I can't clean, cook, or do anything if I've got a baby hooked to me, you know, so, you know, I grabbed his finger, you know. He takes my finger and we walk around, you know, and I went over to the toys and, you know, sit down and, you know, talk to him and everything and, and cooked dinner, I can't think what I cooked. No, I lied, we went to dinner because I was so tired from working such long hours so I said we got a gift certificate from T-Bones and so we drove to T-Bones at Barefoot Landing and he was tired and cranky, he just kept itching and itching and itching, so I gave him some of his allergy medicine thinking, you know, maybe that would help relieve the itching just as if I would take Benadryl or something.

There was a waiting list so Robert stayed inside the restaurant and [redacted] and I went walking around, you know, just right there by the, the bucking bull, if that's

what it's called, and the mechanical bull, and when we would walk his, his leg would give out. His right leg gave out so, of course, you know, your reaction is to grab the little tiger so he don't fall and then, you know, he has his toes curled and we walked some more and then his leg gave out again. I was like did, did the nurse put the shots in his -- did the nurse actually hit his muscle when she was putting the shots in cause these shots didn't have to go in his muscle. So we went back over to the restaurant and I sat him in the rocking chair that's outside and I laid him next to me and we were talking and everything and he was just sitting there and we'd rock and he'd make some, you know, a whiny noise and I'd say, you know, stop and Robert would look out the window cause he was sitting right there and I said, well let's go inside. You want, you want some Apple Jacks cause we brought some Apple Jacks for him. So we went inside and he kept bothering his leg so Robert was sitting here, [redacted] was sitting here, I was sitting here, so I had put my hand right here on his leg so he couldn't mess with his boo boo, so his head was like laying right here on my shoulder and he just, you know, being irritable, you know, he's teething, what, you know, and that, and he bit me, and I was just like, what? That's the first time he's ever bit me since he's bit there, been there because before Cesalee

left he bit her, slapped her, head butted her, and we were just like you can't do those things, you know, head butting and stuff you'll get a concussion and she said well Richard allowed him to do it. I was like you guys can't do that. I said because then he goes running against things with his head, you know, cause it's okay to do, and you're telling him, no, you know, you can't do that. It's owwie's, you'll get hurt, you know, go in the kitchen, get him out of the kitchen, this is hot, you know, the stove, I'm cooking hot, grease, and come get him, you know, and so we did that, ate some dinner, and he was so tired and so I laid him down on the bench, you know, next to me and he went to sleep, and after we ate dinner, picked him back up, about 9:00 I guess, which is, you know, 8:30, 9:00 is his bedtime. So we were out, you know, late for him, got back in the truck, put him in his car seat, drove home, changed his diaper and laid him back down to go to sleep.

Detective Troxell: Okay, Ms. Gorman, you came to, became to be the primary caregiver of [redacted] when your daughter Cesalee came here, right, she signed over temporary guardianship to you July 1st?

Ms. Gorman: Right.

Detective Troxell: And she returned back to Arizona sometime shortly thereafter like the second, I believe?

Ms. Gorman: The next day.

Detective Troxell: Okay, and since that time there's been no one else that has cared for or provided for [redacted] other than you and Robert?

Ms. Gorman: Right, and our neighbors one time babysat him.

Detective Troxell: And that was a couple of days right after, like the 4th, 5th, or 6th of July?

Ms. Gorman: Right, right.

Detective Troxell: So after say the 6th of July there's no one [redacted] has been alone with?

Ms. Gorman: No, just me and Robert.

Detective Troxell: Just you and Robert, okay, and, Julia, I'm going to cut to the chase. That's the problem we're having, you know, we talked to the doctors. We've spent every day since Tuesday in Charleston. You may not have seen us but we've been in Charleston and we know when [redacted] was injured. We can scientifically and we can medically prove when [redacted] was injured, okay, and the reason for me bringing that up and the necessity of that is it wasn't Cesalee and we can prove beyond a shadow of a doubt that it wasn't Cesalee, so to get to the gist of your last statement being Robert and I, which one was it? If something happened and it was an accident or something got a little bit out of control now is the time we need to put

it on the table cause as you said it's already, it was in the paper today.

Ms. Gorman: Right.

Detective Troxell: Today's headline was "Abused Child Dead," tomorrow's headline is "Arrest Made in Abused Child Death." Do you get what I'm saying?

Ms. Gorman: Yeah.

Detective Weaver: It's not adding up, Julie?

Ms. Gorman: I've, but I've told you everything. We've told you everything.

Detective Troxell: And here, here's the other part I have with you, Julia, that's the first tear I've seen from you. Robert sat here and bawled when he told that story. When you're confronted with going to jail then you start tearing up and I've got and now the tears are gone. This is serious, okay, your life at this point is changed. Your life was changed on Monday. The decisions you make in this room with me and Weaver now are going to affect you from this point forward. It determines if you go home today or not or if you go to the jail. Something happened, we know it did, like I said we can prove it.

Ms. Gorman: Okay, I understand that, but I've never laid a hand on him. I've never, I've never ---

Detective Troxell: You ---

Ms. Gorman: --- abused him. Yes, I've smacked

him on the butt, you know, with his diaper on and I have admitted to that. I've smacked his hands, I've admitted to those things.

Detective Troxell: Right.

Ms. Gorman: But I have never hurt him.

Detective Troxell: The explanations that were given for [redacted] injuries, and correct me if I'm wrong --

Ms. Gorman: Okay.

Detective Troxell: --- I don't want to put words in your mouth, were the bulldog puppy may have knocked him over, correct?

Ms. Gorman: Right, right.

Detective Troxell: The, the stroller going backwards down the steps but he never fell out of the stroller and hit the steps, correct?

Ms. Gorman: Right.

Detective Troxell: Falling off the bed?

Ms. Gorman: Right.

Detective Troxell: Which is only eighteen inches off the ground?

Ms. Gorman: Right.

Detective Troxell: And hitting the carpeted floor?

Ms. Gorman: Well that's, you know, that's what

we're being told now, you know, but we don't know if there was a toy, well, yeah, she said he hit a toy.

Detective Troxell: Okay, so even a less than eighteen inches fall into a toy?

Ms. Gorman: Okay.

Detective Troxell: And what else?

Ms. Gorman: She texted me and said he kicked, crawled out of it or he got out of it, the playpen.

Detective Troxell: We ran everyone of those by Dr. Abel, who by her own title is ---

Ms. Gorman: The forensic.

Detective Troxell: There you go, Forensic Medical Director of the Violence Intervention and Prevention Center, and she said there ain't no way in hell. Something violent happened to [redacted], whether it was accidental or malicious is what we need to get to the bottom to and if it was accidental put it out on the table, let us know so we can go that route with it.

Ms. Gorman: I, my heart is racing a thousand miles a minute. I never laid a hand on, on my grandson.

Detective Weaver: Tell us what happened, Julie?

Ms. Gorman: I'm telling you.

Detective Weaver: Tell us what happened?

Detective Troxell: No, you're not, you're not telling us.

Ms. Gorman: What do you want?

Detective Weaver: If it was an accident we need to know; we need to know what happened?

Ms. Gorman: Well I, but I, I didn't do anything to, to my grandson. Robert didn't do anything to our grandson, you know, there's a time ---

Detective Troxell: So [redacted] skull just magically cracked in three spots.

Ms. Gorman: I, I, I, oh, my God.

Detective Troxell: It couldn't, by your own statement, it couldn't have been anybody else but you or Robert, so who was it? Was it you, was it Robert? Did Robert do something and he told you and you don't want to tell us?

Ms. Gorman: No.

Detective Troxell: Then it was you?

Ms. Gorman: No, no, no.

Detective Troxell: Look, Julie, the, the skull fractures didn't just appear there. They, something caused it?

Ms. Gorman: I understand that. You --

Detective Weaver: And they're fresh.

Ms. Gorman: I mean, I, you know --

Detective Weaver: They're fresh, Julie.

Ms. Gorman: You know there's a moment that, you

know, of our, you know, if our dog knocked him over again.

Detective Troxell: Nope, ran that by, not possible.

Ms. Gorman: There is no way in, and I'm sorry, no way in hell we would hurt a child. I've never hurt any of my children and I'm not going to hurt anybody else's child, I wouldn't ---

Detective Troxell: Okay.

Ms. Gorman: --- do that.

Detective Troxell: I, I, let's play a little scenario game here, okay? Let's pretend we're in a courtroom cause this is where this is going to end up going, okay?

Ms. Gorman: Okay.

Detective Troxell: Cause tomorrow's headline is going to read "Couple Arrested in Child's Death."

Ms. Gorman: Okay.

Detective Troxell: Do you know who the couple is?

Ms. Gorman: Yes, me and Robert.

Detective Troxell: There you go. You're on the right track with me, okay, so we're sitting in a courtroom six, eight, nine months down the road from now. You got a judge, you've got the jury of twelve of your peers sitting to your left, okay, and I'm representing this case and it's

not going to be me and Weaver on the stand saying we believe this is what happened, we believe this. It's going to be the medical director of the Intervention and Prevention of Child Abuse, Dr. Abel, on the stand saying there ain't no way in hell that this happened twelve or three or four weeks ago with Cesalee, that this happened in the time frame that we've discussed, okay, because we know when it happened, that's why we were discussing the time frame that we're discussing. I'm not going to tell you the date that I know it happened or the hour ---

Ms. Gorman: Right.

Detective Troxell: --- that I know it happened, but I know it happened in those days that we discussed and the doctor is going to say, no way, it can't happen at, okay?

Ms. Gorman: Okay.

Detective Troxell: Well, thank you, Doctor, for your testimony. Doctor, or Detective Troxell, who was in care and custody and control of the child? Well by their own statement it was Robert and Julie.

Ms. Gorman: Right.

Detective Troxell: Okay, what do you think it's, how long do you think it's going to take a jury of twelve or your peers to say you're guilty?

Ms. Gorman: I've seen it on t.v. and I, I don't

know if ---

Detective Troxell: And ---

Ms. Gorman: --- it is --

Detective Troxell: Sweetheart, this isn't t.v., this is real life, this is the rest of your life you're playing with.

Ms. Gorman: I, I know, I mean all I've ever known, I, I've never --

Detective Troxell: How long do you think ---

Ms. Gorman: I've never been in --

Detective Troxell: --- it's going to take for me to get a guilty verdict on you?

Ms. Gorman: Seconds.

Detective Troxell: There you go.

Ms. Gorman: Seconds.

Detective Troxell: And you know what's going to happen. You're not, there's not a bit of remorse coming from you, you're fine, until now you're crying ---

Ms. Gorman: No, you don't understand.

Detective Troxell: --- because you're going to jail.

Ms. Gorman: I'm sitting here and you're ---

Detective Troxell: Are you, are you a cold-blooded killer?

Ms. Gorman: No.

Detective Troxell: Did you cold-bloodedly kill your seventeen-month-old grandkid?

Ms. Gorman: No.

Detective Troxell: Then what the hell happened to him?

Ms. Gorman: I don't know.

Detective Troxell: Yes, you do.

Ms. Gorman: No, I don't.

Detective Troxell: Yes, you do.

Ms. Gorman: No, I don't.

Detective Troxell: Now is the time ---

Ms. Gorman: I swear.

Detective Troxell: --- to come in ---

Ms. Gorman: I swear.

Detective Troxell: --- and put it on the table.

Ms. Gorman: I swear to God.

Detective Troxell: Did you kill your grandson?

Ms. Gorman: No, I did not.

Detective Troxell: Because that's what it looks like, sweetheart, and you're going to jail for it.

Ms. Gorman: I didn't do nothing.

Detective Troxell: You can't convince me of it, you can't convince your damn self of it. You killed your grandbaby.

Ms. Gorman: No, I didn't.

Detective Troxell: Yes, you did. Now it's time to come to grips with it. Let's own up and let's cross the bridge and let's handle it.

Ms. Gorman: I'm not going to admit to something I didn't do.

Detective Troxell: Okay, well then don't admit to it cause I've already proven it. I don't need you to admit it. I'm giving you the opportunity to explain yourself, the opportunity to give me why it happened, how it could have happened, what explanation do you have, and I have nothing. When I can prove that there was something, that's not going to fly, and like you said it's going to take me seconds, seconds. That's fine. Shake your head, I, I don't know.

Ms. Gorman: I, I ---

Detective Troxell: Something happened.

Ms. Gorman: --- I don't know.

Detective Troxell: If it was accidental tell us.

Ms. Gorman: I wish I could tell you if there was something that happened but I'm telling you the truth, I'm telling you the truth.

Detective Troxell: Go ahead, Weaver, I'm just about done with this.

Detective Weaver: Julie, Julie, look at me.

Ms. Gorman: I, can I take my medicine, is that okay?

Detective Weaver: No, I need you to talk to me, it's very important, Julie. You need to tell me what happened. It wasn't, listen to me, if it was an accident you need to tell me?

Ms. Gorman: Detective Weaver, if there was something that happened I would tell you if I hurt my grandson.

Detective Weaver: Julie, something happened.

Ms. Gorman: I would tell you.

Detective Weaver: Evidence is saying something happened.

Ms. Gorman: I understand that.

Detective Weaver: Okay, did you have a bad day at work? Did you come home from work ---

Ms. Gorman: No.

Detective Weaver: --- things got out of hand maybe?

Ms. Gorman: No.

Detective Weaver: You and Robert had a fight, maybe you took it out on [redacted]?

Ms. Gorman: No.

Detective Weaver: Accidentally?

Ms. Gorman: No.

Detective Weaver: Something happened?

Ms. Gorman: No, I would never, Robert and I haven't argued.

Detective Weaver: Why?

Ms. Gorman: I'm not lying to you, I swear to you I'm not lying to you.

Detective Weaver: Maybe you didn't mean to do it, Julie, but it happened.

Ms. Gorman: I didn't do it, I did not hurt my grandson. I have never ever picked him up angry, you know ---

Detective Weaver: Never.

Ms. Gorman: --- or anything like that, you know. I get frustrated, which anybody would, but I've never grabbed him, moved him, shoved him.

Detective Weaver: Julie, something had to happen, I mean the evidence doesn't lie.

Ms. Gorman: I understand that.

Detective Weaver: The medical evidence doesn't lie.

Ms. Gorman: I understand that. You know, he, he's not in our height, in our sight a hundred percent of the time, you know, he may go to the bedroom. He may walk, our dog is free to roam the house, I, I --

Detective Weaver: Dr. Abel discredited all

that, it didn't happen. Cesalee didn't do. It's fresh, it just happened. We know exactly when it happened.

Ms. Gorman: I, I understand.

Detective Weaver: This is very, this is the most important day in your life.

Ms. Gorman: I understand.

Detective Weaver: I promise you.

Ms. Gorman: And I'm telling you everything.

Detective Weaver: If it's an accident we need to know.

Ms. Gorman: I understand.

Detective Weaver: I don't, I don't think you're a cold-blooded killer, but I think something happened, I know it happened.

Ms. Gorman: I never laid a hand on him, I've, I never would do that, I wouldn't do that.

Detective Weaver: I don't believe you and I, you know I --

Ms. Gorman: I wouldn't do something like that, I know, no, I wouldn't do anything like that. I have three children and I've never hurt my children ever, no.

Detective Weaver: You sure about that?

Ms. Gorman: Yes, I respect my kids, yes, I've never abused my children. I've I, they've never gone to the doctors or hospital because of ---

Detective Weaver: You sure?

Ms. Gorman: Yes, the only time my, my kids have been in the hospital is because my son, when he was little, he was across the street and his Dad was sitting on the steps and there was a, a man that was standing, Kyle had went behind the man and the man didn't know he was there and he stepped back, my son fell. Robert took, Rob took him to the hospital immediately and had him checked.

Another time, I can give you every one, I was going for an interview at Mervyn's. My friend had come over to watch my son. Her and her son and my son were playing, they bumped heads in the front. My son went limp, you know, he fell, you know, on, on, we had some futon and stuff right there, called 911. We, I drove with him to the hospital and everything. The third time we were in Virginia. We walked, I was taking them to the day care and I walked from the day care later to the bus stop, there was ice on the road, I held on to my kids ---

Detective Weaver: All right, let's get back to [redacted], okay.

Ms. Gorman: Okay, but I'm letting you know that these are the only things that ever happened to my children. You know when Cesalee was in Washington she was outside playing ---

Detective Weaver: You know, do you think Robert

had something to do with it?

Ms. Gorman: No, no, and I swear to you, no.

Detective Weaver: Julie, it's either you or Robert.

Ms. Gorman: We didn't do anything.

Detective Weaver: You can't say ---

Ms. Gorman: Oh, my God.

Detective Weaver: We can't say it was the dog. We can't say it was the, the stair, the stairs. We can't say that, we can't, we can't say that, the doctors can't say that.

Ms. Gorman: I, I understand that, I understand that, but we wouldn't hurt him. We wouldn't hurt him. I know we wouldn't hurt him. I know we didn't hurt him. I swear on my life. I, I'll swear to God and I don't swear to him.

Detective Weaver: I don't believe you. I believe something happened and, Julie, this is very important today because once we walk out of this room today there's going to be no more opportunities, if it was an accident people understand that.

Ms. Gorman: I understand it, too.

Detective Weaver: If you got angry, everybody gets angry.

Ms. Gorman: I know but it, I ---

Detective Weaver: I mean everybody gets angry, everybody, things, things happen, people get out of control, it happens. It doesn't mean you're a bad person.

Ms. Gorman: I know that.

Detective Weaver: It just means that it happened.

Ms. Gorman: I understand.

Detective Weaver: But you've got to take responsibility for it.

Ms. Gorman: And I will take responsibility.

Detective Weaver: It's not, let me tell you something, it's going to look a lot better if you say, yeah, it was an accident. I lost my temper, I lost my mind for a minute, okay. It happened but when we get on there, like Troxell said we get up there, how do you think it's going to say, she's a cold-blooded killer.

Ms. Gorman: I know.

Detective Weaver: How long do you think it's going to take?

Ms. Gorman: Seconds, like I told you.

Detective Weaver: Right, but if it was an accident, you lost your cool, you had a bad day, you had a fight with Robert, something happened. We know, we know something happened, there's no disputing that. We need to find out what happened.

Ms. Gorman: I swear to you like I told both of you, I'm trying to calm down now and not scream and yell, I'm sorry, I'm yelling, you know.

Detective Weaver: It's all right.

Ms. Gorman: I'm sure it's very frustrating for ya'll. This is, I'm overwhelmed now and because this is happening and I'm telling you, I swear to you we never hurt my grandson. I don't know, arguing, frustration, whatever, I have never manhandled my grandson. Robert has never manhandled my grandson. I'm telling you this from my heart, my soul, I, I, we, I didn't ---

Detective Weaver: Would you, the last couple of days what have you been talking about, you and Robert? Didn't, didn't you all discuss how, how this could happen to [redacted]?

Ms. Gorman: I'm sorry?

Detective Weaver: Didn't you all discuss, you, you and Robert, didn't, the last couple of nights, since Monday, weren't you all bouncing it back to each other what happened to him? I don't know what happened to him, tell me what happened?

Ms. Gorman: Yes, we, we had ---

Detective Weaver: Which?

Ms. Gorman: We don't, we ---

Detective Weaver: What did you all talk about,

what happened to him?

Ms. Gorman: And that's what we'd ask. We, we, were dumbfounded, we just, we don't know. We don't know, we had no answers for each other, Just, you know, he, he he, all we know is he wasn't feeling good, you know, so I made an appointment for, for Tuesday for him to go to the doctor's because Monday I was, you know, I couldn't get him there Monday afternoon, you know, cause it was, it was too soon.

Detective Weaver: And that, that's what I'm saying, Julie, I don't think you're a bad person. You brought that baby here, you take, you took, you're taking care of him. You take, you're, you took him to doctor's appointments. You've tried, I, I know you love this baby. I know something happened. I, I mean you were trying to do the right things and take care of him but something happened when you got angry, you got upset, things got out of control. It happens all the time but I need you to tell me that, otherwise you're going to go to jail as a, as a cold-blooded killer; you understand what I'm saying?

Ms. Gorman: Yes, I do.

Detective Weaver: It looks a lot better if you, if something happened to set you off other than they look at you like a calculated cold-blooded killer that killed her grand, grandson; you understand what I'm saying?

Ms. Gorman: Yes, I understand what you're saying.

Detective Weaver: But it does, it doesn't add up for me cause I know you've tried to care for this kid. You've, you've ---

Ms. Gorman: I have, I mean ---

Detective Weaver: You've tried to take him to the doctor.

Ms. Gorman: We've taken, we did in here.

Detective Weaver: You've fed, you've bathed him, okay, I know you're a, I know you didn't mean to hurt him but something happened and you need to take responsibility right now, right here and now.

Ms. Gorman: I didn't, I've told you everything. I've taken responsibility for my actions, I did not hurt my grandson.

Detective Weaver: I don't believe you.

Detective Troxell: What do you think is going to happen from this point forward, Julie?

Ms. Gorman: I'm not going home.

Detective Troxell: Okay, and tomorrow we're going to attend the autopsy of seventeen-month-old [redacted] and one thing we're going to do, we're gonna, we're going to have physical evidence because now we can actually get in and physically examine the skull cap, which is where

he's been injured, okay, and we're going to have photographs. There's going to be a doctor that's going to be able to hold [redacted] skull up in court and see the cracks in his skull and be able to testify that there's no way a bulldog puppy knocked him over and caused all these, these skull fractures and these breaks in his skull. There's no way a fall from a, a bed that's seventeen inches off the ground could have caused this. Every explanation you've offered the doctor is going to be there, an expert, who's going to be there and say there's no way, we can't do it. I mean, imagine you've got a china bowl and you drop it from here it might be a little stress, a little stress fracture. You drop it from here and the crack's going to get a little bit bigger, you drop it from up here the damn things going to break.

Ms. Gorman: Right, I understand.

Detective Troxell: And that's what we're looking at, that's something from up here.

Ms. Gorman: I never dropped him. I've never dropped him ever, I'm just --

Detective Troxell: Something happened.

Ms. Gorman: I'm, I'm going through my brain right now.

Detective Troxell: Okay.

Ms. Gorman: Let ---

Detective Troxell: Well take your time, we'll step out if you want and ---

Ms. Gorman: No, you don't have to do that.

Detective Weaver: We need some kind of explanation, did ---

Ms. Gorman: I'm telling you.

Detective Troxell: Well then explain it to us, give us something that caused [redacted] to no longer be with us?

Ms. Gorman: I wish I could.

Detective Troxell: Because I can tell you what I'm going to read to, what Dr. Abel's going to read in court. "History given by Robert and MGM," that's maternal grandmother, "of recent minor, the bulldog puppy and fell three steps in a stroller, comma, does not explain this child's clear recent head injury," okay?

Ms. Gorman: Right.

Detective Troxell: "And this is due to radiological appearance of blood in the head seen in radiographs and x-rays." That's what's going to be read, and I mean we've got no other adult could have been around, could it?

Ms. Gorman: No, there's no other adults in the home. All there was, was Robert, me and the day Robert and I went out and Tony and Erica came to our house cause we

asked them to come to our house because it was --

Detective Troxell: But that wasn't within the last couple of days and that was ---

Ms. Gorman: I understand that.

Detective Troxell: --- weeks ago.

Ms. Gorman: But I'm, you know, they came to our house and watched him there because, you know, they can put him in his bed instead of us coming home and carrying him from there to here cause it was raining. He, the only other places he's been, you know, besides us taking him out to eat is Robert took him over to his parent's house and we all went swimming, came home, and we laid him on the bed, never dropped him in his bed, never, never just threw him anywhere.

Detective Troxell: Robert never has lost his temper? I mean he has no ties to [redacted], it's not his kid.

Ms. Gorman: No.

Detective Troxell: I mean, it's like, it's kind of been thrown in, into the mix of all this and he's, he's just your boyfriend. He's got to now watch a child that he didn't help create, who's the child of someone he doesn't really like too much, hasn't heard anything good about.

Ms. Gorman: Right, that's all he's heard is, you know, what I've told him. I mean --

Detective Weaver: And he didn't think it was a

good idea for them to come from the get go?

Ms. Gorman: And he didn't, he didn't.

Detective Weaver: I mean do you think it's possible that maybe he had something to do with it?

Ms. Gorman: No, I mean he just, he ---.

Detective Weaver: He's got a pretty good, he's got a bad temper, doesn't he?

Ms. Gorman: Robert?

Detective Weaver: Yeah.

Ms. Gorman: No.

Detective Weaver: No?

Ms. Gorman: No, he's actually very even tempered.

Detective Weaver: I was misinformed?

Ms. Gorman: No, I mean, I mean we've, we have our arguments but he doesn't have a bad temper, you know, he's never laid a hand on me ever, you know.

Detective Troxell: Well every logical explanation ---

Ms. Gorman: He's never physically hurt me, you know.

Detective Weaver: You don't think it was him?

Ms. Gorman: No. Robert and I have been together about four years and I and that was one of my, my things, a man touched me I would leave because I have

already been through that once and I refuse to be physically abused by a man and, or be cheated on because of some things that happened to me in the past.

Detective Troxell: Okay, so you've just said, and there's no way in your mind it could have been Robert?

Ms. Gorman: No.

Detective Troxell: Okay, so out of the two possible, no one in your mind, that leaves you.

Ms. Gorman: I understand that.

Detective Troxell: So tell us what happened. Something happened, Julie, something happened in that house.

Ms. Gorman: Well, what is your name? I can't even remember.

Detective Troxell: Tim.

Ms. Gorman: Tim. Tim, I'm looking at you and, you know that, how much sleep I got, you know, I've been at that hospital every day until yesterday evening when I left because I felt, because I can't, and the rest of my family can be there and have their time, I came home. Robert and I didn't discuss it, you know, I told him, we talked about, he told me about what was on the news and we went out for a little bit, you know, just to unwind because it's just been so stressful, we came home, went to bed.

Detective Troxell: We, it's been the same for,

we've been in Charleston, you may not have seen us.

