

1                   **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2 JANET SOLANDER,                   )

CASE NO. 76228

3           Appellant,                   )

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4 vs.                                       )

**VOLUME XVII**

5 THE STATE OF NEVADA,                   )

6           Respondent.                   )

7                   **APPENDIX TO APPELLANT'S OPENING BRIEF**

8                   (Appeal from Judgment of Conviction (Jury Trial))

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1           A     [Unintelligible.]

2           Q     Or I would be able to approach you and ask you about  
3     that.

4                     MS. BLUTH:  Judge, I'm going to object as to  
5     speculation.

6                     THE COURT:  Well, she doesn't know.  I mean --

7                     MS. MCAMIS:  Well, she testified that she read her  
8     statement.

9                     THE WITNESS:  Yeah, I did, but I'm quite sure.  I  
10    don't know.  I might have, like, flipped a little through  
11    pages, but I'm quite sure there was at least one little  
12    sentence where I said something about her putting the underwear  
13    in my mouth and my head.

14   BY MS. MCAMIS:

15           Q     Okay.  So you think that in that statement that's  
16    going to be found; okay?

17           A     Yes.

18           Q     Okay.  Well, how about I follow up with you on that.

19           A     Okay.  Please do.

20           Q     Okay.  I have some questions for you about the  
21    burning incident.  Do you know what I'm talking about when I  
22    say the burn?

23           A     Yes.  Yes.

24           Q     Okay.  That's the one where you testified yesterday,  
25    and we came up and looked about your shoulder and your ear.



1 A Uh-huh.

2 Q Actually over on the same side.

3 A Yeah, there right here.

4 Q Okay. And that is on your right side?

5 A Right. Yeah.

6 THE COURT: Right side.

7 MS. MCAMIS: Thank you very much, Your Honor.

8 BY MS. MCAMIS:

9 Q Now, you've talked about this incident a number of  
10 times; right?

11 A Yeah.

12 Q Okay. And so you talked about it to CPS in Nevada;  
13 right?

14 A Yes.

15 Q And you also testified to it in preliminary hearing;  
16 right?

17 A Yes.

18 Q So that's the second time. And then you testified to  
19 it yesterday in trial; right?

20 A Yes.

21 Q Okay. Isn't it true that when you talked to CPS in  
22 March of 2014 you were asked how you got that mark on your  
23 back, and you responded, 'Cause for our punishment, even though  
24 we, like if we couldn't figure out a problem, she'll make us  
25 clean up the dog Number 2, and she'll make us do it with our

1 bare hands?

2 A Yes.

3 Q Okay. So that's what you explained back in March  
4 of 2014 was it was because you had to clean up dog Number 2  
5 with your bare hands; right?

6 MS. BLUTH: Page number, please.

7 THE WITNESS: Why I got that mark --

8 MS. MCAMIS: It's voluntary statement, page 30.

9 THE WITNESS: -- I was leading up to that answer,  
10 but, yes.

11 BY MS. MCAMIS:

12 Q Okay. Isn't it true that you also said in your  
13 voluntary statement back in March of 2014 to Nevada CPS that  
14 Janet would punish you by making you take boiling hot showers  
15 that would burn you?

16 A I don't remember saying that, but if you said I did,  
17 if that's what it said on the paper, then, yes, I said it.

18 Q Would looking at that page refresh your memory about  
19 what you told Nevada CPS?

20 A No. No. It's okay. Just continue with your  
21 questions.

22 Q Okay.

23 A Thank you.

24 Q Sure. So you acknowledge that if the page says --

25 MS. MCAMIS: It's page 31.

1 MS. BLUTH: I apologize, Ms. McAmis. What did you  
2 say to me?

3 MS. MCAMIS: Page 31.

4 MS. BLUTH: Okay. Thank you.

5 BY MS. MCAMIS:

6 Q If the page says, Well, she'll make me have -- she'll  
7 make, like, she'll know that if I get a boiling hot shower,  
8 I'll burn myself because I have a burn mark on my back, like,  
9 and then the interviewer said, Okay. And then you responded as  
10 soon you pull back a little bit, you can already -- you can see  
11 it already like. You acknowledge that you said that?

12 MS. BLUTH: Judge, I'm going to object --

13 THE WITNESS: Yes.

14 MS. BLUTH: -- because that completely misstates the  
15 statement and ask her to read the rest of 31.

16 THE COURT: Well, as long as she's reading the  
17 complete statement.

18 MS. MCAMIS: I'm literally reading it.

19 MS. BLUTH: Right. It's not -- right. So then and  
20 the next question is the answer.

21 THE COURT: Let me see it.

22 Or, Ms. Bluth, you can always follow up on redirect.

23 THE WITNESS: I have to pee.

24 (Conference at the bench not recorded)

25 / / /

1 BY MS. MCAMIS:

2 Q Okay. So I had asked you about part of what you said  
3 to --

4 THE WITNESS: Don't bring me any.

5 MR. HAMNER: Oh, all right. You got it.

6 I was trying to give her a refill.

7 THE COURT: Poor Mr. Hamner.

8 MS. BLUTH: I know. It's rough for this guy.

9 MS. MCAMIS: Okay. You're an independent girl. What  
10 can you say; right?

11 THE WITNESS: Yeah.

12 BY MS. MCAMIS:

13 Q Okay. Now, before we got -- before we went up and  
14 talked to the Judge, I was asking questions about what you'd  
15 said about the -- about the burning accident; okay?

16 A Yes.

17 Q Okay. And I was specifically asking you about what  
18 you said back in March of 2014, and the interviewer was asking  
19 you about just different things in the bathroom, and then  
20 that's when you said, Well, she'll make me have -- she'll make,  
21 like, she'll know that if I get a boiling, boiling hot shower  
22 I'll -- I'll burn myself because I have a burn mark on my back,  
23 like, and the interviewer said, Okay. And you continued, As  
24 soon you pull back a little bit, you can already -- excuse me,  
25 you can see it already, like, and then the interviewer said,

1 How did you get that burn mark on your back? Right? So you  
2 were talking about all of that?

3 A Yes.

4 Q Okay. And you remember that; right?

5 A Yeah.

6 Q Okay. And then you explain that you got the burn on  
7 your back in response to the interviewer's question, and your  
8 response was, 'Cause, um, for our punishment, even though we,  
9 like, if we couldn't figure out a problem, she'll make us clean  
10 up the dog Number 2, and she'll make -- she'll make us do it  
11 with our bare hands. And that was your response; right?

12 A Uh-huh.

13 Q Is that a yes?

14 A Yes.

15 Q Okay. And I honestly understand what you're saying,  
16 but this is a recorded proceeding. So they don't always know  
17 when we go "uh-huh" and "huh-uh".

18 A Yes.

19 Q So that's why I have to ask you that annoying  
20 follow-up question; okay. All right.

21 THE WITNESS: Hold on. This isn't working.

22 THE COURT: Are you out of water?

23 THE WITNESS: No, there's plenty of water in here,  
24 but it's not opening.

25 THE COURT: Maybe the bailiff can get up and assist

1 you since Mr. Hamner was --

2 THE WITNESS: No help. Oh, never mind. Never mind.

3 THE COURT: -- was of no help whatsoever.

4 THE WITNESS: I'm just making a mess over here.

5 THE COURT: All right.

6 BY MS. MCAMIS:

7 Q Okay. And then when you were continuing to talk to  
8 the interviewer, in that same line of questions, you explained  
9 when I came back in from cleaning, that -- just me, it was  
10 really hot outside because it was going -- it was turning  
11 summer. And then the interviewer responded, Okay. Remember  
12 that?

13 A Yeah.

14 Q Okay. And then you explained, She made me wash my  
15 hands in the hot -- the water was boiling hot. So then I  
16 jumped out of the water, and I wouldn't put my hands back in.  
17 So I -- she -- she picked me up with one hand, and then she  
18 put -- she tried to put -- like, I was really short at the  
19 time. So --

20 Do you remember -- excuse me, do you remember telling  
21 that to the interviewer?

22 A Yes.

23 Q And then you continue: Some of my body would fit in  
24 there, and then --

25 And then you were asked, Would fit in where? And you

1 answered, The sink. Do you remember that?

2 A Yes.

3 Q Okay. And so this was in the first floor bathroom;  
4 right?

5 A Yeah.

6 Q Okay. And there's no shower in there; right?

7 A No.

8 Q Just the sink?

9 A Yes.

10 Q Okay. And so it's your testimony that the mark on  
11 your back and the one on your ear came from being under the  
12 downstairs bathroom sink; right?

13 A Yes.

14 Q Okay. Now, you also testified yesterday about this  
15 incident where you got the burn; okay?

16 A Yes.

17 Q And then Ms. Bluth asked you questions like did Ava  
18 do anything to you about the burn, or did she cause the burn;  
19 right? And you said no?

20 A Yes. I said no.

21 Q Right. Okay. But you also testified that Ava was  
22 standing nearby waiting to take a shower; right?

23 A Yeah.

24 Q And the showers were all upstairs because there's no  
25 shower downstairs; right?

1           A     Yes.

2           Q     And then you also testified that you got the mark on  
3 your ear and your back from being burned with water from a  
4 candle lid. Do you remember that?

5           A     Yeah.

6           Q     Okay. So how big was this candle lid?

7           A     Like about the size of this lid, but just, like, hold  
8 on. I have to make sure I'm correct. Yeah, about the size,  
9 like, a little bit -- yeah, about the size of the lid, of this,  
10 a little bit smaller though.

11          Q     Okay.

12          A     Just, like, a little bit.

13          Q     Okay. So you think it was lengthwise about the same.  
14 I don't know if maybe length is the wrong word. Maybe  
15 circumference, meaning round, about the size of that top of the  
16 water pitcher in front of you, and if I could just approach.

17          A     And it was a little bit more deeper so she could put  
18 water in it.

19          Q     Okay. So your testimony was that it was about this  
20 size around?

21               MS. MCAMIS: And if we could, maybe two and a half  
22 inches in diameter?

23               MS. BLUTH: Yeah.

24               MS. MCAMIS: The State would say generally, yeah.

25     / / /



1 BY MS. MCAMIS:

2 Q And it's a perfect circle; right? It's not an oval;  
3 right?

4 A No, it's not an oval.

5 Q Okay. And then you said it was a little bit deeper  
6 than this part; right?

7 A Yeah. It was like -- it had this stuff and  
8 everything, but, I mean, the candle, the lid, it was like more  
9 of a -- I don't know how to describe it, but it was like -- it  
10 was kind of like that without that part.

11 Q Okay. Kind of like this?

12 A Yeah, without the part in the middle.

13 Q Without the part in the middle?

14 A Yes.

15 Q Right. Because it's a lid; right?

16 A Yes.

17 Q So it's got a like a -- do you know what I mean by  
18 concave part?

19 A No.

20 Q That's a terrible question then. It has, like, a  
21 bottoming out part, right, where you can put water in  
22 apparently; right?

23 A Yes.

24 Q Okay. And so you're saying it was about the same  
25 size as this bottom part; right?

1           A     No. I'm saying --

2           Q     Well, how tall was it?

3           A     Hold on.

4           Q     Okay.

5           A     It had this stuff right here. You know you can twist

6 it, it had that, and there was, like, a little bit more of an

7 inside. It didn't have this little thing right here. It was,

8 like, more on the round right here instead of, like, right

9 here.

10          Q     Okay. So how deep was it? Can you give me an

11 estimate of how deep this candle lid was? And if it's okay,

12 I'm going to put your water lid back on?

13          A     Okay.

14          Q     How deep was it?

15          A     I don't know. Like, are you talking about inches,

16 centimeters?

17          Q     Yeah. Can you give me an estimate?

18          A     Centimeters, like the little ones on the back of the

19 ruler.

20          Q     Sure. Centimeters are smaller than inches; right?

21          A     Yeah.

22          Q     All right. I'm with you there.

23          A     All right. Let me do my math. So about like this

24 big.

25          Q     Okay. And so if the State can also look and see, and

1 it looks about an inch and a half in depth is what you're  
2 saying?

3 A Yeah.

4 Q Okay. And so that was all filled up with boiling hot  
5 water from the sink; right?

6 A Yes.

7 Q And then Janet splashed it on you; right?

8 A Yes.

9 Q Okay. And when she splashed it on you, where did she  
10 splash it on you?

11 A I don't know. My head was underneath the sink.

12 Q Okay.

13 A I just felt it, like, all over, like, the place.

14 Q Okay. All right. So it's your testimony that Janet  
15 was holding you under the sink; right?

16 A Yes.

17 Q And she would have had to been using one hand to hold  
18 you under the sink; right?

19 A Yes.

20 Q And with another hand then she was filling up the  
21 candle lid that you've described; right?

22 A Yes.

23 Q And then splashing you with the water from the candle  
24 lid; right?

25 A Yes.

1 Q Okay. And this was all in the downstairs bathroom;  
2 right?

3 A Yes.

4 Q Okay. Now I have a couple more questions for you  
5 about this; okay. Do you remember someone taking -- like,  
6 someone named Dr. Cetl taking a picture of your right ear in  
7 March of 2014?

8 A No.

9 Q Okay. But you remember that there was a doctor who  
10 came in and saw you in March of 2014 after your interview with  
11 CPS; right?

12 A After the interview, no, I don't recall.

13 Q Okay. Would it surprise you if I said that there was  
14 a doctor who came in and saw you after your interview in March  
15 of 2014?

16 A I mean, yeah, but I guess it happened. I don't know.  
17 I was just --

18 Q You just don't have any memory of that?

19 A Yeah, I don't have any memory of that.

20 Q Okay. Have you ever seen -- have you ever seen  
21 Dr. Cetl?

22 A No. I don't even know who that is.

23 Q Okay. In the four years since you interviewed with  
24 CPS in March of 2014, has anyone else taken a photo of your  
25 ear?

1           A     No.

2           Q     Okay. Has any other doctor looked at your ear since  
3 March of 2014?

4           A     No.

5           Q     Okay. Okay. Now, you recall that you testified at  
6 the preliminary hearing about this, this burning incident. Do  
7 you remember?

8           A     Yes.

9           Q     Okay. And isn't it true that you testified at the  
10 preliminary hearing --

11                   MS. MCAMIS: It's page 105.

12                   MS. BLUTH: Thank you.

13 BY MS. MCAMIS:

14           Q     -- that the burn on your back came from a time when  
15 you were cleaning the bathroom, and Janet took a candle, took  
16 the lid off and splashed it in your face?

17           A     I was cleaning the bathroom, no. I was cleaning the  
18 poop, and then I was in the bathroom trying to wash my hands.

19           Q     Okay. Isn't it true that when you were asked, How  
20 was the burn caused, you answered at the preliminary hearing.

21                   Because when I -- after I was done  
22 cleaning the dog bathroom, I washed my hands,  
23 and it was really hot, and then I dragged my  
24 hands out of it. So then I started to cry,  
25 and I said, It's hot, and then she put -- she

1 squeezed my hands, and then she put my hands  
2 in it, and then I kept saying, it's hot.

3 And then you continue:

4 And then she -- we had a candle in  
5 there. So when she took the lid off and then  
6 she filled it with the hot water, and then  
7 she splashed it on my face, and then I  
8 started to cry even more, and then she said  
9 stop crying, and I couldn't stop crying  
10 because it was really hot. So then she would  
11 pick me up, and then she tried to put my  
12 whole body and it, and then I was like  
13 squirming around. So then it landed on my  
14 shoulder and my ear.

15 A Yes.

16 Q Okay. So your testimony at the preliminary hearing  
17 was that you were putting your hands under the sink water to  
18 wash the dog or cleaning up after the dog bathroom --

19 A I was washing my hands, yeah.

20 Q Okay. But you acknowledge that you said, After I was  
21 done cleaning the dog bathroom; right?

22 A Yeah.

23 Q Okay. And then you took your hands away; right?

24 A Yes.

25 Q And then your testimony was that she put your hands

1 back in; right?

2 A Yes.

3 Q So she was holding your hands back in under the  
4 water?

5 A Yes.

6 Q And then that's when you testified she filled up the  
7 candle lid and splashed it into your face; right?

8 A Yes.

9 Q And then at the preliminary hearing, you testified  
10 that after she put the candle lid with the water and splashed  
11 it in your face, that's when she picked your whole body up and  
12 tried to put you under the sink?

13 A Yes.

14 Q Okay.

15 THE WITNESS: I'm sorry. I have to go to the  
16 bathroom like really bad.

17 THE COURT: Right now?

18 THE WITNESS: Yes.

19 THE COURT: All right. Ladies and gentlemen, this is  
20 a good time for the lunch.

21 Ms. Bluth, you can take the witness in the back.

22 MS. BLUTH: Okay.

23 THE COURT: And don't talk about your testimony  
24 during the lunch break with anybody else.

25 Ladies and gentlemen, this is a good time for the

1 lunch break. It's already 1:15. So let's go ahead and take  
2 our break until 2:15 for the lunch recess.

3 During the lunch recess, you are all reminded that  
4 you're not to discuss the case or anything relating to the case  
5 with each other or with anyone else. You're not to read, watch  
6 or listen to any reports of or commentaries on the case, person  
7 or subject matter relating to the case. Do not do any  
8 independent research by way of the Internet or any other  
9 medium, and please don't form or express an opinion on the  
10 trial.

11 Please place your notepads in your chairs and follow  
12 the bailiff through the double doors.

13 We'll see everyone back at 2:15.

14 (Proceedings recessed 1:13 p.m. to 2:19 p.m.)

15 (Outside the presence of the jury)

16 MS. BLUTH: So I had represented to Your Honor and  
17 Ms. McAmis when we were up at the bench before we started today  
18 that when I was going through the jury instructions last night,  
19 you know, making sure I had everything, I was looking at the  
20 sex assault instructions and, you know, one of the elements is  
21 against his or her will or under reasons that the defendant  
22 should have known that they were incapable of understanding.

23 THE COURT: Right.

24 MS. BLUTH: So I think from the testimony it's pretty  
25 clear that the girls didn't want the catheters or the paint



1 stick, but, you know, it is an element, and, I mean, they did  
2 talk about, you know, struggling against it and being  
3 threatened with a razor; however, because it is such a strict  
4 element, I asked to reopen with Anastasia to ask that question.

5 I do have Amaya here, at some point when Anastasia is  
6 done, just to bring her in to ask that question, and then Ava  
7 can be brought down, or she can do it via Skype, whatever, and  
8 she is in Utah in Amargosa Valley.

9 So, anyways, I'm just making that record that, you  
10 know, I don't know what -- there could be many defenses to this  
11 case. It could be that the catheters never happened. It could  
12 be that the catheters were, you know, a necessity and that that  
13 needed to be used. I don't see the defense saying consent was  
14 an issue, but just to protect my record, I believe I have to  
15 recall those two to say that. It would just be one question.  
16 When the catheters were put in you, was that, you know, did you  
17 consent to that? Was that against your will? And then it  
18 would be done.

19 So, anyways, I just wanted to make that record, and I  
20 apologize for not doing that. I thought that it was clear. I  
21 thought we had made that record but in going through the  
22 instructions, I think it needs to be made a hundred percent  
23 clear.

24 THE COURT: Okay.

25 MR. FIGLER: And for the record, the defense,

1 Ms. McAmis did object to the reopening of it to show a  
2 purported element of the offense, that the State didn't do it  
3 during their direct. It wasn't asked during the cross. So we  
4 felt it is inappropriate.

5 We also think it's inappropriate to bring the  
6 witnesses back to reopen so that the State can get in one  
7 additional element of the offense that they just simply forgot  
8 to do because it does put special light and attention on that  
9 particular testimony because nothing else would be testified  
10 unless that reopens all of testimony for us, and even then I do  
11 believe that it puts an undue emphasis on that particular part  
12 of the testimony.

13 So it's our objection that we noted at the bench with  
14 regard to reopening, and it's our objection to allow reopening  
15 with the other two witnesses as well.

16 Additionally, with regard to the consent issue in the  
17 jury instructions, the defense is struggling right now with  
18 what a proposed instruction would be as it relates to medical  
19 consent. As Your Honor knows, and which we have case law  
20 supporting on some degree from some family law cases, a child  
21 cannot give medical consent under the age of 18. Sexual  
22 assault is a different aspect than medical, and the two streams  
23 of choice of law have interspersed because of the way that the  
24 State has proceeded.

25 Certainly the State is not suggesting that there is

1 and never has suggested that there is any traditional sexual  
2 component, and their argument was it doesn't have to be, but  
3 they did acknowledge that there is a medical defense that is  
4 potentially available to the defense, and we would argue that  
5 there needs to be a sorting out and perhaps a lot of argument  
6 with regard to the degree of jury instruction as it relates to  
7 juvenile consent of medical procedure.

8           So just throwing that out there too as a heads up of  
9 what we might be getting into down the road because the Court  
10 did inquire of us what kind of instructions we were thinking  
11 about before.

12           So this is a complicated area. The State chose to  
13 proceed as a sexual assault instead of child abuse on these  
14 counts with regard to the catheter. They didn't complete their  
15 record on their directs. They didn't complete their record  
16 with two of the three witnesses before they were discharged as  
17 witnesses in the State's case in chief. So we don't feel that  
18 the State should benefit from that just because they forgot.  
19 That's not a legitimate reason.

20           MS. BLUTH: And just to be clear, I never said that  
21 there was a medical defense. I was saying that's something  
22 that the defense might want to bring up, but I do not believe  
23 that there is a medical defense in regards to the charges on  
24 these girls. I was just simply stating I'm not sure where the  
25 defense is going to go with that, and I know that in dealing

1 with Mr. Mueller he had dealt with a medical defense. I'm not  
2 agreeing that there is a medical defense. I was just stating  
3 the multiple ways defense could go with this.

4 But I never discharged anybody from our subpoena.  
5 I'm not asking to, you know, relitigate any further issues.  
6 Like I said, I do believe that they did discuss, hey, I was  
7 squirming around. I was trying to fight it, things like that  
8 but was it clearly asked, like did you want the catheter?

9 THE COURT: I think, I mean, honestly I think it was  
10 pretty clear from their testimony that they didn't want the  
11 catheter.

12 MS. BLUTH: And I agree, and I thought about this a  
13 lot last night because, you know, am I being just  
14 obsessive-compulsive, but, you know, if the defense were to  
15 argue, well, you never heard them say that they didn't want it,  
16 no. Did they expressly state, no, I didn't want the catheter,  
17 and that would just be such a fine line, and, honestly, just  
18 like a miscarriage of justice if I was on my failure to ask  
19 them, hey, did you want the catheters. So I'm just asking to  
20 reopen with that one question, and it can be done within 60  
21 seconds.

22 THE COURT: Anything else from the defense?

23 MR. FIGLER: No. Only that medical necessity, of  
24 course, is part of the statute. It's not a affirmative defense  
25 that we're pulling out. It is part of the sex assault statute.

1 That's it. Otherwise, we would submit.

2 THE COURT: All right. I'll let the State reopen  
3 just for that question.

4 MS. BLUTH: Okay. So I'll just call her whenever  
5 we're done with Anastasia, and then Ms. McClain is here to  
6 testify whenever.

7 THE COURT: All right.

8 MS. BLUTH: And they're done.

9 THE COURT: All right. Kenny, bring them in.

10 (Pause in the proceedings)

11 (Jury entering 2:30 p.m.)

12 THE COURT: All right. Court is now back in session.  
13 The record should reflect the presence of the State, the  
14 defendant and her counsel, the officers of the court, and the  
15 ladies and gentlemen of the jury.

16 And, Anastasia, you are still under oath. Do you  
17 understand that?

18 THE WITNESS: Yes.

19 THE COURT: Okay. Ms. McAmis, you may resume your  
20 questioning.

21 MS. MCAMIS: Thank you.

22 BY MS. MCAMIS:

23 Q All right. Anastasia, before we took our lunch  
24 break, we were talking about the burning incident and also what  
25 you testified to at preliminary hearing about it. You remember

1 that?

2 A Yes.

3 Q Okay. So I still have some questions about that,  
4 okay, so same topic. Now, at the preliminary hearing in June  
5 of 2014, you testified that the burn on your back came from a  
6 time when you were cleaning the bathroom after the dog, the dog  
7 poop pickup, and Janet took a candle, took the lid off and  
8 splashed it on your face; right?

9 A Yes.

10 Q Okay. And then you said that's how you got the mark  
11 on your back and on your ear; right?

12 A Yes.

13 Q Okay. And there are no marks on your actual front of  
14 your face; right?

15 A No.

16 Q All right. So I have some questions about, like, the  
17 showers, okay, so changing topics. Now, you testified that you  
18 had to, like, air dry after showers with a fan; right?

19 A Yeah.

20 Q Okay. And that you never got to use a towel after  
21 showers after you were adopted; right?

22 A Yeah.

23 Q Okay. Now, isn't it true that you told Nevada CPS in  
24 March of 2014 that it was Danielle and Dwight who made you dry  
25 with fans?

1 MS. BLUTH: Sorry. May I have a page number?

2 MS. MCAMIS: Page 89.

3 MS. BLUTH: Thank you.

4 THE WITNESS: I don't know. I don't remember saying  
5 that.

6 BY MS. MCAMIS:

7 Q You don't remember. Okay. Would looking at your  
8 statement refresh your memory about that?

9 A If it says it on the statement, then I said it,  
10 but --

11 Q Well --

12 A I don't remember saying it, but --

13 Q Okay. So what I'll do is I'll have you look at  
14 page 89 of your statement. If you could read that page to  
15 yourself?

16 A The whole thing?

17 Q Yes, please. And let me know when you're done.

18 Did that refresh your memory about what you told CPS  
19 back in March of 2019 (sic) about drying off with the fans?

20 A Yes.

21 Q Okay. So you were asked the question by the  
22 interviewer, Who knew that she was making you dry with the fan?  
23 And your answer was, Danielle, our dad. And the interviewer  
24 responded, Okay. And you answered, And our dad. Did I read  
25 that right?

1           A     Yes.

2           Q     Okay. Now, isn't it true that you testified at the  
3 preliminary hearing in this matter, and you testified that when  
4 you shower during the day you got to dry off with a towel very  
5 often?

6           A     Yeah.

7           Q     Is that a yes?

8           A     Yes.

9           Q     Okay. So you did not air dry then with a fan every  
10 day?

11          A     No. I said very often.

12          Q     Okay. Well, my question to you was isn't it true  
13 that when you were asked about drying off with a towel at the  
14 preliminary hearing, after you showered every day, you said you  
15 got to dry off with a towel very often?

16          A     Very often, yes.

17          Q     Okay. So you talked about how there was a black gate  
18 at the top of the loft area that prevented you from getting  
19 into the bathroom. Do you remember testifying about that?

20          A     Yeah.

21          Q     Okay. And that if you tried to go over the gate, you  
22 thought you'd be electrocuted?

23          A     Yeah.

24          Q     Okay. Now, you were never electrocuted by that gate;  
25 right?



1           A     No. Because I never tried to hop over it.

2           Q     Okay. You never tried to hop over it. So you were  
3 never electrocuted; right?

4           A     Yes, no, I was never electrocuted.

5           Q     Okay. Isn't it true at night you just went over and  
6 knocked on Janet's bedroom door to ask to go to the bathroom?

7           A     Yeah. And then that's when she had stopped letting  
8 us go because she didn't want to be woken up.

9           Q     Okay. So the gate was not up every night that you  
10 were there in between --

11          A     No.

12          Q     -- for all of the years that you were at Wakashan;  
13 right?

14          A     No, it was not up every single night. It was only up  
15 for, I don't know, like, a couple months.

16          Q     Okay. Because there were nights where you actually  
17 were able to --

18          A     Yes.

19          Q     -- go knock on Janet's door -- And if I could just  
20 ask you -- we have to take turns when we talk and answer  
21 questions. So if you could let me finish my question and then  
22 answer, I would greatly appreciate it; okay? Just because this  
23 is a recorded transcript, and if we keep interrupting each  
24 other, it won't get recorded right; okay?

25          A     Okay.

1           Q     Thank you. All right. So you testified about having  
2 to sleep on boards and towels when you lived with Janet; right?

3           A     Yeah.

4           Q     Okay. Isn't it true you also told CPS in March  
5 of 2014 that one time Janet made you sleep outside for a long  
6 time by a cage where there were ants and bugs?

7           A     Yes.

8           Q     Okay. And you also told CPS back in March of 2014  
9 that the first home you lived at you slept on towels on the  
10 carpet?

11          A     Yes.

12          Q     And now remind me. When you lived at the first home,  
13 you had not been adopted yet; right?

14          A     No, we were adopted. We were adopted. Like, we were  
15 in foster care and adopted in that home.

16          Q     Okay. How long did you live at the Jubilee home?

17          A     I don't know, like a year, a year and a half.

18          Q     Okay. Isn't it true that when you were good and you  
19 didn't have accidents then you got to sleep in a bed?

20          A     No. I slept on the cot.

21          Q     You slept on the cot?

22          A     Yes.

23          Q     Okay. You told CPS back in March of 2014 that there  
24 were alarms on the boards you slept on, and whenever one of you  
25 or your sisters would try and move off of the board, the alarm

1 would go off; right?

2 A That was just Ava's.

3 Q Only Ava's had the alarm on the board?

4 A Yeah. Yes. It wasn't me and Amaya's.

5 Q Okay. So on these, the wood boards that you  
6 described; right?

7 A Yes.

8 Q There was an alarm that would go off?

9 A On Ava's.

10 Q On Ava's. Okay. What kind of alarm would go off for  
11 Ava?

12 A I don't know. I don't think it ever went off.

13 Q Okay. It never went off?

14 A It was like a beeping noise, like an alarm.

15 Q It was like a beeping noise, but it never went off?

16 A Yeah, because she was way too scared to be trying to  
17 move in there.

18 Q Okay. Isn't it true that you told or the interviewer  
19 in March of 2014 asked you, What kind of alarm was it? And you  
20 answered, it's, like, here's the tape for the alarm can stick.  
21 Here's the tape.

22 MS. BLUTH: I'm sorry. May have a page number?

23 MS. MCAMIS: Oh, of course. 74.

24 MS. BLUTH: Thank you.

25 / / /

1 BY MS. MCAMIS:

2 Q Is that what you told the interviewer in response to  
3 what kind of an alarm?

4 A What kind of a -- the alarm or the noise?

5 Q In response, do you remember what you said? If you  
6 don't, I can show you.

7 A I don't remember the question.

8 Q Okay. I'm going to have you look at page 74 where  
9 you're talking about the alarm on the wooden boards. Please  
10 look at line 10 and then your response.

11 A Okay.

12 Q Read that silently to yourself.

13 A Okay.

14 Q Okay. Does that refresh your memory about what you  
15 said at the time in March of 2014 about the alarms on the  
16 wooden boards?

