

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF:)
AAMIYAH DE'NASIA LAMB)
AND CHRISTOPHER LAMONT)
BYNUM JR.)

Minors.)

KEAUNDRA DEBERRY,)

Appellant,)

vs.)

CLARK COUNTY DEPARTMENT)
OF FAMILY SERVICES,)

Respondents.)
_____)

SUPREME COURT NO. 69047

District Court No. D-11-446967-R

Electronically Filed
Feb 04 2016 02:43 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

CO-APPELLANT'S APPENDIX

VOLUME 2

DAVID M. SCHIECK #0824
DEANNA MOLINAR #12045
Clark County Special Public Defender
330 S. Third St. Suite 800
Las Vegas, NV 89155
(702) 455-6266
CHRISTAL DIXON #09009
725 E. Charleston Blvd.
Las Vegas, NV 89104
(702) 386-1070
ATTORNEYS FOR APPELLANT

STEVEN WOLFSON #01565
RONALD CORDES #4955
Clark County District Attorney
601 North Pecos
Las Vegas, Nevada 89101
(702) 455-5320
ATTORNEYS FOR RESPONDENT

<u>VOLUME</u>	<u>PLEADING</u>	<u>PAGE NO.</u>
1	Affidavit for Service by Publication (5/26/11)	109-122
1	Affidavit of Service by Certified Mailing (6/15/11)	139
1	Affidavit of Publication (7/5/11)	140
3	Case Appeal Statement (5/28/13)	580-582
6	Court Minutes D-11-446967-R	1068-1077
6	Court Minutes J-10-319959-P1	1078-1089
1	Court Order (2/4/11)	8
3	Decision (TPR trial 1/23/12-3/15/13)	565-570
6	Decision on Remand (9/21/15)	1058-1064
1	Department of Family Services Confidential Report (lodged not file date of report 2/22/11)	29-51
1	Department of Family Services Confidential Report (Case plan) (lodged not filed date of report 3/15/11) . . .	72-79
1	Department of Family Services Confidential Report (lodged not filed date of report 4/25/11)	93-100
1	Department of Family Services Confidential Report (lodged not filed date of report 9/14/11)	130-138
1	Ex Parte Motion for Typewritten Transcript; CD; or Memory Stick for the Purpose of Filing an Objection (3/23/11)	80
4	Ex Parte Order Re: Representation (1/28/15)	789-790

1	Findings and Order of Reasonable Efforts to Prevent Removal (6/18/10)	4-6
1	Findings of Fact, Recommendation, and Order of Approval - Petition No. 1 (2/24/11)	52-61
1	Findings of Fact, Recommendation, and Order of Approval - Petition No. 1 (3/1/11)	62-71
6	Joint Notice of Appeal (10/23/15)	1066-1067
4	Judgment Supreme Court No. 63311 (12/11/14) . . .	766-776
4	Motion for Visitation, Motion to Appoint CAP for Subject Minors and Motion to Change Permanency Plan to Reunification (11/21/14)	718-765
1	Motion to Withdraw as Counsel of Record (6/11/12) . . .	173-7
3	Notice of Appeal (5/28/13)	576-577
3	Notice of Appeal (6/4/13)	578-579
4	Notice of Appearance (1/23/15)	788
3	Notice of Entry of Order (4/30/13)	564
4	Notice of Entry of Order (1/29/15)	791-794
6	Notice of Entry of Order (Decision on Remand) (9/22/15)	1065
1	Notice of Hearing to Terminate Parental Rights (6/10/11)	129
1	Notice of Rescheduling of Hearing (1/11/12)	146-147
3	Notice of Rescheduling of Hearing (1/2/13)	562-563

1	Objection to Masters Findings of Fact, Recommendation and Order of Approval - Petition 1 (2/18/11)	21-28
4	Opposition to Keaundra Deberry's Motion for Visitation, Motion to Appoint CAP for Subject Minors, and Motion to Change Permanency Plan to Reunification (12/24/14)	777-787
1	Opposition to Objection to Hearing Master's Recommendation (4/11/11)	85-90
1	Order Appointing Counsel (7/11/12)	183
1	Order Denying Objection to Masters Finding of Fact, Recommendation and Order of Approval - Petition #1	91-92
1	Order for Confirmation of Appointment of Counsel (6/22/10)	7
1	Order for Publication of Notice (6/2/11)	123-124
1	Order Shortening Time (6/28/12)	182
1	Out-of-Home Placement Order - Unlicensed Relative (3/29/11)	81-84
1	Out-of-Home Placement Order - Unlicensed Relative (6/6/11)	125-128
1	Out-of-Home Placement Order - Unlicensed Relative (9/30/11)	141-145
1	Out-of-Home Placement Order - Unlicensed Relative (3/30/12)	157-161
3	Out-of-Home Placement Order - Licensed Foster Home (5/2/13)	571-575

1	Petition - Abuse/Neglect (5/13/10)	1-3
1	Petition to Terminate Parental Rights D-11-446967-R (5/24/11)	101-108
1	Pretrial Memorandum Pursuant to EDCR 7.27 (11/2/12)	191-195
3	Receipt of Copy (12/6/12)	561
1	Report for Permanency and Placement Review (3/7/12)	150-156
1	Report for Permanency and Placement Review (4/11/12)	165-172
1	Report for Permanency and Placement Review (9/26/12)	184-190
3	Report for Permanency and Placement Review (8/30/13)	583-620
4	Report for Permanency and Placement Review (3/3/14)	621-644
4	Report for Permanency and Placement Review (8/28/14)	645-717
5	Report for Permanency and Placement Review (2/27/15)	795-841
5	Report for Permanency and Placement Review (3/4/15)	842-888
6	Report for Permanency and Placement Review (8/28/15)	989-1057
1	Request for Order Shortening Time (6/25/12)	178-181

1	Stipulation and Order (4/5/12)	162-164
1	Stipulation and Order to Continue the Termination of Parental Rights Petition (2/1/12)	148-149
2	Transcripts Trial Volume III for hearing on November 2, 2012 Pages 71-256 (7/29/13)	203-388
3	Transcripts Trial Volume III for hearing on November 2, 2012 Pages 257-335 (7/29/13)	389-467
3	Transcripts Trial Volume IV for hearing on March 15, 2013 (7/29/13)	468-560
5	Transcripts Trial Day One for hearing on March 10, 2015 (10/29/15)	889-961
6	Transcripts Trial Day Two for hearing on March 25, 2015 (10/29/15)	962-988
1	Trial exhibits case J-10-319959-P1 (unfiled, Trial Date 2/4/11)	9-20
1	Trial exhibits case D-11-446967-R (unfiled, Trial Date 11/2/12)	196-202

1 TRANS

FILED

JUL 29 2 51 PM '13

2
3
4 COPY

Alvin L. Shuman
CLERK OF THE COURT

5 EIGHTH JUDICIAL DISTRICT COURT

6 FAMILY DIVISION

7 CLARK COUNTY, NEVADA

8
9 In the Matter of the) CASE NO. D-11-446967-R
10 Parental Rights as to:)
11 AAMIYAH DE'NASIA LAMB,)
CHRISTOPHER LAMONT BYNUM, JR.,)
12 Minors.)
13
14

15 BEFORE THE HONORABLE ROBERT W. TEUTON, DISTRICT COURT JUDGE

16
17 TRANSCRIPT RE: TRIAL VOL. III

18
19 FRIDAY, NOVEMBER 2, 2012

1 APPEARANCES:

2 For the State of Nevada: RONALD L. CORDES, ESQ.
3 Senior District Attorney
4 Juvenile Division
5 601 North Pecos Road
6 Las Vegas, Nevada 89101
7 (702) 455-5320

8 The Natural Mother: KEAUNDRA LOUISE DEBERRY
9 For The Natural Mother: MELINDA E. SIMPKINS, ESQ.
10 Deputy Special Public Defender
11 601 North Pecos Road
12 Las Vegas, Nevada 89101
13 (702) 455-6265

14 DEANNA M. MOLINAR, ESQ.
15 Deputy Special Public Defender
16 601 North Pecos Road
17 Las Vegas, Nevada 89101
18 (702) 455-6265

19 Also Present: MICHELLE DOUGLAS
20 Department of Family Services
21
22
23
24

I N D E X O F W I T N E S S E S

VOIR
DIRE

DIRECT CROSS REDIRECT RECROSS

FRIDAY, NOVEMBER 2, 2012

STATE'S WITNESSES

ROBERTA CUMMINGS

By Mr. Cordes 145 -- -- -- --

By Ms. Molinar -- 162 -- -- --

KEAUNDR A DEBERRY

By Mr. Cordes 175 -- 243/256 -- 232

By Ms. Molinar -- 224 -- 254 --

MICHELLE DOUGLAS

By Mr. Cordes 257 -- 323 -- --

By Ms. Simpkins -- 283 -- 327 --

RESPONDENT'S WITNESSES

JANE FORTUNE

By Ms. Simpkins 88 -- 136/143 -- 84

By Mr. Cordes -- 111 -- -- --

By The Court 141 -- -- -- --

* * * * *

FRIDAY, MARCH 15, 2013

STATE'S WITNESSES

(None offered herein.)

RESPONDENT'S WITNESSES

MICHELLE DOUGLAS

By Ms. Simpkins 344 -- -- -- --

MICHELLE JORDAN

By Ms. Simpkins 346 -- 382 -- --

By The Court 359 -- -- -- --

By Mr. Cordes -- 370 -- 388 --

I N D E X O F E X H I B I T S

IDENTIFIED

ADMITTED

FRIDAY, NOVEMBER 2, 2012

DEFENSE'S EXHIBITS

D-A	Document; 7-7-12 Letter from Jane Fortune, MA, LPC	102	106
D-B	Document; Deed of Distribution Case #1999-ES-17-74	229	235
D-C	Document; Wilcohes, LLC Paystub for pay period ending 10-21-12	236	237

STATE'S EXHIBITS

P-1	Document; Copy of Juvenile case file J-10-319959-PC	--	106
P-2	Document; 6-6-12 Assessment letter	136	136
P-3	Document; Birth certificate for Aamiyah De'Nasia Lamb	--	175
P-4	Document; Birth certificate for Christopher Lamont Bynum, Jr.	--	175

* * * * *

FRIDAY, MARCH 15, 2013

DEFENSE'S EXHIBITS

D-D	Document; Las Vegas Municipal Court Case #C0716427A	--	392
-----	--------------------------------------------------------	----	-----

* * * * *

OPENING STATEMENT

By Ms. Simpkins	77
-----------------	----

CLOSING STATEMENT

By Mr. Cordes	393
By Ms. Simpkins	400

1 LAS VEGAS, NEVADA

FRIDAY, NOVEMBER 2, 2012

2 P R O C E E D I N G S

3 (THE PROCEEDING BEGAN AT 09:17:07.)

4 THE COURT: All right. We are now on the record in Case
5 Number 446967.

6 Appearances, please.

7 MR. CORDES: Good morning, Your Honor. Ron Cordes, Clark
8 County District Attorney's Office. With me is Michelle
9 Douglas from the Clark County Department of Family Services.

10 MS. SIMPKINS: Melinda Simpkins, Deputy Special Public
11 Defender, Bar Number 7911, appearing on behalf of natural
12 mother, Keaundra DeBerry, who is present.

13 MS. MOLINAR: Deanna Molinar, Deputy Special Public
14 Defender, Bar Number 12045, also present on behalf of the
15 mother, Keaundra DeBerry, who is present.

16 THE COURT: All right. Before I get back to you, Mr.
17 Cordes, is the defendant's witness from Carolina?

18 MS. SIMPKINS: South Carolina. She's here in the
19 hallway, Your Honor.

20 THE COURT: Okay. All right. Good.

21 MS. SIMPKINS: We're going to call her out of order. She
22 has a plane -- she has to be at the airport by noon. So...

23 THE COURT: All right.

24 Is that correct?

1 MR. CORDES: Yes, Your Honor. We agreed.

2 THE COURT: Okay. All right. Then -- well, do you wish
3 to make an opening statement?

4 MR. CORDES: Judge, The State would waive our opening
5 statement. I would just refer The Court to the pretrial
6 memorandum that was filed by The State in this matter to serve
7 as our opening. I would like to invoke the exclusionary rule.
8 So I would ask that any potential witnesses wait outside.

9 THE COURT: All right.

10 MR. CORDES: I don't know who the individual is that's
11 present, Your Honor. So --

12 MS. SIMPKINS: This is Dad's brother.

13 THE COURT: This is Dad's brother?

14 MS. SIMPKINS: The -- the natural father -- yeah, it's
15 Christopher Bynum, Sr.'s brother.

16 THE COURT: All right.

17 Do either side intend to call him?

18 MS. SIMPKINS: No, Your Honor.

19 MR. CORDES: I don't intend to call him. But I don't
20 know where the testimony is going to take us, Your Honor. So
21 I would ask that he wait outside and being -- as possibly
22 being called as a witness.

23 THE COURT: All right. Okay.

24 MR. CORDES: And then lastly, Your Honor, if the record

1 could just reflect that Christopher Bynum, Sr. has not
2 appeared today. Judge, we do have information that Mr. Bynum
3 Sr. is incarcerated in the state of Louisiana.

4 MS. SIMPKINS: That's my information as well, Your Honor.

5 THE COURT: All right. While we're on the subject of no
6 appearances, as far as I can tell in reviewing the case
7 history here there's been no appearance from Mr. Lamb or from
8 Mr. Graves. Is that correct?

9 MR. CORDES: That is correct, Your Honor. We have not
10 had any participation from the fathers for purposes of this
11 proceeding.

12 THE COURT: Okay. Do you wish to make an opening
13 statement?

14 **OPENING STATEMENT BY MS. SIMPKINS**

15 MS. SIMPKINS: Very briefly, Your Honor.

16 I know that you indicated we cannot re-litigate the
17 J Case, but it's important for you to understand where this
18 case comes from and how we've reached The Court today. The
19 call came in from an unknown source, and the initial
20 allegation was --

21 THE COURT: Excuse me. The parties may be seated.

22 MS. SIMPKINS: Okay.

23 And the initial allegation was that Dad burned the
24 child with an iron, not my client. The allegation in the

1 petition as -- we were stipulating to the J case coming in.
2 So The Court will know the allegation in the petition was that
3 Mom either physically abused -- initially physically abused or
4 improperly supervised, resulting in the burn to the child's
5 face. There's a similar allegation with regard to Dad, but
6 there's no mechanism that was pled.

7 So almost a year goes by. And during that year
8 period, Mom does parenting classes but her contested hearing
9 was continued over and over and over again. So finally when
10 they get to contested hearing and The Court will see from the
11 decision of the hearing master, Dr. Mehta testified -- she
12 testified only from photographs. She testified that it was
13 physical abuse and she testified that the injury could only
14 occur because an iron was held to the face.

15 Your Honor, we'll also note from the hearing
16 master's findings that there were rebuttal medical records
17 from a doctor in Louisiana. They're referred by DFS --
18 referred to by DFS throughout their reports to The Court
19 throughout the life of the case with regard to these medical
20 records. The medical records indicate basically that the
21 doctor examined the child and found that there was no abuse.
22 This is what -- this is what the Department has reported in
23 their reports throughout the life of this case.

24 But as you can see and you will see from Hearing

1 Master Femiano's decision, those records were kept out even
2 though under 432B they're -- potentially, she could have
3 looked at them. But they were kept out because they were not
4 certified copies. They were given to Mr. Perez who was her
5 attorney at the time by The State. So if you look at Hearing
6 Master Femiano's findings, she's got Dr. Mehta's testimony.
7 She's refused to look at rebuttal testimony. And Mom
8 testified that she was the only adult in the home and there's
9 uncontroverted testimony that Mom was in the other room when
10 it hap -- when the injury happened. That's also noted in
11 Hearing Master Femiano's findings. And, again, that was
12 uncontroverted.

13 So we are dealing with an inference here, total
14 inference that Mom physically abused this child. Because no
15 one -- there's no finding that there was any -- and there was
16 no evidence that Mom held the iron to the baby's face. This
17 is not mentioned in the decision. It's not alleged in the
18 petition, and it's not consistent with the initial report.

19 Your Honor, given -- Mom was given a case plan
20 shortly after this finding. And, very briefly, given time to
21 work it I would say probably a couple months before now
22 because time has gone by, because the numerous continuances,
23 they're seeking termination of parental rights. During the
24 time that she had the case plan she went into therapy in

1 Louisiana. The caseworker gave the topics of what needed to
2 be covered in therapy to the therapists. And Mom completed
3 that therapy in Louisiana, but The Court was dissatisfied; DFS
4 was dissatisfied. And so they referred her to a second
5 therapist who is the one who is going to testify outside
6 today.

7 Mom -- we believe the evidence will show that Mom
8 has housing. We believe the evidence will show that Mom has
9 income. We believe the evidence will show that Mom keeps in
10 regular contact with the Department of Family Services, that
11 she visits and calls her children on a regular basis because
12 the children are with grandma in Louisiana. Mom's currently
13 residing in South Carolina in the house that was left to her
14 by her father. We believe that the children are bonded. We
15 believe the evidence will show that the children are bonded to
16 Mom, that she sends them gifts. She sends them clothes. She
17 helps with their support. And we believe that the evidence
18 will show that Mom has completed everything on her case plan.

19 The reason we are here today, Your Honor, is because
20 Mom refuses to say and has consistently held that she did not
21 hold the iron to the baby's face. And that's why because she
22 could -- she refused to state -- she refused to make an
23 admission consistent with The Court's findings that there was
24 physical abuse of the child and that she was responsible for

1 that. That's why we're here today. That's the only reason
2 we're here today. Everything else, Mom has completed.

3 I think, Your Honor, that that is incorrect. I
4 think that violates my client's Fifth Amendment rights. And
5 at this point in time I filed -- e-filed this morning my
6 pretrial memorandum pursuant to Eighth Judicial District Court
7 Rule 7.27. For the record I'm serving a copy on The State.
8 And may I approach, Your Honor?

9 THE COURT: You may.

10 (MS. SIMPKINS HANDS DOCUMENT TO THE COURT.)

11 Is this different than the one that you filed
12 previously?

13 MS. SIMPKINS: The one filed previously was filed by The
14 State, Your Honor. I have not filed one, and this one deals
15 solely with the basic legal issue of the Constitutional rights
16 and terminating parental rights.

17 THE COURT: Okay. All right. I was looking at a
18 pretrial memo filed 11/2 at eight oh nine a.m. So that's my
19 reference. This is the same one I was looking at.

20 MS. SIMPKINS: Yeah.

21 THE COURT: Okay.

22 MS. SIMPKINS: Oh, okay. That is the same one.

23 So at the end of the day, Your Honor, we are going
24 to ask you to deny the petition to terminate parental rights.

1 THE COURT: Okay. Very good.

2 MS. SIMPKINS: And at this point in time since we are
3 going to call her out of order, if we're ready to go, we'll
4 call Jane Fortune.

5 THE COURT: Okay. Very good.

6 MR. CORDES: We'll stipulate, Your Honor.

7 THE COURT: Jane Fortune.

8 MR. CORDES: (Indiscernible.)

9 MS. SIMPKINS: Okay.

10 I'll go get her.

11 (THE WITNESS ENTERS THE COURTROOM.)

12 THE MARSHAL: If you could step forward, Ma'am.

13 (THE WITNESS TAKES THE STAND.)

14 If you could remain standing, raise your right hand,
15 face the clerk.

16 THE CLERK: You do solemnly swear the testimony you are
17 about to give in this action shall be the truth, the whole
18 truth, and nothing but the truth, so help you God?

19 MS. FORTUNE: I do.

20 THE CLERK: Thank you. Please state your name for the
21 record.

22 MS. FORTUNE: Jane Fortune.

23 THE MARSHAL: Could you spell your last name?

24 MS. FORTUNE: F-o-r-t-u-n-e.

1 THE CLERK: Thank you.

2 THE MARSHAL: Go ahead and have a seat. Just speak loud
3 enough so the Judge and everybody else can hear, but also so
4 that our sys -- recording system picks it up.

5 MS. FORTUNE: Okay.

6 THE MARSHAL: Thank you.

7 THE COURT: Good morning.

8 MS. FORTUNE: Good morning.

9 THE COURT: So you must have flown in yesterday?

10 MS. FORTUNE: Yes, Sir.

11 THE COURT: And you're flying out at noon?

12 MS. FORTUNE: Out of here, yes sir, at two.

13 THE COURT: You're not going to take part in our
14 wonderful city activities?

15 MS. FORTUNE: (Chuckle.) Well, I did a few activities
16 last night. I walked up and down...

17 THE COURT: (Laughing.)

18 MS. FORTUNE: And thought, wow this is...

19 THE COURT: All right.

20 MS. FORTUNE: If I could go out on a ranch that's what
21 I'd really like to do. Don't think I have time (chuckle).

22 THE COURT: (Chuckle.) Okay.

23 All right. Ms. Simpkins?

24 MS. SIMPKINS: Thank you, Your Honor.

1 JANE FORTUNE

2 having been called as a witness by the Respondent and being
3 first duly sworn, testifies as follows:

4 VOIR DIRE EXAMINATION

5 BY MS. SIMPKINS:

6 Q Ms. Fortune, could you please state your name and
7 spell your last name for the record?

8 A Jane Fortune, F-o-r-t-u-n-e.

9 Q And do you know the lady sitting to my left here?

10 A Yes, I do.

11 Q How do you know her?

12 A This summer we were talking about the time, I think
13 it was around April, she came into my office. I have a office
14 in Dillon, South Carolina which is a rural area that is her
15 hometown, and then I have an office at Myrtle Beach. And she
16 appeared in my office and came in and said, I was told to come
17 and see you by my lawyers, I need some parenting classes, I
18 need help in getting my children back.

19 Q Okay. Let me stop you right there. You say your
20 office. What do you do for a living?

21 A I'm a licensed professional counselor.

22 Q Can you tell The Court a little bit about your
23 training and experience in being a licensed professional
24 counselor?

1 A Okay. I have a Bachelor's Degree in Psychology
2 which I received right out of high school. Then I raised my
3 kids, traveled with my husband, have always worked with a
4 indigent population, did vocation and evaluation work and
5 adjustment with my Bachelor's Degree. Then went back to
6 college at Liberty University and got a Master's in
7 professional counseling. And we lived in Roanoke, Virginia
8 then. And I got my -- well, to get your degree you had to do
9 an internship. I did an internship with a community agency
10 and did in-home. So I went in the homes of children at high
11 risk for removal. I went for in-homes with reunification, and
12 I went in foster homes. So I worked with a high risk
13 population. The client was the child. The family was the
14 group I worked with. And -- (cough) excuse me -- then to get
15 licensure in Virginia I did the however many thousands met --
16 four thousand hours working under supervision. I stayed at
17 that community agency. I did outpatient at a private facility
18 and I did employee assistance program. So I did those areas
19 to work and get my licensure in Virginia. So I went in homes
20 a lot. I saw children that were being abused, had been
21 abused. There was possibility they were being abused. And
22 the goal, of course, was to try and keep them in the home. I
23 had to file reports, do that type thing. Then we moved to
24 South Carolina. I moved with my husband in -- moved to Dillon

1 which, again, is a small rural -- if you're from the area it's
2 at south of the border which ya'll probably have never heard
3 of. But anyway it's right across the South Carolina line.
4 And it -- and it is --

5 THE COURT: From North Carolina?

6 THE WITNESS: Yes, Sir.

7 THE COURT: All right.

8 THE WITNESS: So it is a very rural area. And I
9 eventually opened a small practice there. I'm in a cinder
10 block building. I'm -- at the time was the only one in the
11 office. And then my billing and scheduling is out of the
12 office. So I got licensure in South Carolina and North
13 Carolina and opened the practice. And I see children; I see
14 adults. I see adolescents, couples, families, the gamut.

15 BY MS. SIMPKINS:

16 Q So what types of therapy do you normally do?

17 A You mean in terms of modalities or models or --

18 Q (Chuckle.) Yeah, well family therapy -- I'm sorry.
19 I don't --

20 A Okay. I do family therapy. I work a lot with
21 children. A lot of the children I see, you know, the schools
22 are referring them. The physicians are referring them due --
23 large Medicaid population, have done a lot with battered
24 women, with abused children, did special training with Medical

1 University of South Carolina in post traumatic stress

2 disorder. So, again, I see a lot of children with trauma. I

3 see a lot of child -- women that have experienced trauma,

4 occasionally men that have experienced trauma. So I just -- I

5 have a very general practice.