Ms. Gorman: I know, I know.

Detective Troxell: But we've been there.

Ms. Gorman: That's what he said, you know, you guys have said, I mean I wasn't, no one said I looked for ya'll or anybody else. I didn't, I never looked behind my shoulders to see if anybody was watching me or anything, you know, because I'm not, I'm not guilty. If I was, if you're guilty you're constantly looking over your shoulders, you know, you're, you're looking constantly. I don't have that, I was there trying to hear. When you, when I talked to you and you said that you wanted to, you know, talk to me today, you know, I didn't expect it to be so early but, you know, I just stuck my phone in the living room and, you know, Robert said someone is at the door. We got up ---

Detective Weaver: That's why, that's why ---

Ms. Gorman: --- be right there ---

Detective Weaver: I think it was an accident.

Ms. Gorman: --- you know.

Detective Weaver: I'm trying to give you an out here. I don't think you killed him cold-bloodedly, okay.

Ms. Gorman: No.

Detective Weaver: I know you've been to the hospital. You've been there from, from since Monday. I

know you, I know you've been there for him, you feel bad what happened.

Detective Troxell: I'm going to get you some tissue.

Detective Weaver: You tried to care for him.

Ms. Gorman: Thank you, please, thank you.

Detective Weaver: All right, Julie, you hear what I'm saying?

Ms. Gorman: I understand it, just ---

Detective Weaver: I mean, I know even afterwards, I mean you've been there for him and you, and I truly believe you, you feel bad what happened, but come on, everything leads back to you. You had the care. I need you to tell, I need you to give me something. I need you to give me something, you've got to tell me what happened?

Ms. Gorman: All I know is my dog had knocked him down, that's all I know.

Detective Weaver: Julie, Julie.

Ms. Gorman: I swear to you.

Detective Weaver: That is not possible.

Ms. Gorman: I know, I mean --

Detective Weaver: I promise you, I wish it was, but that's not possible. I need you to tell me what happened. We've talked before, right? I believe you, I believe you. I, I, I never, listen to me, look at me.

Since he came, since Cesalee left and you took care of him ---

Ms. Gorman: Yes, sir.

Detective Weaver: --- you made sure he went to the doctors.

Ms. Gorman: Yes, sir.

Detective Weaver: You made sure he was fed.

Ms. Gorman: Yes.

Detective Weaver: You put him in bed, you cared for him.

Ms. Gorman: Yes, yes.

Detective Weaver: I know that.

Ms. Gorman: Yes.

Detective Weaver: Right?

Ms. Gorman: Yes.

Detective Weaver: But something happened along the way, I don't know, I need you to fill in the blanks for me and I know you feel bad what happened to him because you've been at the hospital. You've been there for the little guy, you've been there, you put lotion on him. You feel bad what happened to him, but you can't change what happened.

Ms. Gorman: And you're right, I can't change what happened to him.

Detective Weaver: Right, but you can tell me,

you can tell me what happened. You can explain what happened, if it was an accident we need to know because you're going to jail for murder. You need to tell me what happened. I can't help you if you don't help me.

Ms. Gorman: All I know is, all I know is [redacted] went and picked up Binkie, which is that big stuffed animal and [redacted] knocked him down.

Detective Weaver: Julie.

Ms. Gorman: Lo ---

Detective Weaver: Julie, that's not possible, look at me. Do you want me to help you?

Ms. Gorman: I want you to help me.

Detective Weaver: Do you want me to help you?

Ms. Gorman: I do, this is the ---

Detective Weaver: Probably nobody ever helps you, do they? You've been doing everything on your own all these years, haven't you?

Ms. Gorman: Yes, sir.

Detective Weaver: Yeah, I'm here to help you, but I can't help you unless you tell me what happened. I can't be on your side until you tell me what happened. I can, I can go to the jury. I can go to the Solicitor, I can tell them it was an accident but I need you to tell me that. I need you tell me that it was an accident, whether, whether you just lost your temper, whatever happened. I

need you, I need something, I need you, I need you to work with me. I need you to work with me so I can work for you. You understand what I'm saying? Right now you're giving me nothing. You're giving me nothing. It just doesn't seem possible. Nobody's going to believe, nobody's going to believe it.

Ms. Gorman: I understand that.

Detective Weaver: Listen, I'm going to give you a few minutes to think about it. I, believe it or not, look at me, look at me, believe it or not I'm here to help you.

Ms. Gorman: I know you are and ---

Detective Weaver: I'm on your side.

Ms. Gorman: --- and I believe you.

Detective Weaver: I'm on your side but you've got to give me something to work with. You've got to help me. I'll be right back. I need to go to the, use the restroom. I'll give you a few minutes to think about it.

(Whereupon, Detective Weaver exits the interview room.)

Ms. Gorman: Why is all this happening? I didn't do anything. He went to go get Blinkie, Logan came to the crate and knocked him down. That's the only thing I can think of and I, and I remember it, that's it. I keep being called a liar --- a liar.

(Whereupon, Detective Troxell enters the interview room.)

Ms. Gorman: I need to take my medicine. That's all I know, Lord, help me. I didn't, I never hurt any of my children. I can take my medicine?

Detective Troxell: Do you have medicine on you?

Ms. Gorman: Yes.

Detective Troxell: Okay, you don't have any guns or anything in your purse, do you?

Ms. Gorman: No.

Detective Troxell: Good, feel free to take your medicine.

Ms. Gorman: I don't carry of that stuff.

Detective Troxell: Lee me see it before you take it real fast, make sure you're, you're not taking illegal drugs.

Ms. Gorman: I take one.

Detective Troxell: Okay.

Ms. Gorman: I take it twice a day.

Detective Troxell: Like I said this is, we're trying to give you and Robert a opportunity to explain what may of, what could of and ultimately what did happen?

Ms. Gorman: I understand that.

Detective Troxell: I mean ---

Ms. Gorman: I understand.

Detective Troxell: --- we both agree something happened, right?

Ms. Gorman: I understand, yes, I understand.

Detective Troxell: Okay.

Ms. Gorman: I understand all that.

Detective Troxell: And I told you we're going to have the physical evidence of the skull, in addition the jury is going to see these pictures. They're going to look at these pictures, [redacted] staring up looking like that while you're standing vigil over his bed. If he could have moved would he have cried? I mean he's the last one, he knows what happened to him.

Ms. Gorman: I understand.

Detective Troxell: Okay, unfortunately he's not here to speak for himself.

Ms. Gorman: I know that.

Detective Troxell: So he's got now a team Detective Weaver, myself, the other guys we work with and the medical staff at MUSC, we're speaking for him now.

Ms. Gorman: Right.

Detective Troxell: But if he had been able to that day in the hospital would he have grunted like he did and pointed at you and to him?

Ms. Gorman: He wouldn't have pointed at me and Robert.

Detective Troxell: He wouldn't have?

Ms. Gorman: No, I'm certain we did not hurt my grandbaby. This is my blood, this is, this is, this is my grandbaby. I didn't treat him as my grandson. I treated him as my baby as if I gave birth to him.

Detective Troxell: And we're not disputing for one second you cared for him. You fed him, you clothed him, bathed him, kept him, took him to the doctor, did everything that you could but at some point something bad happened and we know that and we just agreed that at some point something bad happened.

Ms. Gorman: But we agreed but I can't tell you what, you know? All I know is that you keep telling me, you keep telling me that it's not possible. The only thing I know is that one time [redacted] went and I remember it all, he went over to the crate got Binkie, Logan knocked into him.

Detective Weaver: Not possible, Julie.

Ms. Gorman: I know that, I understand all that, but in the bathtub, he's never fallen in the bathtub. I, I've picked him up out of the bathtub, have never dropped him.

Detective Troxell: Well, well let's take falling away.

Ms. Gorman: He's never slipped and falled [sic]

even on the floor of the bathroom.

Detective Troxell: Okay.

Ms. Gorman: Because we have carpet down.

Detective Troxell: Well let's, let's take falling out of the equation, let's say [redacted] didn't fall?

Ms. Gorman: Okay.

Detective Troxell: Another explanation for it is that he was shook.

Ms. Gorman: No, I've never shook him, never shook him. Shake a baby, no, no, I, I, no.

Detective Troxell: Well I, I guess we're going to agree to disagree on that because ---

Detective Weaver: What about, what about Robert?

Ms. Gorman: No.

Detective Weaver: Does he get frustrated?

Ms. Gorman: No, Robert has better patience than I do to be honest with you, and he, you know, I walk out of the house because [redacted] was whining and stuff because it's just, it's ---

Detective Troxell: It gets to you?

Ms. Gorman: Well he, he and, you know ---

Detective Weaver: That's what I'm saying.

Ms. Gorman: --- and I've told you he, I go outside because the whining and crying I just, it's non

stop but I go outside or I send him to his room. Robert takes [redacted], you know, outside with him a lot even though he's still, you know, whining and crying and he just walks him around, you know, and it doesn't faze him, you know, you know, he's just, we just figured it was separation from his mama and everything but, no.

Detective Weaver: That's what I'm saying, maybe you had a bad day at work, maybe a fight with Robert, you picked him up, he was whining, you got a little frustrated and you shook him a little hard?

Ms. Gorman: I don't think hard, I don't believe I ---

Detective Weaver: Is it possible?

Detective Troxell: But it's possible that you could have done that, is it?

Detective Weaver: Look, look at the little guy.

Detective Troxell: It's possible, isn't it?

Ms. Gorman: I, I don't want to see him no more.

Detective Weaver: Look at the little guy, doesn't he deserve, doesn't he deserve to know what happened to him?

Detective Troxell: It's, it's possible you just said it's possible you could have got a little frustrated, is it not, Julie?

Ms. Gorman: I don't know anymore.

Detective Troxell: You, you ---

Ms. Gorman: I did not hurt my family.

Detective Troxell: You didn't intentionally cause any harm to your grandson, we know that. You are a caring grandmother that took your grandbaby to the doctor, fed him and clothed him.

Detective Weaver: And that's what we want to be able to tell people that this was an accident, you got a little frustrated.

Ms. Gorman: I, I, I never, I don't believe I've ever shook him.

Detective Troxell: But it's possible you could have?

Detective Weaver: Did you get aggravated?

Detective Troxell: Is it not?

Detective Weaver: Or you don't remember?

Ms. Gorman: No.

Detective Weaver: Maybe, maybe you got angry, you don't remember, you lost, lost control for a little bit and shook him?

Ms. Gorman: No.

Detective Weaver: Is it possible?

Detective Troxell: And we're not saying ---

Ms. Gorman: I don't know.

Detective Troxell: --- is ---

Detective Weaver: It is possible.

Ms. Gorman: I don't know, I don't know, it's possible.

Detective Weaver: Look at the little guy.

Ms. Gorman: I don't want to see them no more.

Detective Weaver: He deserves to know what happened to him.

Ms. Gorman: Please, I, I don't want to see those.

Detective Weaver: Julie, I can't help you if you don't talk to me.

Ms. Gorman: I'm telling you I don't know.

Detective Weaver: I'm here for you, but I can't help you ---

Ms. Gorman: I know, I know.

Detective Weaver: --- if you don't talk to me. We need to know what happened. You know me, we've been through, I've, I've known you for four days now?

Ms. Gorman: And I ---

Detective Weaver: I believe you're a good person.

Ms. Gorman: I ---

Detective Weaver: And you know I'm here for you.

Ms. Gorman: I know.

Detective Weaver: But I can't help you if you don't talk to me, I can't.

Ms. Gorman: I don't recall if I sh -- shook him, okay, I don't.

Detective Troxell: Is it completely in the realm of possibility?

Detective Weaver: Julie, it happens.

Ms. Gorman: Well I, you know what, excuse me, I'm sorry, I didn't mean to spit.

Detective Weaver: Please, Julie, just tell me.

Ms. Gorman: You know what I wish?

Detective Weaver: I can't help you.

Ms. Gorman: I don't know if I shook him hard, I don't know, I don't.

Detective Troxell: Let me just ---

Ms. Gorman: I don't, I don't even recall it.

Detective Troxell: Let me just say ---

Ms. Gorman: I don't recall shaking him at all.

Detective Troxell: --- what you just said.

Ms. Gorman: I know what I said.

Detective Troxell: I don't think I shook him hard.

Ms. Gorman: Right, I know what I said.

Detective Troxell: That you shook him easy.

Ms. Gorman: But I don't think I, you know how

you play with them and but I don't, I know what I said.

Detective Troxell: So ---

Ms. Gorman: I know what I'm saying to you.

Detective Troxell: --- so you're starting to remember. It, it's possible that you shook him, maybe not meaning to hurt him at all because there's not a mean bone in your body, you didn't mean to hurt him?

Ms. Gorman: I know I wouldn't hurt him.

Detective Troxell: You didn't want to hurt him, you didn't want this to happen.

Ms. Gorman: No one would wish this on their worst enemy. I wouldn't, I wouldn't wish this on anybody. I wouldn't wish this on anybody. God Almighty, my life has just been so ---

Detective Weaver: You've had a hard road, Julie. I know, I know, but things are hitting rock bottom right now.

Ms. Gorman: Oh, my God.

Detective Weaver: But I promise you I'm here to help you. I'm here with you, but I need to know. I need you to remember. I need you to tell me because I can't go to the jury and say she killed him, the doctors will tell you she killed him, I need to tell them why, I need ---

Ms. Gorman: I didn't do that.

Detective Weaver: I need, I need to have them

see this side of you that, that you took care of the little guy, that you're sorry that you, you didn't mean for it to happen. But I can't do it unless you tell me?

Ms. Gorman: I understand that, I understand that, I understand that, all I, I don't know. I really don't know if I shook him hard, if I did I would tell you and, and ---

Detective Weaver: That's what happened, isn't it?

Ms. Gorman: I don't know.

Detective Weaver: You do know.

Ms. Gorman: Honestly, Detective.

Detective Weaver: Julie?

Ms. Gorman: I swear to God.

Detective Weaver: Julie, you're almost there, tell me the truth.

Ms. Gorman: I would if I could.

Detective Weaver: Tell me the truth, you'll feel so much better.

Ms. Gorman: I wish, look at me, I'm broken. I have been honest. I've, I've told you everything I've done. I feel I've told you everything I've done from the bottom of my heart, my soul, I was gonna sit down and write everything down.

Detective Weaver: Do you want to do that?

Would it be easier for you?

Ms. Gorman: No, I don't think, I mean everything that has happened, you know, because I, you know, from the time it all, from Monday to now the, the things that I said I felt that if I wrote it down because of all the statements and everything that it was, it's not, you know, when, when I talked to you yesterday and I thought about all the things I was being told I was going to go home and write it out.

Detective Troxell: Uh-huh.

Ms. Gorman: I was so exhausted that I just, I needed a break just for myself just to, just to put everything in, you know, when my friends asked me last night, how's he doing, we didn't tell them that he, that he passed away. I just, I just wanted a break just to, just to ---

Detective Troxell: What did you do to take a break? Did you go anywhere?

Ms. Gorman: We went to Beef O'Brady's and we went to Fatz, shot some pool. We went to Beef O'Brady's first and I spoke to Kim, I spoke to Sam, Meg, and Jessica.

Detective Weaver: This was last night?

Ms. Gorman: Yeah.

Detective Weaver: Was this after we spoke?

Ms. Gorman: Oh, yeah.

Detective Weaver: And we talked about what, eight or 9:00 last night?

Ms. Gorman: Yeah, we did because I got home, took a shower and everything and we left. I told Robert and we, let's just go out, you know.

Detective Weaver: Julie, look at me. I'm going to have to cut you off, time's running out, dear. I need to know what happened, if you want me to help you and stand beside you and help you.

Ms. Gorman: I want to tell you exactly.

Detective Weaver: I want you to tell, I want you to tell.

Ms. Gorman: What do you want me to tell you?

Detective Weaver: Julie, I want you to tell me that you were angry, that you had a bad day, that you shook him, you didn't mean to, I mean, I know I've already done the background on you. I know you've had a hard life. I, I know you didn't mean to do this.

Ms. Gorman: A background won't reveal anything on me, I've never ---

Detective Weaver: I'm not talking about arrests.

Ms. Gorman: No, I was going to say I don't have anything on my record.

Detective Weaver: No, no, I'm not talking about

that. I've talked to people that know you, I know what kind of person you are.

Ms. Gorman: You, I mean I have had a rough life and I admit it.

Detective Weaver: Exactly.

Ms. Gorman: But you know what?

Detective Weaver: But this was an accident.

Ms. Gorman: I still took care of my kids and I've taken care of [redacted].

Detective Weaver: I understand that, but this was an accident, but time's running out. I can't help you. It, I'm the only one that can help you.

Ms. Gorman: If, if I shook him I swear to you I don't believe I shook him hard, you know. I don't think I have that much, I don't know.

Detective Weaver: But what, but --

Ms. Gorman: That's the only explanation I got, I'm sorry.

Detective Weaver: But when you get angry you don't know, you don't know you snapped but you did shake him?

Ms. Gorman: I never picked him up when I was angry, you know.

Detective Weaver: Oh.

Ms. Gorman: I know.

Detective Weaver: Julie, I, I can't help you if you're not going to sit there and help me. I mean I'm just ---

Ms. Gorman: I know I picked him up, but I don't think I did it hard. I can't tell you if I did but I have shaken him but I, I don't know if I shook him hard. I don't know if I ---

Detective Weaver: You sure, you didn't, you sure out of anger, maybe you had a fight with Robert something, something? I, I, how am I supposed to go and help you and say ---

Ms. Gorman: I know.

Detective Weaver: --- yes, she thinks she shook him but she don't know it was real hard. I want to see you take responsibility, yeah, you made a mistake, it was an accident. You didn't mean for it to happen but this is what happened. Let's make it better, and I'll be here to help you make it better but I can't do it if you're not going to be totally honest with me. I can't do, Julie.

Ms. Gorman: I ---

Detective Weaver: I can't fabricate.

Ms. Gorman: I'm not asking you to fabricate. I don't want you to fabricate. I don't want you to, I don't want people to put words in my mouth. I don't want, I don't want, oh, my God.

Detective Weaver: I'm running out of options, I don't know how.

Ms. Gorman: I understand.

Detective Weaver: I don't know how to help you.

Detective Troxell: Julie?

Ms. Gorman: Yes, sir?

Detective Troxell: Can you show me when you shook him easy how you did it?

Ms. Gorman: I went like this.

(Whereupon, Ms. Gorman demonstrates.)

Detective Troxell: Like that?

Ms. Gorman: Yes.

Detective Troxell: Okay.

Ms. Gorman: And I, I don't know if that's hard or anything.

Detective Troxell: Okay, when was this?

Ms. Gorman: I, I can't keep the date.

Detective Troxell: But you, you shook him?

Ms. Gorman: Yes, I believe it.

Detective Weaver: Was, was it Monday when you came home from work; did you have a bad day?

Ms. Gorman: No, no, I didn't.

Detective Weaver: How about Sunday?

Ms. Gorman: No, I mean work is work.

Detective Troxell: What was the --

Detective Weaver: We're, you just frustrated with him because --

Ms. Gorman: It was just --

Detective Weaver: I mean I know it's frustrating.

Detective Troxell: Y ---

Ms. Gorman: I was frustrated with him because, you know, what I mean, I mean I just feel like I'm this bad person.

Detective Troxell: By no means you're not a bad person. We've sat here and tried to tell that for an hour.

Ms. Gorman: I know you have.

Detective Troxell: We don't, we're not here to pass judgment on you. We're not here to, to think, wow, what a horrible person.

Ms. Gorman: I feel like I've been judged since day one.

Detective Weaver: No.

Detective Troxell: Not at all.

Detective Weaver: Julie, listen to me, if I thought that, do you think I'd be sitting here trying to help you right now?

Ms. Gorman: No, and I know ---

Detective Weaver: I can, I guarantee --

Ms. Gorman: --- that, I know you guys believe

me.

Detective Weaver: I, I ---

Ms. Gorman: And I know you believe him, I know you guys do.

Detective Weaver: I'd be out the door in a heart, in a heartbeat and just go by what we have, okay, but I'm trying to get, you're, we're here for you. This is your opportunity to tel your side of the story, okay, this is, this is for Julie.

Detective Troxell: We've been ---

Ms. Gorman: My work is my work, I leave it there, you know. I might be there for hours, you know, fixing problems and trying, you know, I mean, you know, what I do. I work in a cash office. I count money all day long. We have a new program, we're a day behind because we count day before, you know, yesterday's stuff.

Detective Weaver: Right.

Ms. Gorman: So we have to learn a new program, so I'm at work a little bit longer because of the fact that the system's changed. I have to go from one desk to another desk to find answers and go back and try to fix things. I work long, I was working long hours, I mean I did, you know --

Detective Weaver: Was it maybe you were just frustrated because he ---

Ms. Gorman: But Monday I, I never touched him Monday.

Detective Troxell: Let's, let's go back. We'll get that out of the way. Don't worry about that, is that normally how you carry him was like that? When you carry him, can you show me how you normally carry him?

Ms. Gorman: I carry him like this when I do or sometimes like this.

(Whereupon, Ms. Gorman demonstrates.)

Detective Troxell: Okay.

Ms. Gorman: Sometimes it's on my hips so I can lean sideways but or I carry him up here.

Detective Troxell: When you held him in front of you what were you doing? Where were you at?

Ms. Gorman: W ---

Detective Troxell: But like we were saying we, we've been working this thing and wanted to get you an opportunity to explain yourself. We had information from the doctor's on Tuesday. We could have just said to hell with it on Tuesday and left the hospital with you and Robert and, and gone to jail.

Ms. Gorman: Right.

Detective Troxell: But we want to give you the opportunity to tell us what happened in your own words and, and show us and explain to us why this might have happened

and to let us know that, you know, I, I didn't intentionally do anything to harm my grandson.

Ms. Gorman: I, I would never hurt him, God, I would never hurt him.

Detective Weaver: Not on purpose.

Ms. Gorman: No.

Detective Weaver: Not on purpose.

Ms. Gorman: No.

Detective Troxell: Maybe that day he was just crying and just --

Ms. Gorman: I guess, I don't know.

Detective Weaver: Julie, I, I like you that's why I'm taking this time to help you. I like you, I think you're a good person. Not too many grandmothers would take their grandchild and take, and take him from their daughter and take him to the doctor. You got him shots, you got the little guy shots. He was having problems with a headache you took him to the emergency room, right?

Ms. Gorman: Yes, yes.

Detective Weaver: Right. They gave him, remember they gave him a popsicle when he was throwing up?

Ms. Gorman: Yes, yes.

Detective Weaver: Not too many ---

Detective Troxell: And that was the first time you had seen him when he since he was born, right?

Ms. Gorman: Yes.

Detective Troxell: You had never seen him before?

Ms. Gorman: No.

Detective Weaver: Not too many grandmothers would do that. You since this happened you've been at the hospital every day, forty hours, no sleep. I know you're a good person, that's why I'm taking this time with you, but if you can't help me I can't help you. I need to know what happened. If you got angry and you shook him accidentally it looks a lot better than that you hurt him on purpose. Do you understand what I'm saying?

Ms. Gorman: Yes.

Detective Weaver: We're running out of time, Julie, if you want me to help you.

Ms. Gorman: I never come home angry from work, I don't. I will say that, you know, because work is, work is work, he cries every day, he's cranky every day, whines every day.

Detective Troxell: And on top of that you, he's, he's your grandbaby but he's also a bit of a burden you don't want.

Ms. Gorman: He's not a burdensome, you, just, he's not a burden.

Detective Troxell: And I don't mean it in a bad

way, but he, he's actually changed your lifestyle a little bit. You're used to doing, you and Robert are doing what you want to do when you want to do it, but now you've got to care for a baby. He ---

Ms. Gorman: But that was a choice I made. I was willing to change, sacri--, you know.

Detective Troxell: And you did, you made the --

Ms. Gorman: And it is a sacrifice ---

Detective Weaver: You made those sacrifices.

Ms. Gorman: --- you know, to change ---

Detective Weaver: Because of him, Julie.

Ms. Gorman: --- you know.

Detective Weaver: You were frustrated because you didn't know what to do for the little guy, that's what happened.

Ms. Gorman: No.

Detective Weaver: You were frustrated. You, the little guy's crying, whimpering, you got frustrated with yourself and it just happened. You shook him but you weren't upset with him, it was you. You were upset, you were kind of frustrated that you didn't know how to help the little guy; isn't that possible? I mean in like ---

Ms. Gorman: Yes, that's possible.

Detective Troxell: How long after you shook him

was the seizures?

Ms. Gorman: I didn't, I never, Monday when I picked him up was when I picked him up out of the bed was the only time I picked him up Monday. He was asleep when I left, when I came home he was taking his nap, checked on him. We checked on him again and he was still napping. By 6:00, like I said, I went in there to go wake him up to, you know, feed him dinner. He was making that strange noise and the saliva, I picked him up out of the bed. I leaned him over my arm because I didn't know if he was choking or if he was going to throw up because I didn't want him to choke on it. That's what I did, I whipped him over my arm, okay, that's what I did.

Detective Troxell: Okay, you were trying to provide care for him then.

Ms. Gorman: You know.

Detective Troxell: You've done everything in your power, everything you possibly could.

Ms. Gorman: You know, it --

Detective Weaver: What was it like?

Ms. Gorman: You know just, I mean we have him on videotape, you know, the noises he makes but this is when I'm not home.

Detective Weaver: Yeah.

Ms. Gorman: And so take that and you intensify

it.

Detective Troxell: Usually when you get him he gets louder, yeah?

Ms. Gorman: Yeah, so it intensifies louder.

Detective Troxell: Okay.

Ms. Gorman: So Robert, but Robert did it so he could say that, you know, when you're not here this is how, you know, he's not as loud, you know, as when you are here, you know, just that he was, I'm not trying to be a jerk, you know, cause I was like, damn, every time I walk in the house. I'm going outside ---

Detective Weaver: And ---

Ms. Gorman: --- and as soon as I walk outside he stops crying.