17 A Yes.

18 Q Okay. And isn't it true you were asked by the  
19 interviewer, Okay, what kind of an alarm is that? And you  
20 answered, It's, like, here's the tape for the alarm can stick.  
21 Here's the tape.

22 A Yes.

23 Q Okay. Now, you've testified a lot about having to  
24 sleep on these boards; right?

25 A Yeah.

1 Q Okay. Now, isn't it true that Janet used to put  
2 boards up around the table when you and your sisters were doing  
3 your homework because Amaya had trouble concentrating?

4 A She didn't have trouble concentrating, but, yes, she  
5 put the little test boards.

6 MS. MCAMIS: Okay. Voluntary statement, page 91.

7 BY MS. MCAMIS:

8 Q So in March of 2014, when you talked to CPS, isn't it  
9 true that you explained about the boards, that when you were  
10 doing homework, specifically you said, Oh, okay. These are the  
11 stuff that we use when we're trying to do our homework. The  
12 interviewer said, These. And you responded, So we. And the  
13 interviewer said, Things in here -- excuse me, Things here.  
14 And you answered, Yeah, so we can't get distracted. So we have  
15 a table and she -- and for Amaya so she can't get distracted  
16 because all of us get distracted a lot. Like, if someone says  
17 something, we'll just start listening, and so Amaya has eh, eh,  
18 she has a really, really hard time concentrating. So then they  
19 put a board around it, the table.

20 Is that what you told CPS in March of 2014?

21 A Yes. Yes.

22 Q All right. So I have some questions for you about  
23 the paint stick, and when you talked about that going inside of  
24 you; okay?

25 A Okay.

1           Q     All right. So you testified yesterday that Janet  
2 stuck a paint stick in your vagina; correct?

3           A     Yes.

4           Q     Those were your words; right?

5           A     Yes.

6           Q     Okay. And then you looked at a diagram of the female  
7 genitalia; right?

8           A     Yes.

9           Q     Okay. And so you read off of the diagram the words  
10 where you say Janet inserted a paint stick; right?

11          A     Yes.

12          Q     Now, how long was that paint stick inserted in you?

13          A     Only for, like, 30 seconds.

14          Q     Did you say 3?

15          A     30.

16          Q     30. Okay. Okay. So what did you feel when the  
17 paint stick was inside of you?

18          A     What did I feel?

19          Q     Yes.

20          A     Like my emotions or, like, what did I feel, like,  
21 physically?

22          Q     Physically.

23          A     Oh, the paint stick.

24          Q     Can you describe that.

25          A     The wooden paint stick up my vagina.

1           Q     Right. My question to you is how did that feel, not  
2 a description of the paint stick.

3           A     I said the wooden in my vagina. So, like, the wood,  
4 the wood on the paint stick in my vagina. So I could feel the  
5 wood.

6           Q     Okay. Can you describe it in a little bit more  
7 detail? What did the wood feel like?

8           A     It felt like wood, hard and rough.

9           Q     Okay. And you said that it was inside of you for 30  
10 seconds?

11          A     Yes.

12          Q     Okay. Did Janet say anything to you when the paint  
13 stick was inside?

14          A     No.

15          Q     How did the paint stick leave you or come out of you?

16          A     She took it out.

17          Q     Okay. How did it feel when she took it out?

18          A     Like, physically or emotionally?

19          Q     Physically.

20          A     Okay. It burned.

21          Q     Okay. Did you bleed?

22          A     No, I don't think so.

23          Q     Well, did you look?

24          A     No. I was too worried about if she was going to hit  
25 me.

1 Q Okay. Did the paint stick injure you?

2 A No.

3 Q Okay. Now, what room did you say that she inserted  
4 the paint stick into you?

5 A Ava's room inside the walk-in closet, but it was,  
6 like, halfway. Like, so my legs and my lower body was out, but  
7 my upper body was inside the closet.

8 Q So you were inside of a doorway, like an open doorway  
9 between a room and a closet when she inserted the paint stick?

10 A Yeah.

11 Q Okay. Did you scream or cry when she inserted the  
12 paint stick?

13 A Yeah.

14 Q Okay. Now, you also testified yesterday about  
15 catheters being inserted into you. Do you recall that  
16 testimony?

17 A Yes.

18 Q Now, you testified yesterday that Janet inserted  
19 catheters into you more than five times, maybe, like, seven to  
20 eight times; right?

21 A Yes.

22 Q Okay. Where were you each of these seven to eight  
23 times?

24 A The three rooms that she -- she only did it once in  
25 Ava's room, like, maybe, like, a couple of times in the loft



1 and the loft bathroom.

2 Q Okay. And what does a couple of times mean to you?

3 A Like, five or, like, six.

4 Q Okay. And then you testified yesterday that when  
5 Janet inserted the catheter she had to pin you with one arm and  
6 then insert the catheter into your vagina with the other arm;  
7 right?

8 A Yes.

9 Q Okay. How long did it take for Janet to put the  
10 catheter into you?

11 MS. BLUTH: Judge, I'm going to object just to  
12 vagueness in regards to which time or --

13 BY MS. MCAMIS:

14 Q Well, any of the times.

15 THE COURT: Any time.

16 THE WITNESS: How long did it take, like, for her to  
17 get it out or in?

18 BY MS. MCAMIS:

19 Q In.

20 A I don't know. When I stopped, like -- when she was  
21 able to, like, actually put it in without, like -- I don't  
22 know. Like, 30 seconds. I don't know. Like, 25 when she put  
23 it in -- when she put it in.

24 Q Okay. Now, how long was the catheter inside of you?  
25 How long did it stay inside of you?

1           A     Until I stopped peeing.

2           Q     Okay. How soon did you start peeing after the  
3 catheter went in you?

4           A     As soon as it went in me.

5           Q     Oh, okay. And then how did the catheter come out?

6           A     She took it out.

7           Q     Okay. Now, when Janet put in the catheter into you  
8 and you started peeing, did Janet have to do anything to make  
9 the pee come out?

10          A     No.

11          Q     Okay. Okay. What did you feel physically when the  
12 catheter was in you?

13          A     It burned and it was, like -- it just burned.

14          Q     Okay. Did you scream when it was in?

15          A     Yes.

16          Q     Okay. And then you testified that you kicked and  
17 squirmed, and that's why Janet had to use the one arm to keep  
18 you down; right?

19          A     Yeah.

20          Q     Okay. Now, you also testified that you were afraid  
21 of Janet. So you wouldn't do things like ask to use the  
22 bathroom or talk to your sisters during school work; right?

23          A     Yeah.

24          Q     But you weren't afraid to scream or kick or squirm in  
25 the catheter?

1           A     No.

2           Q     Okay.

3           A     I was, but I wasn't thinking. Like, that's my  
4 reaction.

5           Q     Okay. So you didn't take the catheter out of  
6 yourself?

7           A     No.

8           Q     Okay. And you didn't say anything about catheters  
9 when you were interviewed by Florida CPS; right?

10          A     No, I don't think so.

11          Q     Okay.

12          A     No.

13          Q     Now, when the catheter was being taken out of you,  
14 how long did it take for the catheter to be taken out?

15          A     As soon as I was done, she just took it out.

16          Q     Okay. So how long did that process take?

17          A     I don't know. Like, I don't -- I wasn't thinking  
18 about how long is she going to do this. I was just thinking,  
19 like, can she, like, hurry up and get it done.

20          Q     Okay. But this happened to you more than one time?

21          A     Yes.

22          Q     In fact, you said it's --

23          A     Yes.

24          Q     -- seven or eight times it happened --

25          A     Yes.

1 Q -- right?

2 A But those seven or eight times, I wasn't thinking,  
3 oh, let me measure this time. So just in case somebody asked  
4 me that question. I was thinking can she hurry up and get this  
5 done so it can stop.

6 Q All right. So you remember testifying at the  
7 preliminary hearing in this matter; right?

8 A Yes.

9 Q Now, you testified at the preliminary hearing that  
10 Janet put a catheter into you on three different times; right?

11 A Yeah.

12 Q Okay. And that the first time was when you lived in  
13 your old bedroom that you shared with Amaya?

14 MS. BLUTH: Can I have a page number, please.

15 MS. MCAMIS: Yes. It is Volume IV, page 119.

16 THE WITNESS: Yeah.

17 BY MS. MCAMIS:

18 Q Right, that the first time was when you lived in your  
19 old bedroom that you shared with Amaya; right?

20 A Which house? The second?

21 Q Well, what house did you share a bedroom with Amaya?

22 A Both.

23 Q Okay. Well, and I'm asking you.

24 A And I'm asking you which house because you said I  
25 shared a room in both houses. So --

1 Q Right. I'm asking you about the first time.

2 A The first time, it wasn't in Amaya's -- I don't think  
3 it was in Amaya's room.

4 Q Okay.

5 A Well, the first time, the very first time.

6 Q Okay. When you testified at the preliminary hearing  
7 in this matter, you promised to tell the truth; right?

8 A Yes.

9 Q Okay. And so you were describing all of the times  
10 that the catheters went into you at that time; right?

11 A Yes.

12 Q Okay. Okay. And so you were asked at the  
13 preliminary hearing, you said that, uh, that Ms. Janet put a  
14 catheter in you three different times, and you answered, yes.  
15 And then you were asked, Okay. You said one time in the --  
16 your, slash, Amaya's, an old bedroom, and you answered, yes.  
17 Right?

18 A Yeah.

19 Q And then you also were asked, And then there was one  
20 time in the bathroom, and you answered yes; right?

21 A Yes.

22 Q Okay. And then you were asked if there was one time  
23 in the loft, and you answered yes.

24 A Yes.

25 Q And you testified that you fought Ms. Janet every

1 time that that happened, and you answered yes; right?

2 A Yes.

3 Q So at preliminary hearing, you only testified that  
4 there were three times that a catheter was put in you; right?

5 A Yeah.

6 Q Okay. Okay. Now, you also testified about being  
7 threatened with a razor blade. Do you recall that?

8 A Yeah.

9 Q This was the same time -- strike that. I'll ask it  
10 this way. When you were threatened with the razor blade, this  
11 was the same time that you were getting a catheter; is that  
12 correct?

13 A No.

14 Q No. Okay. So the razor blade was separate?

15 A Yeah.

16 Q Okay. Now, when you testified about the catheters at  
17 the preliminary hearing, isn't it true that you said --

18 MS. MCAMIS: Page 120.

19 BY MS. MCAMIS:

20 Q -- that when Janet or -- Janet put a catheter in you  
21 she was inserting a needle?

22 A Yeah.

23 Q Okay. But you also testified that you never actually  
24 saw a needle; correct?

25 A Yeah.

1 Q Okay. And yesterday you testified about the  
2 catheters, and you didn't say anything about a needle; right?

3 A I don't think I did.

4 Q Okay. And you're not testifying about a needle  
5 today; right?

6 A I'm pretty sure I brought up a needle when she  
7 said -- wait, no. Sorry. No, I don't think I did.

8 Q Okay. Now, you were asked some questions about  
9 Dwight's role in the home and different things that he did or  
10 was responsible for or did to you. If you had to describe  
11 Dwight in one word, what would it be?

12 A I don't even know. Like, he's -- it's very hard in  
13 one word.

14 Q Okay. Would you like to maybe try a few words?

15 A Yes. He was scared.

16 Q He was scared?

17 A Yes. He was a coward, and he was just as -- well, he  
18 was evil too.

19 Q Okay. Because he also spanked you with paint sticks;  
20 right?

21 A Yeah. But that's not the only reason. He was just  
22 as bad as Janet because he had -- like I said, he's a coward  
23 for not telling anybody.

24 Q Okay. Now, I have some questions about going to The  
25 Marvelous Grace Girls Academy in Florida; okay?

1           A     Okay.

2           Q     All right. So you were sent to The Marvelous Grace  
3 Girls Academy in November of 2013; right?

4           A     Yeah.

5           Q     And that was a school with a religious component to  
6 it. Do you know what I mean by that?

7           A     Yeah.

8           Q     Okay. So that school had a religious component;  
9 right?

10          A     Yes.

11          Q     And so you were working on improving your behaviors  
12 there at The Marvelous Grace Girls Academy; right?

13          A     Yeah.

14          Q     Okay. And you were working on being put on the right  
15 path to God at that school; right?

16          A     Yeah.

17          Q     Okay. Before going to The Marvelous Grace Girls  
18 Academy, Janet took you to the doctor to get a physical; right?

19          A     No. I don't remember.

20          Q     Okay. Janet took you to at least one doctor during  
21 the time that you lived with her; right?

22          A     Yeah.

23          Q     Okay. And you've seen doctors before you lived with  
24 Ms. Janet; right?

25          A     Yeah.



1 Q Okay. How many times has a doctor done, like, a  
2 physical exam of you?

3 A Since before I got with Janet?

4 Q Yeah. Sure.

5 A Plenty of times because Ms. Debbie took us to the  
6 doctor, like, every couple of weeks or, like, just to check up  
7 on us.

8 Q Okay. And then after you lived with Ms. Janet, you  
9 also had checkups and got to go to the doctors too; right?

10 A Yeah.

11 Q Okay. Do you remember any doctor looking at your  
12 bottom before March of 2014 when you talked to CPS?

13 A No, I don't think so.

14 Q Okay. So we were talking about Marvelous Grace and  
15 how you were working on your behaviors at that school. Isn't  
16 it true that all of the sisters were working on their  
17 behaviors, and that's why you guys went to that school?

18 A We didn't have behavioral issues, but, yeah, that's  
19 what she said. Yes.

20 Q Okay. All right. Isn't it true that you and Amaya  
21 got into fights where you physically hit each other back when  
22 you lived at Janet's house?

23 A No. We hit each other at Ms. Debbie's.

24 Q Okay.

25 A And we probably did like once or twice and when we

1 were still in foster care with Janet.

2 Q Okay. But you acknowledge that you did get into  
3 physical fights with Amaya?

4 A When I said fights, I don't know the difference  
5 between fights and arguments. I said fights are the same  
6 things as arguments, but, yeah, I said that.

7 Q Okay. And you also testified at the preliminary  
8 hearing that you admitted there were times where you  
9 experienced Amaya lying; right?

10 A Yeah. We all lied.

11 Q And these were times that included lying when you  
12 lived with the Solanders; right?

13 A Yeah. Again, we all lied. If she said that, if she  
14 asked if we had to go to the bathroom, we were too scared to  
15 say yes. If she just asked us, like, questions, we were too  
16 scared to tell the truth.

17 Q Okay. There were other times where stories were made  
18 up in the house too; right?

19 A No.

20 Q Okay. And there was one time where Amaya faked  
21 having a seizure; right?

22 A That's what Janet said. I don't know. Ask Janet  
23 that. I had nothing to do with her seizures.

24 Q Okay. So you had nothing to do with whose seizures?

25 A Amaya's.

1           Q     Okay. But you know that Amaya had one real seizure  
2 in December of 2012; right?

3           A     Yes.

4           Q     Okay. And after that, it's your testimony that you  
5 don't know anything about Amaya faking a seizure afterwards?

6           A     Well, I did say she did fake, like, two of them, two  
7 or one. I think I said two or one, but that was because that's  
8 what Janet kept yelling at her about because they kept calling  
9 the ambulance, but, I mean, I'm a little bit older. My mindset  
10 is different. So I don't know if that was what was the truth  
11 or a lie.

12          Q     Okay. But you do have a memory about Amaya saying  
13 that she had a seizure and an ambulance came out?

14          A     Yes.

15          Q     And that turned out not to be a seizure; right?

16          A     Yes.

17          Q     Okay. So you testified a lot generally about the  
18 different ways that you were punished in the home; right?

19          A     Yes.

20          Q     Okay. And we talked about how there was a chart on  
21 the fridge, but that wasn't working to change the behaviors in  
22 the home; right?

23          A     Yeah.

24          Q     Okay. And we talked about how timeout was used as a  
25 punishment in the home, but that wasn't working either; right?

1           A     Yeah.

2           Q     Okay. And then Janet took away different privileges  
3 like no TV or go to bed early, as a punishment, and that wasn't  
4 working either; right?

5           A     Yes.

6           Q     And then she was spanking with her hand with a glove,  
7 and that wasn't working; right?

8           A     Yes.

9           Q     And then she would spank with a paint stick, and that  
10 wasn't changing any behaviors; right?

11          A     Nothing was changing it, yeah.

12          Q     Okay. Now, when you talked to Florida CPS, back in  
13 Florida when they asked you questions, you promised to tell  
14 them the truth back then; right?

15          A     Yes.

16          Q     And then when you talked to Florida CPS in March  
17 of 2014, you promised to tell them the truth when they were  
18 asking you questions; right?

19               MS. BLUTH: Florida -- Nevada.

20               THE WITNESS: Yes.

21               MS. MCAMIS: Yes. Thank you.

22 BY MS. MCAMIS:

23          Q     Let me reask that. When you talked to Nevada CPS in  
24 March of 2014, you promised them to tell the truth; right?

25          A     Yeah.

1           Q     Okay. And at a preliminary hearing, you testified,  
2 and you promised to tell the truth before you told your story;  
3 right?

4           A     Yes.

5           Q     And then today, you promised to tell the truth;  
6 right?

7           A     Yes.

8           Q     Okay.

9                 MS. MCAMIS: Court's indulgence.

10          BY MS. MCAMIS:

11           Q     All right. Anastasia, you were testifying about the  
12 catheters, and I was asking questions about the first time a  
13 catheter went in you; okay? So I have some follow up. Which  
14 was the first time that a catheter went inside you? Was that  
15 in the foster home?

16           A     No. That was after we were adopted.

17           Q     Okay. How many hands did Janet use to take out the  
18 catheter?

19           A     One.

20           Q     Okay. And was that one hand every time that a  
21 catheter was put in you?

22           A     Yeah, I think so.

23           Q     Okay. Was there ever any problem that Janet had  
24 taking out the catheter?

25           A     No, other than us, like, screaming and stuff, no.

1           Q     I'm so sorry. I heard the last part.

2           A     I said, other than us, like, screaming or, like,  
3 moving around to get away from her, no.

4           Q     Okay. Did it ever get stuck in your vagina?

5           A     No.

6           Q     And then when the catheter went in you, did all of  
7 the pee go into the bag?

8           A     Yeah.

9           Q     Was there ever a time when the pee went, like, out  
10 all over the rest of the room and was coming out of the  
11 catheter?

12          A     Yeah, I think, like, twice maybe.

13          Q     Okay. Did you ever try to take the catheter out  
14 yourself?

15          A     No.

16          Q     So you never tried to grab it?

17          A     No. I am not a nurse. No, I was not trying to hurt  
18 myself.

19          Q     Okay. And the catheter, she, meaning Janet, put the  
20 catheter in the same hole as the paint stick, the one that she  
21 marked on that diagram; right?

22          A     No. She put the hole in the vagina, and the paint  
23 stick was in the -- I don't know what it's called, but it  
24 wasn't inside the hole. She was trying to, but the paint  
25 stick, no.

1 MS. MCAMIS: Okay. Court's indulgence.

2 BY MS. MCAMIS:

3 Q Okay. Now, you remember looking at the diagram  
4 yesterday when you were explaining the paint stick; right?

5 A Yes.

6 Q Okay. I meant to ask you. The paint stick that was  
7 inserted, how long was this paint stick?

8 A You already asked me this. I told you --

9 Q Well, I asked how it felt.

10 A -- oh, no, that was a catheter.

11 Q I was asking how long was the paint stick?

12 A How long or, like, the time that was in it?

13 Q Oh, that's a fair question. I meant the physical  
14 description. Like, how long was it?

15 A Oh, the physical, I don't know. Like, 12 inches  
16 probably.

17 Q Okay. How large was it?

18 A Like, a regular size. It was almost, like, a ruler,  
19 but the tips is only, like, this big probably.

20 Q And that's about an inch would you say?

21 A No. It's, like, no, this is, like, 3 centimeters  
22 probably, maybe even 2.

23 Q Maybe even 2?

24 A Yeah.

25 Q All right.

1 THE COURT: And for the record, it's about an inch.

2 MS. MCAMIS: Okay.

3 THE COURT: So is that the right -- is that what  
4 you're holding your fingers, is that how wide that was?

5 THE WITNESS: Yeah. The tips -- an inch is like this  
6 big.

7 MS. MCAMIS: Okay.

8 THE WITNESS: What? Okay. Well --

9 MS. MCAMIS: I appreciate that. You're describing --

10 THE COURT: It's hard to gauge distance. We're all  
11 really not good at it.

12 THE WITNESS: Yes.

13 BY MS. MCAMIS:

14 Q All right. So when Janet put the catheter in the  
15 same hole as the paint stick, the one that you -- it was the  
16 hole that was marked vagina on the diagram?

17 A No. The catheter was where -- I don't know where the  
18 pee comes out. Actually, isn't that the vagina where the pee  
19 comes out?

20 Q I'm just asking you.

21 A No. I said -- I did not say it went in the vagina  
22 because Ms. Jacqueline asked if it was in the vagina. I said,  
23 no. The catheter went in the vagina. The paint stick didn't  
24 go in the vagina.

25 Q Okay. And so it's your testimony that the paint



1 stick did not go in the vagina, but the catheter did go into  
2 the vagina, like the one marked on the -- the one that's  
3 labeled on the diagram; right?

4 A That's where the pee comes out. Yes.

5 Q Okay. All right. Then I have just a follow-up  
6 question. Remember when I was asking how much time it took for  
7 the catheter to go in and then how long it would take to come  
8 out?

9 A Yes.

10 Q Which was faster in time, putting the catheter in or  
11 taking it out?

12 A In -- wait, faster? Wait.

13 Q Yes.

14 A Sorry. Out. My bad.

15 Q Okay. Do you remember when I asked how long it took  
16 to come out?

17 A Yeah. And I said I don't know.

18 Q Okay.

19 A But it was quicker than the first to put it in.  
20 That's all I know.

21 Q Okay. And that was every single time?

22 A Yeah, about.

23 MS. MCAMIS: Okay. All right. Court's indulgence.

24 Pass the witness.

25 THE COURT: All right. Redirect.

1 MS. BLUTH: Thank you.

2 REDIRECT EXAMINATION

3 BY MS. BLUTH:

4 Q Okay. Anastasia, I'm showing you what's been marked  
5 for purposes of identification as 94F, 100A, 100B and 100C.  
6 Okay. So I want to ask you some questions. When you're  
7 talking about a paint stick going in your -- I'm going to use  
8 the term private; okay?

9 A Uh-huh.

10 Q Are any of -- I'm not asking you if any of these are  
11 the exact paint stick.

12 A Yeah.

13 Q I'm just asking you if any of them were about the  
14 same size if you remember.

15 A Yeah.

16 Q Okay. Which one?

17 A [Unintelligible.]

18 Q [Unintelligible.]

19 A It was probably more, okay, this one.

20 MS. MCAMIS: And could I approach and just --

21 THE COURT: Sure.

22 MS. MCAMIS: It's hard to see.

23 THE WITNESS: Wait. Don't let go of it. One more  
24 second. One more second. I don't want to give you false  
25 information.

1 MS. BLUTH: I appreciate that.  
2 THE WITNESS: I want to be accurate.  
3 MS. BLUTH: I appreciate that.  
4 THE WITNESS: Probably, like, yeah, this one.  
5 BY MS. BLUTH:  
6 Q Okay. And then --  
7 A They look all the same to me, but I mean that one is  
8 more.  
9 Q Okay. All right. So when -- so this would be -- and  
10 again, I'm not asking if this is the exact same one, okay. I  
11 want to make sure you know that, but would this be about the --  
12 about the size that --  
13 A Yeah.  
14 Q Okay.  
15 A Well, not the length. I think that's a little too  
16 long.  
17 Q Okay.  
18 A It was probably like a little bit -- a little, like,  
19 this much more.  
20 Q Okay. So maybe in between these two?  
21 A Yeah.  
22 Q Not as long as this, but longer than -- what's the  
23 number on that on the red one? If you flip it over, Anastasia.  
24 THE COURT: On the red sticker.  
25 THE WITNESS: Oh. One hundred --

1 MS. BLUTH: Yeah, 100 what?

2 THE WITNESS: C.

3 MS. BLUTH: So, Judge, just so the record shows what  
4 exhibits I'm using, Anastasia was saying that the paint stick  
5 that was used in her private is shorter than 100A but longer  
6 than 100C.

7 THE COURT: Okay.

8 BY MS. BLUTH:

9 Q And now I want to ask you -- okay. So I want to ask  
10 you some questions about when you were talking about the vagina  
11 with Ms. McAmis; okay. When either the stick was going inside  
12 of you or the catheter was going inside of you, could you see,  
13 like, exactly where it was going in your private?

14 A No. I was, like, looking up.

15 Q Okay.

16 A I was screaming.

17 Q All right. And then in regards to what part of your  
18 private that pee comes out of, do you know exactly either,  
19 like, what hole or what area pee comes out of?

20 A No.

21 Q Okay. So I'm going to put up State's 245. Remember  
22 when we were talking about this yesterday?

23 A Yes. Yes.

24 Q Okay. So you just said that you didn't see -- you  
25 couldn't see the catheter going in, but you could feel it going

1 in?

2 A Yeah.

3 Q Okay. Do you know where it went in? Like, could you  
4 show me on the diagram where about you could feel it.

5 A The urine -- I'm going to say the pee opening because  
6 that's too hard of a word.

7 Q Okay. Spell it for me.

8 A U-r-e-t-h-r-a-l.

9 Q Okay. So right here.

10 A Yes.

11 Q And then that line is attached to right here?

12 A Yes.

13 Q And then when the paint stick went in, do you see on  
14 the diagram where about the paint stick went in?

15 A The labia minora.

16 Q Okay. The labia minora?

17 A Yeah.

18 Q So if you take a line, it's in this area; is that  
19 right?

20 A Yes.

21 Q Okay. When Ms. McAmis was asking you questions about  
22 the chart, the chart with the stars or whatever stickers you  
23 got for good points or demerits --

24 A Yeah.

25 Q -- you said that nothing was changing about your

1 behaviors. What were your behaviors?

2 A We were eating too fast. We were eating too slow.  
3 We went to the bathroom too much. I was eating out of the  
4 garbage because she wouldn't feed us enough or, like, you know.  
5 What else did --

6 Q During that time period, were you going to the  
7 bathroom on yourselves?

8 A No. Wait. I don't even think we were -- we just  
9 kept asking her if we can go.

10 Q Okay.

11 A When we did this star chart, the chart things, no, I  
12 don't think we were. I don't think I was.

13 Q Now, was the star chart used as foster children --

14 A Adopted.

15 Q -- adopted or both?

16 A It was just foster.

17 Q Okay. And you said that you and your sisters would  
18 lie? What would you lie about?

19 Are you okay?

20 A Huh?

21 Q Are you okay?

22 A Yeah. Like, if she asked us if we had peed on  
23 ourself or we had to go to the bathroom, we were too scared to  
24 tell the truth. So we would say no. We would just lie about,  
25 like, the obvious. Like, if we were falling asleep, it was,

1 like, were you just trying to fall asleep? Then we would say  
2 no, or what else did we lie about? Yeah, mainly those things.  
3 If we peed on ourselves, like, did you pee on yourself. We  
4 would say no even though, I mean, it was obvious that we just  
5 peed on ourself.

6 Q And why would you lie?

7 A Because we were too scared to tell the truth. Like,  
8 we didn't know what was going to happen.

9 Q Now, I think we all have heard you. You spoke to  
10 Florida CPS; right?

11 A Uh-huh. Yes.

12 Q And then you spoke to Nevada CPS?

13 A Yes.

14 Q And then you testified at a preliminary hearing?

15 A Yes.

16 Q And then you're testifying here today.

17 A Yes.

18 Q As we sit here today, have you told us everything  
19 that ever happened to you in that house when you lived there?

20 A No. No, not at all.

21 Q At what point did you guys start get -- stop, at what  
22 point did you stop getting the towels if you know?

23 A In the shower or the bed?

24 Q That's a good question. I meant after the showers.

25 A Probably when we started, like, going -- we probably,

1 like -- what time did we -- in the second house we still -- we  
2 were using the shower -- I mean, the towels for a little bit.

3 Q Okay.

4 A Then she stopped. It was, like, on and off, but it  
5 wasn't, like, the towels were not very frequent if that's the  
6 word.

7 Q So if you say frequent, it means you got them a lot.

8 A Oh, frequent, my bad. What's the opposite?

9 THE COURT: What did you think frequent meant?

10 THE WITNESS: I thought it meant very, like, often.  
11 Like it was like --

12 THE COURT: That is what it means.

13 BY MS. BLUTH:

14 Q So often means it happened often. It happened a lot.

15 A Often -- see, my definitions are getting confused  
16 now. Okay. So I'm going to just -- it didn't happen very --  
17 it happened a lot. There you go.

18 Q Okay. How many times did you sleep outside?

19 A Only once.

20 Q When you drew that picture -- and I can get it if you  
21 want me to. When you drew the picture during your interview of  
22 everybody's beds, on Ava's bed, did you draw the picture of the  
23 alarm?

24 A Yeah. It was the board. I put three little, like,  
25 it was almost like a [unintelligible], but it's, like, I put



1 three little -- it was about this big and, like, maybe this  
2 wide or maybe this. Yeah, like, about -- I put three of them,  
3 and then on the side -- actually I'm pretty sure I drew the  
4 little square. It was, like, yeah.

5 Q Okay. Mr. Hamner is going to get it for us in a  
6 second.

7 A Okay.

8 Q Now, did you ever hear Janet say why Ava got the  
9 alarm on her bed, or did you know why Ava got an alarm on her  
10 bed?

11 A I think she said because Ava kept moving around too  
12 much at night.

13 Q All right. I'm showing you State's 124, and the  
14 middle one was Ava's bed; is that right?

15 A Yeah.

16 Q Okay. And can you show me where you drew the alarm  
17 on it.

18 A It's a little sloppy, but it's, like, right here.

19 Q Okay. Now, I want to ask you a couple of questions  
20 about your testimony at the preliminary hearing; okay?

21 A Okay.

22 Q So when you testified at the preliminary hearing --  
23 at any point if you don't remember, just let me know, and I'll  
24 approach with your transcript; okay?

25 A Okay.

1 Q Okay. At your preliminary hearing, do you remember  
2 how many times you said that Ms. Janet put the catheter in your  
3 private in the -- in a bedroom?

4 A I said once.

5 Q Okay. And do you remember how many times you said  
6 that she put the catheter in you, in your private in the  
7 bathroom?