6 Q Have you ever dealt in your training -- well, let me
7 ask you. How long have you been in practice?

8 A I've been in practice -- I brought my resume because
9 I don't remember dates well. I started there -- I opened that
10 practice August '09. But when you work on licensure and as a
11 student, you do residency and practicum. So at that time I
12 did private practice and I did practice within the agency.
13 That's when I did the in-home.

14 Q What agency?

15 A DePaul Family Services in Roanoke, Virginia.

16 Q Okay. So you worked for the -- correct me if I'm
17 wrong. In Roanoke, Virginia you worked for family services
18 there same as like family services here? Is it like --

19 A It's a private agency.

20 Q Okay.

21 A It's a private, non-profit agency. So it wasn't a
22 state locality or community locality. I did -- I did work for
23 the South Carolina Department of Mental Health when I first
24 moved to Dillon. But I just stayed there for five months. I

1 wanted to be on my own.

2 Q So how long, all told, have you been in practice
3 including your internships and --

4 A I finished school in 2003.

5 Q Okay.

6 A Okay. I got my licensure --

7 THE COURT: That's your Master's?

8 THE WITNESS: Yes, Sir.

9 THE COURT: In 2003.

10 THE WITNESS: Right. And I've got my resume here and my
11 licensures -- copies of my licensure if you want them.

12 THE COURT: Do you wish to voir dire?

13 MR. CORDES: No, Your Honor.

14 THE COURT: All right. You may proceed.

15 MS. SIMPKINS: Thank you, Your Honor.

16 **JANE FORTUNE**

17 testifies as follows on:

18 **DIRECT EXAMINATION**

19 BY MS. SIMPKINS:

20 Q Have you dealt in your practice with parents who are
21 accused or who have abused their children?

22 A Yes.

23 Q Okay. So when Keaundra DeBerry came into your
24 office, what exactly did she tell you she thought she needed?

1 A She thought -- Keaundra was somewhat all over the
2 place. She came somewhat at the perfect storm because
3 Medicaid was just in an upheaval. When she came in and she
4 said, well I need to do this and this and I'm not sure exactly
5 what I need but I need to get -- and I got information from
6 Ms. Jordan to get my children back --

7 Q When you say Ms. Jordan, who is Ms. Jordan?

8 A Michelle Jordan with the Department of Family
9 Services.

10 Q Here in Las Vegas?

11 A Right.

12 Q Okay.

13 A She was in contact with me.

14 Q Okay. Go ahead.

15 A I had telephone conversation with her; she sent me
16 emails. And what I told Keaundra I said, you know, this will
17 have to be self pay. And so we were somewhat back and forth
18 because in the process, she was also get -- trying to get set
19 up with Medicaid. Because when a client comes in we try to
20 help them, especially if they're indigent, the best we can
21 with payment sources. And at that time South Carolina
22 Medicaid was just upside down. She also was going through
23 surgery which we didn't know. She didn't complain about it.
24 She didn't -- but when she came back she says well I've been

1 going through surgery. So all that was going on with her.
2 And, you know, I was just pretty firm with her. This is what
3 you need to do. You need to come to me, I'm holding you
4 responsible, you need to follow up. And she did, but, again,
5 she presented as just kind of scattered. And she was high
6 level, moderate level for anxiety. She was depressed. So we
7 finally got her in for visits that were some of the time was
8 under Medicaid, some of the time was under private pay.
9 Because, again, Medicaid didn't pay for what she was asking.
10 And so I started seeing her in June. And in --

11 Q Okay. June what year?

12 A This year.

13 Q Okay. And so let me back you up a little bit. You
14 said that you talked to Michelle Jordan. Did -- just yes or
15 no. Did Michelle Jordan ever tell you what the Department's
16 -- what DFS's concerns were with regard to Keaundra?

17 A Yes.

18 Q Now, were you ever given a copy of Keaundra's case
19 plan?

20 A Yes.

21 Q And were you aware that Keaundra had seen another
22 therapist prior to seeing you?

23 A Yes, I have a let -- the letter. Yes.

24 Q Okay. Did you ever talk to that therapist?

1 A No.

2 Q Where did you get the letter?

3 A I'm not sure if Keaundra gave it to me or Ms. Jordan
4 gave it to me. I think Keaundra may have.

5 Q Now, how long has Keaundra seen you? So you said
6 she started June of this year. From June of this year till
7 when?

8 A Well she started around May. The last time I saw
9 her was this month. It was October 30th.

10 Q Now, Jane you're looking at some things in front of
11 you. What did you bring to court today?

12 A I brought the patient health questionnaire that I
13 had her do in May which is for depression. And she showed
14 moderate depression --

15 MR. CORDES: Judge, I'm just going to object to her
16 reading it. If she could just testify as to what she brought
17 then we can --

18 THE WITNESS: Okay.

19 MR. CORDES: -- go from there.

20 THE WITNESS: I brought the patient health questionnaire
21 and the Beck Anxiety Inventory.

22 BY MS. SIMPKINS:

23 Q Okay. When did you do that patient health
24 questionnaire? Is that the one you turned over to me already?

1 A I did two. I did these two instruments, made the
2 second and then I did the same two instruments October the
3 30th --

4 Q Okay.

5 A -- of this year.

6 Q All right. So, as Mr. Cordes said, try to -- from
7 your memory, if you need to refresh your recollection, let me
8 know, okay?

9 A Okay.

10 Q But try to testify from memory.

11 THE COURT: Let me interrupt right quick. One question
12 wasn't asked. Have you previously testified in Virginia or
13 South Carolina?

14 THE WITNESS: Yes, Sir and yes, Sir. In both states.

15 THE COURT: Go ahead.

16 BY MS. SIMPKINS:

17 Q So when did you do your initial assessment of
18 Keaundra?

19 A On the -- May 2nd.

20 Q And how long was that interview?

21 A It was probably an hour and a half, two hours.

22 Q And what did you talk about during that interview?

23 A We did kind of a private assessment and the Medicaid
24 assessment. So for the Medicaid assessment I have to have the

1 instruments. I did the instruments. We talked about
2 presenting symptoms. And then we talked about her history and
3 somewhat -- what brought her to be to the place she's at as
4 far as symptomology, what she's feeling, how to relieve the
5 anxiety, how to lessen the depression which was centered on
6 return of her children -- or loss of her children.

7 Q So as a result of this initial assessment did you
8 make any diagnosis?

9 A And I didn't write that down but I'm sure it would
10 be generalized anxiety disorder and depression.

11 MR. CORDES: Objection, Your Honor. Move to strike as
12 non-responsive.

13 THE COURT: All right. The answer is stricken.

14 MS. SIMPKINS: That would have been the follow up
15 question, Judge.

16 THE COURT: Do you want to re --

17 MS. SIMPKINS: Okay.

18 THE COURT: -- rephrase?

19 BY MS. SIMPKINS:

20 Q Yes or no. Did you make any diagnosis?

21 A Yes.

22 Q Okay. What was that diagnosis?

23 A Generalized anxiety disorder and -- and, again, I'm
24 pulling from memory. So -- and moderate depression.

1 Q Okay. Did you have any -- yes or no -- did you have
2 any recommendations as to the issues that Keaundra needed to
3 address in therapy?

4 A The issues were --

5 Q Wait. Yes or no.

6 A Yes or no. I'm sorry.

7 Q (Chuckle.) Did you have a recommendation as to the
8 issues she needed to address?

9 A Yes.

10 Q What was that recommendation?

11 A The recommendations there's more than one
12 recommendation. One is that her and I develop a relationship,
13 therapeutic relationship. And, two, that we look at the root
14 of her anxiety, her fears to discover, discuss, challenge her
15 thinking as to what brought her to the place she was at which
16 was the removal of her children. And then to work on skills
17 to lessen the symptoms of the depression and the anxiety. And
18 the diagnosis probably was adjustment disorder with anxiety
19 and depression because that -- the symptomology was based upon
20 everything that had happened with the removal of her children.

21 Q Okay. So would it -- and I'm not going to put word
22 -- I'm trying not to put words in your mouth. But would it be
23 fair to say that if you worked on the issue with regard to her
24 children that the anxiety and depression should alleviate?

1 A Hopefully. Hopefully.

2 Q Did you note -- do you know if you put down -- or
3 did you note any strengths that Keaundra had during your
4 assessment of her?

5 A Yeah, she was -- she was very much motivated. She
6 was responsible. She presented well. She was patient. She
7 was accepting of my challenges. She at -- two times she came
8 in with her youngest child. She was calm with the child. She
9 was loving. She had a lot of -- of very positive qualities.

10 Q What about weaknesses? Did you note any weaknesses?

11 A The weakness was the lack of organization in her
12 thinking, anxieties, fear-driven. She was running on fear.
13 There was a -- a presence about her that she needed to fix
14 something and she really wasn't sure quite how to do it
15 because she wasn't sure what it was.

16 Q What did she need to fix?

17 A She needed to fix to get her children home.

18 Q And when you say she wasn't quite sure what it was,
19 what do you mean by that? What caused you to come to that
20 conclusion?

21 A When she came in and we had the time to sit down and
22 -- and she explained the history. And, you know, it's just my
23 protocol to gimme your history, you know, where does all this
24 start. When she gave me her history and everything that had

1 happened in the time period, it -- you know, it's just kind of
2 like, wow. It just didn't make sense, honestly. It -- you
3 know, it was non-logical. And I've worked with children being
4 removed. I've worked with social services in Virginia and in
5 South Carolina. You know, and my experience is having the
6 children removed for so long is not helpful to the children,
7 to the parent, even to the caregivers that have the children.
8 So anyway her -- her confusion was just, I don't understand
9 why they're saying this and what's happening.

10 Q So in your therapy and -- with Keaundra and your
11 contacts with Michelle Jordan, were you able to ascertain the
12 problem and work on that with Keaundra?

13 A Somewhat. I came to the understanding that The
14 Court was moving towards TPR, and so I presented her with
15 that. We -- prior to that we talked about what abuse is, what
16 neglect is, the -- just the innate responsibility we have when
17 we have a child. That, you know, if we turn our head and, you
18 know, I gave her simple demonstrations or explanations or
19 examples. And I said, you know, if we turn our head for a
20 minute and let go of that child and that child goes out in the
21 street and gets run over, we're responsible. You know, it was
22 an accident but we're responsible. So we talked about that.
23 We talked about the incident and --

24 Q When you say the incident, what do you mean?

1 A The incident where her youngest -- or her middle
2 child was burnt with the iron. And she was saying well, you
3 know, she told me what happened. She says, I would never hold
4 an iron to his face. And I thought The Court was speaking
5 metaphorically because I could never see her doing this. I've
6 -- I've worked with some pretty abusive women and I could just
7 never see her doing it. But I said, but regardless, if you
8 walked away, he pulled the iron on his face, you're still
9 responsible. And she seemed to finally get it. I asked her
10 to look up termination of parental rights. I asked her to
11 look up milestones for children which is developmental
12 expectations. She did all those things. So -- you know, we
13 went to try to understand what The Court was imposing.
14 Because she really seemed -- like I said, she was just
15 scattered. She was all over the place. And then I would
16 communicate with Ms. Jordan.

17 Q Okay. And when after you -- were you aware that The
18 Court found that Keaundra physically abused the child?

19 A At some point when I spoke -- I think with you I was
20 because I did ask this question. She wants to go into nursing
21 and --

22 MR. CORDES: Objection, Your Honor. Move to strike as
23 non-responsive.

24 THE COURT: Rephrase.

1 BY MS. SIMPKINS:

2 Q Were you aware during your therapy with Keaundra
3 that The Court found that she physically abused the child?

4 A Not until I spoke with you.

5 Q Okay. So did -- Ms. Jordan never told you all
6 through your conversations with her?

7 A She continued to tell me they -- she -- what she
8 said was, and I'm paraphrasing, they want me to say I held the
9 iron to the baby's face.

10 MR. CORDES: Objection, Your Honor. Move to strike as
11 non-responsive.

12 BY MS. SIMPKINS:

13 Q No, I'm talking about Ms. Jordan the DFS worker.

14 A Oh, I'm sorry. I'm sorry.

15 Q Okay.

16 A Ms. Jordan.

17 Q Did she ever tell you that that was The Court's
18 finding?

19 A No. Not -- not as I recall because --

20 Q Okay. But is it your testimony that Keaundra told
21 you that The Court wanted her to say that she held the iron to
22 the baby's face?

23 A Um-hmm (in the affirmative). Yes.

24 Q Okay. Now, aft -- how often would Keaundra come to

1 see you, Ms. Fortune?

2 A She was coming every week to two weeks. Again, some
3 of the issue was fin --

4 MR. CORDES: Judge, I'm --

5 THE WITNESS: Every week to two weeks.

6 MR. CORDES: Respectfully, Judge, if you would just
7 instruct the witness to try and testify from her memory. If
8 she needs to refer to a document, we need to know that she's
9 referring to it.

10 THE COURT: Yeah, if you could, when you're testifying --
11 I know you've got your notes in front of you. If you can --
12 thank you. If you need -- you're free to look at them, but we
13 need to know when you're doing that.

14 THE WITNESS: Oh, okay.

15 BY MS. SIMPKINS:

16 Q So just tell me, I need to look at my notes.

17 A She came every week to two weeks.

18 Q Okay. Based upon your work with Keaundra during the
19 time that she was in therapy and based upon your training and
20 experience, do you have an opinion as to whether Keaundra was
21 able to take responsibility for what happened to her son?

22 A Yes.

23 Q And what is that opinion?

24 A My opinion is that she takes responsibility for not

1 being in the room when the iron was hot and the child burning
2 his face. With the iron -- pulling the iron down on him.

3 Q Now, Ms. Fortune, did you only talk to Keaundra in a
4 therapeutic type setting or did you see her outside the
5 office?

6 A I saw her outside the office.

7 Q Okay. Can you tell me a little bit about that,
8 where -- when that happened, where did you see her?

9 A I went by her home.

10 Q Do you remember -- how far into therapy were you
11 when you went by her home?

12 A It was towards the end.

13 Q And was there anyone else present in the home while
14 you were there?

15 A Her -- her youngest child.

16 Q Okay. When you say her youngest child, how old is
17 that child?

18 A He is -- he's about -- he was about sixteen,
19 seventeen months old.

20 Q A baby?

21 A He's a bab -- well, toddler.

22 Q Okay. And so did you observe Keaundra interacting
23 with him?

24 A Yes.

1 Q Can you -- is that important for your therapy?

2 A Yes.

3 Q Why is that important for your therapy?

4 A Because, as I said, I see a lot of children. I see
5 children with parents. I don't see children in isolation
6 because parents are going to raise their children. Parents
7 influence their children's behavior. And watching him he had
8 come to the office once or twice with her. Watching him he
9 was age-appropriate in being able to walk away from Keaundra.
10 He was not afraid of me. He was able to relax with her. She
11 was nurturing. So it was important her behavior, her
12 response, her emotional regulation with the child was
13 appropriate.

14 Q Now, to your knowledge, has that child ever suffered
15 any kind of abuse or neglect while she -- he's been in
16 Keaundra's care?

17 A Not to my knowledge.

18 Q Now did there come a time when you wrote a report
19 for The Court or letter to The Court regarding Keaundra's
20 therapy?

21 A I believe I did and it was in -- I don't recall the
22 date on that.

23 Q Okay. Would it refresh your recollection to look at
24 that?

1 A Yes (chuckle).

2 (MS. SIMPKINS AND MR. CORDES TALK BRIEFLY AMONGST THEMSELVES.)

3 THE COURT: You may approach.

4 (MS. SIMPKINS APPROACHES THE CLERK.)

5 MS. SIMPKINS: May I approach the witness, Your Honor?

6 THE COURT: You may.

7 BY MS. SIMPKINS:

8 Q Ms. Fortune, could you take a look at that.

9 A Thank you.

10 Q And tell me what that is, please.

11 A This is the letter I wrote to The Court July the
12 7th.

13 (DEFENSE'S EXHIBIT A IS IDENTIFIED.)

14 Q Okay. And is that a true and correct copy of that
15 letter?

16 A Yes.

17 Q Is that your signature at the bottom of that letter?

18 A Yes.

19 Q In that letter you indicate that you went over
20 responsibility for the injury. Why did you do that?

21 A Because my understanding was The Court was speaking
22 metaphorically that it was as if she held the iron to the
23 baby's face and the baby got burned. In my mind, I could
24 never see her doing this. And when she would talk about it,

1 she would get upset and she would say, I would never do that.
2 And so -- and I guess I really didn't have a clear
3 understanding whether or not she was charged with it. So I
4 saw it as my responsibility to explain to her how -- the
5 irresponsibility of putting the iron within the child's reach
6 and the child pulls the iron down was still neglect or abuse
7 because the child got hurt under her watch. She was out of
8 the room.

9 Q Now you've -- you said, in your mind you couldn't
10 see her doing that. What do you base that opinion on?

11 A I base it on the time I have spent with her. I base
12 it on observing her with another child. I base it on the
13 women I've worked with and seen that have been abusive. I
14 base it on, you know, maternal -- being a mother myself. But
15 professionally more so than that, I simply could not see her
16 holding an iron to the child's face.

17 Q So during your therapy with Keaundra did you ever
18 address with her how to avoid injuring a child in the future?

19 A Yes. We talked about proper supervision. We talked
20 about punishment, discipline. We talked about boundaries.
21 The understand -- and one of the reasons I ask her to do the
22 milestones --

23 Q What is milestones?

24 A Milestones are developmental goals children reach in

1 terms of six months, eighteen months, two years, their
2 walking, their motor skills, their cognitive ability, their
3 ability to regulate emotively, where you should see a child
4 at, at a certain age so that you know how to better supervise
5 them and to manage them.

6 Q Okay. So you said one of the reasons you had her go
7 over milestones was, and then I interrupted you. So...

8 A Okay. So she would better understand what to expect
9 with -- with any of her children, with the little guy that
10 came to the office with the child that's not in her care and
11 with her daughter.

12 Q And did Keaundra seem to understand the milestones?

13 A Yes, she -- she did kind of like a homework
14 assignment.

15 Q Did -- so you had -- you gave her homework
16 assignments over the course of the therapy?

17 A Yes. Yes.

18 Q Okay. How was she -- did she do those assignments?

19 A Yes. Yes.

20 Q Okay. Did -- was -- would you say that Keaundra
21 actively participated?

22 A In homework in...

23 Q Well in the whole course of therapy.

24 A Yes. Yeah.

1 Q Okay. Did you ever have sessions with Keaundra
2 regarding regulation of her own emotions?

3 A Yes.

4 Q Okay. Why is that important?

5 A It's important because if we're going to discipline
6 our children and we do it in anger, we're more likely to
7 reflect our downfallings and our fears on to our children if
8 we cannot step back and be able to reflect instead of
9 punishing them with our anger at ourselves as well as our
10 anger at them.

11 Q And how did Keaundra respond to this therapy with
12 regard to her emotions?

13 A She was responsive. She listened. She did not come
14 in saying, well I spank my children, which I hear often. Well
15 I spank, he knew it was good for me, it should be good for my
16 children. That wasn't the mindset. That was not her belief
17 system.

18 Q So -- and I think you said October 30th was the last
19 time Keaundra saw you. Did you reassess her at that point in
20 time?

21 A Yes.

22 MS. SIMPKINS: Okay. I would move to admit Exhibit A,
23 Your Honor.

24 MR. CORDES: No objection.

1 THE COURT: All right. Defense Exhibit A will be
2 admitted.

3 (DEFENSE'S EXHIBIT A IS ADMITTED.)

4 MS. SIMPKINS: May I approach?

5 MR. CORDES: And, Judge --

6 THE COURT: You may.

7 MR. CORDES: I'm sorry. While we're on that issue, we do
8 have a stipulation that State's 1 would be admitted which is
9 the J file.

10 MS. SIMPKINS: That's correct.

11 MR. CORDES: And Ms. Simpkins has been referencing.

12 THE COURT: Okay. Thank you. Thank you.

13 (STATE'S EXHIBIT 1 ADMITTED BY STIPULATION.)

14 MS. SIMPKINS: That is correct, Your Honor.

15 BY MS. SIMPKINS:

16 Q Now, Ms. Fortune, I think -- you did reassess -- I'm
17 sorry, did I ask this question? Did you reassess Keaundra at
18 that -- when you saw her on October the 30th?

19 A Yes.

20 Q Okay. And what's the difference in Keaundra -- or
21 have you seen any difference in Keaundra from when she first
22 came to see you to now?

23 A Yes.

24 Q What difference have you seen?

1 A As I said before she -- her thinking was scattered.
2 She was fearful. She was very anxious. She seemed complacent
3 as well. Do I get up, give up, do I fight, what do I do, I
4 don't understand. When I saw her the 30th she seemed much
5 more in control of her emotions. She was more focused. She
6 was -- she had started working. She was very proud of her
7 employment. She was working at Wendy's. She had childcare
8 set up for the little guy. She seemed to feel good about,
9 well we're going back to court and, you know, we -- she was
10 telling me about the court coming up. She -- she just seemed
11 more composed. She seemed more able to grasp everything. And
12 as we spoke she was able to grasp everything, much better than
13 she had been when I initially saw her.

14 Q Has Keaundra completed her therapy with you, Ms.
15 Fortune?

16 A You know, it -- yes. In a sense, yes.

17 Q What do you mean, in a sense?

18 A Based on the scales and criteria --

19 MR. CORDES: Again, Your Honor, I would ask that you
20 instruct the witness not to reference a document unless she
21 cannot recall.

22 THE COURT: Are you looking at --

23 THE WITNESS: Okay.

24 THE COURT: -- the document?

1 THE WITNESS: I was just flippin', yes.

2 THE COURT: (Chuckle.) It's one of our rules. Sorry.

3 THE WITNESS: Okay. Let me put this --

4 MS. SIMPKINS: I know it's a little nerve racking --

5 THE WITNESS: I know.

6 MS. SIMPKINS: -- being up there with him.

7 THE WITNESS: Well I -- I talk with my hands. So, better

8 than spilling the water.

9 Her levels of anxiety and depression are down.

10 MS. SIMPKINS: Okay.

11 THE WITNESS: So at this point in time her only -- her

12 chief complaint is that she wants her children to return home.

13 That's not in a sense a treatable disorder. That's just

14 wanting your children home.

15 BY MS. SIMPKINS:

16 Q Oh, go ahead.

17 A We had -- if I may. We have talked about if her

18 children come home, what would be needed then.

19 Q Okay. So what did you discuss with her? What did

20 she tell you?

21 A And this was not at the last visit. But we had

22 talked about the adjustment of her children and her concern

23 for her children and -- you know, if they're with Mom, what

24 she appreciates. And if they come home she says, I need help

1 in the future. When I was in the home, anything I saw --
2 there was a fan. And I said, do you think the little guy can
3 get his fingers in that fan. I've been in homes where parents
4 go, no. She unplugged it; she moved it. We --

5 Q So she didn't look at the fan and go, no? She
6 immediately --

7 A She turned it off. She moved it.

8 Q Okay.

9 A And she said, well, I hadn't thought about that and
10 -- so I believe she will be very proactive in the care of her
11 children.

12 Q So do you believe that Keaundra's therapy with you
13 was successful?

14 A Yes.

15 Q And would you make any further recommendations other
16 than the continued family therapy if the children come home?
17 Would you make any other further recommendations for therapy
18 for Keaundra?

19 A For Keaundra outside of the children, yes.

20 Q You would?

21 A Yes.

22 Q What recommendations would those be?

23 A That she work on the parenting skills in dealing
24 with addressing with her children what's happened over the

1 in talking to them. There was an occasion when she said, well
2 my daughter's asking this and that. And I said, well you
3 know, I usually address that with this and that. She goes,
4 well that's what I'm going to go tell them. And so for her to
5 adjust with the children coming home would -- would be a need
6 possibly for therapy for her and the children.