Detective Weaver: Right.

Ms. Gorman: You know, I'd sit on the porch, smoke a cigarette, you know, and then as soon as I'd walk back in he'd start, start it all over.

Detective Weaver: All right.

Ms. Gorman: So he comes ---

Detective Weaver: That's, that's how he is.

Ms. Gorman: --- grabs my leg, you know, and takes his foot and tries to climb up my leg, and, no, you know, stop ---

Detective Weaver: I've got stuff to do.

Ms. Gorman: --- you know, I've got to cook dinner. You want to eat, don't you, you know, I got to cook dinner, you know. It's not that Robert can't cook cause he can, I just, I'm the woman I guess, I don't know. It's my job, my duty, I guess it's a job duty but, you know, but I provide for [redacted] to make sure he has a good healthy balanced meal.

Detective Weaver: Sure, I know how that is.

Ms. Gorman: And that we have a good healthy balanced meals as well. I mean we don't eat junk. We don't buy t.v. dinners, you know, or any of that crap, you know, picked him up, "stop," put him back down, took him by his fingers as usual.

Detective Troxell: And then walked him to his bedroom.

Ms. Gorman: Walked him to his room and I stopped at the door, "go to your bed," because we didn't want the portacrib to be punishment because I didn't want him to think every time he went into the portacrib he, because he was between bedtime and naptime.

Detective Troxell: Bedtime and naptime.

Ms. Gorman: So we used the other bed as, you know, to go sit down on cause I don't want that because you know, you, I didn't want that. I didn't want him to be confused because he's been confused, you know, with his

Mama and everything.

Detective Weaver: Where was Robert at when --

Ms. Gorman: He could have been outside, he could have been in the back room, but he wasn't in the room with me.

Detective Weaver: Did [redacted] stop crying after that or did he cry more?

Ms. Gorman: He didn't cry any, any, you know, any differently.

Detective Weaver: Yeah.

Ms. Gorman: It was still the same noises.

Detective Weaver: Yeah.

Ms. Gorman: And he doesn't shed tears or anything.

Detective Weaver: No?

Ms. Gorman: When I took him to the room I stopped at the door and he goes in and he still looks at you and whines and cries but I walk away and went back to cook dinner and then walked back there. I believe I walked back there and said, you ready to come out, no crying, you know, we're not going to cry no more.

Detective Weaver: Right.

Ms. Gorman: And he'll start right, you know, take a deep breath and, you know, he'd start again ---

Detective Weaver: Right.

Ms. Gorman: --- come out, play with the toys. I'd sit down on the floor with him, you know. He, he wants to lean on me, he wants to try and crawl in my lap, you know, those are all the things that he did with his mother, you know ---

Detective Weaver: Right.

Ms. Gorman: --- until she got ---

Detective Weaver: Right.

Ms. Gorman: --- tiresome of it then she'd shove him away. You know he would be confused why one minute I can do it and ---

Detective Weaver: Right.

Ms. Gorman: --- then I can't, so we, you know, we are, I was just trying to break these habits ---

Detective Weaver: Sure.

Ms. Gorman: --- you know, so when he went home to his mother, you know, she, she'd be able to handle him, you know.

Detective Weaver: Right.

Ms. Gorman: It wouldn't be such, you know, a tiresome thing for her for, you know, she's frustrated.

Detective Weaver: Right.

Ms. Gorman: She's angry, she doesn't know what to do, and here I'm trying to break all these habits, you know, and make him a fresh little boy ---

Detective Weaver: Yeah.

Ms. Gorman: --- good boy, so when she got well, you know, and everything ---

Detective Weaver: That's what I'm saying, you're just, you ---

Ms. Gorman: --- got well, and she could take care of her son.

Detective Weaver: That's what I'm saying, you're trying to do the right thing. It just got out of hand. How hard did you shake him?

Ms. Gorman: I don't think any harder than that.

Detective Weaver: Julia, you had to. Come on, it's just me and you talking?

Ms. Gorman: I know.

Detective Weaver: We've got a good rapport.

Ms. Gorman: I understand that.

Detective Weaver: And I like you, I think you like me, tell me?

Ms. Gorman: I do, I ---

Detective Weaver: You had to shake him more than that, medical evidence said you did. People don't ---

Ms. Gorman: I don't think I went like this, that would ---

(Whereupon, Ms. Gorman demonstrates.)

Detective Weaver: Nobody's going to believe me, nobody's going to believe me.

Ms. Gorman: You.

Detective Weaver: When I try and tell them that.

Ms. Gorman: I never extended my arms out. I, you can't, I can't do that. I don't know, it's always my arms are here, he's here. I, I don't know, I can sit here all day and do this, I don't know how hard or anything, I just, oh, my God.

Detective Weaver: Hang in there, I'll get you.

Ms. Gorman: Detective Weaver, I'm telling you, I can't tell you how hard.

Detective Weaver: Tell me, Julie.

Ms. Gorman: That's it, that's what I'm telling you.

Detective Weaver: Come on, his injuries say different.

Ms. Gorman: I understand what you guys are ---

Detective Weaver: His injuries ---

Ms. Gorman: --- telling me.

Detective Weaver: His injuries are different, you have to ---

Ms. Gorman: I've never, I've never dropped him, never, never.

Detective Weaver: How do you explain those injuries then?

Ms. Gorman: I can't.

Detective Weaver: He's got a fractured head.

Ms. Gorman: I know that.

Detective Weaver: How, how am I supposed to help you? How am I supposed to say, yes, all she did was just shake him? He's got a fractured head. How am I, who, who's going to believe me? You need to tell me what happened, time's running out, Julia. I'm not, you know, I like you, I want to help you, but if, if you're going to sit there and not tell me what, what happened, you know, I'm not going to make stuff up for you.

Ms. Gorman: I don't want you to make stuff up for ---

Detective Weaver: You've got to tell me what happened?

Ms. Gorman: I don't want you to make up stuff for me.

Detective Weaver: Okay.

Detective Troxell: It was an accident, that's neither here nor there. Did we discuss what Robert, was he not there? Did you tell him, toss it back around on the ride home from Charleston, you know?

Ms. Gorman: No.

Detective Troxell: So Robert has no idea that this ever transpired?

Ms. Gorman: No. No, Robert doesn't even know, you know, what my daughter told you what Richard said that the baby died in my arms. I couldn't tell him that because that's devastating and I felt I couldn't tell him and I'm not going to tell him that.

Detective Troxell: Tell him?

Ms. Gorman: What Richard had said because I don't know because like everything Richard said to me, what I'm being told is a lie. you know, I caused him to leave her and I'd say, well Richard says this and he goes he's not, just like when you guys came to my house and he had said that you guys were charging me.

Detective Troxell: We hadn't met with him ---

Ms. Gorman: I know.

Detective Troxell: --- Richard.

Ms. Gorman: You know and you guys said, and you were just like what, what the hell, you know, and I remember what you said, you know, in your eyes and I could see it in you guy's eyes just the, you know, where is this coming from, you know, I, I, you know, you can read things, too. And when called I told him again what you had said that you better do your job, you know, you better, that you don't get days off and such and so on, and I knew then even

before because you guys had told me we have not saw him personably, we're not going to release any information until we can identify him and everything else. But I was doing what I felt was right by calling you and letting you all know what I'm being told ---

Detective Troxell: Yeah.

Ms. Gorman: --- you know.

Detective Troxell: Uh-huh.

Ms. Gorman: Everything I've been told, I'm sad, too, and I mean, and grieving or not grieving, hell I haven't ever been able to cope. I haven't even got over my shock. I haven't even got over to, to be able to deal because I have to be so fricking strong for everybody else to make sure that they can do, you know ---

Detective Troxell: Because that's the type person you are, from what I've got to know from you over the course of the week that's the kind of person you seem to be or you're the, you're the glue that holds everything together. You try to provide for everybody else and, and --

Ms. Gorman: And I do.

Detective Troxell: --- and not so much for yourself.

Ms. Gorman: And I do. Everybody comes before me and I, if, you know, called me and said you needed help,

you know, what I'd be right there to just that's me, that's my nature. That's what I was given my gift for was to help people. I will be bent over backwards. I may be shitted on a lot, but you know what, that's okay. It isn't what comes around goes around, it's that's okay, you know. It's not my loss, it's yours when it comes to things like that, you know. I mean I have a big family and I only talk to two people in my family because none of them care about me and that's fine, that's their loss not mine, you know.

Detective Troxell: Why didn't you?

Ms. Gorman: All I know ---

Detective Troxell: Go ahead, I'm sorry.

Ms. Gorman: If, if I shook him I, I can't, I don't, Robert doesn't know, Robert doesn't know.

Detective Troxell: Why didn't you tell Robert? Why not tell Robert in the car on the, when we're, when you're driving back and it's an hour and a half drive and you're trying to toss around and figure what happened but you know what?

Ms. Gorman: You know what, when we drove we really didn't talk, obviously we really, I mean we bits and pieces because we just ---

Detective Troxell: Just so physically ---

Ms. Gorman: We needed ---

Detective Troxell: --- and mentally drained.

Ms. Gorman: We needed a, you know, that was our break. For the most part we were quiet, being quiet, you know, might say something funny, you know, get a laugh here and there because he, you know, he was frustrated because the fact that when, when I, when we went to the hospital, you know, went back to the hospital Tuesday night said that we were going to the hotel and told the nurse, gave them our cell phone numbers and everything but stop while you were ahead, and then, and something about the father and she goes, well his mother's already called and said she did not want you guys here with Richard because of, there will be confrontation and I say, Ma'am, I'm going to tell you now, I said there will be no confrontation from us. If he wants to be that way I'll leave because this isn't a place to have a scene. This is, you know, ICU and, number one, it's not about us, okay. That, that hurt Robert, you know, and then when I got to the hospital Richard saw me. Richard said that, you know, he debated on stopping and talk to me, and Robert stayed at the hotel because he felt if he came there might be a confrontation, you know. So he was, you know, alleviating anything, you know, he didn't want to walk in and you come charging him, you know, and Richard said, he goes if I would of saw Robert he goes I would have charged him. I would have and I was like that's why he didn't come and I told Robert that and Robert's like I'm

going home, you know, and I said, we'll go.

Detective Troxell: It's not the place for a confrontation.

Ms. Gorman: You know and it's not, you know, and I told him, I said, come pick me up from the hospital and I'll go home with you and, you know, I'll get my car and I can come back, you know, make sure Richard has everything he needs, you know. I don't, I don't like Richard, I don't and I'm very honest about that, you know. I mean the whole time Cesalee was there just text messages and, you know, she, he would tell her to "F" you and go to hell, I want a divorce, you know, just back and forth, back and forth between them and then he'd call my phone. He'd text my phone, you know, and I'd have to sit there and, and be the mediator in the middle. Leave her alone, you know, you know she has problems, you know how she is, you know, she's, she's going to flip and I said now, you know, we don't want that.

When she pulled her stunt about, you know, going out till 6:00 in the morning, 6:30, whatever time it was, and then the next night doing it again. I called him and I told him to shut up and listen and I said, you need to get your wife and your young'un and you need to take them home immediately is what I told him, and then after, you know, as, and I was driving when I did this so I had left work

and called. When I got home I, I took Cesalee outside, just Cesalee and I had told her, and I wasn't yelling or screaming because I had calmed down by now because, you know, I was venting and then, you know, I went inside and Robert says, you know, she can go but the baby can stay and he goes and then he's, he's like, you know, she don't have to go either, even though he was very hesitant to let her come and, you know, and he was very hesitant, but it's my daughter, you know, do the right thing, now look, look who we are.

Detective Troxell: I know shit happens to good people, Julia, but it's just how we take corrective action to fix and atone for the bad thing. It'll get better, like Weaver said we're here to, to help you. I mean we've been beside you a hundred percent through this whole ordeal till the end. We could have been the mean assholes like you said after we talked on Tuesday and, but we were trying to ---

Ms. Gorman: Sunday and Monday, I mean just Monday it could have, and I know that.

Detective Troxell: Give me one second, I'll be right back with you.

(Whereupon Detective Troxell exits the interview room.)

Ms. Gorman: I don't think I did that either.

I'm just, fuck it, say it, do whatever. No one's going to go down with me, and I'm not going to let anyone else take the fall.

Detective Weaver: Hey, Julie, can you come with me? We're going to take a break for a little bit, all right, I'm going to, I'm --

Ms. Gorman: Can I go outside and smoke a cigarette?

Detective Weaver: --- going to get you in a more comfortable place, In a little bit, I'll take you out, get your purse.

Ms. Gorman: You dropped a paper down on the ground.

Detective Weaver: I'll get that, no big deal.

(Whereupon, the playing of the video statement of Julia Gorman is concluded.)

The Court: Ms. Lively?

Ms. Lively: No further questions of this witness, Your Honor.

The Court: Mr. Galmore or Ms. Grabert-Lowenstein?

Ms. Grabert-Lowenstein: Yes, if I could have just a moment, Your Honor?

Cross Examination

By Ms. Grabert-Lowenstein:

Q Detective Troxell, good afternoon.

A Good afternoon.

Q When you and Detective Weaver went to the residence you had an opportunity to examine the entire area around that residence; would that be correct?

A Yes, ma'am.

Q This is not in a mobile home park?

A No, ma'am.

Q Out in the country?

A Yes.

Q Large lot?

A Yes.

Ms. Grabert-Lowenstein: Okay, if I could have, might we approach the witness, Your Honor, and for counsel's edification what, Defense 1?

Q (Continuing) Do you recognize, I believe you've already testified you recognize what's in that picture?

A Yes, ma'am.

Q Did you measure that in any fashion?

A No, ma'am.

Q And but it is large?

A Yes.

Q Would it be an over estimate that from the trailer to where this pine tree is is probably a quarter of

a mile?

A I have no idea.

Q But it is, it is quite a distance?

A Yes.

Q Okay, when you did the interviews that we just saw you had already spoken to Mr. Palmer?

A Yes, ma'am.

Q What kind of recording equipment did you take with you?

A I took a, you talking about at MUSC?

Q I'm sorry, yes, at MUSC?

A I had a camcorder.

Q Did you have a regular tape recorder?

A No, ma'am.

Q Did you think it might be important to have back up?

A That's all I had with me at the time; I didn't have a back up recorder.

Q I'm confused because during the interview with Ms. Gorman you indicated that your tape recorder didn't work?

A That's what I was referring to was the digital camera or the camcorder.

Q You didn't have any other back up on you?

A No, ma'am.

Q Did Detective Weaver?
A No, ma'am.
Q You tried to do as thorough job as possible?
A Yes, ma'am.
Q Would it have been thorough to have back up and be able to present what his statements were from MUSC?
A I don't believe at the time the county had issued us any other recording device other than that camcorder.
Q That wasn't my question, would it have been thorough to have a back up given the nature of the case?
A Had I had a back up available to me I would have had it.
Q You went through the entire home?
A Yes, ma'am.
Q It was clean?
A Yes, ma'am.
Q Okay, there were lots of hard surfaces?
A Yes.
Q Okay, now when you interviewed Robert you already had spoken to both of them at MUSC; did you have information about his whereabouts on Friday night?
A No, ma'am.
Q You had no information?

A Not to my recollection, no.

Q Okay, you did later find out that he wasn't in the residence on Friday night?

A Yes, I believe he said in his interview he was outside ended up going out with a friend or something.

Q Okay, and you, you uncovered no information that would dispute that?

A No, I believe his friend was even spoken to; I believe Detective Weaver may have interviewed his friend and confirmed that.

Q And you guys were doing the case together?

A Yes, ma'am.

Q So you would know if that had been found to be a false statement?

A I believe Detective Weaver would have relayed that to me, yes.

Q And it was, that it was actually that he had been out with a friend, correct?

A Yes, ma'am.

Q Okay, and during your interview, excuse me, during your investigation did you run into anybody that told you they saw Robert manhandle or mistreat [redacted]?

A No, ma'am.

Q Anybody who said he hit him?

A No, ma'am.

Q Anybody who said they had ever seen him do that to any other child?

A No, ma'am.

Q You talked to him about his five year old son, didn't you?

A Yes, ma'am.

Q And did he answer all your questions?

A Yes, ma'am.

Q Did he answer all your questions at MUSC?

A Yes, ma'am.

Q So he was totally cooperative during the process of your investigation?

A Yes, ma'am.

Q Detective, if you were to ask me what you had for breakfast this morning and I didn't know the answer I'd have no way of knowing that, would I?

A Correct.

Q So if Mr. Palmer wasn't in the residence when Julia shook, whatever else she may have done to [redacted], he wouldn't have any knowledge of it, would he?

Ms. Lively: I would just object to speculation, Your Honor.

The Court: I'll let him answer that question, the answer is so obvious.

Ms. Lively: Yes, sir, thank you.

The Witness: (Continuing)

A No, ma'am.

Q Okay, and you discovered no information to repute him saying I was never told about any injury to [redacted]?

A No, ma'am.

Q You uncovered no information that indicated that he was present when the injuries occurred, correct?

A Correct.

Q In fact during Ms. Gorman's interview she indicated he was outside?

A I believe that was what was placed.

Q Did you ever follow up on that piece of information?

A As I stated I believe Detective Weaver may have confirmed that he was out with a friend.

Q Let me rephrase, she's talking about Monday?

A Okay.

Q Did you ever follow up whether or not he was inside the trailer when she was cooking dinner?

A There was no one else to follow up with; it was just the two of them at home.

Q We watched you come in and out a lot during the two interviews; were they both present at the station?

A Yes, ma'am.

Q Okay, and would you have had an opportunity prior to Robert's interview ending to ask him if he had been outside ---

A We actually ---

Q --- on that Monday?

A Yes, ma'am, we could have.

Q You would have had that opportunity?

A Yes.

Q Did you take that opportunity?

A No, ma'am.

Q Do you think that was important?

A Yes.

Q Okay, you were trying to collect a complete investigation of information, correct?

A Yes, ma'am.

Q And yet you didn't follow up on whether Robert was outside or not?

A No, ma'am.

Ms. Grabert-Lowenstein: If I would have just a moment, Your Honor?

Q (Continuing) I do have a couple of questions. Robert had no problem consenting to search of the trailer, did he?

A No, ma'am.

Q And when you interviewed them at MUSC I'd like to just ask were they together or separate?

A Together.

Q Is it your practice to interview two suspects together like that?

A They weren't suspects at that time, that was the first initial interview I had conducted. We were just gathering information.

Q Would it have assisted the integrity of the investigation by separating them even at that point?

A Had they been suspects at that point, yes, but they were not suspects.

Q Oh, that was my, my question was this, Detective, would it have increased the integrity of the investigation by separating them?

A At that point, no.

Q You didn't find any direct evidence in the house of Mr. Palmer specifically being the one to inflict any injuries, did you?

A No, ma'am.

Q In fact what did Ms. Gorman say about whether or not he had inflicted any injuries?

A She insisted he had not.

Q She was adamant about that, wasn't she?

A Yes, ma'am.

Ms. Grabert-Lowenstein: I have no further questions.

Cross Examination

By Mr. Galmore:

Q Detective Troxell, let's talk about this interview that you conducted with Ms. Gorman, the videotaped one, what was that, the 18th?

A Yes, sir.

Q Okay, and let's break it up, now there is a point in that video that Ms. Gorman asked you if she could take her medicine; is that correct?

A Yes, sir.

Q And what was your response to her?

A I believe I said, yes.

Q Well you said, yes, but then you said wait a minute let me look at it?

A To make sure it was prescribed to her, yes.

Q Okay, to make sure it wasn't anything illegal?

A Yes.

Q I think is what you said?

A Yes.

Q So you looked at it and was it prescribed to her?

A Yes, sir.

Q Do you remember what the medication was?
A No, sir.
Q Now she was alone in the room before asking you if she could take her medication; is that correct?
A Yes, sir.
Q And she had her purse and the medicine was in the purse?
A Yes, sir.
Q She had an opportunity to take her medication without asking you first?
A Yes, sir.
Q But she didn't, she asked for your permission?
A Correct.
Q She also asked Detective Weaver on that video if she could take her medication?
A Yes, sir.
Q And Detective Weaver told her, no, is that correct?
A Yes, sir.
Q He didn't look at the bottle first to figure out what it was before telling her no, did he?
A No, sir.
Q Out of hand he said, no, no medication; did you write down what the medication was?

A No, sir.
Q But you did look at it?
A Yes.
Q You looked at the prescription bottle?
A Yes.
Q Do you remember what it wasn't?
A No, sir.
Q Do you recall if it was anything dangerous like a poison or something?
A No, sir.
Q But the bottle did not say cyanide on the side of it?
A No.
Q You sure about that?
A Positive.
Q Cause you would not have allowed her to take it if it did?
A Correct.
Q Was it a prescription bottle or an over the counter medication?
A From what I recall seeing the video it appeared to be a prescription medication bottle.
Q Do you remember where the prescription came from?
A No, sir, I remember nothing about the

bottle or the medication.

Q Do you remember if it was a controlled substance or not?

A No, sir.

Q Do you think it would make a difference if it were a controlled substance or not?

A No, sir.

Q So it's your testimony that if she took a controlled substance that was prescribed to her it wouldn't make a difference as far as the interview?

A No, sir, if it's prescribed by a doctor then she's authorized to take it.

Q But Detective Weaver said, no, no medication?

A Yes, sir.

Q You testified I don't remember, how long have you been a police officer?

A Nine years.

Q I've bet you've done a lot of interviews in nine years?

A Yes, sir.

Q Can you give the jury a ball park figure of how many interviews you've done?

A No, countless.

Q At least a hundred?

A Yes.
Q Way more than a hundred more than likely?
A More than likely.
Q Okay, is it a common occurrence for people to take a break in the middle of an interview and ask to take their medication?
A I can't say that's happened routinely, no.
Q It doesn't happen routinely, can you give the jury a ball park figure on how often this would happen?
A Very few.
Q Less than five percent of the interviews you've conducted?
A Probably so.
Q Okay, so you said you remember that it was not dangerous, and you remember looking at it to make sure that it had her name on the bottle?
A Yes, sir.
Q Can you remember anything else about the medication?
A As I stated, Mr. Galmore, no, sir, I cannot.
Q Don't remember what it was?
A No, sir.
Q All right, well let's talk about how many times you had an opportunity to speak to Ms. Gorman; when

was the first time you spoke with Ms. Gorman?

A At MUSC.

Q And that would have been on what date?

A The 15th.

Q Did you go to Conway Hospital on the 14th?

A No, sir, I did not.

Q Did Detective Weaver go to Conway Hospital?

A Yes, sir, he did.

Q So Detective Weaver had an opportunity to speak with her on the 14th?

A Yes, sir.

Q Then you had an opportunity to speak with her on the 15th?

A Yes, sir.

Q When Detective Weaver talked to her on the 14th did Ms. Gorman confess to this crime?

A Not to my knowledge.

Q When you talked to Ms. Gorman at MUSC on the 15th, did she confess to you that she did it?

A No, sir.

Q Are you aware whether or not Yvette Brown from DSS spoke with Ms. Gorman at MUSC?

A No, sir, I'm not aware, I learned that through the testimony today but I was not aware prior.

Q So you don't know if Ms. Gorman talked to

her or not?

A No, sir.

Q Except from what you heard in court today?

A Yes.

Q Okay, did you talk to Ms. Gorman at work?

A No, sir.

Q Why didn't you do that?

A She wasn't at work through the course of this investigation.

Q She had taken the time off?

A Yes, sir.

Q Okay, you talked to Ms. Gorman when you went to the house?

A Briefly, yes.

Q And what date did you go out to the house?

A On the 16th.

Q And that's when you took all those pictures?

A Yes, sir.

Q Measuring things?

A Yes, sir.

Q You took the picture of the stroller?

A Yes, sir.

Q And you took the picture of the dog?

A Yes, sir.

Q And the dog cage?
A Yes, sir.
Q And the steps?
A Yes, sir.
Q And the trampoline?
A Yes, sir.
Q Why were you taking all these pictures?
A Again to document the height of the items inside the residence.
Q When you did the walk through at the house on the 16th and you briefly talked to Ms. Gorman on the 16th, did she confess to you at that time?
A No, sir.
Q No, she did not, so now we come to the 18th?
A Yes, sir.
Q How long did you interview Mr. Palmer?
A I believe the video footage said it was thirty nine minutes.
Q And how long did you interview Ms. Gorman?
A I believe the video footage said it was an hour and thirty nine minutes.
Q And there was a break in the video, a time where you all stepped out of the room and gave her --
A Yes, sir.

Q -- some time by herself, Ms. Gorman had a book during that interview; is that correct?

A You're referring to the notebook?

Q The notebook?

A Yes, sir.

Q Yes, sir, did you read the notebook?

A No, sir.

Q No, so when you testified on direct that it was a book that Ms. Gorman had where she took notes about Cesalee you don't know that to be true?

A I believe she said that.

Q Okay, but you didn't read the book so you don't know what was in it?

A Correct.

Q What did you do with the book?

A Nothing.

Q Okay, during the interview wasn't the book taken from Ms. Gorman?

A I didn't take the notebook from Ms. Gorman.

Q Is it a standard police practice and technique to take any items from a witness while doing an interview?

A No, sir.

Q It's not, is it a standard police practice and technique to conduct an interview at the police

station?

A Yes, sir.

Q Okay, and that's because you take a person out of their comfort zone; is that correct?

A And also to document the interview.

Q Well you got a tape recorder you can document it at MUSC, right?

A It malfunctioned.

Q But I mean you went out there with a tape recorder?

A Yes, sir.

Q And you were conducting an interview right up until it malfunctioned?

A Yes, sir.

Q And you were documenting an interview?

A Yes, sir.

Q And that interview was not at MUS, was not at the, at the M.L. Brown building?

A Yes, sir.

Q Okay, so it is a standard police technique to interview people at the police station?

A Yes, sir.

Q And that's because it takes a person of his comfort zone?

A Yes, sir.

Q It's a lot better than interviewing the person in his or her home?