8 A I'm pretty sure I said four or five times but  
9 together -- well, okay. I'm going to stick to that question.

10 Q Okay. So do you remember how many times you said in  
11 the bathroom, whether it was once or more than once?

12 A I said -- I should have said more than once, but it  
13 did happen once because technically it did happen once, but --

14 Q Okay.

15 A -- she didn't ask more than once. She just said, Did  
16 it happen once?

17 Q Okay. So I'm just going to --

18 MS. BLUTH: Page 167, Counsel.

19 BY MS. BLUTH:

20 Q I'm just going to ask you, if you don't mind, please,  
21 to read 22 through -- yeah, page 22 through 25. Just read it  
22 to yourself, and then I'll ask you.

23 And does that help refresh your recollection?

24 A Yes.

25 Q And what did you say at the preliminary hearing about

1 how many times Ms. Janet had put the catheter in your private  
2 in the bathroom?

3 A More than one time.

4 Q Okay. And then do you remember how many times you  
5 testified at the preliminary hearing and how many -- how many  
6 times Ms. Janet put the catheter in your private in the loft?

7 A More than one time.

8 MS. BLUTH: Okay. Page 214, Counsel.

9 Just one second, Anastasia, because I wrote down the  
10 wrong number.

11 Okay. So I'm going to go back to that in one second.

12 BY MS. BLUTH:

13 Q Okay. Now, when she would -- when Ms. Janet would  
14 get ready to put the catheter into your private, did she have  
15 to do anything either to the catheter or to you before she did  
16 it?

17 A She cleaned -- she wiped the needle or whatever it  
18 was, and she wiped my vagina before she put it in.

19 Q And what would she wipe the needle and your vagina  
20 with?

21 A I don't know. Like, a -- it looked like a baby wipe  
22 to me.

23 Q Okay. Do you know where she got the little baby  
24 wipe? I mean, it looked like a baby wipe, but --

25 A Yeah, I don't -- I'm not for sure it was a baby wipe.

1 Q Okay.

2 A But so I -- yeah, I don't know. Sorry. My bad. I  
3 got distracted. What were you saying?

4 Q I was just saying, like, did you see where the thing  
5 that looked like a baby wipe came from?

6 A No.

7 Q Okay. And you said that it felt like a needle?

8 A Yeah.

9 Q But did you see a needle, or that's just what it felt  
10 like?

11 A That's what it felt like.

12 Q Okay. Now, Ms. McAmis had asked you some questions  
13 about when you testified before if you asked to go to the  
14 bathroom --

15 All right. Sorry about that. Mr. Hamner needed to  
16 help me with something because I couldn't read my own writing.

17 MS. BLUTH: All right. 168 in regards to the  
18 catheter question that I was asking before about the loft.

19 BY MS. BLUTH:

20 Q Could you read right here, 19 to 21, line 19 to 21.

21 A [Witness complies.]

22 Q And how many times did you say at the preliminary  
23 hearing that Ms. Janet stuck the catheter in your private, in  
24 the loft?

25 A About four times.

1           Q     Okay.  Now, Ms. McAmis had asked you some questions  
2 about, you know, wasn't it true at the preliminary hearing you  
3 said that when you were asked -- when you asked to go to the  
4 bathroom, you were allowed to go.  Do you remember those  
5 questions?

6           A     Yeah.

7           Q     And do you remember when the defense asked you that  
8 kind of same question, like when you were asked to go to the  
9 bathroom, did you feel like you could go?  Do you remember what  
10 your answer was to that?

11          A     Who is the defense?

12          Q     The attorney at the preliminary hearing who was --

13          A     Oh, okay.

14          Q     Yeah.  They asked you, And so when you would pee and  
15 poop yourself, that was because you didn't ask; correct?

16          A     Yeah.

17          Q     And do you remember what your answer was?

18          A     Yeah.

19          Q     What was it?

20          A     Yeah.  It was, yes, because I didn't ask.

21          Q     Okay.  And do you remember how you explained it when  
22 you said because --

23          A     I was too scared to ask to go to the bathroom because  
24 every single time I were to ask to go to the bathroom she would  
25 get mad, and she would hit us.

1 Q Okay. And did you also say, It was because I asked,  
2 and then she --

3 A She said, no. She said, Wait for the timer to get  
4 up, to get over with, and then you can go.

5 Q Okay. And so I'm going to read what you said, okay,  
6 and then you tell me if it's right; okay?

7 A Okay.

8 MS. MCAMIS: I'm so sorry. Page number.

9 MS. BLUTH: Sorry, Caitlyn. 97.

10 BY MS. BLUTH:

11 Q It was because I asked, and then she -- she -- at  
12 first I asked, and she didn't answer. So then I asked again,  
13 and she didn't answer. So then I asked again, and then I said  
14 I have to go to the bathroom really bad. So then I went, and  
15 then she -- I was holding it. So I don't know. Is that right?

16 A I'm sorry. I wasn't making sense, but, yes.

17 Q And Ms. McAmis asked you if you had said -- if you  
18 had said anything in your voluntary statement about Ms. Janet  
19 making you hold it all night. Do you remember when Ms. McAmis  
20 asked you that?

21 A Yeah.

22 Q Okay. And isn't it true that when you were --

23 MS. BLUTH: Page 4, Counsel.

24 BY MS. BLUTH:

25 Q -- when you were speaking to CPS in Nevada, starting

1 on 3, you said.

2 But at Ms. -- I mean, at our adopted  
3 parents' home, they will, like, make us hold  
4 it, and make us hold it, and make us hold it,  
5 and, like, sometimes me, Ava or Amaya will  
6 say, Mom, we have to go really badly, but,  
7 like, I can't hold it anymore, and then she  
8 will say, well, you're going to hold it until  
9 the time's up. She'll make us hold it all  
10 night. Like, sometimes when she makes us  
11 drink, like, a lot of drinks because we drink  
12 our food so we -- by the time it's bedtime,  
13 she'll put, she, she, she -- Ava and Amaya  
14 think that she's doing it on purpose.

15 So when you spoke to CPS in Nevada, you did tell them  
16 that she would make you hold it all night?

17 A Yeah.

18 Q Ms. McAmis also asked you, wasn't it true that when  
19 you spoke to CPS here in Nevada you never told them that she  
20 would withhold water from you. Do you remember her asking  
21 that?

22 A Yeah.

23 Q But isn't it true when you spoke to CPS you stated to  
24 them, page 37, and, like, We're so thirsty, to the point we  
25 would rather get freezing cold water because we're thirsty,

1 especially in the summer. She will never let us to drink  
2 water. So we're thirsty really bad. So we want to take a --  
3 we want to take a cold shower.

4 MS. MCAMIS: Well, that misstates my question.

5 MS. BLUTH: My understanding of the question was she  
6 stated to Anastasia that Anastasia had never said that water  
7 was withheld from her.

8 THE COURT: I'm not sure what the question -- I don't  
9 remember correctly. So you can clean it upon recross.

10 BY MS. BLUTH:

11 Q Okay. And then isn't it -- my understanding of the  
12 next question that Ms. McAmis stated to you is that you had  
13 never told anybody that you actually snuck water?

14 A Yeah. I'm pretty sure that's exactly --

15 MS. MCAMIS: No, that misstates my question again.

16 THE WITNESS: -- what she said.

17 MS. BLUTH: That's just my understanding.

18 THE COURT: Counsel approach.

19 (Conference at the bench not recorded)

20 BY MS. BLUTH:

21 Q In regards to withholding -- sorry, in regards to  
22 sneaking water, isn't it true that when you talked to CPS in  
23 Nevada you did tell them that you had snuck water in the shower  
24 or when you brush your teeth?

25 A Yeah.



1 Q Do you want to see it or --

2 A I should have told them. I think I did tell them,  
3 but --

4 Q Okay. And I'm just going to let you read it on  
5 page 37. This is your statement to CPS, and just read this  
6 paragraph right here which would be page 37, lines 20 through  
7 25 -- or 20 through 24.

8 A Okay.

9 Q And did you talk to the interviewer at CPS about  
10 that?

11 A Yeah.

12 Q And what did you tell them?

13 A I said to drink water we would sneak it by brushing  
14 our -- when we would brush our teeth, or we would take a  
15 shower.

16 Q Okay.

17 A Or when we would take a shower.

18 Q Okay. You were asked some questions about statements  
19 you had made in both your prelim statement and when you talked  
20 to the CPS investigators, that you told them that Ms. Janet  
21 would make you eat cow parts and, like, either dead mice or  
22 dead rats; is that right?

23 A Yeah.

24 Q Now, why did you believe that that's what you were  
25 eating?

1           A     Because I was a kid, and, you know, I was just a  
2 clueless little fellow then, and I just believed anything that  
3 I heard.

4           Q     Okay. But who told you that?

5           A     Oh, Janet.

6           Q     Okay. As you sit here today, do you think you were  
7 eating cow privates and rats?

8           A     No. No, I do not. I hope not.

9           Q     Okay. Now, I want to ask you some questions about  
10 when you got burned; okay?

11          A     Okay.

12          Q     Now, did you ever say that that had happened in the  
13 shower?

14          A     No. The only time I brought it up was in -- the only  
15 time I brought up the shower was when she was on the phone  
16 while I was in the shower while I was supposed to be taking a  
17 shower, and then she thought she burned me in the shower. She  
18 thought she accidentally turned the water on too hot, and I  
19 didn't want to tell her, oh, no, you burned me last night -- or  
20 not last night. You burned me earlier this morning while I was  
21 trying to wash my hands. I didn't want to tell her that. So I  
22 just agreed with her, and I said, yeah, the water was too hot.

23          Q     Okay. But when you got -- so you've never said in  
24 any court documents or any interviews that you got burned in  
25 the shower?

1           A     No, I don't think so.

2           Q     Okay. And did you ever say -- when you said you were  
3 cleaning up the dog bathroom, what did you mean by that?

4           A     The dog poop.

5           Q     So did you ever say you were cleaning up the  
6 bathroom?

7           A     No. Even if I did, it was probably, like, I missed  
8 the dog, dog.

9           Q     Okay. And then in regards to the candle lid, was  
10 that all, Ms. Janet grabbing the lid to the candle and filling  
11 it with water, was that at the same time with your hands?

12          A     Yeah, that was the same moment.

13          Q     Okay. And did you testify to that at the preliminary  
14 hearing as well?

15          A     Yeah.

16          Q     And in regards to when you were asked some questions  
17 about having to stand in the bags, at the preliminary hearing,  
18 when you were talking about standing in the bags, when that was  
19 going on, did you discuss at the preliminary hearing how long  
20 you would have to stand in the bags?

21          A     I don't think I did.

22          Q     Okay. I'm approaching with page 140. Page 140,  
23 lines 5 and 6.

24          A     Okay.

25          Q     Okay. And does that --

1           A     Yeah.  Okay.

2           Q     Okay.  And what did you say?

3           A     I said I was standing in it all day.

4           Q     Okay.  And did you testify whether or not your  
5 clothes were on or off when you were standing in the bags?

6           A     Yeah.  Yeah.

7           Q     And what were they?

8           A     I said they were on and sometimes they were off.

9           Q     Okay.  And when they were off or when they were on,  
10 would you go to the bathroom on yourself?

11          A     Yes.

12          Q     When you would talk about, I would get in a fight  
13 with Amaya, or I would get in a fight with Ava, what does the  
14 word fight mean to you?

15          A     I keep using the word fight when I was -- the first  
16 time -- when I said fight, I meant, like, argument.  It wasn't,  
17 like, a physical fight.  It was, like, a argument which was,  
18 like, me and her, like, disagreeing on something.

19          Q     Okay.  Now, when you said -- I apologize because I  
20 can't remember if it was your -- I think it was your voluntary  
21 statement.  When you said that you went years without food or  
22 water, was that an accident?  Were you lying?

23          A     That was an accident.  I don't know what I was saying  
24 that day, but, no, that's, years, no.  No.  Maybe a couple of  
25 days, but not no years.

1 Q Okay. And then was there a point in your statement  
2 to CPS where you showed several marks on your body where you  
3 had scars?

4 A Yeah.

5 Q And during that, did you show that one of the scars  
6 was from Danielle?

7 A Yeah.

8 Q And did you talk about there being scars on your  
9 bottom or, like, upper legs?

10 A From Janet or --

11 Q Yes.

12 A Yeah, I talked about it.

13 Q So I guess what I'm saying is you pointed out scars  
14 for both --

15 A -- not my butt, but I was, like, on my elbow, yeah.  
16 I ain't pointing out on my butt.

17 Q But did you tell them that you had marks on your butt  
18 from your mom?

19 A Yes. That's not my mom.

20 Q Well, I mean, in the --

21 A Yes.

22 Q In the statement, they refer to her as your mom.

23 A Yeah.

24 Q Okay. I'm almost done. Just one second, Anastasia.  
25 And when you spoke to -- when you spoke in your

1 voluntary statement, when you spoke to CPS -- Nevada CPS and  
2 you talked about having to get the cold showers, who did you  
3 tell them gave you the cold showers?

4 A Janet.

5 Q Okay. At preliminary hearing, who did you say gave  
6 you the cold showers?

7 A Janet.

8 MS. BLUTH: That concludes my direct, Your Honor.

9 THE COURT: All right. Any recross?

10 MS. MCAMIS: Yes.

11 THE WITNESS: Oh, my God, I have to pee so bad.  
12 Okay.

13 RECCROSS-EXAMINATION

14 BY MS. MCAMIS:

15 Q Okay. I have a few questions. So Ms. Bluth just  
16 asked you about you testified at preliminary hearing and also  
17 gave your statement to CPS in March about cold showers. Isn't  
18 it true you also said to Nevada CPS in March of 2014 that you  
19 had to take boiling showers?

20 A No, I don't remember that, but, no.

21 Q Okay. You don't remember that?

22 A No.

23 Q All right. Give me just a minute, please. While I  
24 look for that, what year did you say the catheter first went in  
25 you?

1           A     The year, I don't know the year.

2           Q     Okay. You don't know the year. Now, you talked  
3 about Janet using a baby wipe before the catheter went in you?

4           A     I said I think it was a baby wipe.

5           Q     Okay. But you remember some sort of cleansing wipe?

6           A     Yeah.

7           Q     Is that fair to say?

8           A     Yeah.

9           Q     Or let's call it a cleansing wipe.

10          A     Yeah.

11          Q     So Janet put the catheter in you, like a nurse?

12          A     Yeah.

13          Q     Okay. What would you say your best subject in school  
14 is?

15                MS. BLUTH: Objection. Relevance and outside the  
16 scope.

17                THE COURT: Overruled.

18 BY MS. MCAMIS:

19          Q     Oh, that means you can answer the question.

20          A     Oh, okay. My best subject. Can that be my elective  
21 too or just, like --

22          Q     Sure.

23          A     Okay.

24          Q     I mean, let's be real. My best subjects were  
25 electives. So --

1           A     Mine is drama.

2           Q     Oh, okay. All right. So and remember that question  
3 that I asked about the showers and if you said they were  
4 boiling?

5           A     Yeah.

6           MS. MCAMIS: Okay. Page 31 of the voluntary.

7           MS. BLUTH: Thank you.

8 BY MS. MCAMIS:

9           Q     If I could have you look about lines 18, if you could  
10 read just this section to yourself and look up when you're  
11 done.

12          A     This one right here?

13          Q     Yes.

14          A     All right.

15          Q     Okay. Did that refresh your memory about what you  
16 said?

17          A     Yes.

18          Q     Isn't it true you also said, Well, she'll make me  
19 have -- like, she'll make -- like, she'll know that if I get a  
20 boiling -- boiling hot shower I'll burn myself -- excuse me,  
21 myself because I have a burn on my back, like. Is that true?  
22 I read that right?

23          A     Yes.

24          MS. MCAMIS: Okay. Court's indulgence.

25          I have no further questions for you.



1 THE WITNESS: Okay.

2 THE COURT: Anything else, Ms. Bluth?

3 MS. BLUTH: I know you have to go to the bathroom.

4 Just one second.

5 THE WITNESS: Okay.

6 FURTHER REDIRECT EXAMINATION

7 BY MS. BLUTH:

8 Q Okay. But on the rest of that page, did you discuss  
9 how you got the burn on your back?

10 A Yes.

11 Q And do you want me to approach with it?

12 A No. I read it.

13 Q Okay. And so the rest of that page --

14 A Yes.

15 Q -- do you talk about the dog poop?

16 A Yes.

17 Q And you talk about getting burned in the sink?

18 A Yes.

19 Q You've really got to go?

20 A Yes.

21 THE COURT: Are you done?

22 MS. BLUTH: Yeah, I'm done.

23 THE COURT: All right.

24 MS. MCAMIS: And just for the record, no recross or  
25 nothing else.

1           THE COURT: All right. Well, I don't know if there's  
2 juror questions.

3           Were there any juror questions?

4           All right. Ms. Bluth can take the witness to the  
5 rest room.

6           THE WITNESS: Okay.

7           THE COURT: And in the meantime, Mr. Hamner and  
8 defense counsel can approach the bench.

9           (Conference at the bench not recorded)

10          THE COURT: All right. We have some juror questions  
11 up here, and I'm just going to ask these in no particular  
12 order. A juror asks, If Janet bought gloves to pick up the dog  
13 poop, why didn't you use them?

14          THE WITNESS: Do I have to face them or you?

15          THE COURT: Just make sure you speak loudly.

16          THE WITNESS: Okay. Because we did use them, but  
17 then for our punishment she wanted to make it worse by, like,  
18 not letting us use the gloves. So, yeah.

19          THE COURT: All right. So sometimes you used the --  
20 originally you used the gloves, but then --

21          THE WITNESS: Yeah.

22          THE COURT: -- sometimes you didn't use the gloves?

23          THE WITNESS: Yeah.

24          THE COURT: Okay. Were rules in the house  
25 consistent, or did the rules in the house change constantly?

1 THE WITNESS: It depends on who was home. If Janet  
2 was home, then it was, like, it was consistent, and then if  
3 Dwight was home, he was a little bit more, like, easy on us.

4 THE COURT: All right. If rules were changed, were  
5 you made aware that there were new rules before they were  
6 broken?

7 THE WITNESS: No.

8 THE COURT: When you talked with CPS in March  
9 of 2014, did you know for certain that you would never have to  
10 go back to live with the Solanders, or did you think you might  
11 have to go back to live with the Solanders?

12 THE WITNESS: No. I'm actually not sure. I don't  
13 think I -- I wasn't thinking about if I was going to go back.  
14 No. I don't remember.

15 THE COURT: Okay. At what point in time did you  
16 realize you no longer had to live with the Solanders?

17 THE WITNESS: When I was at Child Haven and  
18 Ms. Yvette and Ms. Nicole were talking to me about not going  
19 back.

20 THE COURT: Okay. Was that before or after the  
21 preliminary hearing in this case?

22 THE WITNESS: Before.

23 THE COURT: When you were questioned about drying off  
24 with fans, a quote was read from your CPS interview, and the  
25 quote was, Who knew she was making you dry with the fan? That

1 was the question, and you said Danielle and Dwight. Who is the  
2 she in the quote?

3 THE WITNESS: Okay, I'm sorry. I didn't hear you.

4 THE COURT: The question is who made you dry off with  
5 the fan?

6 THE WITNESS: Oh, Janet.

7 THE COURT: All right. On the trip when you went to  
8 Disney World and got to eat normal food, how long was that  
9 trip?

10 THE WITNESS: Probably, like, a week, but the normal  
11 food, it was, but we had a timer, and if we didn't make it by  
12 that time, she would throw it all away, or if we were eating  
13 too fast, eating too slow, she would throw it all away. So it  
14 wasn't, like, we get to eat, like, the whole thing by  
15 ourselves.

16 THE COURT: Okay. And did all three of you, meaning  
17 you and your two sisters, all get to eat normal food?

18 THE WITNESS: Yeah.

19 THE COURT: Okay. Did the normal food hurt your  
20 stomach?

21 THE WITNESS: No.

22 THE COURT: When you got back from Disney World, did  
23 you continue to eat normal food, or did you go back to the  
24 blended food?

25 THE WITNESS: We went back to our regular schedule

1 and everything.

2 THE COURT: Okay. And are the boards used during  
3 homework time the same as the boards you slept on?

4 THE WITNESS: No. The boards that we slept on was,  
5 like, actual boards. The homework boards were, like, when,  
6 like, just, like, testing board so nobody could see what we're  
7 doing inside.

8 THE COURT: All right. Ms. Bluth, do you have any  
9 questions to follow up?

10 MS. BLUTH: Yes.

11 FOLLOW-UP EXAMINATION

12 BY MS. BLUTH:

13 Q I just want to make sure I understand. The question  
14 about when the quote was read to you on page 89 of your  
15 voluntary statement, the question was, Who knew that she was  
16 making you dry with the fan, and your answer was Danielle and  
17 our dad. You're saying that the "she" in that statement when  
18 you were speaking to CPS was Janet?

19 A Yeah.

20 Q Okay. And then can you explain to me what the board  
21 looks like.

22 A It was Elmer's -- it was the Elmer's board, and it  
23 was brown, and the inside was white, and it was, like, one of  
24 those poster boards. Like, when you open it, it had the, like,  
25 so you could do a project board, you know.

1 Q Okay. I'm showing you State's 129. Do you see that  
2 board in this picture?

3 A Yeah, right here.

4 Q Okay. Can you circle it?

5 A Yeah.

6 Q Is this what you're pointing at?

7 A Yes.

8 Q Brown on the outside, white on the inside?

9 A Yeah.

10 Q And that's what would -- could separate you while  
11 you're doing your homework?

12 A Yeah. And we would use that while we were eating  
13 too, or she would put cereal boxes so we couldn't see each  
14 other eat.

15 MS. BLUTH: Okay. Nothing further. Thank you.

16 THE COURT: Ms. McAmis.

17 FOLLOW-UP EXAMINATION

18 BY MS. MCAMIS:

19 Q Anastasia, you talked with your sisters between the  
20 time that you were in Florida and the time that you went to  
21 Child Haven in Las Vegas; right?

22 A Yeah.

23 Q Okay. You were all together?

24 A Yeah.

25 Q Okay. Did the State show you any of the pictures,

1 like the ones that you were shown today and yesterday? Did the  
2 State show you any pictures before you testified today in trial  
3 and yesterday in trial?

4 A No. I only saw one picture. That was of Amaya.

5 MS. MCAMIS: Okay. No further questions.

6 THE COURT: Anything else, Ms. Bluth?

7 MS. BLUTH: No, Your Honor.

8 THE COURT: Any additional juror questions for this  
9 witness?

10 All right. I see no additional questions.

11 Thank you for your testimony, and please don't  
12 discuss your testimony with any other witnesses in this case.  
13 Thank you, and you are excused. Just follow the bailiff from  
14 the courtroom.

15 And, ladies and gentlemen, let's just take a quick  
16 break, just about 10 minutes which will put us right around a  
17 little after 4:00 o'clock.

18 During the brief recess, you are all reminded that  
19 you're not to discuss the case or anything relating to the case  
20 with each other or with anyone else. You're not to read, watch  
21 or listen to any reports of or commentaries on the case, person  
22 or subject matter relating to the case. Do not do any  
23 independent research by way of the Internet or any other  
24 medium, and please don't form or express an opinion on the  
25 trial.

1           Please place your notepads in your chairs and follow  
2 the bailiff through the double doors.

3                       (Jury recessed 3:52 p.m.)

4                       (Colloquy regarding scheduling)

5           THE COURT: All right. Did you guys hear from the  
6 civil lawyer, Mr. -- whatever -- Tan?

7           MR. HAMNER: Let me just check my emails right now.

8           THE COURT: Run, Susie, run.

9           THE CLERK: She's recording right now.

10          MR. HAMNER: I have no e-mails from him, and I have  
11 no phone calls from him, but he very well could have e-mailed  
12 Ms. Bluth and not CCed me.

13          THE COURT: Okay.

14          MR. HAMNER: So we'll check when Ms. Bluth gets here.

15          THE COURT: Okay. 'Cause remember he was going to  
16 see if they were available for this afternoon.

17          MR. HAMNER: Right.

18          THE COURT: Or tomorrow, or I don't know, maybe he'll  
19 do some other thing. He might be getting --

20                       (Proceedings recessed 3:54 p.m. 4:00 p.m.)

21          THE COURT: Ms. Bluth, did you hear from that civil  
22 lawyer?

23          MS. BLUTH: I did. He sent me an email, and it said  
24 something about Dr. Mileti will be available to testify at  
25 10:30, and Dr. Stevens will be able to testify at 12:00 on her



1 lunch break. I can't find it right now, but I --

2 THE COURT: Okay. So they'll be tomorrow. I guess  
3 then we'll start at 9:00, and then when Dr. Mileti is  
4 available, we'll just take a break and we'll put her on.

5 MS. BLUTH: Right.

6 (Colloquy regarding scheduling)

7 MS. MCAMIS: Your Honor, we have one brief thing  
8 before we pull in Amaya as the witness.

9 THE COURT: Sure.

10 MS. MCAMIS: I know that Your Honor let us make a  
11 record on our objection about reopening, but specifically we  
12 have an objection as to Amaya being reopened because the  
13 defense was happy with the state of the testimony based on her  
14 first -- her first day in trial. You know, we would've --  
15 we're basically stuck in an untenable position of she's being  
16 sought to be reopened as to one question that highlights  
17 unfairly one element over any other.

18 So the defense is stuck in a position where if we  
19 recross, you know, we're recrossing based on just one question,  
20 and had it been asked on the direct, perhaps we would've done  
21 our cross-examination differently, and so now we're stuck in  
22 this awful position of we liked --

23 THE COURT: Well, what would you have done  
24 differently? I mean, you can cross her on the one question or  
25 even reopen cross.

1 MS. MCAMIS: Well, that has to be a strategic  
2 decision now, and that's --

3 THE COURT: Yeah, I'm just saying if you want to  
4 reopen cross, you can reopen cross. Since it was the State's  
5 mistake, I'm not going to limit your ability to reopen cross if  
6 you want to reopen cross.

7 MR. FIGLER: But will they get redirect?

8 THE COURT: Off your recross?

9 MR. FIGLER: Yeah.

10 MS. BLUTH: I mean, it depends on how far they go, I  
11 guess.

12 THE COURT: What do you -- I mean, what do you want  
13 to -- if you just -- what do you want to I guess -- assuming  
14 the State says, you know, was it consensual, she's going to  
15 say, no.

16 MS. MCAMIS: This is the defense's issue is she's  
17 going to ask one question. It highlights the one element, and  
18 now we have to make a strategic decision about whether or not  
19 we're going to reopen cross, and this is a really important  
20 question because it goes to her credibility surrounding all of  
21 her testimony about the catheter issue, and so this singling it  
22 out this way.

23 THE COURT: Well, if all they ask is did you consent  
24 to her putting the catheter in your vagina, which is what she  
25 said, and she says, no.

1 MS. MCAMIS: Right. But calling her out of order  
2 this way and highlighting that element and highlighting that  
3 question, it goes to --

4 THE COURT: I don't really think it really highlights  
5 anything.

6 MS. MCAMIS: It does.

7 MS. BLUTH: How? I mean --

8 THE COURT: I mean, I don't really think -- if that's  
9 all Ms. Bluth asks her, I don't think it really highlights  
10 anything. To me, I think it's already pretty clear from the  
11 testimony that she didn't consent to it.

12 MS. BLUTH: I do too, but, I mean, I have to be able  
13 to, you know, argue. If the defense gets up and says that, I  
14 guess -- I don't guess. I need to be able to say well, you  
15 know, we don't need to just infer from her actions. We have to  
16 be able -- she clearly said she didn't want the catheter, and,  
17 I mean, there are several instances where people have to, you  
18 know, be called in to ask a few questions. I don't understand  
19 any prejudice. I don't think it's shedding any light to it.  
20 I'm not going to say how did you feel about it? Tell me your  
21 emotional state. Did you ever want the catheter in you? On  
22 the two times you testified --

23 THE COURT: Well, what are you going to ask her? Did  
24 you consent to Janet putting the catheter --

25 MS. BLUTH: I'm not going to use the word consent.

1 I'm just going to say when the catheter --

2 THE COURT: Say what your question is going to be.

3 MS. BLUTH: When Ms. Janet put the catheter in your  
4 private, did you want her to do that?

5 THE COURT: And then she's going to say, no, and  
6 that's it.

7 MS. BLUTH: I mean, I didn't go tell her --

8 THE COURT: Did you tell her ahead of time --

9 MS. BLUTH: No.

10 THE COURT: -- why she was being recalled?

11 MS. BLUTH: No. I told Debbie because Debbie was,  
12 like, why in the heck, and I said, well, it's a legal aspect  
13 of, you know, consent, but I didn't tell -- I haven't told  
14 Amaya what she's testifying about. I just told her it would be  
15 one question.

16 THE COURT: Hopefully Debbie McClain didn't tell her.  
17 I would just -- this is neither here nor there, but it did seem  
18 that the testimony of Anastasia was a little bit changed to  
19 account for where the catheter would be inserted.

20 MR. FIGLER: Thank you, Your Honor. Yes.

21 MS. BLUTH: Judge, I --

22 THE COURT: But I'm not saying you did anything, of  
23 course. I don't know if -- I just hope Debbie or somebody else  
24 didn't say something.

25 MS. BLUTH: Well, Debbie hasn't been in here when

1 anybody has testified.

2 THE COURT: Right.

3 MS. BLUTH: And I don't go telling people --

4 THE COURT: No, no. But the kid -- I mean, look, I  
5 tell them don't discuss your testimony with anybody, but it's a  
6 kid, and so she still may say, oh, I said this or whatever.

7 MS. BLUTH: Right. They have absolutely no contact  
8 with Ava right now. They're not allowed any type of contact.  
9 I made the mistake of letting Ava call to say hi the other day  
10 because I didn't know there was a contact rule, but I was in  
11 the office the entire time. Not one word was said about the  
12 testimony. The only --

13 THE COURT: All I'm saying -- I'm not saying you did  
14 anything. All I'm saying is she did change her testimony to  
15 account for where you would insert a catheter in order to pick  
16 up the urine.

