

1 gave to the Henderson Police in December of 2011 was true;
2 correct?

3 A Yes.

4 Q All right. Now, some months later, in September of
5 2012, you have occasion to speak with more detectives; right?

6 A Yes.

7 Q And you gave them another statement?

8 A Yes.

9 Q Okay. Now, if you would, please tell the jury what
10 the living situation was on October 3rd, 2012.

11 First let me start with you're 19 years old at this
12 time; is that correct?

13 A Yes.

14 Q Okay. Are you still living with your mother?

15 A Yes.

16 Q Okay. But this is going to be at the Center Street
17 address?

18 A Yes.

19 Q And that's in Henderson?

20 A Yes.

21 Q Okay. And so you've been living with your mom and
22 sometimes Victoria for about two years now since leaving
23 Blankenship?

24 A Yeah. And 'Bazz was there -- Shabazz was there.

25 Q Shabazz. Okay. I didn't mean to leave him out.

1 Now, do you remember it being the case that when you
2 moved that Taharah and Taquanda weren't able to come over as
3 much?

4 A Yes.

5 Q Okay. And you told that to the detective, also,
6 didn't you?

7 A Yes.

8 Q Okay. And first I'm going to ask about you. Did
9 you miss seeing Taharah and Taquanda as much as you used to?

10 A Yes.

11 Q Okay. Based on your interaction with the other
12 people did they -- when I say other people I mean your mom,
13 Shabazz and Victoria, did they also appear to miss not seeing
14 Taharah and Taquanda as much as they used to?

15 A Yes.

16 Q Now, your birthday is September 11th; right?

17 A Yes.

18 Q Do you remember in 2012 whether Taharah and Taquanda
19 were able to come over and hang out with you for your
20 birthday?

21 A I think they did.

22 Q Okay. Now, I want you to think carefully. Did you
23 go and -- when I say you I mean did somebody from your house
24 go and pick them up, or did somebody from Blankenship come and
25 drop them off?

1 A I think somebody dropped them off.

2 Q Okay. Would you be able to say who it was? Do you
3 know if it was Fred or if it was Miss Ann?

4 A Well, for my birthday that time I think it was Ann.

5 Q Okay. And your birthday is at the end of the
6 summer, right, every year?

7 A Yes.

8 Q That summer did Taharah and Taquanda get to come
9 over more often than they used to? Did they get to visit for
10 longer periods of time while they weren't in school?

11 A Yes.

12 Q Okay. And who was living at the Center Street
13 address that summer?

14 A It was me, my mom, and Shabazz. He would only be
15 there sometimes. Most the time he would be at another
16 friend's house.

17 Q Okay. Did Victoria live there?

18 A No, she didn't live there.

19 Q Okay. Did she come to visit often?

20 A Yes.

21 Q Okay. Did she make a special visit to make sure she
22 got to see Taharah and Taquanda when they were available?

23 A Yes.

24 Q All right. Mahlica, we had talked a little bit
25 about your age when we first started. Do you remember in 2012

1 when you were talking to the Metropolitan Police Department,
2 do you remember the detective asking you if you knew the
3 difference between telling the truth and telling a lie?

4 A Yes.

5 Q Okay. And do you remember him asking you whether it
6 was better to tell the truth or to tell a lie?

7 A Yes, I think so.

8 Q Okay. And you agreed it was better to tell the
9 truth; is that fair?

10 A Yes, I think so.

11 Q Did you think that was an odd question for him to
12 ask you?

13 A Yes.

14 MS. LUZAICH: Objection. Relevance.

15 THE WITNESS: It was.

16 THE COURT: I'm sorry?

17 MS. LUZAICH: Relevance.

18 THE COURT: Sustained.

19 MR. MacARTHUR: All right.

20 THE COURT: I don't know if she can testify about
21 what -- about his questions.

22 MR. MacARTHUR: Well, I wasn't asking her --

23 THE COURT: But you might be able to rephrase it.

24 MR. MacARTHUR: Okay. I'm certainly not asking why
25 he asked it.

1 THE COURT: Okay.

2 MR. MacARTHUR: She can't know that. But I asked
3 her if she thought it was odd that he asked her that.

4 THE COURT: Okay. You can answer that question.

5 THE WITNESS: Yes, I did.

6 BY MR. MacARTHUR:

7 Q Okay. And why did you think that was odd?

8 MS. LUZAICH: Objection. Relevance.

9 THE COURT: Sustained.

10 BY MR. MacARTHUR:

11 Q All right. Do you remember telling the police that
12 your relationship with your mother is more like a friendship
13 than a mother-daughter relationship?

14 A Yes.

15 Q Okay. You remember saying that?

16 A Yes.

17 Q Okay. And why was that? Why do you consider your
18 mother to be more your friend than your mother?

19 A Because some of the things that she's done or that
20 -- that she does is not really motherly, like sometimes advice
21 and choices and how she talks to us sometimes.

22 Q Okay. And in fact you told the police that she had
23 given you bad advice in the past?

24 A Yeah.

25 Q Okay. Let's scoot over a bit, and talk about your

1 brother Shabazz. What is Shabazz like personalitywise?

2 A He's funny.

3 Q Is he tall, short?

4 A Tall -- tall-ish.

5 Q Tall-ish. Okay. Is he stubborn?

6 A Yes.

7 Q You said he's funny.

8 A Yes.

9 Q Okay. Is he honest?

10 A Yeah, sometimes.

11 Q Okay. Now, again, thinking about September 2012,

12 did Victoria ever tell you that your mother wasn't fit to get

13 Taharah and Taquanda back?

14 MS. LUZAICH: Objection. Hearsay.

15 MR. MacARTHUR: And it's not for the truth of the

16 matter asserted, Judge.

17 THE COURT: Well, then usually it's not relevant,

18 so --

19 MR. MacARTHUR: In this instance it's to find out

20 whether or not Victoria said that to her, not whether Tina is

21 actually qualified to have her children back.

22 THE COURT: The objection is sustained.

23 BY MR. MacARTHUR:

24 Q Okay. Mahlica, do you remember telling the police

25 that Victoria had told you that your mom wasn't fit to get

1 Taharah and Taquanda back?

2 A I think so.

3 Q Would it refresh your recollection to be able to
4 review the report -- or the statement?

5 A Yeah, I guess.

6 MR. MacARTHUR: Okay. State, I'm going to be
7 referring to page 12 in the voluntary statement, and this one,
8 of course, is dated September 2012.

9 THE WITNESS: Oh. Okay.

10 BY MR. MacARTHUR:

11 Q Okay. Did you have a chance to see that?

12 A Yes.

13 Q Okay. Does that refresh your recollection as to
14 what you may have told the Metro detective?

15 A Yes.

16 Q Okay. And didn't you in fact tell them that
17 Victoria had told you that your mother was not qualified to
18 get Taharah and Taquanda back?

19 MS. LUZAICH: Just for the record, that's like
20 triple hearsay.

21 THE COURT: Sustained.

22 MR. MacARTHUR: And none of it's for the truth,
23 Judge. It's to find out whether she said that to the police.

24 THE COURT: I understand.

25 MS. LUZAICH: What's the relevance?

1 THE COURT: The objection is sustained. Usually
2 when you say it's not for the truth of the matter asserted,
3 then I always know it's not relevant.

4 MR. MacARTHUR: Well, it's relevant as to bias,
5 Judge.

6 THE COURT: Okay.

7 MR. MacARTHUR: A motive to --

8 THE COURT: The objection's sustained.

9 MR. MacARTHUR: Yes, ma'am.

10 BY MR. MacARTHUR:

11 Q I'm just going to move this over here so it's not in
12 front of you.

13 All right. In September of 2012 the Metropolitan
14 Police detectives were asking you a few different questions
15 from what Henderson had asked you nine or ten months before;
16 is that correct?

17 A Yes.

18 Q And the difference was is that now the Metro
19 detectives were talking about some things that may have
20 happened between Fred and Taharah. Do you remember that?

21 A Yes.

22 Q Okay. Isn't it in fact true that Taharah didn't
23 tell you about the abuse?

24 A Yes.

25 Q Okay. She had actually told Victoria about the

1 abuse?

2 A Yes.

3 Q Okay. And Victoria told you?

4 A Yes.

5 Q Now, they also asked you some more questions about

6 things that might have happened between Fred and Victoria;

7 right?

8 A Yes.

9 Q So -- just so we're clear, they'd asked you about

10 some things that may have happened between Fred and Taharah;

11 right?

12 A Yes.

13 Q And then they asked you some things about -- things

14 that may have happened between Victoria and Fred?

15 A Yes.

16 Q Okay. Now, in 2012, do you remember telling the

17 detectives that Victoria had told you Fred had raped her in

18 2008 at Walnut Street apartments?

19 A Yes.

20 Q Okay. Now, she specifically said 2008? Thinking

21 back to what Victoria said.

22 A I don't really remember.

23 Q Okay. Would you agree with me that 2008 is not

24 2005?

25 A Yes.

1 Q Okay. Would you agree with me that 2008 is not
2 2011?

3 A Yes.

4 Q Do you remember telling the Metropolitan Police
5 detectives that Fred had never hurt you, touched you, or had
6 been inappropriate with you?

7 A Yes.

8 Q Okay. Do you remember the detectives saying that
9 sometimes talking about molestation or sex could be
10 embarrassing?

11 A Yes.

12 Q I don't want you to guess or be unsure. Do you
13 remember them asking you that or talking about that?

14 A Yes.

15 Q Okay. And they asked you if you thought that would
16 be embarrassing. Do you remember that?

17 A Yes.

18 Q Okay. Do you remember them asking you, are you
19 embarrassed?

20 A Right now?

21 Q No. Well, I'm talking about in 2012. Do you
22 remember the detectives, after having brought up that talking
23 about this kind of stuff could be embarrassing, do you
24 remember them asking you if you were embarrassed?

25 A Oh. Yes.

1 Q Okay. Do you remember them -- remember telling them
2 that no, you were not embarrassed?

3 A Yes.

4 Q Do you remember telling them that you had never
5 witnessed anything happening between Victoria or Taharah and
6 Fred?

7 A Yes.

8 Q Okay. And that's the 2012 statement, not the 2011
9 statement; right?

10 A Yes.

11 Q Okay. Who is Rose Smith?

12 A She's a friend of the family.

13 Q Okay. Do you get along with her?

14 A Yes.

15 Q Is she nice?

16 A Yes.

17 Q Okay. And who is Rose closest to in the family, if
18 you know?

19 A My oldest sister, Victoria.

20 Q Okay. But all of you get along with her all right?

21 A Oh, yes.

22 Q Did you ever tell Rose Smith that Fred had tried to
23 force you to have sex with him on December 14th, 2011?

24 A No.

25 Q You would remember if you'd ever said that to her;

1 right?

2 A Yes.

3 Q And that would be a big deal; right?

4 A Yes.

5 Q Okay. Have you spoken to Rose recently?

6 A Yes.

7 Q How recently?

8 A Yesterday.

9 Q Okay. You guys still get along?

10 A Yes.

11 MR. MacARTHUR: All right. Your Honor, there's
12 already a stipulation with regard to school records. I'm
13 going to be referring to Defense Proposed Exhibit V. I'm
14 going to move for admission.

15 MS. LUZAICH: No objection.

16 THE COURT: Okay. So Exhibit V is admitted into
17 evidence.

18 (Defendant's Exhibit V admitted)

19 MR. MacARTHUR: Thank you, Your Honor. Permission
20 to publish.

21 THE COURT: You may.

22 BY MR. MacARTHUR:

23 Q Mahlica, I have here what appears to be a
24 transcript of your school grades. And I want to -- there's a
25 staple in here, but here at the top do you see your name in

1 the upper left-hand corner?

2 A Yes.

3 Q Okay. And were you born in Reno, Nevada?

4 A Yes.

5 Q Okay. And that's your correct date of birth; is
6 that correct?

7 A Yes.

8 Q All right. And it appears that -- and Betsy, could
9 you get rid of that pink line for me, if you would. Thanks.

10 Okay. Now, I want you to take a quick peek at that
11 and let me know whether you recognize this as -- or does this
12 seem familiar as to the grades you got while you were in grade
13 school?

14 A Yes.

15 MR. MacARTHUR: Okay. Court's indulgence.

16 THE COURT: Sure.

17 BY MR. MacARTHUR:

18 Q Okay. Now, during direct examination you had talked
19 about having gone to Utah; right?

20 A Yes.

21 Q And you came back in August of 2007. Does that --
22 yes, August of 2007. Does that sound right?

23 A Yes.

24 Q Okay. And when you came back you moved into the
25 Blankenship house; is that correct?

1 A Yes.

2 Q Where Fred and Lealer lived.

3 A Yes.

4 Q Okay. And you said that you moved out in August of
5 2010 to go to St. Andrews?

6 A Yes.

7 Q Okay. So what I want to do is I'm going to zoom in
8 on the grades that you had while you were in the Blankenship
9 house. So first you've got -- school starts in the fall;
10 right?

11 A Yes.

12 Q Okay. So you would go to school in say the fall of
13 2008, and then that semester would end in January of 2009?

14 A Yes.

15 Q And if you would, what was your GPA that semester,
16 if you can see it?

17 A A 2.5.

18 Q 2.571?

19 A Yeah.

20 Q Okay. And then the next term goes from January to
21 June. School gets out for the summer; right?

22 A Yes.

23 Q Okay. And you were still living at the Blankenship
24 house?

25 A Yes.

1 Q And what was your GPA then?

2 A 2.250.

3 Q Okay. Now, you did a little bit of summer school,
4 but then you resumed a full term; is that correct?

5 A Yes.

6 MR. MacARTHUR: Okay. And it's starting to get a
7 little blurry, and I don't know what exactly to do about that,
8 I'm looking for an auto focus button.

9 THE COURT: Kris, can you show him how to focus it.

10 MR. MacARTHUR: Got it, Judge.

11 THE COURT: Okay. Perfect.

12 MR. MacARTHUR: Found it. Sorry about that, Kris.

13 BY MR. MacARTHUR:

14 Q Okay. And so you went back to school in the fall
15 2010; is that right?

16 A Yes.

17 Q And what was your GPA for that term?

18 A 2.286.

19 Q Now, you moved out of the Blankenship house in
20 August; is that correct? Well, yeah, August 2010.

21 A Yes.

22 Q Okay. So some of this school year you did living on
23 St. Andrews with your mom; right?

24 A Yes.

25 Q Okay. Would you agree with me that 2.28 is less

1 than 2.57?

2 A Say that again. I'm not paying attention.

3 Q It's withdrawn. Don't worry about it.

4 Now, your first semester living away from
5 Blankenship house, the first one that you started and finished
6 would have been starting January of -- I'm sorry. Okay. So
7 we're still in 2010. I apologize if I was confusing. Maybe I
8 just confused myself.

9 You haven't moved out of the Blankenship house yet;
10 right?

11 A Right.

12 Q Okay. And so your last term that you complete in
13 the Blankenship house is actually in June of 2010; is that
14 correct?

15 A Yes.

16 Q And what's your GPA?

17 A 2.000.

18 Q And so after relocating to St. Andrews, you started
19 school again in the fall; is that correct?

20 A Yes.

21 Q Okay. And what was your GPA for that fall semester
22 ending in January of 2011?

23 A 0.667.

24 Q Okay. And there was one more semester that started
25 in January of 2011 and concluded in June 2011; right?

1 A Yes.

2 Q And what was your GPA at the end of that semester?

3 A 0.000.

4 Q Okay. And you've already testified that the

5 following year, which is going to be your senior year, that

6 you did not go to school but one day; is that correct?

7 A Yes.

8 Q Mahlica, is it fair to say that your grades suffered

9 somewhat when you moved away from Fred and Lealer?

10 A Yeah. But it wasn't because I moved away from them,

11 though.

12 Q Okay. You testified in response to the State's

13 question that you had some difficulty in school as a result of

14 your anxiety disorder; right?

15 A Yes.

16 Q Okay. Do you remember whether you told that to the

17 school? Let me ask that question first. Did you relate to

18 anybody at the school that you were having anxiety problems

19 and that's why you weren't coming?

20 A No. You mean anybody who worked at the school?

21 Q Yes.

22 A No.

23 Q Okay. Did you tell your mother that you were having

24 anxiety problems?

25 A Yes.

1 Q Did you also tell your mother that you were having
2 stomach issues?

3 A Yes.

4 Q Okay. And if you would, please tell the jury what
5 kind of stomach issues were you talking about?

6 A Just at that time?

7 Q Yes. As best you can remember. During your senior
8 year when you only went to school for one day what kind of
9 stomach issues were you having?

10 A I believe the doctor had said it was a peptic ulcer,
11 I believe.

12 Q Okay. And in fact didn't your mother try to get you
13 in to see a stomach specialist?

14 A Yes.

15 Q Okay. Do you remember whether or not the school
16 gave you additional time to re-enroll given that you were
17 having stomach issues?

18 A I don't remember.

19 Q Okay. Let me ask it a different way. Do you
20 remember whether or not the State -- I mean, the school just
21 kicked you out or disenrolled you, or did they give you an
22 opportunity to try to come back in and catch you back up?

23 A Yeah, at first they did. But then my mom just
24 withdrew me after -- after some time.

25 Q Okay. To the best of your knowledge -- I'm only

1 asking if you know, I don't want you to guess -- did your
2 mother ever relate that you were having anxiety problems to
3 the school, that you know of?

4 MS. LUZAICH: Objection. Foundation. Speculation.

5 THE COURT: I think he's saying based upon what she
6 knows.

7 MR. MacARTHUR: Right.

8 THE COURT: Does she know whether her mom did.

9 MR. MacARTHUR: Right.

10 THE COURT: You can answer that.

11 THE WITNESS: No, I don't think she did.

12 THE COURT: No, she didn't, or, no, you don't know?

13 THE WITNESS: She didn't.

14 BY MR. MacARTHUR:

15 Q Okay. I'm looking at this school record, Mahlica.
16 Do you see this middle paragraph where it says "Comments"?

17 A Yes.

18 Q I'd like you to read that to yourself. Let me see
19 if there's a way to make this any better.

20 Since it's small on the monitor, I'm going to read
21 it to you, and I want you to tell me if I'm reading it
22 correctly. All right?

23 MS. LUZAICH: Objection. It's in evidence. The
24 jury will have it.

25 MR. MacARTHUR: Well, I'm publishing and its --

1 MS. LUZAICH: If he reads it, he's testifying.

2 THE COURT: I don't understand why you want to read
3 something into evidence that's already in evidence.

4 MR. MacARTHUR: My only issue, Judge, is that --

5 THE COURT: I mean, if there's something -- I don't
6 want you to read the whole thing. If there's something
7 specific you want to go into --

8 MR. MacARTHUR: Okay, Judge.

9 THE COURT: -- you can do that.

10 MR. MacARTHUR: It will only be the first two
11 sentences. The reason I'm concerned is that, even though I'm
12 publishing it, it's very small with regard to where the jury
13 is.

14 THE COURT: Go ahead.

15 MR. MacARTHUR: So just to facilitate the
16 information I thought it'd be faster to read.

17 THE COURT: Go ahead.

18 MR. MacARTHUR: Okay.

19 BY MR. MacARTHUR:

20 Q Mahlica, if you could read along. Under "Comments"
21 does it say, "Called home and spoke with mom. Mom states that
22 student has been having stomach issues. Mom is trying to get
23 in to stomach specialist." Do you see that?

24 A Yes.

25 Q Okay. And after that it talks about you only having

1 been in school for one day; right?

2 A Yes.

3 Q And that you've lost credits in classes, but that

4 could be fixed if you get a doctor's note. See where that --

5 A Yes.

6 Q Okay. It says that your mom might look into night

7 school or adult education for you; is that right?

8 A Yes.

9 Q Okay. And last but not least, they asked your mom

10 to let them know or give them an update because you're going

11 to be withdrawn soon.

12 A Yes.

13 Q And your mother understood that?

14 A Yes.

15 MR. MacARTHUR: Okay. Thank you, Your Honor.

16 THE COURT: Any redirect?

17 MR. MacARTHUR: I'm --

18 THE COURT: Oh. You said thank you --

19 MR. MacARTHUR: I was thanking with the --

20 THE COURT: Okay. Sometimes when you say thank you

21 I think you're done. But go ahead.

22 MR. MacARTHUR: It was for letting me publish. But

23 I am almost done.

24 THE COURT: You may continue.

25 //

1 BY MR. MacARTHUR:

2 Q Okay. I'm going to jump a little bit back in time
3 to May of 2005, when you moved to Utah.

4 A Yes.

5 Q Okay. And that was when your mother was pregnant
6 with Joseph; is that correct?

7 A Yes.

8 Q Okay. And he was placed up for adoption.

9 A Yes.

10 Q And there was a time in which you were taken away
11 from your mother by CPS, you and your siblings?

12 A Yes.

13 Q Okay. And this was in response to an incident where
14 they thought you guys were unattended; is that fair?

15 A Yes.

16 Q Okay. And who was looking after you guys while you
17 were in Utah?

18 A Her name was Heather. She was like my mom's friend.

19 Q But she only looked in on you a couple of times;
20 right?

21 A Yes.

22 Q Okay. Who was in charge while Miss Heather wasn't
23 there?

24 A I can't really remember.

25 Q Do you remember whether you told us at preliminary

1 hearing that Victoria was in charge?

2 A Yeah.

3 Q Okay. Does Victoria sort of act like a mother to

4 the younger kids?

5 A Yes.

6 Q Does she sometimes make decisions for the family?

7 A Yes.

8 Q And your mom let her or lets her do that?

9 A Yes.

10 Q Would you say that your mother lets Victoria sort of

11 run the household?