7 Q And would that be something that you could help her
8 with if necessary?

9 A Yes, we've talked about that.

10 Q Okay. Now based upon your training and experience
11 as well as your therapy with Keaundra and what you know as to
12 the allegation -- or to the -- what The Court's finding was of
13 physical abuse, do you have an opinion as to whether Keaundra
14 is at risk to re-abuse her children?

15 A Yes, I have opinion.

16 Q What would that opinion be?

17 A I don't think she's at risk.

18 Q Why not?

19 A Well, cause the best predictor of future behavior is
20 past behavior. I don't see that she -- she was neglectful in
21 the sense she put an iron in the reach of her child and the
22 child pulled it off from my knowledge, my understanding. That
23 type of behavior is something she's indicated she's aware of
24 and is willing to correct. So I would not see that as a risk

1 last three years.

2 Q Okay. So correct me if I'm wrong because I don't
3 want to put words in your mouth. You're recommending
4 parenting including the children and Keaundra together, or no?

5 A Right. Both.

6 Q Okay.

7 A Both. But when children are removed from care, they
8 have to adjust.

9 Q Um-hmm (in the affirmative).

10 A And from my experience these children still have a
11 fear of, what if somebody takes me again or what if -- if, you
12 know -- if I may, Your Honor, the Judge says my mommy did some
13 -- (indiscernible) and I have to go again. So it creates a
14 fear in the children that they can be taken away again because
15 they don't have an in-depth understanding of why they left in
16 the first place, even when there's -- is outright abuse.

17 MS. SIMPKINS: I have no further questions, Your Honor.

18 THE COURT: Mr. Cordes?

19 MR. CORDES: Thank you.

20 **JANE FORTUNE**

21 testifies as follows on:

22 **CROSS EXAMINATION**

23 BY MR. CORDES:

24 Q Ms. Fortune, on October 30th you had another chance

1 to meet with Ms. DeBerry. Is that correct?

2 A Yes, Sir.

3 Q All right. And was that a scheduled appointment?

4 A Yes.

5 Q Prior to October 30th of 2012, when was the last
6 time you had met with Ms. DeBerry?

7 A It had been the end of June.

8 Q Okay. So between June of 2012 and October 30th of
9 2012 there were no meetings. Is that correct?

10 A That's correct.

11 Q You said you performed an assessment on May 2nd of
12 2012. Is that correct?

13 A Yes, Sir.

14 Q All right. And then you had a meeting with Ms.
15 DeBerry on June 27th of 2012, correct?

16 A There were visits in between there.

17 Q Okay. Do you recall how many visits between May 2nd
18 and June 27th?

19 A There were four to five, and most of the visits were
20 anywhere from an hour to two hours long.

21 Q And those are in your office, correct?

22 A Yes.

23 Q And then you went to Ms. DeBerry's home on one
24 occasion. Is that correct?

1 A Correct.

2 Q Do you recall the date of that visit?

3 A It was June 27th.

4 Q Okay.

5 A That's from memory; I didn't look.

6 Q Okay.

7 A (Chuckle.)

8 Q On October 30th of 2012 did Ms. DeBerry tell you
9 that she burned her middle child, Christopher?

10 A No.

11 Q In fact, never has Ms. DeBerry told you during any
12 of your sessions that she burned Christopher. Is that
13 correct?

14 A That's correct.

15 Q In fact, Ms. DeBerry's sole explanation for the
16 injury that Christopher suffered was that she was neglectful.
17 Is that correct?

18 A Correct.

19 Q Okay. Now you testified that Ms. Simpkins had a
20 conversation with you in which she informed you The Court
21 found that Ms. DeBerry physically abused Christopher. Is that
22 correct?

23 A The court finding was that she physically abused her
24 --

1 Q Ms. Simpkins relayed that information to you. Is
2 that correct?

3 A Yes, Sir.

4 Q When did that conversation take place?

5 A We had several that were not recorded. I did not
6 write down -- so, honestly, I can't tell you exactly when.

7 Q Okay. Was it after you stopped seeing Ms. DeBerry
8 in June of 2012?

9 A I do not recall. It may or may not have been.

10 Q Okay. After you had the conversation with Ms.
11 DeBerry's attorney, did you request another session with Ms.
12 DeBerry to specifically discuss the fact that The Court found
13 she physically abused Christopher?

14 A As I'm recalling and I think about it now, yes we
15 did because I said to her The Court has found that. And her
16 response has been, I just didn't do it.

17 Q Okay. When did you have that meeting with Ms.
18 DeBerry where you confronted her about The Court finding that
19 she physically abused Christopher?

20 A In June.

21 Q Of 2012?

22 A Yes.

23 Q And her response to you in June of 2012 was that she
24 did not physically abuse Christopher. Is that correct?

1 A She said I would never do anything like that.
2 Q So when you testified about The Court making all
3 these metaphorical findings about abuse, that was solely based
4 upon your interpretation of what Ms. DeBerry was telling you.
5 Is that correct?

6 A That was her understanding.

7 Q Right. And then you took that to be this
8 metaphorical finding that The Court created somehow. Is that
9 correct?

10 A Yes, Sir, because there -- yes.

11 Q Okay. Now you testified that you've actually
12 testified in court before, right?

13 A Yes, Sir.

14 Q And you've been involved in a number of physical
15 abuse, neglect type situations with all the dealings in your
16 past experience, right?

17 A Yes, Sir.

18 Q Okay. You know that The Court doesn't talk
19 metaphorically about children being injured. Isn't that
20 correct?

21 MS. SIMPKINS: Objection, argumentative, Your Honor.

22 THE COURT: Sustained.

23 THE WITNESS: That means I have to answer?

24 THE COURT: That means you don't --

1 MR. CORDES: No.

2 THE COURT: -- need to answer the question.

3 MS. SIMPKINS: No. You don't answer that.

4 BY MR. CORDES:

5 Q During your counseling sessions with Ms. DeBerry you
6 solely treated Christopher's injury as a neglect situation.

7 Is that correct?

8 A The abuse was that in the sense that he was not
9 being supervised. He got hurt. There was --

10 Q That's the way you treated --

11 A There was --

12 Q -- this?

13 A There was injury. The manner of the injury would be
14 of what's concern to me.

15 Q Okay. So if a parent like Ms. DeBerry physically
16 abused her child and then could not take responsibility for
17 that, that would be concerning to you as a therapist, wouldn't
18 it?

19 A Right.

20 Q Okay. So you know that The Court found that she
21 physically abused Christopher after your conversation with Ms.
22 Simpkins, correct?

23 A Correct.

24 Q And is there a difference, in your opinion, as to

1 physical abuse and neglect?

2 A In this situation clinically, theoretically and
3 speaking in terms of parenting and the possibility for
4 continued abuse, there is a difference.

5 Q Because a parent such as Ms. DeBerry who physically
6 abused a child and doesn't address it in counseling is likely
7 to continue to physically abuse a child. Isn't that correct?

8 A I'm not sure how to answer your wording --

9 Q Well didn't --

10 A -- of that question.

11 Q All right. Okay. Didn't you testify that the best
12 indicator of future behavior is past behavior?

13 A Yes.

14 Q Okay. So if a parent, such as Ms. DeBerry, who
15 physically abused a child in the past, that would be a good
16 indicator, absent counseling, that she would physically abuse
17 a child in the future. Isn't that what that means?

18 A It is -- your qualifying it with good. I'm not
19 saying it is a good. I'm saying it can be predictable.

20 Q So in your words if a parent such as Ms. DeBerry,
21 who physically abused Christopher in the past, it would be a
22 predictor that she would physically abuse a child in the
23 future.

24 A The propensity would be there.

1 Q Now, in your counseling sessions with Ms. DeBerry
2 did she ever talk about being a victim of domestic violence?

3 MS. SIMPKINS: Objection. A, beyond the scope. B,
4 domestic violence has never been an issue in this case, Your
5 Honor. That was a -- that was a -- an allegation that was
6 dropped from the petition.

7 MR. CORDES: Judge, it's part of the record that was
8 provided to The Court that's been admitted into evidence. I
9 think it's relevant to the counseling sessions. And if I have
10 to keep this witness here and call her in my case in chief, I
11 will. But I'm trying to avoid that.

12 THE COURT: The objection is noted.

13 MR. CORDES: I would accommodate --

14 THE COURT: I'll give Mr. Cordes an opportunity to tie it
15 up to the --

16 MR. CORDES: Thank you.

17 THE COURT: -- the issues in the case.

18 BY MR. CORDES:

19 Q So did Ms. DeBerry talk to you about any domestic
20 violence in her past relationships?

21 A I asked her.

22 Q Did she tell you?

23 A Yes.

24 Q Did she reveal that there was domestic violence?

1 A No.

2 THE COURT: I'm sorry, what was the answer?

3 THE WITNESS: No.

4 THE COURT: No?

5 THE WITNESS: No, Sir.

6 BY MR. CORDES:

7 Q Why did you ask Ms. DeBerry if there had been any
8 historical domestic violence?

9 A Because in a telephone conversation with Michelle
10 Jordan, she indicated that that had been a possibility.

11 Q Did Ms. DeBerry identify who the father of her
12 children were to you during your therapy?

13 A Yes.

14 Q What did Ms. DeBerry tell you about the children's
15 father? Or fathers?

16 A In terms of what?

17 Q Their names. Let's start with their names.

18 A I believe the one child is a junior. So it's
19 Christopher. She told me that he was there that day. He had
20 gone out. I asked her about the domestic violence. She said
21 there had been no dom --

22 MS. SIMPKINS: I'm going to object and move to strike as
23 non-responsive. He just asked the names of the fathers, Your
24 Honor.

1 THE COURT: All right. The objection's sustained.

2 BY MR. CORDES:

3 Q Okay. So did she give you the name of her oldest
4 child's father?

5 A If she did I don't recall.

6 Q Would referencing any of the items that you may have
7 brought with you today help refresh your memory as to that?

8 A No, Sir, because I know I didn't write them down.

9 Q Did she identify who the father of her sixteen or
10 seventeen month old child was that you observed in June of
11 2012?

12 A We --

13 MS. SIMPKINS: I'm going to object as to relevance, Your
14 Honor. This child is not subject of this petition. So the
15 name of the father is irrelevant.

16 THE COURT: What is the relevance?

17 MR. CORDES: Judge, the relevance is -- well, the offer
18 would be that it's Mr. Bynum, Sr. So -- and she indicated
19 that there were no concerns relative to the mother's care.
20 That child -- I think it's important to go into some of the
21 background with the father and her contact with the father.

22 THE COURT: All right. The objection's overruled.

23 BY MR. CORDES:

24 Q You can answer.

1 A Okay. She did say the father -- it's the same
2 father of the two children, the two youngest children. And
3 she did tell me his whereabouts and their relationship.

4 Q All right. So where did she tell you his
5 whereabouts were?

6 A He's incarcerated.

7 Q Was she telling you if she had any contact with him?

8 A I don't think she had. But I -- I don't recall her
9 saying she had.

10 Q Okay.

11 A That she's -- she said she was done.

12 Q Did she tell you how she knew he was incarcerated?

13 A You mean for what charges. Is that what you're
14 asking?

15 Q How she knew that he was incarcerated.

16 A No, she's -- I would assume his -- okay.

17 Q I just asked if she told you. Okay. So during your
18 meeting with Ms. DeBerry she indicated that Christopher was
19 burned by pulling an iron down. Is that correct?

20 A Correct.

21 Q And that the iron landed on Christopher and burned
22 his face. Is that correct?

23 A That's correct.

24 Q And she told you that his cheek was burned, right?

1 A Correct.

2 Q Did she tell you that it was a second-to-third-
3 degree burn?

4 A The doctor report I saw -- no, she didn't.

5 Q She did not?

6 A She showed me a doctor report.

7 Q She -- okay. She showed you the doctor's report
8 from Louisiana, right?

9 A Correct.

10 Q Did she talk to you at all or show you anything
11 about the doctor's testimony during the trial?

12 A Yeah, she talked about that.

13 Q Okay. Did she tell you that she had fled from
14 Nevada after the child was burned and moved to Louisiana?

15 A Do you want me to tell you what she told me or do
16 you want me to --

17 Q Did she tell you what I'm asking you?

18 A No.

19 Q Okay. What did she tell you?

20 A She told me she had planned to go. She wanted to
21 get closer to her mother. Her mother was in Louisiana. At
22 the time all this happened she had already made plans.

23 Q So Ms. DeBerry told you in May or June of 2012 that
24 she had left the state of Nevada on a planned move to

1 Louisiana. Is that what she told you?

2 A In May or June she told me that in the past, in that
3 whatever it was --

4 Q Okay.

5 A -- date, February or April --

6 Q Okay.

7 A -- that she had -- correct.

8 Q And she planned to move to be closer to her mother.
9 Is that correct?

10 A Correct.

11 Q Did she tell you whether or not she moved with Mr.
12 Bynum, Sr.?

13 A She did not tell me whether she moved with him.

14 Q So when you saw the medical reports from Louisiana,
15 do you remember the time frame as to the date of injury versus
16 that medical appointment?

17 A I believe -- and I have it written down. But it was
18 in May was the medical report.

19 Q Did Ms. DeBerry ever talk to you about trying to
20 hide Christopher from law enforcement or from Child Protective
21 Services?

22 MS. SIMPKINS: Relevance.

23 THE COURT: Overruled.

24 THE WITNESS: No.

1 (BRIEF PAUSE.)

2 You -- wait, I'm sorry. You're talking Christopher,
3 Sr. or Jr.?

4 BY MR. CORDES:

5 Q Christopher, Jr., the child that was burned.

6 A No.

7 Q After Ms. DeBerry found out that Christopher, Jr.
8 was burned, did she talk to you at all about the course of
9 treatment she provided?

10 A Can -- can you say that again without --

11 Q I'm sorry. After Ms. DeBerry observed Christopher,
12 Jr. to be burned, did she talk in her therapy sessions with
13 you about the method she used to treat the injury she
14 observed?

15 A Yes.

16 Q What did she tell you?

17 A She said that she looked at it. She didn't see
18 anything immediately. She called her mother. Her mother said
19 if it -- if it does discolor or, you know, burn come up, put
20 Neosporin on it and put a bandage on it. She said after a few
21 minutes she did see it darken or a burn, and she put Neosporg
22 -- Neosporin and a bandage on it.

23 Q Did she discuss why she didn't take the child to
24 have a medical appointment?

1 A She told -- again, she was -- said she was talking
2 to her mother who, I believe, she said is a nurse. And she
3 said if it worsens you need to take him to the hospital. She
4 said at that time he was happy -- there was not a concern that
5 it was severe enough.

6 Q Okay. So based on the meeting that you had with Ms.
7 DeBerry in May of 2012, you diagnosed her with adjustment
8 disorder with mixed emotions in -- in or about June of 2012.
9 Is that correct?

10 A Correct.

11 Q You indicated that she was also moderately
12 depressed. Is that correct?

13 A Correct.

14 Q Did you refer her for any medication to treat the
15 diagnosis?

16 A When I saw her she had already been to the
17 physician. In fact, she'd been to the physician because she
18 had thyroid issues. She was coming under Medicaid. We had to
19 have a physician referral, and so that was all taken care of.

20 Q Okay. So you didn't refer her for any medication?

21 A No, Sir.

22 Q Believing that her physician would be prescribing
23 any medication she needed to treat either the depression or
24 the anxiety. Is that correct?

1 A If -- I believe if you go to the next page she was
2 on medication I knew she had been prescribed.

3 Q When you saw Ms. DeBerry on October 30th of 2012,
4 how had that appointment been scheduled?

5 A I don't remember if -- no, she had called me, and we
6 talked about -- I said I need to get you in here, I want to
7 see you again. So she came on in; we scheduled an
8 appointment. Actually, my office called her. Or she called
9 me. I can't remember which way it went. I knew I needed to
10 -- she called. She called.

11 Q And you said that she finally reported to you that
12 she had a job?

13 A She didn't finally report to me. When I had spoken
14 to her earlier, she was looking for the job -- a job.

15 Q Okay. When you had your four to five sessions with
16 Ms. DeBerry between May and June 27th of 2012, she was
17 unemployed. Is that correct?

18 A She was looking for a job. She was in the process
19 of looking for a job -- in fact, the same job she was --

20 Q Okay. My question was, was she unemployed.

21 A During that time?

22 Q Yes.

23 A Yes, from...

24 Q Okay. And then you didn't have any communication

1 with Ms. DeBerry for the months of July of 2012 through
2 October of 2012 until your telephone call where she scheduled
3 the appointment on October 30th. Is that correct?

4 A Correct.

5 Q Okay. When Ms. DeBerry first met with you in May of
6 2012 do you know where she was residing?

7 A She was living in the family home in Dillon.

8 Q When you met with Ms. DeBerry on October 30th of
9 2012 after you knew that The Court had found that she
10 physically abused Christopher, did you discuss with her an
11 explanation as to how Christopher had been physically abused
12 by the iron touching his face?

13 A No.

14 Q As you sit here today it's your opinion that Ms.
15 DeBerry neglected Christopher. Is that correct?

16 A Correct.

17 Q And that neglect led to Christopher being burned
18 with an iron. Is that correct?

19 A Correct.

20 Q And based upon the information that Ms. DeBerry
21 reported to you, it was a accident that led to Christopher
22 being burned. Is that correct?

23 A Correct.

24 Q You testified that you went to the home in June of

1 2012 and observed a fan blowing in the house. Is that
2 correct?

3 A Um-hmm (in the affirmative).

4 Q And, again, that was a dangerous situation that Ms.
5 DeBerry had exposed the child that was in her care to,
6 correct?

7 A It could have possibly been.

8 Q It's just like a hot iron that would be sitting on a
9 dresser, right? There's always the potential that the child
10 could be injured if something takes place.

11 A Sir, can I speak?

12 THE COURT: Can you answer the question?

13 MR. CORDES: Can you answer the question?

14 THE WITNESS: Okay. Not exactly the same.

15 THE COURT: Ms. Simpkins --

16 THE WITNESS: No.

17 THE COURT: -- will have an opportunity to come back and

18 --

19 THE WITNESS: Yeah, not exactly the same.

20 BY MR. CORDES:

21 Q Okay. So in your opinion there's a difference
22 between a fan that's circulating with blades and a child being
23 able to put their fingers in there, and an iron that's sitting
24 on a dresser. Is that --

1 A The difference was she was in the room with the fan.
2 She wasn't with the iron.

3 Q Okay. So her explanation was that she had went in
4 to the bathroom to get ready for work, and so she wasn't in
5 the room when Christopher actually pulled the iron down,
6 right?

7 A Correct.

8 Q Okay. And when you went to the home, Ms. DeBerry
9 was in the room when you observed the fan blowing, right?

10 A Right.

11 Q Okay. And this was with a sixteen, seventeen month
12 old toddler, right?

13 A Right.

14 Q Now, did you observe that toddler for more than an
15 hour?

16 A In the home I did.

17 Q Okay.

18 A And in reality I'm not sure the fan could have hurt
19 him. It was just some of, how are you thinking.

20 Q Right. It shows poor insight from a parent who
21 leaves a fan blowing and a toddler running around, right?

22 A Depends on the fan whether the fingers can go in
23 there.

24 Q You were concerned about this fan, right, Ms.

1 Fortune?

2 A I was con -- I was concerned about her reaction.

3 Q And you were so concerned about this fan that Ms.
4 DeBerry turned it off and moved it to a different location,
5 right?

6 A She was so concerned she moved it.

7 Q Okay. After you told her that that was a concerning
8 circumstance, right?

9 A I ask -- I asked her.

10 Q You asked her if that was concerning for her?

11 A My words were, do you think he can get his fingers
12 in that fan. Whether he --

13 Q And her reaction was to turn the fan off and move it
14 to a different location, right?

15 A Correct.

16 Q Now you said you were at the house for more than an
17 hour?

18 A It was about an hour.

19 Q And that was June of 2012, right, June 27th?

20 A Yes.

21 Q Did you talk to Ms. DeBerry during your counseling
22 sessions about her use of Celexa?

23 THE COURT: Use of what, Counsel?

24 MR. CORDES: Celexa.

1 THE WITNESS: Just that she was taking it. As I recall,
2 she was on two or three medications. When I saw her later she
3 had dropped down to one, as I recall.

4 BY MR. CORDES:

5 Q When you met with her October 30th of 2012, did she
6 report whether or not she was still taking Celexa?

7 A I believe she was. I'm --

8 Q Would referencing the documents that you brought
9 today help refresh your recollection?

10 A I'm not sure because the medication to me is
11 incidental.

12 Q Okay. So the moderate anxiety, depression that she
13 would have been prescribed medication for would have -- the
14 medication would not have been necessary to treat those?

15 MS. SIMPKINS: Objection. I think it calls for a
16 conclusion she's not qualified to make. Whether or not
17 medication is needed? She can't prescribe medication; she's
18 not a doctor.

19 THE COURT: Sustained. You might want to rephrase.

20 MR. CORDES: I'll rephrase.

21 BY MR. CORDES:

22 Q Okay. So did you think that her primary physician
23 who prescribed the Celexa did not have the entire history of
24 what was going on?

1 MS. SIMPKINS: Objection, speculation.

2 MR. CORDES: I'll rephrase, Your Honor.

3 THE COURT: Sustained.

4 THE WITNESS: I can give my opinion.

5 MR. CORDES: No. No, that's fine.

6 BY MR. CORDES:

7 Q Okay. When you met with Ms. DeBerry October 30th of
8 2012, you did not believe that medication was necessary. Is
9 that...

10 A Medication can --

11 MS. SIMPKINS: Objection. I think it misstates the
12 evidence. I don't think she's indicating one way or the other
13 whether medication was necessary or not. Again, she's not
14 qualified to make that determination.

15 MR. CORDES: I'm sorry, I didn't -- and maybe I'm not
16 wording it in her words. I was just trying to clarify her
17 testimony as to what she said about the medication. I'll
18 rephrase again, Your Honor.

19 THE COURT: All right.

20 MR. CORDES: Okay.

21 BY MR. CORDES:

22 Q When you met with Ms. DeBerry October 30th of 2012,
23 did you discuss whether or not she was still taking any
24 medications?

1 MS. SIMPKINS: Objection, asked and answered.

2 MR. CORDES: Judge, I'm trying --

3 THE COURT: Overruled.

4 MR. CORDES: Thank you.

5 THE COURT: Go ahead.

6 THE WITNESS: We discussed it briefly. I routinely check
7 medications.

8 BY MR. CORDES:

9 Q And why do you routinely check medications?

10 A Because talk therapy can be more effective or as
11 effective depending on what study you peruse as medications.
12 Medications can have a placebo effect. So if she felt she was
13 dropping any of the medications and her presentation was much
14 better, I'm in no position to say, why aren't you taking that
15 medication. I deal with people every day taking buckets of
16 medication that are a mess.

17 Q Okay. So your focus with Ms. DeBerry during the
18 time that you were providing the talk therapy was solely on
19 that method of therapy?

20 A (No audible response.)

21 Q The talking. The...

22 A The cognitive emotive --

23 Q Yes.

24 A -- behavioral therapy and family strategy models.

1 Q Okay.

2 A And in sessions that she did self-pay, we discussed
3 more of the parenting and the topics we've discussed.

4 (MR. CORDES SHOWS A DOCUMENT TO MS. SIMPKINS, THEN WALKS OVER
5 TO THE CLERK.)

6 MR. CORDES: Can I have this marked as State's 2, please?

7 (BRIEF PAUSE.)

8 Thank you.

9 BY MR. CORDES:

10 Q Okay. So you performed a written assessment for Ms.
11 DeBerry June 6th of 2012. Do you recall that?

12 A On June 6th. That was not -- was that the back end
13 of --

14 Q Do you recall?

15 A Sir, the reason I ask is I saw her at times that was
16 self-pay and I didn't do written assessments as quickly as I
17 did when I saw her under Medicaid. The self-pay was not about
18 symptomology as much as it was meeting The Court's demands.