A Yes, sir.

Q Isn't it also true that it is a standard police technique to take any items from a person to take them out of their comfort zone?

A I can't explain why the notebook was taken, I, her purse was left there as well so that would go to that statement as well.

Q Okay, do you know where the book is now?

A No, sir.

Q Was the book taken into evidence?

A I do not believe so.

Q You're the person that collects evidence?

A I didn't collect that piece of evidence; it wasn't evidence for me.

Q And your partner did he collect the evidence?

A I see no evidence sheet in his case file so I can say, assume no.

Q So this notebook has disappeared?

A Yes, sir.

Q All right, so you take her down to the police station for an interview; that's correct?

A Yes, sir.

Q And for the first hour or so she doesn't say anything?

A Yes, sir.

Q And you and Detective Weaver suggest to her that maybe it was an accident?

A Yes, sir.

Q And you suggested that multiple times?

A Yes, sir.

Q Would it be fair to say that you repeatedly suggested that maybe it was an accident?

A Yes, sir.

Q When you made the suggestion repeatedly that it was an accident before she took this medication did she give you a confession?

A No, sir.

Q You suggested to Ms. Gorman during the interview that she was going to jail, right?

A Yes, sir.

Q You suggested that more than once?

A Yes, sir.

Q When you made those suggestions prior to Ms. Gorman taking this pill did she give you a confession?

A No, sir.

Q During the interview you showed her these baby pictures from the hospital, correct?

A Yes, sir.

Q And you told her we're going to the autopsy, we're going to get the skull and be able to look at it; is that ---

A Yes, sir.

Q --- a fair representation of what was said?

A Yes, sir.

Q And again prior to her taking this pill she did not give you any type of confession?

A Correct.

Q If I suggested to you that the pill was Zanax would you remember having looked at the bottle?

A No, sir.

Q But you do admit that you looked at the bottle?

A Yes.

Q Did you look at the name of the pill?

A No, sir.

Q Okay, you didn't even look at the name you just made sure it said Julie Gorman on it?

A Yes, sir.

Q Well how did you know it wasn't cyanide then?

Ms. Lively: Your Honor, I'd just object to the defense really kind of beating a dead horse.

The Court: If you really, really think that's a legitimate question repeat it and let him answer it?

Mr. Galmore: We'll let it go, we'll let it go.

Q (Continuing) You talked to the doctors on the 15th at MUSC; is that correct?

A Yes, sir.

Q And Detective Weaver talked to the doctors at Conway Hospital on the 14th?

A Yes, sir.

Q And he also spoke with the doctors at MUSC on the 15th?

A Yes, sir.

Q They provided for you a diagnosis of blunt force trauma to the head?

A Yes, sir.

Q There's a point in this interview when you bring in a leprechaun and you give it to Ms. Gorman and ask her how she shook the baby; is that correct?

A Yes, sir.

Q At the time you asked her how she shook the baby is it fair to say that you were aware that his cause of death was blunt force trauma to the head?

A Yes, sir.

Q Would it be fair to say that shaking the baby in and of itself could not cause blunt force trauma to

the head?

Ms. Lively: Objection, Your Honor, asked for a medical conclusion, he's not an expert, could have asked that to any of the medical experts, Your Honor, I'd object.

The Court: Sustained.

Ms. Lively: Thank you, Your Honor.

Mr. Galmore: (Continuing)

Q Subsequent to Ms. Gorman taking this pill did you ask her to provide you a written confession?

A No, sir.

Q Did you ask Ms. Gorman to do a walk through of the home on Highway 129?

A No, sir.

Q To show you exactly what happened?

A No, sir.

Q Did you ask Ms. Gorman to perform any type of re-enactment of these alleged injuries?

A That would be the demonstration with the leprechaun, that was the purpose of that.

Q That would, so you're saying that was the re-enactment of what happened to [redacted]?

A To demonstrate how she, yes, sir, how she had shaken [redacted].

Q When you walked through the home did you find any surfaces that had hair or blood on them?

A No, sir.

Q Any surfaces that had skin on them?

A No, sir.

Q Did you find any object in the home that had hair or blood?

A No, sir.

Q Any object that had skin?

A No, sir.

Q Did you find any type of instrumentality that might have been used to inflict these wounds?

A No, sir.

Q Did you ask Ms. Gorman where's the weapon?

A No, sir, that was not a suggestion they offered up for the explanation of [redacted] injuries.

Q Now you asked Ms. Gorman to come in and talk with you, right?

A Yes, sir.

Q Did she have the right to not come in and talk with you?

A Yes, sir.

Q Did you tell her that?

A No, sir.

Q I mean I saw the interview with Mr. Palmer and, you know, you said you have the right to stop questioning at any time, are you on any narcotics,

questions like that, did you ask those same questions of Ms. Gorman?

A She was advised of these same Miranda rights, yes.

Q So she was aware that she did not have to speak to you?

A Yes, sir.

Q Isn't it true that Ms. Gorman was trying to offer you various explanations of what could have happened to [redacted]?

A No, sir.

Q She told you that she didn't think Robert would have had anything to do with it?

A That's correct.

Q And she explained to you that she thought maybe the dog had something to do with it?

A That and the stroller.

Q And the stroller, yes, and your testimony is that medically from what you heard from the doctors that those could not have been possible explanations?

A That is correct.

Q And after you asked her is it possible that you did it, she then explored that possibility with you?

A Yes, sir.

Q Now you drove some distance from the house

on Highway 129 to the IGA at the request of the Solicitor; is that correct?

A Yes, sir.

Q And you said it took you how long?

A Three minutes and forty seconds.

Q Okay, and what was the distance?

A One point eight miles.

Q Okay, well did you drive the distance from Bass Pro Shops to the house on 129?

A No, sir.

Q Did you drive the distance from the video store in Aynor to the house on Highway 129?

A No, sir.

Mr. Galmore: The Court's indulgence, Your Honor?

Q (Continuing) Did you testify before the grand jury in this case?

A No, sir.

Q Do you know who did testify before the grand jury?

A No, sir.

Q Do you know if it was Detective Weaver?

A No, sir, I can explain our, our practice for who testifies to the grand jury if you would like?

Q Yes, sir?

A We have a rotational system of detectives that present all our cases to the grand jury and whoever happens to be on rotation that month presents the cases to the grand jury.

Q So it may not have even been a detective involved in this case that testified before the grand jury?

A That's correct.

Q Do you know how many times this detective has testified before the grand jury?

A It depends on each individual detective and their experience.

Q But no case did you ever testify before the grand jury in this case?

A No, sir, I have not.

Mr. Galmore: Thank you, Detective, no further questions.

The Court: Ms. Lively?

Ms. Lively: Your Honor, at this time I just for the record want to make sure we had discussed the matter regarding the Miranda forms which the Clerk actually ---

The Court: And we have stipulated when the Clerk retrieves them from my file from the October 31st hearing they will be introduced.

Ms. Lively: If I may approach?

The Court: They'll be shifted from that file

into this file as State's Numbers, the next consecutive numbers, and that was with Mr. Galmore and Ms. Grabert-Lowenstein --

Madam Court Reporter: That would be 66 and 67.

The Court: 56 and 57.

Madam Court Reporter: Sixty-six.

Ms. Lively: Sixty-six.

The Court: And 67.

Ms. Lively: Your Honor, then at this time as I stated those will be in evidence on behalf of the State the Miranda forms of both of the defendants that Detective Troxell has testified to, and based upon the fact that I have no further questions for this witness I would ask that he be excused.

(Whereupon, State's Exhibit Number 66 and 67 entered into evidence.)

The Court: Wait a minute, does Ms. Grabert-Lowenstein, did you have another question?

Ms. Grabert-Lowenstein: I don't, Your Honor, thank you.

The Court: All right, very well, all right, any objection to excusing this witness, Mr. Galmore?

Mr. Galmore: No, sir.

The Court: Ms. Grabert-Lowenstein?

Ms. Grabert-Lowenstein: No, Your Honor, thank

you.

The Court: All right, Detective Troxell, you're excused and released from your subpoena.

A Thank you, Your Honor.

The Court: Thank you for coming. Yes, ma'am?

Ms. Lively: Yes, sir, Your Honor, at this time the State rests.

The Court: All right, Mr. Ropp, take the jury out. Please leave the transcripts.

(Whereupon, the jury retired to the jury room at 4:10 p.m.)

The Court: All right, counsel?

Mr. Galmore: Your Honor, as a threshold matter I would move to dismiss. I don't believe the State has established jurisdiction in this case. Detective Troxell did not testify that this injury was inflicted in Horry County.

The Court: Well they both testified that it occurred on Highway 129 in here and that is Horry County. The EMS responded, Horry County EMS, they've testified as to the location where they found the child. I think they've established, sufficiently established jurisdiction.

Mr. Galmore: Respectfully, Your Honor, I'm not sure exactly how long Highway 129 is or whether it crosses into any other county. I understand that this case is

somewhere in the Aynor area.

The Court: Well it's one point three miles from the Aynor IGA, Mr. Galmore.

Mr. Galmore: And there is the border between Marion County and Horry County.

The Court: It's not within one point three miles, you've got Galivants Ferry in there. It's one point three miles and Galivants Ferry community, where it's been testified this, this, this family lived is certainly within Horry County.

Mr. Galmore: Yes, sir, I just thought that the State had to establish each element of the offense.

The Court: Galivants Ferry is this side of the river.

Mr. Galmore: I'm sorry?

The Court: Galivants Ferry is the Horry County side of the river.

Mr. Galmore: Yes, sir, we would respectfully take exception with the ruling in that regard.

The Court: All right.

Mr. Galmore: Your Honor, at this time we would make a motion for a directed verdict as well. The Court is familiar with the standard for directed verdict. We would submit that in this case directed verdict should be granted when the State fails to produce evidence of the offense

charged.

The Court: Isn't the standard any evidence upon which a jury could reasonably find a verdict of guilty beyond a reasonable doubt; isn't that the standard?

Mr. Galmore: It has to be any direct evidence or substantial circumstantial evidence. In this case I don't believe the State has produced any direct evidence of Ms., Ms. Gorman's involvement in this case. They've established that an injury was inflicted upon [redacted] Grimes; they have not established, they have not connected that injury to Ms. Gorman. What they've done is said, well statistically we're the only two people who could have done it but they have not produced any evidence that said either he is the person that inflicted this injury or she was the person that inflicted this injury.

The Court: How about the evidence of shaking?

Mr. Galmore: Well that's, that's kind of questionable because we, we know that shaking was not the cause of death in this case.

The Court: How about the co-defendant's statement that he didn't do it?

Mr. Galmore: That's good to know.

The Court: Doesn't that leave enough evidence at least pointing circumstantial evidence pointing to her, heard evidence it could have only been two people.

Mr. Galmore: My client likewise said she didn't do it.

The Court: That's correct.

Mr. Galmore: And the detective specifically asked well how soon after you shook him did you pick him up and he started having a seizure and the answer was I didn't shake him on Monday.

The Court: But isn't that what jury's are for, Mr. Galmore, to make findings of fact?

Mr. Galmore: Well I think the first thing we need to establish is whether or not there's any direct evidence in this case and I submit that there is none.

The Court: All right, thank you, I'll hear from you, Ms. Lively?

Ms. Lively: Yes, sir, Your Honor, clearly in looking at a directed verdict motion the Court is to look at all the evidence in the light most favorable to the State and in this particular circumstance just like in the State v. Smith in cases where we have two alleged perpetrators and who are alone with a victim and the victim is dead under those circumstances we would place both of those defendants there. Clearly they backed each other up in their stories; clearly the evidence, the medical evidence shows that these symptomatic, the symptoms of the child would have been immediate and both of these people

were there and had the child in their case, so based upon that information plus the information that the child was bruised, you know, Defendant Gorman claims that he was pinching himself, the jury can clearly draw a conclusion based upon the entire picture of the evidence that these defendants were involved and the way that the, or either one or the other inflicted the injury. And the problem with these cases, Your Honor, as I stated in my opening, was that we don't have direct evidence necessarily as to who inflicted the blow; however, the homicide by child abuse statute is very clear as it could be whether they acted or failed to act and that there was an act that was inflicted on the child with extreme indifference to human life which every single one of my medical experts said that this act that was inflicted on this child would have been so obvious to the perpetrator the child would have been immediately symptomatic, they would have known it was dangerous to the life of the child. We have two people who were there, clearly in a very short time frame before the child became symptomatic and then was brought to the E.R. already practically brain dead, so I would submit to you that there is a mountain of circumstantial evidence that the State has been able to present to the Court as well as to this jury for it to go to the jury.

The Court: Mr. Galmore, there is ample evidence

that there was a homicide in this case. The State's case, the State has produced likewise a substantial amount of circumstantial evidence that really puts forth just in my view two scenarios. Number one, that Mr. Palmer injured the child and the child was unconscious when Ms. Gorman came home and she found him that way. Other ---

Mr. Galmore: That doesn't mean she failed to act, Judge.

The Court: Other, other that Ms., the other is that Ms. Palmer came home and the child was as Mr. Palmer said, or Ms. Gorman came home and as Mr. Palmer said the child was fine and that she injured the child, who knows, I don't right now, but that's what a jury is for and I think this should go to the jury. Ms. Grabert-Lowenstein?

Ms. Grabert-Lowenstein: Your Honor, and if I may because this is an important situation, I am not, I am making my own separate motion for a directed verdict and, Your Honor, I have prepared a written motion. I think, frankly, Your Honor, you've hit it on the head, there has to be substantial evidence and ---

The Court: Or both could have been involved in it, so there's three scenarios.

Ms. Grabert-Lowenstein: Your Honor, what we know is this did happen in a short time frame. What we know is that Mr. Palmer has, if I may, has always denied

any evidence. There's no direct or circumstantial evidence of him committing the injury and Ms. Galmore [sic], Ms. Gorman had always said he didn't do it, she never told him of anything. Your Honor, there is such a weak, weak string here that the State wants to drag him along.

There is evidence that he was outside and, and no other evidence that he knew or was involved at all. How can we when we're looking for a willful disregard say that there was willful disregard here? This man was part in getting this child to the doctor. The evidence is that there were no bruises when the emergency people picked him up. The first bruises weren't seen until seven, according to the testimony. There's no evidence that he had any knowledge of that child being injured. Ms. Gorman is emphatic about him having more patience. We have seen the demonstration of her as well as her own testimony about her propensity and, Your Honor, it was only for lack of being able to give information he didn't have that he was arrested that day. There is absolutely no, it has to be substantial circumstantial evidence and there's no direct or substantial circumstantial evidence. He is in a completely different situation than Ms. Gorman and we ask for the directed verdict.

The Court: Ms. Grabert-Lowenstein, what about this scenario, there's no question there's ample evidence

of his death by, brought on by these fractures. We've heard evidence about what force it would take to cause these fractures. We've heard a lot of evidence about when this occurred, the time frame in which it occurred. Now we've heard Ms. Gorman who first of all says he wouldn't do that, but as you pointed out with your questions on cross examination how would she know, how would someone who wasn't there know? She says she came home after having been at work since 5:45 that morning, she came to the house, she did not touch the child. She had no contact with the child other than to look in on the child and then at 6:00 or approximately 6:00 when she picks the child up the child is afflicted. Now what is that evidence of? Does that not support a, a jury's verdict that would, of guilt of your client? What if they believe her when she says all I did was stick my head in, in fact believe your client when he says that's all she did was stick her head in, she goes in and picks up the child and comes out. I think that there is substantial circumstantial evidence. I don't know how this case will go, that's why we have juries.

Ms. Grabert-Lowenstein: Your Honor, I think given the evidence of the symptomology certainly and how quickly Donna Roberts, Dr. Abel say these injuries would have happened there would have been symptomology if this

had occurred prior to the time that it is said she got home.

The Court: Didn't she testify someone could look in and the child be unconscious and he could appear to be asleep, sleeping peacefully, but in reality the child was unconscious; how about that?

Ms. Grabert-Lowenstein: Your Honor, there's --

The Court: Did you counter that testimony with an expert?

Ms. Grabert-Lowenstein: She did say that this could have happened within an hour. The point is, Your Honor, that the State made great pains at, you know, making this as short as possible and that's the time that my client was out of the house; that's the point of the directed verdict at this point. There is no evidence to show that he inflicted the injury. His interview is replete that Detectives Weaver and Troxell because of information they had believed that it was Julia Gorman. There has to be, there's just no evidence that he had anything to do with it and while I understand the point the Court's making to allow this to go to the jury without the substantial circumstantial evidence --

The Court: There is substantial circumstantial evidence in my view, all right, thank you very much.

Ms. Grabert-Lowenstein: Thank you.

The Court: All right, we'll take about five minutes for everyone to refresh themselves and we'll be right back, okay.

(Whereupon, a recess was taken and the following takes place on the record after the recess.)

The Court: Are we ready?

Ms. Lively: Your Honor, Mr. Galmore is not present at this time. Here he comes.

The Court: Okay, Mr. Galmore, Ms. Grabert-Lowenstein, it's time to present the defense if you choose to do so. Have you discussed with your client, Mr. Galmore, her right to testify in this matter?

Mr. Galmore: Yes, sir, Your Honor.

The Court: Has she made a decision as to whether she will testify or not?

Mr. Galmore: Yes, sir.

The Court: And what is that decision?

Mr. Galmore: She will elect to take the witness stand.

The Court: Ms. Grabert-Lowenstein?

Ms. Grabert-Lowenstein: Your Honor, I have discussed it, I've discussed it many times with my client. I would ask that I have one other opportunity to consult with him prior to making that final decision. He's not made a decision at this point.

The Court: Well what I intend to do is, is give them their rights. As of this point he has not, he will not testify, but he may change his mind, I'll let the defense --

Ms. Grabert-Lowenstein: And that's fine, Your Honor, if you want to go ahead.

The Court: Would you have your client's stand and the Clerk give them their oath?

Mr. Galmore: Both or just one?

The Court: Both, we will do both of them together. Let the record reflect that both Ms. Gorman and Mr. Palmer have indicated affirmatively that they have accepted the oath.

Ms. Gorman, Mr. Palmer, at this time I'm going to explain to you certain of your rights and if you don't understand anything I say, please, let me know. If you want me to explain anything in a more, in more detail let me know that as well; do you understand that, Mr. Palmer?

Defendant Palmer: Yes, sir.

The Court: Ms. Gorman?

Defendant Gorman: Yes, sir.

The Court: Okay, now we have reached this stage of the trial where you may present your defense and you have the right to claim the protection of the Fifth Amendment to the Constitution of the United States and this

amendment says in part, no person shall be compelled in any criminal case to be a witness against himself or herself.

This means you cannot be required to testify in this case. You have the right to testify on your own behalf, however, no one can make you testify. This is a personal right and no one can waive this right except you. Your attorney cannot, your family and friends cannot, only you may make the decision as to whether to exercise this right.

If you decide to testify you will be subject to the same rules that govern other witnesses and you may be examined and cross examined on any relevant issue in this case.

In addition, if you have any convictions involving dishonesty or false statement or for crimes punishable by imprisonment for more than one year and this court determines that the probative value of admitting the evidence outweighs its prejudicial effect to you, the Solicitor will be able to introduce your record to attack your credibility or believability.

If you decide to testify this decision on your part must be freely, voluntarily, and intelligently made, with knowledge of the protections given you by the Fifth Amendment and the consequences of your decision to testify.

Do you understand that, Ms. Gorman?

Defendant Gorman: Yes, sir.

The Court: You understand that, Mr. Palmer?

Defendant Palmer: Yes, sir.

The Court: If you decide not to testify I will instruct the jurors that they cannot give the fact that you did not testify any consideration whatsoever and that there is to be absolutely no prejudice to you because you did not testify. I will tell this to the jury before they begin to deliberate.

Do you understand that, Ms. Gorman?

Defendant Gorman: Yes, sir.

The Court: Do you understand that, Mr. Palmer?

Defendant Palmer: Yes, sir.

The Court: Okay, it is left entirely up to you whether or not to testify. You may talk with your attorneys, your family, your friends, or anyone else but the final decision will be left entirely to you; now do you understand what I have said, Ms. Gorman?

Defendant Gorman: Yes, sir.

The Court: Do you understand what I have said and explained, Mr. Palmer?

Defendant Palmer: Yes, sir.

The Court: Do you have any questions, Ms. Gorman, about what I have said?

Defendant Gorman: No, sir.

The Court: Mr. Palmer, do you have any questions?

Defendant Palmer: No, sir.

The Court: Now, Ms. Gorman, your attorney tells me that he has discussed this with you and that you wish to testify on your own behalf; is that correct?

Defendant Gorman: Yes, sir.

The Court: Is that what you wish to do?

Defendant Gorman: Yes, sir.

The Court: Do you wish to discuss this any further with your attorney?

Defendant Gorman: No, sir.

The Court: All right, so you do wish to testify?

Defendant Gorman: Yes, sir.

The Court: Now let me say this, Ms. Gorman, if at any time before you testify you should change your mind, please don't think that you are bound by what you've told me here. What I'm doing is merely explaining to you what your rights are and for the purposes of moving this trial along I like to know whether you're going to testify or not but I'm not going to bind you with that. You may choose later in the trial not to testify; do you understand that?

Defendant Gorman: Yes, sir.

The Court: Now, Mr. Palmer, you understand what

I've said, I've told you here?

Defendant Palmer: Yes, sir.

The Court: Okay, and have you discussed this with your attorney?

Defendant Palmer: Yes, sir.

The Court: Okay, your attorney tells me that you have not made a decision at this time as to whether to testify or not?

Defendant Palmer: That is correct, sir.

The Court: Okay, do you wish to discuss this further with your attorney?

Defendant Palmer: Yes, sir.

The Court: All right, would you, please, let me know when you have made a decision as to whether to testify or not?

Defendant Palmer: Yes, sir.

The Court: Okay, now again I want to ask you are you certain that you understand all of your rights concerning your right to testify or not testify?

Defendant Palmer: Yes, sir.

The Court: All right, thank you very much, okay, bring the jury in.

(Whereupon, the jury returns to the courtroom at 4:40 p.m.)

The Court: And let the record reflect that we

have all of our jurors and the alternate back in the courtroom. All right, the defense?

Ms. Grabert-Lowenstein: Yes, Your Honor, on behalf of Mr. Palmer our first witness will be Adrian Robertson and she should be right outside.

Adrian Robertson

being first duly sworn, testified as follows:

Madam Clerk: Please state your full name and spell your last name for the Court?

The Witness: My name is Adrian Robertson, r-o-b-e-r-t-s-o-n.

Direct Examination

By Ms. Grabert-Lowenstein:

Q Adrian, do you know Robert Palmer?

A Yes, ma'am, I do.

Q Is he sitting in the courtroom?

A Yes, ma'am, he is.

Q Where?

A Right there.

Ms. Grabert-Lowenstein: Let the record reflect she's identified Mr. Palmer.

Q (Continuing) How do you know him?

A His sister Alicia has kept my daughter and through the Palmer family I've met Robert.

Q Okay, do you know the rest of his family

besides Alicia?

A Yes, ma'am, I do.

Q Okay, and when did you first meet him?

A I met Robert in, at the end of '04 or the beginning of '05.

Q Okay, was that when he returned to Horry County from being discharged, honorably discharged from the Navy?

A No, ma'am, he was still in the Navy at the time.

Q Okay, and have you remained in contact with him since he has moved back to Horry County?

A Yes, ma'am, he works with me.

Q Okay, and where do you work?

A I work at the Horry Independent.

Q Thank you, and is he, is he employed there also?

A Yes, ma'am, he is.

Q Okay, now, ma'am, do you have children?

A Yes, ma'am, I do.

Q And tell us how many?

A I have three girls, eleven, five, and nine months.

Q Okay, and what is the eleven-year-olds name?

A Her name is Caroline.

Mr. Galmore: Objection, relevance, Your Honor.

The Court: Mr. Galmore, I'm going to give her some leeway here.

Mr. Galmore: Yes, sir.

Ms. Grabert-Lowenstein: I'll link it up, Your Honor, thank you.

Q (Continuing) How old is she?

A She's eleven.

Q And I'm sorry, what was her name?

A Her name is Caroline.

Q Okay, and have you seen Robert interact with Caroline?

A Yes, ma'am, I have.

Q Have you seen him interact with her at your employment?

A Yes, ma'am, I have.

Q How does he interact with her?

A He's warm, he's gentle, he's nice, he's caring with Caroline.

Q Would you describe Caroline?

A She's an eleven-year-old that is non verbal. She has seizures and she has mental and physical disabilities.

Q And you said she's non verbal?

A Yes, ma'am, she is.
Q Would you have any hesitation in letting Robert be around your daughter?
A No, ma'am, I do not.
Q Be alone with your daughter?
A No, ma'am, I do not.
Q Now your next oldest is how old?
A She's five.
Q And what's her name?
A Her name is Callie.
Q And has Robert been around Callie?
A Yes, ma'am, she has.
Q And tell me on how many occasions?
A Callie is at the office every day so Robert gets to see her pretty much every day.
Q Okay, would you describe any interaction between the two of them?
A He laughs, plays, jokes around, is warm, just very, very kind to Callie as well.
Q Would you have any hesitation in having him around Callie?
A No, ma'am, I wouldn't.
Q Your youngest is nine months old?
A Yes, ma'am.
Q How old is she?

A She's nine months.

The Court: She's nine months.

Ms. Grabert-Lowenstein: (Continuing)

Q I'm sorry, what is her name, excuse me, and what's her name?

A Her name is Carlie.

Q Okay, and has Robert been around Carlie?

A Yes, ma'am, she's at the office with me every day.

Q Okay, on how many occasions would you say?

A Probably, she's been at the office since she was two weeks old.

Q Okay, any hesitation in having Robert around her?

A No, ma'am, I don't.

Q And leaving Carlie alone with him?

A I don't have a problem with that, no, ma'am.

Ms. Grabert-Lowenstein: If I could have just a second, Your Honor?

No further questions, Your Honor.

