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State of Michigan
In the Supreme Court

The People of the State of Michigan

Plaintiff-Appellee,

MSC No. 168009

v.

Gwendolyn Josephine Alexander

Defendant-Appellant.

Case No. 364063

Circuit Court No. 20-001501-FC

Gwendolyn Alexanders's
Appendix in Support of Supplemental Brief

Michael L. Mittlestat (P68478)
Henry E. Schneider (P82476)
Assistant Defenders

Counsel for Gwendolyne Alexander

State Appellate Defender Office
3031 West Grand Boulevard, Suite 450

Detroit, Michigan 48202
Phone: (313) 256-9833
mmittlestat@sado.org
hschneider@sado.org

Date: October 16, 2025

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Approved, SCAO Original – Court | Original Court; 1st copy- Corrections; 2nd copy- Corrections (for return) | 3rd copy – Michigan State Police CJIC; 4th copy – Defendant; 5th copy - Prosecutor

STATE OF MICHIGAN THIRD JUDICIAL CIRCUIT WAYNE COUNTY	JUDGMENT OF SENTENCE COMMITMENT TO DEPARTMENT OF CORRECTIONS ☐ Amended	CASE NO. 20-001501-02-FC

ORI MI – 821095J Court Address 1441 St. Antoine, Detroit, MI 48226 Courtroom 803 Court Telephone No. 313-224-2484
Police Report No.

THE PEOPLE OF THE STATE OF MICHIGAN v

Defendant name, address, and telephone no.
Gwendolyn Josephine Alexander
Alias(es) - Gwendolyn Josephine Alexander
4358 Nottingham Rd Detroit, MI 48224

CTN/TCN	SID	DOB
20701876-02		

Prosecuting attorney name: Abigail McIntyre Bar no.: 71143

Defendant attorney name: William L. Glenn Bar no.: 36794

THE COURT FINDS:

1. The defendant was found guilty on 09/23/2022 of the crime(s) stated below:

Count	CONVICTED BY: Pleas*	Court	Jury	DISMISSED BY*	CRIME	CHARGE CODE (S) MCL citation/PACC Code
1			G		TORTURE	750.85
2			G		CHILD ABUSE – 2ND DEGREE	750.136B3
3			G		Child Abuse - 2nd Degree Committed in Presence or another Child	750.136D1B
4			G		CHILD ABUSE 3RD DEGREE	750.136B4

*Insert "G" for guilty plea, "NC" for nolo contendere, or "MI" for guilty but mentally ill, "D" for dismissed by court or "NP" for dismissed by prosecutor/plaintiff.

☐ 2. The conviction is reportable to the Secretary of State under MCL 257.625(21)(b).
☐ 3. HIV testing and sex offender registration are completed.
☒ 4. The defendant has been fingerprinted according to MCL 28.243.
☐ 5. A DNA sample is already on file with the Michigan State Police from a previous case. No assessment is required.

Defendant's driver license number

20 – 001501 – 02 – FC
CROJSM
Order of Judgment and Sentence/MDOC – Sig
836933

IT IS ORDERED:

☒ 6. Probation is revoked.
7. Participating in a special alternative incarceration unit is ☐ prohibited. ☐ permitted
8. Defendant is sentenced to custody of Michigan Department of Corrections. This sentence shall be executed immediately.

Count	SENTENCE DATE	MINIMUM Years	MINIMUM Mos.	MINIMUM Days	MAXIMUM Years	MAXIMUM Mos.	MAXIMUM Days	DATE SENTENCE BEGINS	JAIL CREDIT Mos.	JAIL CREDIT Days	OTHER INFORMATION
1	11/8/2022	17			30					96	
2	11/8/2022	6	6		10					96	
3	11/8/2022	6	6		10					96	
4	11/8/2022			96			96			96	

☐ 9. Sentence(s) to be served consecutively to: (if this item is not checked, the sentence is concurrent)
☐ each other ☐ case numbers _____

10. The Defendant shall pay:

State Minimum	Crime Victim	Restitution	DNA Assess.	Court Costs	Attorney Fees	Fine	Other Costs	Total
$ 272.00	$ 130.00	$	$	$ 1300.00	$ 400.00	$	$	$ 2,102.00

The due date for payment is 1/8/23. Fine, costs, and fees not paid within 56 days of the due date are subject to a 20% late penalty on the amount owed.

☐ 11. The concealed weapon board shall ☐ suspend for ☐ days ☐ permanently revoke the concealed weapon license, permit number _____ issued by _____ County.

☐ 12. The defendant is subject to lifetime monitoring pursuant to MCL 750.520n.

13. Court recommendation: **FOUND NOT GUILTY ON COUNT 5. INABILITY TO PAY COST AND FEES SHALL NOT SERVE AS A BARRIER TO PAROLE. MUST NOT HAVE VERBAL, WRITTEN, ELECTRONIC, OR PHYSICAL CONTACT WITH MARTIZ ABDULLAH. COUNTS 1, 2, & 3 RUN CONCURRENT TO EACH OTHER.**

11/8/22 Date | Judge Mariam Saad Bazzi | 68777 Bar no.

I certify that this is a correct and complete abstract from the original court records. The sheriff shall, without needless delay, deliver defendant to the Michigan Department of Corrections at a place designated by the department.

MCL 765.15(2), MCL 769.1k, MCL 769.16a, MCL 775.22, MCL 780.766 MCR 6.427

CC-219b-3CC – (6/15) JUDGMENT OF SENTENCE, COMMITMENT TO DEPARTMENT OF CORRECTIONS

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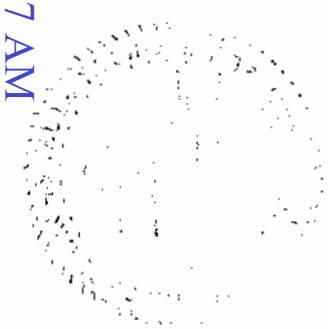

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STATE OF MICHIGAN THIRD JUDICIAL CIRCUIT WAYNE COUNTY	ORDER OF CONVICTION AND SENTENCE	CASE NO. 20-001501-02-FC

ORI MI- 821095J Court Address 1441 St. Antoine, Detroit MI 48226 Courtroom 803 Court Telephone No. 313-224-2484

THE PEOPLE OF THE STATE OF MICHIGAN vs. Gwendolyn Josephine Alexander
Defendant

1. At a session of the court on 09/23/2022 before the Hon. Mariam Saad Bazzi

a Judge of the court, the defendant was convicted by: ☒ Jury ☐ Bench ☐ Plea

of the offenses(s)	PACC code(s)
Ct.1) Torture	**750.85**
Ct.2) Child Abuse - 2nd Degree	**750.136B3**
Ct.3) Child Abuse - 2nd Degree Committed In The Presence of Another Child	**750.136D1B**
Ct.4) Child Abuse - Third Degree	**750.136B4**

2. The defendant was in court for sentence on 11-08-22 and was sentenced by the court to:

☐ Probation, for a term of _____ years. (see separate probation order)

☐ Michigan Department of Corrections, confined for a term of not less than nor more than

Ct.1) 17yrs Minimum to 30yrs Maximum; Ct.2) 6 1/2 yrs Minimum to 10yrs Maximum
Ct.3) 6 1/2 yrs Minimum to 10yrs Maximum; _____ years.

The maximum statutory penalty for the crime(s) of which said defendant stands convicted is _____ years.

☒ Jail confinement for 96 day w/ 96 day credit days/months.

☐ The conviction is reportable to the Secretary of State under MCL257.732 or 281.1040.

The defendant's drivers license number is _____

IN ability to pay court costs + fees shall Not Serve As Barrier to Parole

RECOMMENDATION Found not guilty by jury of Ct. 5 Child Abuse 3rd Degree

must not have verbal, written, electronic or physical contact with Martez Abdullah either directly or through another person, nor be within 500 ft of his residence, school or place of Employment. Cts 1, 2 & 3 run concurrent to each other.

Attorney Fees $ 400.00 Court Costs $ 1500.00 Restitution $ _____ DNA Fee $ _____

Crime Victims $ 130.00 State Minimum Costs $ 272.00 Supervision Fee $ _____

☐ HIV testing was ordered on _____

The defendant was represented by ATTORNEY William L. Glenn BAR NO 36794

and is to be given credit for 96 days (all counts) days served in JAIL.
SAID CREDIT TO BE APPLIED TO MINIMUM AND MAXIMUM SENTENCE.

68777
Honorable Mariam Saad Bazzi

20 – 001501 – 02 – FC
CRPRI
Sentenced to Prison Order Signed and Filed
836932

1007-3CC (C

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THIRD JUDICIAL CIRCUIT OF MICHIGAN

REGISTER OF ACTIONS

CASE NO. 20-001501-02-FC

State of Michigan v Gwendolyn Josephine Alexander

Location:	**Criminal Division**
Judicial Officer:	**Bazzi, Mariam Saad**
Filed on:	**02/26/2020**
Case Number History:	**20055448-02**
	20701876-02
Case Tracking Number:	**20701876-02**
CRISNET/Incident No.:	**2001220266**
Transaction Control Number:	**DU20205135L**

CASE INFORMATION

Offense		Statute	Deg	Date
1. Torture		750/85	.	01/22/2020
Arrest: 01/25/2020	DPCAU - Detroit Pd Child Abuse Unit			
2. Child Abuse - 2nd Degree		750/136B3	.	01/22/2020
Arrest: 01/25/2020	DPCAU - Detroit Pd Child Abuse Unit			
3. CHILD ABUSE 2ND DEGREE COMMITTED IN THE PRESENCE OF ANOTHER CHILD		750/136D1B	.	01/22/2020
Arrest: 01/25/2020	DPCAU - Detroit Pd Child Abuse Unit			
4. Child Abuse - 3rd Degree		750/136B4	.	01/22/2020
Arrest: 01/25/2020	DPCAU - Detroit Pd Child Abuse Unit			
5. Child Abuse - 3rd Degree		750/136B4	.	01/22/2020
Arrest: 01/25/2020	DPCAU - Detroit Pd Child Abuse Unit			

Case Type: **Capital Felonies**

Case Status: **11/08/2022 Final**

Case Flags: **Case has PDF PE Electronic Transcripts**

Related Cases
20-001501-01-FC (Co Defendant)

Statistical Closures
09/23/2022 Jury Verdict

Warrants
Failure To Appear - Alexander, Gwendolyn (Judicial Officer: Bazzi, Mariam Saad)
10/14/2022 5:58 PM Warrant Cancelled/Recalled (LC)
09/23/2022 9:00 AM Issued - Warrant Was Recommended And Signed
Fine: $0
Bond: $0 , , , ,

PARTY INFORMATION

		Lead Attorneys
Plaintiff	**State of Michigan**	**McIntyre, Abigail** (313) 237-6387(W)
Defendant	**Alexander, Gwendolyn Josephine** *Black Female* *SID: MI5937506L*	**Glenn, William L.** *Court Appointed* (313) 934-3769(W)

DATE	EVENTS & ORDERS OF THE COURT	INDEX
01/25/2020	Recommendation for Warrant	
01/27/2020	Warrant Signed	
01/29/2020	**Arraignment on Warrant** (Judicial Officer: White, Dawn) Resource: Court Rpt/Rec 1403 Peterson, Cheryl *Defendant Stands Mute; Plea Of Not Guilty Entered By Court*	
01/29/2020	**Plea** (Judicial Officer: White, Dawn) 1. Torture Defendant Stand Mute: Plea of Not Guilty Entered by Court	
01/29/2020	**Plea** (Judicial Officer: White, Dawn) 2. Child Abuse - 2nd Degree	

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THIRD JUDICIAL CIRCUIT OF MICHIGAN