12 MS. LUZAICH: Well, you know what, I'm sorry.

13 Objection. Vague as to time.

14 THE COURT: Right. As to what that even means.

15 MR. MacARTHUR: I'll tighten it up, Judge.

16 BY MR. MacARTHUR:

17 Q Now, when you came here to testify last it was in

18 June of 2013; right?

19 A Yes.

20 Q Okay. And now Victoria lives in California.

21 A Yes.

22 Q She's got her own family and a baby?

23 A Yes.

24 Q Okay. I'm not asking you about after June of 2013.

25 I'm really talking about once you, Shabazz, your mother, and

1 Victoria moved out of Blankenship until Victoria moved away.
2 With that time period in mind from when you leave Blankenship
3 in August of 2010 to whenever she moved out of where you live
4 now, that time period, you with me --

5 A Yes.

6 Q Okay. -- did your mom let Victoria sort of run the
7 household?

8 A Well, I wouldn't say run the household, but like
9 most of the time she would let -- 'cause my mom was always
10 working, so she would put her in charge.

11 Q I understand. Do you remember Betsy Allen asking
12 you that question in June of last year at preliminary hearing?

13 A Yes.

14 Q Okay. Do you remember if you told her that your mom
15 let Victoria run the household?

16 A I really don't remember.

17 Q Would it refresh your recollection to be able to see
18 the transcript from the preliminary hearing?

19 A Yeah.

20 THE COURT: What page?

21 MR. MacARTHUR: Page 109, State.

22 BY MR. MacARTHUR:

23 Q We were just talking about this last orange there.

24 A Okay.

25 Q Do you see it?

1 A Yes.

2 Q Did that refresh your recollection as to what your
3 answer was?

4 A Yes.

5 Q Okay. And did your mom let Victoria run the
6 household?

7 A Yes.

8 Q Okay. Mahlica, did you continue to have some
9 contact with Fred after you moved out of Blankenship over to
10 St. Andrews?

11 A Yes.

12 Q Okay. Do you remember times where you called him
13 asking for money for school clothes?

14 A No, I don't.

15 Q Do you remember if he took you shopping for school
16 clothes once or twice after you moved out of Blankenship say
17 around eleventh grade? I want you to think about the summer
18 before eleventh grade started.

19 A I don't really remember.

20 MR. MacARTHUR: Okay. Fair enough.

21 Court's indulgence.

22 Thank you very much for your testimony this
23 afternoon, Mahlica. I'm finished.

24 THE WITNESS: Okay.

25 THE COURT: State may begin their redirect.

1 MS. LUZAICH: Thank you.

2 REDIRECT EXAMINATION

3 BY MS. LUZAICH:

4 Q You okay, Mahlica?

5 A Yes.

6 Q All right. Mr. MacArthur talked to you about the
7 statements that you gave to the Henderson Police Department in
8 December 2011, and to Metro and CPS in October of 2012. Would
9 you agree with me?

10 A Yes.

11 Q Before you came to testify here today I didn't give
12 you copies of any of these, did I?

13 A No.

14 Q Okay. So you haven't looked at them before you came
15 here to testify this week or last week or the week before;
16 correct?

17 A No.

18 Q All right. Now, when he was asking you questions
19 about the Henderson Police Department he started out asking
20 you a question saying something like, isn't it true that the
21 Henderson Police Department asked you if you knew why they
22 wanted to talk to you about Fred and Vicky and you said no.

23 Isn't it accurate that the Henderson Police
24 Department didn't ask you if they wanted to talk to you about
25 Fred and Vicky, they just said they wanted to talk to you

1 about Vicky after talking to her and you didn't know why?

2 A Yes.

3 Q And Mr. MacArthur also indicated that you never told
4 the Henderson Police Department that Vicky had told you
5 anything about what happened when she was 11. Do you remember
6 that? And he showed you some pages.

7 MR. MacARTHUR: Objection, Your Honor.
8 Mischaracterizes testimony.

9 MS. LUZAICH: Oh, I disagree.

10 THE COURT: Overruled. You can proceed.

11 BY MS. LUZAICH:

12 Q Would you agree he said that you -- he said that you
13 never told the police department in Henderson that Vicky
14 talked to you about what happened when she was 11 when you
15 guys lived on Trish Lane; right? He showed you some pages
16 that didn't talk about that.

17 A Yes.

18 Q Okay.

19 MS. LUZAICH: May I approach?

20 THE COURT: You may.

21 BY MS. LUZAICH:

22 Q Showing you page 7 of the Henderson Police
23 Department statement. And would you agree here it says
24 Henderson Police Department on December 17th of 2011; right?

25 A Yes.

1 Q On page 7 does it say -- and question, would you
2 agree that that's the detective asking you a question, and 'A'
3 is you answering the question?

4 A Yes.

5 Q Does the detective say, "Do you ever remember
6 Victoria saying anything to you guys when you were little,
7 like 11 years old, when she was 11, about anything with Fred?"
8 and you answered, "Yeah, actually she did say he used to touch
9 her." Is that what that says?

10 A Yes.

11 Q And then he said, "And what [sic] that long time ago
12 when she said that?" and did you answer, "Yes, I think that
13 was like when we first -- when we first met them"?

14 A Okay.

15 Q Is that right? Is that what that says?

16 A Yes.

17 Q So she did talk to you about it way back when and
18 you did tell Henderson about it; right?

19 A Yes.

20 Q Then again on page 15 again the Henderson Police
21 Department asks you, "When your sister told you, you said, you
22 told her -- sorry," he got a little confused, "you said she
23 told you when you guys were little. Did she ever tell anyone
24 else or did you ever tell anybody else?" You told them, "No";
25 right?

1 A Yes.

2 Q And did you tell them, "She told me she didn't want
3 me to tell anybody else"?

4 A Yes.

5 Q And they asked -- cleared it up. "When you were
6 little?" And you said, "Yes, 'cause she said no one would
7 believe her. She thought she would be in trouble." That's
8 what you told Henderson?

9 A Yes.

10 Q Okay. And also when you were talking to Henderson,
11 he said, "When I asked you questions about Fred choking you,
12 you didn't remember." You said that you didn't want to
13 remember; right?

14 A Yes.

15 Q In -- when you talked to Henderson did the same
16 thing happen? I'm looking at page 6. Wait. Page 5 and 6.
17 Did they ask you that and you didn't say anything until they
18 said, "Well, Vicky told us that he picked you up by the neck."
19 Do you remember that?

20 A Yes.

21 Q And you told them that, yes, he did pick you up by
22 the neck here. "And he's holding you" or "and he's holding
23 you by your neck?" And you said, "Yes"; right?

24 A Yes.

25 Q And they said, "Could you breathe the whole time?"

1 And you said, "No."

2 A Yes.

3 Q So you don't like talking about these things, do
4 you?

5 A No.

6 Q Would you rather that nobody ask you any of these
7 questions and you not have to talk about it?

8 A Yes.

9 Q That statement that Mr. MacArthur showed you that
10 you wrote, you didn't recognize it until you saw it? This one
11 here, Honey. That's your handwriting; right?

12 A Yes.

13 Q Did somebody tell you to write that?

14 MR. MacARTHUR: Objection. Leading.

15 THE COURT: Overruled. I'll allow her to answer.

16 THE WITNESS: I really don't remember.

17 BY MS. LUZAICH:

18 Q Okay. That's fine.

19 You told the police that you were afraid to live
20 with Fred. Why?

21 MR. MacARTHUR: Objection as to time frame.

22 THE COURT: I'm sorry. What?

23 MR. MacARTHUR: Foundation. Time frame.

24 MS. LUZAICH: It was in the interview he
25 specifically asked her about.

1 THE COURT: Go ahead.

2 MR. MacARTHUR: I asked her about four interviews.

3 THE COURT: You know what, maybe just give us some
4 foundation regarding the time frame.

5 MS. LUZAICH: I'll come back to that.

6 MR. MacARTHUR: Your Honor, in the event the State
7 cannot locate a specific document with that I would ask that
8 it be stricken.

9 THE COURT: What specific document?

10 MR. MacARTHUR: I can't specify.

11 THE COURT: I mean, you can just ask her when she --
12 what was the time frame that she lived with him. I'm going
13 back through my notes so I can try and determine it, but it's
14 up to the parties.

15 You know what, and my notes indicate that she
16 already testified to that on cross-examination.

17 MS. LUZAICH: Well, that's what I asked. Mr. --
18 okay. Thank you.

19 BY MS. LUZAICH:

20 Q Mr. MacArthur asked you, did you tell the police
21 that you were afraid to live with Fred. You did tell them
22 that; correct?

23 MR. MacARTHUR: Objection, Your Honor. Perhaps we
24 should approach so that we're not editorializing.

25 THE COURT: You may. You may.

1 (Bench Conference)

2 THE COURT: Okay. Let me just make it clear.

3 Sometimes it's hard for me to read my own handwriting. But in

4 2008 she told CPS she was afraid. But --

5 MR. MacARTHUR: That she was not afraid. The

6 testimony said she was not afraid. I was referencing --

7 THE COURT: She didn't tell CPS she was afraid.

8 MR. MacARTHUR: Right.

9 THE COURT: Although she said --

10 MS. LUZAICH: Right. I'll rephrase my question.

11 THE COURT: -- she was afraid, but she didn't tell

12 them that she was afraid.

13 MR. MacARTHUR: Right. Right.

14 MS. LUZAICH: I'll rephrase my question.

15 MR. MacARTHUR: All right.

16 THE COURT: And so I'm assuming you want the

17 timeline of when they lived together.

18 MR. MacARTHUR: Right. First foundation. Now I

19 know we're talking about CPS 2008.

20 THE COURT: Are you talking about CPS or the police?

21 MS. LUZAICH: I will rephrase my question entirely.

22 THE COURT: Okay. Thanks.

23 MS. ALLEN: Before the next witness, we have to have

24 a -- we have to have -- do something outside the presence.

25 THE COURT: Okay.

1 MS. ALLEN: Okay. Thanks.

2 THE COURT: Okay. Perfect.

3 MR. MacARTHUR: Thank you, Your Honor.

4 BY MS. LUZAICH:

5 Q And, Mahlica, I am very sorry, and the defense. My
6 handwritten notes were really bad.

7 THE COURT: Okay. You know what, I'm sorry. I have
8 to stop you, because the jury has asked for a break.

9 MS. LUZAICH: Oh. Okay.

10 THE COURT: Okay. During this recess you're
11 admonished not to talk or converse amongst yourselves or with
12 anyone else on any subject connected with this trial, or read,
13 watch, or listen to any report or commentary on the trial or
14 any person connected with this trial by any medium of
15 information, including, without limitation, newspapers,
16 television, the internet or radio, form or express any opinion
17 on any subject connected with this trial until the case is
18 finally submitted to you.

19 We'll be in recess until the court marshal indicates
20 otherwise.

21 (Court recessed at 3:29 p.m., until 3:39 p.m.)

22 (Jury is not present)

23 THE COURT: The hearing is taking place outside the
24 presence of the jury panel. I just wanted to do it now so --

25 MS. ALLEN: Yes.

1 THE COURT: -- we didn't have to excuse them again.

2 MS. ALLEN: Yes. Actually, I had suggested that to
3 Susan, because I thought it would make more sense.

4 So, Your Honor, it's my understanding the State is
5 putting Dr. Anita Gondy on the stand.

6 THE COURT: Okay.

7 MS. ALLEN: She's actually here.

8 THE COURT: That's the OB-GYN?

9 MS. ALLEN: Correct. She actually was noticed as my
10 witness. The State didn't notice her, so I would object,
11 obviously, to them calling her. I know what the State's
12 argument would be to that. But more importantly, this is my
13 concern.

14 THE COURT: Okay. Say it again. You noticed her as
15 a witness?

16 MS. ALLEN: Yes.

17 THE COURT: The State did not.

18 MS. ALLEN: No. The State did not.

19 THE COURT: Okay.

20 MS. ALLEN: Sorry to object to their calling her.
21 But that's not really my concern. My concern is this. They
22 intend to put her on the stand and testify about Taharah and
23 Taquanda being seen back in June of 2012. She was taken in by
24 -- I've interviewed Dr. Gondy, and she continually referring
25 to the person there as her grandmother -- the girls'

1 grandmother. She doesn't have a very clear recollection that
2 it wasn't the grandmother. But in fact I think it was Lealer
3 Cooks who brought in the girls, and there were -- I believe
4 Ms. Cooks made statements to Dr. Gondy. The patient, Taharah,
5 did not say a word. If you ask Dr. Gondy under oath, I think
6 if you just asked her, she would tell you Taharah actually did
7 not say a word, everything that she gathered regarding
8 Taharah's diagnosis would have come from Lealer Cooks.

9 I would object to the testimony of Dr. Gondy with
10 regard to what she was told by Lealer Cooks. Firstly -- first
11 off, I don't believe that it falls under the exception of the
12 I think it's 51.115 --

13 THE COURT: How old -- how old was she at that time?

14 MS. ALLEN: Taharah?

15 THE COURT: Yeah.

16 MS. ALLEN: She was 12. She was 12 years old.

17 THE COURT: Okay.

18 MS. ALLEN: So I would object that this is not for
19 the purposes of a medical diagnosis simply because it doesn't
20 come from the patient itself, it comes from Ms. Cooks.

21 That being said, the bigger problem is this. Lealer
22 Ann Cooks is the codefendant in this case. And admission of
23 that statement implicates Bruton, it implicates Sixth
24 Amendment confrontation clause issues. And under Bruton
25 admission of a codefendant's statement in any way is a per se

1 violation.

2 I know the State argues that there's an exception to
3 the hearsay rule. And that may be true. The Court may find
4 that in fact it is an exception under the medical diagnosis,
5 because, you know, she was giving her information for the
6 purposes of Taharah's exam. But constitutional authority
7 trumps statutory provisions. And certainly the hearsay
8 statutes and the exceptions thereto, those are statutory
9 authority, they're not constitutional. The Sixth Amendment
10 and due process and confrontation clause are constitutional
11 issues. Admission of Lealer Ann Cooks's statement violates
12 that right that my client has to confront and cross-examine
13 the codefendant in this case. And those statements that she
14 made would violate -- would significantly violate that. That
15 would put me in a position of, oh, great, now do I have to put
16 Lealer Cooks on the stand to explain why she made those
17 statements to Dr. Gondy.

18 So that is due process and Sixth Amendment violation
19 of my client's constitutional rights.

20 THE COURT: How about Taquanda?

21 MS. ALLEN: With regard to Taquanda?

22 THE COURT: If Dr. Gondy testified, do you have any
23 question about Taquanda?

24 MS. ALLEN: Yeah. It would be the same objection.

25 But here's the thing. I know that Taquanda made statements to

1 her.

2 THE COURT: Okay.

3 MS. ALLEN: In Dr. Gondy's mind I don't know that
4 she can differentiate the statements is the concern. And one
5 of the reasons why I didn't put her on the stand was that in
6 fact -- that exact reason. She doesn't have a clear
7 recollection of things. She didn't take good notes. You can
8 just tell by talking to her.

9 THE COURT: Ms. Luzaich?

10 MS. LUZAICH: It is not a Bruton violation. Bruton
11 exists because in theory a defendant can't call a codefendant
12 to testify. Lealer Cooks has pled guilty, she has been
13 sentenced, she no longer has a Fifth Amendment right. So, I,
14 or Ms. Allen, could call her to the stand and she can't
15 invoke. So Bruton is out the door. Therefore, these are
16 statements made for purposes of medical diagnosis. And when
17 you look at 51.115 it just says, "Statements made for purposes
18 of medical diagnosis or treatment and describing medical
19 history or past or present symptoms, pain or sensation or the
20 inception of, general character, or cause of external source
21 thereof are not inadmissible under the hearsay rule."

22 It says nothing about if they come from the patient,
23 if they come from the victim. It just says "statements made."
24 So the fact that the statement comes from Lealer Cooks and not
25 Taharah is completely irrelevant. 51.115 for the record,

1 Judge.

2 So the fact that on June 27th of 2012 Lealer Cooks
3 brings Taharah to the doctor and tells the doctor that there
4 are allegations of sexual abuse from a month earlier, which
5 coincidentally Taharah and Taquanda will say, in May of 2012,
6 one month earlier, they told Miss Ann that Fred was sexually
7 abusing Taharah, and at first Miss Ann did nothing and then
8 she said she was going to do something, and what does she do
9 she takes her to the OB-GYN, whereupon a test is done, HPV is
10 detected, which is a disease that -- a disease or whatever, a
11 virus that you get -- can get by sexually transmitted
12 diseases. And then they also talk to her about -- the doctor,
13 about birth control for this 12-year-old on a followup visit.

14 So it's -- it's --

15 THE COURT: Okay. But I know there's that case that
16 it does not fit within the hearsay exception if it's for
17 purposes of trial, for purposes of I guess building a case.
18 Now, I know it's different because the State wasn't involved
19 -- well, at least the District Attorney wasn't involved. But
20 based upon what you're telling me it sounds like they were
21 taken to Dr. Gondy because Miss Ann, correct, believed that
22 there was sexual abuse going on.

23 MS. LUZAICH: Well, I mean, that along with heavy
24 periods is what she's there for. Which is why she also has
25 the ultrasound. But that -- that case doesn't apply to this.

1 THE COURT: Do you know what I'm talking about?

2 MS. LUZAICH: Chavez. That doesn't --

3 THE COURT: Okay.

4 MS. LUZAICH: -- apply to this. I mean, this has --
5 Miss Ann doesn't take her for any purpose other than to get
6 her examined. It's Miss Ann's boyfriend who she at the time
7 I'm told, believed, the boyfriend, not the kids.

8 THE COURT: Okay. And, again, I don't know if
9 Taquanda -- is she going to testify about Taquanda?

10 MS. LUZAICH: I wasn't going to ask her about
11 Taquanda.

12 THE COURT: Okay.

13 MS. ALLEN: Again, the situation is just a little
14 different I think with regard -- and --

15 THE COURT: Uh-huh.

16 MS. ALLEN: -- I would object to her testifying
17 about Taquanda, but the --

18 THE COURT: Okay. She says she's not going to.
19 So --

20 MS. ALLEN: Right, I understand. But --

21 THE COURT: -- we're good with that.

22 MS. ALLEN: -- the differentiation for me is that
23 Taquanda actually verbalized things to this doctor. In fact,
24 Taquanda said at the prelim, I think, she told the doctor she
25 was being sexually abused at home or something to that effect,

1 and the doctor -- or not that she was being sexually abused,
2 but something had happened and the doctor told her she should
3 move out. I mean, that was the testimony, I believe, is from
4 Taquanda.

5 But, nonetheless, I mean, you know, again, I -- this
6 -- I don't believe it does fit within the 51.115, because I --
7 so now we're essentially saying that anybody that comes into a
8 physician's office can make any statement whatsoever and now
9 it's admissible hearsay. That's not it. In all honesty,
10 again, I believe just having interviewed Dr. Gondy, she
11 essentially -- she got a lot of things wrong, she really -- I
12 mean, she got a lot of things wrong. But, nonetheless, that's
13 not the point. Obviously it would be subject to cross-
14 examination. It does invoke -- I would argue it does invoke
15 Bruton, it does invoke the confrontation clause or putting a
16 statement -- she's still a codefendant. She's still involved
17 in this case.

18 MS. LUZAICH: Well, yes and no. She was charged
19 separately. She's not a codefendant. And she doesn't have
20 any more Fifth Amendment rights, and that's what Bruton is
21 there to protect, that the codefendant in a case can't be
22 called -- the B defendant can't be called by the A defendant,
23 because the B defendant has Fifth Amendment rights. This
24 isn't even a B defendant. She was charged separately, and she
25 was charged with knowing about the abuse and failing to

1 protect. She pled guilty to knowing about the abuse and
2 failing to protect, and she's currently on probation. She has
3 no Fifth Amendment rights.

4 So I could call her as a witness or Miss Allen could
5 call her as a witness. So there is no Bruton problem. And as
6 far as whether she's right or wrong in information, I mean,
7 that's what cross-examination is for. But on June 27th of
8 2012, when she generated notes, her notes said, possible
9 sexual abuse suspected a month ago.

10 MS. ALLEN: Two things -- and just two things, Your
11 Honor. For the record, she may not have been charged in this
12 case. She was still charged with charges related to the facts
13 and circumstances surrounding this case. So while she's not a
14 B defendant in this particular case, she really is still a
15 codefendant for the purposes of Bruton. There's no
16 allegations against Lealer Ann Cooks. There were any -- they
17 were different charges, but they don't involve separate sets
18 of facts or circumstances. They all involve what we're
19 talking about here. So she is a codefendant for the purposes
20 of Bruton.

21 And secondly, there was an agreement -- I mean, Ms.
22 Luzaich and I came to an agreement that Lealer was not going
23 to testify. I mean, we did come to that agreement. She
24 assured me she wasn't putting Lealer on the stand, and I told
25 her we weren't putting her on the stand. So, I mean, that was

1 an agreement we made before trial.

2 And so now the fact that this doctor's coming in to
3 testify, now I'm left with, okay, now do I have to put Lealer
4 on the stand. Now she's been convicted. Now I have to
5 explain the conviction. All of those things. So there's
6 certainly problems and ramifications with that.

7 I apologize. Yes, probative versus prejudicial,
8 Your Honor. The prejudicial value of this -- the prejudicial
9 nature of this exceeds the probative value. They had Dr.
10 Mehta testify. Dr. Mehta testified to the fact that she had
11 an STD. I mean, that's what came in out of Dr. Gondy's
12 report, and that was the important part of it. At least I
13 assume that was the important part of it for the State.
14 According to everybody, Taharah's verbalized that she's been
15 sexually abused. To go into this I believe -- again, I -- you
16 know I stand by my argument with Bruton that it would be
17 highly prejudicial.