17 MS. BLUTH: She didn't change her testimony. She was  
18 never asked that before.

19 THE COURT: Yeah, she --

20 MS. BLUTH: No, she wasn't. She was never shown a  
21 part of the vagina and said -- kids don't say -- kids don't  
22 know that the actual hole is the vagina. When you say your  
23 private, they think the whole thing is the vagina, and I don't  
24 want to --

25 THE COURT: Well, the record will speak for itself.

1 MS. BLUTH: But I don't want to sound negative  
2 towards the other two, but Anastasia is by far the most verbal  
3 and the most intelligent out of the three, and I think that  
4 comes across --

5 THE COURT: I actually thought Amaya was the most  
6 verbal out of the three, but --

7 MS. MCAMIS: Well, Your Honor --

8 MS. BLUTH: Believe me.

9 THE COURT: Clearly the oldest girl had the most  
10 difficulty for whatever reason, whether it's cognitive or  
11 emotional --

12 MS. BLUTH: Emotional.

13 THE COURT: -- or whatever. She clearly had the most  
14 difficulty of the three girls.

15 MS. MCAMIS: Your Honor -- sorry.

16 THE COURT: Go ahead.

17 MS. MCAMIS: And just for the record, when Anastasia  
18 testified the first time, she had the paint stick going above  
19 where the catheter was inserted, and then today it was flip  
20 testimony. It was the reverse. So Your Honor pointed out  
21 accurately that there was a difference in the testimony.

22 MS. BLUTH: No, she didn't.

23 THE COURT: Yeah. It seemed different to me from  
24 what I remember. Look, my memory is not infallible by any  
25 means, and it's possible I'm confusing her with another girl,

1 but, to me, it was inconsistent with how she had testified  
2 previously, and it explains correctly where you would need to  
3 insert a catheter in order to obtain urine, and all I'm saying  
4 is I just hope that she didn't discuss her testimony with  
5 somebody else, not, of course, you or Mr. Hamner or anybody in  
6 your office who would've said something. I don't know.

7 MS. BLUTH: Yeah.

8 THE COURT: Or maybe she just, I don't know, maybe  
9 she just kind of figured it out herself or whatever.

10 MS. BLUTH: No. Judge, you can ask Mr. Hamner  
11 because while --

12 THE COURT: I don't think either of you two did  
13 anything.

14 MR. HAMNER: No. What I'm saying is that --

15 MS. BLUTH: No, I know, but the inference that she  
16 went and talked to her sister is not true because, and you can  
17 ask Debbie, they're in a fight, and they haven't spoken for  
18 three days to one another.

19 MR. HAMNER: Her testimony with respect to the  
20 catheters was she circled the urethra both times. That child  
21 circled the urethra.

22 MS. BLUTH: Yes, she did.

23 MR. HAMNER: And so did Amaya, and with respect to  
24 Anastasia, there actually was a whole comment I believe on the  
25 record at the end of the day to confirm that she would confirm

1 yes, I watched that child circle the urethra because she was --

2 THE COURT: No, she didn't. I thought she pointed to  
3 the vagina, and there was all the big deal made that, oh, she's  
4 pointing to the vagina. It makes me wish that we didn't use  
5 the stupid monitor that doesn't record what's being done and  
6 just did it the old-fashioned way and gave her a red pen and  
7 made her circle it on the thing.

8 Look, that's why we try to contemporaneously say what  
9 we're observing. It would have been done on this case. So the  
10 record is what the record is. Whatever she was pointing to we  
11 put on the record at the time she was pointing to it.

12 MS. BLUTH: Right.

13 THE COURT: So it'll be in the record, and what we're  
14 all remembering --

15 MS. BLUTH: Right. And that --

16 THE COURT: -- look, one of us or two of us or  
17 whatever is remembering this incorrectly apparently. So the  
18 record is what the record is. We don't need to rely on our  
19 memories. It's going to be in the record. So let's move on.

20 Ms. -- I almost called you Ms. McGill. Ms. McAmis,  
21 I'm going to let Ms. Bluth recall the witness over your  
22 objection just to ask that one question. Then, you know, if  
23 you want to reopen cross, you can do that. That's up to you.  
24 So that's, you know, that's your tactical decision to make.

25 So, Kenny, bring them in.



1 We're going to have to make another court's exhibit.

2 MR. FIGLER: For Amaya.

3 (Jury entering 4:11 p.m.)

4 THE COURT: All right. Court is now back in session.

5 Ms. Bluth.

6 MS. BLUTH: Amaya McClain.

7 THE COURT: And, ladies and gentlemen, the State has  
8 asked to recall a witness that you've already heard from to  
9 reopen direct examination.

10 And just remain standing and face the clerk.

11 **AMAYA MCCLAIN**

12 [having been called as a witness and being first duly sworn,  
13 testified as follows:]

14 THE CLERK: Thank you. Please have a seat. State  
15 and spell your name again for us.

16 THE WITNESS: My name is Amaya McClain. A-m-a-y-a,  
17 M-c-C-l-a-i-n.

18 THE COURT: All right. Thank you.

19 Ms. Bluth.

20 DIRECT EXAMINATION

21 BY MS. BLUTH:

22 Q Amaya, when you testified yesterday or the day  
23 before -- I can't remember. I apologize -- and you talked  
24 about Janet putting the catheter in your private, did you want  
25 that to happen?

1 A No. I just wanted to go to the bathroom.

2 Q You did not want her to have --

3 A No.

4 Q -- the catheter inside you?

5 A No. I don't want nothing going inside of me.

6 MS. BLUTH: Okay. Nothing further, Judge.

7 THE COURT: Any cross based on that question or any  
8 other cross?

9 MS. MCAMIS: Yes.

10 CROSS-EXAMINATION

11 BY MS. MCAMIS:

12 Q Amaya, did you know what question you were going to  
13 be asked before you testified today?

14 A I just know one of you guys had to ask me another  
15 question.

16 Q Ms. Debbie didn't tell you anything about what  
17 question you would be asked today?

18 A No. She just said, You have to go back to court for  
19 something. I said, Okay.

20 Q Okay. So you were asked specifically about the  
21 catheter.

22 A Yeah.

23 Q Now, you never said anything about catheters to  
24 Florida CPS; right?

25 A Yeah.

1           Q     And you never said anything about catheters to Nevada  
2 CPS in March of 2014; right?

3           A     Well, like, when they would ask me eventually, like,  
4 oh, yeah, we had catheters, like, because, like, I just felt  
5 like she was trying to help us with our health problems that we  
6 had, like peeing a lot. I don't know, like --

7           Q     Okay. But my question was you never said anything to  
8 Nevada CPS in March of 2014; right? About catheters  
9 specifically?

10          A     It was so long ago. I brought it up once I'm pretty  
11 sure I did, yeah.

12               MS. MCAMIS: Okay. All right. No further questions.

13               MS. BLUTH: Nothing further. Thank you.

14               MR. FIGLER: Well, can we approach just for a second.

15               (Conference at the bench not recorded)

16               THE COURT: Thank you. You are excused at this time.  
17 Do not discuss your testimony with any other witnesses in this  
18 case, and please follow the bailiff from the courtroom.

19               MS. BLUTH: Did you ask us who our next witness is?

20               THE COURT: No. Because you're going to state your  
21 stipulation on the record.

22               MS. BLUTH: Correct.

23               MS. MCAMIS: Right. There's a stipulation between  
24 the State and the defense that Amaya McClain did not say any or  
25 she made -- she made no statement about any catheters in the

1 March 2014 Nevada CPS interview.

2 THE COURT: Is that correct? Is the State  
3 stipulating to that?

4 MS. BLUTH: Yes.

5 THE COURT: All right.

6 MS. BLUTH: So now we call Debbie McClain.

7 THE COURT: All right. And I believe we were still  
8 on direct with Debbie McClain; is that correct?

9 MS. BLUTH: We were. And then while Ms. McClain is  
10 walking in, if me and Ms. McAmis could approach for one second  
11 or Mr. Figler.

12 MR. FIGLER: I'll do it, Caitlyn.

13 MS. MCAMIS: Okay.

14 (Conference at the bench not recorded)

15 THE COURT: Face that lady right there.

16 **DEBORAH MCCLAIN**

17 [having been called as a witness and being first duly sworn,  
18 testified as follows:]

19 THE CLERK: Thank you. Please have a seat. State  
20 and spell your first and last name for the record.

21 THE WITNESS: Deborah. D-e-b-o-r-a-h. McClain,  
22 M-c-C-l-a-i-n.

23 THE COURT: All right. Thank you. And I believe  
24 whatever day that was we interrupted your testimony, Ms. Bluth  
25 I think it was, was in the middle of her direct examination.

1 Is that right, Ms. Bluth?

2 MS. BLUTH: That's correct, Your Honor.

3 THE COURT: And we had admitted an exhibit, and are  
4 you asking for permission to publish it?

5 MS. BLUTH: I am. Correct, Your Honor. And that  
6 would be State's 244.

7 And then just so you know, Your Honor, this will just  
8 be a video. There won't be any audio accompanying the video.

9 THE COURT: All right.

10 MS. BLUTH: Just one second while it's loading,  
11 Debbie.

12 CONTINUED DIRECT EXAMINATION

13 BY MS. BLUTH:

14 Q So what are we watching right now?

15 A Are you asking me?

16 Q Yeah.

17 A Oh, you're looking at --

18 THE COURT: Is that you?

19 THE WITNESS: Yes, that's me. And I was talking to  
20 Dave Courvoisier about the girls, and he were playing with them  
21 at the park.

22 BY MS. BLUTH:

23 Q Who's that in the pink?

24 A That's Jocelyn -- Ava.

25 Q Okay. And then there's Ava in the pink.

1 A Right.

2 Q Who is in the monkey bars now going across?

3 A That's Jaqueline. That's Jaqueline.

4 Q Is that Amaya?

5 A Yeah, Amaya. Yes. Okay. Let me -- that's Amaya.

6 Q Okay.

7 A Yeah, that's Amaya.

8 Q And who is that?

9 A That's Anastasia.

10 Q And then you told us last time you were here. Could  
11 you just explain to us what Wednesday's Child was.

12 A It's for kids that need to be adopted, that they run  
13 on Wednesdays, kids that's been in the system in foster care  
14 for a period of time, and then they -- the parents lose their  
15 rights to the kids, and they end up going up for adoption. So  
16 Wednesday kids is a feature that they have for kids that's  
17 going up for adoption.

18 Q And that was shown on the news; correct?

19 A Yes.

20 MS. BLUTH: That concludes my direct examination,  
21 Your Honor. I'll pass the witness.

22 THE COURT: All right. Cross.

23 MR. FIGLER: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 / / /

1 BY MR. FIGLER:

2 Q Good afternoon, ma'am.

3 A Hi.

4 Q How are you?

5 A Fine.

6 Q Good. I've heard you referred to as Ms. McClain and  
7 Ms. Debbie. Which do you prefer me to use?

8 A Debbie.

9 Q All right. Can I call you Ms. Debbie? It makes it  
10 easier for me.

11 A Yes. Yeah.

12 Q It's kind of that in between.

13 A Okay.

14 Q All right. I wrote down a bunch of notes from your  
15 direct testimony all those days ago, and I'm like the rest of  
16 them. We have trouble reading our own writing, but I can  
17 certainly read the words fried chicken and neck bones. I wrote  
18 that down in big letters. It sounds like you fed those girls  
19 pretty good, huh?

20 A Oh, yeah.

21 Q All right. They were eaters, huh?

22 A Yeah.

23 Q All right. So that's good southern food from what I  
24 gather?

25 A Oh, yeah.

1 Q Are you from the south originally?

2 A No. My mother is.

3 Q Oh, okay.

4 A My mother's from Dallas.

5 Q So you got some recipes from mom?

6 A Yeah.

7 Q All right. What other kinds of foods did you get

8 those little girls?

9 A Oh, everything. We had fried chicken. We had

10 Chicken McNuggets. I fixed enchiladas, tacos. I fixed tuna.

11 I fixed pork chops. I fixed --

12 Q Okay. So all the kind of stuff that you all were

13 eating as adults you were giving the kids too?

14 A Yeah. Everything that we ate. Yeah.

15 Q And southern cooking has lots of butter and all that

16 good stuff in it?

17 A Well, no, I don't cook with a lot of butter.

18 Q Okay. All right. All the foods that you

19 mentioned -- you have them again -- so is that still the kind

20 of foods that you give them?

21 A Yeah.

22 Q Okay.

23 A Cabbage.

24 Q All right.

25 A Rice.



1           Q     Sounds good. Let me ask you this, ma'am. Sometimes,  
2 and understandably, the girls are a little off with times, but  
3 you're an adult. So I'm going to ask you some better time  
4 frames, and I'm hoping you might be able to give me some time  
5 frames.

6           A     Okay.

7           Q     Do you remember when the three children, the Ramirez  
8 children came into your life?

9           A     When they came in my life?

10          Q     Yeah.

11          A     In 2008.

12          Q     Do you remember what month?

13          A     January.

14          Q     Okay. And I'm going to try to do something real  
15 quick if my computer lets me here. I'm sorry. I meant to do  
16 this, but there's just so much been going on in court. Here we  
17 go.

18               MR. FIGLER: Court's indulgence.

19               All right. Now, everyone gets to see my chicken  
20 scratch. I'm going to put this up for a second, and this is  
21 just the names of the children converted and their birthdates,  
22 and I just want to make sure we have a guide so that I don't  
23 have to keep going back and forth. Is that all right?

24               MS. BLUTH: You're good.

25               MR. FIGLER: Is that all right?

1 MS. BLUTH: Yep.

2 MR. FIGLER: All right. I'm just going to publish  
3 this with the State's permission to the jury.

4 THE COURT: All right. Just as an aid?

5 MR. FIGLER: As an aid, Your Honor.

6 THE COURT: And you need to shrink that down.

7 MR. FIGLER: Yep.

8 BY MR. FIGLER:

9 Q Can you read that, ma'am?

10 A Uh-huh. Yes.

11 Q All right. So on this, I took the name that they're  
12 known today and the name that they're known when they came to  
13 you back in -- you said it was January of 2008.

14 A Yeah.

15 Q So Ava was previously Jocelyn; right?

16 A Yeah.

17 Q And she's the oldest. Her birthday is October  
18 21st, 2001; is that right?

19 A Yeah.

20 Q All right.

21 A Her name is spelled wrong on here.

22 Q Oh, I spelled it wrong?

23 THE COURT: Is that with a C, Jocelyn with a C?

24 THE WITNESS: Yeah. J-o-c. And Jiselle's name is  
25 spelled wrong. It was a J.

1 MR. FIGLER: I knew that.

2 THE WITNESS: And Jaqueline's name is spelled wrong.

3 THE COURT: Is there a C in there too?

4 THE WITNESS: Let's see. J-a-q -- No. No.

5 MR. FIGLER: Oh, I had it right.

6 THE WITNESS: You had her right. Yeah, she didn't  
7 have a C in her name.

8 MR. FIGLER: All right.

9 THE WITNESS: All right.

10 MR. FIGLER: I was doing it on the fly there.

11 THE WITNESS: Okay.

12 BY MR. FIGLER:

13 Q All right. So Ava was Jocelyn, born 10/21/01. Amaya  
14 was Jaqueline, 1/23/03. And Anastasia was Yarely, also known  
15 as Jiselle. 7/25/04 is her birthday?

16 A Right.

17 Q Is that fair?

18 A Yes.

19 Q Okay. Good. So I might refer to the wrong name or  
20 something, and you'll correct me, but we'll have that up and so  
21 the jury can see it too.

22 A Okay.

23 Q All right. So January 2008, and then they came in to  
24 you as foster kids. How did they find you or you find them?  
25 You said something about there being some agency that you were

1 with?

2 A Yeah, I was working for an agency.

3 Q What agency were you working for?

4 A A Brighter Day.

5 Q Okay. Was it always called a Brighter Day, or was it  
6 called something before that?

7 A No. It was called something else before that.

8 Q All right. So you were actually physically working  
9 for the agency?

10 A Yeah.

11 Q Okay. And was Brighter Day known as A-g-a-p-e before  
12 that? Agape or --

13 A Agape. Yeah. Agape.

14 Q Okay. A-g-a-p-e, Agape, we'll call that; right?

15 A Yes.

16 Q All right. And that's what it was called before it  
17 was called a Brighter Day; right?

18 A Yes.

19 Q All right. And that was the Lambey [phonetic]  
20 family? The Lambeys, did they own that?

21 A I don't --

22 Q Do you remember who owned that company, Agape?

23 A You know, I've got to think of the name. Oh, gosh.  
24 You know, it might be the Lambey, but I know it was another  
25 guy. It was two people that owned it. Oh, gosh.

1 Q Are you thinking of Kirby Burgess?

2 A No. Kirby is Brighter Day.

3 Q Okay.

4 A They took over Agape, and him and his wife -- Shirley  
5 and Kirby.

6 Q All right. All right. So how long had you been  
7 working for Agape before the foster kids came to you?

8 A About, oh, a couple of years.

9 Q Okay. Now, we all know that --

10 A Now, before I got -- excuse me. Before I got  
11 Jocelyn, Ava and them?

12 Q Yeah.

13 A Yeah, before I got them, yeah, a couple of years I  
14 had been working for them.

15 Q Okay. And if you ever don't understand a question  
16 I'm asking or you want to --

17 A Yeah. I just -- because I was thinking about it and  
18 was like were you thinking about them or --

19 Q Okay. So I just want to get the timeline. So for a  
20 couple years, so from, like, '06ish on, you're working at  
21 Agape, and then in January of '08, to your recollection you got  
22 the three children, Jocelyn, Jaqueline and Yarely; correct?

23 A [No audible response.]

24 Q Okay. And now I want to talk about compensation  
25 really quickly. We know that foster parents get paid by the

1 government to take on foster kids, per kid?

2 A By the agency.

3 Q The agency. Okay. So the money would go to the  
4 agency, and then the agency would pay you?

5 A Yes, they'd pay us.

6 Q Okay. Do you know did you get the full amount, or  
7 did you get something less than the full amount?

8 A I doubt if I got the full amount.

9 Q Okay. Now, were Jocelyn, Jaqueline and Yarely the  
10 first foster kids who lived in your home?

11 A No.

12 Q Okay. How many prior to Jocelyn, Jaqueline and  
13 Yarely do you think that you had?

14 A Oh, maybe several families.

15 Q Several. And you would take families at a time?

16 A Oh, I did sibling groups.

17 Q You did sibling groups?

18 A Yeah.

19 Q Okay. And you say you did several before these three  
20 kids came in?

21 A Yes.

22 Q Let me ask you. What's the most kids that you've  
23 ever had in your house at one time, foster kids?

24 A Five.

25 Q Five total?

1           A     Yeah.

2           Q     Okay. And, in fact, you had some other foster kids  
3 during the time that you had Jocelyn, Jaqueline and Yarely in  
4 your house too; right?

5           A     Yes.

6           Q     Okay. All right. So I don't have all the DFS  
7 records going back to '08, but I do have some from '09. So I'm  
8 going to ask you some questions from '09 forward because you  
9 did have the entire year of 2009, then, you had these three  
10 girls in your home; correct?

11          A     Yeah.

12          Q     Okay. Now, in one of those notes, it refers to your  
13 house as a treatment home?

14          A     Yes.

15          Q     You know that expression?

16          A     Yes.

17          Q     All right. What does a treatment home mean?

18          A     It's kids that's a little bit more -- it has a little  
19 bit more harder to deal with than -- like, you get kids, and a  
20 treatment home is, like, for somebody that's able to deal with  
21 kids that come in with issues. Let's say your child has been  
22 taken out of the home. Well, of course, that's going to put  
23 them into shock, you know, because they are going into  
24 somewhere that they know nothing about. So I had a little bit  
25 more patience to deal with it.

1 Q Okay. So did you have any additional training to  
2 treat children who, as you indicated, had issues?

3 A No, you just go to class with the agency.

4 Q Okay. But you would agree that your house was a  
5 designated treatment home; is that correct?

6 A Yes.

7 Q Okay. And you knew that that means that there's a  
8 higher rate of pay associated with that; is that correct?

9 A Yeah.

10 Q Yeah.

11 A Not a higher rate. Now, when you say higher rate,  
12 what are you talking about?

13 Q More money than if it wasn't a treatment home. It's  
14 easy. It's more or less or the same. Is it more or less or  
15 the same?

16 A It was about the same.

17 Q Same?

18 A It don't -- I don't really -- when you work -- it's a  
19 difference between county and agency.

20 Q Okay.

21 A County pays you less. Agency pays you more.

22 Q Okay. For being a treatment home?

23 A Yeah.

24 Q Now, you testified on direct examination all those  
25 days ago that when you got the kids this last time, so 2014,



1 they were all different than when you had them 2008 through  
2 2010. Do you remember that testimony?

3 A Yes. Yes.

4 Q Okay. I want to follow up on that. Let's pick one  
5 of the three kids. Let's pick Amaya; okay?

6 A Okay.

7 Q Tell me how Amaya was different from 2004 to 2017,  
8 2018 than she was back when you had her as a foster kid.

9 MS. BLUTH: Wait. I'm sorry, Dayvid. Could you --  
10 you said 2004.

11 THE COURT: Yeah, '14.

12 BY MR. FIGLER:

13 Q Sorry. 2008 to 2010 --

14 A Yes.

15 Q -- is when they were foster kids in the McClain home,  
16 and then they were also foster kids or adopted kids in the  
17 McClain home from 2014 to 2018, present day. So your testimony  
18 was that you got different kids?

19 A Yes.

20 Q And so I remember that testimony. I wrote that down  
21 too. So take Amaya.

22 A Okay.

23 Q Tell me how Amaya is different now than Amaya was  
24 back in from 2008 to 2010.

25 A First of all, when I got our girls and Amaya --

1 Q I just want to talk about Amaya.

2 A Yeah. Well, first of all, when I got the girls,  
3 Amaya was talking about seeing demons. That's something I  
4 never seen, heard from her from when I had her as a foster kid,  
5 talking about demons [unintelligible]. I've had to run to the  
6 room -- run to her room, for seeing demons --

7 Q Okay. So let me stop you there. So talk about  
8 demons was new. You didn't see that when she was in foster  
9 care?

10 A I never saw that when they were foster kids.

11 Q Okay. So I'm going to just ask you here. So when  
12 you had Amaya, she was 5 years old to the time she was about  
13 7 years old; is that fair?

14 A Yeah, that's fair.

15 Q Okay. So when you got her in 2014, now she's 11  
16 years old when you first get her, and currently she is 15 years  
17 old I think she testified?

18 A 15, yeah.

19 Q Okay. So the demon talk, that's one change. What's  
20 another completely different between what she is now?

21 MS. BLUTH: And I apologize, Mr. Figler. I don't  
22 mean to object, but Mr. Figler interrupted Ms. McClain's  
23 answer. She was in the middle of talking about how she'd have  
24 to run to her room, and so I'm just asking that she be able to  
25 finish her sentence.

1 THE COURT: All right. Were you done answering the  
2 question about the demons?

3 THE WITNESS: Well, I had to go to her room to find  
4 out what was going on with her, you know, and she's telling me  
5 she seeing demons over in the corner and --

6 BY MR. FIGLER:

7 Q Okay. So she was --

8 MS. BLUTH: I'm still going to object and ask that  
9 she be able to finish her --

10 THE COURT: Were you finished with your question?

11 THE WITNESS: No. I was trying to explain --

12 MR. FIGLER: Well, you know, I --

13 THE COURT: And --

14 MR. FIGLER: -- I enjoy you, Ms. Debbie, but you have  
15 some long narrative answers --

16 THE COURT: Okay. And -- and --

17 THE WITNESS: Well, that's because that --

18 MR. FIGLER: -- you're very charming --

19 THE WITNESS: -- what happened --

20 THE COURT: Well, okay.

21 MR. FIGLER: -- a little more succinct.

22 THE COURT: All right. Let me talk.

23 If Mr. Figler asks you, you know, a yes or a no  
24 question --

25 THE WITNESS: Yes.

1 THE COURT: -- just answer it yes or no. Don't give  
2 an explanation. Then Mr. Figler can either ask you to explain,  
3 or Ms. Bluth can ask you to explain.

4 Mr. Figler, if you ask the witness an open-ended  
5 question, like what did you see or how were they different,  
6 that calls for an open-ended answer. So if that's the kind of  
7 question, then allow the witness to fully answer the question.

8 MR. FIGLER: And --

9 THE COURT: All right. And --

10 MR. FIGLER: -- I try to control when it goes  
11 nonresponsive, but I'm appreciating that.

12 THE COURT: All right. And if it's nonresponsive,  
13 just say it's nonresponsive.

14 MR. FIGLER: Okay.

15 THE COURT: And, Ms. McClain, if you can't answer --  
16 say he asks you a yes or no question, and you can't answer that  
17 as a yes or no question, then just say I can't answer that as a  
18 yes or no question.

19 THE WITNESS: Okay.

20 THE COURT: All right?

21 MR. FIGLER: All right.

22 THE COURT: And then he can --

23 MR. FIGLER: So can I start over?

24 THE COURT: And then he can decide does he want to  
25 ask the same question a different way, or does he want to move

1 on to a different question.

2 MS. BLUTH: So can she finish that answer?

3 MR. FIGLER: I would withdraw the question so that I  
4 may rephrase the question, Your Honor.

5 THE COURT: All right. And then, Ms. Bluth, of  
6 course, you can follow up in your redirect examination.

7 MS. BLUTH: Okay. I will.

8 MR. FIGLER: Great.

9 THE COURT: Go on, Mr. Figler.

10 MR. FIGLER: Thank you.

11 BY MR. FIGLER:

12 Q You indicated that she, yes or no, Ms. Debbie, you  
13 indicated that she was talking about demons at some point  
14 between 2014 and 2018; correct?

15 A Yes.

16 Q Okay. Do you remember the last year that she  
17 mentioned anything about demons?

18 A The last year?

19 Q Yeah. What was the last time? How long ago?

20 A About five, six months ago.

21 Q Okay. So about five, six months ago. Just  
22 wondering, did Amaya tell you about her experience, yes or no,  
23 over at that Marvelous Grace Girls Academy?

24 A A little bit.

25 Q Okay. Did she tell you that there was a lot of very

1 heavy religious talk there?

2 A Yes.

3 Q Okay. All right. Besides the demons, what else is a  
4 different, completely different person, what subject area, and  
5 then I might ask you a follow-up on it, is she very different  
6 or completely different than the girls that you had in 2008  
7 through 2010?

8 A She wasn't getting fed.

9 Q Okay. So a completely different girl to you was  
10 before she was fed, and now when you got her, she wasn't fed;  
11 is that a fair way to sum up what you just said?

12 A Well, yes.

13 Q She didn't have as much meat on her bones, as they  
14 say euphemistically; right?

15 A Well, no. By the time I got them from Marvelous  
16 Grace, they had gained weight.

17 Q Okay. So they were back to the same weight level  
18 that you remember them after Marvelous Grace; is that your  
19 testimony?

20 A Well, not -- well, they were smaller too when they  
21 left me. So you're talking about, what, about four years  
22 later.

23 Q Okay.

24 A Three or four years later.

25 Q Okay. Anything else that was different about Amaya

1 from the 2008 to 2010 versus the --

2 A She was angry, real angry.

3 Q She was angry. Okay. I don't want to focus on that.  
4 So it's your testimony that she completely changed. So she was  
5 angry from 2014 on, and that was different from Amaya 2008 to  
6 2010; right?

7 A Yeah. It was a different kind of anger.

8 Q Okay. Now, I just want to make sure because, you  
9 know, we haven't talked a lot about their time in your house.  
10 So I'm going to start with June of 2009 because I have some  
11 notes on June of 2009, and do you remember that you had Heather  
12 Richardson was your caseworker from DFS, from the government?

13 A Yes. It was the girls' caseworker. Yes.

14 Q She was the girls' caseworker, for those girls?

15 A Yes.

16 Q Okay. And you remember telling her that Jaqueline  
17 had been hitting her siblings? Do you remember that?

18 A Yes.

19 Q Okay. And do you remember that same month telling  
20 Heather Richardson that Jaqueline was refusing to eat?

21 A Jaqueline refusing to eat?

22 Q Yeah.

23 A I don't know. I can't recall that.

24 Q Okay.

25 A But she might. I might have, but, you know, because

1 kids go through phases --

2 Q Sure. Sure --

3 A -- they get angry. They get scared --

4 Q -- and I know you would like to explain it.

5 A -- and they, you know --

6 Q Let me ask you this, Ms. Debbie.

7 A Yeah. Okay.

8 Q I'm just going to ask you the questions, and then if  
9 Ms. Bluth wants you to explain it or put it in whatever  
10 context, that's fine.

11 A Okay. That's fine.

12 Q All right. So now do you remember in that next  
13 month, July of 2009, you told Heather Richardson that Amaya  
14 was, quote, unquote, Bumping heads with older foster kids in  
15 the house? Do you remember that?

16 A I'm trying to think of the foster kid I had in the  
17 house first.

18 Q Maybe it'll help you. Do you remember telling them  
19 about a foster kid who was 10 years older, a teenager who was  
20 in the house at that time who Jaqueline was bumping heads with?

21 A He was 10 years older, no.

22 Q A teenager, nothing like that?

23 A No, because -- are you talking about a boy?

24 Q Well, I just have the notes about --

25 A Because what I'm saying is no, I didn't do teenagers.



1 I don't mix teenagers with those kids, my foster kids. I kind  
2 of kept the ages separate. You know, I didn't -- because,  
3 first of all, I had a teenage niece that I was raising.

4 Q Okay.

5 A So I didn't put no -- I didn't bring no teenager  
6 kids. I had one child in there, and that was before they left  
7 to get adopted, but I had one child that was the same age as my  
8 niece because, you know, that could create problems.

9 THE COURT: Okay. And then was your niece living  
10 with you at the time you had --

11 THE WITNESS: Yes. I raised my niece from the time  
12 she was 8 years old. My brother passed away, and I ended up  
13 with my niece. So --

14 THE COURT: Okay. So your niece was living in the  
15 home when you had Ava, Amaya and Anastasia --

16 THE WITNESS: Yes.

17 THE COURT: -- the first time?

18 THE WITNESS: Yes.

19 THE COURT: Okay. And then did you have another  
20 foster child that was close in age to your niece at that time?

21 THE WITNESS: No. I didn't take foster kids that was  
22 close with her age because she was going to middle school, and  
23 you know how it's hard to mix the middle school kids. You know  
24 how kids gossip. Kids are from foster care, and, you know,  
25 they don't get along. So I didn't want that problem.

1 THE COURT: So you didn't want the foster kids and  
2 your niece going to the same school?

3 THE WITNESS: Right. Right.

4 THE COURT: Okay.

5 THE WITNESS: So I kept it to the ages where they  
6 were younger than her.

7 THE COURT: Okay.

8 BY MR. FIGLER:

9 Q All right. Do you remember an incident in August of  
10 '04 when you told Heather about Amaya acting out at the  
11 Adventure Dome for Yarely's birthday?

12 A Yes. Yes.

13 Q Okay. And you remember telling her that Amaya was  
14 spitting, kicking and hitting the other kids. Do you remember  
15 that?