19 Q I totally understand that. I need to know if you
20 recall providing an assessment on June 6th of 2012.

21 A May I look?

22 Q Can you please answer my question first?

23 THE COURT: If you don't --

24 THE WITNESS: No, Sir, because I don't remember.

1 MR. CORDES: That's --

2 THE COURT: Good (chuckle).

3 MR. CORDES: That's the answer I -- thank you.

4 THE COURT: That was the answer (chuckle).

5 MR. CORDES: If I may approach?

6 THE COURT: You may.

7 MR. CORDES: I'm sorry. There's some formal rules I have
8 to follow. And in order --

9 THE WITNESS: I mean, I want you to follow your rules.

10 BY MR. CORDES:

11 Q (Chuckle) Okay. If you would please take a look at
12 what's now been marked as State's Proposed Exhibit 2, take a
13 moment to look at that document, please.

14 (BRIEF PAUSE.)

15 A Okay.

16 Q All right. So does State's Proposed Exhibit 2 look
17 like a document that you authored?

18 A Yes, Sir.

19 Q All right. And if you look at State's Proposed
20 Exhibit 2 identifying the date on that document --

21 A Um-hmm (in the affirmative).

22 Q -- does it appear to be an assessment that you
23 performed for Ms. DeBerry on June 6th of 2012?

24 A Yes, Sir.

1 (STATE'S EXHIBIT 2 IS IDENTIFIED.)

2 MR. CORDES: Okay. Thank you.

3 Judge, I would move for the admission of State's
4 Proposed Exhibit 2.

5 MS. SIMPKINS: No objection.

6 THE COURT: All right. Proposed 2 will be admitted.

7 (STATE'S EXHIBIT 2 IS ADMITTED.)

8 MR. CORDES: Thank you.

9 Judge, may I have The Court's indulgence for a
10 moment?

11 THE COURT: All right.

12 (BRIEF PAUSE.)

13 MR. CORDES: Thank you, Judge. I'll pass the witness.

14 THE COURT: Redirect?

15 MS. SIMPKINS: Thank you, Ms. -- Your Honor.

16 JANE FORTUNE

17 testifies as follows on:

18 REDIRECT EXAMINATION

19 BY MS. SIMPKINS:

20 Q Ms. Fortune, you were talking about past physical
21 abuse being a predictor of future physical abuse. Would you
22 agree -- well, when you're talking about past physical abuse
23 being a predictor of future physical abuse, would a one-time
24 incident be a good indicator of possibility of future physical

1 abuse?

2 A Okay. In -- basically, what I'm saying is when we
3 look at risky behavior and a paramount is suicide -- so if
4 someone which is a high risk we want to prevent this, if a
5 person attempts suicide one time and they're in the state of
6 mind to prevent suicide again, they verbalize that --

7 MR. CORDES: Judge, I'm just going to object. Non-
8 responsive. The question was if there was a one-time incident
9 of physical abuse.

10 MS. SIMPKINS: She's giving an example in response to my
11 question.

12 THE COURT: I think she's answering the question by
13 analogy.

14 You may proceed --

15 THE WITNESS: Okay.

16 THE COURT: -- with your answer.

17 THE WITNESS: And if it's a high risk behavior and we see
18 verbalization or gestures of, I want to hurt myself, the only
19 -- the most reliable predictor is past suicide attempts. In
20 child abuse if a person has abused a child, they will not
21 typically say I want to go abuse my child again, I want to go
22 hurt my child again. What red flags in my head is, well my
23 mom and daddy beat me and it worked for me, I believe in
24 spanking. What do you spank with, a switch, a belt? Those

1 are predictors. They're verbalizing another intent. So if
2 they're verbalizing an intent of behavior until the behavior
3 takes place, you can only form some prediction of the future
4 based on what they're saying, okay? So that's the analogy I'm
5 alluding to. Any of us, we will sit in the same seats in the
6 -- if we sit there, we come back in, we'll sit there. But we
7 don't stand at the door and say, are you going to sit in the
8 same seat. So with parents that abuse, if they come into the
9 office and they say, again, beating worked for me, it will
10 work for my children, they go get a switch or the typical
11 angry person that says, I'll do anything you want me to but go
12 to anger management, then those are good predictors. Okay.

13 Q Did you see any of those good predictors in --
14 during your sessions with Keaundra?

15 A No.

16 Q Okay. Even knowing what you know now that The Court
17 made a finding that Keaundra physically abused the child, do
18 you think that that one-time incident is going to predict that
19 Keaundra would physically abuse her children in the future?

20 A No. I think it'll predict that she will be a more
21 watchful mother.

22 Q And why do you say that?

23 A Because if the iron which I believe somehow came
24 down, hit the child, it was an accident. And as I've told her

1 if something -- if you are neglectful in watching your
2 children and an accident happens, you are still responsible.
3 When I went to the house that day, quite honestly, I didn't
4 know if he could stick his fingers in the fan. There's a lot
5 of fans that are made with the things close. My thinking was,
6 what does she think.

7 Q So is that why you asked her that question?

8 A Yes.

9 Q To see her --

10 A There was -- there was no other dangers inside in
11 that home. So when I saw the fan it -- as a parent, a
12 grandparent, if I have a fan and my kids walk in -- my grand
13 kids -- well my grand kids, my kids are old enough to know
14 better -- I'm going to be more careful to see if their little
15 fingers can fit in there. I wanted to see her response, if
16 she would dismiss it or if she would respond.

17 Q And what was the purpose of that test?

18 A I want to know no child will be abused.

19 Q So knowing what you know now, Ms. Fortune, about The
20 Court found that Keaundra physically abused that child and
21 based on your therapy with her, based on seeing her with her
22 children based on knowing Keaundra, do you still believe that
23 she's a low risk to reoffend?

24 A Yes. I'm not sure she's a risk to offend.

1 Q Okay.

2 A I know that was --

3 Q So assuming for the sake of argument that The
4 Court's finding was correct, that she actually, physically
5 abused that child, does that change your opinion today?

6 A If I thought she could hold an iron to a baby's
7 face, I would not want her to have the children. That has to
8 be a fairly intentional, malicious person.

9 Q Okay. And as you sit here today do you believe that
10 she actually did that?

11 A No.

12 Q Why not?

13 A Again, my experience in working with women that have
14 battered children, that have battered spouses -- well,
15 typically they have a history of abuse themselves either by a
16 parent, a spouse, a boyfriend, girlfriend, somebody. And
17 there's anger. There's trauma that manifests as anger. And
18 it's taken out on the most vulnerable which oftentimes are the
19 children. I don't see that in her. I don't hear it in her
20 history. I have to stretch to believe she would do it, and I
21 can't stretch that far.

22 Q Even given your earlier testimony that when she
23 first came in she was scattered all over the place?

24 A She wasn't angrily scattered. She was just

1 extremely anxious, extremely, can you do this for me, can I --
2 I need to do this, I need to do that. The undercurrent of
3 anxiety is fear. The undercurrent of depression is
4 hopelessness.

5 MS. SIMPKINS: Okay.

6 No further questions, Your Honor.

7 MR. CORDES: I have no further questions for this
8 witness.

9 JANE FORTUNE

10 testifies as follows on:

11 EXAMINATION

12 BY THE COURT:

13 Q I just have -- just have one. This your -- the
14 State's Exhibit Number 2, the diagnostic assessment dated June
15 6th of 2012.

16 A Yes, Sir.

17 Q The first paragraph, is it presenting problem? This
18 is a summary of what Deandra -- Keaundra told you about what
19 had happened and -- I assumed that you relied on the
20 truthfulness of her statements in formulating your therapy.

21 A Yes, Sir. And I was in communication with the
22 social worker.

23 Q There was a statement in your report that says,
24 quote, she states that the father of the children was in the

1 apartment, however, was not in the room where the incident
2 occurred.

3 A Right. He had left according to what she told me,
4 that he had left.

5 Q He had left what?

6 A The apartment. He had been there, but left. And I
7 will qualify this as far -- I didn't go into a lot of detail
8 because that's a Medicaid assessment. They don't care about
9 that. They don't care about the criminality. They care about
10 the fact of the -- the reason for the symptoms. But --

11 Q So the statement in your report that she stated the
12 father was in the apartment but not in the room, you're saying
13 now is not correct?

14 A He had left. And I can be incorrect in the exact
15 wording of that, yes, Sir. She had told -- she told -- and
16 she has told me over and over that he had left, he had been
17 there and left.

18 THE COURT: Do my questions cause you to -- Counsel, to
19 ask --

20 MR. CORDES: No, Your Honor.

21 THE COURT: --additional questions?

22 All right. Thank you very much --

23 MS. SIMPKINS: Well, I -- (chuckle.)

24 THE COURT: Oh, you do?

1 JANE FORTUNE

2 testifies as follows on:

3 REDIRECT EXAMINATION

4 BY MS. SIMPKINS:

5 Q You said he told -- she told you over and over just
6 -- did she ever change that story that he had been there and
7 left?

8 A Huh-um (in the negative).

9 Q Is that a no?

10 A Oh, he has not -- she has not changed the story.
11 I'm sorry.

12 Q Okay. So if what you wrote in here was not correct,
13 it would have been something that you misstated, not something
14 Keaundra said?

15 A No.

16 Q Okay.

17 A It's -- what she said and she has said over and over
18 is that he had been there and left.

19 MS. SIMPKINS: No further questions, Your Honor.

20 THE COURT: Okay. You may step down and hopefully you
21 can make your flight back.

22 MS. FORTUNE: I think I'll make it.

23 MS. SIMPKINS: Oh, she'll make it.

24 THE COURT: Can we take a ten minute recess?

1 MS. SIMPKINS: Yes, please, thank you.

2 MR. CORDES: Yes, Your Honor.

3 (WHEREUPON, THE MATTER WAS TRAILED AT 10:45:43 AND RECALLED AT
4 10:59:57.)

5 THE COURT: Okay.

6 We are officially now back on the record in 446967.
7 Parties and counsel are present.

8 Now, if you'd raise your right hand and be sworn.

9 THE CLERK: You do solemnly swear the testimony you are
10 about to give in this action shall be the truth, the whole
11 truth, and nothing but the truth, so help you God?

12 THE WITNESS: I do.

13 THE CLERK: Thank you. Please state your name for the
14 record.

15 THE WITNESS: My name is Roberta Cummings, last name is
16 spelled, C-u-m-m-i-n-g-s.

17 THE CLERK: Thank --

18 THE WITNESS: My former name was Roberta Mossman.

19 THE MARSHAL: Go ahead and have a seat.

20 THE COURT: And, I'm sorry. What was your first name?

21 THE WITNESS: Roberta.

22 THE COURT: Roberta.

23 THE WITNESS: R-o-b-e-r-t-a.

24 THE COURT: Thank you very much.

1 You may proceed, Mr. Cordes.

2 MR. CORDES: Thank you.

3 ROBERTA CUMMINGS

4 having been called as a witness by The State and being first
5 duly sworn, testifies as follows:

6 DIRECT EXAMINATION

7 BY MR. CORDES:

8 Q Roberta, where are you currently employed?

9 A I work for the Clark County Department of Family
10 Services.

11 Q And how long have you worked for the Clark County
12 Department of Family Services?

13 A Just over five years.

14 Q While serving as an employee with the Clark County
15 Department of Family Services, were you assigned a case
16 involving Aamiyah Lamb and Christopher Bynum, Jr.?

17 A Yes.

18 Q Can you recall approximately when you were first
19 assigned a case involving those children?

20 A April 27th of 2010.

21 Q On April 27th of 2010 what were the allegations that
22 brought the two children to the attention of the Clark County
23 Department of Family Services?

24 A Environmental neglect and physical abuse. And I

1 believe it was domestic violence. I'm not -- I don't remember
2 exactly right now.

3 Q All right. After the allegations were received by
4 the Department of Family Services, did you take any steps to
5 investigate the matter?

6 A I did. I was able to make phone contact with Mom on
7 the initial date. I had tried to come by the house but it was
8 unsuccessful.

9 Q All right. So how soon after the initial
10 allegations were made were you able to make contact?

11 A I was able to face-to-face contact the first person
12 I made with was April 28th. I spoke with subject minor,
13 Aamiyah.

14 Q All right. And where did you make contact with
15 Aamiyah?

16 A At her -- the elementary school she was attending.

17 Q How did you know what elementary school Aamiyah was
18 attending?

19 A I had called the Clark County School District.

20 Q And you said you spoke to the mother on the first
21 day that the report came in?

22 A By telephone.

23 Q When you spoke to the mother on or about April 27th,
24 2010 can you recall what the conversation consisted of?

1 A That she doesn't know why CPS would be involved with
2 her and that I could hear a male voice in the background. And
3 there were some derogatory statements, and she ended up
4 hanging up on me.

5 Q When you made the face-to-face contact with Aamiyah
6 at her school, where was that contact done?

7 A I spoke with her in a conference room at the school.
8 It was just her and I in the room.

9 Q When you spoke to Aamiyah in that conference room at
10 the school, did you record the conversation?

11 A I did not.

12 Q Did you subsequently transfer any information from
13 that conversation into an official record or a document that
14 you might keep?

15 A I entered a case note into the UNITY system.

16 Q After you met with Aamiyah, what steps, if any, did
17 you take to further investigate the matter?

18 A I was able to get a address for the -- for the
19 family because initially the address I had was a address on
20 Nellis Air Force Base. They were not staying there. So I
21 went to the address that I was able to obtain and knocked on
22 the door. It was Mom and her boyfriend's address where she
23 was staying with the children.

24 Q All right.

1 A On Carey Avenue.

2 Q And when you say mom and boyfriend, who is
3 identified as the mother of Christopher and Aamiyah?

4 A That was Ms. DeBerry.

5 Q And who was identified in your statement as Mother's
6 boyfriend?

7 A I'm having a blank right now (chuckle). I want to
8 say it was Mr. Lamb.

9 Q All right. And were you able to make contact with
10 the mother at the time that you went to the address?

11 A No, I was not.

12 Q Did you make any attempts to further investigate the
13 matter?

14 A I did. The matter was also being co-investigated by
15 the North Las Vegas Police Department.

16 THE COURT: Can you speak up just a little bit?

17 THE WITNESS: I'm sorry. The matter was also being
18 investigated by the North Las Vegas Abuse/Neglect Unit.

19 BY MR. CORDES:

20 Q Okay. Who were you dealing with?

21 A Chandra Mason Murdoch (phonetic).

22 Q So what steps did you take after going to the
23 address for the family?

24 A I had attempted to call Mom again. Also, I went to

1 the leasing office to verify that that is who was at that
2 address, and I was told that it was. I was told that Mom was
3 living there with her boyfriend, and that the person there had
4 said that they had seen both children. And that they did see
5 -- when Mom had initially moved in, in the middle of April,
6 that she saw the burn mark on the child's face.

7 Q Okay. Were you subsequently able to make contact
8 with the mother?

9 A I was not able to make the contact with the mother
10 in person, just by telephone.

11 Q When was the next telephone contact that you had
12 with the mother that you can recall following the one on April
13 27th, 2010?

14 A Goodness. I want to say it was the beginning of May
15 I had gone back to the apartment with North Las Vegas to see
16 if they were still living at the apartment. And the mother
17 had called, um...

18 Q The mother called you?

19 A I believe so. Yeah. The mother had called my work
20 phone.

21 Q Between April 27, 2010 and that phone call of May of
22 2010, were you able to see Christopher?

23 A I was not.

24 Q When was the first time that you saw Christopher if

1 you ever saw him?

2 A I saw him when he was brought back from Louisiana at
3 Child Haven.

4 Q When do you recall when Christopher was brought back
5 from Louisiana?

6 A Goodness. I want to say that was toward the end of
7 May.

8 Q Of what year?

9 A 2010.

10 Q And at the time that Christopher was brought back
11 was Aamiyah also brought back?

12 A Yes.

13 Q Did you have any contact with the mother after the
14 children were brought back from Louisiana?

15 A I want to say there was some phone contact.

16 Q Did you ever have the opportunity to discuss with
17 the mother the injuries that Christopher was alleged to have?

18 A Yes, we talked about that several times.

19 Q Okay. When was the first time that you recall
20 speaking to the mother about the alleged injuries that
21 Christopher had?

22 A I want to say it was like the second or third phone
23 contact. Initially, the initial contact, I was just trying to
24 meet with her so I could discuss it in person.

1 Q Do you recall what the mother may have told you
2 about the alleged injury that Christopher had during your
3 investigation?

4 A She had said that he had pulled an iron off a piece
5 of furniture and that the iron inflicted the injury, that it was
6 self -- that he did it to himself. Accidental trauma is what
7 she said.

8 Q Did you discuss whether or not Christopher had
9 received any medical treatment with Ms. DeBerry?

10 A I believe I asked her if she took the child to the
11 doctor, and she said she didn't.

12 Q Did Ms. DeBerry discuss with you any course of
13 treatment she may have provided for Christopher, Jr. as a
14 result of that alleged injury?

15 A I want to say she mentioned putting Neosporin on it.

16 Q All right. Besides speaking with the mother, did
17 you have any contact with any medical personnel relative to
18 the injuries that Christopher had sustained?

19 A I did. We were able to obtain pictures of
20 Christopher's face from the OSI, from OSI Investigators --

21 Q Okay.

22 A -- in Louisiana.

23 Q From OSI.

24 A Um-hmm (in the affirmative).

1 Q So what does OSI stand for?

2 A The Office of Special Investigations for the Air
3 Force.

4 Q Was Ms. -- was the mother of the children in the Air
5 Force?

6 A No, she was not.

7 Q How did the Air Force OSI become involved?

8 A The maternal grandmother's husband is active duty
9 Air Force, and they were residing on the Air Force Base. And
10 that's where the children were found.

11 Q All right. Based on your investigation to the
12 matter, did you refer the case to the District Attorney's
13 Office for the filing of an abuse or neglect petition?

14 A I did.

15 Q And why did you make the referral to the District
16 Attorney's Office?

17 A Upon my investigation, especially initially when I
18 had went to the school, I spoke to the school office also.
19 When I spoke to Aamiyah she described the -- the incident of
20 the burn as happening when she was at the home, when Mom's
21 boyfriend was at the home and when Mom was at the home. She
22 said that the boyfriend had told her to watch Christopher.
23 The mom had ironed some clothes on a coffee table and then
24 went to get ready for work. Aamiyah said she didn't see the

1 child get burned, but she was told by the boyfriend that the
2 child tried to kiss the iron. And that she had gotten in
3 trouble for not watching him because she was watching TV. And
4 so she remembers getting in trouble by the boyfriend who she
5 said was present. And then when I talked to the school, the
6 boyfriend was listed as the father on the school records, and
7 that the child had only been enrolled there for seven days.
8 And during those days most days he would ask to be in the
9 classroom and observe. But the school was concerned about him
10 because he was found wandering the campus. At one point they
11 had had a potluck and he helped himself to the food and was
12 wandering the campus without Aamiyah. And they were concerned
13 about --

14 MS. MOLINAR: Objection, Your Honor, as to relevance.

15 THE WITNESS: -- what his intentions might be.

16 THE COURT: What?

17 MR. CORDES: The question was why did she submit the
18 petition request to the District Attorney's Office. So she's
19 laying out all the foundation as to why she made the referral.

20 MS. MOLINAR: But now she's getting into the series of --
21 the father wandering around. And I don't know what that has
22 to do with the -- a threat to the subject minors.

23 THE WITNESS: I can -- I can clarify that. Um --

24 THE COURT: Well, wait. There's an objection pending.

1 I'm -- in a TPR case I am a little bit concerned about the
2 relevance of why the petition was filed. The objection is
3 sustained.

4 BY MR. CORDES:

5 Q All right. So can you -- can you limit the factual
6 basis as to what allegations the Department of Family Services
7 thought needed to be addressed through The Court.

8 A One of the allegations was environmental neglect.
9 The environmental neglect was in -- that there were drugs
10 available and in reach of the children in the apartment. When
11 I spoke to the school they had talked about their concern that
12 he was loitering around the children. When I talked to the
13 prior school --

14 MS. MOLINAR: Objection, Your Honor, hearsay.

15 THE COURT: Overruled. It's not being admitted to prove
16 the truth of the matter.

17 Go ahead.

18 THE WITNESS: I learned that there had been -- the
19 boyfriend had been brought up on charges for loitering to sell
20 drugs around the elementary school. So, the concern was that
21 -- and there was also criminal history involving drugs. So
22 the Department's concern was that there -- the child did have
23 drugs possibly within her -- the reach of the children as well
24 as the physical abuse injury which was staffed at a CARES

1 meeting with abuse and neglect doctor, Dr. Mehta. And the
2 outcome of that was that the injury could not have been self
3 inflicted, and that would have -- it would have been caused by
4 a pressing of the iron against the child's face.

5 Q Okay. Any other concerns as far as the
6 investigation that the Department of Family Services requested
7 the petition through the District Attorney's Office to
8 address?

9 A We were concerned about violence in the home. We
10 were concerned about the physical abuse and the possible
11 access to drugs by the children.

12 Q Okay. What was the basis for the concern for the
13 domestic violence history or violence in the home?

14 A There was reports that the -- the boyfriend was
15 violent. He had some prior violent history, and that's where
16 that came from.

17 Q Okay. Were you able to ever address the reports in
18 his history with the mother specifically?

19 A When I spoke to the mom about the issue, she would
20 try to basically deflect all of the questions and try to give
21 excuses. But she didn't really answer questions for me
22 directly.

23 Q And when you say there was a history of violence
24 what was that history based upon?

1 A Police reports.

2 Q Did any of the police reports involve the mother?

3 A Honestly, I don't recall.

4 Q After the matter was submitted for a petition, did
5 you have any further communication with the mother?

6 A There were some phone calls back and forth, um,
7 based on some complaints she had made --

8 Q And what was --

9 A -- to upper management.

10 Q What was the mother complaining about to management?

11 A That she wanted a different caseworker, that she
12 felt that I didn't return her phone calls, things like that
13 which I did return calls. And I made notes of it as they
14 occurred.

15 Q All right. Any other complaints that she was making
16 to management?

17 A Um, that was the main stuff that she didn't think
18 that the kids should be returned to Las Vegas, things like
19 that.

20 Q Okay. When the children were returned to Las Vegas
21 did you have an address for the mother?

22 A Um, the address that I had was for the grandmother,
23 the maternal grandmother.

24 Q Did you have any discussions with the mother as to

1 where she was residing with the children?

2 A At that point, the case had been transferred to the
3 permanency worker. And correspondence would have been
4 transferred that way also.

5 Q Do you recall when the case was actually transferred
6 to the permanency worker?

7 A Beginning of June.

8 Q Of what year?

9 A 2010.

10 Q At the time that the case was transferred in June of
11 2010, had the petition been adjudicated?

12 A No.

13 Q And when you say the case was transferred in June of
14 2010, can you describe what that process is as far as the
15 Department of Family Services is concerned?

16 A That's when the role was separated between
17 investigator and permanency. The investigator handles the
18 gathering of information and the front part of the
19 investigation as it relates to court appearances and
20 adjudication. The permanency worker's goal is to work with
21 the parents to reunify the family.

22 Q When the case was transferred in June of 2010 did
23 the mother provide an explanation for Christopher's injury
24 other than pulling the iron onto himself?

1 A No.

2 Q Did you continue to be involved in the case after
3 the case was transferred in June of 2010?

4 A Just for court purposes.

5 Q And who was the permanency worker, if you can
6 recall?

7 A I remember her first name's Michelle.

8 Q Did you have any conversations during the course of
9 your investigation with the person that was identified as the
10 mother's boyfriend?

11 A No. I had attempted to have conversations. But --
12 cuz I could hear the male voice in the background.

13 Q Okay. Did you, during the course of your
14 investigation, identify who the fathers were for the children?

15 A Initially, the mother said that the father of
16 Aamiyah was Virgil Graves. It's my understanding that -- I
17 had attempted to do a diligent search for Virgil Graves, and I
18 was -- I was unsuccessful at that point on my end.

19 Q Okay. So Virgil Graves as to Aamiyah. Did the
20 mother identify who the father of Christopher Lamont Bynum,
21 Jr. was?