The Court: Mr. Galmore?

Cross Examination

By Mr. Galmore:

Q Ms. Robertson, would it be fair to say that

you are a friend of Mr. Palmer's?

A Yes, sir, it would be.

Q Would you help him if you could?

A No, sir, I would not.

Q You are here as his friend, though?

A Yes, sir, I am.

Q You wouldn't lie for him in Court, would you?

A No, I would not.

Q And how long have you all been friends?

A Since the end of '04 or the beginning of '05.

Q And I think you testified that you all work together?

A Yes, sir, we do.

Q So you know him from your work environment?

A I know him from the work environment and also on a friend, a friend environment as well. I mean I've, it's just not work that I, that I've known Robert from.

Q Well let's talk about work environment first, do you know other people at work who know Mr. Palmer also?

A Yes, sir, I know other people that know Robert.

Q Okay, do these people discuss his reputation for gentleness with children?

A I guess in regards to the circumstances that Robert is under we have discussed that as well.

Q Would it surprise you to know that Mr. Palmer does not currently have custody of his own child?

A I know that, sir.

Mr. Galmore: Thank you very much, ma'am, no further questions.

The Court: Ms. Lively?

Ms. Lively: One moment, Your Honor. No questions, Your Honor, thank you.

The Court: You may step down, may she be released?

Ms. Lively: I didn't subpoena her, I don't object.

The Court: I mean, Mr. Galmore?

Mr. Galmore: No, I have no objection.

Ms. Grabert-Lowenstein: No objection.

The Court: Thank you for coming and you're released from your subpoena.

Ms. Grabert-Lowenstein: Your Honor, James Palmer.

The Court: James Palmer, okay.

Ms. Grabert-Lowenstein: He should be right

outside also.

The Court: Mr. Palmer, come around and be sworn, please.

James E. Palmer

being first duly sworn, testified as follows:

Madam Clerk: Please state your full name and spell your last name for the Court?

The Witness: James Earl Palmer, p-a-l-m-e-r.

Direct Examination

By Ms. Grabert-Lowenstein:

Q Sir, do you know Robert Palmer?

A Yes, I do.

Q What is your relationship to him?

A He's my son.

Q And are you familiar with [redacted]?

A Yes, I am.

Q And how many times did you see [redacted] after he came to Horry County?

A One time.

Q And when was that?

A That Sunday.

Q And when you say that Sunday would that be the 13th ---

A Yes.

Q --- of July of 2008?

A Yes, it was.

Q Okay, and how did you have occasion to see him on that date?

A On that occasion Julie had the only one vehicle they had and she was at work. Robert wanted to bring [redacted] over to the house to eat and take him to the swimming pool.

Q Okay, and did you invite [redacted], Ms. Gorman, and Robert over?

A Well like I say it was just [redacted] and Robert and Gail did all the talking, all I did was just go pick them up.

Q Okay, and when you picked them up where was Robert in terms of their residence?

A Well Gail told me that they would be standing on the front porch cause they had moved and I didn't know where they were at the time so he said he'd be standing on the porch and I drove down the road and I looked to the right and Robert was on the porch standing there holding [redacted] hand.

Q And how was [redacted] dressed?

A He was dressed in a little bulldog outfit that used to be my grandson's so I recognized it right off and he was just standing there on the steps.

Q And was Robert appearing to have any

difficulty with him?

A Robert picked him up, brought him out to the Xtera, put him in the back seat because he's small and he had to be put in a child restraint seat, and he was a little fussy but didn't cry or nothing so it seemed like it was taken for a long time so I wheeled around and looked real quick and I asked him have you got him fastened in yet. Well by that time [redacted] looked up at me and started crying and I said, I apologize, I said, I'm sorry, little fellow, I didn't mean to scare you none but he just kind of whimpered for a minute or two and quit.

Q Did Robert display any angst over that whimpering?

A No, no, he didn't say a thing.

Q Okay, and they then went to your house?

A Yes.

Q Was [redacted] changed into swim trunks at some point?

A He was changed in the house before he went. Well since Robert is a guest I'd have to go to the pool with them since Gail was cooking, so I waited till Robert changed him and me, him, my grandson, and [redacted] went over to the swimming pool.

Q How old was your grandson at that time?

A Eight, he had to be five.

Q And what is his name?

A [redacted].

Q Okay, and did you observe them while they were at the pool?

A I observed them when they got dressed in his little bathing suit and then Robert picked him up and carried him over to the pool. I grabbed some toys and floats to carry over there with us.

Q And did Robert have any difficulty with [redacted] at the pool?

A No, no.

Q Did [redacted] have, appear to have fun?

A Yes, he, he was in the water, you know, his, he was kind of a little lethargic, you know, but, you know, I heard he had been sick, you know, so I didn't think nothing of it, you know.

Q Okay, and did you, all of you go back to your residence ---

A Yes.

Q --- after you were at the pool?

A Yes.

Q Okay, did Robert feed [redacted] over at your house?

A I believe he tried to eat something over at house, yes.

Q Okay, was there any difficulty when Robert was trying to do that?

A No, no.

Q Now you mentioned that you have a grandson who was five at that time; did you ever have occasion to observe your son with [redacted] his son, when he was the same age as [redacted]?

A Yes.

Q How, how did they interact?

A Fine. Robert's just a good nature, he's never raised his voice to [redacted]

Q Did you ever seen him hit [redacted]

A No.

Q Are you close to [redacted]

A Yes.

Q [redacted] ever confide in you that his father was being rough or hitting?

A No, never.

Q I asked you specifically about when [redacted] was [redacted] age, but since that time do you on a regular basis get to see Robert interact with [redacted]

A Yes.

Q And describe that interaction?

A Typical father and son.

Q Warm relationship?

A Yeah, yes.

Q Did, has Robert ever been frustrated when trying to take care of, of [redacted]

A No, no.

Q When you, did you have a chance to observe [redacted] in his bathing suit?

A Yes.

Q How would you describe his skin tone?

A Well when Robert was putting on the sun screen I noticed he was extremely white.

Q Okay, and did you observe any bruises?

A No.

Q Mr. Palmer, you've taken an oath today; what does that mean to you?

A Means I'm going to tell the truth.

Q Now you're aware your son is facing very serious charges?

A Yes, I am.

Q Would you lie to help him?

A So far I have.

Q I'm sorry?

A Yes, I have.

Q No, I said would you lie to help him?

A Oh, lie, no, the truth is the truth, a lie is a lie.

Q Okay, if you would have ever observed him being rough with [redacted] what would you have done?

A Well to begin with it's not my nature of my son to do that but I would have interfered and said something.

Q Okay, likewise if you would have ever seen him be rough with [redacted] or do anything like hitting like that what would you have done?

A I wouldn't have stood for it for one thing, I'd have stopped him immediately. I don't care any kind of discipline you don't want to go overboard and there's other ways of discipline a child.

Ms. Grabert-Lowenstein: Thank you, I have no further questions.

Cross Examination

By Mr. Galmore:

Q Mr. Palmer I believe you testified that you only saw [redacted] one time when they came to the house and went to the pool that day?

A That one time.

Q Okay, when, when you saw [redacted] could you describe his general demeanor or behavior?

A Just, well he wasn't real active, he was just kind of slow, you know, just a little bit slow acting, you know.

Q Well how was he acting in the pool?

A Floating around, just, just kicking a little bit, you know, he wasn't doing too much, you know, he wasn't thrashing around in the water or nothing.

Q Not very active in the pool?

A Not very active, no.

Q I think the word you used was lethargic?

A Yeah.

Q Now during that time when you all were at pool did there come an occasion where Ms. Gorman joined you all at the pool?

A Well when it was dinner time we all went back to the house and then when Julie showed up my wife went over to the pool with them, I stayed at the house.

Q Okay, so you were in the pool with [redacted] and Robert before Julia got there, and [redacted]

A No, I didn't say that.

Q Okay, please explain.

A I went with them to the pool because he's a guest.

Q Right.

A I work outside so I try to avoid the sun, I was sitting in the shade.

Q Yes, sir.

A I didn't get in the pool.

Q You were at the pool but you didn't get into the pool?

A No.

Q Okay, how was [redacted] dressed, with swimming trunks?

A Yeah.

Q Okay, would you say you had an opportunity to observe his body?

A Yeah.

Q Did you see any bruises on his body?

A No, he was too white, bruises would have showed up real bad on him.

Q And this would have been on Sunday July 13th, 2008?

A Yes.

Q Now when Ms. Gorman came out there did you all have an occasion to go back to the pool again?

A I didn't go back, like I say I stayed at the house.

Q Okay, you stayed at the house?

A Gail went with them.

Q Did you have an opportunity to observe Ms. Gorman's interactions with [redacted]?

A When they came to the house she tried to feed him.

Q Okay, was she, did she strike [redacted]?
A No, no.
Q Now you, you were not at, at their home the next day July 14th; is that fair to say?
A No, no.
Q And you do not know what happened inside that home on the 14th; do you?
A No.
Q You don't know which of these two people inflicted an injury to [redacted], do you?
A No, I don't.
Q Okay, you don't know if either one of them did it?
A Exactly.
Q I think you said that your son was good natured; is that correct?
A Yes.
Q I think you said that it's not in your son's nature to, to be harmful in that way?
A Be mean or raise his voice.
Q Are you saying that your son has a reputation for peacefulness in the community?
A I don't say it's a reputation, it's just known that's he's quiet and reserved.
Q Would you say it is your opinion that your

son is a peaceful person?

A Yes.

Q Would it surprise you to know that his ex-wife Amanda Palmer filed for a restraining order against him?

Ms. Grabert-Lowenstein: Objection, hearsay.

Mr. Galmore: Specific acts of conduct, Your Honor.

The Court: You put him up as a character witness, Ms. Grabert-Lowenstein?

Ms. Grabert-Lowenstein: Your Honor, if we could approach?

(Whereupon, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury and the court reporter.)

Mr. Galmore: May I proceed, Your Honor?

The Court: Yes.

Mr. Galmore: (Continuing)

Q So would it surprise you to know that Mr. Robert Palmer's ex-wife Amanda Palmer filed for a order of protection against Mr. Palmer based on physical abuse on August 7th, 2006?

A Can you believe that?

Q You don't believe it?

A I do not believe it.

Q Yes, sir --

Mr. Galmore: We ask the Court to take judicial notice of this legal document?

The Court: You have an exemplified copy?

Mr. Galmore: No problem. All right, thank you very much, Mr. Palmer.

Redirect Examination

By Ms. Grabert-Lowenstein:

Q Mr. Palmer, do you know whether that petition actually went through or not or whether it was dropped?

A That's the first I've heard of it.

Ms. Grabert-Lowenstein: No further questions.

The Court: Any questions?

Ms. Lively: Yes, sir, please, thank you.

Cross Examination

By Ms. Lively:

Q Now, Mr. Palmer do you recall having a conversation with a Detective Weaver and your wife, Gail, being present that was recorded after [redacted] died?

A Oh, yeah, yeah, yeah, at the house.

Q Yes, sir?

A Yeah.

Q Okay, you do recall that?

A I remember having the conversation not what

was said.

Q Okay, and I understand that and I'll be glad to, to help you refresh your recollection, but at that time whenever you were interviewed wasn't one of the things that the detective was asking you about was Robert's financial situation at that time?

A I have no idea, if you say so, I don't remember.

Q Do you want to look at the statement and I can refer it to you where you stated that ya'll, you and your wife had to actually assist sometimes with food and other items because he wasn't working?

A That's what parents are supposed to do.

Q I understand that, but do you recall that now?

A No.

Q You don't recall saying that?

A No.

Q I apologize, this was quite a long conversation, so I'm going to --

The Court: Couldn't you just ask him if that is the case?

Ms. Lively: Yes, sir.

Q (Continuing) Do you recall being asked about Robert being laid off from his job in Market Commons?

A What did he ask, ma'am, you know?

Q He asked you what about your financial situation and Julie having Cesalee come here and with Cesalee coming Julie didn't want her to come and you don't really know who made the, anyway, all I know is that she came and with Robert laid off and just no hope of a job; do you recall that conversation?

A Word for word, you know, I don't remember that now, you know.

Q And there were times whenever your wife would go to the store and pick things up for them, you know, just to help and support and feed, you know, we would send food over there and that's what we do. He might be a grown man but that's still our son, you know?

Ms. Grabert-Lowenstein: This is beyond a scope of direct.

Ms. Lively: I'm sorry, cross examination.

The Court: This is cross examination, she may ask the questions.

Ms. Lively: Thank you.

Q (Continuing) Would you deny that you made those statements to Detective Weaver regarding their financial situation?

A No, I won't deny.

Q Okay, and in regards to Cesalee coming

there and bringing her son with her were you aware at that time that it was going to fall on Robert Palmer to be the responsible caretaker for the child during the day since he was unemployed?

A Yes, I remember, yeah, yes, ma'am.

Q And in regards to the fact that you were having to be the primary caretaker of Robert's own son, [redacted] how did that make you feel in regards to having him take care of a child that he wasn't even biologically related to?

Ms. Grabert-Lowenstein: Objection, relevance.

Ms. Lively: It's very relevant, Your Honor, it goes to the ---

The Court: I'm going to allow it.

Ms. Lively: Thank you.

A (Continuing) You want me to go ahead and answer?

Q Yes, sir?

A There again, you know, I might not have thought nothing about it. I don't know, you know, it's, if, if I had known now what I wish I had known then I would have took [redacted], too, but I --

Q You would have taken [redacted], too, what cause you were concerned about his safety?

A No, the finances.

Q Okay, so you were concerned about the finances and putting [redacted] in that stressing situation with Julie and Robert; isn't that true?

A I don't know how stressful it was, I don't know.

Q Okay, but financially you and your wife were having to help them with food and supplies; I mean you stated that, right?

A Yes.

Q Okay, so if you had known then what you know now your statement is you would have taken [redacted] out of there as well as you had taken [redacted] isn't that right?

A No, I didn't taken [redacted] I just wound up with him for the summer a couple of times.

Q And isn't it true that in your statement that you also told Detective Weaver that you and your wife when you were referring to Robert and his ex-wife the two of ya'll had [redacted] actually most of the time other than the other two; isn't that right?

A Oh, yes.

Q Okay, all right --

Ms. Lively: Thank you, Mr. Palmer, no further questions.

The Court: Redirect?

Ms. Grabert-Lowenstein: Yes.

Redirect Examination

By Ms. Grabert-Lowenstein:

Q Mr. Palmer, why did you have at times primary care of [redacted] you and your wife?

A Sometimes I just didn't think that anybody had any time for him so I guess they had lives and me and my wife don't.

Q Okay, and would that be, does his mother Amanda leave him with you on a regular basis?

A Oh, yeah.

Q And does she sometimes extend those times?

A Sometimes.

Q So you are willing to take that and if it's Robert live in the household?

A Yes.

Q Okay, now you said if you knew what you knew now you would have taken [redacted], too, is that, did you say that because you were concerned about [redacted] safety because of Robert?

A No.

Q Why was it?

A It just seemed, well I don't know, I don't know, just --

Q But it was not because you were concerned about [redacted] safety being around Robert?

A No, no.

Ms. Grabert-Lowenstein: No further questions.

Mr. Galmore: Briefly, Your Honor?

The Court: Yes.

Recross Examination

By Mr. Galmore:

Q Mr. Palmer, isn't it true that July of 2008 Julia Gorman had a job at the Bass Pro Shops?

A Yes.

Q And isn't it true that as of July of 2008 your son Robert Palmer was unemployed?

A Yes.

Q Now referring to [redacted] isn't it true that Amanda preferred to drop [redacted] off with you and your wife Gail as opposed to dropping him off with Robert?

A I don't think they wanted contact. I don't know if it was preferred, you know, maybe they just didn't want to be around each other. I don't know, I don't know.

Q Did Amanda drop [redacted] off more often with you or did Amanda drop [redacted] off more often with Robert?

A With me.

Mr. Galmore: Thank you, sir, no further questions.

Ms. Lively: No questions, Your Honor.

The Court: Thank you very much, you may step

down, sir, can Mr. Palmer be excused?

Ms. Lively: Oh, yes, sir.

Ms. Grabert-Lowenstein: Yes, Your Honor.

Mr. Galmore: Yes, sir.

The Court: All right, Mr. Palmer, you are released from your subpoena, thank you for coming.

Mr. Galmore, I mean Ms. Grabert-Lowenstein?

Ms. Grabert-Lowenstein: Your Honor, I'm going to call Gail Palmer.

Gail M. Palmer

being first duly sworn, testified as follows:

Madam Clerk: Please state your full name and spell your last name for the Court?

The Witness: My name is Gail M., last name Palmer, p-a-l-m-e-r.

Direct Examination

By Ms. Grabert-Lowenstein:

Q How are you related to Robert Palmer?

A I'm his mother.

Q Is this difficult for you today?

A Very.

Q I'd like to call your attention to July 13th of 2008; did you have occasion to see Robert and [redacted] on that day?

A Yes, I did.

Q Where?

A At my home.

Q Okay, and how was [redacted] acting?

A [redacted] was not very active, just, just not active, wanted to just rest.

Q And did he, was he changed into a swimming suit?

A Yes, he was.

Q Did you see any bruises?

A None, none.

Q Are you, are you aware of what your son's work status was during that time?

A Yes.

Q And were you aware of whether or not he was receiving unemployment?

A Yes, he was.

Q And what did, if you're aware, what did he do with that unemployment?

A Well to my knowledge they put in a joint checking account; he would hand it over and put it in the joint checking account.

Q So to your knowledge he was contributing to the household?

A Correct.

Ms. Grabert-Lowenstein: I have no further

questions.

The Court: Mr. Galmore?

Cross Examination

By Mr. Galmore:

Q Ms. Palmer, on July 13th, 2008, did you have an opportunity to observe Ms. Gorman with [redacted] Grimes?

A Yes, I did.

Q What, what did you observe between the two of them?

A After Ms. Gorman came home from, came to my home from work we had Sunday dinner. Ms. Gorman had her dinner and we proceeded to go over to the community pool and take a swim with [redacted], my grandson, Ms. Gorman, myself, and my son.

Q Did you see her strike [redacted]?

A No.

Q When you were at the pool did you see any bruises on [redacted] body?

A No.

Q Let me just hand you what's been marked for identification purposes as Defense Exhibit Number 2 and ask you if you recognize this document?

A Yes, I recognize it.

Q And what is that document?

A It is temporary guardianship of [redacted], a minor child.

Q Yes, ma'am, is your name on that document?

A Yes, it is.

Q Where, why is your name on that document?

A I was the notary.

Q You notarized the signatures on that document?

A I notarized the signature of Cesalee only.

Q Okay, so if [redacted] signed the document you did not notarize his signature?

A No, I did not notarize his signature; I only notarized Cesalee's and from what I was told this would be forwarded on to [redacted] for it to be notarized and signed in the state of Virginia, I believe.

Q So you're saying that [redacted] should have had a notary in Virginia to notarize his signature?

A Correct.

Q Would you agree with me that it appears that you notarized this document without verifying that the signature belonged to [redacted]?

A No, sir, that's, that signature. I notarized that signature in the presence of Ms. Cesalee.

Q And it's your testimony you had nothing to do with notarizing the signature of [redacted]?

A Of Richard, none.

Q Thank you ---

A It was to be, it was to be mailed to him.

Q Yes, ma'am, thank you very much.

A Mailed to him for signature and notary.

Mr. Galmore: I'm done, ma'am, thank you.

The Court: Ms. Cote?

Ms. Cote: Thank you, Your Honor.

Cross Examination

By Ms. Cote:

Q All right, Ms. Palmer, the first time you met [redacted] was right when Cesalee got to South Carolina with him; is that right?

A The very first day, correct.

Q The very first day?

A Correct.

Q And that day you saw him and he was playing and ---

A That evening.

Q Excuse me, that evening when you saw him, that's what I meant, he wasn't acting lethargic in any way, playing; is that correct?

A No, he was not acting lethargic.

Q Okay, and then the next time you saw him was about two weeks later; is that correct? Cesalee was

still in town and you took ---

A I took food and things to the home like on a weekend.

Q That's correct, and it was to the defendants home, correct?

A Correct.

Q Okay, and Cesalee was still there and he was playing around that day, wasn't he, [redacted]?

A They were outside.

Q Do you remember telling Detective Weaver with Horry County Police Department that [redacted] was actually running around the car and making vroom, vroom noises; do you remember that?

A Right off I don't remember that, but I mean he, he was outside, you know, playing in, walking around in the yard.

Q Okay, thank you. I know the next time that you spoke of they had, Cesalee had gone back to Arizona; is that right, when, when [redacted] and Robert came over to your home and visited ya'll's community pool?

A That's correct, that's correct, Cesalee was gone.

Q Okay, and so at that point [redacted] was just left in Julia and Robert's care; is that right?

A Correct.

Q Did you see [redacted] eating or drinking anything that day?

A On Sunday when he was at, yes.

Q Yes, ma'am?

A Yes.

Q Okay?

A Robert fed him.

Q Yes, ma'am, and I believe you actually fed him some, too?

A Too, yes.

Q And now you and your husband basically raise [redacted] is that right?

A [redacted] our grandson?

Q Yes, ma'am?

A You may as well say, yes.

Q Okay, and you told law enforcement that to have him you feel like he's in good hands with you; is that right?

A [redacted]

Q Yes, ma'am?

A Most definitely.

Q Yes, ma'am, and Robert and [redacted]'s mother, Amanda, they were actually still married at the time when Robert and Julia were living together; is that correct?

A That's correct, but Robert had paid for a

divorce in the state of Virginia for the dismissal.

Q You were concerned about Cesalee bringing [redacted] to South Carolina, weren't you?

A No, not really.

Q Do you remember, do you remember talking to Detective Weaver of Horry County P.D., don't you?

A I remember the day exactly in our living room, yes.

Q Okay, if I refresh your memory, didn't you tell him that with Cesalee coming Julie didn't want her to come and I don't really know who made the, anyway all I know is that she came, and you continued to say with the financial situation, you know, and with Robert laid off and just no hope of a job; didn't that give you some concern?

A Sure.

Ms. Cote: I have no further questions.

Redirect Examination

By Ms. Grabert-Lowenstein:

Q Ma'am, you say [redacted] is in good hands when he's in you and your husband's home, is that as opposed to be with his mother?

A Yes, it is.

Q How often does Amanda leave [redacted] with you?

A Prior to this incident probably eighty five percent of the time, people thought we had custody of

[redacted] neighbors, day care.

Q And counsel asked you if Robert and Amanda were still married when he and Ms. Gorman were living together, are you familiar as to why they were still married? Let me rephrase that, are you familiar with whether Robert had done anything to secure the divorce?

A Yes, he had.

Q And are you familiar with when he did that?

A I'd have to think of the time frame. It had been well over a year, maybe close to two years that he offered and paid for a divorce in the state of Virginia.

Q Was he in the Navy?

A Yes, he was. He sought counsel also here in South Carolina about the divorce and in the state of Virginia, but filed in the state of Virginia.

Q And are you familiar with why the divorce hadn't gone through?

A Yes, Amanda would never sign the papers and send them back to Virginia.

Q Okay, and has Robert ever objected to the way Amanda treats [redacted]

A Sure.

Q Do you object to the way she treats [redacted]

A Most definitely.

Q And how, strike that, you said you were

concerned about Cesalee coming, counsel asked you about a statement, was it because you were concerned about Robert and any safety issues with Cesalee and/or [redacted]

A No, it's just the financial hardship that would be placed on them by having the two in the house.

Q And ---

A Plus the relationship that I had been told between mother and daughter.

Q That there were issues with that relationship; would that be accurate?

A That's accurate.

Q And you indicated earlier that you were familiar with the finances, did Robert ever indicate his concern about the way that Julia was handling the finances, that Ms. Gorman was handling the finances?

A He didn't go into a lot of detail other than to say she was, she was the one who paid the bills. He would turn over his money and she was responsible for paying the bills for the household.

Q Did he ever go into detail that they weren't paid?

A Once or twice he made note to me or made a comment to me that, you know, I've give my money and I thought so and so was paid and I found out that it wasn't.

Ms. Grabert-Lowenstein: No further questions.

Mr. Galmore: The Court's indulgence one moment.

Ms. Grabert-Lowenstein: Could I see that, please? Your Honor, I'm going to object, if we could approach?

The Court: Send the jury out for a moment.

(Whereupon, the jury retired to the jury room at 5:27 p.m.)

The Court: Yes, ma'am?

Ms. Grabert-Lowenstein: Your Honor, we've all had copies of my client's military records indicating honorable discharge. The sheet that counsel has the top one says recommended for retention into service. There were deficiencies in his performance and frankly I think to be blunt and I apologize to my client I think it meant that he was just a little bit lazy or a little bit slow working. I'm going to object on relevancy grounds. We have a document that is before 2004 because he was, I believe that's when his discharge was, and this is actually, I believe, '01, February of '01. Your Honor, what relevance to some deficiency in his work performance have?

The Court: All right, she's making a 401 objection.

Mr. Galmore: Your Honor, the defendant has offered the witness. The witness has testified as to his apparent reputation for being a fiscally and financially

responsible person. We have obtained a document which is part of Mr. Palmer's official Navy records. It is an administrative remarks form where he was reprimanded for failure to deal with just debts in a timely manner. I would submit that if the impression or the opinion ---

The Court: Well what's the date of that document?

Mr. Galmore: It looks like this document is 21-February-01. That just suggests to me that he's had a long history of not paying his bills and they've put in the record that he is a fiscally and financially responsible person.

The Court: I haven't heard that.

Mr. Galmore: She just said that she had a, he would pass his check over and then look up and certain bill still wouldn't be paid, so that is --

The Court: That's a world of difference from what you just said.

Mr. Galmore: No, it's suggesting that he's financially responsible ---

The Court: This witness and the previous witness have both testified that they had to help him with his finances, that he was without a job. They've testified to just the opposite, Mr. Galmore, I'm not going to allow it. It's not admissible under 403, it's just intended to

confuse the jury. It's more prejudicial than probative. In fact the probative value is substantially out weighted the prejudicial value of it, I'm just not going to let that in.