18 THE COURT: Okay. Do you want to add anything?

19 MS. LUZAICH: Well, the probative nature far
20 surpasses the prejudicial effect. Everybody -- their defense
21 is that they're making it up and that nobody tells anybody
22 about the abuse. And whenever anybody says, I told about the
23 abuse, they keep -- they try to find people that say, oh,
24 well, I didn't hear that. Here is somebody that was told.
25 Taharah didn't tell, but Miss Ann told in Taharah's presence.

1 So as far as Taharah's concerned, it was reported to somebody
2 of, you know, an authoritarian nature. So it is
3 extraordinarily probative on several different levels.

4 THE COURT: Okay. Have you pretried her?

5 MS. LUZAICH: I've spoken to her on the phone, yes.

6 THE COURT: Does she know the difference between the
7 two children?

8 MS. LUZAICH: I'm not asking her about Taquanda.

9 THE COURT: Okay. But, Ms. Allen seems to think
10 that she's going to be confused and talk about Taquanda when
11 she really means Taharah. Is that correct, or visa versa?

12 MS. ALLEN: Well, I just -- there's -- I think
13 there's going to be some confusion all around about some of
14 the things that she says, Your Honor. Without disclosing what
15 I know --

16 THE COURT: Okay.

17 MS. ALLEN: -- that she told me, it could present a
18 substantial problem during the trial at this point, because
19 it's a defense issue.

20 MR. MacARTHUR: Sorry, Judge.

21 THE COURT: That's okay. You can confer.

22 (Pause in the proceedings)

23 MS. ALLEN: I mean, I can offer it to the Court in
24 camera if -- I mean -- or not in camera, but --

25 MR. MacARTHUR: The equivalent.

1 MS. ALLEN: Ex parte, I guess.

2 MR. MacARTHUR: In short, Your Honor --

3 MS. ALLEN: Because it's a defense -- it's a defense
4 strategy. So I don't want to say it in open court, obviously.

5 THE COURT: I don't think you have to do that. I
6 don't think you have to do that.

7 Anything else?

8 MS. LUZAICH: No.

9 THE COURT: Okay. The objection's overruled. She's
10 only going to testify regarding Taharah; correct?

11 MS. LUZAICH: That's correct.

12 THE COURT: Okay. Is she your next witness?

13 MS. LUZAICH: She is. And she has an appointment at
14 4:30. I have --

15 THE COURT: Well, let's --

16 MS. LUZAICH: -- two more questions of Mahlica
17 unless we can call her out of order.

18 THE COURT: Do you mind?

19 MR. MacARTHUR: I don't mind.

20 THE COURT: Because I don't know how long it's going
21 to take you with Mahlica.

22 MR. MacARTHUR: I don't expect to have very many
23 questions. I only have two questions, and if she has two.
24 But given that Dr. Gondy has a 4:30 appointment --

25 THE COURT: Okay.

1 MR. MacARTHUR: -- I don't mind pushing pause on
2 Mahlica.

3 MS. LUZAICH: Thank you.

4 THE COURT: All right. We can bring the panel in.
5 (Jury is present)

6 THE COURT: Is there a stipulation to the presence?

7 MS. ALLEN: Yes, Your Honor.

8 MS. LUZAICH: Yes.

9 THE COURT: Okay. At this time, ladies and
10 gentlemen, we're going to take one witness out of order. The
11 State's going to call their next witness, and then we'll put
12 Mahlica back on the stand. So go ahead.

13 MS. LUZAICH: Thank you. The State calls Dr. Anita
14 Gondy.

15 ANITA GONDY, M.D., STATE'S WITNESS, SWORN

16 THE CLERK: Could you please state your full name,
17 spelling your first and last name for the record.

18 THE WITNESS: Anita Gondy, A-N-I-T-A G-O-N-D-Y.

19 THE CLERK: Thank you.

20 DIRECT EXAMINATION

21 BY MS. LUZAICH:

22 Q Thank you. Good afternoon, ma'am. Can you tell the
23 jury what do you do for a living.

24 A I'm an OB-GYN.

25 Q What is an OB-GYN?

1 A I deliver babies, take care of women, their
2 menstrual problems, surgeries, menopause.

3 Q How long have you been an OB-GYN?

4 A Sixteen years in practice.

5 Q Can you describe briefly for us what training and
6 education you have that qualifies you to do that.

7 A We go through medical school, and I did -- you got
8 to go through residency program and then practice afterwards.

9 Q Okay. I assume you went to college first. Where
10 did you go to college?

11 A I did my college and medical school and residence in
12 India and I came here and did one year of internal medicine,
13 then residency again in OB-GYN here. So that's --

14 Q When did you come here and begin your residencies?

15 A '91, September 5th, I came here. I started my
16 residency '93, June --

17 Q And when you say here --

18 A -- July.

19 Q Oh. Sorry. When you say here do you mean Las
20 Vegas?

21 A Las Vegas.

22 Q And you've been practicing as a OB-GYN ever since?

23 A Board certified OB-GYN since 1998, January 5th.

24 Q Okay. And what does your practice entail? You said
25 surgeries, seeing women with menstrual problems. Do you see

1 mostly adult women?

2 A Yes.

3 Q Do you have any special training in seeing children?

4 A No.

5 Q I'm going to direct your attention specifically to

6 June of 2012. Where were you working at that time?

7 A In my office.

8 Q Where's your office?

9 A It's at 3160 Smoke Ranch Road.

10 Q Do you work by yourself or with anybody?

11 A We have -- I have two other associates.

12 Q Okay. Is your practice called something in

13 particular?

14 A The d/b/a is the OB-GYN Center. The OB-GYN Center.

15 Q Okay. And at the OB-GYN Center you said is you and

16 two other physicians?

17 A Yes.

18 Q Are they also OB-GYNs?

19 A Yes.

20 Q And do they also do what you do?

21 A Yes.

22 Q On June 27th of 2012 at the OB-GYN Center did you

23 have occasion to see a patient that became known to you as

24 Taharah Duke?

25 A Yes.

1 Q When you saw her how old was she?
2 A Twelve.
3 Q What was she brought to you for?
4 A As I saw the record, she came in with heavy
5 menstrual cycles.
6 Q Did she come alone or with anybody?
7 A Her grandmother brought her.
8 Q A woman?
9 A A woman.
10 Q An older woman?
11 A Not so old, yes.
12 Q Now -- well, older than her, how is that, of adult
13 age?
14 A Yes.
15 Q And did the woman indicate what the -- have any kind
16 of paperwork regarding guardianship?
17 A There was something scanned in the front office.
18 The guardianship says Lealer Cook, I believe.
19 Q Lealer Cooks, maybe.
20 A Yeah.
21 Q And that paperwork was brought in by whoever brought
22 Taharah?
23 A Yes.
24 MS. LUZAICH: May I approach?
25 THE COURT: You may.

1 BY MS. LUZAICH:

2 Q Showing you what's been marked as State's Proposed
3 Exhibit 1, do you recognize that photo?

4 A That's the lady that brought the kid.

5 Q State's Proposed Exhibit 1 is the woman who brought
6 Taharah?

7 A Yes.

8 Q Okay. Thank you.

9 When you said that Taharah was brought in by the
10 woman with heavy menstrual bleeding do you get a history with
11 every patient that you see?

12 A I do. I have a scribe. Also I have a MA, also.
13 All three of us take histories.

14 Q What is the purpose behind your getting a history of
15 a patient?

16 A What the symptoms are and how long they've been and
17 how they affect the life and whether they need to be treated,
18 what kind of tests need to be ordered, what kind of followup
19 needs to be done.

20 Q Okay. And as part of the history did you learn
21 something about Taharah and somebody else from this guardian?

22 A Taharah has a sister that was also brought up I'm
23 thinking the same day.

24 Q Okay.

25 A But her --

1 THE COURT: Okay. We just --

2 MS. LUZAICH: I'm not worried about the sister.

3 THE COURT: Thank you.

4 BY MS. LUZAICH:

5 Q Did the guardian tell you something about abuse?

6 A Yes.

7 Q What did the guardian tell you about abuse?

8 A She said she's suspecting somebody may be abusing
9 her so that's why she -- you know, she's working with somebody
10 else with that.

11 Q Okay.

12 A So we didn't go into the detail on that.

13 Q Okay. So the guardian told you that there was --
14 she was worried that Taharah had been abused.

15 A Possibly.

16 Q Did she say specifically sexual abuse?

17 A Yes.

18 Q And did she tell you it had been approximately a
19 month earlier that she had learned of that?

20 A Don't know about that.

21 Q Would it -- did you generate records at or near the
22 time of your visit?

23 A Right.

24 Q And would it refresh your recollection to review
25 records?

1 A Yeah. I don't remember the time and stuff.
2 MS. LUZAICH: May I approach?
3 THE COURT: You may.
4 BY MS. LUZAICH:
5 Q What I'm showing you, does this appear to be records
6 generated by your office?
7 A Yes.
8 Q And are they for Taharah Duke?
9 A Yes.
10 Q From June 27th of 2012.
11 A Yes.
12 Q And does it indicate --
13 A Month.
14 Q -- when -- what does it --
15 A Month ago, yeah.
16 Q One month ago.
17 A Uh-huh.
18 Q Okay. Did you examine Taharah Duke?
19 A Yes.
20 Q What kind of examination did you do?
21 A I did review the records a couple days ago. She did
22 have a pelvic exam --
23 Q When a --
24 A -- speculum exam.
25 Q When a pelvic exam is done how is it conducted?

1 A We had a speculum exam and by manual exam, also, on
2 this Taharah.

3 Q When you say a speculum exam, did you insert a
4 speculum into her vaginal opening and look inside?

5 A Yes.

6 Q And did you also do some sort of swabs?

7 A I did take a pap smear. I did also take a gonorrhea
8 chlamydia testing and a vaginal secretion swab.

9 Q Why did you do all of those?

10 A Because of her history they were suggesting.

11 Q The history of sexual abuse -- potential sexual
12 abuse?

13 A Sexual abuse.

14 Q Did you ultimately get results back from those
15 swabs?

16 A Yes.

17 Q And what were the results?

18 A Gonorrhea chlamydia test was negative, vaginal
19 cultures were negative for trichomoniasis or anything else.
20 We only saw HPV virus. I asked the pap smear to be further
21 tested for HPV virus, which is a sexually transmitted virus
22 for majority of the time. So we have the high-risk HPV
23 positive on the pap smear.

24 Q Okay. And did they return to you for followup at
25 all?

1 A She had an ultrasound after that and she came back
2 after the ultrasound for the followup and the blood test and
3 the ultrasound, too.

4 Q Okay. How many times did Taharah come back and see
5 you; do you recall?

6 A I believe -- on ultrasound dates I don't see them.
7 Usually ultrasound tech performs them the next day. So two
8 times.

9 Q Okay. And when she came back who would she have
10 been with?

11 A I have two charts, so I'm trying to remember. I
12 think she is with her grandmother again.

13 Q Okay. So with an adult at least.

14 A Adult, yes.

15 Q And did the adult that was with her that's depicted
16 in that picture talk to you about anything else as far as
17 either treatment or future care for Taharah?

18 A No. We talked about the HPV. We talked about the
19 vaccinations, she was interested in the vaccination as per my
20 records. I don't remember, you know, the details, of course.
21 And then we talked about the birth control option. She was
22 interested in getting her started on something.

23 Q The guardian was interested in getting Taharah, the
24 12-year-old, started on birth control.

25 A Birth control. So we talked about that. And

1 because her menstrual cycles were heavy and she also wanted
2 birth control so we ran through the options of hormonal
3 methods, then they chose to have an Nexplanon, which is a rod
4 that you place under the skin so it can control the menstrual
5 cycles, too. But I haven't seen them afterwards.

6 Q Okay. So they didn't follow up with vaccines or
7 birth control?

8 A No.

9 MS. LUZAICH: Thank you. I would pass the witness.

10 THE COURT: Cross.

11 CROSS-EXAMINATION

12 BY MS. ALLEN:

13 Q Good afternoon, Dr. Gondy. How are you?

14 A Very good, thank you.

15 Q We spoke before. Is that correct?

16 A Right.

17 Q I came to your office?

18 A Yes.

19 Q Okay. And I'm just going to ask you about the
20 medical records and some of the things we discussed when we
21 were in your office. Okay?

22 A Yes.

23 Q You -- do you have an independent recollection of
24 Taharah Duke? Like can you see her in your mind?

25 A No.

1 Q Okay. It's been a while; is that correct?

2 A It's been a while.

3 Q Okay. And the first time you saw her was June 27th

4 of 2012; is that right?

5 A Yes.

6 Q And she was with her grandmother?

7 A Yes.

8 Q And who else was there at that visit?

9 A Can I see the record one more time? Because --

10 Q Sure.

11 A -- I usually write it, because like I say, I saw

12 sister's records, too. So --

13 Q Sure. Take a look at those.

14 A First day she -- this child only came with her

15 grandmother.

16 Q Okay. Was -- do you recall telling me there was

17 somebody else sitting there?

18 A Second -- there was another person that came in

19 afterwards, and that was the father, but it was for the other

20 child, as per my record.

21 Q Okay.

22 A He came for the test results for the second child.

23 Q Okay.

24 A Older child.

25 Q Okay. And do you remember -- you remember the

1 father being there; is that right?

2 A Right.

3 Q Okay. And you remember -- you described him as

4 wearing like sunglasses or glasses the whole time?

5 A Yes.

6 Q Okay.

7 A African-American, little bit maybe about 35,

8 forties, a little bit taller, and maybe braids. I can't

9 remember.

10 Q Did he have -- short hair -- oh, short hair, long

11 hair, you can't remember.

12 A I think it's braids. I'm not too sure.

13 Q Okay. What was his skin tone? Was it dark?

14 A Dark.

15 Q Dark skin tone. Okay. And was he a bigger guy?

16 A Not terribly big. Medium build.

17 Q Medium build.

18 A Yeah.

19 Q Okay. And did he introduce himself to you?

20 A No.

21 Q He did not. Okay. He just sat there with his

22 glasses on; is that correct?

23 A Right.

24 Q Okay. Do you remember in our conversations that you

25 -- when you spoke with Lealer she said that she was concerned

1 that the children's father couldn't take care of them; is that
2 correct?

3 A Father was taking care of Taharah.

4 Q Uh-huh.

5 A And, but I met both of them in the room one time.
6 Between those two children it's two visits. I'm not sure
7 which visit when, but father was there.

8 Q Right.

9 A So I saw him, you know, briefly, yes.

10 Q And it was your understanding from Lealer that there
11 was concern the father -- because the father was taking care
12 of them, maybe he wasn't really good at taking care them? Is
13 that -- is that -- do you remember telling me that?

14 A The only thing I had remember, you know, about this
15 person is a little bit, you know, behaves a little immaturely.
16 That's all.

17 Q He behaved immaturely?

18 A That's it.

19 Q Okay.

20 A I don't know exactly what it was, but it was --
21 that's what my mind says.

22 Q Okay. And was it -- did you get the impression that
23 Lealer was suggesting that it was the father that had -- that
24 was possibly suspected in the sexual abuse?

25 A No.

1 Q You didn't. That wasn't your understanding?

2 A No.

3 Q Do you remember telling me that when we spoke the

4 last time?

5 A No. No. I don't know who it was abusing her, but I

6 know that's the father that came in.

7 Q Uh-huh.

8 A First time she came in without the person. But,

9 like I said, I saw both children two times. The second time

10 for the older children that possibly had another physical

11 condition, he came for her test results himself.

12 Q Okay.

13 A So I saw grandmother and the father in the room

14 together.

15 Q And it was grandmother and what you believed to be

16 her son; is that correct?

17 A That's what I thought.

18 Q Yeah. That was her son. Okay. That's what you

19 thought, it was her son. And you referred to -- in our

20 conversation you referred to it as her son.

21 A As father, yeah.

22 Q Okay. And the father to the two girls.

23 A Right.

24 Q Okay. You -- in your notes -- do you recall telling

25 me that Taharah never said a word to you?

1 A Taharah. I don't remember whether they talked, but
2 the children didn't talk much.

3 Q Okay. Do you recall then also saying that you
4 thought she was maybe developmentally delayed?

5 A One of them is. The other one is. The older one
6 is.

7 Q The older one. Okay. And then you have in your
8 comments notes that you took, and things like irregular
9 menses, the cramping, loss of appetite. You document
10 something about a family history of breast cancer. And then
11 you in your notes you say the patient is a virgin. Do you
12 recall that in your notes?

13 A No, I don't.

14 MS. ALLEN: May I approach?

15 THE WITNESS: Yes.

16 THE COURT: You may.

17 BY MS. ALLEN:

18 Q And that's the --

19 A No. This is not my notes. This is actually my
20 scribe, I mean not my scribe, my -- sorry.

21 Q That's okay.

22 A There's too many people. It's the ultrasound tech.

23 Q Oh. Okay. The ultrasound tech.

24 A So she took the history, patient is a virgin.

25 Q Okay. So this would have been --

1 A As per the grandmother. Was saying, grandmother --
2 I mean, the grandmother has breast cancer history she's
3 saying.

4 Q Right.

5 A She's just -- for her notice, why did I order pelvic
6 ultrasound, and that's the reason why she's documenting.

7 Q No. No. No. I understand that. So the idea that
8 -- so this could have come from -- Taharah had given the
9 information that she was the virgin?

10 A Whoever is -- Taharah was probably giving that
11 information.

12 Q Okay. So Taharah probably gave that information
13 that she --

14 A She's a young child. So, you know, we don't usually
15 order transvaginal ultrasounds.

16 Q Right.

17 A We don't usually do exams on them, either.

18 MS. ALLEN: Okay. Court's indulgence for a moment.

19 (Pause in the proceedings)

20 BY MS. ALLEN:

21 Q Sorry, Dr. Gondy.

22 A That's okay.

23 Q I apologize.

24 MS. ALLEN: Oh. Court's indulgence one more time.

25 THE COURT: Sure.

1 BY MS. ALLEN:

2 Q All right. Dr. Gondy, going back to Ms. Lealer

3 Cooks, and she -- again, the second time she came in she came

4 in with her son; is that correct?

5 A I think so. I'm confused between, like I said, two

6 is it's -- are documented for two children.

7 Q Okay.

8 A So at one time at least I see them together, both of

9 them in the room that I know.

10 Q Did you know that they were sisters?

11 A Yeah. They told me. So that's in my record, too.

12 Q Okay.

13 A I usually put down if there are relative in the

14 office, I always put their name in there.

15 Q Okay. So you knew that they were sisters; is that

16 correct?

17 A Uh-huh.

18 Q Yes?

19 A Yes. Yes.

20 Q Okay. And then Lealer was the grandmother --

21 A Yes.

22 Q -- is that correct? Okay. And then she came in

23 with a male, 35 to 40, who was her -- you believed was her

24 son?

25 A Right.

1 Q Okay.

2 A Yes.

3 Q Is that correct? Her son is not sitting over here;

4 is that correct?

5 A I don't -- I don't know.

6 Q You don't know. You don't remember?

7 A Similar build and similar, you know, with the

8 glasses on and short braid, but I'm not sure.

9 Q Are you talking about the man in the middle?

10 A No.

11 Q Okay. Mr. -- the one on the end does not have

12 glasses on; is that correct?

13 A Correct.

14 Q Okay. You don't remember what the son looked like?

15 A I don't remember.

16 Q Okay. You described him as having dark skin.

17 A Dark skinned. Similar build, similar tone, similar

18 hair. That's all I can say.

19 Q Do you remember telling -- do you remember telling

20 my investigator that he was really dark complected?

21 A No, I don't. But that's -- I mean, I'm dark.

22 Q I understand.

23 A I consider him dark, too.

24 Q Do you remember saying something about him having

25 short hair?

1 A Short hair, like short braids.

2 Q And I asked you if he had braids and you said no.

3 A I can't remember. Like today all I remember is he

4 had braids.

5 Q No, I know. But Dr. -- hold on Dr. Gondy. We can't

6 talk over one another. Do you remember me asking you if he

7 had braids and you said no?

8 A I don't remember.

9 Q You said he had sunglasses on the whole time. Do

10 you recall that?

11 A Yes. He had glasses on.

12 Q And he acted very immaturely. Is that correct?

13 A Yes.

14 Q Okay. And as you sit here today you believe it was

15 somebody who was about 35?

16 A I'm not good at that, really. Somewhere in the

17 middle ages.

18 Q Somewhere -- so somewhere --

19 A Thirty to forties, yes.

20 Q So fifties, 55, 60?

21 A No. Thirties to forties.

22 Q Definitely not that old.

23 A Yeah, somewhere.

24 Q You characterize this man as being the son of Lealer

25 Cooks.

1 MS. LUZAICH: Asked and answered. Four times.
2 THE WITNESS: Yes.
3 THE COURT: Go ahead. You can answer.
4 BY MS. ALLEN:
5 Q You characterized this person as being the son of
6 Lealer Cooks; is that correct?
7 A Yes.
8 Q Okay. And how old would you estimate Ms. Cooks was?
9 A I don't know. Maybe fifties.
10 Q Okay. So it could -- if it was in fact you believed
11 it was her son it couldn't be someone who was 45 or 50; is
12 that right?
13 A Yeah. No.
14 Q Okay. Presumably she couldn't have had a child at
15 five.
16 A No. I said 30 to 40, somewhere along that line. So
17 yeah.
18 MS. ALLEN: Okay. Thank you, Your Honor. I pass
19 the witness.
20 THE COURT: Any redirect?
21 MS. LUZAICH: No, thank you.
22 Thank you, Dr. Gondy.
23 THE WITNESS: All right.
24 THE COURT: Thank you very much for your testimony.
25 You may step down. You are excused.