22 A Christopher Bynum, Sr.

23 Q All right. And then you identified somebody named
24 Lamb as Mom's possible boyfriend. Did you have --

1 A That's Christopher Bynum. I had Lamb on the mind
2 because of...

3 Q I apologize.

4 A Yeah.

5 Q Okay. So the boyfriend was actually Christopher
6 Bynum, Sr.?

7 A Yes.

8 Q Okay. All right. So a diligent search for Virgil
9 Graves and no contact with Christopher Bynum, Sr. Is that
10 correct?

11 A Correct.

12 Q When you transferred the case in June of 2010, any
13 contact with Virgil Graves?

14 A No.

15 Q Any contact with Christopher Bynum, Sr.?

16 A No.

17 Q Any other person claiming to be the father of the
18 children come forward to say that they're dad, I want to be
19 involved, while you were investigating the matter?

20 A No, not on my end. No.

21 Q While you were investigating the case were you able
22 to obtain a birth certificate for Aamiyah?

23 A I was.

24 Q And where, if you can recall, was that birth

1 certificate from?

2 A I don't recall.

3 Q How about for Christopher Bynum, Jr.? Were you able
4 to find that child's birth certificate?

5 A That was ordered at the same time. I want to say
6 his came back sooner. I want to say he was born in Las Vegas
7 and that there wasn't a dad listed.

8 MR. CORDES: Okay. And...

9 (MR. CORDES SHOWS DOCUMENT TO MS. SIMPKINS, THEN BRINGS
10 DOCUMENT TO THE CLERK.)

11 (BRIEF PAUSE.)

12 THE COURT: Are those marked Proposed 3 and 4?

13 MR. CORDES: Yes, Your Honor.

14 BY MR. CORDES:

15 Q All right. Ms. Mossman, I'm going to show you
16 what's now been marked as State's Proposed Exhibit 3. Would
17 you please take a look at that document?

18 (BRIEF PAUSE.)

19 Do you recognize State's Proposed Exhibit 3?

20 A I don't recognize it.

21 Q Okay. And State's Proposed Exhibit 4. Would you
22 take a look at that document? Do you recognize that document?

23 (BRIEF PAUSE.)

24 A I don't recognize it.

1 Q Okay.

2 (MR. CORDES RETURNS TO THE TABLE.)

3 All right. Any other conversations with the mother
4 that you can recall relative to your investigation between
5 April and June of 2010?

6 A There were some other conversations where the mom
7 would call and -- because I had asked her why she left Nevada
8 with the children and didn't allow me to see them, those kind
9 of questions. And she had said that she was -- had issues
10 with a co-worker, and that was why she left.

11 Q Okay. Did she tell you when the issue with the co-
12 worker developed?

13 A She gave several stories. So I didn't -- I don't
14 recall exactly. It would have been somewhere around the same
15 time as my investigation, my initial contacts.

16 Q During the course of your investigation did you
17 learn how long Ms. DeBerry and the two children had been in
18 Nevada prior to the report April of 2010?

19 A It was my understanding they'd been there several
20 years.

21 MR. CORDES: Thank you.

22 I don't have any further questions for this witness.

23 THE COURT: Cross?

24 MS. MOLINAR: Yes, Your Honor. One moment.

1 ROBERTA CUMMINGS

2 testifies as follows on:

3 CROSS EXAMINATION

4 BY MS. MOLINAR:

5 Q Good morning, Ms. Cummings.

6 A Hello.

7 Q Hi. Isn't it true that the information that you got
8 regarding the alleged abuse came from an anonymous source?

9 A The source wasn't anonymous. I did speak with a
10 person reporting.

11 Q Okay. And who was that person?

12 MR. CORDES: Objection, Your Honor.

13 THE COURT: As to the person reporting?

14 MR. CORDES: The name of the individual is confidential
15 by statute.

16 MS. MOLINAR: I think -- well, my question was, is the
17 person anonymous. And I think by her saying she can't
18 disclose it --

19 THE COURT: All right.

20 MS. MOLINAR: -- that person is anonymous.

21 THE COURT: Okay. The confidential reporter's name is
22 confidential. But if you're trying to -- if the inquire is
23 regarding the anonymous person if she knows. Is that your
24 question, does she know who the anonymous person is?

1 MS. MOLINAR: I think my question is...

2 (MS. MOLINAR AND MS. SIMPKINS TALK AMONGST THEMSELVES.)

3 BY MS. MOLINAR:

4 Q Okay, Ms. Cummings. How did you -- when talking to
5 the source, how did you ascertain that this was credible
6 information?

7 A The source had specific information about the burn.
8 The source had information about being inside the home. In my
9 attempts to verify the information there -- you know, there
10 was injury to the child's face. The police reports indicated
11 that there was drug history, these things.

12 Q Okay. You had stated that the source stated they
13 had been in the home. Wasn't it correct that the source gave
14 you the wrong address?

15 A The source gave me a prior address. And, again, the
16 family had only been in the Carey Avenue address since April
17 14th of 2010.

18 Q Okay. Isn't it correct that when you went to -- the
19 source had disclosed that there was drugs in the home. But
20 when you went to the home you didn't find any such drugs?

21 A I wasn't able to initially get into the home or see
22 the home until, goodness, about a week later.

23 Q But when you did get into the home, isn't it correct
24 that you did not find any drugs in the home?

1 A I did not find any drugs. They did know I was
2 looking though at that time to come and see them.

3 Q Okay. When you went to the home did you find any
4 evidence of domestic violence as the source stated?

5 A When I went to the home they were not there, and
6 there was clothes and food around the house. But I didn't see
7 holes in the walls or anything like that. It was just an
8 apartment.

9 Q Okay. When you interviewed Aamiyah at the school,
10 isn't it true that Aamiyah herself was the one who told you
11 that her brother had kissed the iron?

12 A Aamiyah told me that Christopher Bynum, Sr. told her
13 that he kissed the iron.

14 Q Okay.

15 A She did not see it happen.

16 Q Okay, Ms. Cummings. Why is that not reflected in
17 your UNITY notes?

18 A I believed it was. She said that's what happened,
19 but she didn't see it happen.

20 Q Would you like to see a copy of your UNITY notes?

21 MR. CORDES: Objection, Your Honor. There's no question
22 pending as to -- she's given an answer to the question that
23 was asked.

24 THE COURT: Well the next question --

1 MS. MOLINAR: Okay.

2 THE COURT: -- was why that isn't reflected in her...

3 MR. CORDES: And her response was she believed it was
4 reflected.

5 MS. MOLINAR: Okay.

6 THE COURT: Next question?

7 BY MS. MOLINAR:

8 Q Ms. Cummings, are you sure that you put in your
9 UNITY notes -- are you one hundred percent sure that you put
10 in the UNITY notes that the father -- that the boyfriend of
11 Ms. DeBerry told the subject minor that the little brother
12 kissed the iron?

13 A I don't remember verbatim as far as what I entered.
14 I remember the conversation which is that she did not see it
15 happen.

16 Q Okay.

17 A That she was told that he kissed the iron.

18 Q Would it refresh your recollection to look at a
19 portion of the UNITY notes where you -- at the time you
20 interviewed Aamiyah?

21 A If you want to show them to me I'll look at them.

22 THE COURT: So that would refresh your memory?

23 THE WITNESS: My memory's pretty good about that
24 particular conversation.

1 BY MS. MOLINAR:

2 Q Okay. Okay. Isn't it true in your UNITY notes you
3 said, "the subject minor reported her daddy told her to watch
4 her baby brother, and she was watching TV instead of watching
5 him. Subject Minor stated that the natural mother ironed some
6 clothes and left the iron on the coffee table. Natural Mother
7 went into the bathroom to do her hair, and the subject minor
8 stated that her baby brother tried to kiss the iron and burned
9 his left cheek on the iron."

10 A Yes, that's what she told me. And then she told me
11 also that it was her that -- he told her that that's what
12 happened. So I asked her, did you see it happen.

13 Q Okay. So did you state that in your UNITY notes
14 that the boyfriend said --

15 A I don't -- I don't recall. If it's not there then I
16 didn't state it.

17 Q Okay. If you do not recall, would looking at your
18 UNITY notes refresh your recollection that you did not put it
19 in your UNITY notes?

20 A If it's not in the note right there then I didn't
21 put it in there.

22 Q Would you like to look at it to verify?

23 MR. CORDES: Object --

24 THE WITNESS: I don't need to do that.

1 MR. CORDES: I'm just going to object. The witness says
2 her memory of the conversation does not need to be refreshed.

3 MS. SIMPKINS: No, that's -- I'm sorry. That's -- she
4 said she didn't recall, Your Honor. So what she's trying to
5 do is refresh her recollection.

6 MR. CORDES: She doesn't need her recollection refreshed.
7 She -- Judge, she just testified that her memory of the
8 conversation is fine.

9 THE COURT: Right. But --

10 MS. MOLINAR: But my question does not refer to memory --
11 to her memory of this. My question is specifically as to why
12 she didn't put it in the UNITY notes.

13 MR. CORDES: That wasn't the question asked.

14 MS. MOLINAR: Yes, it was.

15 THE COURT: Actually, I think it was.

16 Why don't you -- go ahead and show -- show Mr.
17 Cordes the UNITY record you're referring to. The question is
18 whether or not she recorded in her UNITY notes that --

19 MR. CORDES: Judge, she can't show those notes. They're
20 marked on.

21 MS. SIMPKINS: It's highlighted, Your Honor. There's
22 nothing --

23 MR. CORDES: There's -- there's an underline.

24 MS. SIMPKINS: -- absolutely nothing wrong with that.

1 MR. CORDES: There's a black mark and it's highlighted.
2 She cannot show him (sic) those notes.

3 MS. SIMPKINS: Highlight -- you can highlight notes, Your
4 Honor. You can highlight notes to show the witness exactly
5 where you want them to look. That -- there's nothing wrong
6 with that. I do it all -- every day.

7 MR. CORDES: Well, just because Ms. Simpkins does it
8 every day doesn't mean it's correct, Your Honor.

9 MS. SIMPKINS: There's nothing wrong with that.

10 MS. MOLINAR: Your Honor --

11 THE COURT: Well if the issue is whether she did or did
12 not enter in the notes and took her statement then whether the
13 notes are marked or not is really not relevant. I'll allow
14 the witness to look at them.

15 (MS. MOLINAR APPROACHES AND GIVES THE WITNESS THE DOCUMENT.)

16 MR. CORDES: If the record could just reflect that the
17 attorney is showing records that have been interlineated or
18 marked upon by Counsel, Your Honor.

19 THE COURT: That's fine. The issue is the absence of an
20 entry, not a specific entry that was made.

21 THE WITNESS: My response is the same that she was told
22 that that happened. And it doesn't say in here that she saw
23 it happen.

24 BY MS. MOLINAR:

1 Q Is -- so is it your testimony that --

2 THE COURT: Is there anything in there that says that she
3 was told by the boyfriend that --

4 THE WITNESS: No.

5 THE COURT: -- that the infant had attempted to kiss the
6 iron?

7 THE WITNESS: No, I didn't -- I didn't -- it's not marked
8 in there that the boyfriend told her that.

9 THE COURT: All right.

10 THE WITNESS: It's also not marked in there that she saw
11 it. She -- that she didn't see it.

12 THE COURT: Okay. You want to retrieve the notes?

13 MS. MOLINAR: Yes.

14 (MS. MOLINAR RETRIEVES THE NOTES FROM THE WITNESS.)

15 BY MS. MOLINAR:

16 Q Ms. Cummings, how come you did not state that the
17 boyfriend had told Aamiyah that the baby kissed the iron in
18 your -- in the investigation summary disposition report?

19 A I don't recall. A lot of times with the case notes,
20 you know, I have a lot of case notes to enter and a lot of
21 different cases. And I tried to put everything in as
22 accurately and as completely as possible. But I don't always
23 get every single thing. It may be in my mind but not
24 necessarily on the paper.

1 Q Okay. Okay. You testified earlier that you had
2 contact with some medical personnel in regards to the subject
3 minor's injury. Is that correct?

4 A Yes.

5 Q Did you ever get a fax from a Dr. Thomas Newman who
6 had seen the child in Louisiana?

7 A Yes, I did.

8 Q Do you recall what that fax stated in his report?

9 A The --

10 MR. CORDES: Objection, Your Honor. Call for hearsay.

11 THE COURT: What's it being offered for?

12 MS. MOLINAR: I'm sorry. Say that again?

13 THE COURT: What -- what is it being offered for, what
14 the doctor said in the fax? Is it being offered to prove the
15 truth of what was said or for some other reason?

16 MS. MOLINAR: Yes, it's being offered for the truth. Um,
17 let me see...

18 THE COURT: Then the objection is sustained.

19 MR. CORDES: Thank you, Your Honor.

20 (BRIEF PAUSE.)

21 BY MS. MOLINAR:

22 Q Okay. So Ms. Cummings though did you receive the
23 fax?

24 A Yes.

1 Q And did you review the contents of that fax?

2 A Yes.

3 Q Okay. You testified earlier that Ms. DeBerry's
4 boyfriend was loitering to sell drugs. How -- what made you
5 come to the conclusion that loitering at an elementary school
6 meant that he was selling drugs?

7 A Well, what I had said was that he was loitering at
8 the initial school and they were concerned about him. And I
9 had contacted the other school and learned that there was
10 actually an arrest made outside of that school. Or that...

11 Q Okay. When you removed the children, did you remove
12 them because you believed that Keaundra DeBerry herself burned
13 Christopher, Jr.?

14 A I -- I actually believed that it was the boyfriend.

15 Q Okay.

16 A And that she was covering for him.

17 Q Okay. To go back to your interview with Aamiyah at
18 the school, isn't it true that at the interview that no safety
19 concerns were disclosed?

20 A No, Aamiyah did not disclose safety concerns other
21 than that -- that there was a burn that did occur.

22 Q Okay. Isn't it true that at that time Aamiyah
23 stated that she does not fear anyone in the household and does
24 not fear any visitors?

1 A Yes.

2 MR. CORDES: Objection, Your Honor. At this point it's
3 all hearsay what the child disclosed. So she's offering that
4 for the truth.

5 THE COURT: Well, act -- well, I'm going to sustain the
6 objection.

7 (BRIEF PAUSE.)

8 BY MS. MOLINAR:

9 Q Okay. Ms. Cummings, after your interview with
10 Aamiyah did you remove the children immediately?

11 A No, I didn't. I had attempted to meet with the
12 mother to see the baby is what -- what my next course of
13 action was.

14 Q But you did not remove the children?

15 A I did not take Aamiyah from school if that's what
16 you're asking.

17 Q Okay. Ms. Cummings, isn't it true that the
18 allegations for drugs and domestic violence as to Ms. DeBerry
19 were dropped?

20 A I don't recall. It's possible. I don't recall.
21 Again, it's Ms. DeBerry -- once again it was an environmental
22 neglect issue, not saying that the drugs were hers or not. I
23 didn't actually -- I wasn't able to get to that part of the
24 investigation because of the time lapse. When I went to the

1 house it already had been past a week.

2 Q Okay. But when you went to the house you didn't
3 have any concerns with regards to drugs as to Ms. DeBerry?

4 A I didn't see any present in the apartment.

5 MS. MOLINAR: Okay. No further questions, Your Honor.

6 MR. CORDES: Nothing further.

7 THE COURT: All right. Thank you very much for your
8 testimony. You may step down. The witness is free to go.

9 MR. CORDES: Thank you, Your Honor.

10 THE COURT: Just for the record I've got a Judge's
11 meeting that starts at twelve-thirty. My particular agenda
12 item probably won't start till close to one o'clock. So we're
13 going to go as long as we can because I anticipate when they
14 get to my agenda item it's going to be thirty to forty minute
15 discussion (chuckle).

16 MS. SIMPKINS: So do you just want to take a late lunch?

17 THE COURT: So we're going to take a late lunch.

18 MR. CORDES: Thank you, Your Honor.

19 MS. SIMPKINS: Okay.

20 MR. CORDES: Ms. DeBerry, Your Honor, will be The State's
21 next witness.

22 (MS. DEBERRY TAKES THE STAND.)

23 THE CLERK: Can I get the two exhibits from you?

24 MR. CORDES: No, I have them.

1 THE COURT: Oh, it's 2 and 3?
2 MR. CORDES: They're right here.
3 THE COURT: He could -- he couldn't --
4 THE MARSHAL: Ma'am, if you could --
5 MR. CORDES: She couldn't identify them.
6 THE MARSHAL: If you could just remain standing. You're
7 going to raise your right hand.
8 MR. CORDES: So they're still marked.
9 THE CLERK: Please raise your right hand.
10 You do solemnly swear the testimony you are about to
11 give in this action shall be the truth, the whole truth, and
12 nothing but the truth, so help you God?
13 MS. DEBERRY: I do.
14 THE CLERK: Thank you.
15 THE COURT: Okay. Actually, before you begin, just a
16 housekeeping issue. State's Proposed 2 and 3 are the birth
17 certificates.
18 THE MARSHAL: You may sit down.
19 MS. DEBERRY: Okay.
20 THE COURT: Is there --
21 MS. SIMPKINS: No objection.
22 THE COURT: No objection. All right. Proposed 2 and 3
23 will be admitted.
24 MR. CORDES: It's actually 3 and 4.

1 THE COURT: 3 and 4, I'm sorry.

2 THE CLERK: 3 and 4, yes.

3 MR. CORDES: Thank you.

4 THE COURT: 2 was already admitted. 3 and 4, the birth
5 certificates.

6 (STATE'S EXHIBITS 3 AND 4 ARE ADMITTED.)

7 MS. SIMPKINS: Quit helping (chuckle).

8 MR. CORDES: (Chuckle.) Thank you.

9 THE COURT: All right. You may proceed, Mr. Cordes.

10 MR. CORDES: All right. Thank you.

11 **KEAUNDRA DEBERRY**

12 having been called as a witness by The State and being first
13 duly sworn, testifies as follows:

14 **DIRECT EXAMINATION**

15 BY MR. CORDES:

16 Q Ms. -- is it DeBerry?

17 A Yes, Sir.

18 Q Okay. Ms. DeBerry, would you please state your
19 legal name for the record?

20 A Keaundra DeBerry.

21 Q All right. And how do you spell Keaundra?

22 A K-e-a-u-n-d-r-a.

23 Q And how do you spell DeBerry?

24 A D-e-B-e-r-r-y.

1 Q Is the B capitalized?

2 A Yes.

3 Q So it's D, small or lowercase e, a capital B?

4 A Um-hmm (in the affirmative).

5 Q All right. All right, how old are you today?

6 A I am twenty-five.

7 Q Are you married?

8 A No.

9 Q Have you ever been married?

10 A No.

11 Q How many children do you have?

12 A Three.

13 Q Okay. Starting with your oldest child and working

14 your way down, can you please give me their legal name and

15 their age?

16 A Aamiyah Lamb, eight years old. Christopher Bynum,

17 Jr., three. And Keaundre Bynum, one.

18 Q All right. And since Keaundre is not part of this

19 case, can you spell his name for us?

20 A Yes. K-e-a-u-n-d-r-e Bynum, B-y-n-u-m.

21 Q All right. So Aamiyah Lamb, who is her father, if

22 you know?

23 A Joseph Lamb.

24 Q Joseph Lamb. Okay. Now, did you ever identify a

1 Virgil Graves as being the possible father of Aamiyah?

2 A Yes, there was a possibility.

3 Q Okay. And do you know if paternity testing has ever
4 been done to ascertain whether or not Mr. Graves is actually
5 the father of Aamiyah?

6 A I know there was a paternity test done.

7 Q Okay. And where was that paternity testing done?

8 A If I'm not mistaken, LabCorp I know --

9 Q In Nevada or another state?

10 A They did one in Nevada for Aamiyah -- no, it was
11 Louisiana for Aamiyah.

12 Q Okay.

13 A She was with her grandmother at the time.

14 Q Okay. And did the paternity test results, to your
15 knowledge, prove that Mr. Graves was not the father?

16 A Correct.

17 Q All right. Now you've identified Joseph Lamb as
18 another possible father. Did he submit to paternity testing?

19 A No, but he knew he basically was the father that's
20 -- who's on her birth certificate.

21 Q Okay. So Mr. Lamb's name appears on her birth
22 certificate.

23 A Correct.

24 Q And where was Aamiyah born?

1 A In Wayne County which is Goldsboro, North Carolina.

2 Q At the time that Aamiyah was born were you living
3 with Joseph Lamb?

4 A No.

5 Q To your knowledge, did Joseph Lamb ever sign any
6 document saying that he was the father of Aamiyah?

7 A He came and did it as a court order. Yes, he did.

8 Q A court order out of what state?

9 A Out of North Carolina.

10 Q And was that pursuant to like a child support
11 enforcement type case or why did he go to court?

12 A Once he had signed himself up to go to military,
13 which was the Marines, he then added his name to her birth
14 certificate.

15 Q All right. Do you have any current contact with Mr.
16 Lamb?

17 A No, Sir.

18 Q When's the last time you had any contact?

19 A 2005.

20 Q And Aamiyah was born in January of 2004?

21 A Yes, Sir.

22 Q Okay. To your knowledge, has Mr. Lamb had any
23 contact with Aamiyah between 2005 and her placement into
24 protective custody in 2010?

1 A To my knowledge, no.

2 Q Between 2005 and I believe it was May of 2010 when
3 Aamiyah was placed into protective custody, did Mr. Lamb
4 provide any financial support by way of child support or
5 financial contributions for her benefit?

6 A No, Sir.

7 Q And did -- in your presence did Mr. Lamb ever hold
8 himself out as being the father other than seeking the court
9 order?

10 A No.

11 Q All right. As to Christopher Bynum, is his middle
12 name Lamont?

13 A Yes.

14 Q And who is Christopher Lamont Bynum, Jr.'s father?

15 A Christopher Lamont Bynum, Sr.

16 Q And Keaundre's father is also Christopher, Sr.?

17 A Yes, Sir.

18 Q Okay. When's the last time you had any contact with
19 Christopher Lamont Bynum, Sr.?

20 A Over a year or two.

21 Q And where was that last contact?

22 A In the state of Louisiana at a court date.

23 Q And what was the court date for?

24 A For the situation with the kids.

1 Q Okay. So the transfer of jurisdiction of the kids
2 from Louisiana back to Nevada?

3 A It was before that. But it was -- we had maybe two
4 court dates prior to that transfer.

5 Q As it relates to Christopher Lamont Bynum, Sr., do
6 you know if he's ever submitted to paternity testing to prove
7 he's the father of Christopher, Jr.?

8 A No.

9 Q Okay. You weren't married to him. Did he ever hold
10 himself out as being Christopher, Jr.'s father in your
11 presence, saying that's my boy, that's my son, to anybody?

12 A He always said that's his son.

13 Q Okay. In your presence?

14 A In my presence.

15 Q Okay. Did he ever claim to be the father of
16 Christopher Jr. to any of his family members, to your
17 knowledge?

18 A Yes.

19 Q Okay. And were you residing with Christopher Lamont
20 Bynum, Sr. at the time that you became pregnant with Junior?

21 A No, we were not residing.

22 Q At the time that you gave birth to Christopher Jr.,
23 were you residing with Christopher Sr.?

24 A No.

1 Q All right. And -- I'm sorry. What is Keaundre's
2 birthday?

3 A 12/29/10.

4 Q To your knowledge, has Christopher Lamont Bynum, Sr.
5 providing financial support for the benefit of Christopher Jr.
6 or Keaundre?

7 A No. Through family members, yes, but himself, no.

8 Q Okay. So how much have family members contributed
9 on behalf of Senior, to your knowledge?

10 A I really can't recall. Every holiday, birthdays, if
11 needed.

12 Q Okay. Giving money or giving gifts?

13 A Money and gifts.

14 Q And when the relatives give the gifts for
15 Christopher Sr., do they say, this is on behalf of your dad,
16 this is from your dad? Do they make any gestures like that,
17 or is it just the family members giving money?