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CASE NO. 20-001501-02-FC

	Defendant Stand Mute: Plea of Not Guilty Entered by Court	
01/29/2020	**Plea** (Judicial Officer: White, Dawn) 3. CHILD ABUSE 2ND DEGREE COMMITTED IN THE PRESENCE OF ANOTHER CHILD Defendant Stand Mute: Plea of Not Guilty Entered by Court	
01/29/2020	**Plea** (Judicial Officer: White, Dawn) 4. Child Abuse - 3rd Degree Defendant Stand Mute: Plea of Not Guilty Entered by Court	
01/29/2020	**Plea** (Judicial Officer: White, Dawn) 5. Child Abuse - 3rd Degree Defendant Stand Mute: Plea of Not Guilty Entered by Court	
02/07/2020	**Pre Exam Hearing** (Judicial Officer: Judge, District Court) Resource: Court Rpt/Rec 1403 Peterson, Cheryl *Held*	
02/10/2020	Refer To Pre-Trial Services For a Bond Review *DUE DATE SID# BOND TYPE: BOND AMOUNT: $*	
02/11/2020	**Pre Exam Hearing** (Judicial Officer: Judge, District Court) Resource: Court Rpt/Rec 1403 Peterson, Cheryl *Held*	
02/14/2020	**Preliminary Examination** (Judicial Officer: Judge, District Court) Resource: Court Rpt/Rec 1403 Peterson, Cheryl *Held*	
02/26/2020	**Preliminary Examination** (Judicial Officer: Judge, District Court) Resource: Court Rpt/Rec 1403 Peterson, Cheryl *Held: Bound Over*	
02/26/2020	Bound Over	
02/26/2020	Order For Production Of Exam Transcript Signed and Filed *Cheryl Peterson, 2/26/2020, cap case*	
03/20/2020	PE PDF Transcript, filed *Reporter: Cheryl Peterson, 2/26/2020, cap case*	*Vol./Book 1 70 pages*
02/27/2020	**Interim Condition for Alexander, Gwendolyn Josephine** (Judicial Officer: Judge, District Court) - 10% $50,000.00	
03/04/2020	**Arraignment On Information** (Judicial Officer: Bazzi, Mariam Saad) Resource: Court Rpt/Rec VID Video, Courtroom Resource: Courtroom Clerk C6005 Schultz, Roberta *Defendant Stands Mute; Plea Of Not Guilty Entered By Court*	
03/04/2020	AOI Plea *Defendant Stand Mute: Plea of Not Guilty Entered by Court*	
03/04/2020	**Disposition Conference** (Judicial Officer: Bazzi, Mariam Saad) Resource: Court Rpt/Rec VID Video, Courtroom Resource: Courtroom Clerk C6005 Schultz, Roberta *Held*	
03/04/2020	**Calendar Conference** (Judicial Officer: Bazzi, Mariam Saad) Resource: Court Rpt/Rec VID Video, Courtroom Resource: Courtroom Clerk C6005 Schultz, Roberta *Held*	
03/04/2020	Order Signed and Filed (Judicial Officer: Bazzi, Mariam Saad) *Court's Pre Trial Order received by all parties*	
03/16/2020	Motion to Reduce Bond	
03/16/2020	**Motion Hearing** (Judicial Officer: Bazzi, Mariam Saad)	

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THIRD JUDICIAL CIRCUIT OF MICHIGAN

REGISTER OF ACTIONS

CASE NO. 20-001501-02-FC

Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C6005 Schultz, Roberta
Defendant - Emergency Motion to Reduce Bond

03/16/2020 Praecipe, Filed (Judicial Officer: Bazzi, Mariam Saad)

03/16/2020 Proof of Service, Filed

03/17/2020 **Pre-Trial** (Judicial Officer: Bazzi, Mariam Saad)
Resource: Court Rpt/Rec 5964 Jackson, Keva
Resource: Courtroom Clerk C6005 Schultz, Roberta
bond
Held

03/17/2020 Heard And Granted - Order Signed and Filed (Judicial Officer: Bazzi, Mariam Saad)
M/O for Bond: Granted: $50,000 Personal Bond: w/ GPS Tether (hours of restriction 4pm till 8am) No contact with her children, directly or through any other party. If delivers (pregnant) & goes to hsp, must contact CPS

03/17/2020 **Interim Condition for Alexander, Gwendolyn Josephine** (Judicial Officer: Bazzi, Mariam Saad)
- Personal Bond (Own Recognizance)
$50,000.00 *w/GPS tether, hours of restriction 4pm till 8am, nocontact with her children, directly or through another person.If Def delivers (pregnant) and goes to the hospital, she must notify CPS*

04/17/2020 **Final Conference** (Judicial Officer: Bazzi, Mariam Saad)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C6005 Schultz, Roberta

04/23/2020 Motion

04/23/2020 Proof of Service, Filed

04/23/2020 Defense Reply

04/23/2020 Proof of Service, Filed

04/24/2020 **Motion Hearing** (Judicial Officer: Bazzi, Mariam Saad)
Resource: Court Rpt/Rec VID Video, Courtroom
Resource: Courtroom Clerk C6005 Schultz, Roberta
Peoples motion to revoke Defendant's Bond
Held

04/24/2020 Heard And Denied - Order Signed and Filed (Judicial Officer: Bazzi, Mariam Saad)

04/24/2020 Motion
to revoke defendant bond

07/21/2020 Praecipe, Filed (Judicial Officer: Bazzi, Mariam Saad)

07/31/2020 **Motion Hearing** (Judicial Officer: Bazzi, Mariam Saad)
Resource: Court Rpt/Rec 9999 Zoom, Recording
Resource: Courtroom Clerk C6005 Schultz, Roberta
Defendant - Motion to Amend Bond Conditions
Held

07/31/2020 Heard And Granted - Order Signed and Filed (Judicial Officer: Bazzi, Mariam Saad)
Bond Modification: Tether hours adjusted

07/31/2020 Heard And Granted - Order Signed and Filed (Judicial Officer: Bazzi, Mariam Saad)
Bond Modification: Visitation with older children and new born

05/27/2020 *CANCELED* **Jury Trial**
pick jury panel and come back 6/1/20 Adjourned:At The Request Of The Court

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THIRD JUDICIAL CIRCUIT OF MICHIGAN

REGISTER OF ACTIONS

CASE NO. 20-001501-02-FC

06/01/2020	Motion To Quash Information
06/02/2020	Praecipe, Filed (Judicial Officer: Bazzi, Mariam Saad)
06/12/2020	**Motion Hearing** (Judicial Officer: Bazzi, Mariam Saad) Resource: Court Rpt/Rec 01 Not On, Record Resource: Courtroom Clerk C6005 Schultz, Roberta *Defendant - Motion to Quash. Minutes Comment: covid 19 (Clerk: Schultz, R Date: 07-06-20)* *Adjourned at the Request of the Court*
06/01/2020	Proof of Service, Filed
06/01/2020	Lower Court Transcript Filed
06/08/2020	Prosecutors Reply
06/08/2020	Lower Court Transcript Filed
06/08/2020	Proof of Service, Filed
06/09/2020	Prosecutors Reply
06/09/2020	Proof of Service, Filed
06/12/2020	**Evidentiary Hearing** (Judicial Officer: Bazzi, Mariam Saad) Resource: Court Rpt/Rec VID Video, Courtroom Resource: Courtroom Clerk C6005 Schultz, Roberta
07/20/2020	Miscellaneous, Filed
07/20/2020	Proof of Service, Filed
07/27/2020	Prosecutors Reply
07/27/2020	Proof of Service, Filed
07/27/2020	Proof of Service, Filed
07/27/2020	Prosecutors Reply
07/31/2020	**Motion Hearing** (Judicial Officer: Bazzi, Mariam Saad) Resource: Court Rpt/Rec 9999 Zoom, Recording Resource: Courtroom Clerk C6005 Schultz, Roberta */FC/evidentiary hrg & Bond modification* *07/17/2020 Reset by Court to 07/31/2020* *Held*
07/31/2020	Heard And Denied - Order Signed and Filed (Judicial Officer: Bazzi, Mariam Saad) *Def's Motion To Quash Information*
09/01/2020	Motion
09/01/2020	Proof of Service, Filed
09/11/2020	**Pre-Trial** (Judicial Officer: Bazzi, Mariam Saad) Resource: Court Rpt/Rec 9999 Zoom, Recording Resource: Courtroom Clerk C6005 Schultz, Roberta *M/H separate jury trial*

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THIRD JUDICIAL CIRCUIT OF MICHIGAN

REGISTER OF ACTIONS

CASE NO. 20-001501-02-FC

Held

09/11/2020 Heard And Granted - Order Signed and Filed (Judicial Officer: Bazzi, Mariam Saad)
defendant's M/O For Separate Juries (H/G)

10/15/2020 Witness List, Filed

10/15/2020 Proof of Service, Filed

10/16/2020 **Final Conference** (Judicial Officer: Bazzi, Mariam Saad)
Resource: Court Rpt/Rec 9999 Zoom, Recording
Resource: Courtroom Clerk C6005 Schultz, Roberta
10/02/2020 Reset by Court to 10/16/2020
Continued

11/19/2020 **Final Conference** (Judicial Officer: Bazzi, Mariam Saad)
Resource: Court Rpt/Rec 9999 Zoom, Recording
Resource: Courtroom Clerk C6005 Schultz, Roberta
11/09/2020 Reset by Court to 11/19/2020
Held

11/19/2020 Final Pre-Trial Conference form, Signed and Filed (Judicial Officer: Bazzi, Mariam Saad)

11/24/2020 People's Exhibit(s)

11/24/2020 Proof of Service, Filed

11/30/2020 Proof of Service, Filed

11/30/2020 Witness List, Filed

01/13/2021 Proof of Service, Filed

01/13/2021 Motion

01/19/2021 Order Signed and Filed (Judicial Officer: Bazzi, Mariam Saad)
Bond Modification: Allowing to travel 1/22/21 - 1/24/21 to Tenn.

03/26/2021 Proof of Service, Filed

03/26/2021 Motion

03/30/2021 Order Signed and Filed (Judicial Officer: Bazzi, Mariam Saad)
Order to Amend Bond Condtions

10/06/2021 **Review Date** (Judicial Officer: Bazzi, Mariam Saad)
Resource: Court Rpt/Rec 2184 Seguin, Annette
Resource: Courtroom Clerk C6005 Schultz, Roberta
tether
Held

10/06/2021 Attorney Stand In
Emily New for Def

10/06/2021 Heard And Denied - Order Signed and Filed (Judicial Officer: Bazzi, Mariam Saad)
Tether violation: Motion for Bond: Denied / bond set at Remand

10/06/2021 **Interim Condition for Alexander, Gwendolyn Josephine** (Judicial Officer: Bazzi, Mariam Saad) - Remand

10/13/2021 **Pre-Trial** (Judicial Officer: Bazzi, Mariam Saad)
Resource: Court Rpt/Rec 6695 Pinkett, Doreen
Resource: Courtroom Clerk C6005 Schultz, Roberta

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THIRD JUDICIAL CIRCUIT OF MICHIGAN

REGISTER OF ACTIONS

CASE NO. 20-001501-02-FC

9am "IN"
10/18/2021 *Reset by Court to 10/13/2021*
Held

10/13/2021 Refer To Pre-Trial Services For a Bond Review
DUE DATE 11/01/21 SID#5937506L BOND TYPE: BOND AMOUNT: $

10/13/2021 Heard And Granted - Order Signed and Filed (Judicial Officer: Bazzi, Mariam Saad)
M/O for Bond: Granted

10/13/2021 Refer To Pre-Trial Services For a Bond Review
DUE DATE SID# BOND TYPE: BOND AMOUNT: $

10/13/2021 **Interim Condition for Alexander, Gwendolyn Josephine** (Judicial Officer: Bazzi, Mariam Saad) - 10%
$9,000.00 *w/GPS Tether (hrs restriction 4pm till 8am) Random drug screening, mst enroll in substance abuse counseling prog, and Mental health counseling. No contact with children in this case: Martez Abdullah, Robyn Scott and Michella Scott*

10/14/2021 Proof of Service, Filed

10/14/2021 Motion To Withdraw As Attorney

10/22/2021 Miscellaneous, Filed

10/22/2021 Proof of Service, Filed

12/15/2021 **Pre-Trial** (Judicial Officer: Bazzi, Mariam Saad)
Resource: Court Rpt/Rec 9999 Zoom, Recording
Resource: Courtroom Clerk C6005 Schultz, Roberta
9 am
Held