16 A Yes.

17 Q Okay. And you called that acting out. Do you  
18 remember that?

19 A Yes.

20 Q Now, do you remember in March of 2010 -- when did you  
21 last have the girls with you?

22 A In June of 2010. June 1st is when the Janet got  
23 the girls.

24 Q Okay. So do you remember in March of 2010 that there  
25 was an incident where Amaya or Jaqueline, also known as

1 Jaqueline, was a threat to herself? Do you remember that?

2 A When you say a threat to herself, what are you  
3 talking about?

4 Q Do you remember an incident where Amaya was  
5 threatening herself with harm with a knife on a day in your  
6 house?

7 A I mean, you talking about -- because see all my  
8 knives is locked up.

9 Q Okay.

10 A When I had foster kids, your knives, you take your  
11 knives. The only thing I had was butter knives.

12 Q Okay. Do you remember in March of 2010 that Amaya  
13 had threatened to harm herself with a knife, and so she was  
14 immediately taken to her psychologist because of that? Do you  
15 remember that incident at all?

16 A Huh-uh.

17 Q Do you remember having a CFT -- and CFT is the -- do  
18 you remember what that is, a CFT?

19 A A family treatment team.

20 Q Okay. A team meeting. That's when everyone's  
21 staffed?

22 A Uh-huh.

23 Q Okay. Do you remember a staff meeting with Amaya,  
24 Heather and Kristi Sauter [phonetic] from Agape and Tonya Mosby  
25 from Agape and Denise Earl Acosta [phonetic] and you and some

1 other casas and even her aunt, and you were all talking about  
2 Jaqueline threatening to harm herself with a knife? You don't  
3 remember that?

4 A I'm thinking.

5 Q Okay.

6 A You know what, that's kind of -- I'm still trying to  
7 remember because I know I had CFT meetings about Amaya, but --

8 Q Okay.

9 A -- the knife thing is kind of, you know, hazy here.

10 Q Okay. Do you remember that you told them that you'll  
11 put away all the -- or that you've put away all the dangerous  
12 items in the home?

13 A Uh-huh. Because, yeah, because I keep all those --

14 Q That would have been something you would do if they  
15 brought that up; right?

16 A Locked up, yeah.

17 Q Okay.

18 A I usually keep the knives locked up, you know.

19 Q Okay. And, in fact, you know that Amaya had been  
20 seeing a psychologist virtually the entire time that she was  
21 with you that first round from 2008 to 2010?

22 A Yeah.

23 Q Okay. All right. Do you remember a time when  
24 Amaya -- I remember you testifying about on direct you were  
25 talking about a time. I don't think you gave a specific, but

1 there was a time when there was some dispute between you and  
2 Amaya, and she said that she was going to call Ms. Heather on  
3 you?

4 A Yes.

5 Q And you said here's the phone. I've got it right  
6 here on speed dial.

7 A Yeah, speed dial. Yeah.

8 Q Yeah. Okay. I want to talk to you about a couple of  
9 other instances where Amaya was actually reporting things to  
10 other people about you. In addition to seeing Dr. Lisa  
11 Schaefer [phonetic] -- do you remember that name?

12 A Yeah. I remember her real well.

13 Q All right. Dr. Lisa Schaefer, that was Amaya's  
14 psychologist; correct?

15 A Right.

16 Q Okay. In addition to Amaya's psychologist, Dr. Lisa  
17 Schaefer, she was also being seen by a team over at Hope  
18 Counseling, isn't that true?

19 A Not during that time.

20 Q Are you sure about that?

21 A You're talking about before Amaya left my home to go  
22 to Janet's home --

23 Q Yes.

24 A -- right?

25 Q Yes.

1           A     She was seen by -- Lisa was her therapist.

2     H.O.P.E. -- Anastasia was going to H.O.P.E.

3           Q     All right. So you remember Anastasia going to  
4     H.O.P.E. You do not recall that in addition to a psychologist  
5     that Amaya was also going to H.O.P.E counseling? You don't  
6     remember that? It's okay if you don't.

7           A     [No response.]

8           Q     Maybe if I mention a name. Do you remember Heidi?

9           A     Yeah.

10          Q     Heidi Menusa [phonetic].

11          A     Yeah.

12          Q     All right. Did she ever tell you or do you remember  
13     her telling you that Amaya said or reported that you told  
14     Amaya, I'm going to kick your ass? Do you remember that  
15     incident?

16          A     I remember that --

17          Q     Okay. Do you remember that coming from H.O.P.E  
18     Counseling?

19          A     -- and I said --

20                 THE COURT: Well, let her finish. Now, you're both  
21     talking. Now, I'm talking. Poor, Susie. There's three of us  
22     talking.

23                 So let -- Ms. McClain clearly didn't finish her  
24     answer.

25                 So you said you remember that incident, and you --

1 THE WITNESS: Uh-huh. I remember that incident  
2 because we went to court that day, about their grandma because  
3 their grandma -- they used to stay with their grandma, but they  
4 were taken from the grandma, and we had went to court that day,  
5 and that's the day that Jaqueline -- I mean, you know these  
6 names is -- that's the day that --

7 MR. FIGLER: That's why I put them up here.

8 THE WITNESS: -- Jaqueline had thrown a soda in her  
9 sister's face in the backseat, threw a 7 UP in her face, and I  
10 said, you know what, and I didn't say I'm a kick your ass. I  
11 said I'm going to kick your ask, a-s-k because those kids, you  
12 can tell them. Those kids never heard me curse.

13 MR. FIGLER: Okay. Let's --

14 THE WITNESS: When I had them.

15 BY MR. FIGLER:

16 Q All right. So you do remember now that it was  
17 H.O.P.E. Counseling that brought up the issue with you because  
18 Amaya had told H.O.P.E. Counseling Ms. Debbie told me she's  
19 going to kick my ass? Do you remember that incident?

20 A Yes. You know, but see when you say at H.O.P.E,  
21 H.O.P.E. Counseling, H.O.P.E was a day treatment for Anastasia.

22 Q Okay.

23 A And I remember that, and I remember the woman that  
24 got fired from H.O.P.E too about that.

25 Q Okay. Let's --

1 THE COURT: Which sister had the soda thrown in her  
2 face?

3 THE WITNESS: Ava.

4 THE COURT: Okay.

5 MR. FIGLER: All right.

6 THE WITNESS: She threw the soda in Ava's face, and  
7 that's when we were getting out the car, and I'll explain to  
8 you, and were walking up to the door, and Amaya refused to come  
9 in the house, and I said, Quit acting like a donkey and come on  
10 in the house, and she's like, no, I'm not coming in the house.  
11 I said girl come on in here. I'll tell. I'm calling  
12 Ms. Heather and tell her that you were, you know --

13 MR. FIGLER: Right. We've got that whole story.

14 THE WITNESS: Okay. So --

15 MR. FIGLER: That's how that happened can we move on.

16 THE WITNESS: -- that's how that happened.

17 MS. BLUTH: Judge, she has to be able to finish.

18 THE COURT: Okay. Well, she's just said that's  
19 how --

20 Now, there's another different three of us talking at  
21 once. She said that's how that all happened. So I assume that  
22 was the end of her answer. And now, Mr. Figler, you may ask  
23 your next question.

24 MR. FIGLER: Thank you.

25 THE COURT: I would note I think that was in response



1 to a question from the Court asking who had the soda thrown in  
2 her face.

3 MR. FIGLER: Right. And I really didn't want to  
4 bring up the soda at that point because I thought we might go  
5 off.

6 THE COURT: Well, the soda had already come up.

7 MR. FIGLER: Fair enough.

8 BY MR. FIGLER:

9 Q But I'm talking about a different set of events,  
10 Ms. McClain. I'm talking about -- I appreciate there was this  
11 incident in the car, but I'm talking about -- and I appreciate  
12 there was a call to Ms. Heather.

13 A Uh-huh.

14 Q But there was also Amaya telling her counselor over  
15 at H.O.P.E, a woman named Heidi Menusa, that you told her --  
16 this is a different time --

17 A Uh-huh.

18 Q -- you told her I'm going to kick your ass.

19 A No. That was during that time, and Heidi -- Heidi  
20 was -- she worked for H.O.P.E, and then that's why when you  
21 keep asking these questions, you're not putting these people in  
22 the right perspective because Heidi worked for H.O.P.E.  
23 Anastasia was at -- she was in day treatment, and what the  
24 girls used to do, sometimes we used to go down there, and I  
25 take the girls down there, and you know how they have the day

1 treatment they have little functions going on. So I take all  
2 three of the girls down there to the little functions that's  
3 going on. I remember Heidi.

4 Q Okay. Let me ask you. When I'm talking about  
5 H.O.P.E. Counseling Services, you do or do not, as you sit here  
6 today, remember that Amaya had done assessments and treatments  
7 with H.O.P.E. Counseling Services?

8 A Uh-huh.

9 Q You do remember?

10 A Uh-huh.

11 Q Okay.

12 MS. BLUTH: Is that a yes? I'm sorry.

13 BY MR. FIGLER:

14 Q Is that a yes?

15 A Yes.

16 Q Thank you.

17 A I'm sorry. I am so sorry.

18 THE COURT: No. No. That's okay. It's just  
19 everything is recorded, and then this poor woman here in the  
20 black jacket has to --

21 THE WITNESS: Oh, I'm sorry.

22 THE COURT: -- prepare a transcript of everything  
23 that's said.

24 All right. Go on, Mr. Figler.

25 / / /

1 BY MR. FIGLER:

2 Q Okay. And I have records here going back to 2008 all  
3 the way through the end of 2009 with H.O.P.E. Counseling  
4 related specifically just to Amaya. Does that sound right to  
5 you?

6 A Uh-huh.

7 Q Is that yes?

8 A Yes. Yes.

9 Q Okay. So thank you. Okay.

10 A He asks these questions kind of strange here.

11 Q Yeah, don't I?

12 A Yeah, because, no, I remember a lot of stuff, but see  
13 when you put it in --

14 Q Differently than the prosecution it gets you a little  
15 confused.

16 A Yeah. Yeah.

17 Q I get it. So there was also a PSR worker. Do you  
18 know who that is, a PSR?

19 A Yeah.

20 Q What's that mean, PSR?

21 A Psychosocial rehab.

22 Q Okay. And there was one assigned to the kids too  
23 named Lisa Taylor. Remember her?

24 A Yeah.

25 Q Okay. And both Lisa Taylor and Heidi Menusa called

1 you out on it. They said you can't yell at the girls like  
2 that, Ms. Debbie. You can't say I'm going to kick your ass.  
3 You remember that? Do you remember them telling you that?

4 A No.

5 Q You don't remember that?

6 A No.

7 Q And do you remember you saying I never said I'm going  
8 to kick your ass because I don't curse. I said I'm going to  
9 kick your act?

10 A Ask. Ask.

11 Q Okay. Ask.

12 A A-s-k. I said, and I spelled it out, a-s-k.

13 Q All right. So Amaya --

14 A And she said you can't say that. I said, but, no --

15 THE COURT: Wait a minute, Mr. Figler. She was still  
16 answering.

17 THE WITNESS: I said, no. I said these girls have  
18 never heard me curse before. I said, but I said ask, and but I  
19 know she misinterpreted because, you know, the kids curse.

20 THE COURT: And who did you tell that to?

21 THE WITNESS: Amaya.

22 THE COURT: No. No. I mean did you tell that to  
23 anybody at H.O.P.E. Counseling?

24 THE WITNESS: Yeah. I told that to because we -- we  
25 had went to court, and it was like a little, what do you call

1 it when they have a referee and for the kids --

2 BY MR. FIGLER:

3 Q A family court hearing.

4 A Yeah. It was like a little hearing, you know, about  
5 the girls.

6 Q Okay.

7 A But anyway.

8 Q All right. So let me ask you this. You've got Lisa,  
9 the PSR, and Heidi the H.O.P.E counselor telling you Amaya just  
10 said you said these things, and you said, no, I said something  
11 different?

12 A Uh-huh.

13 Q Is that fair?

14 A Uh-huh.

15 Q Yes or no?

16 A Yes.

17 Q Thank you.

18 A Yes. I'm sorry.

19 Q Okay. So it's your testimony that Amaya exaggerated  
20 what you said; is that right?

21 A Yeah.

22 Q And that she disclosed that to get you in trouble;  
23 correct?

24 A Yes. But she told the truth though. She did come  
25 around and say that she did tell the truth.

1 Q She told the truth to H.O.P.E. and Lisa?

2 A To Heather.

3 Q Okay.

4 A But --

5 Q Okay. No question before you, ma'am.

6 THE COURT: Mr. Figler, it's a minute of five. So we  
7 probably need to take our evening recess.

8 MR. FIGLER: Okay.

9 THE COURT: Unless everybody wants to stay past 5:00?  
10 No one.

11 MR. FIGLER: Not a single, yes, in that jury box.

12 THE COURT: I saw one perplexed look and a bunch of  
13 headshaking no.

14 So, ladies and gentlemen, we'll go ahead and take our  
15 evening recess. We will reconvene tomorrow morning at 9:30,  
16 9:30 a.m. We should be able to start right at 9:30.

17 And before I excuse you, I must remind you that  
18 during the evening recess you are not to discuss the case or  
19 anything relating to the case. You are not to read, watch or  
20 listen to any reports of or commentaries on the case, any  
21 person or subject matter relating to the case. Do not do any  
22 independent research by way of the Internet or any other  
23 medium, and please don't form or express an opinion on the  
24 trial.

25 Please place your notepads in your chairs and follow

1 the bailiff through the double doors. We'll see everyone at  
2 9:30 tomorrow.

3 And, Ms. McClain, during the evening recess, do not  
4 discuss your testimony with anybody else. All right.

5 (Jury recessed for the evening 4:59 p.m.)

6 THE COURT: We didn't have anything on the record;  
7 right?

8 [No response.]

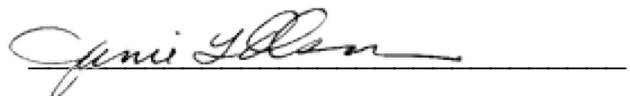
9 (Proceedings recessed for the evening 5:00 p.m.)

10 -oOo-

11 ATTEST: I do hereby certify that I have truly and correctly  
12 transcribed the audio/video proceedings in the above-entitled  
13 case.

14

15



16

Janie L. Olsen  
Transcriber

17

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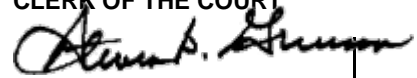


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TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

THE STATE OF NEVADA	.	
	.	
Plaintiff,	.	CASE NO. C-299737-3
	.	
vs.	.	
	.	DEPT. NO. XXI
JANET SOLANDER	.	
	.	
Defendant.	.	<b>Transcript of</b>
	.	<b>Proceedings</b>
. . . . .	.	

BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE

**JURY TRIAL - DAY 17**

WEDNESDAY, MARCH 7, 2018

APPEARANCES:

FOR THE STATE OF NEVADA:	JACQUELINE M. BLUTH, ESQ. CHRISTOPHER S. HAMNER, ESQ. Chief Deputy District Attorneys
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FOR THE DEFENDANT:	DAYVID J. FIGLER, ESQ. CAITLYN L. McAMIS, ESQ.
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District Court	LGM Transcription Service

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produced by transcription service.

1 LAS VEGAS, NEVADA, WEDNESDAY, MARCH 7, 2018, 10:00 A.M.

2 \* \* \* \* \*

3 (Jury is not present)

4 THE COURT: Ms. McClain, come on up here back to the  
5 witness stand and just have a seat while they get the jury.

6 THE MARSHAL: All rise for the presence of the jury,  
7 please.

8 (Jury is present)

9 THE COURT: All right, court is now back in session.  
10 The record should reflect the presence of the State, the  
11 defendant and her counsel, the officers of the court and the  
12 ladies and gentlemen of the jury.

13 And, Ms. McClain, you are still under oath. Do you  
14 understand that?

15 THE WITNESS: Yes.

16 DEBORAH McCLAIN, STATE'S WITNESS, PREVIOUSLY SWORN

17 THE COURT: All right, very good. I believe we were  
18 in the middle of Mr. Figler's cross-examination. We took our  
19 evening recess. So, Mr. Figler, you may resume your cross-  
20 examination.

21 MR. FIGLER: Thank you, Your Honor.

22 CROSS-EXAMINATION (Continued)

23 BY MR. FIGLER:

24 Q Good morning, Ms. Debbie. How are you today?

25 A Good morning. Oh, I'm fine.

1 Q Oh, good.

2 A Your name -- Mr. Figler?

3 Q Yes.

4 A Okay.

5 Q Or you can call me Dayvid.

6 A Dayvid.

7 Q All right. So I just want to kind of go back. We

8 were talking about some issues involving Amaya during that

9 time frame when you had her as a foster, and we're talking

10 about a period between 2009 -- or 2008 and 2010. Do you

11 remember those questions?

12 A Yes. Yes.

13 Q Okay. So I want to direct your attention to June of

14 2009. Now again, the Solanders, Janet Solander in particular,

15 didn't come into these girls' lives until June of 2010, is

16 that correct? You said it was June 2010?

17 A That's when she picked the girls up. June the 1st

18 she picked --

19 Q To be their new foster?

20 A She -- yeah --

21 Q Okay.

22 A -- took them as foster kids.

23 Q Great. So everything that I'm going to talk to you

24 about probably for the next 30 minutes is before Janet

25 Solander came into their lives, okay? So we're talking about

1 that period between '08 and June of 2010 when you still had  
2 the kids as foster mom.

3 A Okay.

4 Q Okay. So I'm going to direct your attention to June  
5 of 2009, and in June of 2009 do you remember -- and just to  
6 bring up back up to today, we talked a little bit about this  
7 yesterday -- do you remember getting a phone call from Heather  
8 Richardson where you both discussed Amaya's disclosure of you  
9 yelling at her, "I'm going to kick your ass"? Do you remember  
10 we were talking about that yesterday; correct?

11 A Yes.

12 Q Okay. And do you remember having a phone  
13 conversation about that with Heather Richardson on June 18th  
14 of 2009?

15 A Yes.

16 Q Okay. And I believe that you said you disputed  
17 Amaya's allegation that you said those words. You said the  
18 words were different and you told that to Heather Richardson?

19 A Yes. Yeah, I spelled it out.

20 Q You spelled it out?

21 A Yeah.

22 Q Okay. And do you remember during that same phone  
23 conversation that Lisa Taylor -- and I'm going to remind  
24 everybody, Lisa Taylor was the PSR for Amaya at that time;  
25 correct?



1           A     Yes.

2           Q     Okay. And she worked at Hope Counseling; correct?

3           A     Hope Foundation. Yes.

4           Q     Okay. And that Lisa Taylor had been requesting that

5 you not yell at Amaya anymore. Do you remember Heather

6 telling you about that?

7           A     No.

8           Q     Okay. And did Heather Richardson inform you that

9 Lisa Taylor had observed you personally yelling at Amaya?

10          A     No.

11          Q     Okay. And do you remember Heather Richardson

12 telling you that Hope Counseling felt that this might be a

13 negative -- that your house might be a negative place for the

14 children to stay?

15          A     No.

16          Q     That was never told to you or raised to you?

17          A     No.

18          Q     Did anyone ever tell you that Hope had a concern

19 about the children being in your house?

20          A     Yes.

21          Q     Okay. We'll get to that in a second, then.

22          A     Okay.

23          Q     But you don't remember that from the June 18th call?

24          A     No.

25          Q     Okay. Do you remember that as a result of your

1 discussion with Heather Richardson about yelling at the  
2 children and about the allegations, etcetera, that they  
3 scheduled a CFT?

4 A Yes.

5 Q Okay. Now let's go back a day in time to -- or I  
6 think it's two days in time, June 16th of 2009. Do you  
7 remember that -- oh, no, we're back at June 17th. I'm sorry.  
8 Do you remember on June 17th that there was a court hearing  
9 for the girls and that a lot of this was discussed right after  
10 that court hearing, too?

11 A A court hearing for the girls about what?

12 Q Okay. Just the family court, the normal that you --  
13 you would have to regularly bring the girls over to the  
14 courthouse, or that happened -- how often did that happen?

15 THE COURT: Down at family court there.

16 BY MR. FIGLER:

17 Q Down at family court.

18 A Maybe every three months.

19 Q Okay. So do you remember an incident in June of  
20 2009 where right -- well, where you and the paternal aunt of  
21 the three girls got into a heated exchange --

22 A No.

23 Q -- in the hallway?

24 A Oh, no.

25 Q You don't remember that?

1           A     No.

2           Q     Okay.

3           A     I never had an exchange with the aunt or the -- none  
4 of their family members.

5           Q     Okay. So if in Heather Richardson's report she said  
6 that she observed you and the paternal aunt exchanging pointed  
7 words and arguing at the courthouse, you don't have any  
8 recollection of that?

9           A     No. What paternal aunt was that?

10          Q     The paternal aunt would be the one who was going to  
11 the CFTs. I can get her name, give me a second.

12          A     Okay.

13          Q     Jessica Ramirez.

14          A     No.

15          Q     Okay. And do you remember that after court on June  
16 17th that there was a situation where Amaya was acting out in  
17 an overtly sexual way that caused great concern?

18          A     After court? No.

19          Q     You don't remember that at all?

20          A     After court --

21          Q     After court.

22          A     -- Amaya was acting out?

23          Q     Sexually.

24          A     No.

25          Q     Okay. So you don't remember that right after court

1 Amaya, who would have been seven years old at that time,  
2 started masturbating, lifting her hips trying to straddle her  
3 therapist's leg and trying to get Anastasia to touch her  
4 genitals as well?

5 A No. You -- no, you're saying something that I don't  
6 -- I have never heard. No. Straddling the therapist's leg?

7 Q Yeah.

8 A Is that what you just said?

9 Q Yes, I did.

10 A No.

11 Q Okay. And do you remember a conversation with you  
12 and Heather Richardson and the therapist that said that they  
13 thought that Jacqueline was doing this on purpose and acting  
14 on purpose because she thought it would get what she wanted,  
15 which was to go home?

16 A No.

17 Q You don't remember that?

18 A No.

19 Q Okay. And do you remember that based on that  
20 incident you had issues about all the girls using the bathroom  
21 at the same time?

22 A Oh, no. I never had issues about the girls using  
23 the bathroom.

24 Q You never did?

25 A No.

1 Q Okay. And so you don't recall that there were rules  
2 in the bathroom that the girls couldn't be in there with  
3 Anastasia alone because of the sexual conduct?

4 A No.

5 Q And you never told the workers over at DFS, Heather  
6 Richardson, that due to the sexualized behaviors you can't  
7 have the girls in the bathroom at the same time, they can't be  
8 in the bathroom together when Yarely was in a state of  
9 undress? You didn't --

10 A No.

11 Q -- have that discussion at all?

12 A No. No, I -- no. No.

13 Q Okay. All right. Let's go now to July of 2009, so  
14 a month later. Do you remember we talked yesterday about that  
15 there was a report that Amaya was bumping heads with another  
16 foster kid in your home? Do you remember we talked about that  
17 yesterday?

18 A Yeah. Yeah, I remember that.

19 Q If I were to show you the UNITY note about the age  
20 of the other person or the other foster kid or what was  
21 reported by Heather Richardson, do you think that might  
22 refresh your memory about that incident?

23 A Yes.

24 MR. FIGLER: Okay. I'm going to approach. It's  
25 page 40 of 103.

1 MS. BLUTH: Okay.

2 BY MR. FIGLER:

3 Q Can you just read that to yourself and kind of  
4 highlight that area?

5 A This area right here?

6 Q Yeah. If you'll just read that to yourself and see  
7 if that refreshes your recollection.

8 A Uh-uh.

9 Q So that doesn't refresh your recollection that there  
10 was a butting heads incident?

11 A Yeah, you said ten years apart on that. No. No.

12 Q Okay. Who was Amaya butting heads with that was  
13 in your home?

14 A Uh, it probably would be Morgan and they were about  
15 the same age.

16 Q Okay.

17 A Morgan, and I had Inez there with this. She was  
18 about 13, I think, during the time.

19 Q Okay. So it's your recollection that it would have  
20 been different than what was reported in the UNITY notes?

21 A Yeah, that's nothing like.

22 Q Okay. Do you remember having that same discussion  
23 with Heather Richardson on August 14th, so a month later?

24 A About?

25 Q About the butting heads with the other child in the

1 house?

2 A Oh, well, yeah, of course. Like, I had a kid named

3 Morgan --

4 Q Uh-huh.

5 A -- and, you know, they didn't get along. But it

6 wasn't just her that didn't get along with Morgan.

7 Q Okay. And you don't remember Morgan to be a

8 teenager?

9 A No, she wasn't a teenager. She was the same age

10 as the kids.

11 Q If I showed you the notes from August 14th of '09,

12 do you think that might refresh your recollection about --

13 A Can you give me the kid's name?

14 Q Well, unfortunately they don't always put the kids'

15 names in here --

16 A I know.

17 Q -- but they do describe a little bit.

18 A That's why I say, you know, it's no.

19 Q Well, maybe this will refresh your recollection --

20 A Okay.

21 Q -- because there's a little more detail. Page 50

22 of 103. And I'll point you to this. You can read that one

23 paragraph there. Ms. Debbie, does that refresh your

24 recollection of Amaya having problems in the house, butting

25 heads with a teenager in the home?

1           A     Like I said, the only ones that was there when I had  
2 the girls was Morgan, Inez. Inez was 13, I think, during the  
3 time. Before they left to go to Janet's house, I had Inez  
4 there with them.

5           Q     Okay.

6           A     And she was -- I think she was 13.

7           Q     All right.

8           A     I think.

9           Q     Could Inez have been the one that Amaya was butting  
10 heads with?

11          A     Oh, Inez butted heads with everybody.

12          Q     Oh, okay. And with regard to Amaya, she was being  
13 treated, as we I think established yesterday, by Hope  
14 Counseling for that period up and through let's say November  
15 of 2009. Does that sound about right? That's when Hope got  
16 removed from the case?

17          A     I think they got removed -- after that CFT with the  
18 Hope Foundation with Lisa --

19          Q     Yeah.

20          A     -- she was fired that same day because she lied.

21          Q     Okay. And did you say that she lied?

22          A     Because she lied. She -- when we went to the CFT,  
23 she said that the kids wasn't getting along, I wasn't getting  
24 along with the kids and that I was abusing them, but she lied.  
25 And they found that -- and that's what the discovery. And



1 before -- when we left that CFT, they had told her to go and  
2 clean her desk out because she did lie.

3 Q So do you think that you were instrumental in  
4 getting Lisa Taylor removed for a lie?

5 A Well, I just -- Lisa Taylor was instrumental for  
6 getting us there to the CFT.

7 Q Uh-huh.

8 A And when -- I just told the truth --

9 Q Okay.

10 A -- that, no --

11 Q Were you complain--

12 A -- because whatever was going on between Hope  
13 Foundation --

14 Q Yeah.

15 A -- and the agency that I was working for, it was all  
16 about a contract and I was just caught in the middle of it.

17 Q Okay. Did you complain to Heather Richardson about  
18 Hope and the things they were saying about you?

19 A Well, like I said, when I realized that what Lisa  
20 was saying was untrue, we was going to -- we was getting ready  
21 to go to a CFT meeting about this because I said no, Lisa is  
22 not telling the truth.

23 Q Okay. We talked about the August '09 incident at  
24 Adventure Dome when Amaya was spitting and hitting and kicking  
25 the other girls; correct? Do you remember talking about that

1 yesterday?

2 A Yeah, I remember.

3 Q Okay. And you remember that she wasn't allowed to

4 go on the rides --

5 A Right.

6 Q -- and that she was throwing another tantrum?

7 A Right.

8 Q Okay. And she threw tantrums quite a bit when she

9 was with you, didn't she?

10 A Well, no, not quite a bit. Like, when -- like any

11 other kid, you know, I want to go on the rides. No. You

12 know, because of what you did that the consequences are you

13 cannot go on the rides. I didn't buy her a bracelet.

14 Q And just like other kids, she was spitting?

15 A Amaya?

16 Q Yeah, you said just like other kids. I'm just

17 trying to -- the incident, you said that she was spitting.

18 So do you find that spitting on the other kids is something

19 all kids did?

20 A Well, I don't know. It's according to how -- if

21 a child got angry, everybody is an individual, you know,

22 personality-wise.

23 Q Right.

24 A So, you know, Amaya didn't -- she wasn't a spitter.

25 Like, every time she would get into an argument with one of

1 the kids or something she would spit on them, no.

2 Q Okay.

3 A That wasn't habitual.

4 Q And you know that Amaya was being treated at Hope  
5 Counseling for anger issues; right?

6 A Yeah. Yes.

7 Q Okay. Now let's talk about Anastasia a little bit.  
8 Anastasia, do you remember taking her to Quick Care in March  
9 of 2009 for an infected ear?

10 A Yes.

11 Q Okay. And do you recall that Anastasia's bed-  
12 wetting was a serious issue that you had to deal with in your  
13 house?

14 A No, it wasn't no serious issue. When you say  
15 serious, I mean, what do you mean by that?

16 Q Okay. Well, how many times do you think that you  
17 talked about it or had to talk about it with DFS and Heather  
18 Richardson?

19 A Well, never, really. They brought it up and then  
20 one while -- you know, before Anastasia left, she hadn't peed  
21 in the bed for three months. We had a discussion about that  
22 and everybody was happy, you know.

23 Q For three months?

24 A Yeah.

25 Q Okay.

1           A     She hadn't -- she hadn't peed for three months, so.

2           Q     All right. So how often do you think that it would  
3 show up in the UNITY notes that you and Heather Richardson  
4 were talking about Anastasia's bedwetting?

5           MS. BLUTH: Objection, speculation.

6           THE COURT: Well, she can answer how often did she  
7 and Heather Richardson, that she remembers.

8           Whether you brought it up or Heather Richardson  
9 brought it up, how often was the issue of Anastasia's bed-  
10 wetting discussed?

11          THE WITNESS: It was -- you know, unless -- like,  
12 we had monthly CFT, we had monthly meetings with a social  
13 worker and she would say how is Anastasia -- you know, how  
14 is Anastasia as far as bedwetting? Oh, she's doing fine.  
15 You know, she's settling down. She's not peeing every night,  
16 you know. So, and then she went three months. That was a  
17 big change. That was big to do for Anastasia because that  
18 means she was I guess maybe slowing down on peeing on herself.  
19 I peed the bed 'til I was 12. So, you know, I mean, you know,  
20 that's why I couldn't get mad at her.

21          MR. FIGLER: Okay, that's fine.

22 BY MR. FIGLER:

23          Q     So your testimony is that you never had to, like,  
24 take her to a doctor about her bedwetting or anything like  
25 that?