1 THE WITNESS: Thank you.

2 THE COURT: And we can call Mahlica back in here.

3 Mahlica, you do understand that you are still under

4 oath; correct?

5 THE WITNESS: (No audible response)

6 THE COURT: Okay.

7 MS. LUZAICH: May I?

8 THE COURT: Uh-huh.

9 MS. LUZAICH: Thank you.

10 MAHLICA DUKE, STATE'S WITNESS, PREVIOUSLY SWORN

11 REDIRECT EXAMINATION (Continued)

12 BY MS. LUZAICH:

13 Q And Mahlica, I apologize. My questions before we

14 took a break were really confusing so I'm going to start that

15 whole thing over.

16 Mr. MacArthur asked you on cross-examination about a

17 conversation you had in 2008 with somebody from Child

18 Protective Services. Do you remember him asking you at least

19 about that? And he showed you a paragraph that you read. Is

20 that ringing a bell for you?

21 A Yes.

22 Q Okay. And he asked you if you told them in 2008, I

23 am not afraid of Fred, and you said, no, I did not tell them

24 that; correct?

25 MR. MacARTHUR: Objection, Your Honor. Misstates

1 her testimony.

2 MS. LUZAICH: Well, she said she didn't remember
3 telling them that.

4 THE COURT: Overruled.

5 MR. MacARTHUR: Okay.

6 THE COURT: Go ahead.

7 MR. MacARTHUR: That part I don't disagree with.

8 THE COURT: Okay. That's what she said.

9 MS. LUZAICH: Oh. Okay.

10 THE COURT: Okay.

11 MR. MacARTHUR: Judge, she had a compound question.
12 I'm not objecting to the second part of it. I'm objecting
13 to the first part. She characterized the witness as having
14 said --

15 THE COURT: Okay. The witness -- the objection is
16 overruled. Go ahead and ask your next question.

17 BY MS. LUZAICH:

18 Q And after he asked you that or you said you didn't
19 remember saying that you had said something like you were or
20 are afraid of Fred. I just want to ask you why. Do you
21 understand? Why were you afraid of Fred?

22 MR. MacARTHUR: Are we still talking about 2008?

23 THE COURT: Yes.

24 MS. LUZAICH: Yes.

25 //

1 BY MS. LUZAICH:
2 Q Mahlica, are you thinking?
3 A No.
4 Q Do you just not want to answer my question?
5 A No, not really.
6 Q How come you don't want to answer my question?
7 A Well, I just don't.
8 THE COURT: Okay. Mahlica, you need to answer her
9 question. Do you understand it?
10 THE WITNESS: Well, yeah, I understand it.
11 THE COURT: Okay.
12 BY MS. LUZAICH:
13 Q Are you afraid of something now?
14 A No. I just -- well, the reason we were afraid of
15 Fred was because he's given me a reason to be afraid of him.
16 So --
17 Q The things that he did to you?
18 A Yes.
19 Q Okay. That's fine. That's all you have to say.
20 You have family here. You have your mother;
21 correct? You have Taharah and Taquanda.
22 A Yes.
23 Q You have Shabazz.
24 A Yes.
25 Q Vicky is in California; right?

1 A Yes.

2 Q Do you have any other family here?

3 A No.

4 Q Do you have any other family that you're aware of
5 anywhere that you have communication with?

6 A No.

7 Q If you weren't with Mom, would you have somewhere to
8 go?

9 A Probably not.

10 Q Mr. MacArthur asked you questions about Shabazz.
11 Did Shabazz finish high school?

12 A No, I don't think so.

13 Q Do you know the last grade he finished?

14 A I believe it was tenth.

15 Q Did he stop going to school before you stopped going
16 to school?

17 A No. He stopped going after -- I believe it was
18 after me.

19 Q Okay. Was it close in time to you?

20 A I think it was about a few months after I stopped
21 going.

22 Q Okay. Did Shabazz struggle in school?

23 A Yes, I think so.

24 Q Did he have anything like an IEP, an Individual
25 Education Program, do you know?

1 A Yes, he did.

2 Q He did. You said that you hadn't seen him in a
3 couple weeks, that he lives with friends. Do you remember
4 when is the last time that he actually lived with you and Mom?

5 A Like briefly last year.

6 Q When you say briefly, do you mean weeks, months,
7 more, less?

8 A I think for a few months.

9 Q Okay. Since you left Blankenship have you lived
10 with your mom the whole time?

11 A Yes.

12 Q Since you guys left Blankenship how much of the time
13 has Shabazz lived with you and your mom?

14 A I believe for six months maybe. I don't really --

15 Q Okay. Would you agree with me that you left
16 Blankenship around three and a half years ago, more than three
17 years, less than four years ago?

18 A Yes.

19 Q And of those three to four years did he live with
20 you for a matter of months, as opposed to a matter of years?

21 MR. MacARTHUR: Objection, Your Honor. Leading.

22 THE COURT: I'm going to allow her to answer.

23 THE WITNESS: I think it was for -- for the first
24 two years we moved out of Blankenship when we were at the St.
25 Andrews apartments he lived with us, and then he only stayed

1 with us for like six to seven months maybe at the Lakewood
2 Cove apartments in Henderson.

3 BY MS. LUZAICH:

4 Q Okay. When you came to this building for the
5 preliminary hearing did you actually come here on multiple
6 days?

7 A What do you mean?

8 Q Okay. Remember there was a hearing in another court
9 where you and your sisters and your mom testified?

10 A Yes.

11 Q Did pretty much all of you testify on different
12 days?

13 A Yes.

14 Q But did you come for a couple of the days because
15 you weren't sure whether or not you were going to get to
16 testify?

17 A Yes.

18 Q And was Shabazz actually here one of those days?

19 A Yes.

20 Q And then did Shabazz stop living with you after
21 that? I mean, was that one of the short periods of time that
22 Shabazz did live with you?

23 A I think so. Actually, I think he was -- he might
24 have been staying with some friends and we had to go get him,
25 I believe.

1 Q While he is living with friends does he keep in
2 regular contact with you?

3 A Yeah, he calls us.

4 Q But does he call you every day?

5 A No.

6 Q Does he have his own phone?

7 A Well, not really. He has to use other people's
8 phone.

9 Q Okay. So you don't have a number of his own that
10 you can call?

11 A No.

12 Q And he calls you kind of when he feels like it?

13 A Yeah, pretty much.

14 MS. LUZAICH: Thank you, Mahlica.

15 I pass the witness.

16 RECROSS-EXAMINATION

17 BY MR. MacARTHUR:

18 Q Hello again, Mahlica.

19 A Hello.

20 Q I've just got a few more questions with you and then
21 we'll be done.

22 A Okay.

23 Q Okay. During the State's -- we took a break; right?

24 A Okay.

25 Q And you remember that the State was questioning you

1 before the break and after the break?

2 A Yes.

3 Q Okay. We call that a redirect. During the State's
4 redirect do you remember her talking about Fred grabbing you
5 by the neck and lifting you from the ground?

6 A Yes.

7 Q She was talking about you having told that to the
8 Henderson Police Department; right?

9 A Yes.

10 Q Okay. Now, if you remember, isn't it in fact the
11 case when Henderson asked you about things that Fred had done
12 to you, first you didn't include anything about your neck; is
13 that right?

14 A Yes.

15 Q Okay. Then Henderson told you that they had talked
16 to Victoria; right?

17 A Yes.

18 Q And they told you some of the things that she had
19 told them had happened to you; right?

20 A Yes.

21 Q Okay. And after they told you what Victoria had
22 told them, then you told them about the neck thing; is that
23 correct?

24 A Yeah, after they had brought it up.

25 Q Okay. And isn't that in fact the same thing that

1 happened with regard to the part of the statement pertaining
2 to Victoria being molested when she was eleven? Did that make
3 sense?

4 A No.

5 Q I'll ask it a different way. When you first talked
6 to the Henderson Police Department, isn't it in fact true you
7 didn't tell them anything about Victoria having been molested
8 until she was 11 at first?

9 A Yes.

10 Q Okay. But then they reminded you -- I'm sorry.
11 Withdrawn. They didn't remind you. They told you they had
12 talked to Victoria; right?

13 A Yes.

14 Q And that she had given them certain information?

15 A Yes.

16 Q And then when they told you about that that's when
17 you told them that Victoria said that Fred used to molest her
18 when she was 11?

19 A Yes.

20 Q Okay. Now, I'm going to go back to my first
21 questions earlier today. Remember I was talking to you about
22 a CPS record from 2008?

23 A Yes.

24 Q Okay. And do you remember I gave you the document
25 and let you read it to see if it refreshed your recollection

1 as to what it said?

2 A Yes.

3 Q Okay. And your testimony was that even though you
4 read it it didn't help you remember that conversation with
5 CPS; is that fair?

6 A Yes.

7 Q Okay. But in fact the information in the document
8 said that you were not afraid of living at Blankenship; is
9 that correct?

10 MS. LUZAICH: Objection. Hearsay. Move to strike.

11 MR. MacARTHUR: Well, Your Honor, the State
12 mischaracterized her --

13 THE COURT: Overruled. You can answer.

14 MR. MacARTHUR: Thank you, Your Honor.

15 MS. LUZAICH: And I'm sorry. My objection is the
16 document is not something that was generated by her or --

17 THE COURT: Do you guys want to approach the bench.
18 (Bench Conference)

19 THE COURT: Okay. All four lawyers are present.

20 MS. LUZAICH: The hearsay that he just asked her
21 about is the CPS record from 2008.

22 THE COURT: Are you not asking her about the letter
23 that's already been admitted?

24 MR. MacARTHUR: Not the letter.

25 THE COURT: Okay.

1 MR. MacARTHUR: The report generated by a CPS worker
2 two years before that.

3 THE COURT: Okay. I misunderstood, then. I thought
4 he was referring to the letter. Okay. So --

5 MR. MacARTHUR: I understand that the State's
6 objection is hearsay. However, after she read the letter,
7 which in here we know says she's not afraid, she admitted that
8 she said that didn't help her refresh her recollection. But
9 then --

10 MS. LUZAICH: But she doesn't remember saying that.

11 MR. MacARTHUR: Just a second. Then you
12 characterized her as having said that she was afraid of living
13 with him and that she didn't remember having said otherwise.

14 MS. LUZAICH: Because that's what she said.

15 THE COURT: My note said that she was afraid to tell
16 them that she was afraid to live with him. Okay. Why can't
17 you just use the letter that's already been admitted?

18 MR. MacARTHUR: That's from a different year and a
19 different interview.

20 THE COURT: Okay. All right. The objection's
21 sustained.

22 MR. MacARTHUR: Okay.

23 (End of bench conference)

24 THE COURT: Go ahead.

25 MR. MacARTHUR: Your Honor, we'll reserve for the

1 CPS witness.

2 THE COURT: Thank you.

3 BY MR. MacARTHUR:

4 Q Mahlica, does Miss Ann have a son?

5 A Yes.

6 Q Okay. And what is his name?

7 A Markus.

8 Q Markus. Do you know how old Markus is?

9 A No, not anymore.

10 Q Could you approximate?

11 A Thirty-four maybe.

12 Q Okay. Mid thirty-ish?

13 A Yeah.

14 Q Okay. And is he white or black?

15 A Black.

16 Q And as far as black people go, is he light skinned

17 or dark skinned?

18 A Dark.

19 Q Okay. Is he tall or short?

20 A Tall.

21 Q And is he muscular, skinny, or in between?

22 A In between.

23 Q Okay. And how do you know him?

24 A What do you mean?

25 Q Well, I mean, you've met him before. How many times

1 have you interacted with him or how many times have you seen
2 him?

3 A Multiple times.

4 Q Did he used to come over to the Blankenship house?

5 A Yeah. Actually, he used to live there at one time.

6 Q Okay. And as best as you can, can you tell us when
7 he moved in?

8 A I believe it was 2008, maybe.

9 Q 2008. And how long did he live with you before he
10 moved out?

11 A I'm not really sure.

12 Q Did he live with you more than a year or less than a
13 year, could you say that?

14 A It was probably more than a year.

15 Q Okay. Was he still living there when you and your
16 mom and Victoria and Shabazz moved to St. Andrews?

17 A I don't think so.

18 Q He had already -- he had already left by then?

19 A Yeah.

20 Q Okay. When was the last time you had contact with
21 him?

22 A I don't really remember. Maybe before he moved out.

23 Q Okay. And lastly, could you describe, what kind of
24 hair did he have back then?

25 A Do you know what a fade is?

1 Q Yeah.

2 A Yeah. He had one of those.

3 Q He kind of had a fade.

4 A Yes.

5 MR. MacARTHUR: Court's indulgence.

6 Thank you, Mahlica. I'm done.

7 THE WITNESS: Okay.

8 MS. LUZAICH: Can I just ask one question?

9 THE COURT: Go ahead.

10 FURTHER REDIRECT EXAMINATION

11 BY MS. LUZAICH:

12 Q And I'm so sorry, Mahlica. What's a fade?

13 A It's like -- it's kind of hard to explain. It's

14 like when -- it's common in black guys, I guess. Like they

15 get their hair cut like really, really, really low, to the

16 point where it's like you could still see the hair, but it's

17 really, really short. It's like kind of in between being bald

18 and having --

19 Q Almost like the guy in the center that was just

20 asking you questions?

21 A No. It's a little more than that.

22 Q Okay. But a little more than that.

23 A Yes. It's kind of like that, but a little more hair

24 than that.

25 Q Not braids.

1 A No.

2 MS. LUZAICH: Okay. Thank you.

3 THE COURT: Anything else?

4 FURTHER RECROSS-EXAMINATION

5 BY MR. MacARTHUR:

6 Q That was back in 2008; right?

7 A Yes.

8 MR. MacARTHUR: We're done, Judge.

9 THE COURT: Okay. Thank you very much. You may

10 step down.

11 THE WITNESS: Okay.

12 THE COURT: Oh. Wait. It looks like we have a

13 question. So if you just don't mind waiting here for just a

14 moment.

15 THE WITNESS: Okay.

16 THE COURT: Okay. Can you all meet me in the

17 hallway.

18 (Hallway bench conference)

19 THE COURT: Do the parties stipulate to the

20 presence?

21 MS. LUZAICH: Yes.

22 MS. ALLEN: Yes, Your Honor.

23 THE COURT: Okay. Mahlica, I just have a couple

24 questions for you.

25 Where is your biological father?

1 THE WITNESS: The last time I checked he was in
2 Georgia.

3 THE COURT: Okay. And when is the last time you
4 spoke to or, it says seen, but saw your father?

5 THE WITNESS: Ten years ago, I believe, or eleven
6 years ago.

7 THE COURT: Okay. Any followup from the State?

8 MS. LUZAICH: No.

9 THE COURT: Any followup from the defense?

10 MR. MacARTHUR: No, Your Honor.

11 THE COURT: Okay. Thank you very much for your
12 testimony here today. You may step down. You are excused
13 from your subpoena.

14 We're going to conclude for the evening. During
15 this recess you're admonished not to talk or converse amongst
16 yourselves or with anyone else on any subject connected with
17 this trial, or read, watch, or listen to any report or
18 commentary on the trial or any person connected with this
19 trial by any medium of information, including, without
20 limitation, newspapers, television, Internet or radio, form or
21 express any opinion on any subject connected with this trial
22 until the case is finally submitted to you.

23 We'll start tomorrow morning at 9:00 o'clock.
24 Again, remember come right up to the fourteenth floor. The
25 officer will meet you.

1 Thank you very much. We're in recess.
2 (Court recessed at 4:41 p.m., until the following day,
3 Friday, April 4, 2014, at 9:00 a.m.)
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DEFENDANT'S WITNESSES

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EXHIBITS

<u>DESCRIPTION</u>	<u>ADMITTED</u>
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DEFENDANT'S EXHIBIT NO.

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V	112

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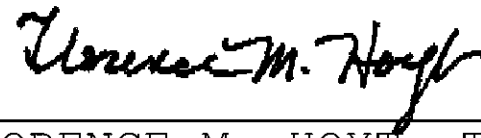
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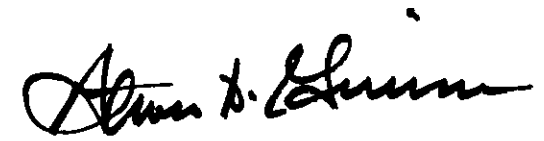
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12/28/15

DATE



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA

Plaintiff

vs.

FREDERICK HARRIS, JR.

Defendant

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CASE NO. C-291374

DEPT. NO. XII

**Transcript of
Proceedings**

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

JURY TRIAL - DAY 7

THURSDAY, APRIL 3, 2014

APPEARANCES:

FOR THE STATE:

ELISSA LUZAICH
KRISTINA A. RHOADES
Deputy District Attorneys

FOR THE DEFENDANT:

BETSY ALLEN, ESQ.
JONATHAN MacARTHUR, ESQ.

COURT RECORDER:

KRISTINE CORNELIUS
District Court

TRANSCRIPTION BY:

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

1 LAS VEGAS, NEVADA, THURSDAY, APRIL 3, 2014, 10:43 A.M.

2 (Court was called to order)

3 (Jury is present)

4 MS. ALLEN: Your Honor, can we approach for a
5 moment?

6 THE COURT: Sure.

7 MS. ALLEN: Thank you.

8 (Bench Conference)

9 THE COURT: Let me get down here so I can hear.

10 MS. ALLEN: Hmm?

11 THE COURT: I just want to be able to hear.

12 MR. MacARTHUR: This is a good opportunity to
13 [inaudible] ex parte.

14 MS. ALLEN: Just so you know, we had -- because
15 we're running so far behind, we had a witness that came in --
16 two that came in from out of state. One of them is in the
17 back over here. She's from D.C. and has to leave tomorrow.

18 THE COURT: Okay.

19 MS. ALLEN: And she's in theology divinity school in
20 Howard. So -- and it's D.C., so it's a long way. So the
21 State agreed to allow us to put two witnesses out of order.
22 Obviously it's still their case in chief.

23 THE COURT: Okay.

24 MS. ALLEN: One is this one, Kamilah Bywaters. The
25 other one is my client's daughter, Shrday. Shrday is

1 tomorrow. But we're going to put Kamilah on right now if
2 that's okay.

3 THE COURT: Okay. That's fine.

4 MS. ALLEN: So could you just -- yeah, explain it to
5 the jury.

6 THE COURT: I will be -- and that's okay?

7 MS. LUZAICH: Absolutely.

8 THE COURT: Okay. That's fine.

9 MS. ALLEN: Thank you.

10 (End of bench conference)

11 THE COURT: Do I have a stipulation to the presence
12 of the jury panel?

13 MS. ALLEN: Yes, Your Honor.

14 MS. LUZAICH: Yes.

15 THE COURT: Okay. At this time, ladies and
16 gentlemen, because of time constraints and schedules, I'm
17 going to allow the defense to call a witness out of order. So
18 I just want to make sure you understand that this is a defense
19 witness.

20 So, Ms. Allen, you --

21 MS. ALLEN: Yes, Your Honor. Kamilah Bywaters.

22 THE CLERK: Please remain standing and please raise
23 your right hand.

24 KAMILAH BYWATERS, DEFENDANT'S WITNESS, SWORN

25 THE CLERK: Could you please state your full name

1 spelling your first and last name for the record.

2 THE WITNESS: My name is Kamilah Bywaters. And
3 spell it? K-A-M-I-L-A-H, Bywaters B-Y-W-A-T-E-R-S.

4 THE CLERK: Thank you.

5 MS. ALLEN: May I proceed?

6 THE COURT: You may.

7 MS. ALLEN: Thank you.

8 DIRECT EXAMINATION

9 BY MS. ALLEN:

10 Q Good morning, Ms. Bywaters. How are you?

11 A Well, Thank you.

12 Q Okay. Where did you grow up?

13 A I grew up in Las Vegas.

14 Q Do you currently live here?

15 A No, I do not.

16 Q Where do you live?

17 A I live in Maryland.

18 Q Okay. And what are you doing in the D.C. Maryland
19 area?

20 A I'm a student at Howard University School of
21 Divinity in Washington, D.C.

22 Q Okay. Can you just give me briefly your educational
23 background?

24 A I have a Masters in education and currently I'm a
25 Masters of divinity, excuse me, candidate.

1 Q Okay. But you have an education degree; is that
2 correct?

3 A Yes, ma'am.

4 Q Okay. Prior to leaving Las Vegas what did you do?

5 A I was a special education teacher.

6 Q Okay. And where did you teach?

7 A At Canyon Springs High School.

8 Q Is that here in Las Vegas?

9 A Yes.

10 Q Okay. Do you recall or remember someone by the name
11 of Victoria Duke?

12 A Yes, ma'am.

13 Q All right. And how do you remember her?

14 A She was one of my students.

15 Q Okay. How long -- do you recall how long she was
16 one of your students?

17 A I can't give you the definite answers -- the
18 definite time frame, because I worked there for about four
19 years. I can't give you the exact time.

20 Q Okay. So you were a special education teacher; is
21 that right?

22 A Yes, ma'am.

23 Q Okay. Can you sort of explain to the jury what a
24 special education teacher actually does?

25 A A special education teacher is responsible for the

1 education of students with disabilities. So my job is to make
2 sure that their educational requirements are met.

3 Q Okay. You, in part, teach; is that correct?

4 A Say that again.

5 Q You teach in part?

6 A Yes, ma'am.

7 Q Okay. And then the other part of it is coordinating
8 with other teachers --

9 A Right.

10 Q -- for the education of particular students.

11 A Right.

12 Q Okay.

13 A That happens, as well.

14 Q You recall that Victoria was in your special
15 education program?

16 A Yes, ma'am.

17 Q All right. During the time frame that you taught
18 her do you recall her coming to you and talking to you about
19 anything that was of concern to you?