12/15/2021 Attorney Appointed Order, S/F
William Glenn as Defense

12/15/2021 Motion To Withdraw As Attorney
Atty Beth Greenberg Morrow (Granted)

01/24/2022 Motion To Pay Extraordinary Fees

01/24/2022 Proof of Service, Filed

01/24/2022 Miscellaneous, Filed

02/09/2022 **Final Conference** (Judicial Officer: Bazzi, Mariam Saad)
Resource: Court Rpt/Rec 9999 Zoom, Recording
Resource: Courtroom Clerk C6108 Scribner, Angela
9 am zoom
Held

08/08/2022 Proof of Service, Filed

08/08/2022 Witness List, Filed

08/24/2022 **Review Date** (Judicial Officer: Bazzi, Mariam Saad)
Resource: Court Rpt/Rec 9999 Zoom, Recording
Resource: Courtroom Clerk C6005 Schultz, Roberta
called for trial yet? OUT
02/26/2021 *Reset by Court to 06/23/2021*
06/23/2021 *Reset by Court to 09/08/2021*
09/08/2021 *Reset by Court to 03/08/2022*
03/08/2022 *Reset by Court to 08/24/2022*
Held

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THIRD JUDICIAL CIRCUIT OF MICHIGAN

REGISTER OF ACTIONS

CASE NO. 20-001501-02-FC

08/24/2022	Final Pre-Trial Conference form, Signed and Filed (Judicial Officer: Bazzi, Mariam Saad)
09/19/2022	**Jury Trial** (Judicial Officer: Bazzi, Mariam Saad) Resource: Court Rpt/Rec 9999 Zoom, Recording Resource: Courtroom Clerk C6005 Schultz, Roberta *In Progress*
09/20/2022	**Jury Trial in Progress** (Judicial Officer: Bazzi, Mariam Saad) Resource: Court Rpt/Rec 9999 Zoom, Recording Resource: Courtroom Clerk C6005 Schultz, Roberta *9 am held in G-2* *In Progress*
09/21/2022	**Jury Trial in Progress** (Judicial Officer: Bazzi, Mariam Saad) Resource: Court Rpt/Rec 38 Coury, Brion Resource: Courtroom Clerk C6126 Golden, Marilyn *In Progress*
09/22/2022	**Jury Trial in Progress** (Judicial Officer: Bazzi, Mariam Saad) Resource: Court Rpt/Rec 38 Coury, Brion Resource: Courtroom Clerk C6005 Schultz, Roberta *In Progress*
09/22/2022	Heard And Denied - Order Signed and Filed (Judicial Officer: Bazzi, Mariam Saad) *motion for directed verdict*
09/23/2022	**Jury Trial in Progress** (Judicial Officer: Bazzi, Mariam Saad) Resource: Court Rpt/Rec 6836 Cargile, Athalia Resource: Courtroom Clerk C5940 Jones, Liza *Failure to Appear*
09/23/2022	**Disposition** (Judicial Officer: Bazzi, Mariam Saad) 1. Torture Found Guilty by Jury 2. Child Abuse - 2nd Degree Found Guilty by Jury 3. CHILD ABUSE 2ND DEGREE COMMITTED IN THE PRESENCE OF ANOTHER CHILD Found Guilty by Jury 4. Child Abuse - 3rd Degree Found Guilty by Jury 5. Child Abuse - 3rd Degree Not Guilty by Jury
09/23/2022	Found Guilty By Jury
09/23/2022	Failure to Appear - Post Disposition -Order Signed and Filed
09/23/2022	Amended Information
09/23/2022	Proof of Service, Filed
10/14/2022	**Arraignment on Failure to Appear** (Judicial Officer: Bazzi, Mariam Saad) Resource: Court Rpt/Rec 9999 Zoom, Recording Resource: Courtroom Clerk C6005 Schultz, Roberta *Defendant Arraigned On Failure to Appear*
10/14/2022	Arraignment on Failure to Appear - Post Disposition
10/14/2022	Order to Set Aside Fail. to Appear-Warrant Recalled-S/F (Judicial Officer: Bazzi, Mariam Saad)
10/14/2022	Heard And Denied - Order Signed and Filed (Judicial Officer: Bazzi, Mariam Saad) *Motion/Order for bond: denied, bond set at Remand*

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THIRD JUDICIAL CIRCUIT OF MICHIGAN

REGISTER OF ACTIONS

CASE NO. 20-001501-02-FC

10/14/2022	Refer to Probation For Pre-Sentence Report
10/14/2022	**Interim Condition for Alexander, Gwendolyn Josephine** (Judicial Officer: Bazzi, Mariam Saad) - Remand
10/24/2022	Sentencing Memorandum
10/24/2022	Proof of Service, Filed
11/04/2022	PSI Received
11/04/2022	Proof of Service, Filed
11/08/2022	**Sentencing** (Judicial Officer: Bazzi, Mariam Saad) Resource: Court Rpt/Rec 9999 Zoom, Recording Resource: Courtroom Clerk C6005 Schultz, Roberta *8:30 am in person* *Sentenced*
11/08/2022	Sentenced to Prison Order Signed and Filed
11/08/2022	Order of Judgment and Sentence/MDOC - Signed and Filed
11/08/2022	Notice of Right to Appellate Review - Deft. Rec'd
11/08/2022	**Sentence** (Judicial Officer: Bazzi, Mariam Saad) 1. Torture Prison Sentence Fee Totals: - Crime Victims Fee - (FEL) 130.00 - State Minimum Cost (FEL) 272.00 Attorney Fees 400.00 Court Costs 1,300.00 Fee Totals $ 2,102.00 State Confinement: Agency: Michigan Department of Corrections Effective 11/08/2022 Term: 17 Yr to 30 Yr Credit for Time Served: 96 Days Comment: No contact with Martiz Abdullah directly or through another person, nor be within 500 feet of his residence, school or place of employment. SGL Range (Minimum 135 Months, Maximum 225 Months) Concurrent, Count 2, 3
11/08/2022	**Sentence** (Judicial Officer: Bazzi, Mariam Saad) 2. Child Abuse - 2nd Degree Prison Sentence State Confinement: Agency: Michigan Department of Corrections Effective 11/08/2022 Term: 6 Yr 6 Mo to 10 Yr Credit for Time Served: 96 Days Concurrent, Count 1, 3
11/08/2022	**Sentence** (Judicial Officer: Bazzi, Mariam Saad) 3. CHILD ABUSE 2ND DEGREE COMMITTED IN THE PRESENCE OF ANOTHER CHILD Prison Sentence State Confinement: Agency: Michigan Department of Corrections Effective 11/08/2022 Term: 6 Yr 6 Mo to 10 Yr

THIRD JUDICIAL CIRCUIT OF MICHIGAN

REGISTER OF ACTIONS

CASE NO. 20-001501-02-FC

Credit for Time Served: 96 Days
Concurrent, Count 1, 2

11/08/2022 **Sentence** (Judicial Officer: Bazzi, Mariam Saad)
4. Child Abuse - 3rd Degree
Jail Sentence
Local Confinement:
Agency: Wayne County Jail
Term: 96 Days
Credit Time Served: 96 Days

11/23/2022 Documents Prior to eFiling

DATE	FINANCIAL INFORMATION		
	Defendant Alexander, Gwendolyn Josephine		
	Total Charges		2,102.00
	Total Payments and Credits		0.00
	Balance Due as of 11/30/2022		**2,102.00**
11/08/2022	Charge	Defendant Alexander, Gwendolyn Josephine	2,102.00

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STATE OF MICHIGAN

IN THE THIRD CIRCUIT COURT FOR THE COUNTY OF WAYNE
CRIMINAL DIVISION

THE PEOPLE OF THE
STATE OF MICHIGAN,

-vs- Case No. 20-01501-2

ERROWN ROBINSON-BURTON SCOTT and
GWENDOLYN JOSEPHINE ALEXANDER,

Defendants.
_____/

JURY TRIAL

BEFORE THE HONORABLE MARIAM S. BAZZI
CIRCUIT COURT JUDGE

Tuesday - September 20, 2022

APPEARANCES:

MS. ABIGAIL MC INTYRE (P-71143),
Appearing on behalf of the People.

MR. MICHAEL MC CARTHY (P-30169),
Appearing on behalf of Defendant Scott.

MR. WILLIAM GLENN (P-36794),
Appearing on behalf of Defendant
Alexander.

Transcribed by:
Suzanne L. Kinsey, CSMR 4477
Official Court Reporter

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Jury Trial

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September 20, 2022

Detroit, Michigan

(Proceedings commencing at 9:49 a.m.)

DEPUTY: All rise for the jury.

(Whereupon both juries were brought into the courtroom at 9:50 a.m.)

DEPUTY: You may be seated.

THE COURT: We're gonna give our Court Reporter a minute to set up.

(Whereupon a pause was had in the proceedings from 9:51 a.m. to 10:02 a.m.)

THE COURT: All right.

I'll start with the jury instructions on this device, and you can get that other machine.

All right.

Yes, call the case, please.

CLERK: Calling case 20-001501, People of the State of Michigan versus, defendant one, Errown Scott; and defendant two, Gwendolyn Alexander.

Here today on a jury trial.

Appearances, please?

MS. MC INTYRE: Good morning, Your Honor. Abigail Mc Intyre appearing on behalf of the People, P-71143.

MR. MC CARTHY: Good morning, Your Honor.

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Michael Mc Carthy, P-30169, appearing on behalf of and with Errown Scott.

He's standing before me in the -- at the counsel table.

MR. GLENN: William Glenn, P-36794, on behalf of Miss Alexander.

THE COURT: Good morning.

And good morning, to the jury panel.

I want to thank you for your timeliness this morning, and apologize for the slight delay that we had.

All right.

You may be seated.

You'll notice that by each one of, uh, next to each one of your chairs, there's a binder.

And the instructions I'm about to read, are in the binder.

You may read along with me, if you would like.

You can also choose to just put the binder aside, and listen to what I'm saying.

If at any time, anything I'm saying is different that what you're seeing in the binder ahead of you, please put the binder to the side, and listen to what I'm saying.

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Members of the jury, you have been chosen to decide a criminal charge, made by the State of Michigan, against one of your fellow citizens.

I will now ask you to stand, and swear to perform your duty, to try the case justly, and reach a true verdict.

If your religious beliefs do not permit you to take an oath, you may, instead, affirm to try the case justly, and reach a true verdict.

If you could all please rise, at this time?

CLERK: If I could have everyone raise their right hand?

Each of you do solemnly swear or affirm, that in this action, now before the Court, you will justly decide the questions submitted to you, that unless you are discharged by the Court, from further deliberation, you will render a true verdict, and that you will render your verdict only on the evidence introduced, and in accordance with the instructions of the Court, so help you God?

JURORS: I do.

THE COURT: Thank you very much.

You may be seated.

You will have a written copy of the instructions I'm going to read.

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You may refer to them during the trial.

Since no one can predict the course of a trial, these instructions may change at the end of the trial.

At the close of the trial, I will provide you with a copy of my final instructions, for your use during deliberations.

Now, I will explain some of the legal principles you will need to know, and the procedure that we will following in this trial.

The defendant is charged with five counts.

The first count being the crime of torture.

To prove this charge, the Prosecutor must prove each of the following elements beyond a reasonable doubt:

First, that the defendant had custody, or physical control over Martez Abdullah.

This means that the defendant used force, or the threat of force, either to confine Martez Abdullah by interfering, by interfering with his liberty; or to restrict Martez Abdullah’s freedom of movement.

Second, that the defendant exercised custody or control over Martez Abdullah, without his consent, or without lawful authority to do so.

Third, that at the time, the defendant had

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custody of physical control over Martez Abdullah, he intentionally caused great bodily injury, and or severe mental pain or suffering, to Martez Abdullah.

And five, great bodily injury means, causing a serious impairment of a body function, which includes any of the following:

Loss or substantial impairment of a bodily function; serious physical disfigurement; sub, subdural bleeding or bruising.

Severe mental pain or suffering means a substantial change in mental functioning that can be perceived by another person.