1           A     No.

2           Q     Okay. All right. June of 2009 it was noted -- does  
3 this -- do you recall that it was noted that Yarely was having  
4 an issue with bedwetting?

5           A     You said June of 2009?

6           Q     Yeah.

7           A     Yeah, she was still wetting the bed.

8           Q     Okay. And do you remember in October of 2009 that  
9 you discussed that Amaya was still waiting the bed and is  
10 working on her bedwetting?

11          A     Amaya never wet the bed. When I got --

12          Q     I'm sorry, I misspoke.

13          A     Oh, okay. I'm sorry.

14          Q     I misspoke. Anastasia was still wetting the bed  
15 in October of 2009 and that was discussed with Heather  
16 Richardson. Does that sound about right?

17          A     That sounds -- when you say -- you know, you make it  
18 sound like that that was the main purpose of us discussing --  
19 having a discussion about Anastasia about bedwetting. No.

20          Q     Okay. So you would agree with me that it was  
21 probably discussed in -- or that it was discussed in June of  
22 '09, but you don't have a recollection of it being discussed  
23 in October of '09, is that right?

24          A     I would -- well, I'll just say it like this, Dave.

25          Q     Uh-huh.

1           A     If we had a meeting in October of '09 and if Heather  
2 asked me did Anastasia wetting the bed, and I probably told  
3 her yes or no. I mean, it wasn't the main -- it wasn't -- you  
4 know, I'm kind of amazed because the bedwetting wasn't never  
5 really a big conversation.

6           Q     I hear you.

7           A     Yeah. That all --

8           Q     You're just going off your memory; right?

9           A     Yeah, I'm just going off my memory, you know. And  
10 when you say -- when you say months and stuff like that, I  
11 really can't say yes, that was the correct month that we  
12 talked or -- you know, I'm just --

13          Q     Sure. I'm just kind of going through your memory.

14          A     Okay.

15          Q     That's all we can do.

16          A     Yeah, okay. Okay.

17          Q     All right. So if there was a note that Yarely --  
18 or, sorry, Yarely or Anastasia is working on her bedwetting  
19 in October of 2009 during a CFT, that does make sense to you?

20          A     Yeah.

21          Q     Okay. Now I want to go to the next month, November  
22 of '09 and that it was noted, and does this refresh your  
23 recollection in any way that Anastasia was still wetting the  
24 bed in November of '09? Do you remember that?

25          A     Probably.

1 Q Okay. And in fact, do you remember that you had  
2 taken Anastasia to a doctor about the bedwetting in October  
3 of 2009? You don't remember that?

4 MS. BLUTH: Can I have page numbers?

5 MR. FIGLER: Sure. Page 55 of 103 and then also  
6 page 60 of 103.

7 MS. BLUTH: Thank you.

8 BY MR. FIGLER:

9 Q Do you have any recollection of that issue going on?

10 A No.

11 Q Okay.

12 A You know, I took the kids regularly for their  
13 checkups --

14 Q Sure.

15 A -- health-wise. And, you know, like I said, the  
16 bedwetting really wasn't a big thing to me, you know.

17 Q Okay, I get that. Do you remember in October of  
18 2009 that Heather Richardson requested that you take Anastasia  
19 to a pediatrician to rule out medical issues related to her  
20 bedwetting? Do you have any recollection of that  
21 conversation?

22 A I probably did, yes. Probably. I probably did  
23 because if Heather wanted me to take her to get checked about,  
24 you know, the bedwetting, well, I probably did because we had  
25 a pediatrician. She went to Dr. Stephen.

1 Q Okay.

2 A It would be a record of that.

3 Q Got it. So you weren't making up stuff to go to a  
4 doctor to rule out there being a medical issue for bedwetting.  
5 You weren't making that up?

6 A No.

7 Q Okay. And you remember now that Heather Richardson,  
8 who was the care worker, told you to take this child to a  
9 doctor to rule out medical issues related to this bedwetting  
10 issue? You remember that now?

11 A Yeah. I -- Dave, I'm going to tell you --

12 Q Uh-huh.

13 A -- if she -- if Heather told me, and I don't think  
14 Heather ever told me to take Anastasia in to the doctor about  
15 her wetting the bed because that wasn't a big issue in our  
16 house.

17 Q Okay.

18 A You know, it wasn't a big conversation. You know,  
19 it was like -- and when she went for three months without  
20 wetting the bed, that was just -- everybody was ecstatic  
21 about that. But like I said, it wasn't -- we didn't make a  
22 big issue out of it.

23 Q Uh-huh. All right. So now I'm going to go into  
24 November of '09, and do you remember a conversation at the  
25 CFT in November of '09 that the pediatrician actually wrote



1 a prescription for Anastasia for her bedwetting, but that  
2 because it had side effects you didn't want to fill that  
3 prescription for her? Do you remember that? Yes or no?

4 A I'm thinking. No.

5 Q Okay. And do you remember you saying that instead  
6 you're going to wake Anastasia up at night to use the bathroom  
7 so she stops bedwetting instead of following the doctor's  
8 advice?

9 A Yeah. You know what, can I say this? My suggestion  
10 was at six o'clock cut the water off and then when she goes to  
11 bed, the kids went to bed at eight o'clock, and then I woke  
12 her up before I went to bed, like about ten o'clock, to go  
13 pee. And -- yeah.

14 Q All right. So now I want to direct your attention  
15 to January of 2010 and then you had another CFT with Heather  
16 Richardson.

17 A Okay.

18 Q And it was reported that Anastasia continues having  
19 bedwetting issues. Do you remember that?

20 A She probably was having bedwetting issues.

21 Q Oh, okay.

22 A You know, like I said, I --

23 Q And that just like you just said, you told Heather  
24 that you're going to limit her liquid intake at night; right?

25 A Yes. Yes.

1 Q Okay. So you were going to tell -- so this was in  
2 your house in 2010 before Janet Solander was ever there, that  
3 you felt it was important to limit the liquid intake for  
4 Anastasia because of these bedwetting issues?

5 A No, cut her off at six o'clock. I didn't limit her  
6 liquid intake, I just stopped her at six o'clock because we  
7 ate dinner between 5:30 and 6:00.

8 Q Okay. Now, let me ask you, were you making all this  
9 up or was this a real issue in your house?

10 A Making up? No, I wasn't.

11 Q You weren't making it up?

12 A No.

13 Q Okay.

14 A I wasn't making it up.

15 Q Got it.

16 THE COURT: It's 10:30. Counsel approach.

17 (Conference at the bench not recorded)

18 THE COURT: Mr. Figler, you indicated you had one or  
19 two more questions on this area.

20 MR. FIGLER: Correct, Your Honor.

21 BY MR. FIGLER:

22 Q You just testified that you remember a CFT -- was  
23 it one of the last CFTs where you were all excited that she  
24 hadn't had bedwetting issues in three months?

25 A I don't know if it was the last CFT. You know, it's

1 hard -- see, it's been so long ago. I want to answer you  
2 correctly, but I don't know if it was the last CFT that -- but  
3 I did have a meeting where I said she hadn't peed in three  
4 months.

5 Q Okay. Could that have been in March of 2010?

6 A Could be a good possibility.

7 Q Okay. Now, if I told you that it was reported in  
8 March of 2010 that you were excited because Anastasia had not  
9 wet the bed in two weeks, is it possible it was two weeks  
10 instead of three months?

11 A It could have been. That could have been a two week  
12 thing. You know, the --

13 Q Okay. So if you said in March --

14 MS. BLUTH: Judge, I would ask that she be able to  
15 answer the question.

16 MR. FIGLER: I thought she was done.

17 THE COURT: All right. Were you done with your  
18 answer?

19 THE WITNESS: Yes.

20 THE COURT: Okay.

21 MR. FIGLER: Thank you.

22 BY MR. FIGLER:

23 Q So in March of 2010, if you said that Yarely hasn't  
24 wet the bed or Jacqueline -- I'm sorry, Anastasia.

25 THE COURT: Giselle.

1 THE WITNESS: Anastasia.

2 MR. FIGLER: Okay. That's why they're up there.

3 BY MR. FIGLER:

4 Q That Anastasia hasn't wet the bed in two weeks in  
5 March of 2010, then it's likely that she was still wetting  
6 the bed in February of 2010?

7 A I never said she stopped wetting the bed, I mean,  
8 completely. I'm just saying that, you know, okay, she went  
9 three months and then she started back again. You know, I  
10 never said she stopped completely, but I know one thing, there  
11 was a time period that she had a moment of rest of not peeing.

12 Q Okay. So it's your opinion that if Anastasia did  
13 have significant bedwetting issues, that you would have talked  
14 to Ms. Janet about that; right?

15 A If she had asked me.

16 Q Okay. And it was your position here today that --  
17 we started out by saying Anastasia didn't really have any  
18 kind of serious bedwetting issues. You corrected me; right?

19 A Yes.

20 MR. FIGLER: Okay. I'll conclude right now. I  
21 obviously have much more to go through, but we'll stop for --

22 THE COURT: That's fine. All right.

23 Ms. McClain, unfortunately we're going to have to  
24 interrupt your testimony again due to the scheduling of a  
25 couple of physician witnesses that can only appear during

1 certain times.

2 THE WITNESS: Okay.

3 THE COURT: So we're going to have to interrupt your  
4 testimony again. I do need to advise you once again, however,  
5 that you're not to discuss your testimony with anyone else.  
6 And you're excused. And I don't know if she's free to leave  
7 or you want her to come back at a certain time or wait in the  
8 vestibule.

9 MS. BLUTH: Yes, please, if you would just wait in  
10 the vestibule.

11 THE COURT: So, Ms. McClain, if you'll just have a  
12 seat in that little conference room there --

13 THE WITNESS: Okay.

14 THE COURT: -- at the side of the vestibule and just  
15 follow the bailiff, please.

16 And ladies and gentlemen, you heard we have to take  
17 a witness out of order. The witness is appearing via Skype,  
18 and so if the bailiff can move the monitor there to a place  
19 where all of the jurors can see the monitors. And of course  
20 I would remind everyone again that the order in which the  
21 testimony comes in is of no significance and you're all  
22 reminded you need to keep an open mind until you've heard  
23 everything in this case.

24 And so, I don't know if the witness is on yet or --  
25 what are we doing?

1 (Pause in the proceedings)

2 THE COURT: Should we take a break? All right.

3 Ladies and gentlemen, we're going to take just a quick recess

4 until 10:45. During the brief recess you're all reminded

5 you're not to discuss the case or anything relating to the

6 case...(admonishment continues; recording cuts off).

7 (Court recessed from 10:36 a.m. until 10:47 a.m.)

8 (Jury is present)

9 THE COURT: Good morning, Doctor. Can you hear me?

10 MS. MILETI: I can. Can you hear me?

11 THE COURT: Yes. If you would please stand, the

12 court clerk is going to administer the oath to you. And then

13 also raise your right hand, please. All right.

14 ELIZABETH MILETI, STATE'S WITNESS, SWORN

15 THE CLERK: Thank you. Can you please state and

16 spell your first and last name for our record.

17 THE WITNESS: Elizabeth Mileti. E-L-I-Z-A-B-E-T-H

18 M-I-L-E-T-I.

19 THE COURT: All right, thank you. And, Doctor,

20 you may be seated.

21 THE WITNESS: Thank you.

22 THE COURT: And Mr. Hamner, you may proceed with

23 your questioning of the witness.

24 MR. HAMNER: Thank you very much.

25 ////

1 DIRECT EXAMINATION

2 BY MR. HAMNER:

3 Q Doctor, can you hear me?

4 A I can.

5 Q Thank you very much. If you could, could you  
6 explain to the jury what you do for a living?

7 A I am a pediatric gastroenterologist, so I take care  
8 of children who have intestinal issues and liver or pancreatic  
9 issues.

10 Q Okay. Please explain to the jury a little bit about  
11 your educational background and how you got your medical  
12 degree.

13 A So, I completed four years of college and then went  
14 to medical school for four years, did a three year pediatric  
15 residency and then completed a three year pediatric gastro-  
16 enterology fellowship.

17 Q Could you explain where you got your degrees from  
18 and what hospitals you did your residencies at?

19 A Sure. I did my pediatric residency at Cincinnati  
20 Children's. I then completed my pediatric gastroenterology  
21 fellowship at the University of California, San Francisco.

22 Q And where did you get your medical degree from?

23 A My medical degree is from northern California at  
24 the Touro University there.

25 Q And your undergraduate degree, where did you get

1 that from?

2 A That was from the University of Puget Sound in  
3 Tacoma, Washington.

4 Q How long have you been practicing medicine, Doctor?

5 A I completed my fellowship in 2011, in June of 2011,  
6 so since that time.

7 Q How long have you been practicing here in Clark  
8 County?

9 A Since August of 2011.

10 Q So in August of 2011, that's actually the time I  
11 want to turn your attention to, do you remember meeting a  
12 patient by the name of Amaya Solander?

13 A I would have to tell you don't necessarily remember  
14 that time frame, but from my records it appears that I saw  
15 Amaya Solander, yes.

16 Q And so, Doctor, here's what I'd like to do. I know  
17 that -- did our office send you or your counsel kind of a set  
18 of records, your records or maybe some underlying records that  
19 you had reviewed as part of your treatment of this child?

20 A Yes.

21 Q Okay. Do you have those with you?

22 A I do.

23 Q Okay. So what I don't want you to do right now is I  
24 don't want you to read them right now, okay, but I'm going to  
25 refer specifically primarily to your August 25th, 2011 visit.



1 So if there's a moment where maybe off the top of your head  
2 you can't remember, at that time I'll say, hey, would it help  
3 refresh your memory if you want to take a look at that  
4 document. And then at that point I'll maybe -- I'll turn your  
5 attention to a particular page and you can read it silently  
6 for it to refresh your memory, okay?

7 A Very good.

8 Q Okay, great. Now, with respect to Amaya when she  
9 came in, do you remember -- and based on a review of your  
10 records, but do you remember what the chief kind of complaint  
11 was or why she was coming in for a consult?

12 A It was for a second opinion regarding her  
13 constipation.

14 Q And who had she seen prior to that? What physician  
15 do you remember her seeing prior to that?

16 A She had seen Dr. Sheikh prior to coming to see me.

17 Q Doctor, as part of your treatment of patients, is it  
18 regular course for you to review medical records or progress  
19 notes from other physicians?

20 A It is, assuming that we have those beforehand.

21 Q And did you review some of the progress notes made  
22 by Dr. Sheikh?

23 A I did.

24 Q Okay. In fact, did you note a number of the  
25 findings or tests that were performed by Dr. Sheikh in your

1 own August 2011 entry when kind of writing -- doing a write-up  
2 on Amaya?

3 A Yes, I did.

4 Q Okay. So how long was it being reported that she  
5 was having problems with constipation?

6 A It was reported that in the year and a half -- in  
7 the prior year and a half she had issues with constipation,  
8 though potentially there were issues prior to that but those  
9 details were unknown.

10 Q Okay. Who was -- if you can remember and maybe your  
11 notes indicate, who was typically kind of reporting the  
12 symptomology? Is it the parent, is it the child, is it a  
13 combination of both?

14 A Based on the note, it was reported by the parent.

15 Q Okay. When you are working with a patient and  
16 you're trying to kind of diagnose and figure things out, how  
17 important is it to get accurate information about symptomology  
18 and past history of a patient?

19 A Very important.

20 Q Why is that?

21 A So we can get an idea of what symptoms the patient  
22 has been having to be able to determine what the diagnosis  
23 might be or what testing, if anything, needs to happen or what  
24 treatment, if any, needs to occur.

25 Q And you mentioned that you're a gastroenterologist

1 and I think you kind of briefly described you kind of work to  
2 help people who are having kind of G.I. issues; right?

3 A Correct.

4 Q So that's kind of digestive, lower intestine, things  
5 of that nature, bowels?

6 A Yes.

7 Q Okay. When you are treating a patient for those  
8 type of symptoms, is it important to kind of understand what  
9 kids are eating regularly?

10 A Diet can be a factor, yes.

11 Q How about how much water they're consuming?

12 A Water consumption can also play a role, yes.

13 Q How about a history, an accurate history about how  
14 often they're using the bathroom or allowed to use the  
15 bathroom?

16 A That also is important, yes.

17 Q Why are these things important, Doctor?

18 A It provides us an idea of how severe their symptoms  
19 are. It also provides us an idea of if diet and fluid intake  
20 may be contributing to the symptoms.

21 Q How about the frequency of bathroom use, is that  
22 important as well? I know you talked about nutrition, food  
23 and water, but let's talk about the bathroom element. How  
24 important is that for you to understand?

25 A That gives us a sense of how normal the pattern is

1 or abnormal it is.

2 Q Okay. What was being reported at least initially  
3 about how often she was going a week? If you can remember.

4 A Based on my notes it appeared that she was initially  
5 stooling several -- three to four times a week and then there  
6 was a report of her stooling maybe only twice a week and then  
7 a report of her stooling four to five times a week, so there  
8 was some variability.

9 Q Okay. Did you learn that this child had been taken  
10 to the E.R. multiple times?

11 A There was a report, also, that she had been to the  
12 E.R. and from my note it appears that the mom had reported  
13 three times.

14 Q Okay. Were there any sort of colonoscopies,  
15 edoscopies done on Amaya, as far as you remember?

16 A From Dr. Sheikh's note it appeared that he had  
17 performed a colonoscopy with biopsies and a disimpaction.

18 Q And if you could explain to the jury, what is a  
19 biopsy?

20 A A biopsy is where they take a very small piece of  
21 tissue sample from the intestinal tract so that they can send  
22 it to the pathologist, who looks at it under a microscope to  
23 evaluate for any signs of inflammation.

24 Q Okay. And were the results of these colonoscopies  
25 as well as biopsies normal?

1           A     The colonoscopy and biopsies were normal, based on  
2 Dr. Sheikh's records and the pathology (10:57:10).

3           Q     Did you review records that indicated that Dr.  
4 Sheikh also conducted blood tests and celiac screens?

5           A     There was lab testing that appeared to have been  
6 ordered by Dr. Sheikh that did include celiac testing.

7           Q     And were those negative?

8           A     They were normal.

9           Q     Did Dr. Sheikh also rule out the possibility of  
10 Hirschsprung's disease?

11          A     He did an initial evaluation for Hirschsprung's with  
12 a barium enema, which was normal.

13          Q     Now, was there a recommendation for a liquid diet  
14 made by Dr. Sheikh three months prior to your visit?

15          A     From my notes it appeared that that was the case.  
16 I'm not certain that I recall from Dr. Sheikh's notes that I  
17 read that he wanted her on a liquid diet, but that was what  
18 was reported by the mom.

19          Q     Okay. So the mom reported to you that Dr. Sheikh  
20 had suggested that the child be placed on a liquid diet?

21          A     Correct.

22          Q     Okay. But you didn't actually in your review of his  
23 records, you didn't find actually a notation that Dr. Sheikh  
24 made that recommendation?

25          A     Correct. But I'm not certain that I actually

1 received all of Dr. Sheikh's notes.

2 Q And that's fine, but based on what you had you  
3 didn't find that. And Doctor, based on -- you used the word  
4 liquid diet. What was your understanding of what that meant?  
5 Does that mean just pure liquid? Does that mean solid foods  
6 being blended? What are we talking about here, at least based  
7 on what you believed it to be?

8 A So when someone says liquid diet, my assumption  
9 would be just liquids, what you're drinking. So, shakes, some  
10 water, juice. However, mom also had mentioned that she was  
11 having pureed food, so she must have been putting it into a  
12 blender regular food --

13 Q Okay.

14 A -- that she blenderized.

15 Q Okay. So mom was reporting that she's actually  
16 blending food, not necessarily all the time giving her a pure  
17 liquid diet?

18 A The pureed food -- I don't know that I recall  
19 exactly it being blended foods versus potentially --

20 Q Pureed. That's fine, we'll use that word, puree.  
21 I apologize. But that's what's being reported, that the mom  
22 was actually pureeing food for the child?

23 A Correct.

24 Q Did you find any notations in Dr. Sheikh's records  
25 indicating a recommendation to puree food?

1           A     I do not recall that.

2           Q     Now, when you met with the mom, did she report --  
3 was there any discussion about accidents or anything like that  
4 happening in the house, or was it purely just that the child  
5 was constipated?

6           A     There had been a record of -- I can't remember  
7 exactly, but I believe that there had been concern about  
8 bedwetting and accidents related to that. And while she did  
9 not talk about stool leakage that I recall, the pediatrician's  
10 note I believe had mentioned this.

11          Q     Okay. Was there anything reported by the mother  
12 about the measures that were being taken maybe to kind of  
13 tackle the problem or correct the bedwetting or bathroom  
14 issues?

15          A     It appeared that she was having Amaya, and also her  
16 sisters from my notes, hold in their urine for long periods of  
17 time to avoid these accidents.

18          Q     Did you have any -- from any of the medical doctors'  
19 notes, either Dr. Sheikh or the pediatrician before that, were  
20 there any recommendations in their records that indicated that  
21 this sort of holding of the urine was being recommended by a  
22 treating physician?

23          A     I do not recall seeing that in the notes.

24          Q     Okay. Can holding urine or using the bathroom for  
25 prolonged periods of time potentially affect gastrointestinal

1 issues?

2 A Yes, it can.

3 Q Can it affect constipation?

4 A Yes, it can.

5 Q Okay. Now, when you met with Amaya, did you  
6 actually get a chance to talk with Amaya?

7 A I -- based on my notes it appears that I did.

8 Q What did Amaya report to you about feeling the need  
9 to go to the bathroom? What did she tell you about that?

10 A So, typically I will ask kids if they have any  
11 holding behaviors and Amaya had stated that she can feel when  
12 she has the urge to stool and that occasionally she would hold  
13 back on stooling.

14 Q Doctor, did you ask this child why she would do  
15 that, why she would hold back despite having the sensation of  
16 needing to stool?

17 A I did and that's a pretty typical question that  
18 I'll ask my patients. And she had said that that was because  
19 she and her sister -- her sisters were timed with using the  
20 bathroom and so they would have to hold in their stool, but  
21 otherwise she did not have withholding behaviors.

22 Q And specifically --

23 UNIDENTIFIED SPEAKER: What?

24 MR. HAMNER: I'm sorry.

25 THE COURT: Yeah, we didn't hear the end of your



1 last sentence. Can you say that again for us?

2 THE WITNESS: So, she had said that -- Amaya had  
3 said that her and her sisters were timed with using the  
4 bathroom, so sometimes she would have to hold in her stool  
5 for that purpose, but she otherwise stated that she didn't  
6 hold in her stool typically.

7 BY MR. HAMNER:

8 Q And specifically with respect to the wetting, did  
9 she describe it as kind of a daytime thing or did she describe  
10 it as a nighttime thing, enuresis?

11 A The mom had explained that all the girls had issues  
12 with nighttime bedwetting.

13 Q So not daytime?

14 A Not during the day, as far as my notes reflected.

15 Q But based on your notes, are these child's (sic)  
16 talking -- it is being reported to you that they're holding  
17 their urine or holding -- is Amaya reporting she's holding her  
18 urine or her stool only at night or is it kind of a daytime  
19 thing because there's a timer involved?

20 A From my understanding she was being made to hold  
21 back her urine and her stool during the day because she was  
22 having issues with nighttime bedwetting.

23 Q And did the mom report to you about under what  
24 situations would they need to hold their stool? Does she make  
25 some sort of reporting comment about that?

1           A     No. I had asked why they were being -- why she was  
2 holding and that was when mom explained that the girls had  
3 nighttime bedwetting and so she was making them hold in her  
4 urine and occasionally hold in their stool unless they  
5 absolutely needed to go because she -- because the girls had  
6 issues with accidents and because they traveled frequently.

7           Q     So she reported to you that she traveled frequently  
8 with these children?

9           A     She did report that.

10          Q     So she's reporting these kids get out of the house  
11 a lot with her and they go places?

12          A     Correct. And there was some part of my note when  
13 I reviewed it that she had gone to Florida on vacation.

14          Q     Okay. Had this woman reported this -- before the  
15 child brought up the timing, had this mother reported this  
16 decision to have them hold their urine or their constipation  
17 prior to this kid bringing it up?

18          A     No.

19          Q     What did she report to you that she did for a  
20 living?

21          A     Mom reported that she was a nurse at Nellis Air  
22 Force Base.

23          Q     And one more thing about Amaya. What did she tell  
24 you that -- did she report to you what she would do if the  
25 timers weren't kind of in place with respect to kind of going

1 to the bathroom when feeling the urge?

2 A No.

3 Q Okay. And would it maybe help your -- refresh your  
4 recollection if you refer to a portion of your note to this  
5 consultation?

6 A Uh-huh.

7 Q And specifically I'm going to refer you to page 2.

8 A Sure.

9 Q There is a first full paragraph. It's not -- well,  
10 it's the second paragraph there which begins, "Amaya."

11 A The one that --

12 Q I want you to take a look at the last sentence of  
13 that paragraph and let me know if that refreshes your memory.

14 A The sentence that says, "Amaya states that" --

15 Q Yeah. I don't want you to read it out loud, but I  
16 want you to read that sentence quietly to yourself and let me  
17 know if that refreshes your memory. Sorry, there's a whole  
18 process to it. Does that refresh your memory?

19 A Well, that she doesn't otherwise withhold her stool.

20 Q Right. So other than the time where she wouldn't  
21 withhold her stool.

22 A Correct.

23 Q And that's what she reported to you?

24 A Correct.

25 Q And I can't remember, I know I asked you but I don't

1 know if I heard the answer, what did -- and this is just for  
2 clarification, what did the mother report to you that she did  
3 for a living?

4 A That she was a nurse at Nellis Air Force Base.

5 Q Did you have records of a barium enema being  
6 performed on Amaya?

7 A I received records from the barium enema that Dr.  
8 Sheikh had ordered, yes.

9 Q And what was the result of that?

10 A That was normal.

11 Q What did -- as far as past reported history, aside  
12 from constipation what else -- what if anything else did the  
13 mother report that Amaya had?

14 A Based on my notes it appeared that she also reported  
15 her having Asberger's.

16 Q Was there a doctor provided by the mother about that  
17 diagnosis?

18 A Not that I have recorded and I do not recall her  
19 telling me who diagnosed that.

20 Q Was there a date provided?

21 A No.

22 Q When you reviewed the record from Dr. Sheikh or a  
23 pediatrician, did you find any notations that this child had  
24 been diagnosed by a doctor with Asberger's?

25 A No. I don't recall seeing that.

1           Q     What did -- as far as family history, what did the  
2 mother report her sisters having?

3           A     That there is a sister who had Crohn's disease and  
4 Von Willebrand's deficiency, and another sister who had Type 1  
5 Diabetes.

6           Q     Did she provide any indication when reporting this  
7 history that any of those diseases by this time, August of  
8 2011, had actually been ruled out?

9           A     You mean in Amaya?

10          Q     No, in these other kids.

11          A     No, she had just reported that those kids had --

12          Q     Those diagnoses?

13          A     -- those issues. Correct.

14          Q     Did she provide a doctor or a date for when those  
15 diagnoses were made?

16          A     No, just that the whole family history was unknown  
17 since they were adopted, but these were the details she had  
18 from having the children for the past year and a half.

19          Q     Okay. I want to turn your attention to kind of  
20 your assessment and essentially your plan, okay?

21          A     Sure.

22          Q     You have this kind of symptomology that you're  
23 getting. You've reviewed kind of these records of the  
24 different tests and scopes and things like that. At this  
25 point how are you feeling as far as an assessment as to why

1 these things were happening?

2 A It was not entirely clear to me based on Dr.  
3 Sheikh's prior evaluation and mom's reporting, it was not  
4 entirely clear to me what had led to Amaya's constipation  
5 being worse.

6 Q Okay. Were you also getting indications that this  
7 child was on kind of stool softeners or procedures were being  
8 done to kind of clean out her system --

9 A Yes.

10 Q -- over this period of time that they're trying to  
11 treat it?

12 A Yes. So she had -- certainly besides seeing Dr.  
13 Sheikh and getting multiple tests done under his care, she  
14 had also been placed on some medications for her constipation,  
15 including Miralax and a stimulant laxative, and she had also  
16 gone to the E.R. and had received enemas in the E.R. each  
17 time.

18 Q Okay. Did you make any recommendations to the  
19 mother?

20 A I had recommended that they placed her back on a  
21 regular diet and I did not feel like she needed to remain on  
22 a pureed or liquid diet.

23 Q What did Amaya tell you about eating the pureed food  
24 versus solid foods or if she had a preference? Did she tell  
25 you anything like that when you met with her?

1           A     My notes had indicated that she said she missed  
2 eating solid food.

3           Q     Doctor, why -- based on everything that you  
4 reviewed, you know, meeting with the patient, meeting with  
5 the mother, reviewing the history of symptomology, reviewing  
6 these past test results performed by other physicians, why  
7 did you believe at this point in your medical opinion that a  
8 pureed or a liquid diet was not appropriate at this time and  
9 that it was okay to go to a regular diet?

10          A     In general a puree diet is not what I recommend for  
11 treatment of constipation.

12          Q     Why is that?

13          A     It typically does not -- it does not treat  
14 constipation. It doesn't in general make constipation better.  
15 Improving fluid certainly can be helpful if you're not  
16 drinking the appropriate amounts to begin with. Improving  
17 fiber, if you are not consuming appropriate amounts, can be  
18 helpful. But a puree diet is not typically a recommendation.

19          Q     With this sort of symptomology, would you recommend  
20 a restriction of water?

21          A     I would not recommend restricting water.

22          Q     With this sort of symptomology, would you recommend  
23 a reduction in the number of meals the child had?

24          A     I definitely would not reduce the number of meals  
25 that they child had.

1 Q Doctor, why wouldn't you recommend those things to  
2 a parent to treat a child with this type of symptomology?

3 A Reducing food certainly does not affect constipation  
4 management and certainly reducing fluids can worsen  
5 constipation. Additionally, you would not reduce food. As a  
6 growing child, it's important that they have all the nutrients  
7 that they need.

8 Q When you made this recommendation to place Amaya  
9 back on a regular diet, did you kind of explain maybe some of  
10 the reasons why you thought -- to the mother, did you explain  
11 some of those reasons, hey, these are the reasons why I think  
12 you probably should go back on a regular diet?

13 A I do not recall exactly what I would have said to  
14 her at that time. My note indicated that I urged her to place  
15 her back on a regular diet, given her history with stooling,  
16 and my note indicated that mom was hesitant to do that.