Mr. Galmore: And just to make the record clear I believe that the witness has put Mr. Palmer's fiscal responsibility in issue and has, has testified through her testimony that he is financially responsible and I feel that this is a specific instance of, a specific act of conduct of him not being financially responsible but I understand the Court's ruling.

The Court: Is it a public record? Is it self authenticating under 901? Does it need self authentication?

Mr. Galmore: Well it does say official ---

The Court: Or does it self authenticate under 903?

Mr. Galmore: Well I understand the Court's ruling in that regard. I have not brought anyone from the Navy, I'm sure we can get someone.

The Court: I'm not going to allow that in, besides ---

Mr. Galmore: Yes, sir, Your Honor, I would, may I submit this as a Court's exhibit?

The Court: You may.

Mr. Galmore: Thank you, sir.

(Whereupon, Court's Exhibit Number 1 marked for identification.)

The Court: Get my jury, please.

(Whereupon, the jury returns to the courtroom at 5:32 p.m.)

The Court: All right, Mr. Galmore?

Recross Examination

By Mr. Galmore:

Q Ms. Palmer, just a few questions. As of July of 2008 isn't it true that Ms. Gorman was employed at the Bass Pro Shops?

A Yes.

Q Isn't it true that your son was not employed at that time?

A That's correct.

Q You've made some mention of finances of this whole different household so let me ask you who paid their rent?

A They paid their rent except for the last month, me and my husband paid it.

Q Well how paid the rent if your son was unemployed?

A I suppose Julie paid it with the income coming into the checking account.

Q She had a job, right?

A She had a job.

Q Who paid the light bill in the house?

A They did.

Ms. Grabert-Lowenstein: Foundation of knowledge.

Mr. Galmore: She's testified all about these other people's finances.

The Court: Come on, answer the question.

The Witness: (Continuing)

A I did not live, I did not live and reside in their household. I'm just assuming she was working and an unemployment check was being placed in the account to pay their bills.

Q Okay, when did your son become unemployed?

A All I can tell you is one week after Broadway, not Broadway, Market Commons opened up, whatever that year was.

Q Can you tell us how long your son was going without a job prior to July of 2008, cause I mean unemployment doesn't last forever?

A No, sir, it does not, I realize that. Like I said whenever Market Commons opened up whatever that date is, and I do not recall, I do not know, one week later he was laid off. That may have been in March of 2008, I'm not

sure of the date that Market Commons opened up.

Q Ever since Market Commons opened your son was without a job?

A Unemployed a week after that.

Mr. Galmore: Thank you very much, Ms. Palmer.

A You're welcome.

The Court: Ms. Lively?

Ms. Lively: We have nothing further, Your Honor.

The Court: All right, thank you.

Ms. Grabert-Lowenstein: Nothing further, Your Honor.

The Court: All right, you may step down, Ms. Palmer, any objection to her being excused?

Ms. Grabert-Lowenstein: No, Your Honor.

Mr. Galmore: No, sir.

The Court: Ms. Palmer, you are released from your subpoena, thank you for coming.

A Thank you.

The Court: Witness?

Ms. Grabert-Lowenstein: Your Honor, we have no further witnesses at this time, we'll have them here in the morning.

The Court: I will not continue this case unless the witness has been subpoenaed and there's a doctor's

excuse saying why that witness is here.

Ms. Grabert-Lowenstein: No, Your Honor, that's not what I'm saying, that witness is available in the morning.

The Court: No, ma'am, this case was set for day certain months ago.

Ms. Grabert-Lowenstein: I understand, Your Honor, and it was an emergency with that witness came up.

The Court: That witness had a doctor's appointment is what you told me earlier.

Ms. Grabert-Lowenstein: Your Honor, at this point we need a little bit of time for the decision that we talked about?

The Court: All right, we'll take a ten minute break.

(Whereupon, the jury retired to the jury room at 5:37 p.m.)

(Whereupon a recess was taken at this time and the following takes place on the record after the recess.)

The Court: Ms. Grabert-Lowenstein, will your client testify?

Ms. Grabert-Lowenstein: No, Your Honor, we have, just for the record, we've discussed it extensively, you know, from before this time to when the trial started and we've just had a final consultation, which I thank the

Court for, and it is his decision to stand on what we feel is the lack of evidence in this case base.

The Court: All right, Mr. Palmer, you, you have heard your attorney tell me that you do not wish to testify and I think I've explained to you fully your constitutional right; would you like me to explain those again or are you familiar with your constitutional right to testify?

Defendant Palmer: Yeah, Your Honor.

The Court: Pardon?

Defendant Palmer: Yeah, Your Honor.

The Court: You would like for me to explain them to you again?

Defendant Palmer: Yes, sir.

The Court: All right, let me again tell you that you in this trial have a right to testify, however, you do also have the right to claim the protection of the Fifth Amendment to the constitution which states that no person shall be compelled in any criminal case to be a witness against themselves. That means you cannot be required to testify in this case.

You have the right to testify on your own behalf if you wish to, no one can make you testify and this is a person right. It's a right that cannot be waived by your attorney or your family, your friends, you have to waive your right to testify.

If you decide that you want to testify you will, of course, be subject to the same rules that govern other witnesses and you may be examined and cross examined on any relevant issue.

In addition if you have any convictions involving dishonesty or false statement or for crimes punishable by imprisonment for more than a year and this court determines that the probative value of admitting that evidence outweighs its prejudicial effect to you the Solicitor will be able to introduce your record to attack your credibility or believability.

If you decide to testify this decision on your part must be freely, voluntarily, and intelligently made with knowledge of the protections given to you by the Fifth Amendment and the consequences of your decision.

If you decide that you do not want to testify I will instruct the jurors before they begin deliberations that they cannot give the fact that you did not testify any consideration whatsoever and that there is to be absolutely no prejudice to you because you did not testify. It is left entirely up to you whether or not to testify and again you can discuss this with your attorney, family, friends, and I assumed that's what you've done, or anyone else, but the final decision is yours and entirely yours; do you understand now what I've explained to you again?

Defendant Palmer: Yes, I do.

The Court: Do you have any questions about what I've explained to you?

Defendant Palmer: No, I do not.

The Court: Okay, and have you discussed this with your attorney?

Defendant Palmer: Yes, I have.

The Court: Do you wish to testify?

Defendant Palmer: No, I do not.

The Court: Okay, you've had plenty of time to talk with your attorney?

Defendant Palmer: Yes, I have.

The Court: Okay, all right, and it's your decision not to testify?

Defendant Palmer: Yes, sir.

The Court: All right, thank you very much, Ms. Grabert-Lowenstein, I will tell you as to your other witness that I will give you some leeway. It's 6:00 now, any doctor's appointment, I mean doctor's office is certainly closed. That witness is not under subpoena but I will let you call that witness out of order if you can get that witness down here but I as I told ya'll this morning I intend to finish this testimony today, okay.

Ms. Grabert-Lowenstein: Let me see, Your Honor. I want to make sure what her medical condition is and I

understand that, she was wanting to come and testify but this medical emergency has come up.

The Court: Well that's not how you described it to me earlier. You said she had a doctor's appointment that she had had some procedure earlier in the week.

Ms. Grabert-Lowenstein: Your Honor, let me if I can for the record be clear. She has always been cooperating, that has not been an issue, and I've been in contact with all my witnesses to make sure that they would be available. She did have unfortunately day before yesterday have a procedure. I was concerned because of her age and what I know about her medical condition and it was a, I would say kind of a moderate procedure, and that's why I had other witnesses available and, and I apologize, Your Honor, if I did not understand that we were going to finish all our testimony today or I would have had her here. She's probably about ten minutes away if she is frankly able to do that.

The Court: Then I would send my legal assistant to get her if I were you to make sure that she's here or some doctor's, well if she cannot come this evening I would imagine she would not be able to come in the morning either.

All right, let's proceed, Mr. Galmore, are you ready?

Mr. Galmore: Your Honor, just for the Court's information it is our, well we had an expert witness that we planned to call in this case, neuropathologist, we have decided that we're not going to call that witness. We believe that the time line established by the State for when the injuries were impacted is consistent with what our expert witness was going to testify about. With that said our only witness is going to be Ms. Gorman and I feel like she may be a lengthy witness, not so much from me but I suspect that she's going to have long cross examinations from both co-counsel and from the Solicitor's office. I would request that we take her testimony and present our case in the morning.

The Court: No, sir, we're going to go forward.

Mr. Galmore: Yes, sir, go forward, what are we planning on doing after that?

The Court: After that I'm going to have a conference on the charges with counsel, have everything ready and lined up in the morning so that in the morning we can go straight into closing arguments and the charge.

Mr. Galmore: Yes, sir.

(Whereupon, the jury returns to the courtroom at 5;55 p.m.)

The Court: All right, Ms. Grabert-Lowenstein?

Ms. Grabert-Lowenstein: Your Honor, other than

--

The Court: The one witness I would allow you to call out of order.

Ms. Grabert-Lowenstein: And that and there may be one piece of documentation, Your Honor, we'll have that ready in the morning. The people, I'm sorry, the defense on behalf of Mr. Palmer would rest with those conditions.

The Court: What document?

Ms. Grabert-Lowenstein: The witness in the morning and one potential rebuttal document.

The Court: No, there will be no witnesses in the morning, we're going to finish today, the testimony.

Ms. Grabert-Lowenstein: Okay, what I'm saying if she can, if she can get here.

The Court: All right.

Mr. Galmore: Your Honor, did the defense rest?

The Court: She has rested. I will allow her some leeway and let her call one witness out of order today at the end of trial.

Mr. Galmore: Yes, sir.

Ms. Grabert-Lowenstein: Thank you, Your Honor.

The Court: Mr. Galmore?

Mr. Galmore: Yes, sir, we would call Julia Gorman to the stand.

Julia Gorman

being first duly sworn, testified as follows:

Madam Clerk: Please state your full name and spell your last name for the Court?

The Witness: My name is Julia Shawnette Gorman, g-o-r-m-a-n.

Direct Examination

By Mr. Galmore:

Q Ms. Gorman, give us some information about yourself, how old are you?

A I'm forty years old.

Q Are you married, single, divorced?

A Divorced.

Q Do you have any children?

A Yes, I have three.

Q Tell us your children's names and ages?

A I have Cesalee, she's twenty two, have Kyle, he'll be, be sixteen, I have Kayla who's fourteen.

Q Do your children reside with you?

A No, Kyle and Kayla live with their father and Cesalee resides on her own.

Q Cesalee is twenty-two, she's out of the house?

A Yes, sir.

Q So Kyle and Kayla live with their father?

A Yes, sir.

Q Where is that?
A Last to my knowledge they lived in Hawaii.
Q Why were they living in Hawaii?
A Back in 2007 during the summer after my son graduated from elementary school they went to their dad's for the summer to visit and then I got a phone call saying they weren't coming back.
Q Is your ex-husband in the Navy?
A Yes.
Q And where is he stationed?
A He was stationed in Hawaii.
Q He's also from Hawaii?
A He's not originally from Hawaii, He's, actually he was born in Nevada and his family is from North Carolina and Ohio.
Q Does he have family in Hawaii?
A He does have family in Hawaii.
Q So your children are out there with their father who's in the Navy in Hawaii?
A Yes, sir.
Q We've heard testimony that Mr. Palmer was in the Navy also?
A Yes, sir.
Q Are you attracted to the military men or something?

A No.

Q So this is just a coincidence?

A Just a coincidence.

Q Let me turn your attention to July 2008, okay, the summer of 2008, can you explain for the jury the circumstances of how Cesalee and [redacted] came to stay with you in Aynor?

A Cesalee called me and said that she was in Florida visiting her husband, at the time he was in Pensacola doing they call it T.A.D., temporary assignment duty, and she really couldn't see him, so I said why don't you just come on down and come visit us. I had never seen my grandson before, we can get acquainted and everything, We thought it was a great idea, so Richard put her on a bus and they came down to Myrtle Beach and I picked them up there on 10th Avenue, is it 10th Avenue North, I believe, is where the bus station is, and I picked Cesalee and my grandson up there and when I picked them up they didn't have their luggage or a car seat, so --

Q Was it unusual that they didn't have any luggage?

A That's the bus station so it happens.

Q It wasn't like they didn't have clothes?

A No, it just they got lost.

Q Would that be the same for the stroller?

A No, they had an umbrella stroller when we got, when I picked them up.

Q This would have been the first time that you saw your grandson [redacted]?

A Yes.

Q At the bus stop or the bus station in Myrtle Beach?

A Yes.

Q How did he appear to you?

A He was small, he looked underweight. I took her, you know, I took him from her when she got off the bus and I mean I was a stranger so, of course, he was not, you know, not familiar with me so, you know, he wasn't for sure to come to me and I put my hands, you know, wanted to touch him, you know, cause he's a baby, and I put my hands on his head and he just kind of pushed my hand away and his head feels soft so I was concerned and so, you know, and Cesalee came back and said they didn't have her stuff so I, you know, I gave the baby back because, you know, he wanted his mom because I was a stranger so, you know, I give him back. I didn't want him to cry because, you know, he didn't know who I was, it wouldn't be very fair.

Q Did you and Cesalee and [redacted] do anything special that first night?

A Yeah, we went to my work. We went to the Bass Pro Shop, went to Islamorado Restaurant and I took them to lunch, and then we went inside and I think we bought some sun block for him and could have bought him some, some shorts or something, then we went down to the beach and I had some friends down at the beach and took him to the beach that day for a couple of hours, then we ran back up to the bus stop to see if their stuff had came in on a different, you know, route, but it didn't and then we went home.

Q Okay, so you introduced your daughter and your grandson to your friends and your coworkers?

A Yes.

Q How was the relationship when Cesalee and [redacted] were staying with you?

A At the beginning it was fine, you know, I think cause we hadn't seen each other in so long, you know, that, I guess we just thought that, you know, with her having a baby, you know, she had grown up and you change, you know she wasn't that little girl anymore, you know, now she had the responsibility to be a mom, too, you know.

Q How was Cesalee with [redacted]?

A For the most part she was good. There was times when, you know, she'd get frustrated and, you know, if he was wallering or anything and she was tired of it,

you know, she'd push him away, you know. She'd put him in the bedroom or she would ignore him, I mean that was just what she did, but other than that she, she loved on him, too, I mean she did both.

Q Now while [redacted] was here did there become a medical issue with him?

A Yes.

Q Tell us what happened?

A He got bit by some ants and ---

Q Where was that at?

A In my back yard.

Q Okay ---

A And ---

Q What was done as a result of that?

A They called me at work and said that he got bit by some ants and his leg it was swelling, so I called my doctor's office and, and I came home and picked them up, picked her and [redacted] up and I took them to the doctor's office and we filled out the paper work and everything and we went and saw the doctor there in Aynor.

Q Would that be Dr. Hutson?

A Yes, sir, and ---

Q He was your physician as well as [redacted] physician?

A I see the other physician there but he saw

Dr. Hutson.

Q Okay, was there a problem with [redacted] insurance?

A We were having problems with it cause he didn't have any and so Cesalee didn't have any of his paper work with his insurance or anything and Cesalee, Cesalee and Richard were having their own problems with their marital problems, but you intervene as a parent because you love your children regardless of what your own personal opinions are; and I called, I called Richard's staff sergeant and I called the chaplain and I called his staff sergeant to tell them that we didn't have this information and within a few minutes I was getting the information we needed to get insurance for [redacted] and within a couple of days I had all the information mailed to us for his insurance to be active so we can get him the proper medical, you know, attention so he could have his insurance, so we took him to Aynor and had him to be seen and everything; and I, we took him there and we told him about his shots and that, you know, he had signs of allergies or mess with them and I explained to the doctor, you know, I would have concerns about his head being soft and squishy and, you know, from, from that point on I've always, you know, expressed my concerns about that.

Q Did you explain to the doctor about his

head being squishy during the first appointment on July the 1st?

A Yes.

Q When you were there for the ant bites?

A Yes.

Q I think the doctor testified that you were or you or Cesalee had complained that he was grabbing at his ear and he had a head cold; was that one of the concerns?

A No, we talked about his ant bites and I complained that his head was soft, it was squishy. It wasn't like, I know children have soft spots, but it wasn't the normal, normal places; it was everywhere.

Q Did Dr. Hutson examine [redacted] head?

A Not really, he just said it was probably just soft because of allergies.

Q Okay, and he prescribed you some allergy medication for him?

A Yes, he prescribed allergy medicine and some steroid cream for the ant bites.

Q Did you have an occasion to have to take [redacted] to the hospital again?

A Yes.

Q And when was that?

A I don't know the exact date, could have

been the 7th or the 8th. He was, he was throwing up and it got to the point where he was projectiling and I didn't know why so I took him to the emergency room and I took him there and he wouldn't projectile there. They gave him a popsicle and we observed him for a while and they sent him back home and just told me just and I had an appointment for him to go see the doctor that following day for his immunization records; and when I took him to the doctors for that and I asked the doctor would it be still okay to give him his shots and said just took him to the emergency room because he was being sick and he said yes, so he administered his immunization shots.

Q Now this visit to the emergency room was Cesalee with you for that?

A No, it was Robert and myself.

Q Okay, so Robert had went with you to the emergency room?

A Yes.

Q Why didn't Cesalee go?

A She wasn't here.

Q She wasn't here, okay, where was she?

A She would have been back in Arizona.

Q What were the circumstances of Cesalee leaving to go back to Arizona?

A The circumstances for Cesalee going back to

Arizona was that she was supposed to back to start getting herself back together. She has her own personal issues and she was supposed to get herself back together so that way when her and her husband got back together that she would be able to, be able to take care of herself, take care of her son so that way when her husband did have to deploy for any reason she would be able to take care of a home, take care of a child while he was gone and be able to take care of all those things without any problems. It's hard being a military wife. It's hard to do those things when you're by yourself.

Q You say Cealee needed the opportunity to get herself together; what do you mean by that?

A Cesalee just has a past history of medical services as she grew up and everything. She was diagnosed with bipolar and opposition defiant disorder. So when we had talked she said, you know, she'd go back home and, you know, go back to accept the fact that she had it and go see a doctor and everything so she can help with that so we were keeping her son so she can get that under, you know, help and everything; and when she got that taken care of then, you know, her and her husband after they got settled and after he got finished with school in graduate wherever they were going to get stationed at then they'd come back and get their son and then they could have their home and

everything and they could have their son back.

Q Was there a discussion about how long [redacted] was supposed to be staying with you?

A Not that I'm aware of, I don't recall. It wouldn't have mattered if it was a week, two months, ten years, it wouldn't have mattered.

Q We've seen this temporary guardianship paperwork that says one year, was there a discussion that [redacted] was going to stay with you for an entire year?

A No, it was just a, I think that's just the standard, I think it's just the standard to have a year on there but it could be null and void at any time.

Q So just because it says a year doesn't mean ya'll had planned for [redacted] to stay with you for a year?

A No.

Q Were you trying to take [redacted] from Cesalee?

A No.

Q So you took [redacted] to Dr. Hutson on July 1st for ant bites?

A Yes.

Q And you, you complained about his head being squishy?

A Yes.

Q And when you went to the hospital on the

7th, that was for the projectile vomiting?

A Yes.

Q Did there come another occasion where you went back to Dr. Hutson's office?

A Yes, I took him again when I took him to go get his immunization shots.

Q And when was that?

A It was right after I took him to the E.R.

Q The next day?

A I don't, I don't know the exact dates, I don't have them written down.

Q Let me hand you what's been marked for identification purposes as Defense Exhibit 3 and ask you if this document helps to refresh your memory as to when your second appointment was with Dr. Hutson?

A It was July 8th of 2008.

Q Okay, and when was the appointment, excuse me, when was the emergency room visit at Conway Medical Center?

A It was July 7th.

Q So after the vomiting incident the next day you took [redacted] to Dr. Hutson's office?

A Yes, sir.

Q Did Robert accompany you?

A Yes, sir.

Q Did you have to take off work that day to take him?

A I don't recall, I don't, I don't know because I don't know what time his appointment was and if I had to work that day or not.

Q Okay, well what were the, where were your complaints when you went to Dr. Hutson on that 8th?

A My complaints were I still was concerned about his head; I was still concerned the fact he was projectiling the day before and because he was projectiling would it still be safe to give him shots because of that and the doctor said he didn't have a fever so he'd be fine.

Q So he was given the shots on the 8th?

A Yes.

Q And you said Cesalee was gone by this time?

A Yes.

Q Well explain to us how things, how things worked in your household with you, Robert, and [redacted]

A On a daily basis I'd get up in the morning early cause I have to be at work anywhere between five, six, anywhere between five and eight in the morning, depending on what day it is, so if I had to be at work at five I'm out of the house by 4:15, have to be, and I go to work anywhere from an eight to a ten hour day. I come home, generally the first thing I do is walk in the house

and ask where [redacted] is cause he's my buttercup, generally Robert would probably tell me he's in bed so I go check on him. I pretty much relieve the duties. I clean the house, I cook dinner, I make our plates. I cut up [redacted]s food, I put him in the chair. I eat my food while I feed him as we talk. I have a snack, generally a lot of times we have a banana. I take a bite half of it and he gets the other half.

Q [redacted] was in Robert's care and custody during the day on a daily basis?

A Yeah.

Q Was there anybody else in the house with Robert when you were at work?

A As far as I know, no, always him by himself.

Q Let me ask you about July 14th, what time did you get up that morning?

A I think I was up about 4:15 that morning.

Q And what did you do?

A I got up, got ready and went to work. Before I leave I always check on [redacted] he was asleep in his bed, go outside, jumped in the truck, and went to work.

Q Do you know what time you clocked in at work that day?

A No, I'd have to see my time card.

Q Okay, let me hand you what's been marked for identification purposes as State's Exhibit 63 for I.D., and ask you if you recognize this document?

A Yes, this is my time card from work.

Q Okay, it has your name on it?

A Yes, it does.

Q Okay, does that time card appear to be accurate or does it appear to have been altered in any way from when you initially used it?

A No.

Mr. Galmore: Your Honor, I would at this time move to have State's Exhibit 63 for I.D. entered into evidence as Defendant's next exhibit.

Ms. Lively: Well, Your Honor, obviously I've marked it and I wanted it in there so that's perfectly fine.

Ms. Grabert-Lowenstein: Objection, hearsay.

The Court: All right, I'm going to allow it. This witness can identify it and it appears to be what it is, it is well founded the admission under Rule 803.

(Whereupon, State's Exhibit Number 63 remarked as Defendant Gorman's Exhibit Number 4 and entered into evidence and Defendant Gorman's Exhibit Number 5 marked for identification.)

Mr. Galmore: (Continuing)

Q Ms. Gorman, does Defense Exhibit Number 4 show what time you went to work on the morning of July 14th, 2008?

A Yes, it shows I clocked in at 6:00 in the morning.

Q Okay, and what time did you clock out that day?

A 3:45.

Q Were you at work all day?

A Yes.

Q Did you leave and sneak home in the middle of the day?

A No.

Q You, you got off at 3:45; is that correct?

A Yes, that's what time I clocked out.

Q What, what did you do after you clocked out?

A After I clock out I got to walk from the back, our clock is in the back of the building, back of the Bass Pro Shop, so you got to walk all the way from the back all the way to the front, so you tend to get stopped by customers. You got to stop and help people, and so it takes you probably about ten, ten to fifteen minutes to get from the back to the front, and then to get outside you got to walk to the side of the building to get to your vehicle.

Q I understand the Bass Pro Shop is a pretty big place?

A It is.

Q Is it routine that customers will stop you on the assumption that you're still on the clock?

A Yes, sir, cause you still have your work shirt on and your name tag.

Q What time did you clock out again?

A I clocked out at 3:45.

Q Did you go immediately home after you clocked out?

A Yes, I went home first.

Q What route did you take to get from Bass Pro Shops to your house?

A I take Highway 22 to 319 to Golden Leaf Road to Highway 129.

Q How long does that ride generally take?

A Take me about forty-five, fifty minutes, I think.

Q Okay, so you got off at 3:45, takes a few minutes to walk through the store, got in the car and you headed home, and it takes about forty-five minutes for you to get home; would it be fair to say that you got home maybe 4:30 to 4:45?

A Could be.

Q Now when you got home what did you do?

A Came inside and asked Robert where [redacted] was; he told he was taking a nap, walked to the door, walked to the bedroom door, saw [redacted] was laying down in the bed in the port a crib, walked away and talked to Robert for a minute and I went to IGA. I left the house and went to IGA, grabbed us something to eat for dinner, and then I stopped at, I left there and I stopped at the video, the video store and I picked up a movie, and then I came back to the house, come back inside and I cooked our dinner and then we decided we would sit down and have dinner first before we woke up [redacted]

Q And so you said that when you got home the first you said was where was [redacted]

A Uh-huh, yes.

Q And you looked in on him?

A Yes.

Q What was his condition?

A He was asleep.

Q Well during the day on the 14th did you have occasion to call home and check on [redacted]

A No, Robert calls me at work, tells me ---

Q Robert calls you?

A Yes.

Q So did you have an occasion to talk to

Robert about [redacted] during the day on the 14th?

A Yeah, Robert called me at work, he called me in the morning and he called me in the afternoon.

Q What was [redacted] doing?

A He was just telling me what he had for breakfast and what he had for lunch and then he told me they were taking their naps.

Q Did they go out anywhere on the 14th?

A No, he never claimed they went anywhere.

Q So they were at home alone all day on the 14th?

A Yes.

Q So you got home from work and the first you did was check on [redacted]

A Yes.

Q Did you pick him up when you first walked through the door?

A No.

Q Why didn't you pick him up?

A Cause he was asleep.

Q Let him take his nap?

A Let him take his nap.

Q I think you testified that you left the house to go get something to eat?

A Yes.

Q Go get dinner at the IGA is what you said?

A Yes.