It must have been caused by the defendant in one or more of the following ways:

Intentionally causing great bodily injury to Martez Abdullah, or threatening to cause great bodily injury to him; administering mind altering substances, or perform a procedure that would disrupt Martez Abdullah’s senses or personality, or threatening to do so; threatening Martez Abdullah with imminent death; or threatening that another person will imminently be killed, subjected to great bodily harm, or given a mind altering substance meant to disrupt the sentence (sic) or personality.

Fourth, that the defendant intended to cause

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Martez Abdullah to suffer cruel, or extreme physical pain, or mental pain and suffering.

The Prosecutor does not need to prove that Martez Abdullah actually suffered any pain.

The defendant is also charged with the crime of second degree child abuse.

To prove this charge, the Prosecutor must prove each of the following elements beyond a reasonable doubt:

First, that the Errown Scott, or Gwendolyn Alexander, had care or custody of, or authority over Martez Abdullah when the abuse allegedly happened, regardless of the length of the time the child was cared for by, in the custody of, or subject to the authority of that person.

Second, that the defendant knowingly or intentionally did an act that was cruel to Martez Abdullah.

Cruel means brutal, inhumane, sadistic, or that which torments regardless of whether harm results.

Third, that Martez Abdullah was, at the time, under the age of eighteen.

The defendant is charged with the crime of second degree child abuse -- child abuse.

To prove this charge, the Prosecutor must

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prove each of the following elements beyond a reasonable doubt:

First, that the defendant had care or custody of, or authority of, Martez Abdullah, when the abuse allegedly happened, regardless of the length of time the child was cared for by, in the custody of, or subject to the authority of that person.

Second, that the defendant knowingly or intentionally did an act that was cruel to Martez Abdullah.

Cruel means, brutal, inhumane, sadistic, or that which torments, regardless of whether harm results.

Third, that Martez Abdullah was, at the time, under the age of eighteen.

Fourth, that these acts were committed in the presence of Robyn Scott, and or Mishayla (phonetic) Scott.

In count four, the defendant is charged with the crime of third degree child abuse.

To establish this charge, the Prosecutor must prove each of the following elements beyond a reasonable doubt:

First, that the defendant is the parent of Robyn -- I’m sorry, of Martez Abdullah.

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One moment.

Please approach?

(Whereupon a discssuion was had off the record, at the bench, from 10:09 a.m. to 10:10 a.m.)

THE COURT: All right.

In count four, the defendant is charged with the crime of third degree child abuse.

To establish this charge, the Prosecutor must prove each of the following elements beyond a reasonable doubt:

First, that the defendant is the parent, or had physical care, custody, and control of Martez Abdullah.

Second, that the defendant knowingly or intentionally committed an act, that under the circumstances posed an unreasonable risk of harm or injury, to Martez Abdullah, and the act resulted in physical harm.

Third, that at the time, Martez Abdullah was under the age of eighteen.

And count five, the defendant is, is charged with crime, the crime of third degree child abuse.

To establish this charge, the Prosecutor must prove each of the following elements beyond a reasonable doubt:

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First, that the defendant was the parent of, or had physical care, custody, and control of Robyn Scott.

Second, that the defendant knowingly or intentionally committed an act that, under the circumstances, posed an unreasonable risk of harm or injury to Robyn Scott, and the act resulted in physical harm.

Third, that Robyn Scott was, at the time, under the age of eighteen.

A person accused of a crime is presumed to be innocent.

This means that you must start with the presumption that the defendant is innocent.

This presumption continues throughout the trial, and entitled the defendant to a verdict of not guilty unless you are satisfied beyond a reasonable doubt that he or she is guilty.

Every crime is made up of parts called elements.

The Prosecutor must prove each element of the crime, beyond a reasonable doubt.

The defendant is not required to prove his or her innocence, or to do anything.

If you find that the Prosecutor has not

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proven every element beyond a reasonable doubt, then you must find the defendant not guilty.

A reasonable doubt is a fair, honest doubt, growing out of the evidence or lack of evidence.

It is not merely an imaginary, or possible doubt, but a doubt based on reason and common sense.

A reasonable doubt is just that; a doubt that is reasonable after a careful and considered examination of the facts and circumstances of this case.

A trial follows this procedure:

First the Prosecutor makes an opening statement, where she give her theories about the case.

The defendant’s lawyer does not have to make an opening statement, but he may make an opening statement, after the Prosecutor makes hers, or he may wait until later.

These statements are not evidence. They are only meant to help you understand how each side views the case.

Next, the Prosecutor presents her evidence.

The Prosecutor may call witnesses to testify, and may show you exhibits like documents or objects.

The defendant’s lawyer has the right cross-examine the Prosecutor’s witnesses.

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After the trial -- I'm sorry.

After the Prosecutor has presented all her evidence, the defendant's attorney may also offer evidence, but does not have to.

By law, the defendant does not have to prove his innocence, or to do anything.

If the defense does call any witnesses, the Prosecutor has the right to cross-examine them.

The Prosecutor may also call witnesses to contradict the testimony of the defense witnesses.

After all the evidence has been presented, the Prosecutor and the defendant's lawyers will make their closing arguments.

Like the opening statements, these are not evidence. They are only meant to help you understand the evidence, and the way each side sees the case.

You must base your verdict only on the evidence.

My responsibilities as the Judge in this trial are to make sure the trial runs fairly, and efficiently; to make decisions about evidence; and to instruct you about the law that applies to this case.

You must take the law as I give it to you.

Nothing I say is meant to reflect my own opinions about the facts of the case.

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As jurors, you are the only ones who will decide this case.

Your responsibility as jurors is to decide what the facts of this case are. This is your job, and no one else's.

You must think about all the evidence, and all the testimony, and then decide what each piece of evidence means, and how important you think it is.

This includes how much you believe what each of the witnesses said.

What you decide about any fact in this case is final.

Part of your job in deciding what the facts of this case are, are to decide which witnesses you believe, and how important you think their testimony is.

You do not have to accept or reject everything a witness says.

You are free to believe all, none, or part of any person's testimony.

In deciding which testimony you believe, you should rely on your own common sense, and every day experience.

However, in deciding whether you believe a witness's -- I'm sorry.

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In deciding whether you believe a person's testimony, you must set aside any bias or prejudice you may have based on the witness's race, national origin, ethnicity, gender, gender identity, or sexual orientation, or religion, age, or socioeconomic status.

There is no fixed set of rules for judging whether you believe a witness, but it may help you to think about these questions:

Was the witness able to see or hear clearly?

How long did the witness watching or listening?

Was anything else going on that might have distracted the witness?

Does the witness seem to have a good memory?

How does the witness look and act while testifying?

Does the witness seem to be making an honest effort to tell the truth, or does the witness seem to evade the questions, or argue with the lawyers?

Does the witness's age or maturity affect how you judge his or her testimony?

Does the witness have any bias, or prejudice, or any personal interest in how this case is decided?

Have there been any promises, threats, suggestions, or other influences that affect how the

witness testifies?

In general, does the witness have any special reason to tell the truth, or any special reason to lie?

All in all, how reasonable does the witness's testimony seem when you think about all the other evidence in the case?

When it is time for you to decide the case, you are only allowed to consider the evidence that was admitted in the case.

Evidence includes only the sworn testimony of witnesses, the exhibits admitted into evidence, and anything else I tell you to consider as evidence.

The questions the lawyers ask the witnesses are not evidence. Only the answers are evidence.

You should not think that something is true just because one of the lawyers asks questions that assume, or suggest, that it is.

During the trial, you may think of an important question that would help you understand the facts in this case.

You are allowed to ask such questions.

You should wait to ask questions until after a witness has finished testifying, and both sides have finished their questioning.

If you still have an important question after

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this, do not ask it yourself. Raise your hand, write the question down, and pass it to court staff, who will give it to me.

Do now show your question to other jurors.

You would simply write the question on the piece of paper, fold it so your question is on the inside of the fold, raise your hand, and I'll have someone come and get the question from you.

Once again, wait until all the attorneys have finished asking their questions.

I typically ask, does anyone have a question for the witness.

Sometimes I forget.

If I forget, and you see that witness about to get off the stand, just raise your hand, and that will -- and I'll know then that you had a question.

If your question is not asked, it is because I determined that under the law, the questions should not be asked.

Do not speculate about why the question was not asked.

In other words, you should draw no conclusions or inferences about the facts of the case, nor should you speculate about what the answer might have been.

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Also, in considering the evidence, you should not give greater weight to testimony merely because it was given in answer to questions submitted by members of the jury.

If you cannot hear something that is said, or presented, or if you cannot see a witness or evidence, please raise your hand immediately.

During the trial, the lawyers may object to certain questions, or statements made by other lawyers, or witnesses.

I will rule on these objections according to the law.

My rulings for or against one side or the other are not meant to reflect my opinions about the facts of the case.

Sometimes the lawyers and I will have discussions out of your hearing.

Also, while you are in the jury room, I may have to take care of some other matters that have nothing to do with this case.

Pay no attention to these disruptions.

You must not discuss the case with anyone, including your family or friends.

You must not even discuss it with other jurors until the time comes for you to decide the case.

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When it is time for you to decide the case, I will send you to the jury room for that purpose.

Then you should discuss the case among yourselves, but only in the jury room, and only when all the jurors are there.

You must not talk to the defendant, the lawyers, the witnesses, or anyone who may be connected to the case.

This means that you may not speak to these individuals, even if it, if it has nothing to do with this case.

You should be very cautious about speaking to people because you may inadvertently speak to someone connected to this case.

This restriction is necessary to avoid even the appearance of any improper conduct on any person’s part.

Now, from time to time, we’re gonna be on breaks, and you may see some of the individuals here in court, out in the hall.

If you look at them, it’s morning, or afternoon, say good morning, good afternoon, and they turn and look away, they’re not being rude.

They are ordered to have absolutely no discussion with you.

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'Cause even though it might be a friendly good morning, from a distance, no one knows what's being said.

It's to protect them from the inference that they said anything improper, and you from the inference that you might have heard something you're not supposed to hear.

The other thing I'll say, is, be very cautious about talking to anyone that isn't wearing a juror badge, specifically.

Uh, we did have an occasion, one time, where a juror just went out to lunch, and was walking, and was having a casual conversation with an individual.

Well, that individual happened to be a witness.

So, that juror, then, had to be excused.

So, it's very important that you, uh, follow those guidelines, and try not to have discussion with anyone that you, you don't know, uh, or most likely, someone who in a jury, at least on your panel.

If anyone tries to discuss the case with you, or in your presence, tell them to stop.

Explain that you are a juror, and you are not allowed to discuss the case.

If they continue, leave, report the incident

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to court staff as soon as you return to court.

When the trial is over, these restrictions no longer apply.

When the trial is over, you may, if you wish, discuss the case with anyone.

The restrictions I'm about to describe are meant to ensure that the parties get a fair trial.

In our Judicial system, it is crucial that jurors are not influenced by anything, or anyone, outside the courtroom.

Under the law, the evidence you consider must meet certain standards.

For example, witnesses must swear to tell the truth; and the lawyers must be able to cross-examine them.

Because information obtained outside the courtroom does not have these safeguards, it could give you incorrect, or misleading information, that might unfairly favor one side.

These restrictions start now, and continue until I discharge you from your jury service.

It is your duty as a juror to decide this case based only on the evidence you see and hear in this courtroom.

You must not consider information that comes

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from anywhere else.

This means that, until you deliver your verdict, you must not read, watch, listen to, or receive any information, including opinions or commentary about the case, whether in newspapers, on television, the radio, the internet, or on social media platforms.

I have no reason to believe that even exists.

But the point is, please do not go out, searching for it.

And if something were to pop up, in the news, please turn the T.V. off immediately.

The only time I've ever had a juror actually appear in the witness chair, is when they actually went on Google, and looked for something.

So, that compromises the integrity of everything we are doing here today.

So, please make sure you follow those restrictions.

You must not research any aspect of the case during the trial. This means research using a cell phone, computer, or other electronic device to search the internet, as well as research with traditional sources like dictionaries, reference manuals, newspapers, or magazines.

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You must not investigate the case on your own, or conduct any experiments concerning the case, including investigations or experiments using the internet, cell phones, computers, or other electronic devices.