17 Q Do you have any notations as to why she was hesitant  
18 to do it? Any further notation other than that?

19 A I do not have any details about that.

20 Q Okay. So just that you made that recommendation to  
21 her and she was hesitant to do that?

22 A Correct.

23 Q Okay. When you concluded this meeting, what was the  
24 plan at that point, to do what? What was the next -- I mean,  
25 was there a follow-up visit kind of anticipated? What did



1 you guys kind of plan?

2 A Yes. So since I was -- it was not clear to me why  
3 Amaya's constipation appeared to be getting worse, I had  
4 agreed with Dr. Sheikh, who had recommended ordering a test  
5 called anorectal manometry and I had recommended ordering an  
6 X-ray type test called a Sitzmark study to evaluate her  
7 colonic motility. She was supposed to come back to see me in  
8 two months. I had given mom the option to go back to see Dr.  
9 Sheikh, since he was the original pediatric gastroenterologist  
10 and this was just a second opinion. Mom said she would prefer  
11 to continue to follow up in our practice and that was the  
12 plan. There was, however, no subsequent follow up and no  
13 subsequent testing that she followed through on getting.

14 Q Okay. So you gave her an option of staying with you  
15 or going with Dr. Sheikh?

16 A Correct.

17 Q And you indicated she wanted to go with you but  
18 never came back?

19 A Correct.

20 Q As you reviewed everything and this symptomology,  
21 was this making -- was this situation making sense to you,  
22 Doctor, based on your training and experience?

23 A It was -- I wasn't entirely clear what had  
24 precipitated or made her constipation worse, especially with  
25 the normal testing that Dr. Sheikh had done. But based on

1 mom's report that she was still struggling with constipation,  
2 my plan had been to do further evaluation to be able to  
3 determine that ideology and hopefully help her.

4 Q Okay. You also mentioned one other little thing.  
5 You mentioned that the mother reported not only that she was  
6 giving Amaya the pureed food, but the other children as well.  
7 Did she --

8 A Uh, I'm not --

9 Q Is that -- do you remember reporting that or  
10 indicating that?

11 A If I did, I may have -- I'm not certain that I knew  
12 that and if I reported that I may have been mistaken.

13 Q Okay.

14 A I'm not certain the other kids were on pureed foods  
15 or not.

16 Q Okay. I thought I heard you say that, but as you  
17 sit here today you don't remember that necessarily being  
18 reported and you don't have anything in your notes to that  
19 effect, is that right?

20 A Correct.

21 Q Okay.

22 A Yeah, I don't -- I don't recall mom feeding all the  
23 kids purees, but just Amaya.

24 Q Okay.

25 A I wouldn't have necessarily asked her about the

1 other kids eating --

2 Q No, I understand that.

3 MR. HAMNER: Thank you, Doctor. No further  
4 questions.

5 THE COURT: All right. Cross?

6 MS. McAMIS: Yes. Thank you.

7 CROSS-EXAMINATION

8 BY MS. McAMIS:

9 Q Good morning, Dr. Mileti. Can you hear me okay?

10 A I can. Good morning.

11 Q Okay, thank you. All right. Dr. Mileti, you had an  
12 office visit on August 25th, 2011 with Amaya and her adoptive  
13 mother for a second opinion about constipation; correct?

14 A Correct.

15 Q Okay. And at the time that you had that second  
16 opinion, you testified that you reviewed some of Dr. Sheikh's  
17 notes; correct?

18 A I would have reviewed whatever was provided to me at  
19 that time, correct.

20 Q Okay. And that would have been provided -- records  
21 provided to you by the mother, Janet; right?

22 A They typically would have been records that my  
23 office would have requested prior to the appointment.

24 Q Okay. And in addition to the records you were able  
25 to get a history from both Janet, the mother, and also Amaya;

1 correct?

2 A Correct.

3 Q Because you were able to speak to Amaya at this

4 office visit; right?

5 A Correct.

6 Q And Amaya told you a number of things that you

7 documented in your notes from that office visit; right?

8 A Correct.

9 Q And that included Amaya reporting to you that her

10 stools are no longer hard, but she still does not stool every

11 day?

12 A Correct.

13 Q Okay. So there was information you received from

14 both Dr. Sheikh's office, Amaya herself and Janet; right?

15 A Correct.

16 Q Okay. But you testified you were not certain you

17 have all of Dr. Sheikh's notes; right?

18 A Correct.

19 Q And is it fair to say you did not talk to Dr. Sheikh

20 directly?

21 A Yes, it is correct to say that.

22 Q Okay.

23 A Sometimes we do speak [unintelligible], but I don't

24 recall if I called him specifically about --

25 Q I'm sorry to interrupt, but we're having trouble

1 listening to your answer. Would you be able to try that again,  
2 please?

3 A Of course. I do sometimes speak to Dr. Sheikh about  
4 some of his patients that I am now seeing, but I do not recall  
5 if I spoke to him about Amaya.

6 Q And if you had spoken to Dr. Sheikh, that's  
7 something you would have entered into your notes; right?

8 A Most likely, yes.

9 Q Okay. And so your notes don't reflect any  
10 conversation with Dr. Sheikh; correct?

11 A Correct.

12 Q Okay. Now, to the extent that Amaya had seen other  
13 doctors, including Dr. Bernstein, you didn't have any of those  
14 records; correct?

15 A Correct.

16 Q And you didn't have any records from Amaya's  
17 treatment or any of the treatments regarding doctors including  
18 Dr. Rhee, Dr. Kawan, Dr. Nyarko or Dr. Raja; correct?

19 A I believe I had the pediatrician's notes. And I do  
20 not recall, I'd have to look to see which pediatrician it was  
21 who saw her. It might have been Dr. Kawan. And they reported  
22 that they were seeing Dr. Nyarko when they came to my  
23 appointment -- [unintelligible].

24 THE COURT: We're having some trouble hearing you.  
25 Is it possible that your papers are obstructing the microphone

1 there?

2 THE WITNESS: Can you hear me better now?

3 THE COURT: That's perfect.

4 THE WITNESS: Okay.

5 THE COURT: Yes, we can hear you so much better.

6 Thank you.

7 THE WITNESS: Okay.

8 THE COURT: Go on, Ms. --

9 THE WITNESS: There is a pediatrician's notes that

10 would have come from -- let me -- I'll have to look, but it

11 looks like maybe Dr. Kawan.

12 MS. McAMIS: Okay.

13 THE WITNESS: And the mom had said that their

14 pediatrician was Dr. Nyarko at the time.

15 MS. McAMIS: Okay.

16 THE WITNESS: But I don't think I have any of his

17 notes.

18 BY MS. McAMIS:

19 Q Okay. And you didn't have any personal phone calls

20 or contact with any of those doctors; correct?

21 A Correct. Oh, it looks like I had one note, I'm

22 sorry, from Dr. Nyarko and one note from Dr. Kawan, but I did

23 not speak with either physician directly.

24 Q Okay. All right. Now, you testified about different

25 things that you noted in the records about Dr. Sheikh

1 performing and you were asked questions about different tests  
2 that Dr. Sheikh had done. My question to you is, isn't it  
3 true Dr. Sheikh had done a disimpaction on Amaya?

4 A On his colonoscopy note it states that he was doing  
5 a colonoscopy with biopsy and a manual disimpaction, yes.

6 Q Okay. What's a disimpaction?

7 A A disimpaction is where you reach into the rectal  
8 vault and remove any particularly hard stool from the rectum.  
9 And then during a colonoscopy if there is excess stool that  
10 is in the colon, that is removed during the process of  
11 colonoscopy.

12 Q Okay. So a disimpaction relates to hard stool that  
13 can be found in the colon; correct?

14 A Correct.

15 Q And that is -- disimpaction can be a procedure done  
16 when there is constipation; correct?

17 A Correct.

18 Q Okay. And that's consistent with Mrs. Solander,  
19 Janet, coming to you with Amaya for a second opinion about a  
20 constipation issue; right?

21 A Correct.

22 Q Okay. Now, you were asked questions about Amaya  
23 disclosing to you that she was timed when she had to go to the  
24 bathroom and that she was made to hold her urine because of  
25 this timing issue; right? You remember testifying to that?

1           A     Correct.

2           Q     Okay. So based on all of that disclosure, there  
3 is nothing about that that prompted your duty as a mandatory  
4 reporter; correct?

5           A     Correct.

6           Q     And you understand a mandatory reporter -- you know  
7 what that term means; right?

8           A     I do.

9           Q     So if you even suspect child abuse or neglect or  
10 some sort of mistreatment of any kind, you have a legal  
11 obligation to call that in to the authorities; correct?

12          A     Correct.

13          Q     And you would have done so had you seen anything  
14 wrong with the disclosures that were made about the timing  
15 issue for the bathroom or the withholding issue; correct?

16          A     Correct.

17          Q     Okay. And you made no duty to CPS or law enforcement  
18 based on Amaya's disclosure about the bathroom timing;  
19 correct?

20          A     That is correct.

21          Q     Okay. Now, you also documented in your note from  
22 when you were doing the second opinion that Amaya was on the  
23 current medication of Risperdal; correct?

24          A     I would have to look back, but I believe so, yes.

25          Q     If I could direct your attention to page 3 of your



1 note under the section marked, Current Medication, could you  
2 please review that silently to yourself and let me know when  
3 you've done that.

4 A Yes, I have.

5 Q Okay. And did that refresh your memory about the  
6 medication that was reported to you?

7 A Yes.

8 Q And was that Risperdal?

9 A Correct.

10 Q Okay. Did you get any of the records that Amaya had  
11 been treating with a psychiatrist where she got prescribed the  
12 Risperdal and had been treating with a psychiatrist for the  
13 preceding years?

14 A No, I did not receive any psychiatry notes.

15 Q Okay. And likewise you didn't speak to any doctor  
16 that had prescribed that medication for her, either; right?

17 A Correct.

18 Q Okay. Now, when you do this second opinion of  
19 Amaya, you do a physical examination of her; correct?

20 A That is correct.

21 Q Okay. So you would have looked at her body for  
22 just observations as far as her being nourished or developed  
23 or hydrated; correct?

24 A Correct.

25 Q And you made no notes in your August 25th, 2011

1 report that Amaya was either malnourished or improperly  
2 hydrated; correct?

3 A Correct.

4 Q Okay. And there was no physical observation of  
5 Amaya at that August 25th, 2011 office visit that prompted a  
6 referral to CPS or law enforcement; correct?

7 A Correct.

8 Q Okay. Now, in fact, you noted in your office visit  
9 note, "Mom seemed to be doing the right things with increasing  
10 Amaya's fiber and fluids but her constipation got worse."  
11 Correct?

12 A Yes, that is correct.

13 Q Okay.

14 A Which is what made it unclear to me why things were  
15 worse.

16 Q Okay. And so you talked about that you recommended  
17 mom place Amaya back on a regular diet, but mom was hesitant  
18 to do so; right?

19 A That is correct.

20 Q Okay. And based on Janet's reaction of being  
21 hesitant, that did not trigger any mandatory report or duty  
22 for you to call CPS or law enforcement; correct?

23 A Correct.

24 Q Okay.

25 MS. McAMIS: Court's indulgence. Ms. Miletì, I'm

1 just reviewing the notes briefly.

2 THE WITNESS: No problem.

3 BY MS. McAMIS:

4 Q All right. Dr. Mileti, you testified that Mrs.  
5 Solander did not follow up with you; correct?

6 A That is correct.

7 Q Okay. Isn't it true you have no knowledge if Mrs.  
8 Solander followed up or returned back to Dr. Sheikh for  
9 continued treatment of Amaya?

10 A That is correct.

11 MS. McAMIS: Okay. I have no further questions.  
12 Pass the witness.

13 MR. HAMNER: Real briefly.

14 THE COURT: All right. Mr. Hamner.

15 REDIRECT EXAMINATION

16 BY MR HAMNER:

17 Q With respect to that question about how you made  
18 that entry that mom seemed to do the right things by  
19 increasing fiber and fluids, do you remember those questions  
20 on cross?

21 A Yes.

22 Q Who told you that she was doing the right things  
23 with the fiber?

24 A Mom had -- mom had mentioned that she had been  
25 increasing her fluid and her fiber intake with adding fiber

1 into her pureed foods and adding fluids in that.

2 Q So it was the mom telling you she increased the  
3 fiber?

4 A Correct.

5 Q And it was the mom telling you she increased the  
6 fluids?

7 A Correct.

8 Q Okay. And so you told us before the source of that  
9 information, the parents, getting the information is critical,  
10 right, for you to make an accurate assessment?

11 A Absolutely.

12 Q And those would be the right things to do, right,  
13 increasing fiber and fluid, and so you put it down and noted  
14 that it was a good thing?

15 A Absolutely.

16 Q But you -- there wasn't a way in that meeting for  
17 you to really double check on that; right?

18 A No, there wouldn't have been a way for me to double  
19 check on that.

20 Q Okay. So it's all -- it was all predicated on what  
21 mom decided to tell you?

22 A Correct.

23 MR. HAMNER: No further questions.

24 THE WITNESS: Okay.

25 THE COURT: Ms. McAmis.

1 RECROSS EXAMINATION

2 BY MS. McAMIS:

3 Q Dr. Mileti, you were asked questions just now about  
4 the mom's report to you about increased fiber and fluids, and  
5 if I heard you correctly you testified that it was your  
6 understanding that the report was the fiber and fluids were  
7 increased in the pureed food; correct?

8 A Based on my notes that I reviewed, it appeared that  
9 mom had said she was adding water and fiber to the pureed  
10 foods, yes.

11 MS. McAMIS: Okay. No further questions.

12 THE COURT: Thank you.

13 MR. HAMNER: I have nothing further, Your Honor.  
14 Thank you.

15 THE COURT: All right. Do we have any juror  
16 questions for this witness?

17 THE MARSHAL: We do, Judge.

18 THE COURT: All right, I'll see counsel at the  
19 bench, please.

20 And, Doctor, just wait a moment. There may be some  
21 juror questions for you.

22 (Conference at the bench not recorded)

23 THE COURT: Doctor we have a few juror questions  
24 here.

25 THE WITNESS: Very good.

1           THE COURT: And in no particular order a juror asks:  
2 Did you find it alarming that the mother was reporting months  
3 of difficulty using the restroom in regards to Amaya, but the  
4 child disclosed that she held her bowel movements due to a  
5 restroom timer?

6           THE WITNESS: So, mom had reported that she was  
7 having issues long term with stooling. That wasn't  
8 necessarily alarming to me. The restroom timer appeared to  
9 focus more on her bedwetting and more related to holding in  
10 her urine, so those two things did not necessarily trigger me  
11 to be alarmed about the constipation history.

12           THE COURT: And that --

13           THE WITNESS: Though --

14           THE COURT: Oh, I'm sorry.

15           THE WITNESS: -- mom had mentioned that sometimes  
16 she would make them hold in the stool, but sometimes holding  
17 in the stool isn't necessarily alarming in the appropriate  
18 context. For instance, you're on a car ride and you're not  
19 anywhere close to a bathroom and having to hold that in, that  
20 was not particularly alarming if this was very intermittent.

21           THE COURT: Okay. And then another question is:  
22 When the parent became resistant to the recommended solid food  
23 diet, are there any disclosures in your note as to why exactly  
24 the mother was hesitant to begin your recommendation?

25           THE WITNESS: There was not anything in my note

1 related to why she was hesitant about being on a regular diet.

2 THE COURT: Okay. And then another question is:  
3 When a parent reports that a child has a specific disease or  
4 illness, is it not common practice to locate documentation  
5 from the diagnostic physician or the physician that made that  
6 initial diagnosis?

7 THE WITNESS: No, not necessarily. It depends on  
8 whether that diagnosis may impact the current thing that I am  
9 treating the child for. But, for instance, the Asberger's  
10 diagnosis may not have had any impact on the constipation  
11 issue, and so I wouldn't necessarily look for those records.

12 THE COURT: Okay. Mr. Hamner, do you have any  
13 follow-up to those last series of questions?

14 MR. HAMNER: I do.

15 FURTHER REDIRECT EXAMINATION

16 BY MR. HAMNER:

17 Q With respect to the question that was talking about  
18 whether you were alarmed about holding the stool, one of the  
19 things that you said was, well, it seemed that the timers were  
20 more concerned with urination and I think you said the holding  
21 of the stool was in relation to kind of while you were in a  
22 car ride. Do you remember providing that as kind of an answer  
23 to that question?

24 A Yes.

25 Q Was that a yes? I couldn't hear you.

1           A     Yes.

2           Q     Okay.

3           A     Sorry.  Yes.

4           Q     Thank you.  Was that how it was being reported to  
5 you, that the holding of stool was something that was  
6 happening, for example, just in a car ride situation and  
7 maybe not something that's happening inside the house?

8           A     No.  It was reported to me that the girls were  
9 moving to hold in their urine due to the bedwetting and  
10 occasionally their stool had to be held in, too.  And I don't  
11 have any other details in my note as to why occasionally that  
12 was done.  There might have been more detail, but I did not  
13 place that in my note.

14          Q     And to be clear, what was being reported was the mom  
15 was saying occasionally they had to hold their stool, too,  
16 unless they absolutely have to go.  That's what was kind of  
17 noted; correct?

18          A     Correct.

19          Q     So it wasn't given in the context of being only like  
20 in a travel situation with a car; correct?

21               MS. McAMIS:  Asked and answered.

22               THE COURT:  Overruled.  She can clarify.

23               THE WITNESS:  Correct.

24 BY MR. HAMNER:

25          Q     Okay, And I want to follow up.  With respect to this



1 timing issue about the timer seemed to be only about holding  
2 back urine --

3 A Correct.

4 Q -- did you tell us previously that Amaya said the  
5 reason she held back her stool was due to the timers?

6 MS. McAMIS: Asked and answered.

7 MR. HAMNER: No. I --

8 THE COURT: She can answer.

9 THE WITNESS: So, Amaya had said that her and her  
10 sisters were sometime -- were timed and that was why she was  
11 holding in her stool on occasion.

12 BY MR. HAMNER:

13 Q Okay. So the child reports to you that the timer  
14 is the reason why she holds back her stool?

15 A Correct.

16 Q And did the child also state that with the exception  
17 of the timer she doesn't hold back her stool?

18 A She did state that.

19 Q Okay. All right. So the child is reporting to you  
20 it's not I'm holding it only for urine for a timer, she  
21 actually reports to you the timer is the reason why she holds  
22 back her stool?

23 A Yes. And mom had also reported that, but mom had  
24 said that the reason for the timing was related to the bedtime  
25 wetting, but occasionally they would also be required to hold

1 back stool.

2 MR. HAMNER: Okay, thank you. No further questions.

3 THE COURT: Ms. McAmis, any other questions?

4 MS. McAMIS: Yes.

5 FURTHER RECROSS EXAMINATION

6 BY MS. McAMIS:

7 Q Dr. Mileti, so is it fair to say that both the  
8 mother and the child made disclosures to you, a doctor, who  
9 is a mandatory reporter?

10 A Yes.

11 MS. McAMIS: Okay. No further questions.

12 THE COURT: Anything else, Mr. Hamner?

13 MR. HAMNER: No, Your Honor.

14 THE COURT: Any additional juror questions? Did I  
15 see a hand for juror questions?

16 THE MARSHAL: Yeah, there's two, Judge.

17 THE COURT: All right. There may be more juror  
18 questions, Doctor, so just hold on a moment.

19 And I'll see counsel at the bench, please.

20 (Conference at the bench not recorded)

21 THE COURT: Doctor, we have a couple more juror  
22 questions. A juror asks: Earlier you said that holding urine  
23 can affect bowel issues, but now it sounds like you say it's  
24 not related. Can you explain that for us?

25 THE WITNESS: So if there is a child that is holding

1 in their urine for purposes such as being too busy -- I'm  
2 playing, I do not want to stop to go pee and I'm holding in my  
3 urine -- those kids -- the muscles that hold in urine also are  
4 around the same area as the muscles that hold in stool and  
5 those kids that hold in urine tend to also then have issues  
6 with holding in stool. So, yes, in that scenario withholding  
7 can affect -- can affect stooling. It's not a cut and dry  
8 issue because in some scenarios when you are holding in your  
9 urine to expand bladder capacity, that doesn't necessarily  
10 affect stooling issues if you are not avoiding a regular  
11 stooling pattern or not holding your stool similarly.

12 THE COURT: All right.

13 THE WITNESS: Does that answer it sufficiently?

14 THE COURT: All right, thank you. I think that does  
15 clarify.

16 All right. Another juror asks: Was Amaya telling  
17 you that a timer was used between toileting times or during  
18 when she's actually going to the toilet?

19 THE WITNESS: I did not get a specific idea about  
20 whether it was between toileting times or when she had to use  
21 the bathroom, but it sounded like she was having to hold in  
22 her urine for a period of time and sometimes her stool.

23 THE COURT: Okay. And did she indicate to you  
24 whether or not her time actually using the toilet was limited,  
25 like while she's going to the toilet?

1 THE WITNESS: I did not get a sense of that.

2 THE COURT: Okay. Any follow-up to those juror  
3 questions, Mr. Hamner?

4 MR. HAMNER: Briefly.

5 FURTHER REDIRECT EXAMINATION

6 BY MR. HAMNER:

7 Q With respect to the scenario that you gave of a  
8 child who's kind of too busy at play, that that can be an  
9 issue, what if the child is not at play? Let's just say the  
10 child is just sitting and is at rest just in a chair and then  
11 either deliberately decides I'm not going to use -- urinate  
12 or stool, or is instructed you're not to pee or stool, can  
13 that affect bowel issues?

14 A If you are instructed to not pee and to not stool,  
15 then, yes, that can affect bowel issues. If you are  
16 specifically told you cannot stool when you have to stool and  
17 you have to hold it in and it is a continued process and not  
18 just a one time issue or a very, very intermittent issue,  
19 then, yes, it can cause bowel issues.

20 Q Would you recommend to parents with children with  
21 symptomology like Amaya to do that with their children?

22 A I would certainly not have them hold in their stool  
23 if they're having issues with constipation, unless of course  
24 there is the -- you know, in a car and I can't go.

25 Q Correct. What sort of issues can it cause?

1           A     Holding in the stool then makes the sensation of  
2     stooling go away after a couple of minutes, in general. The  
3     stool then sits in the rectal vault and becomes harder and  
4     larger and it makes it so that you may skip days without  
5     stooling.

6           Q     Okay.

7           A     And it may exacerbate constipation.

8           Q     Can it do potential damage to the G.I. tract?

9           A     If you are made to not stool for very long periods  
10    of time over the course of several years, for instance not  
11    stooling for three or four days in a row or a week at a time,  
12    then it can dilate the rectal vault and make it so that  
13    sensation occurs later when you have to stool, meaning you  
14    have to have more stool in the vault before you feel that  
15    sensation. That typically would require long periods of time  
16    to get to that point.

17               MR. HAMNER: Thank you, Doctor.

18               THE COURT: Ms. McAmis, anything else?

19               MS. McAMIS: Yes.

20                       FURTHER RECROSS EXAMINATION

21    BY MS. McAMIS:

22           Q     Dr. Miletic, you're familiar with times children may  
23    intentionally accumulate urine in their bladder as a part of  
24    acting out; right?

25           A     Yes, I guess that's possible if they're -- I don't

1 hear that complaint very frequently.

2 Q Okay. But in the instance where that is a  
3 complaint, you would agree it's medically important for the  
4 children to void their bladder if they're intentionally  
5 accumulating urine in their bladder?

6 A If they are intentionally doing that, then yes.  
7 Though, again, that's not a frequent complaint as something  
8 where they're acting out and holding in their urine.

9 MS. McAMIS: All right. Court's indulgence.

10 BY MS. McAMIS:

11 Q Okay. Dr. Miletic, if I understood your last answer,  
12 then, yes, it is medically important for a child to void their  
13 bladder if they are intentionally accumulating urine?

14 A Correct.

15 Q Okay. And, Doctor, if you know, is a side effect of  
16 Risperdal constipation?

17 A There can be constipation with Risperdal.

18 MS. McAMIS: Okay. No further questions.

19 MR. HAMNER: I need to ask a question just based off  
20 of that voiding one, Your Honor. It will be real brief.

21 FURTHER REDIRECT EXAMINATION

22 BY MR. HAMNER:

23 Q You remember being asked the question about parents  
24 voiding the bladder of a child who's intentionally holding  
25 their urine? Do you remember that question that was posed

1 to you?

2 A Yes.

3 Q Okay. Would you ever recommend to a parent, even  
4 in that scenario, to administer a catheter on their child to  
5 check to see the status of their bladder?

6 A No, I would not.

7 Q Okay. Did you make any recommendations to the  
8 mother when you saw her to apply catheters to Amaya?

9 A No, I did not.

10 Q Did you see any other doctors' notes that made a  
11 medical recommendation to this parent to administer a catheter  
12 on Amaya?

13 A No, I did not.

14 MR. HAMNER: Okay, thank you.

15 FURTHER RECROSS EXAMINATION

16 BY MS. McAMIS:

17 Q Dr. Miletì, isn't it true that you have no  
18 information about a catheter actually being used on Amaya or  
19 any of the children; correct?

20 A Correct.

21 MS. McAMIS: Nothing further.

22 THE COURT: Nothing else?

23 MR. HAMNER: No, Your Honor.

24 THE COURT: Any additional juror questions?

25 All right. Doctor, I see no additional questions.

1 Thank you for your testimony and you are excused at this time.  
2 Thank you very much.

3 THE WITNESS: Thank you so much.

4 THE COURT: All right. Ladies and gentlemen, we're  
5 going to just take a quick break until about noon. Another  
6 physician will be appearing via Skype right around noon, so  
7 we'll take our break and then we'll get that set up.

8 And before we take our break you are all reminded  
9 that you're not to discuss the case or anything relating to  
10 the case with each other or with anyone else. You're not  
11 to read, watch or listen to any reports of or commentaries on  
12 the case, persons or subject matter relating to the case. Do  
13 not do any independent research by way of the Internet or any  
14 other medium, and please don't form or express an opinion on  
15 the trial. Please place your notepads on your chairs and  
16 we'll see you back right around noon.

17 (Court recessed from 11:50 a.m. until 12:02 p.m.)

18 (Jury is not present)

19 THE COURT: ... Does that comport with your  
20 recollection, defense?

21 MS. McAMIS: It does comport. We're just submitting.

22 THE COURT: All right, so we'll just go ahead and  
23 admit those now.

24 MR. HAMNER: Thanks, Your Honor.

25 (State's Exhibits 110 and 112 admitted)



1           THE COURT: Okay, can we bring in the jury? I don't  
2 see the witness.

3           MR. HAMNER: Because she's on the television screen.

4           MS. BLUTH: We've got to switch over in a second.  
5 She's there, though.

6           MR. HAMNER: She's there.

7           THE COURT: Okay. And how long do we think for  
8 Dr. Stephen?

9           MR. HAMNER: I mean, there's -- she saw three kids,  
10 so it's a little bit longer, but --

11          THE COURT: That's fine. We'll finish with her and  
12 then whenever that is take our lunch break, probably.

13          MR. HAMNER: Okay.

14          MS. BLUTH: I sent Debbie away to go get lunch.

15          THE COURT: Right.

16          MR. HAMNER: I'm thinking maybe an hour at most.

17          THE COURT: That's kind of what I thought, but.

18          MR. HAMNER: I'm going to try to go quick.

19                   (Pause in the proceedings)

20          THE MARSHAL: All rise for the presence of the jury,  
21 please.

22                   (Jury is present)

23          THE COURT: All right, court is now back in session.  
24 And can we switch over so that we can see the witness? Does  
25 anybody see the witness on their monitor?

1 UNIDENTIFIED SPEAKERS: No. No.  
2 MR. HAMNER: Not yet.  
3 THE COURT: Okay. Doctor, can you hear me?  
4 THE CLERK: We're not seeing it.  
5 MR. HAMNER: No, we have a clock.  
6 THE COURT: We're not seeing and apparently the  
7 doctor can't hear me or I can't hear.  
8 (Pause in the proceedings)  
9 THE COURT: Doctor, can you hear me?  
10 MS. STEPHEN: Yes.  
11 THE COURT: Okay, great. Sorry for the delay, but  
12 we lost the connection. Would you please --  
13 MS. STEPHEN: Your Honor, that's okay.  
14 THE COURT: All right, thank you. Would you please  
15 stand up so that our court clerk can administer the oath to  
16 you? And just raise your right hand for us, please. Thank  
17 you.  
18 ALPHONSA STEPHEN, STATE'S WITNESS, SWORN  
19 THE CLERK: Okay, thank you. Have a seat. If you  
20 could please spell and state your first and last name for us.  
21 THE WITNESS: Alphonsa, A-L-P-H-O-N-S-A. Last name  
22 Stephen, S-T-E-P-H-E-N.  
23 THE COURT: All right, thank you.  
24 Mr. Hamner, you may proceed with your questions.  
25 MR. HAMNER: Thank you very much.

1 DIRECT EXAMINATION

2 BY MR. HAMNER:

3 Q Good morning, or maybe afternoon, Doctor. Could you  
4 explain to the jury what you do for a living?

5 THE COURT: You know what, can you hear him?

6 MR. HAMNER: Can you hear me?

7 THE COURT: I would say that, Mr. Hamner, get closer  
8 to the microphone. All right, ask your question again.

9 BY MR. HAMNER:

10 Q Doctor, can you hear me?

11 A Yes.

12 Q Okay. Could you please explain to the jury what you  
13 do for a living?

14 A I'm a board certified general pediatrician. I do  
15 see children from babies from birth to 18 years of age.

16 Q Okay. Doctor, if you could please explain to the  
17 jury your educational degrees that you've received prior to  
18 practicing medicine?

19 A I did graduate from medical school and I did my  
20 first graduate training in pediatrics in University Medical  
21 Center in Las Vegas. I graduated in 2000 and I've been  
22 practicing general pediatrics for 18 years.

23 Q Where did you get your college degree from?

24 A I did my medical school back in India and I did my  
25 post-graduate training here.

1 Q And for the record, if you could let me know what  
2 university you got your medical degree from?

3 A It's called Mahatma Gandhi University. It is in  
4 India.

5 Q Okay. How long have you been practicing medicine  
6 here in Clark County?

7 A Including my residency it is 21 years.

8 Q Okay. You did your residency here in Las Vegas?

9 A Yeah, in Las Vegas at University Medical Center.

10 Q Have you essentially stayed in the field of  
11 pediatrics the entire time you've been practicing medicine?

12 A Yes, I did. Yes.

13 Q Okay. I want to talk to you about some patients of  
14 yours that you saw. Do you remember seeing a child by the  
15 name of Jocelyn Ramirez Castillo back as early as June of  
16 2009?