20 A She did not talk to me about anything that was of
21 concern to me.

22 Q Okay. Let me ask you this. Are you what's called a
23 mandatory reporter?

24 A Yes, ma'am.

25 Q And can you get -- explain what that is.

1 A As a teacher, a mandatory reporter, if I suspect or
2 hear from a student that there is some type of abuse, then I'm
3 mandated to report that.

4 Q Okay. So if you see like someone with a black eye
5 or a bruising that's unusual, you would have to report
6 something like that.

7 A Absolutely.

8 Q Okay. What would be the procedure for reporting
9 something like that?

10 A I would make the initial -- I would call CPS myself
11 and then follow my schools protocol, let my administration
12 know and special education coordinator.

13 Q Okay. And who would the special education
14 coordinator be when you were there? Do you remember?

15 A We had several.

16 Q You did. Okay.

17 A So I can't remember at that time.

18 Q Okay. Did you know Coach Hernandez Cooper?

19 A Yes.

20 Q Okay. Did you work with him?

21 A Yes.

22 Q All right. At any point in time during the time you
23 were in Canyon Springs, and specifically with Victoria Duke,
24 did you notify CPS about anything?

25 A No.

1 Q Okay. Did you ever see any marks, bruises, black
2 eyes, anything like that?

3 A No.

4 Q Okay.

5 MS. ALLEN: Court's indulgence. Your Honor, I pass
6 the witness.

7 THE COURT: Cross.

8 MS. LUZAICH: Thank you.

9 CROSS-EXAMINATION

10 BY MS. LUZAICH:

11 Q Good morning, Ms. Bywaters.

12 A Hi.

13 Q We've never met before this morning; correct?

14 A Correct.

15 Q And my investigator called you on the phone;
16 correct?

17 A Correct.

18 Q But you didn't call him back.

19 A Correct.

20 Q When did you teach Victoria?

21 A I was a teacher at Canyon Springs around 2007. I
22 can't remember the exact specific dates I taught her as her
23 teacher.

24 Q So you were at Canyon Springs in 2007.

25 A Around that time.

1 Q Only in 2007?

2 A I was there about 2007 to 2011.

3 Q Okay. So for three or four years.

4 A About that.

5 Q And were you always the special education
6 coordinator?

7 A I'm not a special education coordinator. I'm a
8 special education teacher.

9 Q Oh, a teacher. Okay. So what did you teach?

10 A I taught several classes during that time. I taught
11 math, reading and social skills, and there may have been some
12 other classes that I've taught. But I was able to teach a
13 variety of courses during that time.

14 Q What did you teach Victoria?

15 A I can't remember exactly what specific subjects I
16 taught her, because I taught a variety of subjects.

17 Q What do you think you taught her?

18 A I would prefer not to do a think what I thought that
19 I taught her in this.

20 Q So you don't know when you taught her and you don't
21 know what you taught her. How did she do in school?

22 A She had difficulties.

23 Q What kind of difficulties?

24 A She was a student with a disability. So she had
25 learning difficulties with her subjects.

1 Q What was her specific disability?

2 A I can't give you that information, because I don't

3 know the specific disability.

4 Q Okay. Did you know the specific disability at the

5 time that you taught her?

6 A Yes.

7 Q But you don't remember it now?

8 A No.

9 Q Okay. Was Victoria cognitively disabled?

10 A I can't give you that information. I don't -- I

11 can't give you that information. I don't remember. I'm

12 sorry.

13 Q Okay. And, I mean, absolutely no disrespect when I

14 say this, but some times lay people may say somebody is slow.

15 Is that kind of how you might describe Victoria?

16 A I wouldn't call my students slow. I would say that

17 she struggled with her education.

18 Q Okay. Did she struggle with every part of her

19 education that you can recall?

20 A I would say that she struggled with her education.

21 Q Okay. I'm going to show you --

22 MS. LUZAICH: May I approach, Judge?

23 THE COURT: You may.

24 MS. LUZAICH: Defense Exhibit -- is that a U?

25 MS. ALLEN: I think, yeah.

1 MS. LUZAICH: Okay.

2 MS. ALLEN: I have the same problem.

3 BY MS. LUZAICH:

4 Q I'm going to show you Defense Exhibit U. Would you
5 agree that those are grades for Victoria Duke?

6 Does that help if I move the piece of paper aside?

7 A If -- this is her transcript. So this would be --
8 this is an official transcript.

9 Q Okay.

10 A These would be her grades.

11 Q Does that indicate that she graduated in December --
12 or in 2011? At the very top does it say graduated June 2011?
13 Maybe on the second page, if not on the first.

14 A Graduated -- it does say graduated June 9th of 2011.

15 Q Okay. And in the second semester of 2011 were all
16 her grades Fs?

17 A Second semester of 2011? I haven't seen this in so
18 long. Sorry.

19 Can you repeat what you were asking me, again?

20 Q Maybe I should show you what I was looking at.

21 Here. Was this her grades for the spring semester
22 of 2011?

23 A Yes. This is what it says.

24 Q And they're all Fs?

25 A Yes.

1 Q You said that your job was to make sure that her
2 educational requirements were met?

3 A Right.

4 Q You're a mandatory reporter you indicated; correct?

5 A Yes, ma'am.

6 Q And if you are aware of any kind of abuse and you
7 don't report it as a mandatory reporter that's actually a
8 crime; isn't that true?

9 A I guess, yes.

10 Q And you could be prosecuted for it if you don't
11 report something that is abuse reported to you?

12 A That's my understanding.

13 MS. LUZAICH: Thank you. I have no more questions.

14 THE COURT: Redirect.

15 MS. ALLEN: Just briefly.

16 REDIRECT EXAMINATION

17 BY MS. ALLEN:

18 Q Ms. Bywaters --

19 A Yes.

20 Q Is it a huge inconvenience for you to be here today?

21 A Yes.

22 Q Okay. Did you not call me back a number of times?
23 My investigator.

24 A I didn't call.

25 Q Okay. It's okay. But you didn't really want to be

1 here did you?

2 A Correct.

3 Q Okay. You recall when I contacted you a few months

4 -- do you recall that we had a telephone conversation?

5 A Yes.

6 Q Okay. When I said the name Victoria Duke, did you

7 immediately respond to me that you knew her?

8 A Yes.

9 Q Okay. What kind of documents would you need --

10 well, let me ask you this. Did I provide you with any

11 paperwork prior to coming in here today?

12 A No.

13 Q Okay. Her grades, nothing; is that correct?

14 A No.

15 Q Okay. What kind of documents might you need in

16 order to answer the kind of questions the State was asking

17 about her cognitive development?

18 A You would have to get information from her

19 confidential file --

20 Q Okay.

21 A -- in regards to specific information about that.

22 Q Would that be things like her IEP?

23 A Yes.

24 Q Okay.

25 A I don't have that information.

1 Q And you certainly don't have access to it anymore do
2 you?

3 A No. I'm not a teacher anymore.

4 Q Okay. At the top of her grades on the first sheet,
5 there's something called an adjusted diploma. Do you know
6 what that is?

7 A An adjusted diploma is for students who -- students
8 with disabilities are able to have an adjusted diploma. So
9 what -- they don't have to meet the requirements for a regular
10 diploma. So most students if they don't meet the regular
11 requirements, like passing the proficiency, then they're still
12 able to have a diploma.

13 Q Okay. Do you recall, and this is only if you
14 recall, but do you recall what her attendance was at any point
15 let's say in 2011? Do recall if Victoria was attending
16 school?

17 A I think there was a period when she was not
18 attending.

19 Q If she was not attending school would you have been
20 able to tend to her educational needs?

21 A No.

22 MS. ALLEN: Thank you.

23 THE COURT: Any recross?

24 //

25 //

1 Do I leave this here?

2 THE COURT: What is it that you have?

3 MS. LUZAICH: May I approach? I'll put it back up
4 there.

5 THE COURT: Oh, no. It's an exhibit. You can hand
6 it to me. Thank you.

7 MS. ALLEN: Thank you. Can I just have a moment?
8 I'm finished as far as today.

9 THE COURT: Okay. So now we can go back to the
10 State?

11 MS. ALLEN: We go back to the State, yes.

12 THE COURT: Okay. The State can call their next
13 witness.

14 MS. LUZAICH: Thank you. The State would call
15 Mahlica Duke.

16 THE CLERK: Please raise your right hand and face
17 me, please. Thank you.

18 THE COURT: Your other right hand.

19 THE CLERK: Your other right hand.

20 THE COURT: That's okay.

21 MAHLICA DUKE, STATE'S WITNESS, SWORN

22 THE CLERK: Thank you. Please be seated. Could you
23 please state your full name, spelling your first and last name
24 for the record.

25 THE WITNESS: Mahlica Duke, M-A-H-L-I-C-A D-U-K-E.

1 THE CLERK: Thank you.

2 MS. LUZAICH: May I?

3 THE COURT: You may.

4 MS. LUZAICH: Thank you.

5 DIRECT EXAMINATION

6 BY MS. LUZAICH:

7 Q Hi, Mahlica.

8 A Hello.

9 Q Are you okay?

10 A Mm-hmm.

11 Q Is that a yes?

12 A Yeah.

13 Q Remember, you've testified in court before, haven't
14 you?

15 A Yes.

16 Q And remember when we talked about it, we always have
17 to answer out loud; right?

18 A Yes.

19 Q And we always have to say, yes or you say no,
20 because the nice lady in front of you have a yes button and a
21 no button, but she does not have a uh-huh button. Okay?

22 A Okay.

23 Q All right. Also, if you could Mahlica, can you use
24 an outside voice. Because everybody in the courtroom has to
25 hear you. You know how loud I am, you're not as loud as I am,

1 are you?

2 A No.

3 Q Okay. Mahlica, how old are you?

4 A I'm 20.

5 Q When's your birthday?

6 A 9/11/93.

7 Q Okay. Are you nervous?

8 Is Victoria your sister?

9 A Yes.

10 Q Did you know Victoria was here yesterday?

11 A Yes.

12 Q And Victoria used that microphone, as well.

13 A Okay.

14 Q Okay? Because it helps everybody to be able to

15 hear.

16 Mahlica, you said Victoria's your sister. Is she

17 your older sister or younger sister?

18 A Older.

19 Q How old is Victoria? Do you know?

20 A Twenty-one.

21 Q Do you have other brothers and sisters?

22 A Yes.

23 Q Tell me who your brothers and sisters are?

24 A They're Shabazz, he's my younger brother, he's 19.

25 Q Can you spell Shabazz for our nice court reporter,

1 please?

2 A Yes. S-H-A-B-A-Z-Z.

3 Q Okay. So Shabazz is 19. Who else?

4 A Taharah, she's my younger sister. She's 14. And

5 then there's Taquanda, she's my -- she's also my younger

6 sister and she's 13.

7 Q Okay. And who's your mom?

8 A Tina.

9 Q Who do you live with now?

10 A My mom.

11 Q Anybody else?

12 A Oh. My two -- and my two younger sisters.

13 Q Okay. Have you lived with your mom all your life?

14 A No.

15 Q Have there been a few times that you have been kind

16 of taken away from your mom?

17 A Yes.

18 Q Who were you taken away from your mom by?

19 A CPS.

20 Q Okay. I'm going to talk to you about that, but

21 first how far back can you remember in your life? Where were

22 you living the first time you can think about it in your life?

23 A With my mom and my dad.

24 Q Where was that?

25 A I'm not sure.

1 Q Okay. At that time that you're thinking about when
2 you were living with your mom and your dad, which of your
3 siblings were already here?

4 A It was my holder sister Victoria and my younger
5 brother Shabazz.

6 Q Okay. So you remember as far back as before Taharah
7 and Taquanda were born?

8 Is that a yes?

9 A Yes.

10 Q Okay. Do you know where you were when Taharah and
11 Taquanda were born?

12 A Yes.

13 Q Where was that?

14 A When Taharah was born we were in Florida -- living
15 in Florida. And when Taquanda was born we were living in
16 Arizona.

17 Q Okay. So did you guys move around a lot when you
18 were young?

19 A Yes.

20 Q As you're moving around a lot when you were young,
21 did you go to school?

22 A No.

23 Q When's the first time that you can remember going to
24 school?

25 A 2005.

1 Q Okay. And in 2005 the first time that you can
2 remember going to school, where were you living?

3 A At first we were -- at first we were living in
4 Louisiana and then -- I went to school out there. And then we
5 were living in Las Vegas and I had went to school out there,
6 also.

7 Q Okay. So you said that you were living in Louisiana
8 and went to school.

9 A Yes.

10 Q Do you remember what grade you were in when you went
11 to school in Louisiana?

12 A Fifth.

13 Q Okay. When you were living in Louisiana and you
14 were going to school, who did you live with?

15 A My mom.

16 Q Anybody else?

17 A Oh. My oldest sister Victoria and my younger
18 brother Shabazz and my two younger sisters.

19 Q So is this a point in your life that you are already
20 not living with your dad?

21 A Yes.

22 Q Okay. Do you know how old you were when you stopped
23 living with your dad?

24 A I believe I was eight.

25 Q Okay. So pretty young.

1 A Yes.

2 Q Okay. You mentioned that you were living in
3 Louisiana and then you mentioned that you were living in Las
4 Vegas. How did you come to go from Louisiana to Las Vegas?
5 Can you remember that?

6 A Yes. Somebody had picked us up and drove us there.

7 Q When somebody picked you up and drove you there, who
8 did they pick up and drive?

9 A It was my oldest sister, me and my younger brother
10 and my two youngest sisters.

11 Q Okay. Where was your mom?

12 A She was in Las Vegas already.

13 Q Okay. When your mom went to Las Vegas, did she go
14 to Las Vegas from Louisiana?

15 A Yes.

16 Q And did you guys stay in Louisiana?

17 A Yes.

18 Q Do you know for how long your mom was gone before
19 you went to Louisiana?

20 A I don't really remember how long. It wasn't that
21 long.

22 Q Days, weeks, months.

23 A Days.

24 Q Okay. And in those days that Mom was in or gone --
25 had gone to Las Vegas, did you talk to her at all?

1 A Maybe on the phone once.

2 Q Okay. Who was it that came to Las -- I'm sorry --

3 to Louisiana to pick you up? Do you know?

4 Maybe I should ask do you remember?

5 A Not really.

6 Q Okay. Do you know when your mom left Louisiana to

7 go to Las Vegas, why did she do that?

8 A To go see her ex-boyfriend.

9 Q Okay. A man?

10 A Yes.

11 Q Do you know what that man's name is?

12 A Yes.

13 Q What's the man's name?

14 A Fred Harris.

15 Q Before your mom left Louisiana to go to Las Vegas to

16 see Fred Harris, did you ever meet Fred Harris?

17 A Not then, no.

18 Q When did you meet Fred Harris?

19 A When we -- when we came to Las Vegas.

20 Q Okay. Do you see that person here in court today?

21 A Yes.

22 Q Can you describe where the person is sitting and an

23 article of clothing that he's wearing?

24 A He's sitting over here, and he's wearing -- he's

25 wearing a gray shirt and a tie.

1 Q Is he wearing a jacket or no jacket?

2 A No. He is not wearing a jacket.

3 MS. LUZAICH: May the record reflect identification
4 of the defendant.

5 THE COURT: So reflected.

6 MS. LUZAICH: Thank you.

7 BY MS. LUZAICH:

8 Q So when you left Louisiana and came to Las Vegas you
9 don't remember who it was that brought you; correct?

10 A Yes.

11 Q When you got to Las Vegas where did you and your
12 brothers and sisters go?

13 A We lived at Ann's house on Trish.

14 Q Okay. When you say Ann, can you tell me who Ann is?

15 A Yeah. I guess -- I guess she was a friend of his at
16 the time. I don't know.

17 Q Do you know when you got to Las Vegas did you kind
18 of go directly to that place at Trish Lane?

19 A Yes.

20 Q When you got to the -- is it a house or an apartment
21 that was on Trish Lane?

22 A I think it was a house.

23 Q Okay. So when you got to the house that we're
24 talking about who was there?

25 A Just Ann and her daughter and her mother, too, at

1 the time.

2 Q Do you remember what her daughter's name is?

3 A Yeah.

4 Q What's her daughter's name?

5 A Sha'karia.

6 Q You said her mom -- Ann's mom was there. What's her

7 mom's name, do you remember?

8 A Yeah. It was -- I believe it was Claudia.

9 Q Okay. What about your mom. Was your mom there?

10 A Yes.

11 Q Okay. And you mentioned Fred, the defendant, was

12 Fred there?

13 A No. I think he lives somewhere else.

14 Q Okay. So did you meet him later?

15 A Yes.

16 Q Okay. Did you stay at the house on Trish Lane for a

17 while?

18 A Mm-hmm.

19 Q Is that a yes?

20 A Yes.

21 Q You said that you think Fred lived somewhere else.

22 Did there come a time that you saw him at the house on Trish

23 Lane?

24 A Yes.

25 Q Did you see him there a bunch?

1 A Yes, some times.

2 Q Okay. While you were living at the house on Trish

3 Lane, did your mom -- what did your mom do?

4 A She worked.

5 Q Do you remember where she worked?

6 A Yes.

7 Q Where'd she work?

8 A At Jason's Deli.

9 Q Okay. And did you guys start going to -- any of you

10 start going to school while you were there?

11 A Yes.

12 Q What school did you go to? Do you remember?

13 A Mountain View Elementary.

14 Q Do you remember what grade you were in when you were

15 living at Trish Lane?

16 A I think it was the sixth.

17 Q Okay. And did your older sister Victoria also go to

18 school?

19 A Yes.

20 Q Did Shabazz go to school?

21 A Yes.

22 Q Were Taharah and Taquanda old enough to go to school

23 yet?

24 A No.

25 Q Okay. So do you know what they did?

1 A Yeah. They went to this daycare.

2 Q Okay. Did you meet anybody else while you were

3 living at the house on Trish Lane?

4 A No, not that I can remember.

5 Q Okay. You said that you think that Fred lived

6 somewhere else. Did there come a time that you went to a

7 place that he lived during that same time frame?

8 A A couple times, yes.

9 Q Okay. And when you went there who would go there?

10 A I can't really remember.

11 Q Like would it be you, and your brother and sisters?

12 A Yeah. Sometimes.

13 Q Okay. Did you ever go by yourself?

14 A No.

15 Q So you would be with somebody?

16 A Yes.

17 Q Okay. Did here come a time that Victoria told you

18 something about Fred's house -- or something that happened at

19 Fred's house?

20 A Yes.

21 Q Do you remember where you were when Victoria told

22 you that?

23 A I was in the bedroom next to Sha'karia's.

24 Q Would that be the bedroom at the house at Trish

25 Lane?

1 A Yes.

2 Q Okay. And who was there when Victoria told you
3 that?

4 A What do you mean?

5 Q Like was it just you and Victoria or were the other
6 sisters there or your mom or Miss Ann or anybody else, or was
7 it just you and Victoria?

8 A I think there was somebody else there. I can't
9 remember who, but she was just telling me.

10 Q Okay. When she was telling you was she upset?

11 A Yeah. She seemed scared.

12 Q Okay. And was it something that concerned you, too?

13 A Yes.

14 Q Do you know did Victoria tell somebody else about
15 it?

16 A Yeah. She tried.

17 Q Who did she tell?

18 A Ann.

19 Q Do you know that because you heard it or because you
20 heard about it?

21 A I heard it.

22 Q Okay. And when you heard it was Ann upset when
23 Victoria told her that?

24 A Yes.

25 Q Did Ann tell anybody else that you are aware of?

1 A Yes.

2 Q Okay. Do you know who else she told?

3 A Yes.

4 Q Who else did she tell?

5 A She told Fred.

6 Q Okay. After all of that how was Victoria treated,
7 if at all?

8 A Well, they called her a liar and they really didn't
9 believe her and yeah, they just tried to make her look crazy
10 or something.

11 Q Did that upset Victoria?

12 A Yes.

13 Q Did that upset you?

14 A Mm-hmm.

15 Q Is that a yes?

16 A Yes.

17 Q Did you meet Fred's mom around that time?

18 A I can't remember.

19 Q Okay. At this time that this is happening back in
20 2005, did you know what relationship, if any, your mother had
21 to Fred?

22 A Well, from what I saw I guess she -- it was like
23 boyfriend and girlfriend or something.

24 Q Okay. Did you know back then what relationship, if
25 any, Miss Ann had to Fred?

1 A I really didn't -- I really didn't know. I always
2 thought it was like friend or something, but it was kind of
3 like they were more than friends.

4 Q Okay. While you were living at the house on Trish
5 Lane, how did Fred treat you and your brother and sisters?

6 A Okay. He was -- he was nice some times.

7 Q Okay. When he was nice sometimes what would he do?

8 A I don't really remember.

9 Q Okay. If he was nice sometimes, the times that he
10 wasn't being nice what do you remember? And right now I'm
11 just talking about when you guys were living at Trish Lane.

12 A I don't -- I don't really --

13 Q Just what ever you can remember. Nothing is
14 standing out right now?

15 A No, it's not.

16 Q Okay. Did there come a time that you guys actually
17 left Las Vegas and the house on Trish Lane?

18 A Yes.

19 Q Do you know when that was?

20 A I believe it was during the summer of 2005, maybe.

21 Q Okay. Where'd you go?

22 A Utah.

23 Q When you went to Utah do you know why you went at
24 that time?

25 A My mother she was like -- she was going to give this

1 baby up for adoption, and there's this -- there was an
2 adoption agency there that was going to help her.