You must not visit the scene of any event at issue in this trial.

If it is necessary for you to view or visit the scene, court staff will take you there as a group, under court supervision.

You must not consider as evidence any personal knowledge you have of the scene.

You must not share any information about the case by any means, including cell phones, or social media.

This means that, even if you are not discussing the case with someone else, you may not post any information about the case on social media websites, or on any other matter.

If you discover that a juror, that a juror has violated my instruction, please report it to my court staff.

You may take notes during the trial, if you wish, but of course, you don’t have to.

If you do take notes, you should be careful

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that it does not distract you from paying attention to all the evidence.

When you go to the jury room to decide your verdict, you may use your notes to help you remember what happened in the courtroom.

If you take notes, do not let anyone, except the other jurors, see them during deliberations.

Your notes will not be examined by anyone. And when your jury service concludes, your notes will be collected and destroyed.

If at any time you need a new note pad, or a sharpened pencil, please raise your hand, and my court staff will get it for you.

You can see that we have chosen a jury of fourteen.

After you've heard all of the evidence, and my instructions, we will draw lots to see which two of you will be dismissed in order to form a jury of twelve.

Possible penalty should not influence your decision.

If you find the defendant guilty, it is the duty of the Judge to fix the penalty within the limits provided by law.

I may give you more instructions during the

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trial.

After all the evidence has been presented, you will hear the lawyers' closing arguments.

Following the closing arguments, I will give you additional destruct -- instructions about the rules of law that apply to this case.

You should consider all of my instructions as a connected series.

Taken all together, they are the law that you must follow.

After my final instructions, you will go to the jury room to decide on your verdict.

A verdict must be unanimous.

That means that every juror must agree on it, and it must reflect the individual decision of each juror.

It is important for you to keep an open mind, and not make a decision about anything in this case until you go to the jury room to decide the case.

You must not let bias, prejudice, or public opinion influence your decision.

Each of us may have biases or perceptions about other people, based on stereotypes.

We may be aware of some of our biases, though we do not express them.

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We may not be fully aware of some of our other biases.

Take the time you need to test what might be automatic, or instinctive judgments, and to reflect carefully about the evidence.

I caution you, again, to avoid reaching conclusions that may have been unintentionally influenced by stereotypes.

You must reach your own conclusions about this case, individually, but you should do so, only after listening to, and considering the opinions of other jurors, who may have different backgrounds, and perspectives from yours.

THE COURT: Are you satisfied with the reading of the instructions?

MS. MC INTYRE: Yes.

MR. MC CARTHY: Satisfied on behalf of defendant Scot, Your Honor.

Thank you.

MR. GLENN: Yes, Your Honor.

All right.

(Whereupon the remainder of the transcript is produced by Court Reporter, Brion Coury).

(Video version concluded at 10:24 a.m.)

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CERTIFICATION OF COURT REPORTER

STATE OF MICHIGAN)
) ss.
COUNTY OF WAYNE)

I, SUZANNE L. KINSEY, Official Court Reporter in and for the Third Circuit Court for the County of Wayne, State of Michigan, do hereby certify that the foregoing pages 1 through 27, inclusive, comprises a full, true and correct rendition, to the best of my ability, of the proceedings and testimony recorded by the Court, in the matter of the People of the State of Michigan versus Gwendolyn Josephine Alexander, Case No. 20-01501(2), on September 20, 2022 (Jury Trial-partial, beginning of the day).

Suzanne L. Kinsey

Suzanne L. Kinsey, CSMR 4477
Official Court Reporter

Dated: February 16, 2023

Detroit, Michigan

The authenticity of the foregoing transcript is null and void unless affixed with an ***original*** signature of the Court Reporter in blue ink.

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STATE OF MICHIGAN

THIRD JUDICIAL CIRCUIT COURT (WAYNE COUNTY)

THE PEOPLE OF THE
STATE OF MICHIGAN,

-vs- Case No. 20-001501-02-FC

GWENDOLYN JOSEPHINE ALEXANDER,

Defendant.
_____/

JURY TRIAL

BEFORE THE HONORABLE MIRIAM BAZZI, CIRCUIT JUDGE

Detroit, Michigan - Tuesday, September 20, 2022

APPEARANCES:

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Brion D. Coury, CSR/CSMR/CER-0038

TRANSCRIBED BY:
Marguerite H. Anderson, CER/CSR-2334

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Detroit, Michigan

Tuesday, September 20, 2022 - 10:24 a.m.

* * *

(Picking up trial at this point; both juries present.)

THE COURT: All right. At this time I'm going to excuse -- I'm just going to say my Jury No. 2 into the jury room briefly.

THE DEPUTY: All rise for the jury.

(At 10:24 a.m., Jury No. 2 exits courtroom.)

THE DEPUTY: You may be seated.

THE COURT: Are you ready for opening?

MS. MCINTYRE: I'm ready.

THE COURT: Would you like me to give you a two-minute warning?

MS. MCINTYRE: Yes, please.

THE COURT: All right. Let me set the clock.

All right. You may begin.

MS. MCINTYRE: Good morning again. I want to thank you again for your service in this matter. Today -- well, starting today you are going to hear that the Detroit Police responded in the area of Berkshire in the City of Detroit

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on or about January 22nd of 2020. This happened almost two years ago.

You're going to -- you'll hear from one of the responding officers and you will hear that they responded to a property that contained a dwelling and a trailer.

And when they approached and entered the trailer, they met five individuals: Mr. Scott, Ms. Alexander and three of their children. Martez Abdullah, who was six at the time, Robyn Scott, who was three, and Mishayla(phonetic), who I believe was less than a year of age at the time.

And the children were then taken to an ambulance that was standing by and evaluated. And at that time it was discovered that Martez had marks all around his wrists, both wrists. His ankles had marks on them, they were swollen. There was concern about bruising on his face.

You'll also hear and see the description of trailer. I mean, as you approach the outside of the trailer there was a tarp with a chair and around the chair was zip ties. And inside the trailer it was filthy, for lack of a better term. There was food left out, there was

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no running water. There were containers containing urine, buckets that contained defecation. There was an area that looked to be -- that had blankets on it that also contained zip ties.

So the children were evaluated by EMS and they were transported to Children's Hospital where they were evaluated again for abuse. You will hear from the doctors who evaluated Martez and Robyn. And again, see photos of Martez's injuries. He had ligature marks around his wrists, he had bruises up and down his legs, he had swollen ankles.

And you're going to hear and meet Martez and he will tell you that he was zip tied. He was zip tied with his hands together in front of his body. He was zip tied with his feet together. He was zip tied by Mr. Scott. He was zip tied because he was allegedly getting into things, what Mr. Scott said. They couldn't keep an eye on him so they didn't have a choice but to zip tie him.

He was also tied with a belt, Mr. Scott will tell you that as well. So will Martez and so will Robyn, who was three at the time that

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this all happened. Robyn saw it all. She saw her brother being zip tied. She saw him being zip tied at night and left to sleep on the trailer floor while she and her sister slept under blankets and pillows on the couches.

You will hear from Mr. Scott during his interview with Detroit Police that he also would whoop Martez repeatedly on the bare butt with a belt or on the rear butt with a sandal. You will see photographs of Martez's butt all covered in bruises, his back covered in bruises.

You will see evidence presented, will show that it wasn't a one time thing, like they didn't just do it once. Mr. Scott didn't just tie him up once. Martez was tied up repeatedly. You will hear Mr. Scott say, well, we knew it was causing injuries because we gave him some ice or we gave him some cream.

So Martez, at the age of six, was treated like a dog. He was tied up and wasn't given any help. The evidence presented today -- or throughout the course of this trial, not just today, will prove beyond a reasonable doubt that Mr. Scott is guilty of torture, of child abuse two counts and two counts of child abuse in the

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third degree.

Thank you.

THE COURT: Mr. McCarthy.

MR. MCCARTHY: Thank you.

Good morning, ladies and gentlemen.

THE JURORS: Good morning.

THE COURT: The first thing that I want to say here this morning is I want to express the gratitude that my client has for you all here setting aside what you would have been doing this week and instead having to taken an oath this morning to listen carefully to the evidence that's going to be presented during the course of this trial that we expect will continue probably in the end of this week. And at the end, to make a determination about whether the People have been able to prove any of these charges beyond a reasonable doubt.

There are five of them and it sounds bad based on what Ms. McIntyre has said. But it's one thing that to make an accusation and there's quite another to prove it beyond a reasonable doubt.

As we discussed yesterday and I asked questions about during the jury selection

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process, each crime is made up of its own distinct and separate elements and each crime must be considered by you all at the end individually, and in looking at those particular elements that affect that charge. Torture, child abuse in the second degree as it affects both Martez Abdullah and Robyn Scott, child abuse in the third degree as it affects both Martez Abdullah and Robyn Scott. So that's a big responsibility that you all have.

And back in January of 2020, two years and eight months or so ago, Mr. Scott, when he found out that he was being charged with these crimes that we are here to try during this week, he protested his innocence and he was anxious for this day to come.

He didn't know who among his fellow citizens would be called to come to the Frank Murphy Hall of Justice yesterday and be put through the jury selection process. He didn't have any idea about what was coming and he didn't know then because just within two months of this date that is alleged to be the date of crime, January 20th of -- 22, 2020, the pandemic, so that delayed everything.

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And so he's been waiting anxiously to get to court because he figured it didn't matter who among his citizens, fellow citizens were called to be triers of fact, reasonable people without any interest in the outcome, would scrutinize the evidence that's going to be presented during the course of the next few days and come to a conclusion that these charges are really something but the proof behind them is not.

And that's a high standard of proof that we have in a criminal trial. It's the highest burden of proof. Proof beyond a reasonable doubt. That's not beyond all doubt, but it's a, you know, a doubt as the Judge is going to tell you, it's a doubt based on reason and common sense.

And the reason you all are sitting here, because I obviously actively participated in the jury selection process yesterday, you're all here because I'm convinced that you are reasonable and that you all have common sense. Each of us brings our vast experience, as Judge Bazzi spoke yesterday, to this point in time, this day when we're beginning this trial, the

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presentation of the evidence.

So that informs you, you know, listen, think about what you know about life, size up the people that sit in that chair over there and give sworn testimony. Just because somebody takes an oath doesn't mean that they tell the truth. Or even if they think they are telling the truth, an honest person can testify to something and simply be wrong. You have to compare what one person says against what another one says.

They're all going to come in individually and they're not going to know what the other witnesses had to say. But you are going to see them all and compare one to the other and see whether or not it's all making sense and whether the crime in Count 1, torture, have been proved beyond a reasonable doubt. As well as the other four crimes.

Now, I appreciate, as I said, Mr. Scott does, you are here. I know you're going to pay attention. And once I get the opportunity to speak to you again at the conclusion of this trial, I'll be asking you to find my client not guilty and I'll have good reason and you all will have good reason why that should be the verdict.

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So I thank you for the attention you have paid so far and I look forward to being able to speak with you again at the conclusion of the trial when I give my closing statement.

Thank you.

Thank you, your Honor.

THE COURT: Thank you very much, Mr. McCarthy.

At this time we are going to excuse Jury No. 1 into the jury room for a brief period.

THE DEPUTY: All rise for the jury.

THE COURT: Please leave your notebooks on the chairs.

(At 10:36 a.m., Jury No. 1 exits courtroom and Jury No. 2 enters courtroom.)

THE DEPUTY: Thank you. May be seated.

THE COURT: All right. Are you ready for opening statements?

MS. MCINTYRE: I am, your Honor.

THE COURT: You may proceed.

MS. MCINTYRE: Thank you.

Good morning.

THE JURORS: Good morning.

MS. MCINTYRE: I would just like to

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thank you again for your service as jurors in this matter --

THE COURT REPORTER: Louder, please.

MS. MCINTYRE: -- and hopefully for your continued attention throughout the course of week.

Is that loud enough?

THE COURT REPORTER: Yes, ma'am.

MS. MCINTYRE: Thank you.