18 A Just the family member giving money.

19 Q Okay. Do you know where Christopher Sr. is right
20 now?

21 A Yes, Sir.

22 Q Where is he?

23 A He's incarcerated in Plain Dealing, Louisiana.

24 Q I'm sorry?

1 A In Plain Dealing, Louisiana.

2 Q Is that Plain?

3 A Plain, P-l-a-i-n.

4 Q Dillon? D --

5 A D-e-a-l-i-n-g.

6 Q D-e-a-l --

7 A L-i-n-g.

8 MS. SIMPKINS: You don't speak Southern?

9 MR. CORDES: No (chuckle).

10 THE WITNESS: (Chuckle.)

11 BY MR. CORDES:

12 Q Plain Dealing, okay, Louisiana?

13 A Yes, Sir.

14 Q All right. And do you know why he's incarcerated?

15 A Not exactly. I've known of some charges, but --

16 Q How do you know he's incarcerated?

17 A Mom and he was trying to come visit one time, and --

18 Q Okay, sorry. When you say mom, who are you --

19 A Mom -- Mom let me know.

20 Q Who's Mom?

21 A Paulette Bynum, Christopher's mom.

22 Q Okay. So the paternal grandmother of your children?

23 A Correct.

24 Q All right. So paternal grandmother told you --

1 A Uh-huh (in the affirmative). That something --

2 Q -- that he's incarcerated?

3 A -- was going on there. He then tried to come and
4 visit the kids, and I was told that he needed to turn himself
5 in for something. The day that he came to try to visit the
6 kids, he turned himself in to the police, to my knowledge.

7 Q And you received that knowledge from who?

8 A From mother -- paternal moth -- grandmother.

9 Q Okay. And you said her name was Paulette?

10 A Um-hmm (in the affirmative).

11 Q Bynum?

12 A Bynum.

13 Q Have you communicated with Mr. Christopher Bynum,
14 Sr. while he's been incarcerated?

15 A No.

16 Q Okay. Where do you currently live?

17 A In -- you want the address or just --

18 Q Yeah.

19 A 502 Henry, H-e-n-r-y, Street Latta, L-a-t-t-a, South
20 Carolina, 29565.

21 Q How long have you lived at that 502 Henry Street
22 address?

23 A About eight months. That's initially where I'm
24 from. So...

1 Q Okay. So eight months ago you moved to Latta, South
2 Carolina.

3 A Correct.

4 Q All right. Prior to moving to Latta, where did you
5 live?

6 A In Shreveport, Louisiana.

7 Q How long did you live in Shreveport, Louisiana?

8 A Two years.

9 Q Who did you live in Shreveport, Louisiana with?

10 A Some with my mother and then I obtained my own
11 apartment.

12 Q And when you say your mother, that's the maternal
13 grandmother of your children. What's her name?

14 A Bonita Taylor (phonetic herein).

15 Q And does Ms. Taylor or Bonita Taylor have custody or
16 placement of Aamiyah and Christopher Jr.?

17 A Yes, Sir.

18 Q Do you know when Aamiyah and Christopher Jr. were
19 placed with your mom?

20 A If I can recall it was August of 2011.

21 Q All right. And do you have any safety concerns,
22 relative the children, while placed with your mother?

23 A No, Sir.

24 Q Is the placement still on a military base?

1 A Correct.

2 Q Okay. Are you currently employed?

3 A Yes, Sir.

4 Q Where are you employed?

5 A Wendy's.

6 Q And what do you do at Wendy's?

7 A I'm a manager in training.

8 Q Okay. And before you become a manager, what's your

9 official title?

10 A Well, uh, crew trainer.

11 Q How long have you been employed at Wendy's?

12 A Since April.

13 Q Of 2012?

14 A Yes.

15 Q Okay. Before becoming employed at Wendy's in April

16 of 2012, were you employed?

17 A Yes, Sir.

18 Q Where were you employed?

19 A At Sonic.

20 Q What did you do at Sonic?

21 A I was a manager.

22 Q How long were you employed at Sonic?

23 A About -- well, two years there and once I left here

24 it was four years.

1 Q Okay.

2 A So a total with Sonic or just a total a total --

3 Q Give me a total and then we'll break it down.

4 A A total with Sonic was six years.

5 Q Okay. So six years with Sonic.

6 A Um-hmm (in the affirmative).

7 Q All right. And were you employed with Sonic when

8 you lived in Nevada?

9 A Yes.

10 Q All right. And how long were you employed at Sonic

11 while you lived in Nevada?

12 A Four years.

13 Q When did you first come to live or reside in Nevada?

14 A I really can't recall. 2006 -- it was right after I

15 graduated, because Dad had got stationed here from North

16 Carolina.

17 Q Okay. Let's -- all right. You graduated from

18 where?

19 A Eastern Wayne High School.

20 Q Okay. So high school.

21 A Um-hmm (in the affirmative).

22 Q In 2006?

23 A 2005 is when I graduated.

24 Q All right. And then you think you moved to Nevada

1 in 2006?

2 A Yes, Sir.

3 Q And you said your dad being the maternal --

4 A Well my step dad, my mom's husband.

5 Q Was stationed here at Nellis?

6 A He was stationed here from -- yes, from Seymour.

7 Q All right. Okay, so Aamiyah was about two years old
8 when you moved to Nevada?

9 A Yes, Sir.

10 Q When did you meet Christopher Lamont Bynum, Sr.?

11 A It was around the end of '06, beginning of '07.

12 Q To your knowledge, did Mr. Bynum Sr. ever use
13 illegal substances?

14 A Around me, no.

15 Q To your knowledge, did he ever use illegal
16 substances?

17 A No, Sir.

18 THE COURT: That's a no?

19 THE WITNESS: No.

20 BY MR. CORDES:

21 Q Were you ever engaged in any incident of domestic
22 violence with Mr. Bynum Sr.?

23 A No, Sir.

24 Q Do you know what domestic violence is?

1 A Yes, Sir.

2 Q Okay. What do you believe domestic violence is?

3 A Anything that cause us fussing, doin' a lot of

4 fightin' and having police involved in a public area --

5 Q Okay.

6 A -- or a home.

7 Q Do the police have to be involved in all of the

8 situations for you to believe it's domestic violence?

9 A No, Sir.

10 Q Now is fussin', arguing?

11 A (No audible response.)

12 Q Excuse me; I'll rephrase. What do you consider

13 fussin' to be?

14 A Words back and forth.

15 MS. SIMPKINS: Mr. Cordes doesn't speak Southern. So...

16 THE WITNESS: I'm sorry (chuckle).

17 BY MR. CORDES:

18 Q And when you say words back and forth, is that

19 yelling back and forth? Is it screaming? What would you

20 characterize as fussing with words back and forth?

21 A You know, yelling, screaming, sometimes hitting,

22 cursing.

23 Q And is it your testimony today that you've never had

24 situations where you've been fussin' with Mr. Bynum Sr.?

1 A I mean, we have a debate but not as in to where it
2 get physical.

3 Q Okay. So there would be yelling, screaming and
4 cursing at each other, but it never got to the point where it
5 was physical?

6 A Well, that's not me in considering as us -- us, I
7 mean, yelling. We just had a debate. I don't look at yelling
8 and fussing with our debate.

9 Q Okay. So what's your definition of a debate?

10 A Just us going talking and not agreeing on some
11 things.

12 Q Was there ever a time where you physically resided
13 with Mr. Bynum Sr.?

14 A No, Sir.

15 Q Were there occasions where Mr. Bynum Sr. would stay
16 or sleep over at your house?

17 A Yes, Sir.

18 Q When did the relationship between you and Mr. Bynum
19 get to the point where he started having occasions where he
20 would sleep over at your house?

21 A Maybe about four or five months of us knowing each
22 other.

23 Q All right. And so Christopher Jr. was born in March
24 of 2009.

1 A Um-hmm (in the affirmative).

2 Q Is that correct?

3 A Correct.

4 Q And so you said that you met Mr. Bynum in about the
5 end of 2006 to 2007?

6 A Um-hmm (in the affirmative).

7 Q So between the beginning of 2007 and Christopher
8 Jr.'s birth in March of 2009, there were occasions where Mr.
9 Bynum Sr. would stay at your place. Is that correct?

10 A Well not at my place either, a hotel. Because I was
11 still residing with my mom some of the time on the Air Force
12 Base.

13 Q To your knowledge, did Mr. Bynum Sr. have a place, a
14 apartment or a house that he stayed at?

15 A To my knowledge he was staying with someone.

16 Q Okay. Did you ever go over there?

17 A No.

18 Q All right. So in 2010, about April, did there come
19 an occasion where you had contact with Child Protective
20 Services?

21 A I've gotten in contact with Child Protective
22 Services beginning of May.

23 Q All right. Of 2010?

24 A Yes, Sir.

1 Q All right. What was the first contact with Child
2 Protective Services that you recall in May of 2010?

3 A The first call -- well I really didn't get a call.
4 I did get a message.

5 Q I -- I'm sorry. I said the first contact you
6 remember. Sorry.

7 A The first contact I remember was May 5th.

8 Q And what do you recall about the May 5th, 2010 first
9 contact with Child Protective Services?

10 A There was a message from Ms. Mossman that there were
11 some AARP-something out on me, that she need to see the kids.

12 Q Okay. After you received that message what did you
13 do?

14 A I then contacted her number back, went to her
15 voicemail and let her know that I did have a flight that Mom
16 purchased on May 6th that I would be residing at Barksdale Air
17 Force Base and if she needed to see the kids, that's where I
18 would be.

19 Q So is it your testimony that between April 2010 and
20 May 6th of 2010 there was an occasion where your mom purchased
21 a air ticket for you?

22 A Yes, Sir.

23 Q Okay.

24 A She did purchase a ticket for me.

1 Q All right. And when she purchased the ticket for
2 you, did she purchase a ticket for your entire family?

3 A Just for me and my daughter and my son was
4 authorized to ride free as a lap child.

5 Q Okay. And that was done through a regular airline
6 and not through the Air Force?

7 A No, not through Air Force.

8 Q And was Aamiyah attending school in April of 2010?

9 A Yes, Sir.

10 Q Where was she attending school?

11 A She had just -- I just got her out of, what was it,
12 Stewart (phonetic). And I removed her from that school into
13 Martinez Elementary.

14 Q All right. So she was going to Stewart Elementary
15 School?

16 A I think that's the name -- yes.

17 Q And then you took her and enrolled her at Martinez?

18 A Yes, Sir.

19 Q And what grade was she in?

20 A Kindergarten.

21 Q And how long had Aamiyah been at Martinez Elementary
22 School before you removed her on May 6th, 2010?

23 A You say on May 6th before I removed her?

24 Q I'm sorry. You said that you had a plane ticket to

1 go to Barksdale Air Force Base on May 6th.

2 A Okay. Maybe a week or two.

3 Q Okay. Why did you leave Nevada on May 6th, 2010?

4 A I had issues with a former employee. I was -- do
5 you need me go in details for that?

6 Q Sure.

7 A I was a manager and I had to terminate an employee,
8 and it got real physical to where she was threatening me and
9 my kids. And I had no family here in Las Vegas. Mom and Dad
10 had -- just had orders to Barksdale. So Mom felt that it was
11 safer for me and the kids to come reside with her.

12 Q Okay. And when did those issues start with your
13 former employee?

14 A It was around the -- I can't recall the exact date,
15 but it was around the time I removed her from that one school
16 into Martinez. And I actually moved myself from one apartment
17 to a gated community before I decided to actually leave.

18 Q Okay. So you took your daughter out of Stewart
19 Elementary School and enrolled her at Martinez Elementary
20 school to avoid the former employee knowing what school she
21 went to?

22 A Right. She had --

23 Q Okay.

24 A -- authorization to get her in and out of school.

1 Q The former employee was the babysitter?
2 A She was. Yes.
3 Q Why don't we just clarify the record. What was her
4 name?
5 A Latisha Galle.
6 Q Latisha Galle?
7 A Um-hmm (in the affirmative).
8 Q Is it G-a-l-l-e?
9 A L-e. Yes, Sir.
10 Q Okay. And you actually went and got a restraining
11 order against her, right?
12 A Yes, Sir.
13 Q She was your babysitter for how long?
14 A About a year.
15 Q And was Latisha Galle babysitting for you in or
16 about April of 2010?
17 A Yes.
18 Q And when did you fire her?
19 A I fired her --
20 Q I'm sorry. From the Sonic employment.
21 A It wasn't actually Sonic; it was actually Wendy's --
22 Q I'm sorry.
23 A -- that I fired her from. But that was about four
24 months before I was at Sonics, about four months --

1 Q Okay, sorry.

2 A -- before the --

3 Q I didn't have that clarified for your employment
4 history. So you indicated that you worked for Sonic for four
5 years while you lived in Nevada.

6 A Um-hmm (in the affirmative).

7 Q I'm sorry. What period of time was that?

8 A In '06.

9 Q So 2006 to 2010 --

10 A Um-hmm (in the affirmative).

11 Q -- you were at Sonic?

12 A Um-hmm (in the affirmative). And for about --

13 Q When did you work at Wendy's?

14 A It was April of '06 and I left there in October, and
15 I started Sonic in October of '06.

16 Q Okay. When did you fire the employee from Wendy's?

17 A It was around January -- no, it was around -- it was
18 three months into, so I'll say between August and -- between
19 August and September.

20 Q Of what year?

21 A Of 2006.

22 Q Okay. So you fired Latisha Galle back in 2006.

23 A Um-hmm (in the affirmative).

24 Q Then you had her babysit for you up and through

1 April of 2010.

2 A Well we tried to let that go and become adults and
3 leave that behind.

4 Q Okay. All right.

5 A Because she knew I had to do my job some way or
6 another.

7 Q As a babysitter for you would she babysit at your
8 house?

9 A Yes, Sir.

10 Q And was it a house or apartment?

11 A It was apartment.

12 Q Where was the apartment located?

13 A On Lawrence Street. Right there on Craig and
14 Lawrence, right there --

15 Q Is that in Las Vegas, Nevada?

16 A Yes, Sir.

17 Q Is that near the base?

18 A Yes, Sir. Right near the Sonic where I was working
19 at.

20 Q When did you move out of that Lawrence Street
21 apartment?

22 A Well, um, end of March, beginning of April.

23 Q 2010?

24 A Yes, Sir.

1 Q And when you moved out of the apartment on Lawrence
2 where did you move to?

3 A Carey Avenue.

4 Q And so you moved into the East Carey -- was it East
5 Carey? Sorry.

6 A I can't recall but I just know Carey.

7 Q Okay, sorry.

8 A I'm not familiar (chuckle) --

9 Q The Carey Avenue --

10 A Yes, Sir.

11 Q -- apartment again?

12 A Apartment I think it was 15, 14.

13 Q And so you moved in there April of 2010 and you
14 signed a lease, right?

15 A Yes, Sir.

16 Q How long was the lease?

17 A It was for six months.

18 Q And when you moved to the Carey Avenue that's when
19 you changed schools to Martinez Elementary School for Aamiyah.
20 Is that correct?

21 A Yes, Sir.

22 Q And Mr. Bynum Sr., would he come over to the Carey
23 Avenue apartment?

24 A To watch the kids, yes.

1 Q So he was also providing babysitting services?

2 A Yes, Sir.

3 Q All right. When did he start coming over to the

4 Carey Avenue house to start helping you care for the kids?

5 A Beginning of April.

6 Q Of two thousand --

7 A When I got the apartment. Yes.

8 Q Okay. So April of 2010 you have Mr. Bynum Sr., and

9 you have Latisha Galle providing care with the children?

10 A Right. And he's only -- was there when Ms. Latisha

11 couldn't provide her service.

12 Q All right. So when did Christopher Jr. burn his

13 face?

14 A It was approximately April 9th if I can recall.

15 Q Why does April 9th stand out in your mind?

16 A Cuz it was the day I had to go to work and I

17 contacted my job to let them know that I was going to be a

18 little behind because of the incident that had happened.

19 Q All right. So Christopher Jr. gets the burn on his

20 face. Where is he burned?

21 A On his right cheek.

22 Q And where on the cheek is he burned? Is he close to

23 the mouth, close to the ear, to the eye, what part?

24 A Closer to the eye up in the top part right here.

1 Q All right. So -- and you --

2 A Nose and eye.

3 Q Okay. So if the record could just reflect that the
4 witness is moving her right hand under her right cheek bone.
5 Would that be fair?

6 A Correct.

7 THE COURT: The record will so reflect.

8 MR. CORDES: Thank you.

9 BY MR. CORDES:

10 Q All right. So he burns the right cheek bone area,
11 and at that point what do you do when you see the burn?

12 A I didn't immediately see the burn. But when I saw
13 the burn I contacted my job and my mom who -- which is a
14 nurse. My mom's a nurse.

15 Q And, again, maternal grandmother, Bonita, is a
16 nurse?

17 A Yes, Sir.

18 Q Okay. All right. And so you have a telephone
19 conversation with your mom.

20 A Correct.

21 Q And you called your job.

22 A Yes, Sir.

23 Q All right. Did you provide any medical treatment?

24 A Yes. The job also -- the job sent over some burn

1 cream. They first asked me did I have anything for it. I
2 told them I did have Neosporin. They did send over some burn
3 cream also from our first aid kit. And Mom also told me if it
4 wasn't blistering I can apply Neosporin. But if it start
5 blister or anything, seek medical attention.

6 Q Okay. Anything beside the Neosporin or the gel
7 cream that work sent?

8 A Anything -- um, we did Cocoa Butter after it healed.

9 Q All right. So on April 9th, 2010 who were you going
10 to use to provide care for your children when you went to
11 work?

12 A Mr. Bynum.

13 Q Did Mr. Bynum, in fact, provide care on that day?

14 A Yes, Sir.

15 Q After April 9th, 2010 did Latisha Galle provide any
16 care for your children?

17 A No.

18 Q Between April 9th, 2010 and May 6th of 2010, did you
19 ever take Christopher Jr. in to see a doctor?

20 A No, but his paternal grandmother had.

21 Q And the paternal grandmother is?

22 A Paulette Bynum.

23 Q Okay. Did Paulette Bynum reside in the state of
24 Nevada?

1 A No, she reside in Tallulah, Louisiana.

2 Q And so when did Paulette Bynum take Christopher Jr.

3 to see a doctor?

4 A It was May 11th.

5 Q Okay, sorry. My question was between April 9th of

6 2010 and May 6th of 2010 --

7 A Well no --

8 Q -- did you ever take --

9 A No, Sir.

10 (BRIEF PAUSE.)

11 Q All right. So then you moved down to the Air Force

12 Base on or about May 6th of 2010 to live with your parents.

13 Is that correct?

14 A Correct.

15 Q All right. At that time Mr. Bynum Sr., did he go

16 with you?

17 A He didn't go with me, but he came there also.

18 Q Okay. Did he fly, to your knowledge?

19 A Yes, to my knowledge, he flew.

20 Q On the same plane with you?

21 A No.

22 Q Now where did Paulette Bynum live?

23 A In Tallulah, T-a-l-l-u-l-a-h, Louisiana.

24 Q And is Barksdale Air Force Base in Tullulah,

1 Louisiana?

2 A No, that's in Shreveport.

3 Q Okay.

4 A That's about three hours away.

5 Q All right. So you are living at the Air Force Base
6 with your parents and the two kids.

7 A Well no with one kid.

8 Q I'm sorry.

9 A I was there with one kid.

10 Q I'm sorry. Who -- you didn't take -- who did you
11 take?

12 A I took both kids, but only one child was with me.

13 Q Okay. Which child did you take to the Air Force
14 Base?

15 A Aamiyah.

16 Q Okay. So you left Bynum Jr., Christopher, with his
17 father?

18 A And his paternal grandmother.

19 Q All right. So did Christopher Jr. travel with you
20 from the state of Nevada down to Louisiana?

21 A He came into reside of his mother, yes, but not
22 exactly with me.

23 Q Oh, I said Junior. I'm sorry.

24 A Oh, Junior. Yes, he did ride on the plane with me.

1 Q Okay. So you took Junior and Aamiyah to the Air
2 Force Base.

3 A Correct.

4 Q To stay with your parents.

5 A Correct.

6 Q Then Christopher Sr. came down to Louisiana to live
7 with his mom.

8 A Correct.

9 Q And then some point you transferred Junior,
10 Christopher Jr., to Christopher Sr.?

11 A The same day his mom met us at the Air Force Base
12 gate and Christopher Sr. and Christopher Jr. went with his
13 mother -- with Christopher's mother.

14 Q What day was that?

15 A On May 6th.

16 THE COURT: May what?

17 THE WITNESS: 6th.

18 THE COURT: 6th?

19 THE WITNESS: Yes, Sir.

20 BY MR. CORDES:

21 Q Okay. So the day you fly down --

22 A Um-hmm (in the affirmative).

23 Q -- to go live with your mom and stepfather on the
24 Air Force Base, you take Aamiyah and Christopher Jr.

1 A Correct.

2 Q That same day, May 6th, 2010, Christopher Sr. flies
3 down to live with his mother --

4 A Correct.

5 Q -- three hours apart. And you send Christopher Jr.
6 to live with his dad.

7 A Yes, Sir.

8 Q Is that it? Okay. Now, at the time that you
9 traveled down to Louisiana in May of 2010, the injury to
10 Christopher has become worse, right?

11 A No, Sir. It was healed.

12 Q It -- completely healed?

13 A Completely healed.

14 Q Okay. Now it was a burn, right?

15 A It was a burn.

16 Q Okay. And as a result of the burn, there was skin
17 that pulled away from the burn area. Is that correct?

18 A I didn't see that.

19 Q You never saw that?

20 A Never saw that.

21 Q How long did you treat the burn area with Neosporin?

22 A For about a week.

23 Q How long did you provide any of the gel or whatever
24 the work provided?

1 A I never used the gel. I just used the Neosporin,
2 and once it healed I used the cocoa butter.

3 Q Okay. How long did you treat the burn area with the
4 cocoa butter?

5 A For a week.

6 Q So April 9th to April 16th you used Neosporin.

7 A Yes.

8 Q Would that be fair? And then from April 16th to
9 April 23rd you used cocoa butter?

10 A Yes, Sir.

11 Q On May 11, 2010 the paternal grandmother took
12 Christopher Jr. to see a doctor. Is that correct?

13 A Yes, through DFS recommendations. Yes, Sir.

14 Q Did you go to the doctor visit?

15 A No, Sir. Because at that time my daughter was
16 removed by the state of Las Vegas (sic), but the child was
17 still with the paternal grandmother that was initially burned.

18 Q Okay. I just --

19 A So I had no --

20 Q -- asked the question, did you go to the visit?

21 A No, I did not.

22 Q Okay. Following the medical appointment on May 11,
23 2010, did Christopher Jr. get brought back to the state of
24 Nevada?

1 A To my knowledge, yes, on the 21st.

2 Q May 21st, 2010?

3 A Yes, Sir.

4 Q Okay. Did you bring him back?

5 A To Las Vegas?

6 Q Yes.

7 A No.

8 Q Okay. So what is your understanding of how
9 Christopher Jr. arrived back in Las Vegas or was transported
10 back to Nevada?

11 A Paternal grandmother brought him to the courthouse
12 on the day of the court date. And two days after that
13 Louisiana contacted Las Vegas and told them they had until, I
14 guess, the 24th to come get the kids. If not, they were
15 releasing them back into the parents' custody. And then, I'd
16 say the 21st, that's when the state of Las Vegas (sic) flew
17 them back to Las Vegas from Louisiana.

18 Q Following the transport back of Christopher Jr. to
19 the state of Nevada, May 21st, 2010, did you have any face-to-
20 face visits with him?

21 A No.

22 Q Okay.

23 A Only at the courthouse when Grandmother brought him
24 to the courthouse.

1 Q Okay. So subsequent to his placement, I believe you
2 said August of 2011, have you had any face-to-face visits with
3 Christopher, Jr.?

4 A With -- now that he's with his --

5 Q With his grandma.

6 A His maternal -- yes, I have.

7 Q Okay. How often were you seeing Christopher Jr.
8 following his placement with the maternal grandmother?

9 A Before I moved here which was -- well, before I
10 moved to South Carolina which was eight months ago, it was
11 every day.