Q When you left the house what time do you think that would have been? Let me ask it like this, how long do you think you were at home after you got off work when you said you went in and looked in on [redacted] and he was asleep?

A I may have been home maybe ten minutes.

Q Okay?

A And then leave and went to the store and maybe was in the store maybe fifteen minutes and just ---

Q Okay, so you were home maybe ten minutes and then to the IGA?

A Then I went to the IGA.

Q Let me hand you what's been marked for identification purposes as Gorman Defense Exhibit Number 5 and ask you if you recognize this document?

A Yes, it's a check I wrote.

Q Okay, and what is the date that the check was written?

A July 14th, 2008.

Q And who is the check made payable to?

A IGA.

Q And whose signature is on the check?

A My signature.

Q So you wrote that check?

A Yes, sir.

Q Does that check appear to be altered or in any way since you wrote it?

A No, sir.

Mr. Galmore: Your Honor, at this time we would move for Defense Exhibit Number 5 to be entered as Defense next ---

The Court: Ms. Lively?

Ms. Lively: No objection.

Ms. Grabert-Lowenstein: No objection.

The Court: Marked without objection.

(Whereupon, Defendant Gorman's Exhibit Number 5 entered into evidence.)

Mr. Galmore: (Continuing)

Q Okay, so you went to IGA after coming home, how long did it take you to get to the IGA?

A It takes me probably about five minutes.

Q It's not that far from your house?

A No.

Q So then you, you said you get home maybe, was it 4:45 you said you think you got home?

A Could be.

Q And how long were you at home when [redacted] was asleep?

A About ten minutes.
Q Ten minutes, okay, and thereafter you left the house to go to the IGA?
A Yes.
Q And it took five minutes in your estimation to get there?
A Yes.
Q So at this point we're talking maybe 5 p.m.?
A Okay.
Q Is that accurate?
A You could, yeah.
Q What did you do when you were at the IGA?
A I went and bought groceries for dinner.
Q You walked up and down the aisles of the grocery store?
A Yes.
Q Did Robert go with you?
A No, he stayed home.
Q Did [redacted] go with you?
A No, [redacted] was asleep.
Q You were at the IGA by yourself?
A Yes.
Q How long do you think it took you to get dinner from the grocery store?

A Could be about fifteen, twenty minutes I think I was there.

Q And I think we heard that ya'll had tacos for dinner that night?

A Yes, that's what he said.

Q So you were in the grocery store for maybe fifteen minutes?

A Yeah, could be, fifteen, twenty minutes.

Q And you wrote this check?

A Yes, I wrote this check.

Q Have you had occasion to look at that check prior to coming to court?

A Yeah, I've seen the check before.

Q Does the check have any markings on the back?

A Yes, it does.

Q Does it have a date stamped on the back?

A Yes, it has a few check stamps on the back.

Q Okay, because usually when you pay for something by check the cashier has to run it through the cash register?

A Yes.

Q Was that done in this case?

A Yes.

Q Does the check have a time on it when it

was run through the cash register?

A Yes.

Q What is that time?

A Well it says 15:52.

Q What does that translate to for us non military?

A 3:52.

Q Okay, now were you at the IGA at 3:52 p.m.?

A No.

Q Why do you feel that you weren't at the IGA at 3:52 p.m.?

A Because I clocked out at work at 3:45 and there's no way that I can be at IGA at 3:52 cause I work thirty five miles just away from my house.

Q Okay, so the check says 3:52, would it be fair to say that maybe you cashed that check at 4:52?

A Yes, that's possible.

Q So you're cashing out at IGA at 4:52, where did you go from there?

A Then I went to the video store.

Q And what video store would this be?

A It's called Island something.

Q Okay, let me ask it like this, is it the video store that's in Aynor?

A Yes, it's probably the only video store in

Aynor on Main Street.

Q Are there several video stores in Aynor?

A No, I believe it's the only one.

Q Okay, so you left the IGA and you went to Aynor's local video store?

A Yes.

Q How long would it have taken you to get from the IGA to the, to the video store?

A Just a couple of minutes, it's just around the corner.

Q Aynor is not that big?

A No.

Q Okay, how long were you in the video store?

A Maybe five, ten minutes.

Q So we're talking maybe five after five?

A Yes.

Q From the video store where did you go?

A I went home.

Q How long would it have taken you to get back home from the video store?

A Probably about five minutes.

Q Okay, and what did you do when you got home?

A I walked in the house, put the stuff down and started cooking dinner.

Q Was anybody in the house when you got home?

A Just Robert and [redacted]

Q When you got home from the video store and the IGA did you go in and check on [redacted]

A No.

Q Why not?

A I started cooking dinner.

Q Okay, tacos?

A I guess I didn't feel I needed to. I just started prepping for dinner because I knew I needed to wake him soon so he can eat cause it was getting dinner time.

Q Is it fair to said that you wanted to sort of get dinner out the way before getting him up?

A Yes.

Q Did you make dinner?

A Yes, I did.

Q How long did it take you to make dinner?

A Twenty minutes.

Q Okay?

A Half hour.

Q Did Robert assist you in making dinner?

A No.

Q Does he generally assist you in making dinner?

A Sometimes.

Q Okay, so you made dinner and you said it took, how long did you say?

A Twenty, thirty minutes.

Q Okay, so we're talking maybe 5:30 at this point?

A Yes.

Q All right, what did you do after that?

A We talked about if we wanted to wake [redacted] up right then and there and sit down and eat with us or if we would just sit down and eat together and then we'd wake him after, you know, and just be able to tend to him by himself; and so we agreed that we would just sit down and have that moment and just eat two adults eat together. So we did that, so we sat down and we ate together and as an adult you would just have that adult conversation for a while, and then after we finished eating I cleaned up and I started making [redacted]s plate, prepping his plate before I go wake him up.

Q So you and Robert started eating at approximately 5:30?

A Give or take, yeah.

Q Do you recall how long it took you to eat?

A No.

Q Okay, and after you ate you said that you started prepping his plate?

A Yes.

Q All right, what did you do after you had [redacted] plate prepared?

A After I had [redacted] plate prepared I went down the hallway to go get [redacted]

Q And what did you observe?

A When I walked into the bedroom to get [redacted] he was laying on his side and he was breathing really funny. He was heavy, he had like saliva hanging out of his mouth, and I didn't know what was wrong. I didn't know if he was choking, so I picked him up real quick, flipped him over my arm, and all of a sudden he was just seizing. I called Robert, I said something was wrong, you need to call 911. He took him from me; I grabbed the first phone I can find to call 911.

Q Just a minute. When you said flipped him over your arm, he had saliva in his mouth, and you called Robert, how long did it take for Robert to get to the room that you were in?

A Seconds.

Q So when you were walking down the hall going to get [redacted] up for dinner where was Robert?

A Well at one point he took the dog outside to use the bathroom so he could have been already back inside the house, I mean our house isn't big.

Q By the time you called for Robert he was right there?

A Yes.

Q Did you see if Robert took the dog out?

A He had taken the dog out while I was prepping the food.

Q Okay, by the time you got down the hall to [redacted] Robert was close enough to respond within seconds?

A Yes.

Q I think you said that once Robert came in you called 911?

A Yes.

Q And why did you do that?

A There was something wrong with him, I didn't know what was wrong.

Q It was readily apparent to you that something was wrong?

A Yes.

Q Because you said he was, had saliva in the mouth and he was seizing?

A He was, he was seizing.

Q How long after you called 911 did the first responders get to your house?

A Oh, my gosh, it was about like forever, it went I guess any time there's an emergency time you expect

for somebody to come it feels like it takes forever, but they got there and the one man took [redacted] from him and they put him on the floor and then another lady said his body was hot, she needed wet rags, so I went into the kitchen and I was throwing, we were throwing the rags back and forth from the living room to the kitchen making them wet, cold, to put on his body to bring his temperature down, and then the next truck came and, and they put him on a --

Q Stretcher?

A Thank you, a stretcher and they put him in the ambulance and I rode with the ambulance to Conway.

Q Well let me ask you this, did you strike and injure [redacted]

A No.

Q Any time during that day on the 14th did you strike [redacted]

A No.

Q Any time in the three days prior to the 14th did you strike [redacted]

A No.

Q And when you saw him in the crib and you called 911 did you attempt any resuscitation efforts, CPR or anything like that?

A No. I just flipped him over my arm cause I

thought he was maybe choking so I didn't want him to choke.

Q So you called 911?

A I called 911.

Q And waited on help?

A Yes.

Q Okay, now they took [redacted] to the hospital, my understanding that you rode in the ambulance as well?

A Yes.

Q There was a comment made that you had several kids and this was, well a bad one, I think that was the comment?

A That's what she said.

Q Do you recall making the comment?

A Don't recall making the comment, if it was a comment surely wasn't saying that he was bad, this is bad this seizure, this incident is bad.

Q Was [redacted] a bad child while he was with you?

A [redacted] wasn't a bad child.

Q Did you have any reason to punish or discipline [redacted] while he was with you?

A Not that kind of discipline. We, I'd put him in his room because he, if he whined a lot we would put him in there to help him sit down for a moment, didn't get spanked or anything like that and then I'd go back in there

and we'd start again bring him back out, sit him back on the floor. We'd play again and start all over.

Q Did you use corporal punishment on [redacted]

A No.

Q Ever?

A No.

Q All right, so you rode in the ambulance to Conway Medical Center?

A Yes.

Q And what happened after that?

A Arrived at the hospital, they were, they brought him in, got him into the unit there. They asking all kinds of questions, I didn't know what was going on. I was asking all kinds of questions, what's wrong with him, they wouldn't answer my questions. I didn't know what was wrong. They had, they had like, like a tong you put in your mouth like you were going to check someone's throat. They had it liked taped to his arm because they couldn't put like --

Q I.V.?

A I.V. in his arm because they said they couldn't keep him straight and, and you couldn't touch him at first cause they kept telling you to stay away for a minute, and then finally they let you get close to him and you would talk to him and he would, he would, you know,

move and you would just talk to him trying to get him to listen to you and then they'd go take x-rays and we went back and we took x-rays with him if you can stand close to him while we did the CAT scans, so we did all the x-rays. I never missed anything that dealt with [redacted] I was with everything and then we went back.

Q So you were there when they did the cat scans?

A Yes.

Q And you literally standing right next to the machine?

A Yes.

Q And you were there when they did the x-rays?

A Yes.

Q Was [redacted] conscious for any of this?

A I don't know if he was conscious or not, I just know I was there. I had that thing you had to put on you when you ---

Q The apron?

A Yes.

Q Well I guess what I'm saying is was he talking to you?

A No.

Q When you found him in the crib was he

talking with you?

A No, he was just making that noise and I thought he was choking.

Q Did you talk with [redacted] any time this day on July 14th?

A I talked to him when I left, flipped him over my arm I said, baby, come on, what's wrong with you.

Q Okay, yes, ma'am, I guess I didn't ask the question correctly, did [redacted] talk to you, did he interact with you at any time on July 14th?

A No.

Q All the time you saw him he was, according to you, asleep until you found him having a seizure?

A Yes.

Q Once you got to the hospital I guess things got a little hectic?

A Yes.

Q Were doctors and nurses talking to you and asking you what happened?

A Yes.

Q Did there come a time where any police officers came and talked to you and asked you what happened?

A Yes.

Q Tell us about that?

A One police officer came, I was told a 911 call was made by Richard, the father. I talked to that police officer and he ---

Q Was that Troxell or Weaver?

A No, no, it was anther police officer.

Q It wasn't Weaver either?

A No, it was just a Conway police officer.

Q A uniform police officer?

A A uniform police officer, talked to that police officer, and he had told me that a detective would be coming and I said, okay. He said that was just protocol, I said okay, and he let us go back, you know, into the room and we stayed with [redacted] and then Detective Weaver came and took me into a room, talked to him privately; and then I went out and then Robert went in there and spoke to Detective Weaver and he says, I know you guys want to get to Charleston as fast as you can, so we, you know, I didn't get to say goodby to [redacted] before he went to Charleston.

Q They were already --

A Cause they were already gone.

Q Oh, so while you were talking to Weaver they were shipping him out?

A Right.

Q Okay, and how long would you say you talked

to Detective Weaver at the hospital?

A I don't know, twenty minutes, thirty minutes, I don't know.

Q Do you know if Detective Weaver talked with any of the doctors or nursing staff at the hospital?

A If he did it was not to my knowledge.

Q Did Detective Weaver accuse you of striking [redacted] and causing these injuries?

A At Conway Hospital?

Q Yes, ma'am?

A No, sir.

Q So [redacted] was then taken down to MUSC, right?

A Yes.

Q And how did you get to MUSC?

A We drove.

Q You and Robert?

A Yes.

Q How long did it take you to get down to Charleston?

A Less than two hours.

Q And what did you do once you got to MUSC?

A Went straight to the hospital, went up straight to ICU.

Q Did you contact any family members to let

them know what was going on?

A I called my mom and I called Richard.

Q When did you call your mother in this whole sequence of events?

A I called my mom when I was at Conway Hospital.

Q Okay, and when did you call Richard?

A When I was at Conway Hospital.

Q Did you call Cesalee?

A No.

Q Why didn't you call Cesalee?

A I was angry. I really truly thought she had something to do with it cause when she left my house she had the opportunity of taking her son numerous times and she didn't want to take him; and what I mean by that is when she left to go to Arizona every time when I was taking them to the airport I asked her numerous times we can go back and pick him up and you can take him, she said, no, so I just felt like you just wiped your hands clean of him, I was like what did you do.

Q You immediate thoughts was that Cesalee had something to do with this injury?

A Yes, I immediately thought my child did something wrong to her own child.

Q Once you let your mother know were there

any decisions about whether or not she was going to come to South Carolina?

A Oh, I didn't know if my mom was coming or not, I just know I'd keep my mom informed of what was going on.

Q What about Richard, was there any decisions made about whether he was going to come?

A I didn't know anything what they were going to do. As I told him I said, you know, if I knew something I would tell him, you know.

Q Would it be fair to say that you weren't having that discussion about if they're going to come or not?

A It wasn't the discussion I was having. I mean it's not, it's not that I didn't want them there it's their son, you know, I would expect them to be there, but right now in the position I was in was, was [redacted] I needed to make sure he was okay.

Q Well do you recall what time you got down to Charleston?

A It could have been about midnight, 1:00 in the morning, I don't know.

Q And how, how long were you down there before you got a chance to leave and come back home?

A I left Charleston Wednesday briefly to come

home to get my car and go back.

Q And when you went to Charleston what vehicle were you in?

A We were in Robert's truck.

Q Okay, so you got down to Charleston maybe around midnight Tuesday morning and you stayed down there until Wednesday when you left to go get your car in Conway and come back?

A Yes.

Q While you were in Charleston did you have an opportunity to visit with [redacted]

A Yes.

Q And what was his condition?

A Very critical, he had tubes everywhere, monitors everywhere; he just laid in that bed.

Q Was there anything you could do for him?

A Just hold him and tell him how much I loved him.

Q Did there come a time while you were in Charleston when DSS came and talked to you?

A Yes.

Q That would have been Ms. Brown that testified earlier?

A Yes.

Q Did anyone else come and talk with you?

A Detective Troxell came and talked to me; Dr. Abel she came and talked to me.

Q Did anybody tell you what was going on with [redacted]

A I don't know.

Q Okay, okay, so you spoke with Ms. Brown?

A Yes.

Q And you spoke with Detective Troxell?

A Yes.

Q Who's sitting right here, and you spoke with who else?

A Dr. Abel.

Q Dr. Abel?

A Yes.

Q What type of discussions were you having with these people?

A They were just asking me questions about the day, asking me what I did that day, I think what I did the day before.

Q Was this at midnight on Tuesday morning or did they wait till 8, 9 a.m. on Tuesday morning?

A It would have been some time Tuesday, some of it was Tuesday afternoon. I know I had been up since Monday morning before, you know, before I went to work so I had had no sleep for at least over forty hours.

Q Now any of these three people did they come at you at one time?

A I think, I think Dr. Abel and Troxell could have been at the same time, I don't know if they were at same time or if they were separately. Ms. Brown was at a different time. It just, they were just, it just felt like it was just like here, here, here, and here. I don't know if it was just in increments quickly or if it was a five minute break or just --

Q Would it be fair to say that throughout the day people were coming and asking you questions?

A Yes.

Q And did you answer their questions?

A Yes.

Q Did you refuse to answer anyone's questions?

A No.

Q Did you have any idea what happened to Aydain?

A No, I just knew he had fractures, that's all I knew.

Q Okay, so somewhere along the line somebody told you he had fractures?

A I knew that from Conway.

Q Okay?.

A The doctors in Conway that's all I knew.
Q Okay, do you have an explanation for how he received these fractures?
A No, I do not.
Q Okay, so we've heard testimony about a stroller, did you tell any of these people that the stroller may have been responsible for it?
A Yes, I did.
Q And why did you make that claim?
A Because of the fact he was in it and he fell backwards in the stroller down the stairs and he was in it and he hit his head going to down the stairs.
Q So you observed what you thought could be a head injury when he was in the stroller?
A Yes.
Q And you relayed that information to these law enforcement officials?
A Yes.
Q There's also a claim about the dog?
A Yes.
Q Did you tell these people that the dog may have done it?
A Yes.
Q And why did you tell them that the dog did it?

A Well my dog weighs like sixty-five pounds. [redacted] only weighs like maybe twenty, so if my dog knocks you over it's pretty impactful. I'm not trying to blame my dog but I mean he has knocked him over and knocked him into the kennel or, you know, I mean I don't know if, you know, you don't have the dog or [redacted] in your sight twenty-four/seven. If the dog knocked him over without us sighting him you don't always know, you know.

Q Now when you told them the dog may have done it, had anybody previously talked to you about the extent of [redacted]s injuries?

A No, all I knew was just the head fractures.

Q So you didn't know how severe these fractures were?

A No.

Q Now it's my understanding that you were with [redacted] the day before at the pool?

A Yes.

Q Did you observe [redacted] injure himself at the pool?

A No.

Q What did you observe about [redacted]s behavior at the pool, his demeanor?

A That he was lethargic. He just didn't act like a normal seventeen, sixteen month old little boy, just

thought maybe there was just something, could have been something more mentally wrong with him, like he just didn't have the right growth as a, as a, as an infant, as a toddler. So I was calling his doctor on Monday and I did and scheduled an appointment for him so he can be checked cause if there was something wrong with him I wanted him to be treated so that way he could, you know, he could have the right care to where if there was anything physically wrong with him or mentally wrong with him, you know, if he had any special things he needed to be treated for we could take care of that and learn about it now than later.

Q You said you called the doctor on Monday?

A I did, I talked to the doctor, doctor's office on Monday and had an appointment for him on Tuesday.

Q That would have been Monday the 14th?

A Yes.

Q Why were you calling the doctor on Monday the 14th?

A Because I felt there was something wrong with him on Sunday, he just wasn't acting right, so I was making an appointment for him to go. They could have seen him on Monday but I was at work so I couldn't get him there so they said they was, you didn't feel it was extreme, Monday it just felt he just wasn't acting right so they said I can bring him in on Tuesday. I had Tuesday off so I

could bring him Tuesday.

Q Would it be fair to say that you felt like [redacted] really wasn't acting right the majority of the time that he was here with you?

A Yes, just seemed like after his mom left he kind of went to like a depression.

Q And this would have been for how long, well how long did you observe these not acting like symptoms?

A Well you knew, well it just kind got worse after his mom left, you know, he wasn't acting right when she was there and he was sick. He didn't talk; he head butted things, he bit, he hit, he pinched, he just, you'd have to put your hands to cover things so he wouldn't do it, put his, you put your hand over your leg so he wouldn't, you know, pinch himself or anything tell him, no, we don't do those things.

Q Did you relay this information to the people that were coming to ask you questions?

A I believe so.

Q Now when you told them that he wasn't acting right, lethargic, pinching himself, again were you aware of the extent of [redacted]s injuries?

A No, I just knew he just had to have fractures.

Q You knew they were asking questions and you

were trying to provide answers?

A Yes.

Q And that would have been on Tuesday?

A Yes.

Q Okay, I think you testified Wednesday you left the hospital long enough to come back to Horry County to get your car and drive back down?

A Yes, on Wednesday I was coming home to get my car and Detective Weaver and Troxell came to my house and took pictures.

Q Well did they know when you were coming home?

A I called them and told them I was going home to get my car.

Q Okay, so you made them aware of your whereabouts?

A Yes, I did.

Q So all these pictures we have of the house and measurements and things like that that was done on Wednesday when you were home long enough to pick up your car and go back to Charleston?

A Yes.

Q Now they took pictures of your dog?

A Yes.

Q Why did they take pictures of your dog?

A Because I made mention, you know, because my dog had knocked down [redacted] before.

Q They took pictures of the stroller?

A Yes.

Q Why did they take pictures of the stroller?

A Because we made mention that [redacted] had been knocked down in the stroller before down them steps.

Q How long was Troxell and Weaver at your house on Wednesday?

A I don't know but I felt it was long because I was trying to get back to Charleston.

Q Yes, ma'am, did they talk with you or interview you while you were at the house on Wednesday?

A They probably asked some questions, I don't really know. I was packing and trying to leave.

Q Did you answer their questions?

A Yes.

Q Were you truthful in your answers to their questions?

A Yes.

Q After you spoke with them you came back to Charleston again?

A Yes.

Q Okay, had any other family members come to Charleston by then?

A Richard was in Charleston.

Q When did Richard get to town?

A He got there Tuesday.

Q Okay, did Cesalee eventually come to Charleston?

A She got there Thursday.

Q Did your mother come to Charleston?

A She got there Thursday.

Q Would it be fair to say that the whole family came down?

A Yes.

Q Wednesday when you got back to the hospital Richard was there?

A Yes.

Q Did you have an opportunity to visit with [redacted] after you got back to the hospital on Wednesday?

A Yes, I went back and I called Richard and told him I was back and we went back up and I went and saw [redacted] and everything and I asked Richard if he'd like a break and, you know, I took him out and we went and had dinner, I just, you know, kind of give him a break and everything.

Q So when did you finally leave Charleston?

A I left Thursday evening after, after Cesalee arrived and talked to her for a little bit and then

after my mom, after I went and picked up my mom, and talked to her and told her everything that I knew and everything and got them all situated and then I went back home Thursday evening; and I said if you needed me I was only just, you know, a half away I could be right back.

Q And I think we saw on that interview that you went out to Fatz and, and Beef O'Bradys, would that have been Wednesday night?

A No, that would have been Thursday evening.

Q Thursday?

A Yes.

Q Okay, Thursday is when you left Charleston and come back up here?

A Yes, just didn't want to be home; I didn't want to be in the house.

Q So Robert was with you the entire time?

A Yes.

Q Thursday night you went out and shot some pool and --

A Yes.

Q Tried to get this out of your mind for a little while?

A Yes.

Q Now the detective came and interviewed you on Friday; is that correct?

A Yes.

Q Do you know what time they came to your house that day?

A It could have been 8, 9:00 in the morning they came to my house.

Q And they said we need you to come down to the station with us?

A Yes, it was my understanding it was to, I was supposed to give them some other information. During the week while I was in Charleston I was talking back and forth with Detective Weaver, you know, just whatever information I was giving, like if Richard and I were talking then I would tell Detective Weaver whatever he was telling me or, you know, vice versa, and so I was, my understanding is I was supposed to be coming to give a statement on all that stuff. I didn't know I was coming in to redo another interview.

Q Okay, and you took that book down there with you?

A Yes.

Q What was in that book?

A Just some personal stuff of Cesalee's that she, when she was in school it was to because of the fact that I really thought she had something to do with the infliction it had that some medical history.

Q Cesalee's medical history?
A Cesalee's medical history.
Q Okay, you went down there on Friday at their request?
A Their request.
Q And you gave a statement?
A Yes.
Q And they asked you if you did it?
A Yes.
Q Did you say, yes, I did it?
A No.
Q Well what was that all about on the tape when they were asking you is it possible that you did it?
A I think you were just so tired and drawn out and, and just messed with your head, messed with my head for so long and I was just tired.
Q Let me be very specific, did you strike [redacted] and cause these injuries?
A No.
Q Did you tell the detectives that you struck [redacted]
A No.
Q Why did you give this demonstration with the leprechaun?
A I don't know. I think they said show me

how you did this and I just reacted to it.

Q But by saying that are you saying that you shook [redacted]

A No.

Q Did you shake [redacted] at any time?

A No.

Q Now I noticed on that tape that you asked to take your medicine?

A Yes.

Q What medicine were you taking?

A Xanax.

Q Is that a prescribed medication for you?

A Yes.

Q And what is Xanax for?

A I have anxiety, just kind of --

Q It's anti-anxiety?

A Yes.

Q Do you know if it is a controlled substance?

A Yes.

Q You got to sign for it when you go to the pharmacy?

A Yes.

Q You got to show your I.D. to get it?

A Yes.

Q Detective Troxell knew that, right?
A Yes.
Q Did he have an opportunity to look at your pill bottle?
A Yes, he did.
Q Did your pill bottle clearly say Xanax on the front of it?
A Yes, it does.
Q Do you know whether [redacted] in fact got up and ate breakfast on the morning of the 14th and then got up and ate lunch on the afternoon of the 14th?
A No, I was just told it over the phone.
Q And you were told that by whom?
A Robert.
Q Did you independently verify whether [redacted] got up and had breakfast that morning?
A No, I was at work.
Q Did you independently verify whether [redacted] got up and had lunch that day?
A No, I was at work.
Q We've heard some discussion about the state of the finances in your household; can you tell this jury who was paying the bills of the household?
A The majority of the time I was.
Q Now Robert wasn't unemployed the entire

time that you knew him?

A No.

Q When you first met him he was still in the Navy?

A Yes.

Q When you met him you were in Virginia at the time?

A Yes.

Q So you and Robert met in Virginia?

A Yes.

Q After his discharge from the Navy what did you do?