So this case involves, as you've heard, allegations of torture. So on January 22nd of 2020 the Detroit Police Department were dispatched to the area of Berkshire in the City of Detroit where they responded to a residence that had a lot next to it and had a trailer.

And they made their way to the trailer and encountered five individuals: Ms. Alexander, Mr. Scott and their three children, Abdullah -- or Martez, I'm sorry. Martez, who was six at the time, Robyn, who is three and their infant daughter Mishayla.

And when they gained entry to this trailer it was, for lack of a better term, filthy. It was -- had no running water, the bathroom contained bottles of urine, buckets for

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defecation. There were stuff piled all around the kitchen. And the outside you had a tarp on the outside of the chair and around that chair were scattered zip ties.

And so they took the three kids and they took them to the ambulance that was waiting and the EMTs evaluated and noticed that Martez had marks around both of his wrists. He had marks around both of his ankles. He had what looked like bruising on his face.

He was then transported, as well as his sisters, to Children's Hospital where they were also evaluated by doctors. And during that evaluation you will hear that Martez had swollen ankles. He had ligature marks on his wrists. He had ligature marks on his ankles. He had bruising all over his buttocks. He had what looked like bruising on his face.

You will hear and meet Martez today and he will tell you that he was in fact tied up. His hands were tied up. His feet were tied up. He was tied up with a belt. He was hit with a belt. He was tied up by his mom and his dad.

You will hear from Robyn, who will say that she saw Martez tied up. She saw him tied up

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with zip ties. You will hear from other witnesses who had seen Martez tied up in the presence of Ms. Alexander. That she had him tied up. You will actually hear from Ms. Alexander when she made the statement that she gave to the Detroit Police Department, where she fully admits to tying him up. She admits to tying Martez. He was getting into things. He couldn't nap. She had no choice but to tie him up. He was being ornery and deviant, she had no choice but to tie him up.

She'll admit to hitting him in the face. She'll admit that Robyn got whoopings, too. Robyn will tell you how she got whoopings.

The evidence presented throughout the first of this week will unequivocally show that Ms. Alexander is guilty of torture, of two counts of child abuse, one of them is done in the presence of another child, and all of this is occurred in front of Robyn and her sister, and two counts of child abuse in the third degree.

Thank you.

THE COURT: Thank you very much. Mr. Glenn.

MR. GLENN: Your Honor, I'm going to

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reserve my opening.

THE COURT: All right. Thank you.

We're going to -- are you ready to call your witness, your first witness?

MS. MCINTYRE: I can be.

THE COURT: All right. We're going to bring the jury in and we'll start the testimony. And bring in the jury, please.

While we're waiting, who is your first witness going to be?

MS. MCINTYRE: It's going to be Martez Abdullah.

THE COURT: Ms. McIntyre, do you have an extra exhibit list for our court reporter? If you don't, we can make a copy.

(Brief pause.)

(At 10:45 a.m., Jury No. 1 enters courtroom.)

THE DEPUTY: Thank you. May be seated.

THE COURT: Ms. McIntyre, you ready to call your first witness?

MS. MCINTYRE: Yes, your Honor. At this time the People will call Martez Abdullah.

MR. GLENN: May it please the Court, move to sequester.

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MS. MCINTYRE: There's no objection to the sequestration of witnesses.

THE COURT: Are you asking for an exception for the officer in charge?

MS. MCINTYRE: I am, as well as the victim advocate.

MR. MCCARTHY: I have no objection to those two being present.

MR. GLENN: No objection.

THE COURT: All right. The Court will order a sequestration of witnesses, where there are no witnesses in the jury room -- I'm sorry, in the courtroom at this time. We have leave streaming.

If anyone -- and I'm just going to speak up -- if anyone is watching this trial on live stream and you believe you may be called as a witness to testify in this matter, you are ordered to turn the live stream off and stop watching. If it is found out that you were watching over live stream, you may be precluded from testifying.

Thank you very much.

THE CLERK: Hi.

MASTER ABDULLAH: Hi.

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THE CLERK: Can you raise your right hand for me? Your other right hand.

Can you state your name?

MASTER ABDULLAH: Martez.

THE CLERK: Martez, do you swear to tell the truth today?

MASTER ABDULLAH: Yes.

THE CLERK: And only the truth?

MASTER ABDULLAH: Yes.

THE CLERK: Thank you.

THE COURT: All right. Martez, you can take your mask off, okay? Thank you.

Your witness.

MS. MCINTYRE: Thank you.

MARTEZ ABDULLAH

(Called at 10:47 a.m. by Ms. McIntyre and sworn by the clerk, testified as follows)

DIRECT EXAMINATION

BY MS. MCINTYRE:

Q Good morning.

A Good morning.

Q Can you tell everybody your name for me, please?

A My name is Martez.

Q And Martez, what is your last name?

A Abdullah.

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Q All right. And how old are you?
A Eight.
Q Okay. So we've got a couple rules, just to make sure you know, all right? You need to be really loud. Because all these lovely people need to hear what you have to say today. Okay?
A Okay.
Q And then you see the gentleman in front of you who is talking into that thing?
A Yes.
Q He's taking down everything that you're saying so he needs you to use your words.
A Okay.
Q All right. So no uh-huh or uh-uh. It's all yes or no.
A Yes.
Q Okay. Thank you.
And would you like me to do -- and so Martez, the other one is we only -- do you know the difference between a truth and a lie?
A Yes.
Q Okay. If I were to say that it is raining in this courtroom, is that a truth or a lie?
A A lie.
Q Okay. And why is that a lie?

A 'Cause it's not raining.
Q Okay. And if I were to say that the Judge is wearing a black mask, is that a true or a lie?
A Yes.
Q Yes what?
A It's the truth.
Q All right. And why is that true?
A Because she have on a black mask.
Q All right. And we promise to only tell true things today?
A Yes.
Q All right. Thank you.
Martez, how old are you?
A Eight years old.
Q All right. And Martez, do you -- what is the name of your mom?
A Gwendolyn Alexander.
Q All right.
MS. MCINTYRE: And I'm going to ask the Court if it's okay if the defendants can remove their masks for a minute?
BY MS. MCINTYRE:
Q Do you see Ms. Alexander in the courtroom?
A Yes.
Q Can you point to her and tell me what she's

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wearing? What is she wearing?
A A black jacket, some black pants.
Q All right?
MS. MCINTYRE: Let the record reflect that the witness has identified the defendant, Ms. Alexander.
THE COURT: The record should so note.
BY MS. MCINTYRE:
Q Did you ever live with Ms. Alexander?
A Yes.
Q All right. And who else did you live with?
A Rob.
Q And I'm going to have -- do you see Rob in the courtroom today?
A Yes.
Q Can you point to him and tell me what he's wearing?
A A suit.
Q Do you know what color the suit is?
A Black.
MS. MCINTYRE: Let the record reflect that the witness has identified the defendant, Mr. Scott.
THE COURT: Do you know what color -- what other colors he may be wearing?

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THE WITNESS: Purple.

THE COURT: All right. The record will reflect the identification of defendant Mr. Scott.

BY MS. MCINTYRE:

Q And do you live with them right now?

A No.

Q Okay. And how old were you the last time you lived with Mr. Scott and Ms. Alexander?

A I don't remember.

Q Was -- you're eight now?

A Uh-huh.

Q Was it when you were eight?

A No.

Q Was it when you were seven?

A Probably so.

Q Okay. Was it when you were six?

A Yes.

Q All right. Who else did you live with at that time?

A Nobody else.

Q Did you have any brothers or sisters?

A My sisters.

Q Who are your sisters?

A Robyn and Mishayla.

Q All right. And where did you live with your mom and Mr. Scott?
A In the trailer.
Q All right. Do you know what city that was in?
A Michigan.
Q Okay. All right. And when you lived in the trailer, did something happen that brings you to court today?
A Yes.
Q What happened?
A I got zip tied.
Q Okay. And when you say you got zip tied, where did you get zip tied?
A On my hands.
Q All right. And was it one hand or both hands?
A Both hands.
Q All right. And who zip tied you?
A Rob.
Q Did Rob zip tie you once or more than once?
A More than once.
Q Okay. Were you zip tied anywhere else?
A To the couch.
Q You were zip tied to the couch?
A Yes.
Q And what does it mean to be zip tied to the

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couch? Did they tie you to the couch?

MR. GLENN: Objection as to they.

MS. MCINTYRE: Okay.

BY MS. MCINTYRE:

Q Who -- who zip tied you to the couch?

A Rob.

Q All right. And when -- so what is -- were you tied to the couch?

A Zip tied.

Q Zip tied. So when you were zip tied, what part of your body was zip tied?

A My stomach.

Q Your stomach. And what were you zip tied to?

A The couch.

Q Okay. Were any other parts of your body zip tied?

A Just my hands and the couch.

Q Just my hands and to the couch?

A Mm-hmm.

Q And it was around your stomach?

A Mm-hmm.

Q You've got to use words for me.

A Yes.

Q Thank you. Was your mom there when you got zip tied?

A Yes.
Q Did your mom ever stop you or stop Rob from zip tying you?
A No.
Q No? What did your mom do when she was -- when you were zip tied?
A She was asleep.
Q She was asleep. Were you zip tied overnight?
A No.
Q Did you -- did you ever go to sleep zip tied?
A No.
Q Okay. Were you only zip tied to the couch when you were in the trailer?
A Uh-huh.
Q Is that a yes?
A Yes.
Q Okay. Was there any other places you were ever zip tied?
A No where else.
Q No where else, just the trailer?
A Yes.
Q Was the only on the inside of the trailer?
A Inside.
Q Was it ever on the outside of the trailer?
A No.

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Q Okay. All right. Do you remember going to Kids-TALK?
A Yes.
Q And do you remember talking to people at Kids-TALK?
A Yes.
Q And do you remember telling them --
MR. GLENN: Objection, your Honor, that's hearsay.
THE COURT: Response?
MS. MCINTYRE: I'll rephrase it.
Actually, I'll just strike it for right now and move on.
BY MS. MCINTYRE:
Q So when you were zip tied, did anything happen to your hands when you were zip tied?
A I had a scar.
Q You had scars?
A Yes.
Q Do you still have them?
A No.
Q No? They're gone?
A Yes.
Q Okay. Did anything happen to your stomach from being zip tied?

A No.
Q No? Was that the only thing Rob ever did to you, was zip tie you?
A He hit me with a sandal.
Q He hit you with a sandal?
A Yes.
Q Where did he hit you with a sandal?
A On my hands.
Q Your what?
A My hands.
Q On your hands. Did he ever hit you anywhere else?
A No.
Q Okay. Did anyone ever hit you anywhere else?
A No.
Q Okay. And with the hands, what did the sandal look like?
A It was pink.
Q Okay.
A And white.
Q Did it ever leave any marks?
A No.
Q What did it feel like when you were -- when you were hit with the sandal?
A It hurt.

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Q It hurt. Did you ever tell him it hurt?
A Yes.
Q Did he stop?
A No.
Q Okay. So when you were zip tied by Rob, did you ever tell him to stop?
A Yes.
Q Did he stop?
A No.
Q Did you ever tell him it hurt?
A Yes.
Q Did you ever tell your mom it hurt?
A Yes.
Q Did she ever tell Rob to stop?
A No.
Q Did you sleep in the trailer?
A Yes.
Q And when you slept in the trailer, where did you sleep? Did you have a bed?
A No. The floor.
Q You slept on the floor. Where did your sister sleep?
A On the couch.
Q Did you have a pillow?
A Yes.

Q Okay. When you lived if the trailer, where did you use the bathroom?
A And my grandma's house.
Q Okay. All right. Where is grandma's house?
A Berkshire Street.
Q Was it near the trailer?
A Uh-huh.
Q Is that a yes?
A Yes.
Q Okay. Thank you. All right. Did you ever tell your grandma? Or let me -- let me ask it a different way.

Did you ever tell anybody --

A No.
Q -- about being tied up?
A No.
Q No?
A No.
Q You never told any adults?
A No.
Q All right. Did you ever show any adults the injuries on your wrists?
A No.
Q All right. How many times do you think that Rob tied you up?