12 Q Okay.

13 A But the last time I have saw him was end of June,
14 beginning of July.

15 Q Of 2011?

16 A 2012.

17 Q I mean, 2012. I apologize.

18 A Yes, Sir.

19 Q And you went down to the grandmother's house to see
20 him?

21 A Grandmother -- they came down.

22 Q Went over to North Carol --

23 A South Carolina.

24 Q South Carolina.

1 A Yes, Sir.

2 Q Now you participated in a trial relative to the
3 injuries sustained by Christopher. Is that correct?

4 A Yes, Sir.

5 Q And during that trial you testified that you were
6 the only person in the home that was responsible for
7 Christopher Jr.'s care on the date that he sustained the burn
8 mark to his face, right?

9 A Correct.

10 Q Now, had Christopher Sr. been in the home prior to
11 Christopher Jr. being burned?

12 A He was there that day. He dropped my daughter off
13 once he picked her up from school. Yes, he was.

14 Q Okay. So what time was Christopher Sr. in the home
15 on April 9th, 2010 when Christopher Jr. was burned?

16 A About between three-thirty and four.

17 Q Three-thirty p.m.?

18 A Yes, Sir.

19 Q To four o'clock p.m.?

20 A Yes, Sir.

21 THE COURT: What were your work hours on that day?

22 THE WITNESS: That day I went in at six o'clock p.m.

23 THE COURT: Six p.m.?

24 THE WITNESS: Yes, Sir.

1 THE COURT: So the burn --

2 THE WITNESS: But my work hours --

3 THE COURT: -- occurred in the afternoon?

4 THE WITNESS: Yes, Sir.

5 BY MR. CORDES:

6 Q Okay. So you were supposed to report to work at six
7 o'clock?

8 A Yes, Sir.

9 Q When did you actually report to work on April 9th?

10 A Maybe six-thirty, six forty-five.

11 Q So between -- it's your testimony that between four
12 p.m. on April 9th, 2010 and six-thirty, six-forty-five,

13 Christopher Bynum Sr. was not in your home. Is that correct?

14 A Christopher came in the home about six -- about six
15 o'clock.

16 Q Okay.

17 A Because it was like five minutes, ten minutes after
18 the burn.

19 Q I'm sorry. You said five to ten minutes after the
20 burn?

21 A Yes, Sir.

22 (BRIEF PAUSE.)

23 Q So you understood that following your trial, The
24 Court found that you had physically abused Christopher, right?

1 A At that time I did not understand that.

2 Q Okay. You didn't understand that you were found to
3 have physically abused Christopher Jr. because you didn't hear
4 it from the Judge?

5 A I just didn't have a clear understanding from the
6 attorney because it was still as an allegation that Dad held
7 the iron to the baby.

8 Q Okay.

9 A So I didn't have an understanding that it was me of
10 the finding.

11 Q Okay. So you -- the dad, Christopher Bynum, Sr. did
12 not participate in that trial, correct?

13 A Correct.

14 Q And you testified that he wasn't there when
15 Christopher Jr. was burned, right?

16 A Correct.

17 Q And you didn't understand that the hearing master
18 took out the language about improper supervision and found
19 that you physically abused Christopher Jr.?

20 A Like I said, at that time, no I didn't understand.

21 Q Okay.

22 A But as of now, yes.

23 Q Okay. When did you first come to understand that
24 The Court found that you had physically abused Christopher

1 Jr.?

2 A When I actually was appointed another attorney.

3 Q Okay. When did that happen?

4 A Oh, was it sometime this year? Last court date I
5 think it was Jul -- was it July?

6 Q I'm sorry?

7 A It was -- I'm -- I'm gonna say July.

8 Q In -- when you were appointed an attorney in this
9 case right here, this domestic case?

10 A The second --

11 Q Okay.

12 A Yeah.

13 MS. SIMPKINS: And I'm -- at this time going to caution
14 the witness not to disclose any discussions between herself
15 and her attorneys, please.

16 THE COURT: All right. Do you understand what your
17 attorney has said?

18 THE WITNESS: Yes.

19 THE COURT: All right.

20 BY MR. CORDES:

21 Q All right. So you first came to understand that you
22 had been found to have physically abused Christopher Jr. in or
23 about July of 2012. Is that correct?

24 A Yes.

1 Q All right. Now, in July of 2012 you were not
2 engaged in any counseling at that point. Is that correct?

3 A Was I engaged in any counseling? No, not at that
4 time. No.

5 Q Right. At that time you weren't seeing anybody for
6 counseling, right?

7 A Right.

8 Q Okay. And then following the fact that you learned
9 that you were accused of actually physically abusing
10 Christopher, you didn't go see a counselor until October 30th
11 of 2012. Is that correct?

12 A No, that's not correct in how it was.

13 Q Okay. Who did you go see?

14 A I went and saw Jane Fortune. But it wasn't because
15 I was, you know, found -- you know, guilty. I knew with her
16 she explained to me what I had to go through, but I just went
17 back to her on the 30th to have more understanding --

18 Q Okay.

19 A -- of what was going on.

20 Q Did you see any other counselors between July of
21 2012 when you found out that you had been found to have
22 physically abused Christopher Jr. and October 30th, 2012 when
23 you went back to Ms. Fortune?

24 A No, because I have already completed the case plan.

1 Q So as you sit here today did you, in fact, burn
2 Christopher Jr.?

3 A No, Sir.

4 Q You've never told a counselor that you've burned
5 Christopher Jr. Is that correct?

6 A Correct.

7 Q And your explanation for Christopher Jr.'s burn to
8 the right cheek -- right area of his face cheek -- was that an
9 iron fell and landed on him. Is that your testimony?

10 A I -- I didn't physically see the incident.

11 Q Okay. You didn't see the incident because you were
12 in the bathroom. Is that correct?

13 A Yes, but it's in the same room as the bedroom. It's
14 just -- it's a master bedroom. So the bathroom was within the
15 same room.

16 Q Okay.

17 A It's an open --

18 Q You were getting ready for work, right?

19 A Correct.

20 Q And you had left your child, Aamiyah, in charge of
21 watching Christopher Jr. at that time?

22 A She kept an eye on him. Yes, Sir.

23 Q Okay. So you just testified you completed your case
24 plan. What do you recall from your case plan requirements?

1 A Um, a lot against abuse versus discipline, the
2 effects of physical abuse, the causes of physical abuse,
3 family reunification. Those are most of the course that we
4 had to go over through the case plan.

5 Q When did you receive your case plan?

6 A Wow, two thousand -- I first received one in 2011,
7 but there were numerous ones that they switched up different
8 things on it because they had -- I guess they had dropped a
9 couple things on my behalf. So they gave me like two or three
10 different ones.

11 Q Okay. Your first case plan was in 2011.

12 A Yes, Sir.

13 Q And you actually received a written copy of it,
14 right?

15 A Yes, Sir.

16 Q Did you go to any counseling to deal with the
17 physical abuse of Christopher in 2011?

18 A Yes, Sir.

19 Q Where did you go?

20 A In Louisiana.

21 Q Who did you see in Louisiana?

22 A Her name is Nicky Pharr, P-h-a-r-r.

23 Q And when did you first start seeing Ms. Pharr?

24 A In August.

1 Q Of 2011?

2 A Yes, Sir.

3 Q When did you stop seeing Ms. Pharr?

4 A The beginning of September.

5 Q Of 2011?

6 A Yes, Sir.

7 Q How many sessions did you attend with Ms. Pharr

8 between August of 2011 and September of 2011?

9 A Between five and six.

10 Q In any of the sessions with Ms. Pharr, did you

11 disclose that you had physically abused Christopher Jr.?

12 A No.

13 Q When you quit seeing Ms. Pharr in September of 2011,

14 did you discharge voluntarily or did she discharge you?

15 A She discharged me.

16 Q Were you diagnosed with any anxiety or depression at

17 the time you discharged from Ms. Pharr in 2011?

18 A No, Sir.

19 Q Between September of 2011 and May of 2012, did you

20 go see any other counselors?

21 A Yes, I did.

22 Q Who did you go see?

23 A Jane Fortune.

24 Q Okay, sorry. When did you go see Jane Fortune?

1 A Uh, it was the beginning initial call was in the end
2 of April, beginning of May.

3 Q Okay. So Ms. Fortune testified you first went to
4 see her in May of 2012. Does that sound about right?

5 A It was around that time.

6 Q Okay. Before you actually saw Ms. Fortune, you
7 didn't engage in any therapy with her, correct?

8 A Correct.

9 Q All right. So, again, my question was between
10 September of 2011 and May of 2012, did you see any other
11 counselors?

12 A No, only Ms. Fortune.

13 MS. SIMPKINS: I'm sorry. Could the witness speak up? I

14 --

15 THE WITNESS: No, only Ms. Fortune.

16 MS. SIMPKINS: Okay.

17 BY MR. CORDES:

18 Q Now, when you start seeing Ms. Fortune in May of
19 2012, how many sessions do you recall going to?

20 A About five to six also well including October. So
21 between -- about seven.

22 Q Okay. So you're going to include October 30th, 2012
23 as a session?

24 A Correct.

1 Q May 2012 you started and you went to five or six
2 sessions. When was the last session that you recall going to?
3 A July -- it was the end of June, beginning of July.
4 Q Would June 27th sound about right?
5 A Maybe, around that time.
6 Q Are you currently taking any prescription medication
7 for anxiety or depression?
8 A Depression.
9 Q What are you taking?
10 A Celexia (sic).
11 Q And is that the same prescription that was done by
12 your primary physician?
13 A Yes, Sir.
14 Q Have you seen any psychiatrists or any other mental
15 health professional relative to the depression?
16 A No.
17 Q Now, during your sessions with Ms. Fortune, you
18 continued to tell her that Christopher was accidentally burned
19 by the iron falling on him, right?
20 A Correct.
21 Q Okay. Now you didn't see the incident, right?
22 A Right.
23 Q Okay. And so you're reporting to your therapist
24 what you believe happened. Is that correct?

1 A From what my daughter had saw herself, yes.

2 Q Okay. So you're telling your therapist what your
3 daughter reported to you --

4 A Correct.

5 Q -- as the cause of the injury?

6 A Yes, Sir.

7 Q Okay. And your daughter reported to you that
8 Christopher Jr. tried to kiss the iron?

9 A She said that he pulled -- was trying to pull at the
10 chord. He climbed on something to the table, tried to pull
11 the chord and the iron hit the floor, he tried to kiss it.
12 But only thing I've heard when the iron hit the floor.

13 Q So you heard the iron hit the floor.

14 A Yes, Sir.

15 Q What did you do when you heard the iron hit the
16 floor?

17 A I immediately got out the bathroom and went in there
18 and asked the kids were they okay.

19 Q Okay.

20 A And that's when Aamiyah explained to me what
21 happened.

22 Q And how old was Aamiyah when she told you what
23 happened?

24 A She was six at the time.

1 Q And she said -- specifically used the words, kiss
2 the iron?

3 A Yes, Sir.

4 Q And that's your only explanation that you've ever
5 provided to any therapist. Is that correct?

6 A Yes, Sir.

7 Q You know that explanation has never been considered
8 to be consistent with the testimony that was provided in
9 court. You understand that, right?

10 A No, I don't.

11 Q You don't understand that?

12 A I've been providing the same explanation.

13 Q Okay. And you provide that explanation at the time
14 of the trial to determine whether or not Christopher was even
15 abused, right?

16 A Correct.

17 Q And you continue to provide that explanation and
18 your kids aren't returned to you, right?

19 A Correct.

20 Q When you had Keaundre --

21 A Keaundre.

22 Q -- Keaundre, was that in the state of Nevada or in
23 Louisiana?

24 A Louisiana.

1 Q And that was after the two, Aamiyah and Christopher,
2 had been returned to Nevada. Is that correct?

3 A Yes.

4 Q After Aamiyah and Christopher were returned to the
5 state of Nevada, did you have any further court involvement in
6 the state of Louisiana?

7 A No, I didn't.

8 Q And at the time that you gave birth to Keaundre,
9 were you living with your parents on the Air Force Base?

10 A Yes, I was.

11 Q And you continued to live there for the two years up
12 until you moved to --

13 A South Carolina?

14 Q -- Carolina, right?

15 A No.

16 Q Oh, I'm sorry.

17 A I had my --

18 Q Until you got your apartment.

19 A Yes, Sir.

20 Q Did you ever submit to any drug testing at the
21 request of the Clark County Department of Family Services?

22 A No, to my knowledge, that -- that was not on my
23 behalf.

24 Q Okay. Did anybody ever ask you to submit to a drug

1 test?

2 A Ms. Jordan.

3 Q Okay. And when did Ms. Jordan first ask you to
4 submit to a drug test?

5 A It was around June of 2010, July.

6 Q And you did not submit to that drug test. Is that
7 correct?

8 A Correct. Can I explain why?

9 Q Ms. Simpkins will have a chance to ask --

10 A Okay, sure.

11 Q -- you a question. Any further request by anybody
12 from the Department of Family Services for you to submit to a
13 drug test after June or July of 2010?

14 A No.

15 MR. CORDES: Judge, may I have The Court's indulgence?
16 You got to get upstairs?

17 THE COURT: You're about to wrap up? All right.

18 MR. CORDES: Huh? Yeah.

19 THE COURT: Yeah.

20 (BRIEF PAUSE.)

21 MR. CORDES: I'm good. Thank you, I'll pass the witness.

22 THE COURT: All right. I'm going to recess at this
23 point, and hopefully we'll be back -- I'm going to shoot for
24 one-thirty.

1 MR. CORDES: Okay.

2 THE COURT: And I apologize in advance if you have to
3 wait. But --

4 MR. CORDES: Till two.

5 THE COURT: -- if I'm lucky I'll be back.

6 MR. CORDES: Thank you, Judge.

7 (WHEREUPON, THE MATTER WAS TRAILED AT 12:40:59 AND RECALLED AT
8 14:10:09.)

9 THE COURT: Okay. We are back on the record in Case
10 Number 446967. Parties and counsel are present.

11 Ma'am, if you'll take the stand. I have a few
12 preliminary questions I want to ask first. And then Ms.
13 Simpkins you can address. I'm going to ask your client some
14 questions first.

15 MS. SIMPKINS: Actually -- oh, you were going to ask her?
16 I'm sorry, Judge, did you say you were going to --

17 THE COURT: I'm just going to ask her a couple of
18 procedural questions --

19 MS. SIMPKINS: Sure.

20 THE COURT: -- first, and then you can cross examine.
21 All right?

22 MR. CORDES: Thank you, Your Honor.

23 THE COURT: All right. You may be seated.

24 All right. Ms. DeBerry, it is two o'clock at this

1 point. In the event that we do not proceed, we do not
2 conclude testimony today, the possibility exists that this
3 matter would be continued to another date. Assuming that you
4 no longer need to testify in person, can you make arrangements
5 to appear telephonically at any upcoming court hearing?

6 MS. DEBERRY: Yes, Sir.

7 THE COURT: All right. Would that be your preference to
8 appear telephonically rather than to come back to Las Vegas to
9 appear in the court?

10 MS. DEBERRY: Yes, Sir.

11 THE COURT: All right. Okay, Ms. -- I guess, that'll
12 work unless there's some reason to have to recall you as a
13 witness in which case we'll deal with that issue if it arises.

14 But in any event, Ms. Simpkins?

15 MS. SIMPKINS: Actually, it's Ms. Molinar who's going to
16 be --

17 THE COURT: Oh, Ms. Molinar?

18 MS. MOLINAR: Yes.

19 THE COURT: All right.

20 MS. MOLINAR: I'm going to be asking the questions.

21 (MS. MOLINAR AND MS. SIMPKINS BRIEFLY TALK AMONGST
22 THEMSELVES.)

23 MS. SIMPKINS: She thought we were going to do a new date
24 first, Your Honor. So --

1 MS. MOLINAR: I was looking at my calendar, sorry

2 (chuckle).

3 THE COURT: Oh.

4 MR. CORDES: Your marshal had asked if the --

5 THE COURT: Yeah, I know I wanted to just get her on the
6 record under oath --

7 MR. CORDES: All right.

8 THE COURT: -- in case there was an issue.

9 KEAUNDRA DEBERRY

10 testifies as follows on:

11 CROSS EXAMINATION

12 BY MS. MOLINAR:

13 Q Okay. Good morning, Ms. DeBerry. You testified in
14 your direct that you were given a case plan. As part of that
15 -- and part of that case plan was parenting classes. Did you
16 complete those parenting classes?

17 A Yes, Ma'am.

18 Q And when did you complete those parenting classes?

19 A Around July 2011.

20 Q How soon after you got the case plan did you begin
21 those parenting classes?

22 A Immediately.

23 Q As further part of your case plan, you were to meet
24 -- you were to go into therapy and you testified earlier that

1 you met with Ms. Pharr. Did you complete your therapy with
2 Ms. Pharr?

3 A Yes, Ma'am.

4 Q Okay. And where -- what state did you have your
5 therapy with Ms. Pharr?

6 A In Louisiana.

7 Q Okay. So then, Ms. DeBerry, why did you go -- or
8 I'm sorry. First, how did you find out about Ms. Pharr?

9 A Through the parenting teacher. She referred me to
10 Ms. Pharr after the parenting sessions were over.

11 Q Okay. So if you completed your parenting -- or your
12 counseling sessions with Ms. Pharr, then why did you then go
13 to your therapy sess -- go to therapy with Ms. Fortune?

14 A I was told by my prior attorney and if I'm not
15 mistaken, Ms. Douglas and the last District Attorney, that the
16 sessions that I've done wasn't enough for The Courts. And
17 those three names that I just named referred me to Ms.
18 Fortune.

19 Q Okay. So when you say those three referred you to
20 Ms. Fortune, did all three of them tell you to go to her? How
21 specifically did you find Ms. Fortune?

22 A I was on a hearing conference. They called me and
23 they looked her up and told me that this would be a good lady
24 for me, and they prefer me to go see her.

1 Q Okay. So throughout working your case plan and
2 throughout this case, did you keep in contact with Department
3 of Family Services?

4 A Yes, Ma'am.

5 Q Okay. So you testified that you went to parenting
6 classes and you've gone to counseling. So can you tell me a
7 little bit about what you've learned in your parenting
8 classes?

9 A I --

10 Q More specifically more to discipline of the children
11 and the safety of the children.

12 A I learned not to touch or hit them in such a way
13 that will harm them, which is a sign of physical abuse if it,
14 you know, harms them. I've also learned that abuse versus
15 discipline which is what I just mentioned. If you hit them in
16 such a way that it hurt, it is abuse. I -- which the
17 discipline that I use which is the corner which I prefer that
18 is because if you such spank a child and they're in a middle
19 session of playing that if -- when you spank them and they go
20 back to doing the same activity they were doing, you really
21 don't learn anything from that discipline. But if you
22 discipline them in a corner, which I use for my daughter, she
23 has time to think about what she has done. And then she know
24 when she go back that she wouldn't do it again.

1 Q Okay. So if you've had -- let's say you've had a
2 really bad day, the kids are driving you completely insane,
3 you're not really sure -- do you have a plan as what to do,
4 how to handle that situation?

5 A I know I can call Mom. I can call my therapist.
6 There are also ways that I can call my neighbor to come over
7 to watch the kids while I take a walk outside. Count 1, 2, 3
8 to calm myself down. The main thing that I will use is
9 calling the therapist or calling the neighbor to come over to
10 be with the kids for a while.

11 Q Okay. And in either your parenting classes or your
12 counseling, have you learned to identify signs that your child
13 is being abused by someone else?

14 A Yes.

15 Q Can you describe what you've learned about those
16 signs?

17 A If they're around that such person they will be
18 afraid. They can jump if the person tries to touch them.
19 They can cry. They feel that if that person around them, they
20 in danger.

21 Q Okay. And what would you do if any of your children
22 were displaying any of those signs you just mentioned?

23 A I would immediately ask my child if that particular
24 person has done anything to them. And once that my child has,

1 you know, told me the statement of what if that person was
2 doing anything to them, I would immediately go to the person
3 and question them. And if I didn't get an answer for that I
4 know I will call the police on that matter to see why my child
5 is continually acting that such way around that person.

6 Q Okay. So you said you would talk to the child.
7 What if your child denied any abuse but they were still
8 showing the signs that you've described earlier?

9 A I will call the police to make a statement on the
10 reasons to why my child would be acting that way around that
11 person.

12 Q Okay. Ms. DeBerry, where are you currently living?

13 A In Latta, South Carolina.

14 Q Okay. And do you reside in an apartment or a home?

15 A A home.

16 Q And how are you -- do you own that home?

17 A Yes.

18 Q And how did you come into possession of that home?

19 A When my father passed he left it for me as an
20 inheritance.

21 Q Okay. Have you provided proof that you own this
22 home?

23 A Yes, I did.

24 MS. MOLINAR: Permission to approach, Your Honor.

1 THE COURT: You may approach.

2 (MS. MOLINAR BRINGS A DOCUMENT TO THE WITNESS STAND.)

3 BY MS. MOLINAR:

4 Q Ms. DeBerry, can you describe for me what you're
5 looking at?

6 A It's the deed of distribution to my home.

7 (DEFENSE'S EXHIBIT B IS IDENTIFIED.)

8 Q Okay. Is that a true and correct copy?

9 A Yes, Ma'am.

10 MS. MOLINAR: Okay.

11 Your Honor, I would move to admit Defense's Exhibit
12 B as the deed of distribution of Ms. DeBerry's home.

13 MR. CORDES: And, Judge, at this point The State does
14 object to the admission of the document. I don't believe it
15 is --

16 THE COURT: And the basis of the objection?

17 MR. CORDES: The -- it has not been properly
18 authenticated, and there are some issues within the document
19 that lead to the lack of authenticity.

20 THE COURT: Issues within the document?

21 MR. CORDES: Yes. So...

22 MS. MOLINAR: I think -- I believe I can address those
23 issues, Your Honor.

24 THE WITNESS: Okay.

1 BY MS. MOLINAR:

2 Q Ms. DeBerry, will you read the document -- the part
3 of the document that say who the home is issued to?

4 MR. CORDES: Objection, Your Honor, to her reading it out
5 loud. If she wants to read it to herself.

6 MS. MOLINAR: Okay, sorry. I meant read it to yourself.

7 BY MS. MOLINAR:

8 Q Does the document indicate who the home was issued
9 to?

10 A Yes, Ma'am.

11 Q Do you notice anything odd about the way -- about
12 what's written there?

13 A Yeah.

14 Q And what is that?

15 A Just they misspelled my name. They missed out a
16 letter.

17 Q Okay. How is it spelled on the paper?

18 A K-e-a-n-d-r-a.

19 Q And how is it correctly spelled?

20 A K-e-a-u-n-d-r-a.

21 Q Does it have the correct address of the home that
22 you currently reside at?

23 A The address they have is the address where they list
24 my father's address. But the address of the home that is

1 owned is right here under the tax map of the home that I --

2 Q So although your name is spelled incorrectly because
3 it misses one letter, do you -- is that a true and correct
4 copy of the deed to the home of which you reside and own?

5 A Is it a correct --

6 Q Is it a true and correct copy of the deed of the
7 home of which you reside at and own?

8 A Yes, Ma'am.

9 MS. MOLINAR: Your Honor, at this time I would move to
10 admit Exhibit B.

11 THE COURT: What's the full -- how does your full name
12 appear on the document?

13 THE WITNESS: It's just -- it's Keandra DeBerry. They
14 just took where it's K-e-a-n. They just misspelled --

15 THE COURT: I understand the misspelling, but there's no
16 middle name on that document?

17 THE WITNESS: No, there's no middle name.

18 THE COURT: Mr. Cordes?

19 MR. CORDES: May I have one moment, Your Honor? I'm just
20 looking back to see my notes.

21 (BRIEF PAUSE.)

22 I still have some questions as to the --

23 THE COURT: Do you want to voir dire as to the --

24 MR. CORDES: If I may, Your Honor.

1 THE COURT: Go ahead.

2 KEAUNDRA DEBERRY

3 testifies as follows on:

4 VOIR DIRE EXAMINATION

5 BY MR. CORDES:

6 Q Ms. DeBerry, you testified earlier today that you
7 reside at 4 -- 502 Henry Street. Is that correct?

8 A That's correct.

9 Q Okay. And the document identifies 108 Chapel
10 Street.

11 A That's the address my father reside at, but he left
12 it -- if you look at the tax map, that's the actually address
13 there of where I reside at because I was a minor at that time.
14 So they had to list it as him and his address.