A After his discharge in the Navy he asked me to move here, so myself and my two children we moved here. We got a house, I got a job within two weeks, and I was working.

Q That would be Kyle and Kayla?

A That would be Kyle and Kayla, yes.

Q So they were living with you in Virginia also?

A Yes, they were living with me in Virginia as well.

Q Now you said you got a job within two weeks; how long was it before Robert got a job?

A I don't know.

Q Did Robert have a job after discharge from the Navy?

A No.

Q So you're saying he never worked?

A He did work but he didn't have a job right after he got out of the Navy.

Q Okay, but at some point after the discharge from the Navy he found employment?

A Yes.

Q So he was contributing to the household as well?

A Yes.

Q When did Robert loose his job?

A I don't know the exact dates. His last job was Market Commons and he was working there before it opened. He was working for an electrical company.

Q Do you recall how long before these injuries to [redacted] when the last time was Robert was working?

A I don't understand the question?

Q Okay, well we have a time frame, we know when [redacted] was injured and that was July 14th --

A Okay.

Q When was the last time prior to that that Robert had a job?

A Robert hadn't had a job probably for, he didn't have a job when Cesalee got here so that was a month and he probably didn't have a job prior to that, it was probably not for a couple of months.

Q Okay, for a couple of months, so what was Robert doing all day when you were at work?

A When [redacted] was there he was attending to him.

Q Right, before [redacted] got here?

A Looking for a job.

Q Once [redacted] got there it was decided that you all would take care of the situation by you working and him taking care of [redacted]

A Yes.

Q Had you had any concerns about Robert being around your grandson?

A No.

Q Now we've heard mention that you were driving his truck?

A Yes.

Q Explain those circumstances to the jury?

A The reason why I was driving his truck was my car got hit by a deer and my car was in the shop being fixed.

Q And when was this in relation to when

Cesalee came and all of that?

A It happened while Cesalee was here so my car was just in the shop for a couple of weeks getting fixed.

Q Okay, so during that time you were driving his car or his truck because your car was in the shop?

A Yes.

Q That's the car you're referring to when you said you had to come back home on Wednesday and pick up your car?

A Yes, it was getting out of the shop so I can go pick it up and go back to Charleston.

Q Okay, so while Robert was watching [redacted], what typically would they do on an average day?

A I don't know. I'm not home, just I would assume play with the toys in the house. They can go outside and walk the dog. They can play on the trampoline. I don't know, we had a four wheeler, they could ride it around, I don't know.

Q They were out on Highway 129 in the mobile home while you were at work?

A Yes.

Q How far would you say is the nearest convenience store to this house on Highway 129?

A The closest store is IGA, so walking

distance, but that's going to be a minute.

Q And again Robert had no blood relationship to this child?

A No.

Q Do you know when [redacted] was taken off life support?

A I really don't because I think I was already incarcerated by then. I know that Wednesday they, I believe they said Wednesday they had to do a test to see if he can breath on his own and he couldn't pass that test but they kept him on the machine after the fact.

Q We heard testimony that [redacted] was baptized?

A Yes, he was baptized that Thursday.

Q Were you there for that?

A No, I was not.

Q Why weren't you?

A I felt that Wednesday night or Thursday morning I went upstairs and I spent my time with [redacted] my time, and I helped the nurse clean him, bath him, put lotion on him, talked to him, and that was my time with him, so I felt the time that Cesalee and Richard and my mom could spend time with him that could be their time and that's what I chose.

Q Did you love [redacted]

A Love him with all my heart, there's never a day that goes by I don't think about him.

Q Did you abuse [redacted]

A No.

Q Did you allow Robert to abuse [redacted]

A No.

Q Did you allow anyone to?

A No.

Q Would you have allowed anyone to?

A No.

Q All these bruises that they had did you inflict them?

A No.

Q Did you allow Robert to?

A No.

Q Did you see those bruises?

A No.

Q Did you answer all the questions that various officials asked you?

A Yes.

Q Have you given them the best possible explanation that you had for what could have happened to [redacted]

A Yes.

Q And again did you cause these injuries to

[redacted]

A No.

Q Did you allow anyone else to injure [redacted]

A No.

Mr. Galmore: Thank you, Ms. Gorman, please answer any questions counsel may have for you.

The Court: What order would you like to do it, ladies?

Ms. Lively: It doesn't matter to me, Your Honor.

Ms. Grabert-Lowenstein: Ms. Lively can go, that will be fine.

Cross Examination

By Ms. Lively:

Q Ms. Gorman, you would agree that this is an extremely important case both for the decedent [redacted] as well as yourself, right?

A Yes, ma'am.

Q Okay, so and this has been three and a half years pending, correct?

A Yes, ma'am.

Q All right, so would you also agree that the first time that you had told anyone other than maybe your attorney that you spent time at the IGA and the video store on the date of July the 14th, 2008, is on the record here

today in front of this jury?

A Yes, sir, ma'am, I'm sorry.

Q I'm sorry, I can't hear you, you're going to have speak up?

A I gave them that information at his ---

Q You gave who?

A My attorney.

Q I'm not, I'm talking about the detectives, Dr. Abel, people who were treating your grandson, I'm talking about DSS who's investigating possible child abuse, did you ever tell anyone of those individuals three and a half years ago that you went to the IGA, you went to the video store on the day when everyone is telling you he had to be injured?

A I don't know did or didn't, ma'am, I could have, I don't know.

Q Okay, you could have, well would you agree that from, you've been sitting in this courtroom every single one of those officials for the State of South Carolina who were looking into the death of your grandson sat in that stand and not one of them brought up the fact that you were at the IGA and the video store; would you agree with that?

A I agree.

Q Okay, and wouldn't you agree that in this

particular case when they're investigating the death of a child, your grandson, and the time line was so crucial that something like that had been brought up that someone out of those five, six, seven, eight, ten people would have written that down? I'm just asking common sense, do you think it would have happened?

A It could have or it couldn't have, I mean if they wrote it down or not I don't know.

Q Well let me ask you this let's talk about your own memory, we have seen an hour and forty minute interview that you gave on July the 18th, 2008, correct?

A Yes, ma'am.

Q And that was you in that interview?

A Yes, ma'am.

Q No question, correct?

A Yes.

Q All right, this is four days after [redacted] had been admitted to the E.R. at Conway Medical Center, correct?

A Yes.

Q You have heard over and over by this time multiple skull fractures, bleeding on the brain, severe head injury, correct?

A Yes.

Q Okay, so there's no doubt this wasn't just

a little small bump on the head; would you agree with that?

A Yes, ma'am.

Q All right, so we have all this information and you talk to the detectives, you see Weaver one time, correct?

A Yes.

Q All right, then Troxell and Weaver come to MUSC and they talk to you again, right?

A Yes.

Q Okay, now at this point in time do you recall if you had told them that you ever left and went to the IGA and the video store?

A I can't recall if I did or didn't.

Q Okay, all right, that's fair, now so then because you said you don't know whether they would have written it down or not and that they might have missed it, we get you on video talking four days later after you've had several times to give your story about every minute you spent with that child and even then you didn't mention going to the IGA and the video store; isn't that true?

A Yes, ma'am.

Q Okay, so we can agree on that, right?

A Yes, ma'am.

Q Now so today we have, where's the check?

A It's right here.

Q Thank you, all right, now we have Defense Exhibit 5 which is, it appears to be an official canceled check; would you agree?

A Yes, ma'am.

Q You said documented, that's your signature without a doubt, you wrote this when you went to the IGA?

A Yes, ma'am.

Q Well I guess you must have just forgot to tell all those officials cause now we know for a fact you went to the IGA; isn't that right?

A Yes, ma'am.

Q Okay, but now this still doesn't fit with your time frame so you have to say that the time stamp on the back is wrong so you've got to make that fit your time frame, don't you?

A Yes, ma'am.

Q That's right, you do, because if you don't then this time frame saying that you were there at 3:52 and it only takes you five minutes to get home that would put your right with every single one of your statements saying you were home between 4 and 4:30 that day; isn't that right?

A That would.

Q That's exactly right, thank you for agreeing. So you were home between 4 and 4:30 on that day;

is that correct?

A I got, I got off work at 3:45, it does take me about forty minutes, fifty minutes to get home, and I was home for a few minutes and I left and went to the store.

Q So you're saying that date stamp is wrong?

A Yes, ma'am, I am.

Q Okay, all right, but it's right that you went to the IGA?

A That is correct, I did go to the IGA.

Q Okay, so isn't what you're doing at this point in time, Ms. Gorman, picking and choosing what's fitting your story that you have put up in your mind over the past three and a half years to make it fit?

A No, ma'am, it's not.

Q It's not, okay?

A No, ma'am.

Q You're just completely coming clean for this jury here today; is that right?

A No, ma'am, I'm telling you the truth.

Q Okay, so that means you were lying on July 18th whenever you were investigated and spoken to about the death of grandchild to Troxell and Weaver then; is that right?

A No, ma'am, I was tired and exhausted for

being up for days so I had skipped a very important information, yes, ma'am, in not telling them that I went to a grocery store.

Q Okay, you were tired and exhausted because you had spent forty hours at the hospital or because the night before you and your boyfriend who are finally free of the aggravation of a toddler had gone out to Beef O'Bradys and Fatz to drink beer and shoot pool; isn't that correct.

A No, ma'am.

Q Okay, but you did go out that night, didn't you?

A Yes, ma'am, we did.

Q That's exactly right and you went out that night and that was the night that your grandson's organs had been donated; isn't that right?

A I don't know if they were or not, ma'am, I was not notified about it.

Q Okay, as a matter of fact you were notified about the date that he was going to be baptized and you didn't stay for that, did you?

A Yes, ma'am, I was there and notified about it.

Q You were there but you didn't stay for it, did you?

A No, ma'am, I did not.

Q But you took the time to go out to Fatz?

A I went out to stay away from my house, I just did not want to be there.

Q You know, Julie, would you agree that it's somewhat concerning that the sixteen-month-old child had pretty much been for all reports fine and then after being in your care for two weeks he's dead; isn't that a little odd?

A Ma'am, he wasn't well when he got to my house.

Q Okay, cause once again it was Cesalee's fault, right?

A I don't know whose fault it is but I will tell you he's not, he wasn't well.

Q He wasn't well, okay, that's the reason why you took him to Dr. Hutson, the pediatrician in Aynor; is that right?

A Yes, ma'am.

Q Okay, and you said that on July the 1st when you took him there it was just for ant bites and nothing else?

A No, ma'am, I then talked about his head being squishy.

Q Okay, his head being squishy, and that's right, will you please, demonstrate to the jury again

where, where you're talking about his head was squishy?

A His head was squishy all over; it wasn't just one spot but all over.

Q So, so, right, let me get this, so right through here?

A Yes, ma'am, all over.

Q All over?

A It was soft and squishy.

Q And you're aware that the massive skull fractures to [redacted] that have been documented and has been seen by this jury are right in here?

A Yes, ma'am.

Q Is it surprising that the pediatrician who came and testified and you saw him never documented a child with a squishy head on him?

A I can't explain why but I did tell him.

Q Okay, and, and then were you given a prescription for [redacted]

A Yes, I was, I was given two prescriptions.

Q Two prescriptions, one of them was a steroid cream, and one of them was Xyzal which was the antihistamine; is that correct?

A Yes, ma'am.

Q And what was the dosage for that antihistamine that you were supposed to give to this twenty

pound child?

A A small amount.

Q What's the exact amount?

A Probably half a teaspoon, maybe.

Q Half a teaspoon?

A Yes.

Q Okay, and isn't it true in your statement from July the 18th when you were talking to the detectives that you would give him this, this medicine, it was kind of like Benadryl?

A It is like a Benadryl, yes.

Q Exactly, and the reason why you know this is because when you would give it to [redacted] he would become very drowsy and lethargic; isn't that true?

A No, that's what the side effects can be.

Q Okay, all right, well how about the fact that in the records whenever all of these medical professionals who their lives are dedicated to saving people actually document in their records that you told them or some care giver told them he was being given twice that amount and in one of the records two and a half times that amount?

A I never gave him that.

Q You never gave him that information?

A No, ma'am.

Q Were you around, did Robert give it to them?

A Robert never gave him that much medicine.

Q And did you see the pictures of the Tylenol and the medicated cream that Detective Troxell took and actually put, that we put into evidence?

A No, ma'am, but I mean I know what, I know what medicines were at my house.

Q Where was the Xyzal?

A In his diaper bag cause I took that to Charleston.

Q So you didn't see that was important to, to give to the detective?

A It was, when I went to Conway to E.R. when we left the house it was one of the medicines I took with me so they had it in the EMT truck so they knew what he had and how much.

Q Well, you know, you had mentioned that whenever that you were concerned that the child was not right or something was wrong with him whenever Cesalee brought him to you in June of 2008, correct?

A Yes.

Q You mentioned he had a squishy head and, and you were concerned that maybe developmentally he had some type of problems; is that right?

A Yes.

Q Okay, did you have, do you have for this jury with all this medical information that, that they've seen and gone through do you have any documentation whatsoever to back up your position regarding him being developmentally delayed or having a squishy head?

A No, ma'am, I do not.

Q Now we had a lot of talk about finances and I'm not going to get into it a whole lot, but is it true that the Palmer's, Gail and Jimmy had to pay ya'll's rent the last month?

A I believe they did.

Q Okay, and ya'll bought a $1600 bulldog?

A At that time we had the money, I could.

Q Okay, and but there were some bills that were being paid and weren't getting paid?

A All my bills were paid.

Q All your bills were paid?

A I could pay my bills and I paid some of his bills.

Q Okay.

A But there were bills at times probably didn't get paid but, you know, I did pay my bills.

Q Okay, that's fine, well let me ask you this

because you, you were the only one working, correct?

A Yes.

Q All right, and Cesalee comes into town and obviously you even said in your statement you and Cesalee didn't get along, you were even concerned that she might hit you on a day whenever you were at MUSC and you saw her?

A Yes.

Q Fair enough.

A Yes.

Q Okay, you didn't even call your own daughter to tell her her son was being life flighted to MUSC, right?

A Yes.

Q Okay, so that's bad of a relationship the two of you had?

A Yes.

Q Okay, all right, and then you said that you and your family didn't like Richard, the father of the child, correct?

A Yes.

Q All right, so here we are you're having to take care of the toddler the product of the two people that you dislike so much who was dumped off at your house; is that right?

A Yes.

Q Okay, and like you said in your statement Cesalee just wiped her hands of him, I kept telling her on the way to the airport are you sure, are you sure you want to leave him; is that right?

A I just wanted to make sure that's what she wanted to do. I wasn't, I mean I'd keep him no matter what, that wasn't the problem.

Q Okay.

A I just wanted to make sure that's what she wanted to do, you know.

Q Okay, and, and you felt that maybe by keeping him there you could even fix him and make him a fresh little boy for her, didn't you?

A Just wanted to make sure that, you know, that way we could, you know, the habits that he had, you know, the hitting and everything, you know, just where he wasn't doing that anymore and that way when he goes back or when she comes back to get him that he wasn't doing that stuff anymore.

Q You wanted to fix him?

A He wasn't a bad child.

Q Okay, he was whiny?

A He was just whiny but he wasn't a bad child.

Q He was fussy?

A He was fussy but he wasn't a bad child.

Q He'd try to crawl up your leg while you were busy trying to cook dinner?

A So he would try to crawl up my leg and I would just move him away, I mean, he wasn't a bad child.

Q But you would get frustrated with him?

A I get frustrated I'd walk away.

Q And he was very clingy, correct?

A Yes, he was.

Q This was the first time he had ever met you, right?

A Yes, ma'am.

Q First time that he had been away from his mother that long; isn't that right?

A Yes, ma'am.

Q And the way that you dealt with what you referred to as depression because this child was not around his mother was to immediately try to fix him; is that what you're telling us?

A Yes, ma'am, I was getting it from both sides. I was being told by one to let him cry, don't pick him up, and let him do this, and so I was doing it as well.

Q So, okay, instead of comforting a child who was out of sorts, not where he's normally used to being, he misses his mother?

A I still loved on him, I just didn't pick him up.

Q You didn't pick him up, okay?

A I still loved on him, though, we just didn't pick him up.

Q All right, Julia, let's, let's get to the point of where you showed this, where the jury saw you shaking that leprechaun doll, you're saying that you never did that?

A I never shook my grandson.

Q Okay, and at the time that you were in this interview you had signed a Miranda form, correct?

A Yes, ma'am.

Q At this point in time did you know how serious it was, anything and everything that you said to Troxell and Weaver regarding what you had done with your grandson?

A I probably really didn't know, I mean I knew my grandson was sick. I knew he was severe but I didn't do anything wrong to my grandson, never hurt him. I never did any of this stuff.

Q Hadn't they just screamed in your face and told you that you were going to jail?

A They, they had done everything, scared me to death, I didn't do anything. I still haven't done

anything.

Q Okay, Ms. Gorman, and I, and I appreciate that that you say that but this is my question, if, if you didn't do anything, didn't hurt your grandson then why did you consistently lie in that interview about what you had done on that Monday and specifically about shaking your own grandson?

A I didn't shake my grandson.

Q I'm asking why you lied?

A I don't know why I said it. They asked me how I shook that thing and I shook it, I never said I shook him.

Q No, they didn't ask you how you shook that thing, they asked you how you shook your grandson.

A And I shook that doll but I never shook my grandson.

Q Do you wish you could take that back now?

A Absolutely, every day, but I never shook my grandson.

Q You just made that up to make them happy?

A I don't know but I never shook my grandson. I never hurt my grandson.

Q Do you need tissue?

A Yes.

Q Whenever you and Robert were driving back

and forth from Conway to MUSC being the concerned grandmother that you were, why didn't you ever look at him and say what did you do to my grandson?

A I never asked, I never thought he would do anything to him.

Q Okay, cause you never thought he would do anything to him, and as a matter of fact that's exactly what you told the detectives; isn't that right?

A Yes

Q And, Julie, would you agree that the one person that actually puts Robert outside of the home walking the dog that day on the 14th wasn't Robert in his interview, but it was you?

A Yes.

Q Okay, so you're the one that actually said it, and you're the one that talks about, and it's eerily similar in this way, the two of you both decide that let's don't get him up, let him lay in his playpen so we can have a peaceful dinner so he doesn't act up; isn't that true?

A That's not how, how it's supposed to mean.

Q Okay, well you've given us a lot of different meanings of a lot of different things so will you, please, explain to me what type of meaning that could have?

A It's just meaning we'll just have an adult

dinner before we wake him up so that way we can just, I can just tend to him, you know, so I can just give him my hundred percent attention to feed him instead of me taking a bite and attending to him, that's all it was. It wasn't the fact that he was going to act up or anything; it's just so I can give him my hundred percent quality time.

Q And, Julie, by this time in your, in having [redacted] in your house you and Robert's day to day lifestyles have changed dramatically; wouldn't you agree?

A I just worked and came home and took care of him after I was home.

Q Exactly, and before then you had no toddler to take care of; isn't that right?

A No, that didn't matter.

Q Okay, all right, and at what point in time did Robert tell you that he was done with this situation and that he was going to leave you and go back home to his parents?

A I don't recall him ever telling me that.

Q Okay, so you're saying that your relationship with him was not on the rocks. you never cried calling friends just losing it because the two of you were breaking up?

A I'm not saying that we, that we didn't have arguments. I'm not saying I never cried and talked to

friends, but he's never told me that he was, we were breaking up and he was going to move home, he never told me that.

Q But the possibility that he wouldn't leave you was probably better if [redacted] was out of the picture; wouldn't you agree?

A No, I wouldn't care if he left or not.

Q Okay.

A [redacted] was my responsibility not his.

Q But, but he was the one that was the caretaker during the day every day; wasn't he, Julie?

A That doesn't matter, I could take care of [redacted] with or without him.

Q So you've mentioned again that [redacted] had a habit of head butting, biting, pinching himself?

A Yes, he did.

Q Really, and well then I'm curious, you know, when he was in the hospital and we've got all these pictures of these bruises all over his body, if he had a habit of pinching himself then why wasn't he completely bruised free before he ended up in the E.R.?

A I would just my hand down if he'd start I would just stop him.

Q But you're saying he was doing that all along?

A He was doing it, he was doing it when he arrived.

Q Okay.

A And he was head butting; he was biting.

Q But the bruises didn't appear until he actually ended up in the E.R.?

A Yes, ma'am, he didn't have those bruises.

Q All right, and, Ms. Gorman, you stated that in your direct testimony that you never hit your grandchild, never smacked him or anything like that, but didn't you actually disclose in your July 18th interview that you did smack him and pop him on the butt?

A I have popped him on the butt, I have tapped him on his hand, yes, I have said that.

Q And, and let me just go through this with you because I want to make sure that I'm very clear, even though you told everybody else that you were home between 4 and 4:30 you're saying that that's incorrect, am I, is that where we're at right now?

A I came home, I left, I went to the IGA store.

Q I know and I'm sorry, I'm just trying to get a clear picture of where your time line is different.

A Okay.

Q Would you agree that when you talked to the

detectives and probably every other official in this, investigating this case you said that you were home between 4 and 4:30?

A Yes, it could be, yeah.

Q Okay, thank you, and when you got home you went and checked in on [redacted] and he was sleeping and breathing fine; is that correct?

A Yes, yes, ma'am.

Q Then you walk out of his room and a little bit later you said that you would check on him periodically with Robert; is that right?

A I didn't check on him again until I was time to get him for dinner.

Q Okay, so that's different, too, and then you stated that you cooked dinner and at that time either you say this to Robert or he says it to you, what do you want to do, let's have a peaceful dinner, don't get him up, etcetera, etcetera, we've just talked about that, correct?

A Yes, ma'am.

Q Okay, so you sit down to eat dinner in peace and then this is in your July 18th interview you said that's whenever Palmer gets up and leaves and walks outside to walk the dog?

A He just stepped outside and took the dog right there by the steps, yeah.

Q All right, and then you go to wake up [redacted] and that's whenever you see that he's got the saliva and he's making these noises and seizing?

A Yes, ma'am.

Q Okay, all right, and you agree because it's in, I'm assuming it's in the record and this time is right, that 911 was called around 6:00 p.m. that day?

A Yes, ma'am.

Q All right, so you do agree as to the time when 911 was called?

A Yes, ma'am.

Q All right, now, but everything else that, that I've said to you other than let's eat dinner and all that stuff you're saying all of that in that time line is completely incorrect from three and a half years ago what you were telling the people?

A The only thing that I didn't tell them or they may not have wrote down was the fact that I went to the store and to the video store before I came home. I mean I came home and I left and I came back.

Q Well you didn't tell them about the bad check and the fact that it was post dated a whole hour later than it should have been?

A Well I didn't know, I didn't know the check was posted an hour later.

Q Okay.

A I mean that's not my error.

Q Okay, you just figured that out before you testified today?

A Well, yes, ma'am, I didn't know that.

Q I got you, any time whenever Logan --

A The dog.

Q Thank you, the big-$1600 bulldog knocked [redacted] over did he ever get knocked out or lose consciousness?

A No, ma'am.

Q Whenever he was in that stroller when Cesalee was still in town about two or three weeks before he ended up in the E.R. with skull fractures did he ever loose consciousness?

A No, ma'am.

Q When was the last time you gave him that antihistamine?

A I could have gave it to him that Saturday, I'm not really for sure if I gave it to, it had to been Saturday cause I did, or it could have been Sunday, I'm sorry, cause Monday I was at work.

Q Okay, and, and let me ask you one more thing?

A Okay.

Q Isn't it true that while Cesalee was here, and you've already said ya'll had problems, that you called her husband and said get your wife and your young'en and take them home?

A I did, on my way home from work because she pulled a stunt about being out till 6:00 in the morning cause she text me and she text me about three, or three, so in the morning, said she was out. I said don't you think you need to come home? You got your child to tend to, and she said he won't wake up till 6:00, and that kind of upset me, you know, because you have your child to take care of and then she went out again and the next morning on my way home from work I called Richard and I said you need to get your wife and your child and take then home if they're going, you know, if she's going to act like this and he, you know, when I got home I had calmed down; and I, you know, talked to Robert and he says, you know, [redacted] can stay and I took Cesalee outside and I talked to her. I didn't yell or scream at her and talked to her and explained to her, you know, we're not going to have kind of stuff at my house. She said, okay, and then we decided that Cesalee could stay, too, and but Richard had already bought the plane ticket and so she decided she wanted to, you know, she would go and leave the baby. You know we had already decided that she could still stay. It wasn't the

fact that you know, when I called him I was upset but I still offered her to still stay even though the disagreement was there she was offered to still stay at my house. She's still my child, you know, we have our differences but she was still welcome to stay.

Q Well after all the different stories, Julie, I just want to ask, is today the truth or were the other stories three and a half years ago the truth?

A Today is the truth, ma'am, I didn't hurt my grandson.

Q Cause today's story is the one that counts, right?

A They were all the truth, I never hurt my grandson.

The Court: Ms. Grabert-Lowenstein?

Ms. Grabert-Lowenstein: Thank you.

Cross Examination

By Ms. Grabert-Lowenstein:

Q Good evening, ma'am. You were asked about the Bass Pro Shop time card?

A Yes, ma'am.

Q And you can actually have someone check out for you, can't you?

A No, ma'am, I don't believe so, I mean, well the h.r. can do it for you.

Q And that means you have control over what time it's checked out even if you're not there?

A The H.R. is the only one that can go into the system cause they have to have a password to get into it.

Q Okay, so you can ask them to do it and it's done and you have control over that?

A Yes, ma'am, but it will show that it was manually keyed in. It will have a code next to it if you manually key in.

Q Somebody else could check out for you besides the H.R.?

A No, they cannot.

Q You would agree with me that the time card which you would have control over and the date stamp on the back on the check can't be correct?

A Correct.

Q You have no knowledge that there's anything in error in the back of the check?

A I didn't know there was an error on the back of the check.

Q And you, you have no knowledge that there, there really, is an error?

A I didn't know there was an error on the back of the check.