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A Once.
Q Did you just tell me it was more than once?
A Yeah, I told you more than.
Q Okay. I'm sorry. How many times do you think it was more than once?
A I don't remember.
Q Was it more than five times?
A Yes.
Q Was it more than 10 times?
A No.
Q Okay. Did they ever tie your sisters up?

MR. MCCARTHY: Objection to they.

BY MS. MCINTYRE:

Q Did your mom or dad ever tie your sisters up?
A No.
Q Did your mom or dad ever hit your sisters that you saw?
A No.
Q You don't know or you didn't see?
A I don't know.
Q Okay.

MS. MCINTYRE: I don't have any further questions at this time.

THE COURT: Cross.

CROSS-EXAMINATION

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BY MR. MCCARTHY:
Q Mr. -- Martez, is it okay if I call you by your first name?
A Yes.
Q All right. My name is Michael McCarthy. I'm an attorney and I represent the man that you refer to as Rob.
A Yes.
Q And I have a few questions to ask you here today about your testimony. Okay?
A Okay.
Q Now, if I don't make or ask a good question and you don't understand it, just tell me that. Okay?
A Okay.
Q All right. Do you remember going to court back when you were about six?
A Yes.
Q Do you remember that? And do you remember giving testimony that day?
A Yes.
Q Okay. Now, you said something today about being tied to the couch. Do you remember that?
A Yes.
Q Okay. And you said you were tied to the couch

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with a zip tie; is that right?
A Yes.
Q Okay. And so the zip tie, how long was the zip tie to get you tied to the couch? Do you remember?
A No.
Q What part of your body was tied to the couch?
A My stomach.
Q So the zip tie was wrapped around your stomach; is that correct?
A Yes.
Q And this -- and when the zip tie was wrapped around your stomach, then somehow or another it got tied to the couch?
A No.
Q How did it get tied or what did it get tied to?
A Oh, yes. Because Rob tied me up.
Q I understand Rob -- that's what you said. But what my question is, is how did that happen? The zip tie went around your stomach; is that right?
A Yes.
Q And then how did it connect to the couch?
A It was -- it was a leg on the couch.
Q There was a leg on the couch?
A Not a little leg. Like --

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Q So the little foot thing on the bottom of the couch, right? That's what you're talking about?
A Yes.
Q So the couch sat up a little bit?
A Yes.
Q And there was this leg, correct?
A Yes.
Q And then your -- you get tied around your stomach; is that right?
A Yes.
Q By a zip tie?
A Yes.
Q Is that correct? And then that zip tie also went around this leg on the couch?
A Yes.
Q And then that obviously would put you on the floor; is that right?
A Yes.
Q And that would be next to the couch. You would be next to the couch?
A Yes.
Q So how many times did that happen?
A One.
Q One time. And then the same zip ties, you said sometimes you got tied other places besides your

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stomach?
A Yes.
Q And where were those places?
A On my wrists.
Q On your wrist. And -- but that was the only place besides your stomach or your wrist?
A Yes.
Q Okay. And when those zip ties got put on your wrist, was it on both wrists or just one wrist?
A Both.
Q Do you ever remember telling somebody, I think you might call her mom or Mimi, you know who that is?
A Yes.
Q All right. Did she live nearby to that trailer?
A No.
Q Where did she live?
A I don't know.
Q Okay. How was she in your life? Can you remember that?
A I don't remember.
Q Okay. You haven't seen her since all this happened, right?
A No.
Q Okay. What about somebody named Gwendolyn. Do

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you know anybody named Gwendolyn besides your mom, somebody named Gwendolyn Douglas?

A No.

Q Pardon?

A No.

Q Okay. Hold on just a second.

Big Gwen. Do you know somebody named Big Gwen?

A Yes.

Q Okay. Is that somebody you talked to?

A Yes.

Q Do you remember talking to her back before all this happened?

A Yes.

Q Do you remember telling her that the person who was hitting you was your mother?

A I don't remember.

Q Okay. Would it be fair to say that you don't remember what you said back two and a half years ago or however long it was when you were six?

A No.

Q I'm not sure if you understand what I'm asking you. It's been quite a bit of time since the last time you came to court, right?

A Yes.

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Q And it's been quite a bit of time since the last day you spent at that trailer you described, right?
A Yes.
Q Would it be fair to say that you don't remember everything you said about what happened to you back then?
A Yes.
Q Okay. 'Cause you -- would you agree that your memory is not as good as it used to be?
A Yes.
Q Okay. And you've forgotten some things?
A Yes.
Q And so you don't remember what you told to Big Gwen; is that right?
A No.
Q So you don't remember telling her that the person who hit you was your mother?
A No.
Q You don't remember telling her that you got a black eye and your mother put some makeup or something on it to cover it up?
A No.
Q You don't remember telling that to Big Gwen?
A No.

Q Did anything like that ever happen to you?
A No.
Q You don't have any recollection to that; is that right?
A No.
Q So the only thing that was ever used against you is what you're telling to the juries here in the courtroom, these people that are listening to you, is zip ties, right?
A Yes.
Q You don't know how long the zip tie was, you don't remember, right?
A No.
Q And you said that happened less than 10 times?
A Yes.
Q Okay. So -- but it was more than five times?
A Yes.
Q And did your mother ever tie you up with these zip ties?
A No.
Q Did you ever tell anybody else that she did?
A No.
Q Okay. Did -- and these zip ties, sometimes they went on your stomach and other times on your wrist; is that right?

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A Yes.
Q Now, do you remember that trailer very well besides the couch?
A Yes.
Q Okay. And inside that trailer -- or rather outside that trailer, was there like a tent?
A Yes.
Q Did you ever help your dad put that tent -- or not your dad, but Rob put that tent together out there?
A Yes.
Q Did you ever help him by using a zip ties to hold the pieces of tent in place?
A Yes.
Q So you knew -- did you ever put one of those on yourself while you were helping your dad?
A No.
Q Did you hand them to him?
A Yes.
Q You knew where they were; is that right?
A Yes.
Q Do you ever remember telling mom and Mimi that you were playing cops and robbers and put zip ties on yourself?
A No.

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Q Okay. Like around your wrist, you never said anything like that to her?
A No.
Q Okay. Now, you said that you never told anybody that this was happening; is that correct? Before the police came?
A Yes.
Q You just kept that as a secret to yourself?
A Yes.
Q And -- all right. Excuse me, just one second.

(Brief pause.)

Did you ever have a, back in those days, before the police came, did you ever get a rash that --
A Yes.
Q -- that was scratched a lot?
A Yes.
Q Where was that on your body?
A Yes.
Q But whereabouts on your body was the rash?
A On my butt.
Q On your butt. Okay.
A On my bottom.
Q Pardon?
A My bottom.

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Q Okay. Your bottom. Okay. Yes. We're using -- this is court, we're using good terms, right?
A Yes.
Q But how about on your arms or your face, did you get any rash there, too?
A No.
Q But you scratch a lot, did you do that because of the rash?
A Yes.
Q Did it spread because you were scratching it?
A Yes.
Q Okay. So then besides your bottom, where else did this rash end up on your body because you were scratching it?
A Nowhere else.
Q Nowhere else. It just got bigger on your bottom; is that right?
A Yes.
Q Okay. Thank you. Now, did you ever have good times living with Mr. Scott? Rob?
A Sometimes.
Q Yeah. And did he go to work during the day?
A Yes.
Q Okay. Was he gone most of the day at work?
A No.

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Q No? But he -- was he gone parts of the day?
A Yes.
Q And that would be because he was working, right?
A Yes.
Q So he wasn't there all the time when you were there, right?
A No.
Q But you were home, right?
A Yes.

MR. MCCARTHY: I don't have any further questions.

MR. GLENN: Just a few.

THE COURT: One second. One second. One second. One second. Mr. McCarthy, if you're going to speak, press the button or -- so it's just straight yellow and keep your finger on it.

All right. Mr. Glenn, you may proceed.

MR. GLENN: Just a few.

CROSS-EXAMINATION

BY MR. GLENN:

Q Martez, my name is William Glenn and I represent your mom.

Now, you stated that you were on -- back in January 2020 you were at a trailer?

A Yes.

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Q And you lived there with your mom and Rob?
A Yes.
Q Now, you stated that there came a point in time where you were zip tied?
A Yes.
Q On your hands?
A Yes.
Q And that was to the couch?
A Yes. Not -- my hands weren't to the couch.
Q Okay. Your hands were zip tied?
A Mm-hmm.
Q Now, you stated that your mom was asleep?
A Yes.
Q And you -- you stated that you lived near your grandmother's house; is that correct?
A Yes.
Q And you stated that you would go to use the restroom at your grandmother's house; is that correct?
A Yes.
Q Now, when you went to your grandmother's house, who let you in?
A My grandmother.
Q Now, when you went to go use the bathroom at your grandmother's house, was this every day or how

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many times did you go use the restroom at your grandmother's house?

A Five.

Q Five. Is that all together or was that five times a day?

A All together.

Q All together. Now, when you went to see your grandmother to use the bathroom, did you ever tell her that your arms or your legs or your face was hurting?

A No.

Q Did your grandmother ever say to you, were you hurt or were you injured?

A No.

Q You stated that you would sleep on the floor; is that correct?

A Yes.

Q And your sisters were on the couch?

A Yes.

Q How many sisters did you have again?

A Two.

Q Two. And how -- when you were on the floor, how far away were your sisters from you?

A One of them was by me on the couch and one of them was a little bit far from me.

Q Far. Okay. Now, did you ever tell your sisters that, you know, you were tied up or did you complain to them?
A No.
Q Back in January 2020 you were six years old; is that correct?
A Yes.
Q Were you in the first grade or kindergarten?
A First grade.
Q First grade. And who was your teacher?
A I don't remember.
Q You don't remember. What school did you go to?
A Ronald Brown.
Q What was that?
A Ronald Brown.
Q Okay. And did they have other teachers there, or counselors?
A Yes.
Q Who was your principal? The person in charge of the school.
A I don't remember.
Q Now, did they ever have any nurses at the school?
A Yes.
Q Did you know the nurse?
A No.

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Q Did you ever go to the nurse and say my wrists hurt?
A No.
Q Who was your next door neighbor besides your grandma?
A No one else.
Q No one else. Did you have any friends that lived on the street with you that you played with?
A No. It was my grandma grandbabies there.
Q Okay.
A And I was playing with them.
Q You were playing with them. But you never told them that there were any problems at your home?
A No.
Q Okay.

MR. GLENN: Nothing else, your Honor.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MS. MCINTYRE:

Q So Martez, Mr. Glenn just asked you about going to school. Do you recall that?
A Yes.
Q Okay. Do you remember if there was ever a time that you stopped going to school when you lived with your mom?

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A Yes.
Q Okay. And when you stopped going to school, were you being tied up at that time?
A Yes.
Q Okay. Do you know how long you didn't go to school? Was it a couple days?
A I don't know.
Q Okay. All right. And when you were being tied up, was it done in front of your sisters?
A Yes.
Q So you said you only used the bathroom at grandma's house five times.
A Yes.
Q Where else did you go?
A Outside.
Q Outside. Who made you go outside?
A Nobody. When I just have to use it, I ask.
Q To go outside?
A Yes.
Q All right. So Mr. McCarthy asked you about the tent or tarp outside of the trailer. Do you remember that?
A Yes.
Q Okay. Do you recall if there was a chair outside the trailer?

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A Yes.
Q All right. Did you ever have to sit in that chair?
A Yes.
Q Okay. And when you had to sit in the chair, do you recall if you were tied up?
A No.
MR. MCCARTHY: Well, objection. Leading.
THE COURT: Response?
MS. MCINTYRE: I'll rephrase it.
BY MS. MCINTYRE:
Q What happened -- was there anything with your body when you were tied up or when you were in that chair?
A No.
Q No. You were just sitting there like you are today?
A Yes.
Q Okay. Did you ever have to sit in that chair while your brother or while your sisters were in the trailer?
A Yes.
Q Okay. Do you know why?
A No.

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Q Do you -- do you have a hard time remembering what happened two years ago?
A Yes.
Q Yes. Okay. Do you remember if you ever had any marks on your ankles?
A No.

MR. MCCARTHY: Well, beyond the scope of cross-examination.