3 Q Okay. So when you went to Utah who went?

4 A My whole family.

5 Q Okay. So specifically, your mom, your brother and
6 your sisters and you?

7 A Yes.

8 Q So nobody went with you guys?

9 A No.

10 Q Okay. When you went to Utah where did you guys go?
11 Did you move into some place?

12 A It was an apartment.

13 Q Were you all together?

14 A Yes.

15 Q And did your mom actually have a baby up there?

16 A Yes.

17 Q And did somebody take the baby?

18 A Yes.

19 Q Did you guys go to school while you were living in
20 Utah?

21 A Yes.

22 Q Did there come a time that CPS took you from your
23 mom while you were in Utah?

24 A Yes.

25 Q Can you tell me about how that happened?

1 A Well, mom, she had went to Las Vegas and she was
2 coming back but I guess -- I forgot who actually called CPS.
3 I think it was like a teacher or something, but I guess they
4 thought mom had -- our mom had abandoned us. So that's when
5 they came to get us.

6 Q Okay. Do you know why mom went to Las Vegas?

7 A Yes.

8 Q Why did your mom go to Las Vegas?

9 A To see Fred.

10 Q Do you remember when that was?

11 A No. Not really. Not specifically.

12 Q Okay. Was there some sort of occasion that you were
13 aware of that she came for?

14 A I think it was his birthday or something.

15 Q Okay. Did you talk to her about going to Las Vegas
16 or not going to Las Vegas?

17 A Yes.

18 Q What'd you tell her?

19 A Well, I told her I didn't think it was a good idea
20 she should leave.

21 Q Okay. But she went?

22 A Yes.

23 Q When she went to Las Vegas you guys were living in
24 the apartment; right?

25 A Yes.

1 Q Was there anybody else there with you?
2 A No.
3 Q Was there a lady named Miss Heather near by?
4 A Yes.
5 Q Tell me about Miss Heather. Who was she?
6 A She was a friend of my mom's and she lived next
7 door.
8 Q Did she help you guys at all?
9 A Yes.
10 Q Did Victoria do most of it?
11 A Yes.
12 Q Okay. While your mom was gone did you guys actually
13 go to school?
14 A Yes.
15 Q Were Taharah and Taquanda old enough at this point
16 to be in school?
17 A Well, Taharah was, but Taquanda she was going to
18 another daycare.
19 Q Okay. So you said somebody called CPS, maybe
20 somebody at school you thought?
21 A Yes.
22 Q And they came and took you guys?
23 A Yes.
24 Q Did Mom come back from Las Vegas?
25 A Yes.

1 Q Where did you guys go?

2 A We lived with our foster parents at the time.

3 Q Were you all together?

4 A No.

5 Q No. Who was together, if anybody?

6 A I was with Victoria, my two youngest sisters were

7 together and Shabazz went to a separate home.

8 Q Okay. For how long were you guys in foster care?

9 A I think it was about six months.

10 Q And during those six months would you get to see

11 each other?

12 A Yes.

13 Q Would you get to see Mom, as well?

14 A Yes.

15 Q Were you able to move back in with Mom?

16 A Yes.

17 Q When you moved back in with Mom where did you guys

18 live?

19 A At the same place that we were living when we first

20 got there.

21 Q Okay. Did you continue to go to school?

22 A Yes.

23 Q And did you live there for awhile longer?

24 A Yes.

25 Q How was it in Utah?

1 A It was nice.

2 Q What was nice about it?

3 A The people were friendly and they --

4 Q Go ahead.

5 A -- and they have a nice climate. I don't know.

6 Q Was it a small town where you guys were living?

7 A Yes.

8 Q Like real different from Vegas?

9 A Mm-hmm.

10 Q Is that a yes?

11 A Oh. Yes.

12 Q While you were in Utah after CPS had taken you guys

13 from your mom, do you know, did Mom continue to see Fred?

14 A Well, since I wasn't there, I don't really know if

15 -- I didn't know if she actually saw him, but she did tell me

16 that she would talk to him on the phone while we were gone.

17 Q When you moved back in with Mom where you living up

18 there for a year still with Mom?

19 A Yeah, I think so.

20 Q During that year, do you know, did she leave town at

21 all?

22 A You mean when we were back with her?

23 Q Yes.

24 A No, she didn't leave.

25 Q Oh, okay. Did Fred ever come up there?

1 A No.

2 Q Did you have any communication with Fred while you
3 were in Utah?

4 A I think he called once and I answered the phone, but
5 that was it.

6 Q Okay. Did there come a time that you left Utah?

7 A Yes.

8 Q Do you remember when that was?

9 A The summer of 2007, I believe.

10 Q How did it come about that you left Utah? Describe
11 for me what happened.

12 A It was -- it was at night and someone came to get
13 us.

14 Q When you say somebody came to get us, how did they
15 do that?

16 A Well, we were sleeping and our mom just woke us up
17 and we went out -- and she told us to go outside, and we went
18 outside and she told us to get in the car, and we got in the
19 car.

20 Q When you say we is that your brother and sisters and
21 you?

22 A Yes.

23 Q Was there anybody in the car?

24 A Yes.

25 Q Who was in the car?

1 A Fred.

2 Q Did you know that Fred was coming to get you?

3 A No.

4 Q Were you surprised that Fred came to get you?

5 A Yes.

6 Q Did you want to come back to Las Vegas with Fred?

7 A No.

8 Q Did you actually get in the car?

9 A Yes.

10 Q And did all you guys come back to Vegas?

11 A Yes.

12 Q When you came back to Vegas -- or when you got to

13 Vegas, tell me what happened when you arrived?

14 A We went to go stay at their new house, I guess, on

15 Blankenship and he took Mom and Vicky to go stay somewhere

16 else.

17 Q When you say their new house on Blankenship, who is

18 they?

19 A Fred and Ann.

20 Q Okay. So when you got to the house on Blankenship,

21 do you remember the address?

22 A Yes.

23 Q What is it?

24 A It's 966 Blankenship Avenue.

25 Q That's here in Las Vegas; right?

1 A Yes.

2 Q Who was there at the house when you got there?

3 A Ann was, I believe. Yeah, she was there.

4 Q Was anybody else living there?

5 A I think when we first got there Fred had some of his

6 sons living there when we first got there.

7 Q Remember you talked about Ann's daughter Sha'karia

8 when you were at Trish Lane, was she there when you got to

9 Blankenship?

10 A Not at first.

11 Q Did there come a time that she did come?

12 A Yes.

13 Q And when the time came that she came, did she come

14 and live there or visit or what?

15 A She lived there.

16 Q For awhile or for ever?

17 A For awhile.

18 Q Okay. Now, you said that Fred took you guys to

19 Blankenship and then took Mom and Vicky somewhere else. So

20 who specifically went to Blankenship?

21 A It was me, my younger brother, and my two youngest

22 sisters.

23 Q Did Fred ever say anything while you guys were

24 driving or when you arrived at Blankenship about the fact that

25 Vicky and Mom wouldn't be staying?

1 A I don't remember the exact conversation, but he --
2 all I know is that he just said they're going to be staying
3 somewhere else.

4 Q Were you surprised when he said that?

5 A Yes.

6 Q Did he say why they were going to be staying
7 somewhere else?

8 A I don't remember.

9 Q Okay. Do you know where he took them?

10 A Yes.

11 Q Where did he take them?

12 A He took them to this --

13 Q Actually, before you get there, when I say do you
14 know where he took them, do you know because he told you or
15 you found out later?

16 A I believe we found out like a little later, like a
17 few days later, and he told us.

18 Q Okay. Let' me ask it a better way then.
19 When's the next time you saw either Mom or Victoria?

20 A Maybe like a week after we moved in.

21 Q Where did you see them?

22 A At this motel called the Siegel Suites.

23 Q Okay. So I'm going to go back. When you get to the
24 house at Blankenship, tell me about what happens when you get
25 there? Fred you said takes Mom and Victoria. What about you

1 guys? What happens with you and Shabazz and Tahara and
2 Taquanda when you get to Blankenship?

3 A We just -- we just stayed there.

4 Q Okay. Did you guys go to school while you were
5 there?

6 A Yes.

7 Q Did you stay there for a long time?

8 A Yes.

9 Q Like years?

10 A Yes.

11 Q Okay. You said it was the summer of 2007. Could it
12 have been August of 2007 when you got there?

13 A Okay.

14 Q Okay. Let me ask it another way. Do you know when
15 Victoria's birthday is?

16 A Yes.

17 Q When's Victoria's birthday?

18 A It's July 31st.

19 Q Did you celebrate Victoria's birthday in Utah or in
20 Las Vegas?

21 A Las Vegas I believe.

22 Q Okay. When you started -- you said you went to
23 school while you were living at Blankenship. What grade did
24 you start when you got back that school year?

25 A Eighth.

1 Q What school did you go to?

2 A West Prep Elementary.

3 Q Would that be middle school?

4 A Actually, I think it's a K through 12.

5 Q Oh. Okay. Now, Shabazz you said is your younger

6 brother. Is he a year younger than you, is that what you

7 said?

8 A Yes.

9 Q Is he a grade younger than you?

10 A Yes.

11 Q What school did Shabazz go to when you guys started

12 school?

13 A Sedway, I believe.

14 Q Okay. So he didn't go to the same school you did?

15 A No.

16 Q Whose decision was that?

17 A Fred's.

18 Q What about Tahara and Taquanda, where did they go to

19 school?

20 A H.P. Fitzgerald.

21 Q And that's a -- and I'm sorry. Sedway, is that a

22 middle school?

23 A I think. I don't know.

24 Q Fitzgerald, is that an elementary school?

25 A Yes.

1 Q But you said West Prep was K through 12, but only
2 you went there?

3 A Yes.

4 Q Okay. Did you stay at West Prep while -- the whole
5 time you lived at Blankenship?

6 A No.

7 Q What school did you change to?

8 A Canyon Springs High School.

9 Q When did you go to Canyon Springs?

10 A It was 2009.

11 Q How about what grade?

12 A Ninth grade.

13 Q Okay. Did you go to Canyon Springs, ninth and tenth
14 and eleventh?

15 A Yes.

16 Q Did -- and I'm sorry. I keep calling you Victoria.
17 Do you call her Victoria or something else?

18 A Something else.

19 Q What do you call her?

20 A Vicky.

21 Q Okay. Did Mom and Vicky remain away from
22 Blankenship for a long time?

23 A Yes.

24 Q Okay. so they didn't move in a week later or a
25 month later or anything like that; right?

1 A No.

2 Q Would you see them much?

3 A Yes.

4 Q How often would you get to see them?

5 A Probably once a week or something.

6 Q How would you see them?

7 A Fred would drive us to see them.

8 Q Where did Fred drive you to see them?

9 A At first it was at the Siegel Suites and then they

10 had their own apartment.

11 Q Do you remember where the apartment was?

12 A Yes.

13 Q Where is the apartment?

14 A It was somewhere on Walnut Road.

15 Q Okay. When you were living at the house on

16 Blankenship, while it was just you and Shabazz, Tahara and

17 Taquanda, and Mom and Vicky were not there, how did Fred treat

18 you guys?

19 A All right sometimes.

20 Q If it was all right sometimes, how was it when it

21 was not all right?

22 A Bad.

23 Q What was bad about it?

24 A I guess we would get in trouble a lot.

25 Q Okay. If you got in trouble, what if anything,

1 would he do?

2 Are you okay Mahlica? You're nodding your head.

3 A I guess he would beat us.

4 Q Okay. Now you say I guess he would beat us. Did
5 Fred ever hurt you?

6 A Yes.

7 Q What did Fred do to hurt you?

8 A He would hit me with the belt some times.

9 Q When you say some times he would hit you with the
10 belt, is that something that he did more than one time?

11 A Yes.

12 Q Can you remember around when the first time that he
13 did that was?

14 A No. I don't remember.

15 Q Okay. Were you living in the house on Blankenship?

16 A Yes.

17 Q Okay. So it's Blankenship, not Trish Lane; correct?

18 A Yes.

19 Q And at the time, the first one at least that you can
20 remember. Was that when Mom and Vicky were living at Siegel
21 Suites, at Walnut, somewhere else?

22 A I believe they were at Walnut.

23 Q Do you remember what grade you were in or what
24 school you were going to?

25 A I think I was still going to West.

1 Q Okay. And you said he hit you with a belt. Where
2 were you when he hit you with the belt?

3 A The bedroom we were staying in, me and my two
4 younger sisters were staying in.

5 Q Okay. And what had happened before that? Were you
6 doing something, was he doing something, right before he hit
7 you with the belt?

8 A What do you mean?

9 Q Well, earlier you said that there were times that
10 you would get in trouble and he would hit you with the belt.
11 Did you only get hit with the belt if you were in trouble for
12 something? Or were there other times?

13 A Most of the time, yes.

14 Q Okay. So for example, what did you get in trouble
15 for that he'd hit you with the belt?

16 A I believe someone had taken something, and he
17 thought I helped them take it, like stealing it.

18 Q Like what?

19 A I think it was a piece of candy or something.

20 Q From where?

21 A I don't remember.

22 Q I mean, from like Walmart, from someone's bedroom,
23 from --

24 A No, I think it was from the kitchen.

25 Q Oh. Okay. Did you help somebody steal candy from

1 the kitchen?

2 A No.

3 Q Okay. You said he hit you with the belt. Where did
4 he hit you, like what part of your body?

5 A My backside.

6 Q With pants on or pants not -- well, bottoms on or
7 bottoms not on?

8 A Bottoms on.

9 Q Did he leave marks?

10 A No, not that time.

11 Q Okay. How did it make you feel? Did it hurt?

12 A Yes.

13 Q Did he say anything when he did it?

14 A I don't remember him saying anything.

15 Q What was his demeanor like? Like what was his
16 attitude like when he did it?

17 A Angry.

18 Q You said that time he didn't leave marks. Was there
19 another time that he did leave marks?

20 A Yes. But I don't remember when that was.

21 Q Okay. Where did he hit you that it left marks?

22 A My back.

23 Q Was that through clothes or just to skin?

24 A Through clothes.

25 Q What kind of marks did it leave?

1 A They were kind of like bruises or something or they
2 were reddish. I guess they were welts or something.

3 Q Okay. How'd that make you feel?

4 A Upset.

5 Q Did it hurt?

6 A Yes.

7 Q Were there other occasions that he did that?

8 A Yes, but I don't remember them all.

9 Q Okay. Were there a lot of them?

10 A A lot of what?

11 Q Occasions that he did that?

12 A Some times.

13 Q Okay. What other things did you do that made him
14 hit you with a belt and leave bruises?

15 A I don't remember.

16 Q So nothing huge in your mind?

17 A No.

18 Q Okay. Did he do anything else that hurt you? Was
19 there an occasion he did something to your neck?

20 MR. MacARTHUR: Objection. Leading.

21 THE COURT: Sustained.

22 BY MS. LUZAICH:

23 Q Besides the belt on your back or backside, did he do
24 something that hurt you somewhere else?

25 A Yes.

1 Q Tell me about that. Where were you when that
2 happened?
3 A The kitchen.
4 Q Was anybody else there or in the vicinity when that
5 happened?
6 A No.
7 Q Where was Fred?
8 A In the kitchen.
9 Q And what did he do?
10 Are you okay, Mahlica?
11 A Umm --
12 Q Mahlica, do you have panic attacks sometimes?
13 MR. MacARTHUR: Objection, Your Honor.
14 THE COURT: Sustained.
15 MS. LUZAICH: Can we approach?
16 THE COURT: Mahlica, are you okay?
17 THE WITNESS: Yes, I'm fine.
18 THE COURT: Okay. If you need a break will you let
19 me know?
20 THE WITNESS: Yes.
21 THE COURT: Do you need a break?
22 THE WITNESS: No.
23 THE COURT: Are you sure?
24 THE WITNESS: Yes.
25 THE COURT: Okay. If you need a break just look

1 over at me and we'll take a break. Okay?

2 THE WITNESS: Yes.

3 He started to -- he started to choke me.

4 BY MS. LUZAICH:

5 Q Why did he start to choke you?

6 A Because somebody left the lights on in the kitchen,
7 and I was supposed to go check and see if they were all off.

8 Q And you say you started to choke you. Describe for
9 me what he did as best you can?

10 A Well, well, first he -- first he reached over and he
11 hit me and then he started to choke me.

12 Q Where did he hit you?

13 A On the face.

14 Q What part of his body did he use to hit you?

15 A His hand.

16 Q Was his hand open or closed or --

17 A I don't remember.

18 Q Okay. So he hit you in the face, and then what?

19 A He started to choke me.

20 Q When he started to choke you how did he do that?

21 With what part of his body?

22 A His hands.

23 Q Where did he put his hands?

24 A Around my neck.

25 Q And when his hands were around your neck what did

1 they do, if anything?

2 A They started squeezing my neck.

3 Q When he did that how did you feel?

4 A Scared.

5 Q Did he say anything while he was doing that?

6 A I don't remember if he did.

7 Q Okay. Was he yelling at you at the time?

8 A Yes.

9 Q Do you know where your brother and sisters might

10 have been?

11 A They were in the -- they were in their rooms getting

12 ready for bed.

13 Q Okay. So it was late in the day.

14 A Yes.

15 Q Do you know where -- well, was Miss Ann home?

16 A Yes.

17 Q Do you know where Miss Ann was?

18 A He was in her room.

19 Q Was this at a time that Mom and Vicky were not

20 living there?

21 A I think so.

22 Q Now, when you guys were living -- and I'm sorry.

23 Did you see Fred or hear Fred do anything to hurt your brother

24 or your younger sisters while you were living at Blankenship?

25 A Yes.

1 Q Who did you either see or hear him hurt?

2 A Sometimes it was Shabazz and sometimes it was

3 Taharah, Taquanda and sometimes Vicky.

4 Q Okay. And I'm going to jump ahead. Did there come

5 a time that Mom and Vicky actually moved into the house on

6 Blankenship?

7 A Yes.

8 Q Do you remember when that was?

9 A No, not really.

10 Q Was it in between your school years, like kind of

11 over the summer at some point?

12 A Yes.

13 Q Do you remember what grade you started after they

14 were living in the house?

15 A Ninth grade.

16 Q Okay. So I'm going to step back a second. You said

17 that you saw or heard Fred hurt Shabazz. Was that one time or

18 more than one time?

19 A More than once.

20 Q Was it always at Blankenship?

21 A Yes.

22 Q What did you see him do to Shabazz at Blankenship?

23 A He was punching him and yelling at him.

24 Q Where were they when Fred was punching and yelling

25 at Shabazz?

1 A Well, first they were in the hallway, then in the
2 garage.
3 Q When Fred punched him what did he punch him with?
4 A His hands.
5 Q Where did he punch him?
6 A His face, I guess. I didn't get to see everything,
7 but I heard it.
8 Q Okay. Where were you that you were able to hear it?
9 A In the bedroom.
10 Q Which bedroom?
11 A The one my sisters and I stayed in.
12 Q Okay. When you say you didn't see everything but
13 you heard it, did they move through the house as the fight --
14 argument progressed?
15 A Yes.
16 Q And so what part did you see?
17 A I just saw him yelling at him and hitting him.
18 Q Okay. And when he was hitting him, he was hitting
19 him in the face; is that what you saw?
20 A Yes.
21 Q All right. And then what did you hear after you
22 couldn't see anymore?
23 A Him yelling and them fighting, I guess.
24 Q Okay. Did you see Shabazz and Fred after it was all
25 done, I mean, later, minutes or hours later.

1 A Minutes.

2 Q Okay. And when you saw them afterwards did Fred

3 have any bruises, marks, scratches, scrapes, anything on him?

4 A Say that again, I'm not paying attention.

5 Q Okay. Are you all right?

6 A Yes.

7 Q When you saw them afterwards when you didn't hear

8 anymore fighting or punching or hitting, did Fred have any

9 marks on him, scratches, bruises, scrapes, anything like that?

10 A No.

11 Q When you saw Shabazz did Shabazz have any marks on

12 him, scratches, bruises, anything like that?

13 A Well, I can't really remember if he did.

14 Q Okay. You said that was one occasion that you can

15 remember. Tell me about another occasion that you remember

16 seeing Fred do something to hurt Shabazz?

17 A I don't really remember.

18 Q Were there other locations in the house that you saw

19 them -- Fred hit or hurt Shabazz?

20 A Yes.

21 Q What other locations in the house?

22 A Sometimes it was in the kitchen and sometimes it was

23 in the garage.

24 Q What did you see him do?

25 A Can you repeat that?

1 Q What did you see Fred do to him?

2 A Well, when he got in trouble he would make him do

3 push-ups and if he got them wrong like he would hit him with

4 the belt and make him do it -- start all over and do it again.

5 Q Okay. Did you ever see any marks, bruises, red

6 marks, anything on Shabazz after Fred hurt him?

7 A I can't really remember.

8 Q Okay. Did you ever hear Shabazz respond? Did he

9 cry or anything like that when Fred was hurting him?

10 A Sometimes.

11 Q Did you ever see Fred hurt Taquanda?

12 A No, I didn't see it.

13 Q Did you ever hear Fred hurt Taquanda?

14 A Yes.

15 Q What did you hear?

16 A He would yell at her and then hit her with the belt.

17 Q Where were Fred and Taquanda when you would hear

18 that happen?

19 A I don't really remember.

20 Q Okay. Were they in another room from you?

21 A Yes.

22 Q And would the door be opened or closed?

23 A Sometimes it would be opened and sometimes it would

24 be closed.

25 Q And how did you know that he hit her with a belt?

1 A Because she would be crying.

2 Q Okay. Could you hear the belt?

3 A Yes.

4 Q Would you ever -- did you ever see marks on Taquanda

5 after he hit her with the belt?

6 A I can't remember if I did.

7 Q If somebody gets hit on the butt with a belt can you

8 see through their clothes?

9 A No.

10 Q Okay. So you could only see it if they showed it to

11 you?