17 A Yes.

18 Q Okay. Doctor, do you have --

19 A Yeah, I mean --

20 Q I'm sorry, go ahead.

21 A I kind of remember. I don't remember at that time,  
22 but you know, they're my patients.

23 Q Okay. Well, let me ask you this kind of follow-up.  
24 Doctor, you probably see lots of patients every day, is that  
25 right?

1           A     Yes.

2           Q     How many patients do you see a day?

3           A     About 30 to 40 per day. It depends, you know.

4           Q     Okay.

5           THE COURT: Can you say that again? Some of us may

6 have had trouble hearing your answer. How many patients do

7 you see a day?

8           THE WITNESS: About 30 to 40 per day.

9           THE COURT: Okay.

10 BY MR. HAMNER:

11          Q     Okay. And do you have -- at least have you reviewed

12 some records going back as far as June of 2009 of seeing a

13 patient by the name of Jocelyn Ramirez Castillo?

14          A     Yes.

15          Q     Okay. And at a later point she was named Ava

16 Solander when she visited you in March of 2014?

17          A     That's correct.

18          Q     Okay. And this child had a date of birth of October

19 21st, 2001, is that right?

20          A     That's correct, yeah.

21          Q     Okay. Back in June of 2009, do you remember who

22 this child was accompanied by?

23          A     2009 --

24          Q     And if it helps refresh your memory, if you'd refer

25 to page 1 of your report and if you just kind of read silently

1 maybe near the top quarter of the page.

2 A 2009, it was with the adoptive mom.

3 Q In June of 2009?

4 A That's -- actually, I don't have that record with  
5 me. Our electronic medical records do not produce that one,  
6 but you have a copy of that one.

7 Q Okay.

8 A Our systems have changed three times since then,  
9 so I don't have a record of all of it --

10 Q Okay.

11 A -- and I'm not able to access those. I did review  
12 that when I came to the court last time.

13 Q Okay. In terms of kind of reviewing it --

14 A Uh-huh.

15 Q -- do you recall indicating that she was accompanied  
16 by a foster parent back in June of 2009?

17 A Yeah, [unintelligible] seen her with the foster  
18 parent, Debbie McClain.

19 Q Okay. At that time were they reporting any major  
20 problems or was this kind of essentially kind of like a  
21 checkup?

22 A I have seen these children only for well checkups.

23 Q Okay. Do you remember in June of 2009 other than  
24 a well check maybe a report about maybe the child had a limp  
25 or something along those lines?

1           A     There was a reported limp and I had ordered some  
2 X-rays and they were sent to see orthopedics at that time.

3           Q     And that was a doctor by the name of Jamie Brophy?  
4 Would that be about right?

5           A     I think it was a Dr. David Stewart. I'm not --  
6 He's a pediatric ortho.

7           Q     Okay. Okay. But you do remember -- and that was  
8 in July of 2009 that you referred them over to Children's Bone  
9 and Spine Surgery?

10          A     Yes, that's correct.

11          Q     Okay. And did you kind of subsequently treat her  
12 for any issues she may have had with her leg or knee pain?

13          A     No, there was nothing to be treated. That's why,  
14 you know, she was just limping.

15          Q     Okay.

16          A     And there was a history of fall and we didn't find  
17 anything. That's why we sent her to see the ortho for further  
18 evaluation.

19          Q     Okay. In December of 2009, do you remember her  
20 being kind of brought in for a well check and maybe  
21 complaining about a cough and a runny nose?

22          A     Yes.

23          Q     Okay. Anything else that jumped out at your in  
24 terms of being reported or complaints?

25          A     No. No.

1 Q Okay. Do you recall on May 25th, 2010 the child  
2 kind of being brought in again for maybe some itchy skin?

3 A Yes, she did have some rash on her legs.

4 Q Okay. Other than that, any other complaints that  
5 they were reporting?

6 A No.

7 Q Okay. What did you kind of recommend to help treat  
8 the rash?

9 A I had prescribed some antifungal Lotrisone cream  
10 for the rash at that time.

11 Q Everything else, though, checked out normal?

12 A Yeah, everything else was normal.

13 Q And if you could, when you are examining these kids,  
14 are you doing kind of a head to toe check on them? What are  
15 you doing when they come in for a well visit?

16 A Yeah, we check from head to toe. It usually is to  
17 completely undress and after, too, we check everything but we  
18 don't check the genitalia or anything like that at that age.

19 Q Let me ask you this. Would you check the buttocks  
20 of the child?

21 A No.

22 Q Okay. Would you check the lower -- the upper thighs  
23 that reach up to the buttocks? I mean, are the kids kind of  
24 in their underwear? How is that -- how does that work?

25 A Yeah, we check the skin for rashes.



1 Q Okay. And you didn't note anything in all of these  
2 kind of well checks leading up to this point, did you?

3 A No.

4 Q No noted scars or anything of that nature?

5 A No. No.

6 Q In June of 2010, does the child kind of come in  
7 again for another well visit?

8 A Yes.

9 Q Was everything essentially normal after doing kind  
10 of a checkup?

11 A Yeah.

12 Q I want to turn your attention to August -- October  
13 30th of 2010. Does the child come in again at that time?

14 A Yes.

15 Q Is it another well visit?

16 A Well visit.

17 Q Any complaints about anything?

18 A Not that I recall.

19 Q Okay. And when you did a well check and a head to  
20 toe check, everything checked out normal or was it something  
21 different?

22 A It was normal.

23 Q Okay. I now want to turn your attention to four  
24 years later, essentially, March of 2014, specifically March  
25 25th of 2014. Is this child, Jocelyn slash Ava, brought in

1 to you at this time?

2 A Yes.

3 Q Was that a yes, ma'am?

4 A Yes. Yes.

5 Q Okay. And was she brought in at this time by Ms.

6 McClain again?

7 A Yeah, that's correct.

8 Q Okay. At this time were there any complaints that

9 were being raised, any symptomology that they were raising at

10 this point four years later from Ms. McClain or this child,

11 Ava?

12 A Not at all.

13 Q Okay. Any complaints about bedwetting?

14 A No.

15 Q Any complaints about constipation?

16 A Uh --

17 Q Was that a no? I didn't hear you. I'm sorry, ma'am.

18 A Yes. Yeah, I believe she had some constipation

19 issues but no bedwetting.

20 Q Okay. Do you -- on this visit could you indicate

21 to me on what page of your report it is reported that she

22 actually has a constipation issue at this time? Do you have

23 that March 25th, 2014 report in front of you?

24 A You said March of 2015 -- '15 or '14?

25 Q No, March of 2014. You're not seeing any reported

1 complaints about constipation on that entry, are you, Doctor?

2 A No, I don't see it.

3 Q Okay. I know that there was a follow-up physical  
4 report that's dated April 1st, 2014, but there's no reported  
5 -- there's no reported complaint about constipation in those  
6 notes, are there, as well?

7 A Yeah, that's correct.

8 Q Okay. As far as any -- What was referenced with  
9 respect to Crohn's Disease with respect to Ava

10 A It says that there was a history of Crohn's Disease,  
11 but I don't have any other documentation or confirmatory tests  
12 or anything. That was when I was not seeing this child at  
13 that time. When they came back I missed my plane, so there  
14 was a reported history of it but there is no proof for that.

15 Q And to be clear, your notes indicate that "was being  
16 evaluated for Crohn's Disease per the foster mom."

17 A Yes.

18 Q So it's not a diagnosis, it's just an indication at  
19 some prior time she was checked out for possibly having this  
20 disease?

21 A Yes.

22 Q Okay. The child didn't report any complaints to you  
23 in 2014, is that right?

24 A No, no complaints.

25 Q All right. I'd like to move on to another child,

1 Jacqueline Ramirez, otherwise -- do you remember seeing her  
2 back in 2009, December of 2009?

3 A Yes.

4 Q Okay. Was that child -- did that child come and  
5 visit you on March 25th, 2014, under the name of Amaya  
6 Solander?

7 A Yes.

8 Q Okay. When she came in to see you in 2010, was it  
9 for a well check -- or 2009, December of 2009, was it for a  
10 well check?

11 A Yes.

12 Q Were they complaining a little bit about having  
13 maybe a cough and a runny nose?

14 A Yeah, just cold-like symptoms.

15 Q And who brought in the child, pursuant to kind of  
16 what your records indicate?

17 A 2009, I believe it was Ms. McClain.

18 Q Okay. It indicate -- did it indicate foster parent?

19 A Yes.

20 Q December of 2009, you do a well check. Anything out  
21 of the ordinary or was it all normal?

22 A It was normal.

23 Q Okay. Does the child come back for another well  
24 check on May 25th of 2010?

25 A Yes, that's correct.

1 Q Was it just for a well check?  
2 A Yes.  
3 Q Any complaints of bedwetting or constipation or  
4 anything like that at that time?  
5 A No.  
6 Q Okay. Was everything -- based on the checkup that  
7 you did, was everything normal?  
8 A Normal.  
9 Q In June 10th, 2010, does this child come in to see  
10 you again?  
11 A Yes.  
12 Q Is there a complaint about -- like a rash on the  
13 legs?  
14 A Yeah, that's the date they had the rash.  
15 Q Okay. And did you prescribe something for the rash?  
16 A Yeah. I did prescribe Lotrisone cream.  
17 Q Okay.  
18 A It's antifungal cream.  
19 Q Any other complaints at that time?  
20 A No.  
21 Q All right. The child comes in on October 30th,  
22 2010, is that right?  
23 A Yes.  
24 Q At that time were there any complaints being raised  
25 or was it just a well checkup?

1           A     It was a well check.

2           Q     Any complaints about bedwetting at this time?

3           A     Yes.

4           Q     Okay.

5           A     Yeah, there was bedwetting.

6           Q     Where do you see that in your notes?

7           A     That is the paper I don't have it.

8           Q     Okay. All right. So you're not sure if that was

9 actually reported, is that right?

10          A     Yeah, that's -- yeah.

11          Q     Okay.

12          A     We are not able to access that anymore--[inaudible].

13               MS. McAMIS: Objection. Misstates the testimony.

14 Misstates her testimony, then.

15               MR. HAMNER: Can we approach? Just to why.

16               THE COURT: Sure.

17               (Conference at the bench not recorded)

18               THE COURT: ...to rephrase your question --

19               MR. HAMNER: Sure.

20               THE COURT: -- to make it a little clearer what

21 you're asking.

22 BY MR. HAMNER:

23           Q     We're on Amaya right now, Doctor, otherwise known

24 as Jacqueline Ramirez. Do you have an independent memory of

25 checking up on this child?

1           A     Yes.

2           Q     Okay, you do have an independent memory. Okay.

3           A     Yes.

4           Q     What -- Do you have an independent memory, because

5 I know you said there was a page missing from your report --

6           A     Uh-huh.

7           Q     -- do you have an independent memory on October

8 30th, 2010 of this child reporting to you an issue with

9 bedwetting on that particular date?

10          A     Yes.

11          Q     You do. Okay. How many pages is your October 30th,

12 2010 report?

13          A     The pages? I don't remember how many pages.

14          Q     Do you have it in front of you? Do you have any of

15 it in front of you?

16          A     No.

17          Q     Okay. Doctor, your office did provide the District

18 Attorney's Office in compliance with a records request with

19 medical records of the time that you treated this child --

20          A     Uh-huh.

21          Q     -- is that right?

22          A     Yes.

23          Q     And that included October 30th, 2010, is that right?

24          A     Yeah. This one was requested a long time back, so

25 we were able to access at that time.

1 Q Okay.

2 A But I don't have -- I'm not able to access that  
3 anymore. The system has changed three times since then.

4 Q And I understand that, Doctor.

5 A Yeah.

6 Q But those records were kept within the regular  
7 course of business, isn't that right?

8 A Yes.

9 Q And these were documents that you regularly rely  
10 upon for the purpose of treating and diagnosing a patient,  
11 isn't that right?

12 A Yes.

13 Q Okay. And the reports that you had sent our office  
14 were fair and accurate representations of those documents;  
15 correct?

16 A Yes.

17 MR. HAMNER: Okay. I'm going to ask at this point  
18 to have this report marked as State's Proposed -- whatever the  
19 next number is at this point and ask for its admission.

20 THE COURT: Any objection?

21 MR. FIGLER: May we approach on that issue, Your  
22 Honor?

23 THE COURT: Sure.

24 (Conference at the bench not recorded)

25 MR. HAMNER: There is a stipulation between the



1 parties that the doctor's report from October 30th, 2010 makes  
2 no entry of a bedwetting complaint, just for the record.

3 THE COURT: All right. So that's stipulated to that  
4 that document makes no reference to a complaint of bedwetting.  
5 Is that correct?

6 MS. McAMIS: Right. The stipulation as to the  
7 Jacqueline Ramirez report, October 30th, 2010; aka Amaya.

8 THE COURT: All right, thank you.

9 All right, go on.

10 BY MR. HAMNER:

11 Q Doctor, I want to turn your attention to four years  
12 later essentially, March 25th, 2014. Did you see Amaya again  
13 on that date?

14 A Yes, I did.

15 Q Okay. Was it for a well visit?

16 A Yeah, that was an initial well visit.

17 Q Did she come back in with Ms. McClain?

18 A Yes.

19 Q Okay. At that time were there any complaints of  
20 bedwetting in March of 2014?

21 A No.

22 Q Were there any complaints of constipation in 2014?

23 A No.

24 Q Any blood disorders or anything like that being  
25 reported?

1           A     No.

2           Q     When you conducted a well check, how did it go?

3     Normal?   Problems?   See anything of note?

4           A     Yeah, it was a normal physical exam.

5           Q     Okay. I want to turn your attention to a third

6     child, Jocelyn Ramirez Castillo. Do you remember seeing her

7     as early as June of 2009?

8           A     Yes.

9           Q     Does she later come to visit you in March of 2014

10    under the name of Anastasia Solander?

11          A     Uh, yes.

12               MR. FIGLER: No.

13               MR. HAMNER: I'm sorry, I grabbed the wrong file.

14    I'm totally mistaken. I apologize. Thanks, counsel. Just

15    kidding.

16    BY MR. HAMNER:

17          Q     Yarely. Do you remember seeing a Yarely Ramirez

18    in July -- on July 16th, 2009, or at least have some records

19    indicating that you saw that child?

20          A     Yes.

21          Q     Was that a yes? It was super faint.

22          A     Yes. Yes.

23          Q     Okay, thank you. Doctor, do you ultimately see

24    that child again in July of 2004 (sic) under the name of

25    Anastasia Solander? I'm sorry, March of 2014 under the name

1 of Anastasia Solander?

2 A Yes.

3 Q Okay. And her birthday would be July of 2004;

4 right? July 25th, 2004?

5 A Yeah, that's correct. Yeah.

6 Q Okay. Going back to that July 2009 visit, was she

7 coming in with kind of just some complaints about a sore in

8 her mouth?

9 A Yes.

10 Q Did you take some -- what sort of treatment did you

11 provide her at that time?

12 A I don't remember.

13 Q Do you recall kind of lancing it and kind of

14 draining the fluid in the cyst --

15 A Oh, yeah, yeah, yeah.

16 Q -- in the office?

17 A She had a gingival cyst or something in her mouth.

18 Yes, she had a cyst.

19 Q And so you treated it?

20 A Yeah.

21 Q Okay. Does she come back in -- two weeks later on

22 July 23rd kind of complaining of a recurrence of that same

23 cyst?

24 A Yes.

25 Q And at this time is she coming in with her foster

1 parent, Ms. McClain?

2 A Yes.

3 Q All right. In October 23rd of 2009, does Anastasia  
4 come in with her foster mother complaining about bedwetting?

5 A I don't recall that.

6 Q Do you have that record in front of you, Doctor?

7 A No, I don't.

8 MR. FIGLER: Your Honor, can we approach?

9 THE COURT: Sure.

10 (Conference at the bench not recorded)

11 BY MR. HAMNER:

12 Q Doctor, Can you hear me?

13 A Yes.

14 THE COURT: Wait. You need to get by the table.

15 MR. HAMNER: I thought I was near a mike. Sorry  
16 about that.

17 THE COURT: Oh, okay, you probably were.

18 BY MR. HAMNER:

19 Q Okay. Doctor, can you hear me?

20 A Yes.

21 Q Okay. Doctor, with respect to Anastasia, do you  
22 have some medical records in front of you with respect to  
23 treating her?

24 A Yes. I have the records from 2014 and up.

25 Q Okay. So you don't have anything prior to 2014?

1           A     No, I don't have those records available.

2           Q     Doctor, you had indicated there was a change in your  
3 system which caused some of the records to not be accessible,  
4 is that right?

5           A     Yes, that's correct.

6           Q     So, no one in your office would be able to kind of  
7 access those right now because the system has changed?

8           A     Yeah, it is completely gone from our hands, but you  
9 have a copy of all those.

10          Q     Right.

11                THE COURT: Okay. Is it that the records were  
12 accessible at some earlier point and those records were  
13 provided to the D.A.?

14                THE WITNESS: Yeah, it was when they requested it,  
15 I believe in 2014. We were able to access that and not  
16 anymore.

17                THE COURT: Okay. So whatever you sent over prior  
18 to -- whatever records you sent over that were generated prior  
19 to 2014, you can no longer access those, is that correct?

20                THE WITNESS: Yeah. Yeah, that's correct.

21                THE COURT: Well, I have an idea. Mr. Hamner is  
22 going to be referring to some of these records and possibly  
23 Ms. McAmis, the defense attorney, so you need to look at them.  
24 So why don't we have somebody fax those over to your office,  
25 and then do you have staff there now that can receive that fax

1 and then bring those records to you?

2 THE WITNESS: Yes.

3 MR. HAMNER: Or scan and email.

4 MS. BLUTH: That might be quicker.

5 THE COURT: Whatever is faster.

6 MS. BLUTH: Scan and email.

7 THE COURT: All right. So --

8 THE WITNESS: Fax will be easier.

9 THE COURT: Fax is easier. You got it.

10 THE COURT: All right. So what we're going to do

11 is -- I don't know if there's any testimony or other area of

12 questioning you can proceed with, or otherwise we'll just take

13 a quick break. We'll have the --

14 MR. HAMNER: I could do 2014. We can jump ahead.

15 That's fine.

16 THE COURT: All right. So what I'm going to do is

17 I'm going to have Ms. Bluth take those in the back. Do we

18 have a fax number for you?

19 THE WITNESS: Yeah, it's 702-795-3306.

20 THE COURT: All right. And should we put those to

21 anyone's attention on your staff so that they know to bring

22 that to you right now?

23 THE WITNESS: No, you can just fax it. It's just

24 only me. There is no one else here as well.

25 THE COURT: Okay. All right, so we're going to --

1 I'm going to have my secretary fax those now and then Mr.  
2 Hamner is going to resume I guess his questioning prior --  
3 of whatever went on after 2014.

4 MR. FIGLER: Your Honor, can you inquire of the  
5 witness if she has any records for any of the children before  
6 2014?

7 THE COURT: Okay. And do you have any records for  
8 any of the children prior to 2014?

9 THE WITNESS: Not all medical records. I have --  
10 some of the forms I have sent it to the -- what is caregiver  
11 forms. I don't have the real, you know, medical records.

12 THE COURT: All right. So you have some of the  
13 forms. Are those like the forms that the parent fills out --

14 THE WITNESS: Yes.

15 THE COURT: -- when the child comes in?

16 THE WITNESS: Yes.

17 THE COURT: Okay. But you don't have -- do you have  
18 your notes for any of the other children?

19 THE WITNESS: No, not before 2014.

20 THE COURT: Okay. So we should probably fax all of  
21 that to you as well.

22 MR. HAMNER: And, Your Honor, can we approach for  
23 a second?

24 THE COURT: Sure.

25 (Conference at the bench not recorded)

1           THE COURT: Ma'am, you said -- okay. I see you've  
2 got a blue file there and some notes or records that you're  
3 looking at. Can you tell us what you're looking at there?  
4           THE WITNESS: This is the one from 2014 and onwards.  
5 I have the three kids' records.  
6           THE COURT: Okay. And then you said you had some  
7 forms that had been filled out. Can you tell us what it is  
8 you have there regarding some forms that were filled out by  
9 the parent? Because I don't think the lawyers got that.  
10          THE WITNESS: That was just caregiver form. We give  
11 it to the [inaudible] and the medical record release and  
12 sometimes [unintelligible] reports from a neurologist. That's  
13 not my record, it's just --  
14          THE COURT: Okay. All right. So you don't have  
15 any record that, you know, was filled out in handwriting or  
16 anything like that --  
17          THE WITNESS: No.  
18          THE COURT: -- by the patient's parent? Okay.  
19          THE WITNESS: No.  
20          THE COURT: All right, that clears that up.  
21          MR. FIGLER: Thank you, Your Honor.  
22          THE COURT: All right. So while somebody on my --  
23          THE MARSHAL: I was just waiting for the go ahead.  
24          THE COURT: Go ahead, go give it to Krystal.  
25          THE MARSHAL: I didn't want to leave without --



1 THE COURT: Who knew the person carrying the gun  
2 was so afraid.

3 All right. Mr. Hamner, you then may proceed with  
4 your questioning relating to 2014 or whenever she has the --  
5 whatever time period the doctor has the records for. And  
6 then in the meantime we'll be faxing those other records.

7 MR. HAMNER: Thank you very much.

8 BY MR. HAMNER:

9 Q So, Doctor, you did see Amaya in March, on March  
10 25th, 2014, is that right?

11 A That's correct.

12 Q Okay. And she came in for a well visit?

13 A Yes.

14 Q Okay. And was there any reported complaints about  
15 anything?

16 A No.

17 Q Any complaints of bedwetting?

18 A No.

19 Q Any complaints of constipation?

20 A No.

21 Q When you checked her out, everything seemed normal?

22 A Yeah. It was a regular well visit.

23 Q And she was --

24 A There was nothing else.

25 Q Okay. And she was coming in with Ms. McClain at

1 this time, right, in 2014?

2 A Yes.

3 MR. HAMNER: Okay. I have no further questions  
4 based off of the records that I have.

5 THE COURT: All right. So why don't we go to cross  
6 on the 2014, or should we take a brief break to allow the  
7 doctor time to get the records?

8 MR. FIGLER: I think for the convenience of the jury  
9 we should take a brief break.

10 MR. HAMNER: That's what I think.

11 THE COURT: All right. Ladies and gentlemen, we're  
12 just going to take a brief recess, just about ten minutes.  
13 That will put us right at 12:55. And ladies and gentlemen,  
14 when we're -- you're probably all getting hungry. When we're  
15 done with this witness, then we'll take our lunch break.

16 But I must admonish you prior to the brief break  
17 that you're not to discuss the case or anything relating to  
18 the case with each other or with anyone else. You're not  
19 to read, watch or listen to reports of or commentaries on the  
20 case, persons or subject matter relating to the case. Do not  
21 do any independent research by way of the Internet or any  
22 other medium, and please don't form or express an opinion on  
23 the trial. Please place your notepads in your chairs and  
24 follow Officer Hawkes through the double doors.

25 THE MARSHAL: All rise.

1 (Jury exits the courtroom)

2 THE COURT: And, Doctor, on this break why don't  
3 you check your fax machine to get those records and then Mr.  
4 Hamner -- when we come back from the break Mr. Hamner will  
5 ask you about that time period.

6 THE WITNESS: I have patients to do at 1:30.

7 THE COURT: I'm sorry, ma'am. We're moving through  
8 this as quickly as we can. And as soon as you're done, then  
9 we can excuse you. But until -- you know, just FYI, we're  
10 now out of the presence of the jury. Defense counsel wanted  
11 you to have to appear here in person, and so we're already  
12 accommodating your schedule by having you appear, over defense  
13 objection, by way of Skype. So just as soon as we can get the  
14 questioning done, we'll excuse you. If you want to just right  
15 now go and retrieve those records, then we can resume direct  
16 examination. All right?

17 THE WITNESS: Okay.

18 THE COURT: All right. So we'll just be on our  
19 break or at ease while the doctor gets those.

20 (Court recessed from 12:47 p.m. until 1:01 p.m.)

21 (Jury is not present)

22 THE COURT: Doctor --

23 THE WITNESS: Yes.

24 THE COURT: -- you should have at least gotten the  
25 first set of the records. Apparently then the number was --

1           THE WITNESS: Yeah, I got two of them. I got both.  
2 I'm waiting for the other one.

3           THE COURT: I'm sorry, can you say that again?

4           THE WITNESS: I got two of the kids.

5           THE COURT: Okay. And then the other one is going  
6 through, and so I think we can get started and Mr. Hamner can  
7 ask you about the records you have.

8           THE WITNESS: Okay.

9           MR. HAMNER: I don't physically have those.  
10 Everything was --

11           THE COURT: Oh, right. Okay. Do you want to run  
12 back and get --

13           MR. HAMNER: Yes, Your Honor.

14           THE COURT: -- and then just tell Krystal when the  
15 other one has gone through --

16           MR. HAMNER: Okay.

17           THE COURT: -- to give that one -- to bring that  
18 into the courtroom.

19           MS. BLUTH: I was trying to talk to Dayvid about  
20 scheduling because I don't know -- so Dayvid, his preference  
21 would be to finish Debbie before going to Cetl, but Cetl is  
22 here already and I don't know if she's working at the hospital  
23 tomorrow, so I'm just going to text her.

24           THE COURT: Okay. Just, again, we do have to break  
25 at 4:30 for that juror that had a doctor's appointment.

1           MR. FIGLER: I think that the State appreciates the  
2 defense's concern and I think the Court probably does, too.  
3 I've just never had a witness having to be because of  
4 scheduling issues interrupted so many times during a cross-  
5 examination. And to put it on yet another day, I mean, I know  
6 we had to accommodate the Skypes here --

7           THE COURT: Right.

8           MR. FIGLER: -- but it really did interrupt the flow  
9 of the defense examination.

10          THE COURT: Right.

11          MR. FIGLER: We were definitely in a rhythm and now  
12 we have to start --

13          THE COURT: No, I agree. The only comment I'm  
14 making is, okay, when we finish -- Kenny, bring the jury in.  
15 When we finish with this doctor we're going to have to take a  
16 lunch break.

17          MR. FIGLER: Right.

18          THE COURT: And then it's going to be --

19          MR. FIGLER: 2:15?

20          THE COURT: -- the earliest 2:30. Earliest, okay.  
21 Probably more like 2:45. And the juror has the doctor's  
22 appointment. So we could put Ms. McClain up. I don't know if  
23 you'll be able to finish her cross in the time allotted then,  
24 so you might want to do her tomorrow. I'm just saying. It's  
25 up to you, but --

1 MS. BLUTH: But we won't get Cetl finished today,  
2 either.

3 MR. FIGLER: We're not going to get Cetl finished  
4 either way today.

5 THE COURT: Right.

6 MS. BLUTH: We have a better chance of getting  
7 Debbie finished.

8 MR. HAMNER: I say we get Debbie done.

9 THE COURT: But we may have to interrupt her again,  
10 like I'm saying, because by the time we get back from lunch --

11 MR. FIGLER: Is everyone comfortable with me calling  
12 or texting Catherine Jorgenson right now and calling off the  
13 defense witnesses that were called to be here, too?

14 MS. BLUTH: Yeah. Oh, yeah, for sure.

15 THE COURT: Oh, yeah. Uh-huh.

16 MR. FIGLER: Okay. I'm going to do that right now.

17 THE COURT: Doctor, the bailiff is bringing the jury  
18 in in a moment and then we can resume your testimony.

19 THE WITNESS: Okay, thank you.

20 THE MARSHAL: All rise.

21 (Jury enters the courtroom)

22 THE COURT: All right, court is now back in session.  
23 And ladies and gentlemen, I appreciate your patience. I know  
24 everybody is probably getting hungry. We'll move through this  
25 as quickly as we can. During the break the Court's secretary

1 faxed the records to the physician, who should have gotten  
2 them. Some are still I think moving through, but two sets  
3 have been received.

4 So, Mr. Hamner, you may bring your questioning on  
5 the earlier records.

6 MR. HAMNER: Thank you.

7 DIRECT EXAMINATION (Continued)

8 BY MR. HAMNER:

9 Q Doctor, can you hear me?

10 A Yes.

11 Q Okay. So back on Yarely, aka Anastasia. You saw  
12 her on July 16th, 2009, is that right?

13 A Yes.

14 Q Okay. And at that time she was complaining -- she  
15 was presenting with a sore in her mouth?

16 A Yes.

17 Q And did you make an incision and kind of drain it --

18 A Yes.

19 Q -- in the medical office?

20 A Yes.

21 Q Any other complaints on that day?

22 A No.

23 Q All right. Two weeks later she comes in on July  
24 23rd of 2009, is that right?

25 A That's correct.

1 Q And the cyst is kind of reoccurring at this point,  
2 is that right?

3 A Yes.

4 Q Okay. Do you make a referral at that point?

5 A Yeah. I did refer her to an oral surgeon.

6 Q Okay. About three months later on October 23rd,  
7 2009, she comes back into your office, is that right?

8 A Yes.

9 Q And this is still with her foster mother, Ms.  
10 McClain, is that right? Is it indicating foster parent still?

11 A Yeah, I did say foster parent. I didn't specify who  
12 it was. I don't recall who it was.

13 Q Okay.

14 A I think it was McClain, probably.

15 Q Doctor, at this time is there -- what is the chief  
16 complaint in October of 2009?

17 A It was a bedwetting.

18 Q Okay. Do you prescribe anything for her at this  
19 time?

20 A I did prescribe a medicine called DDAVP.

21 Q Okay. What does -- DDAVP, what is that for?

22 A That is for the bedwetting, control the bedwetting.

23 Q And what does that medication do? What's the goal  
24 of the medication?

25 A Usually bedwetting, when they are deep sleepers,



1 that's when it happens. It makes the brain to make them aware  
2 of when their bladder is full they can go and get going, they  
3 can get up and go and they won't have the bedwetting.

4 Q Okay. When this complaint came in, what was your  
5 impression of it? Was it being reported as happening during  
6 the day, at night, both?

7 A It was mainly at night.

8 Q Okay. Is that enuresis?

9 A I'm sorry, what's that?

10 Q Is that -- when you have symptoms of urinating at  
11 nighttime --

12 A Uh-huh.

13 Q -- or when you're sleeping, is that commonly called  
14 in the medical field enuresis?

15 A Yes.

16 Q Okay. All right. So you recommend this medication.

17 A Yes.

18 Q Do you see her again in about six or seven months,  
19 in May of 2010?

20 A Yes.

21 Q What is she presenting at this time? What's the  
22 symptomology that she's complaining about at this time?

23 A She had a rash.

24 Q Okay. Do you -- where is it kind of located, in  
25 what parts of her body?