15 Q Okay.

16 A It wasn't actually sent over to me and released to
17 me until I was age of eighteen.

18 Q Okay, but the document doesn't identify what the
19 actual address is on Henry Street, does it?

20 (BRIEF PAUSE.)

21 A No, it doesn't.

22 Q Okay. So the document in and of itself has somebody
23 else's name, or at least not your name spelled correctly, and
24 it does not have the address. Is that correct?

1 A Correct.

2 MR. CORDES: Okay. So, again Your Honor --

3 THE COURT: And can I -- can I see the document?

4 MR. CORDES: Yes.

5 THE WITNESS: I have a full document -- oh.

6 (MS. MOLINAR APPROACHES THE WITNESS STAND HOLDING DOCUMENTS.)

7 Would he need the rest of them? Because it's like
8 seven houses that I have that is in my full document. But I
9 don't know if it's listing the -- the actually address of
10 them. Cuz I have them --

11 MS. MOLINAR: (Indiscernible.)

12 THE WITNESS: I have a full -- because he left seven
13 houses for me. And there -- I have a full document of all the
14 deeds.

15 MS. MOLINAR: Okay.

16 THE WITNESS: But that's the one I reside in.

17 MS. MOLINAR: Okay.

18 THE WITNESS: Henry Street.

19 THE COURT: Who is Myron DeBerry (phonetic), the Second?

20 THE WITNESS: That's my brother.

21 THE COURT: That's your brother?

22 (PAUSE.)

23 Who is Constance Taylor?

24 THE WITNESS: I guess that's someone at the courthouse.

1 THE COURT: You don't know?
2 THE WITNESS: I don't know.
3 THE COURT: All right. So what's the physical address of
4 your --
5 THE WITNESS: 502 Henry Street.
6 THE COURT: Henry Street?
7 THE WITNESS: Yes.
8 THE COURT: All right. The objections are noted.
9 They're overruled. First of all, this is -- appears to be a
10 deed of distribution. This isn't an actually recorded deed of
11 property, is it? This is just a distribution from the Probate
12 Court.
13 THE WITNESS: Right. When Father passed I had to go with
14 the grandmother. I was a minor, and we had to go up there.
15 It's the deed of several houses. And our father left in the
16 will the first one of his two kids to turn eighteen gets that
17 house, and we split the rest of the houses.
18 THE COURT: All right.
19 THE WITNESS: But that's -- that's how they do it in
20 South Carolina.
21 THE COURT: Any issues concerning the misspelling of Ms.
22 DeBerry's first name and the fact that this only recites that
23 it's on Henry Street and not a street number --
24 MS. SIMPKINS: Well, for --

1 THE COURT: -- goes to the weight to be accorded the
2 document. The Court will admit Proposed Exhibit B.

3 (DEFENSE'S EXHIBIT B IS ADMITTED.)

4 MR. CORDES: Understood, Your Honor. Thank you for your
5 ruling.

6 THE COURT: All right.

7 BY MS. MOLINAR:

8 Q Okay. Keaundra you testified earlier that you're
9 currently working. How long have you been at your current
10 job?

11 A Since April.

12 Q Okay. In April of what year?

13 A 2012.

14 Q Are you currently in still good standing at that
15 job?

16 A Yes, Ma'am.

17 Q And you're currently still employed, correct?

18 A Correct.

19 Q How much do you make at that job?

20 A Right now I'm making eight twenty-five. I was
21 making seven seventy-five.

22 THE COURT: Is that an hour?

23 THE WITNESS: I was making seven seventy-five. I'm eight
24 twenty-five. I'm a manager in training, so it would increase

1 once the training process is over.

2 BY MS. MOLINAR:

3 Q Can you clarify is that eight dollars and twenty-
4 five cents an hour?

5 A An hour. Yes.

6 Q Okay. Ms. DeBerry, is that enough to help you
7 support your children?

8 A Yes, Ma'am.

9 THE COURT: You're employed full -- you're working forty
10 hours a week?

11 THE WITNESS: Yes, Sir.

12 MS. MOLINAR: Your Honor, may I approach the witness?

13 THE COURT: You may.

14 (MS. MOLINAR WALKS TO THE WITNESS STAND WITH DOCUMENT.)

15 BY MS. MOLINAR:

16 Q Ms. DeBerry, will you review that document to
17 yourself?

18 A Yes, Ma'am.

19 Q What is the document that you're looking at?

20 A A pay stub.

21 (DEFENSE'S EXHIBIT C IS IDENTIFIED.)

22 Q Is it a true and correct copy of a pay stub?

23 A Yes, Ma'am.

24 Q What is the date on it?

1 A The check date is October 29, 2012.

2 Q What is the name on the document?

3 A It has Wilcohess -- oh, my name -- the name?

4 Q Yes, the name --

5 A Oh, it has my name, Keaundra DeBerry.

6 MS. MOLINAR: Your Honor, at this time I would move to
7 admit Defense's Exhibit C.

8 MR. CORDES: No objection.

9 THE COURT: All right. Proposed -- that's C?

10 MS. MOLINAR: Yes.

11 THE COURT: All right. Proposed C will be admitted.

12 (DEFENSE'S EXHIBIT C IS ADMITTED.)

13 BY MS. MOLINAR:

14 Q Ms. DeBerry, you testified earlier as to drug tests.
15 Did you ever take any other drug tests other than the -- well,
16 you testified -- have you ever taken any drug tests, Ms.
17 DeBerry?

18 A Yes, Ma'am.

19 Q And for what purpose?

20 A To get the job that I'm currently working at now.

21 Q And when was that?

22 A In April.

23 Q And what were the results of that drug test?

24 MR. CORDES: Objection, Your Honor, call for hearsay.

1 BY MS. MOLINAR:

2 Q Ms. DeBerry, why did you not take the drug test from
3 Ms. -- that Ms. Jordan requested that you take?

4 A Um, I was told that there were in the process of
5 finding some other drug place there in Louisiana that they're
6 connected with. And then she later on told me that everything
7 with drugs and all that on my behalf was -- they let that go.

8 THE COURT: Who -- who told you that?

9 THE WITNESS: Ms. Jordan.

10 THE COURT: Ms. Jordan did?

11 THE WITNESS: Yes. She just said I wasn't found guilty
12 on any of the drug charges and everything.

13 BY MS. MOLINAR:

14 Q Ms. DeBerry, do you currently have any contact with
15 your children?

16 A Yes, Ma'am.

17 Q And what is that contact?

18 A Telephone daily.

19 THE COURT: I'm sorry?

20 THE WITNESS: Over the telephone daily and some visits.

21 BY MS. MOLINAR:

22 Q And what were your visits before you moved to South
23 Carolina?

24 A Every day.

1 Q And right now you said you speak to the children
2 daily. What do your conversations consist of with the
3 children?

4 A For my daughters, mommy when I'm coming home and how
5 come no one's believing you.

6 MR. CORDES: Objection, Your Honor, call for hearsay.
7 Move to strike. She can testify as to what her conversation
8 is, but what the child is representing to her I believe --

9 THE COURT: Well --

10 MR. CORDES: -- is being offered for the truth.

11 THE COURT: -- only if -- if what the child said is being
12 offered for the truth of the matter. As it's being offered to
13 establish that there's been continuing conversations, it's
14 admissible.

15 MR. CORDES: Understand.

16 THE COURT: You may proceed.

17 BY MS. MOLINAR:

18 Q And do you have any contact with Christopher on the
19 phone?

20 A Senior? By --

21 Q Oh, sorry. Junior.

22 A Yes, I do.

23 Q And how often -- and do you talk to him daily also?

24 A Yes, Ma'am.

1 Q And when was your last visit with the children?
2 A July. Around July, end of June in July.
3 Q And how did that visit happen?
4 A Mom came down for a week and brought the case down
5 there. We had a reunion for my grandmother and Mom brought
6 the case down.
7 Q Okay. And what was your interaction like with the
8 children?
9 A We played. We went out to eat. We went shopping
10 and had a barbecue. Just had a typical day as normal.
11 Q And what are the children like when you're around
12 them?
13 A They're playful. They're respectful. They do
14 interact with me.
15 Q Do you have any future visitations planned with the
16 children?
17 A Yes, Ma'am.
18 Q And when is that?
19 A Thanksgiving and Christmas.
20 Q And how is that going to take place?
21 A Hopefully, I'm either driving or catching the bus
22 there to Louisiana. And Mom's, of course, gonna be there
23 supervising.
24 Q Okay. Do the kids know their younger brother --

1 A Yes.

2 Q -- that lives with you?

3 A Yes.

4 Q Okay. Do they have a connection with him?

5 A Yes.

6 Q Can you explain that connection?

7 A Well once I'm done speaking with the kids, I put the
8 phone to the baby's ear and then I let him know that you're
9 speaking with Chris or he's speaking with Aamiyah. And they
10 say hi, how are you doing, I love you, can't wait to see you
11 soon. Just normal conversation with kids.

12 Q And in regards to your youngest child, have there
13 ever been all -- any allegations as to abuse or neglect
14 against the youngest child since living with you?

15 A No, Ma'am.

16 Q Okay. Ms. DeBerry, do you currently have any
17 contact with Christopher Bynum, Sr.?

18 A No, Ma'am.

19 Q Do you plan on having any contact with him?

20 A No, Ma'am.

21 Q Do you have any plan on getting back together with
22 him?

23 A No, Ma'am.

24 Q Okay. Ms. DeBerry, you testified earlier that you

1 called your mother when Christopher Jr. was burned because
2 she's a nurse. How long had your mom been a nurse at that
3 time when you called her?

4 A Over fifteen years.

5 Q So did you trust her expertise in the area you were
6 calling her about?

7 A Yes, Ma'am.

8 Q And what does your mother currently do?

9 A She's nursing now at a dialysis center now.

10 MS. MOLINAR: Court's indulgence.

11 (BRIEF PAUSE.)

12 BY MS. MOLINAR:

13 Q Ms. DeBerry, earlier today in your direct
14 examination you testified that there was no domestic violence
15 between you and Christopher Sr. Is that correct?

16 A Correct.

17 Q Okay. On break, Mr. Cordes provided us with an
18 incident report of a domestic violence incident in -- that was
19 taken on April 3rd of 2008. Have you had a chance to review
20 that document?

21 A Yes.

22 Q And, Ms. DeBerry, can you explain what happened on
23 that date that brought about this incident report?

24 A I was on my way to the hospital and Christopher came

1 to check on me. He was with his former girlfriend. And they
2 got into a argument because he was there to come check on me.
3 And there was the argument -- like I said, the argument was
4 between them two. There was officers called. It wasn't on my
5 behalf. They had the wrong person. I did get cited for it.
6 And I went to court, but it was dismissed because it wasn't on
7 my behalf.

8 Q Okay. So, Ms. DeBerry, is it still your testimony
9 today that there was no domestic violence between you and
10 Christopher Bynum Sr.?

11 A Correct.

12 MS. MOLINAR: Okay. No further questions, Your Honor.

13 **KEAUNDRA DEBERRY**

14 testifies as follows on:

15 **REDIRECT EXAMINATION**

16 BY MR. CORDES:

17 Q Okay. So, Ms. DeBerry, you gave a very clear
18 definition of what you believe domestic violence was when you
19 were asked on direct examination, right?

20 A Yes, Sir.

21 Q And part of that was the police being called out to
22 you fussing with Mr. Bynum, right?

23 A No. It wasn't my argument. It was him and his
24 girlfriend's argument. I was there.

1 Q Ma'am, I'm asking you about your --

2 THE COURT: The question is your --

3 MR. CORDES: -- definition.

4 THE COURT: Your definition, not what happened in April.

5 THE WITNESS: Okay. Well could you repeat that for me,
6 please.

7 BY MR. CORDES:

8 Q Yeah. Your definition of domestic violence was the
9 police being called out because of some fussing, screaming,
10 cursing, right?

11 A Right.

12 Q Okay. So when you testified earlier you did not
13 provide truthful information about the police being called out
14 to an incident with -- involving you and Mr. Bynum, were you?

15 MS. SIMPKINS: Objection. I'm going to advise my client
16 not to answer that question.

17 THE COURT: On what basis?

18 MS. SIMPKINS: Perjury, Your Honor. I -- I'm not gonna
19 have her admit that she was truthful or untruthful. I don't
20 want criminal charges filed. Out of an abundance of caution,
21 you can draw whatever inference you like.

22 MR. CORDES: And I would ask Your Honor if she invokes
23 the Fifth Amendment that you draw a negative inference from
24 her refusal to answer that question about her prior testimony.

1 THE COURT: All right.

2 Okay. Your counsel advised you not to answer that
3 question. You're free to follow your counsel's advice or
4 answer it. The consequences may be possible criminal charges
5 for perjury depending upon what your answer is.

6 THE WITNESS: I will not answer.

7 MR. CORDES: She needs to invoke her Fifth Amendment
8 privilege, Your Honor.

9 MS. SIMPKINS: Just say --

10 MR. CORDES: If that's her position.

11 MS. SIMPKINS: -- you take the Fifth.

12 THE WITNESS: I take the Fifth.

13 THE COURT: So you're invoking your Fifth Amendment
14 privilege against self-incrimination?

15 THE WITNESS: Yes, Sir.

16 THE COURT: All right.

17 BY MR. CORDES:

18 Q Now, Ms. DeBerry, you had conversations with Ms.
19 Douglas regarding domestic violence in the past between you
20 and Mr. Bynum, didn't you?

21 A No.

22 Q Now you participated in a telephonic conference
23 including your prior attorney, Ms. Douglas and the former DA
24 in 2012, didn't you?

1 A Yes, I did.

2 Q Okay. And during that conversation there was
3 discussions by you with those three individuals that resulted
4 in you going to Ms. Fortune for counseling. Isn't that
5 correct?

6 A Correct.

7 Q Okay. And Ms. Fortune specifically asked you if
8 there had been any domestic violence in any of your prior
9 relationships during her counseling sessions with you. Isn't
10 that correct?

11 A Correct.

12 Q And you were specifically referred to Ms. Fortune by
13 those three individuals according to your previous testimony
14 today. Is that correct?

15 A Correct.

16 Q Is it fair to say that during your therapy sessions
17 with Ms. Pharr that you never disclosed the presence of any
18 domestic violence in any prior relationships?

19 A No.

20 Q It's not fair to say that?

21 A Correct.

22 Q So you did disclose to Ms. Pharr that there was
23 prior domestic violence?

24 A I didn't tell her there was domestic violence.

1 THE COURT: You need -- you need to speak up a little
2 bit.

3 BY MR. CORDES:

4 Q Okay. Maybe you misunderstood my question. In your
5 previous counseling sessions with Ms. Pharr, did you tell her
6 that there was domestic violence in any of your previous
7 relationships?

8 A No.

9 Q When did you have the conversation with Ms. Jordan
10 telling you that you were not found guilty of any drug
11 charges?

12 A I can't recall, but I know it was beginning of this
13 year.

14 Q 2012?

15 A 2012.

16 Q Okay. So when you failed to submit for the drug
17 test in June or July of 2010, it was a choice that you made
18 not to submit to that drug test. Is that correct?

19 A No.

20 Q Why did you not submit in June or July of 2010?

21 A Because I was told by Ms. Jordan and that -- Mr.
22 Perez that I -- it wasn't on my behalf of the drug charges
23 from the formal court date in February 2011.

24 Q Okay. So it's your testimony today that you -- you

1 had a decision made in 2011 by The Court. And as a result of
2 that decision, you didn't submit to the drug test that was
3 requested in June or July of 2010?

4 A Correct, because it wasn't in my case plan.

5 Q Okay. Did you testify just now that your children
6 are respectful during their visits with you?

7 A Yes, Sir.

8 Q It's important for your children to be respectful to
9 you?

10 A Yes.

11 Q And if they're not respectful to you, you discipline
12 them. Is that correct?

13 A Correct.

14 Q And were you raised to be respectful to your
15 parents?

16 A Yes, Sir.

17 Q And if you were disrespectful to your parents were
18 you disciplined?

19 A Yes, Sir.

20 Q And how were you disciplined by your parents?

21 A I got spankings or in corner.

22 Q Okay. So you actually --

23 MS. SIMPKINS: I'm sorry, but I didn't hear that.

24 Spankings or what?

1 MR. CORDES: Or in the corner.

2 THE WITNESS: Spanking or the corner.

3 MS. SIMPKINS: Okay.

4 BY MR. CORDES:

5 Q So you actually got spankings as a kid for being
6 disrespectful?

7 A Yes, Sir.

8 Q Did you disclose that to Ms. Fortune during your
9 counseling sessions with her between May of 2012 and June 27th
10 of 2012?

11 A Yes, Sir.

12 Q Now, you had a family reunion in June or July of
13 2012 in which you had visits with your kids. Is that correct?

14 A Correct.

15 Q All right. And your mom, the maternal grandmother
16 of the children, brought them to South Carolina?

17 A Correct.

18 Q Now during that visit, is it true that your mom
19 found Mr. Bynum's clothes in your home?

20 A No.

21 Q Did you have an argument with your mother regarding
22 the fact that she was upset that Mr. Bynum's stuff --

23 MS. MOLINAR: Objection, Your Honor --

24 MR. CORDES: -- was in your home?

1 MS. MOLINAR: -- hear -- that's hearsay.
2 MR. CORDES: I'm asking her --
3 THE COURT: So she's asking if --
4 MR. CORDES: -- if she had an argument.
5 THE COURT: -- if he -- if she had an argument.
6 THE WITNESS: No.
7 BY MR. CORDES:
8 Q Now, you know that Mr. Bynum went into custody in
9 August of 2012, don't you?
10 A I can't recall what date it was. I know he -- if
11 I'm not mistaken, his mom said May. April, May.
12 Q Didn't law enforcement call you looking for Mr.
13 Bynum?
14 A Yes.
15 Q They did, right?
16 A Correct.
17 Q Because they believed that Mr. Bynum was in South
18 Carolina with you?
19 A Not to my understanding.
20 Q So law enforcement called you in South Carolina
21 looking for Mr. Bynum?
22 A Yes.
23 Q Okay. When did that telephone call take place?
24 A I can't recall.

1 Q It took place in 2012, right?

2 A Yes.

3 Q It took place after the reunion --

4 MS. MOLINAR: Objection, Your Honor, argumentative.

5 THE COURT: It's not argumentative.

6 Go ahead. Overruled.

7 BY MR. CORDES:

8 Q It took place after the reunion didn't it?

9 A Yes.

10 Q And that was law enforcement from Louisiana looking
11 for Mr. Bynum, right?

12 A Right.

13 Q Now you told your attorney just now that you weren't
14 going to get back together with Mr. Bynum Sr., right?

15 A Correct.

16 Q Okay. Why aren't you going to get back together
17 with Mr. Bynum Sr.?

18 A Because I have moved on with my life.

19 MS. SIMPKINS: I'm sorry, can you say that a little bit
20 louder?

21 THE WITNESS: I have moved on with my life.

22 MS. SIMPKINS: Okay.

23 BY MR. CORDES:

24 Q Is that the only reason?

1 A Yes and to give my kids a better environment.

2 Q And what was the detriment to your children's
3 environment caused by Mr. Bynum, Sr.?

4 A Nothing, dealing with him. I just feel that I want
5 to be a better mom than what I have been to my kids.

6 Q Okay.

7 A And --

8 Q And so was Mr. Bynum, Sr. preventing you from being
9 the best mom that you could be?

10 A No. This was just a fast life here in Las Vegas.

11 Q So Mr. Bynum was responsible for the fast life that
12 you had here in Las Vegas?

13 A No.

14 MS. MOLINAR: Objection, Your Honor, argumentative. Move
15 to strike.

16 THE COURT: Overruled.

17 BY MR. CORDES:

18 Q I'm sorry. Your answer was no?

19 A No.

20 Q So, I'm sorry, this isn't really clear. You're
21 moving on from Mr. Bynum because you want to be a better mom.
22 Is that correct?

23 A Correct.

24 Q Okay. So what about Mr. Bynum was preventing you

1 from being a better mom?

2 A Nothing.

3 Q Any other reasons that you might not be getting back
4 together with Mr. Bynum, Sr.?

5 A No.

6 MR. CORDES: Thank you.

7 Judge, I have no further questions for this witness.

8 THE COURT: Any recross?

9 MS. SIMPKINS: Your Honor, could I take a two minute
10 recess? I have to run and check something with my office.
11 I'm sorry. Five minutes?

12 THE COURT: Two's kind of an awkward number. I'll give
13 you five.

14 MS. SIMPKINS: Thank you.

15 (WHEREUPON, THE MATTER WAS TRAILED AT 14:47:13 AND RECALLED AT
16 15:05:18.)

17 THE COURT: Okay. We are back on the record in 446967.
18 Parties and counsel are present.

19 Ma'am, you are still under oath.

20 THE WITNESS: Yes.

21 THE COURT: All right?

22 THE WITNESS: Yeah.

23 THE COURT: Ms. Molinar, you want to --

24 MS. MOLINAR: I --

1 THE COURT: -- proceed?

2 MS. MOLINAR: Yes, Your Honor.

3 KEAUNDRA DEBERRY

4 testifies as follows on:

5 RECROSS EXAMINATION

6 BY MS. MOLINAR:

7 Q Ms. DeBerry, was there domestic violence on your
8 petition for abuse and neglect?

9 A No.

10 Q Was domestic violence found to be true by a
11 preponderance of the evidence at your trial for abuse and
12 neglect?

13 MR. CORDES: Objection, Your Honor, as to relevance.

14 MS. MOLINAR: Your Honor, Mr. Cordes was the one who
15 brought up domestic violence. So I'm trying to --

16 THE COURT: Well, he brought up the --

17 MS. MOLINAR: -- disprove --

18 THE COURT: -- issue of domestic violence. But if it
19 wasn't alleged in the petition it would not have been
20 relevant.

21 MS. SIMPKINS: Your Honor, the petition's already in
22 evidence. Actually, it was alleged in the petition. However,
23 as it -- The Court knows the decision is in evidence as well,
24 and it was dismissed.

1 THE COURT: All right.

2 BY MS. MOLINAR:

3 Q Ms. DeBerry, have you ever been arrested for
4 domestic violence?

5 A No.

6 Q Have you ever been convicted of domestic violence?

7 A No.

8 Q Is it your testimony today that the incident we were
9 referring to earlier was dismissed because they cited the
10 wrong individual?

11 A Correct.

12 Q Okay. Ms. DeBerry, Mr. Cordes asked you to -- about
13 -- he asked you earlier why you were not get back with
14 Christopher Bynum and you answered one of your reasons was
15 because you wanted a better life for your children. Could you
16 clarify that statement?

17 A Well I moved back home to become better -- you know,
18 to make a better life for my kids, has nothing to do with Mr.
19 Bynum. I just feel that I will provide a better life as what
20 I've been doing with my kids there in South Carolina away from
21 everything I've been through. So being in South Carolina I
22 feel that I can start over with my kids there alone.

23 Q Okay. Do you feel that Christopher Bynum is a bad
24 influence on your children?

1 A No.

2 MS. MOLINAR: That's it, Your Honor. That's all my
3 questions.

4 THE COURT: Mr. Cordes, anything on that limited issues?

5 MR. CORDES: Yes.

6 KEAUNDRA DEBERRY

7 testifies as follows on:

8 REDIRECT EXAMINATION

9 BY MR. CORDES:

10 Q What does it mean, everything you've been through?

11 A Um, here in Las Vegas, this situation with my kids,
12 situation with the young individual that -- what I was going
13 through. And I just feel that I will be better off at my own
14 resident where I'm from where I have the support from family
15 members because I will be closer to my family members.

16 MR. CORDES: Thank you. Nothing further.

17 THE COURT: All right. You may step down.

18 (THE WITNESS LEAVES THE STAND.)

19 Your next witness, Mr. Cordes.

20 MR. CORDES: Michelle Douglas.

21 (MS. DOUGLAS TAKES THE STAND.)

22 THE COURT: Is this your last witness?

23 MR. CORDES: It may be my last witness in my case in
24 chief, Your Honor. Obviously, in light of some of the

TRANSCRIPT CONTINUED IN NEXT VOLUME