12 A Yes.

13 Q Did Taquanda ever show you any injuries?

14 A No.

15 Q Did Shabazz ever show you anything?

16 A No.

17 Q Did you ever see him hurt -- Fred hurt Taharah?

18 A Yes.

19 Q What did you see Fred do to Taharah?

20 A I see him hitting her and he was like pulling her

21 hair.

22 Q Were those the same occasion or different occasions?

23 A It was different occasions.

24 Q Okay. When you saw him hitting her where were they?

25 A The were in the hallway.

1 Q Okay. And what did you see him doing specifically?
2 A He was yelling at her and then he started hitting
3 her in the face and then he started to pull her hair.
4 Q Okay. When he hit her in the face what did he hit
5 her with?
6 A His fists.
7 Q When he was pulling her hair how did he do that?
8 A He just pulled her hair. He just grabbed it.
9 Q At the time -- your hair is pretty long right now;
10 right?
11 A Yes.
12 Q Is it longer than mine?
13 At the time was Taharah's hair long, was it short,
14 or what?
15 A Well, it was in ponytails I think.
16 Q Okay. So what did he pull? I mean, did he pull the
17 ponytails?
18 A Yes.
19 Q Okay. You said he was yelling at her. Do you know
20 what he was yelling?
21 A You mean what he was yelling at her for?
22 Q Yes.
23 A She had gotten in trouble at school, I believe.
24 Q Okay. Did you ever see him do anything else to
25 Taharah?

1 A No.

2 Q Did you ever hear him do anything else to Taharah?

3 A I can't really remember.

4 Q Okay. So we talked a second ago that there came a

5 time when you were going into the ninth grade that Mom and

6 Victoria or Vicky moved into the house on Blankenship. Did

7 you see him do anything to Vicky when they moved into the

8 house?

9 A What do you mean?

10 Q Or after they were living in the house. During the

11 time frame that they lived in the house did you ever see him

12 physically hurt Vicky?

13 A I didn't see it.

14 Q Did you hear it?

15 A Yes.

16 Q What did you hear?

17 A He would be yelling at her and then I would hear the

18 belt.

19 Q And how would she respond, if at all?

20 A She would -- I guess she would be crying.

21 Q Did you hear that?

22 A Yes.

23 Q Okay. Did you ever see any bruises or scrapes or

24 scratches or anything like that?

25 A No.

1 Q Okay. Did you see that one time or more than one
2 time or hear I should say?

3 A More than once.

4 Q Okay. Did you ever see him or hear him hurt your
5 mom?

6 A I wouldn't see it and I wouldn't be around to hear
7 it, but she did have a black eye once.

8 Q Okay. Do you remember when that was, I mean, was
9 that at a time that she was living in Blankenship or living
10 somewhere else?

11 A I think she was living at Blankenship.

12 Q Okay. Was she working at the time?

13 A Yes.

14 Q We had talked earlier about when you lived here in
15 2005, Mom worked at Jason's Deli. When you guys came back
16 here in 2007, did Mom get a job?

17 A Yes.

18 Q Where did Mom work?

19 A She worked at Bally's Hotel and Casino.

20 Q Do you know what she did there?

21 A She was a maid.

22 Q Okay. Did there come a time that she stopped
23 working there and then got a different job, if you remember?

24 A Well, what do you mean? Because when we moved out
25 she did.

1 Q Okay. So did she work at Bally's the whole time you
2 lived at -- or she lived at Blankenship?

3 A Yes.

4 Q Okay. So when you saw the black eye was that at a
5 time that you were living at Blankenship and she was working
6 at Bally's?

7 A Yes.

8 Q Did you hear your -- Fred arguing with your mom
9 while you lived at Blankenship at all?

10 A Yes.

11 Q Did you hear, in general, what they argued about?

12 A What do you mean?

13 Q I mean, was there a topic that they argued about?

14 A Well, I can't remember what it was.

15 Q Okay. Did they argue on more than one occasion?

16 A Yes.

17 Q Did there come a time that you guys moved out of the
18 house on Blankenship?

19 A Yes.

20 Q When did you move out of the house on Blankenship?

21 A It was -- it was during the summer, I believe, of
22 2010.

23 Q Okay. Do you remember what grade you started when
24 you moved to another location?

25 A I believe it was the eleventh grade.

1 Q Okay. When you moved out of the house on
2 Blankenship who moved?

3 A It was my mom, me, my older sister Victoria, and
4 Shabazz my younger brother.

5 Q So Taharah and Taquanda stayed?

6 A Yes.

7 Q Where did you guys go?

8 A The St. Andrews apartments.

9 Q Okay. And when you went to St. Andrews did you
10 continue going to school?

11 A Yes.

12 Q Did Shabazz go to school?

13 A Yes.

14 Q Did Vicky go to school?

15 A Yes.

16 Q Did Mom work?

17 A Yes.

18 Q When you moved to St. Andrews where was Mom working?

19 A She was -- she still had the -- she still had the
20 Bally's job, but -- and then she got hired at another place at
21 the Cosmopolitan, and then she got fired from Bally's and then
22 she just had the Cosmopolitan, and then she got fired from
23 Cosmo, and then she -- and then she got a job at a pizza
24 place.

25 Q Okay. While you were living at St. Andrews did you

1 meet a lady named Rose?

2 A Yes.

3 Q Do you know how you met Rose, I mean you, how did

4 you meet Rose?

5 A Well, I believe Vicky introduced me to her.

6 Q Okay. And was Rose and Vicky -- were Rose and Vicky

7 friends?

8 A Yes.

9 Q Would you see Rose periodically?

10 A Sometimes.

11 Q Would somebody else see Rose more?

12 A Yeah.

13 Q Who?

14 A Vicky would see her the most.

15 Q Okay. When you would see Rose what would you guys

16 do?

17 A We would just go to her house.

18 Q When you would go to her house -- when you would go

19 to her house who would go?

20 A Vicky went with me.

21 Q Did Shabazz also go?

22 A I think he went once.

23 Q Did Vicky go more than you did?

24 A Yes.

25 Q Did -- does Rose have kids?

1 A Yes.

2 Q And did you meet her kids, as well?

3 A Yes.

4 Q Did Rose bring you guys stuff?

5 A Yes.

6 Q What'd she bring you that you remember?

7 A She bought us -- I believe she helped us get
8 furniture and like plates and stuff.

9 Q Okay. So when you were moved into St. Andrews did
10 you guys have a lot of stuff?

11 A No, not really.

12 Q Okay. Do you know how long you lived at St.
13 Andrews?

14 A Two years, I think.

15 Q Where did you go when you left St. Andrews?

16 A The Lakewood Cove apartments on Center Street. The
17 ones that we live at now.

18 Q Okay. In Henderson?

19 A Yes.

20 Q And you've been there ever since you left St.
21 Andrews?

22 A Yes.

23 Q Now, Mahlica, did you -- well, when you moved to St.
24 Andrews did you still see Fred?

25 A Yes.

1 Q How would you still see Fred when you moved at St.
2 Andrews?
3 A He would come over.
4 Q How often would he come over?
5 A Every two weeks probably.
6 Q Okay. And when he came over who would be there?
7 A Most the time it would be like all of us.
8 Q What would he do when he came over?
9 A He would bring Taharah and Taquanda. And sometimes
10 he'd talk to Mom or he'd talk to Vicky.
11 Q Okay. Did he only come with Taharah and Taquanda?
12 A Yes.
13 Q He never came by himself?
14 A I think there was a couple of times he came by
15 himself.
16 Q Okay. When he came by himself would he talk to Mom?
17 A Yes.
18 Q Would they go somewhere?
19 A Yes.
20 Q Where'd they go?
21 A Her room.
22 Q When he came by himself were there times that he
23 would talk to Victoria?
24 A Yes.
25 Q Where -- would they go somewhere?

1 A Yes.

2 Q Where'd they go?

3 A Her room.

4 Q Were there times that when he brought Taharah and
5 Taquanda that he would go somewhere with Mom?

6 A I don't really remember.

7 Q Okay. Were there times that he would come over and
8 Mom would not be home?

9 A No. Most of the time she would be there.

10 Q Okay. When you moved to Center Street would you
11 still see Fred?

12 A Yes.

13 Q How often would you see Fred?

14 A Maybe like once a month.

15 Q Okay. Did he bring Taharah and Taquanda?

16 A Yes.

17 Q Did Miss Ann sometimes bring Taharah and Taquanda?

18 A I think she brought them twice.

19 Q To Center Street or to both St. Andrews and Center
20 Street?

21 A Oh. Just to Center Street.

22 Q Were there times that Fred came to Center Street
23 without Taharah and Taquanda?

24 A Yes.

25 Q And when he would come without Taharah and Taquanda

1 what would he do?

2 A He would go talk to Vicky or talk to Mom.

3 Q If he would go talk to Mom where would he go talk to

4 Mom?

5 A In her room.

6 Q If he would go talk to Vicky where would he go talk

7 to Vicky?

8 A In her room.

9 Q Where would you be while that would happen?

10 A Downstairs.

11 Q Once you moved out of the Blankenship house did Fred

12 hurt you again? So no more belts, no more choking.

13 A No, not that I remember.

14 Q And once you moved out of Blankenship did you ever

15 see or hear him hurt Shabazz again?

16 A No.

17 Q Was there an occasion at Center Street where

18 something happened with --

19 MR. MacARTHUR: Objection, Your Honor. Leading.

20 THE COURT: Sustained.

21 THE WITNESS: I don't really remember.

22 BY MS. LUZAICH:

23 Q That's fine. I'm sorry, I lost my train of thought.

24 You had indicated that you were going to Canyon

25 Springs high school. Did you graduate?

1 A No.

2 Q When did you stop going to high school?

3 A October 26, 2011.

4 Q What grade were you in?

5 A Eleventh, I think. Well, that's the grade I

6 finished.

7 Q Okay. So you did finish eleventh grade?

8 A Yes.

9 Q Did you start twelfth grade?

10 A No.

11 Q You didn't start it?

12 A No. I went to the school for one day.

13 Q Okay. Why did you not finish, or why did you not

14 continue twelfth grade? Can you tell me?

15 Do you have an issue with panic attacks, Mahlica?

16 MR. MacARTHUR: Objection, Your Honor.

17 THE COURT: Sustained.

18 Mahlica, are you okay? Is that a yes?

19 THE WITNESS: Yes.

20 THE COURT: Can you answer the question?

21 THE WITNESS: Yes.

22 THE COURT: Okay.

23 THE WITNESS: I had stopped going because of my

24 anxiety disorder.

25 //

1 BY MS. LUZAICH:

2 Q Okay. Was there a time that you were diagnosed with
3 an anxiety disorder?

4 A Yes.

5 Q And when was that?

6 A When my family and I were living in Utah.

7 Q Okay. And did you actually see a doctor for that in
8 Utah?

9 A Yes.

10 Q When you came back did your mom follow up with that?

11 A No.

12 Q And what happened -- I mean, why in twelfth grade
13 did the anxiety disorder come into effect? Okay. Let me ask
14 it a different way.

15 When you were in ninth, tenth and eleventh grade
16 where you okay with -- are you all right?

17 A Yeah.

18 Q Were you okay with the anxiety disorder?

19 A Well --

20 Q Did it get worse?

21 A I think so because -- well, during my ninth and
22 tenth grade year I was kind of -- I kind of couldn't really --
23 I couldn't really take days off from school because I was kind
24 of being made to go to school, like forced, so I couldn't
25 really do what I did now.

1 Q What do you mean?

2 A Well, I don't know how -- I don't really know how to

3 explain it. It's just -- the anxiety -- I guess the anxiety

4 disorder got worse and I've just -- really don't like going to

5 school and being around a whole bunch of people.

6 Q Okay. So what do you do?

7 A What do you mean?

8 Q Do you work?

9 A No.

10 Q Are you looking for a job?

11 A Yes.

12 Q Are you going to get a GED?

13 A Probably, yes.

14 Q Okay. You're living with Mom; right?

15 A Yes.

16 Q Taharah and Taquanda -- were you aware that in

17 December of 2011, Vicky talked to some police?

18 A Yes.

19 Q Did you talk to them that night too?

20 A Yes.

21 Q Where were you when you talked to them?

22 A We -- well, I had -- yeah. They had taken me to

23 their car and they talked to me in their car.

24 Q Okay. Did they come to the Center Street apartment

25 in Henderson?

1 A Yes.

2 Q When they -- were they police detectives, or at
3 least a man detective?

4 A Yes.

5 Q When he came to the apartment who was there?

6 A Well, at the time it was just me and Shabazz,
7 because Mom was at work.

8 Q That was my next question. Mom was working?

9 A Yes.

10 Q Okay. Was Vicky still living with you at that
11 point?

12 A No. She had left.

13 Q Where was she? Do you remember or do you know?

14 A She's living with Miss Rose.

15 Q Okay. And when the police came and talked to you,
16 you said they took you to you're -- or he took you to his car;
17 right?

18 A Yes.

19 Q What did he ask you about?

20 MR. MacARTHUR: Objection, Your Honor. Hearsay.

21 THE COURT: I'm sorry.

22 MR. MacARTHUR: Well, I'm anticipating a hearsay.

23 It's an objection. She asked her what did the detective ask
24 you about. And I realize it's a question, but there's the
25 potential that she gives a longer answer. So I'm making --

1 perhaps I was premature, Judge. I apologize.

2 THE COURT: All right. So the objection's
3 overruled. You can proceed.

4 BY MS. LUZAICH:

5 Q What did the detective --

6 THE COURT: Do you remember the question?

7 THE WITNESS: Well they -- they asked me kind of
8 like the same questions you're asking me now.

9 BY MS. LUZAICH:

10 Q Did they ask you about Fred?

11 A Yes.

12 Q Okay. Did they ask you about living at the
13 Blankenship house?

14 A Yes.

15 Q When you talked to the detective did you tell him
16 the truth about everything?

17 A Yes.

18 Q About everything?

19 A Yes.

20 Q Did Shabazz also talk to the Henderson police that
21 night?

22 A Yes, I think so.

23 Q Okay. Did you become aware that Mom eventually
24 talked to the Henderson police, as well?

25 A Yes.

1 Q Do you know whether or not child protective services
2 came, not to Blankenship, to you guys? Only if you know.

3 A What do you mean, for Taharah and Taquanda?

4 Q In December 2011 or January of 2012.

5 A No. I don't really know when they came.

6 Q Okay. Did Vicky come back to where you were living
7 after that, like later after that?

8 A Yes.

9 Q And then did you see Taharah and Taquanda after
10 that, as well?

11 A Yes.

12 Q Did they stay with you guys that summer for a little
13 bit, the summer coming up, the summer of 2012?

14 A No. They didn't stay with us.

15 Q Did they visit with you guys for a while?

16 A Yes.

17 Q That's at the Henderson apartment?

18 A Yes.

19 Q And did you become aware that the police became
20 involved again after -- later after that?

21 A Yes.

22 Q Did you talk to the police again? Different police,
23 sorry.

24 A Yes.

25 Q Okay. And if I'm confusing you, tell me. I can ask

1 questions better.

2 Were there two different times that you talked to
3 police about Fred?

4 A Yes.

5 Q You look confused.

6 A Well, what do you mean? Is this after they got --

7 THE COURT: Maybe this is a good time to take a
8 break.

9 MS. LUZAICH: Sure.

10 THE COURT: Okay. During this recess you're
11 admonished not to talk or converse amongst yourselves or with
12 anyone else on any subject connected with this trial, or read,
13 watch, or listen to any report or commentary on the trial or
14 any person connected with this trial by any medium of
15 information, including, without limitation, newspapers,
16 television, the Internet or radio, form or express any opinion
17 on any subject connected with this trial until the case is
18 finally submitted to you.

19 We'll start again at 1:45. Thank you.

20 (Court recessed at 12:11 p.m., until 1:59 p.m.)

21 (Jury is present)

22 THE COURT: Do you the parties stipulate to the
23 presence of the jury panel?

24 MS. LUZAICH: Yes.

25 MS. ALLEN: Yes, Your Honor.

1 THE COURT: Okay. You can recall your witness and
2 continue with your examination.

3 The record will reflect the witness is back in the
4 courtroom. If you'll have a seat. And Ms. Luzaich is still
5 going to continue to question you.

6 BY MS. LUZAICH:

7 Q How are you doing Mahlica?

8 A Good.

9 Q Okay. Have you understood everything that I've
10 asked you?

11 A Yes.

12 Q Okay. Just wanted to make sure.

13 When you had mentioned that you had anxiety disorder
14 how will it come on you? Like can somebody know if you're
15 having a problem?

16 A I don't know. I've never asked anyone that before.

17 Q Okay. Let me ask it in a better way. How do you
18 feel when you have a problem?

19 A Nervous.

20 Q Does anything happen to you that somebody else can
21 see?

22 A I don't know.

23 Q Okay. When you talked to the police in December
24 2011 --

25 That was the Henderson Police Department, right,

1 that came to your apartment?

2 A Yes.

3 Q -- were you nervous when you talked to them?

4 A Yes.

5 Q When you talked to the police in September of -- or
6 October of 2012, that was child protective services and Metro;
7 is that right?

8 A Yes.

9 Q Were you nervous when you talked to them, too?

10 A Yes.

11 Q Are you nervous here?

12 A Kind of.

13 Q Are you doing the best you can?

14 A Yes.

15 MS. LUZAICH: Thank you. I would pass the witness.

16 THE COURT: Cross.

17 CROSS-EXAMINATION

18 BY MR. MacARTHUR:

19 Q Good afternoon, Mahlica.

20 A Good afternoon.

21 Q My name's Jonathan MacArthur. I'm an attorney, and
22 I will be questioning you this afternoon.

23 You all right?

24 A Yes.

25 Q Okay. Now, we've never met before have we?

1 A No.

2 Q Okay. What's your date of birth? What day were you
3 born?

4 A September 11th, 1993.

5 Q Okay. And so you are 20 years old now?

6 A Yes.

7 Q Okay. And you turned 18 on September 11th, 2011?

8 A Yes, I believe so.

9 Q Okay. Do sometimes people think you are younger
10 than you are based on the way you look? Do sometimes people
11 think you're younger?

12 A Yes.

13 Q Okay. When they don't think you're 20 how old do
14 they think how you are -- that you are?

15 A I usually get 16 or 15.

16 Q That's actually a pretty good thing. By the time
17 you get to be 40 you'll be happy that that's the case.

18 MS. LUZAICH: Objection.

19 THE COURT: Sustained.

20 BY MR. MacARTHUR:

21 Q All right. You've testified that you have brothers
22 and sisters; right?

23 A Yes.

24 Q And you have one brother; is that correct?

25 A Yes.

1 Q Is his name Shabazz?

2 A Yes.

3 Q Where does Shabazz live?

4 A With some friends.

5 Q Okay. Well, what I meant is geographically. What

6 city does he live in?

7 A Oh. Henderson.

8 Q Okay. So he lives here in the Las Vegas valley?

9 A Yes.

10 Q Okay. When did you see him last?

11 A Like two weeks ago, I believe.

12 Q Okay. Do you remember coming to this building to

13 testify at a preliminary hearing in June of last year?

14 A Yes.

15 Q Okay. Do you know if Shabazz came to court also to

16 testify? If you know.

17 A Actually, I don't remember if he went or not.

18 Q Okay. Earlier today before we went to lunch you

19 remember the State was asking you questions until just a few

20 minutes ago?

21 A Yes.

22 Q Okay. Do you remember when the -- when Miss Lisa

23 asked you about a time in which Fred put his hands on your

24 throat?

25 A Yes.

1 Q Okay. But you didn't remember that until the State
2 reminded you; is that correct?

3 A What do you mean?

4 Q Okay. Is that something that you told us on your
5 own, or is that something that you remembered after Lisa
6 brought it up?

7 A I remembered it on my own. I just didn't want to
8 talk about it.

9 Q I see. Okay. Now, you've had an opportunity to
10 give several statements that were recorded; is that correct?

11 A Yes.

12 Q Okay. Do you remember one of them being March 17th,
13 2008, a statement you gave to CPS? Do you know if you did --
14 may have given a statement to CPS back in 2008?

15 A I don't remember if I did.

16 Q Okay. Do you remember if you wrote a letter to CPS
17 in March 25th, 2010, while you were living at Blankenship?

18 A No. I don't remember that, either.

19 Q Okay. You do, however, remember giving a voluntary
20 statement to the Henderson police in December of 2011; right?

21 A Yes.

22 Q Okay. And you do remember giving a voluntary
23 statement to the Las Vegas Metropolitan Police Department in
24 October 3rd, 2012? Do you remember that?

25 A Yes.

1 Q Okay. I'm going to go chronologically so that we're
2 not confused about what we're talking about. I'd like you to
3 go back to 2005 when you first came here from Louisiana. Do
4 you remember that?

5 A Yes.

6 Q Okay. Today, I believe earlier you testified that
7 Victoria had told you back in 2005 that she was being molested
8 by Fred. Do you remember saying that today?

9 A Yes.

10 Q Okay. All right. Now, I want you to think about
11 your time at Blankenship from August of 2007 until you moved
12 out of Blankenship. You were living there with Fred; is that
13 correct?

14 A Yes.

15 Q And also you had Shabazz, Taquanda, and Taharah
16 living there also; right?

17 A Yes.

18 Q And Lealer or Miss Ann was living there?

19 A Yes.

20 Q And you said for a period of time Sha'karia, Miss
21 Ann's daughter, lived there?

22 A Yes.

23 Q Okay. And you said something about Fred had his son
24 living there for a little while, too; is that correct?

25 A It was like his son -- his sons and their

1 girlfriends and their kids, I guess.

2 Q Okay. Is it fair to say this house was pretty full
3 sometimes?

4 A Yes.

5 Q Okay. In fact, was there also a garage that had
6 been converted into a bedroom?

7 A Yes.

8 Q Okay. And so when yourself and other people testify
9 about having lived in the garage, is this a converted garage?

10 A Yes.

11 Q Okay. You had talked about some of the things that
12 Fred would do when you guys got into trouble. Do you remember
13 that topic?

14 A Yes.

15 Q Okay. Isn't it in fact true that if somebody were
16 to be found breaking the rules that first they might have to
17 do pushups or situps?

18 A Yes.

19 Q Okay. And is it also the case that if somebody
20 broke the rules that they could be grounded or have something
21 taken away from them?

22 A Yes.

23 Q Okay. And if you would, please tell the jury which
24 one of those two things happens first. Does something get
25 taken away and the person gets grounded first, or would the

1 pushups or situps happen first?

2 A The pushups would happen first.

3 Q Okay. And so if a person got into trouble again
4 after pushups, then they might get grounded or have something
5 taken away?

6 A Yes.

7 Q Okay. And then if a person had already been
8 grounded and had something taken away and they did something
9 wrong again, is this where you might get a whuppin?

10 A Yes.

11 Q And was this usually done with a belt?

12 A Yes.

13 Q And you said that in the times you were whupped you
14 believe that you'd been hit on your backside?

15 A Yes.

16 Q And you said that on one instance you believe that
17 you had welts on your back?

18 A Yes.

19 Q Okay. Now, the State asked you did most of the time
20 -- well, I'm going to rephrase, so I hope I don't get
21 objected. But do you remember the State asking you a question
22 about were you getting whuppins for a reason or no reason?

23 A What do you mean?

24 Q Okay. Well, I guess my question is did something
25 happen and then you would get a whuppin, or did sometimes you

1 just get a whuppin for no reason whatsoever.

2 A Usually something happened.

3 Q Okay. Now, you didn't always feel like the

4 something that happened was your fault. Is that fair?

5 A Yes.

6 Q Okay. But apparently Fred disagreed?

7 A Yes.

8 Q Okay. Now, when you were living on Blankenship --

9 and let's focus on 2008 -- Lealer lived there, as well?

10 A Yes.

11 Q And did you have name for Lealer?

12 A We called her Ann.

13 Q Okay. Did you also sometimes call her Miss Ann?

14 A Yes.

15 Q Did you call her Aunt Ann?

16 A No.

17 Q Okay. And how about Fred? Did you have a special

18 name for him?

19 A No.

20 Q Did you ever tell people he was your dad?

21 A No.

22 Q Okay. Did he ever pretend like he was your dad?

23 A What do you mean?

24 Q Did he ask you guys to call him dad?

25 A No.

1 Q Okay. And at the time in which you were living in
2 Blankenship did you testify that your mother was living
3 somewhere else with Victoria; is that correct?

4 A Yes, at first.

5 Q Do you know if that was an apartment on Walnut?

6 A At first it was -- it wasn't -- it wasn't the
7 apartment on Walnut, it was the Siegel Suites Motel.

8 Q Okay. And so there was a period where they were in
9 a hotel; right?

10 A Yes.

11 Q And there was a period where they lived with Miss
12 Dorothy briefly?

13 A Yes. I think she told me about that.

14 Q Okay. And is it fair to say they spent most of the
15 time, if they weren't at Blankenship, living at the Walnut
16 apartment?

17 A Yes.

18 Q Okay. And do you remember that your mother was
19 coming to visit at least once a week?

20 A She didn't come to where we were at, we came to
21 where she was at.

22 Q Okay. So you would go over to the Walnut apartment
23 more often than she came to Blankenship?

24 A Yes.

25 Q Okay. And how did you get to the Walnut apartment?

1 A Fred would drive us.

2 Q Did Lealer ever drive you?

3 A No, I don't think she did.

4 Q Okay. Now, I know this might be difficult and I'm

5 just asking you to do the best you can. I want you to think

6 about May -- I'm sorry -- March of 2008 and before; okay? So

7 I'm not talking about anything after March of 2008, just

8 things that may have happened before. Are you with me?

9 A Yes.

10 Q Okay. Isn't it in fact true that at that time you

11 had only been spanked once by Fred? Do you know if that's

12 true?

13 A It was -- I believe it was like more often than

14 that.

15 Q Okay. Do you remember an instance in which you were

16 accused of lying about your grades and that resulted in

17 getting a whuppin? Does that ring a bell?

18 A No, it doesn't.

19 MR. MacARTHUR: Okay. Court's indulgence.

20 (Pause in the proceedings)

21 BY MR. MacARTHUR:

22 Q Okay. Mahlica, do you remember a time in 2008 when

23 CPS or Child Protective Services came to talk to you in March

24 of 2008? Do you remember that at all?

25 A I don't really remember that.

1 Q Okay. Do you think it might refresh your
2 recollection if I were to let you see a report from CPS where
3 they claim to have talked to you?

4 THE COURT: Was it prepared by her?

5 MR. MacARTHUR: It was not prepared by her. I'm
6 just seeing if it refreshes her recollection as to what she
7 may have said.

8 THE COURT: Okay. Will that report help refresh
9 your recollection?

10 THE WITNESS: Yes.

11 (Pause in the proceedings)

12 THE COURT: Does she have to read the entire
13 document?

14 MR. MacARTHUR: No, Your Honor. Just the top
15 portion.

16 THE COURT: Okay. And you showed her which part to
17 read?

18 MR. MacARTHUR: I did.

19 THE COURT: Okay.

20 BY MR. MacARTHUR:

21 Q All right. Mahlica, having read that, did that help
22 refresh your recollection at all as to whether you had this
23 conversation with somebody from CPS?

24 A Yes.

25 Q Okay. And so do you now remember telling them that

1 at least in March of 2008 that you had only been spanked one
2 time after an incident about lying regarding grades? Do you
3 remember that?

4 A I don't.

5 Q Okay. And that's fair. I'm not asking you what's
6 in the document, I'm just asking you if having read the
7 document helps you remember.

8 Do you remember telling them that you had --

9 THE COURT: You know what, Mr. -- your notes are
10 being shown. At least I can see them.

11 MR. MacARTHUR: Oh. Okay. Fortunately, nobody else
12 is on.

13 THE COURT: My screen is on.

14 MS. ALLEN: No. Yours is the only one.

15 THE COURT: Oh. Okay. I panicked for a minute.
16 Because I could see your notes. I'm sorry.

17 MR. MacARTHUR: Good thing I didn't draw my usual
18 little drawings of the Judge.

19 THE COURT: I knew you wouldn't want everyone to see
20 your notes.

21 MS. LUZAICH: Take the paper back from Mahlica.

22 MR. MacARTHUR: Okay.

23 THE COURT: So sorry about that.

24 BY MR. MacARTHUR:

25 Q All right. Do you remember telling CPS that you had

1 no fear of living at the Blankenship address?

2 A No, I don't remember.

3 Q Well, rather going through line by line, were there
4 things inside this document that you did remember when you
5 read them?

6 A No, not really.

7 Q Okay. Well, let me ask you this. In 2008, at least
8 in March, were you doing school -- doing well in school?

9 A Yes.

10 Q Okay. And did you tell -- did you like English as a
11 subject?

12 A Yeah.

13 Q And back in 2008 were Lealer and Fred taking you to
14 Circus Circus Casino and the amusement park that was there for
15 fun? Do you remember going to Circus Circus?

16 A Yeah. I believe that was only one time, though.

17 Q Do you remember whether or not you were ever spanked
18 for lying about your grades?

19 A No, I don't remember.

20 Q Okay. Do you remember whether or not Fred was fair
21 with you and your siblings? Or was that your opinion back
22 then?

23 A I don't really remember.

24 Q Okay. Did Fred pay you for chores you guys did
25 around the house, like cleaning up?

1 A That was only if we asked.

2 Q Okay. Only if you asked. So sometimes you'd ask,
3 hey, can we get an allowance for doing chores?

4 A Yes.

5 Q Okay. And sometimes he actually gave you money
6 because you asked?

7 A Yes.

8 Q Okay. Were you afraid to live with Lealer and Fred
9 back in 2008?

10 A Yes.

11 Q Okay. Do you think you told that to CPS?

12 A No.

13 Q Okay. So you don't think you told them that?

14 A No.

15 Q Okay. You said that Fred, and almost never Lealer,
16 was taking you and your siblings over to the Walnut apartment.
17 You remember just saying that a few minutes ago?

18 A Yes.

19 Q And when he took you to that apartment did he drop
20 you off, or did he stay with you guys for the entire visit?

21 A He would just drop us off.

22 Q Okay. And so he would leave and go back to
23 Blankenship?

24 A Yes.

25 Q And so there were times in which you were able to

1 spend alone time say with your mom or Victoria?

2 A Yes.

3 Q Okay. All right. Do you remember a time in 2010
4 while you were still at the Blankenship house where your
5 mother and Victoria moved out?

6 A What do you mean?

7 Q Okay. Before August of 2010 at the Blankenship
8 house is it true that it was your mom and Victoria and you and
9 Shabazz, Taquanda and Taharah, you guys all lived at the
10 Blankenship house before August of 2010?

11 A Yes.

12 Q Okay. Do you remember a time in 2010 where your
13 mother and Victoria moved out, but you and Shabazz, Taquanda
14 and Taharah stayed at Blankenship?

15 A I don't understand the question.

16 Q Okay. You said your mother and Victoria lived at
17 the Walnut apartments for a while; right?

18 A Yes.

19 Q Okay. Did there come a time in which they left the
20 Walnut apartments and they moved in together with you guys at
21 Blankenship?

22 A Yes.

23 Q Okay. And so you guys all lived together at
24 Blankenship for a while. Do you remember that your mother
25 moved out to an apartment called St. Andrews?

1 A Yes.

2 Q Okay. And when she moved to St. Andrews did she go
3 with just Victoria, or did she take you guys -- take somebody
4 with us -- with her?

5 A Well, it wasn't just Victoria. It was me and my
6 younger brother, Shabazz.

7 Q Okay. So the four of you left together?

8 A Yes.

9 Q Okay. Tina, Victoria, you and Shabazz.

10 Now, was there a time before August of 2010 where
11 your mother wanted to move out and take you, but you didn't
12 want to go? Do you remember that?

13 A No, I don't.

14 Q Okay. Do you remember whether or not you wrote a
15 letter to CPS?

16 A No, I don't remember.

17 Q Court's indulgence.

18 Do you think it would refresh your recollection if
19 you were able to see the letter you wrote?

20 A Sure.

21 MR. MacARTHUR: Okay. And this is going to be
22 Defense Proposed A, Your Honor.

23 THE COURT: Thank you.

24 BY MR. MacARTHUR:

25 Q And, Mahlica, if you would tell the jury, do you

1 recognize that letter?

2 A Yes.

3 Q And whose handwriting is it in?

4 A It's my own.

5 Q Okay. And is that your signature at the bottom?

6 A Yes.

7 Q And what date did you put for when it was drafted?

8 A 3/25/10.

9 Q Okay. What I want you to do is take a look at it

10 and read what you wrote. And let me know when you've had a

11 chance to see it.

12 MS. LUZAICH: Can I approach?

13 THE COURT: Of course.

14 BY MR. MacARTHUR:

15 Q Have you had a chance to look at it, Mahlica?

16 A Oh. Yeah.

17 Q Remember to speak in the microphone.

18 THE COURT: Have you had a chance to look at the

19 letter?

20 THE WITNESS: Yeah, I had.

21 THE COURT: Okay.

22 BY MR. MacARTHUR:

23 Q And do you remember writing it now?

24 A Yes.

25 MR. MacARTHUR: Okay. Permission to publish, Judge?

1 THE COURT: Yeah. Any objection to Defense
2 Exhibit A being admitted into evidence?

3 MS. LUZAICH: No.

4 THE COURT: It's admitted. And you may now publish.

5 MR. MacARTHUR: Thank you, Judge. I'm sorry. I
6 forgot to move for admission.

7 THE COURT: That's okay. That's okay.

8 (Defendant's Exhibit A admitted)

9 BY MR. MacARTHUR:

10 Q All right. Mahlica, if you would, tell the jury
11 what was going on when you wrote this letter. Why did you
12 write it? If you remember.

13 Do you remember what was going on at the time?

14 A No, not really.

15 Q Okay. So you're not sure why you wrote the letter.

16 A Well, I remember, but I just don't remember the
17 situation. I don't remember everything that happened.

18 Q I understand. Tell the jury where you were going to
19 school in March of 2010.

20 A Canyon Springs.

21 Q Canyon Springs High School?

22 A Yes.

23 Q And what grade were you in?

24 A Tenth.

25 Q Tenth grade. Okay. And you were 16 years old; is

1 that correct?

2 A Yes.

3 Q Okay. Later that year you were going to turn 17?

4 A Yes.

5 Q Okay. Mahlica, do you remember John Robinson, the

6 defendant's brother, Fred's brother?

7 A Yes.

8 Q Okay. And how do you know him?

9 A Actually, I think he was one of the people that

10 picked us up.

11 Q From Louisiana?

12 A Yes.

13 Q And drove you out?

14 A Yes.

15 Q Okay. Did he also come to Fred's house on

16 Blankenship regularly?

17 A Yes. Sometimes.

18 Q Okay. Do you remember whether or not he ever gave

19 you guys money when you got good grades?

20 A No, I don't remember that.

21 Q Okay. Now we're going to move forward a little bit.

22 You said that in August of 2010, your mother, Victoria, you,

23 and Shabazz all moved to an apartment on St. Andrews?

24 A Yes.

25 Q Okay. Is that in North Las Vegas?

1 A Yes.

2 Q Okay. And you said that you remembered giving a
3 statement to the Henderson Police Department on December 17th,
4 2011. Do you remember saying that?

5 A Yes.

6 Q Okay. And on December 17th, 2011, were you 18 years
7 old?

8 A Yes.

9 Q Okay. And you had been living with your mother
10 and/or -- well, let me back up. When you first moved to St.
11 Andrews it was you, your mother, Victoria and Shabazz; right?

12 A Yes.

13 Q Okay. And when did Victoria move out? If you know.

14 A I believe it was sometime during November maybe.
15 I'm not really sure.

16 Q Of what year 2010, or 2011?

17 A 2011.

18 Q Okay. So she lived with you guys for about a year
19 after you went to St. Andrews before she moved out?

20 A At the St. Andrews? Don't you mean the Lakewood
21 Cove apartments.

22 Q I'm not quite sure. Is this the one in North Las
23 Vegas?

24 A No. Because you said 2011. In 2011 that's where we
25 were living.

1 Q Okay. I don't mean to tell you where you were
2 living. You tell me where you were living.

3 A Okay.

4 Q You didn't move back into the Blankenship house;
5 right?

6 A No.

7 Q I mean, you never moved back there with Fred?

8 A No.

9 Q Okay. And we know that you moved out of Blankenship
10 in August of 2010; right?

11 A Yes.

12 Q Okay. So by the time you talked to the Henderson
13 Police Department in December of 2011 you'd been living with
14 your mother and Victoria for 14 months. Is that true?

15 A Yes.

16 Q Okay. And just now -- well, I don't mean just now,
17 but right before lunch the State had asked you if you
18 remembered giving that statement to the police; right?

19 A Yes.

20 Q And the State asked you if you told them the truth
21 about everything. Do you remember that?

22 A Yes.

23 Q And you assured us that you did, that everything you
24 said to them was true; right?

25 A Yes.

1 Q Okay. Now, when the police came to speak with you
2 in December of 2011 they wanted to talk about some things that
3 had happened to Victoria; right?

4 A Yes.

5 Q Okay. Do you remember telling the police that you
6 had no idea why they would want to talk to you about Fred and
7 Victoria? Well, first let me ask you, do you know if you said
8 that to them or not.

9 A I don't really member.

10 Q Understood. Would it refresh your recollection if I
11 were to provide you with a transcript of your conversation
12 with the Henderson Police Department?

13 A Yeah.

14 MR. MacARTHUR: Okay. And, State, I'm going to be
15 approaching with the voluntary statement from December 17th,
16 2011. Right now we're going to be on page 3.

17 BY MR. MacARTHUR:

18 Q All right. Why don't you take a second and look at
19 what's transcribed there and let me know if it seems familiar.
20 Do you recognize it as a conversation you had with the
21 Henderson Police Department? I need you to answer out loud.

22 A Yes.

23 Q Okay. And looking at page 3, does that refresh your
24 recollection as to what the police were asking you?

25 A Yes.

1 Q Okay. And do you remember now telling them that you
2 had no idea why they would want to talk to you about Victoria?

3 A Yes. But I only said that because I was confused.
4 They had came at a really late time at night.

5 Q I understand. If you would, please turn to page 4.
6 Okay. Do you remember telling the police as far as you knew
7 Victoria and Fred had slept together?

8 A Yes.

9 Q Okay. And you didn't say that Fred had sexually
10 assaulted her; right?

11 Let me put it another way. Did you tell the police
12 that Fred had raped her. or did you say they had slept
13 together?

14 Mahlica, if you don't recall, feel free to consult
15 the page.

16 A Yes.

17 Q Okay. In fact did you also tell the Henderson
18 Police Department that Victoria had told you about that two
19 weeks prior, two weeks before December 17th, 2011?

20 A What do you mean?

21 Q Okay. The police are asking you about Victoria and
22 Fred; right?

23 A Yes.

24 Q Okay. And you've informed them that Victoria and
25 Fred had slept together; right?

1 A Yes.

2 Q Okay. Didn't you also tell them that she had told
3 you about this two weeks beforehand?

4 A You mean just --

5 Q Yeah. Would it refresh your recollection to be able
6 to look at your statement on page 4?

7 THE COURT: Is that a yes?

8 THE WITNESS: I'm still looking.

9 BY MR. MacARTHUR:

10 Q Do you see that?

11 A Yes.

12 Q Okay. And so I want you to tell me if I'm reading
13 this correctly. The detective asks you, okay -- well, let me
14 back up a sentence. Your previous answer is, "Umm, well, she
15 tells me that her and her friend have slept together before
16 and that's pretty much it." That's what you said; right?

17 A Uh-huh.

18 Q I need you to answer out loud.

19 A Yes.

20 Q Okay. And then he asks you, "Okay. And when --
21 when did she tell you that?" And your response is, "Umm, it's
22 hard for me to remember, because it don't really pay attention
23 to the dates, but I think a couple of weeks ago." Is that
24 what you said?

25 A Yes.

1 Q Okay. Do you remember telling the police that Fred
2 had spanked you but he had never done anything else to you?

3 A Yes.

4 Q Okay. Mahlica, back in 2011 do you know whether or
5 not your mother received food stamp benefits?

6 A I think she did.

7 Q Okay. Are you aware of any times in which Fred took
8 money from her or the food stamps away from her?

9 A I don't remember if it was food stamps, but he did
10 get money from her.

11 Q Okay. Was that for your two younger sisters that
12 lived at -- still lived at Blankenship?

13 A Yes.

14 Q Do you remember telling the Henderson Police
15 Department that Fred was nice to you?

16 A Yes.

17 Q Okay. Do you remember telling them that he had
18 never touched you inappropriately?

19 A Yes.

20 Q Do you remember telling them that he had never acted
21 perverted toward you?

22 A Yes.

23 Q Do you remember telling them that nothing had
24 happened at the Blankenship address that caused you and
25 Shabazz to move out? If you remember.

1 A Can you say that again?

2 Q Sure. Do you remember if the police asked you
3 questions about why your mom and Victoria, you, and Shabazz
4 had moved out of Blankenship?

5 A Yes.

6 Q Okay. Do you remember telling them that nothing had
7 happened at Blankenship that caused the four of you to move
8 out?

9 A Oh. Yes.

10 Q Okay. Your mother had gotten enough money to where
11 she could get her own place; right?

12 A Yes.

13 Q Okay. It wasn't like you were trying to escape
14 something.

15 MS. LUZAICH: Well, objection. She can't testify to
16 what her mother thought.

17 THE COURT: Sustained.

18 MR. MacARTHUR: I'm only asking about her
19 impressions, Your Honor.

20 THE COURT: Okay. You can testify about your
21 knowledge, not about your mom's.

22 THE WITNESS: No, not at the time.

23 BY MR. MacARTHUR:

24 Q Okay. And in fact you told the police that nothing
25 had happened at Blankenship that caused you and Shabazz to

1 move out?

2 A No.

3 Q Okay. Now, the police were asking you about a
4 specific time in which Frank -- I mean, sorry, not Frank --
5 Fred had come to St. Andrews and seen Victoria; is that
6 correct?

7 A Yes.

8 Q Okay. Do you remember telling them that you didn't
9 see or hear anything going on, because you were asleep?

10 A Yes.

11 Q Okay. Isn't it in fact true that you don't know
12 anything about whatever has happened with Fred or Victoria
13 other than what Victoria has told you?

14 A Yes.

15 Q Did you in fact tell the police that you had never
16 seen Fred and Victoria doing anything weird together?

17 A Yes.

18 Q In fact, didn't you tell them that Fred, in your
19 experience, acts nice toward Victoria?

20 A Yes.

21 Q Did you also tell them with regard to the
22 allegations being made by Victoria against Fred that you
23 believed Victoria because she was your sister?

24 A Yes.

25 Q Okay. And everything in that statement that you

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IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

FREDERICK HARRIS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

S.C. CASE NO. 69093

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APPEAL FROM JUDGMENT OF CONVICTION
(JURY TRIAL)
EIGHTH JUDICIAL DISTRICT COURT
THE HONORABLE JUDGE MICHELLE LEAVITT , PRESIDING

~~~~~  
APPELLANT'S APPENDIX TO THE OPENING BRIEF  
VOLUME XV  
~~~~~

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IN THE SUPREME COURT OF NEVADA

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Respondent.

OPENING BRIEF APPENDIX

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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court 17th day of June, 2016. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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