MS. MCINTYRE: I'll withdraw it. I'll withdraw it.

THE COURT: All right.

MS. MCINTYRE: I have no further questions.

THE COURT: Any questions from the jury for this witness? If so, please raise your right hand.

All right. Please write it down.

(Brief pause.)

THE COURT: All right. Just fold it so the question is on the inside of the fold.

Any other questions besides this one? I saw another hand.

THE DEPUTY: There's one of the other jurors --

THE COURT: All right. There's one

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more question.

All right. Martez, I also have a couple questions for you. Okay?

You testified that you lived in a trailer?

THE WITNESS: Yes.

THE COURT: All right. Did you ever at that time live in a house?

THE WITNESS: No.

THE COURT: Okay. So the whole time that you testified you were being tied up, that's when you were living in the trailer?

THE WITNESS: Yes.

THE COURT: Martez, you testified you were at -- you had zip ties that were put on you?

THE WITNESS: Yes.

THE COURT: Do you know the reason why the zip ties were put on you?

THE WITNESS: No.

THE COURT: You testified that sometimes you would sit in that chair outside?

THE WITNESS: Yes.

THE COURT: Were -- were you allowed to stand up whenever you wanted?

THE WITNESS: No -- oh, yes. Yes.

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THE COURT: When you were in the chair?

THE WITNESS: Yes.

THE COURT: So if you wanted to stand up, you could stand up?

THE WITNESS: Yes.

THE COURT: Okay. You testified you were zip tied more than five but less than 10 times. Do you remember that?

THE WITNESS: Yes.

THE COURT: Do you know if your mom was home all of those times?

THE WITNESS: Yes.

THE COURT: Was she home all those times? If you remember.

THE WITNESS: I don't remember.

THE COURT: You don't remember. Okay. Any questions based on the juror questions? We'll start with Ms. McIntyre.

REDIRECT EXAMINATION

BY MS. MCINTYRE:

Q Was there ever a time that you were tied up and it was just your mom?

A No.

Q Okay. Mr. Rob was there the entire time?

A No.

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Q Okay. Was there ever a time you were tied up and nobody was there?
A No.
Q Okay. So when you were zip tied, who was there?
A My mom.
Q And was Rob there?
A No.
Q Okay. But who would tie you up? Would your mom tie you up?
A I don't remember.
Q Would Rob tie you up?
A No, 'cause he was at work.

MR. MCCARTHY: Well, Judge, leading.

BY MS. MCINTYRE:

Q Pardon?
A He was at work.

MR. MCCARTHY: Objection. Excuse me, objection to the leading.

MS. MCINTYRE: All right.

THE COURT: All right. Well, this was already testified to. So I'm going to allow it.

Continue. I'm going to give you an opportunity.

BY MS. MCINTYRE:

Q What was your answer? Do you remember what you

were just saying?
A Rob was at work.
Q Rob was at work but you were tied up?
A Yes.
MS. MCINTYRE: Okay. I have no further questions.
THE COURT: All right. Mr. McIntyre? I'm sorry, Mr. McCarthy?
MR. MCCARTHY: Thank you.

RECROSS-EXAMINATION

BY MR. MCCARTHY:
Q In one of the questions Judge Bazzi asked you it was about did you ever live anywhere but in the trailer. Isn't it true that you lived in that house next --
A No.
Q -- to the trailer?
A No.
Q Did you ever live in that house next to the trailer?
A No.
Q Never in your life?
A No.
Q Okay. Thank you.
MR. GLENN: No questions.

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THE COURT: All right. Martez, you're all set. You can step down now. Okay?

(At 11:20 a.m., witness excused.)

THE COURT: Who is the next witness, Ms. McIntyre?

MS. MCINTYRE: Robyn Scott.

THE CLERK: Hi. Good morning.

MISS SCOTT: Good morning.

THE CLERK: Can you raise your right hand for me? Can you stay what your name is?

MISS SCOTT: Robyn.

THE CLERK: Do you have a last name?

MISS SCOTT: Scott. No, Alexander.

THE CLERK: Okay. Today do you promise to tell the truth and only the truth to all of the questions?

MISS SCOTT: Yes.

THE CLERK: Okay. Thank you. You may put your hand down.

THE COURT: All right. You nodded your head. Were you saying yes? Was that a yes, Robyn? Can I call you Robyn?

THE WITNESS: Mm-hmm.

THE COURT: Can you take it might be down a step? That might -- oh, that's going to

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be far.

All right. Robyn?

THE WITNESS: Yes.

THE COURT: All right. I'm going to ask you to use your outdoor voice. Do you know what an outdoor voice is?

THE WITNESS: No.

THE COURT: All right. Do you -- are you at school?

THE WITNESS: Yes.

THE COURT: Do you go outside and play on the playground?

THE WITNESS: At school, yeah.

THE COURT: All right. And when you're playing on the playground, do you talk louder?

THE WITNESS: Yeah.

THE COURT: Okay. So I'm going to ask you to use that voice that you use when you're outside playing with your friends on the playground at school. Okay?

THE WITNESS: Okay.

THE COURT: All right. Thank you, Robyn.

Why don't you go ahead and voir dire as to truthfulness.

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ROBIN ALEXANDER

(Called at 11:22 a.m. by Ms. McIntyre and sworn by the clerk, testified as follows)

DIRECT EXAMINATION

BY MS. MCINTYRE:

Q Hi, Robyn.

A Hi.

Q Can you -- well, first off, we're going to go over a couple rules. Okay?

A Okay.

Q All right. I need you to be really, really loud. Do you see that exit sign? Do you see where the sheriff is standing in the back?

A Yes.

Q All right. Can you pretend that you are talking to him only and he has to hear everything you say?

A Okay.

Q Okay?

A Okay.

Q So that might mean that you need to be really, really loud.

A Okay.

Q Do you have any brothers or sisters?

A Yes.

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Q Do you yell at your brothers or sisters?
A Yes.
Q All right. I need you to pretend like you're yelling at your brothers and sisters, okay?
A Okay.
Q All right. We have a deal on that?
A Yes.
Q All right. And the next thing is, is do you know the difference between a truth and a lie?
A Yes.
Q Can you be really loud for the answers?
A Yes.
Q All right. If I were to say it's raining in the courtroom, is that a true or a lie?
A A truth.
Q Is it raining in the courtroom? Do you know what a courtroom is, first off?
A Yes.
Q All right. Are we in a courtroom?
A Yes.
Q Is it raining in here?
A No.
Q So is it a truth or a lie if I were to say that the Judge is wearing -- you know where the Judge is? Do you know who the Judge is right now? No?

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Okay. Let me ask you a different question.
A Okay.
Q Is it a truth or a lie if I were to say you're wearing a pink sweatshirt?
A No.
Q No, you're not wearing a pink sweatshirt. So it's a lie if I said that? Is that a yes or no?
A Yes.
Q Okay. Is it a truth or a lie if I said your shoes are yellow?
A A lie.
Q Okay. All right. Can you promise only to tell true things today?
A Yes.
Q All right.

MS. MCINTYRE: Are there any additional questions?

THE COURT: Any additional questions?

MR. MCCARTHY: No, I have no questions.

THE COURT: Mr. Glenn.

MR. GLENN: No, no.

THE COURT: All right. You may proceed.

MS. MCINTYRE: Thank you.

BY MS. MCINTYRE:

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Q Robyn, how old are you?
A Six.
Q Robyn, what's the name of your mom? Do you know the name of your mom?
A My mom mom?
Q Your mom mom.
A Yes.
Q What's her name?
A Gwen.
Q Do you see Gwen in court today?
A Yes.
Q All right. Can you point to her and tell me what she's wearing?
A She's wearing a black jacket. She got on some black pants. And she's wearing -- she's wearing black shoes.

MS. MCINTYRE: Let the record reflect that the witness has identified the defendant, Ms. Alexander.

THE COURT: The record shall so reflect.

BY MS. MCINTYRE:
Q Do you know the name of your dad?
A Yes.
Q What's his name?

A Rob.
Q All right. Do you see Rob today?
A Yes.
Q Can you point to him and tell me what he's wearing?
A He's wearing a black jacket, a purple -- a purple tie, a purple shirt, some purple shoes and he's wearing a black jacket.
Q All right.
A A black jacket and a black -- and black pants also.

MS. MCINTYRE: Okay. Let the record reflect that the witness has identified the defendant Mr. Scott.

THE COURT: Record should so reflect.

BY MS. MCINTYRE:
Q Robyn, do you have any brothers?
A Yes.
Q What's your brothers' name?
A Marquis, Maurice, Prince and Martez. That's it. Only four brothers.
Q Four brothers. Do you have any sisters?
A Yes.
Q How many sisters do you have?
A I have three. Jasmine, Mishayla and Princess.

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Q And did you -- do you live with your mom and dad?
A No. I live with my grandma.
Q You live with your grandma. Did you ever live with your mom and dad?
A Yes.
Q Who else did you live with when you lived with your mom and dad?
A My brother.
Q Which brother?
A Martez.
Q All right. Did you live with anybody else?
A Umm --
Q Any of your sisters live with you? If you don't know, just say you don't know.
A I don't know.
Q Okay.
A I forgot.
Q Okay. Do you remember where you lived with -- what you lived in when you lived with your mom and dad?
A Yes.
Q What did you live in?
A In a trailer.
Q All right. And did something happen that brings you to court today?

A No.
Q No?
A No.
Q So let me ask you a question. Did you ever get in trouble when you lived in the trailer with your mom and dad and Martez?
A No.
Q Did Martez ever get in any trouble?
A Yeah.
Q Well, you need to be loud on that answer for me. What did you say?
A Yes.
Q All right. And did something happen to Martez that you saw when he got in trouble?
A Yes.
Q What happened to Martez?
A He got -- he got zip tied and that was it.
Q He got zip tied?
A That was it.
Q Where did he get zip tied? What part of his body got zip tied that you saw? I don't know what that -- you've got to use your words.
What's that part of your body called?
A Wrists.
Q His wrists got zip tied. Any other part of his

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body get zip tied?
A Just his wrists.
Q Just his wrists. Did it happen once or more than once?
A Once.
Q When you lived in the trailer where did you sleep?
A On the couch.
Q Where did Martez sleep?
A On the floor.
Q All right. And when Martez went to sleep, did he have a pillow?
A No.
Q Say that really loud.
A No.
Q Okay. Did he have any blanket?
A No.
Q All right. Did you ever see him zip or tied up when he was on the floor? When he was asleep?
A No.
Q Okay. All right. Did you -- did you eat meals when you lived in the trailer?
A Yes.
Q Okay. And did Martez eat with you?
A No.

Q No. They didn't feed Martez when they fed you?
MR. MCCARTHY: Well, objection to leading questions.
THE COURT: Well, one second. I'm going to allow a little bit more leeway, but I think -- you can't use they.
MS. MCINTYRE: Okay.
THE COURT: So please rephrase your question.
BY MS. MCINTYRE:
Q So when you were fed, was Martez fed at the same time?
A No.
Q No? Did that happen one time or more than one time?
A One time.
Q And you said you saw Martez zip tied? Is that a yes or a no?
A I don't know. I don't know.
Q Well, did you see Martez zip tied?
A Yes.
Q Who tied Martez up?
A Dad.
Q Do you know if your mom was home when Martez was zip tied?

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A Yes.
Q She was home? Is that a yes or no?
A Yes.
Q Okay.
MS. MCINTYRE: I have no further questions, your Honor.
THE COURT: All right. Cross.

CROSS-EXAMINATION

BY MR. MCCARTHY:
Q Robyn, is it okay if I call you Robyn?
A Yes.
Q My name is Mike McCarthy. I'm an attorney and I represent your dad, who you call dad and you know him as Rob, also; is that right?
A Yes.
Q Is that a yes?
A Yes.
Q And so I'm going to ask you a couple questions here this morning.
A Okay.
Q And if you don't ask a good question and you don't understand it, tell me that. Okay?
A Okay.
Q And then I'll ask a different question that you do understand. All right?

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A Okay.
Q Now, just a minute ago you were asked by Ms. McIntyre if you ever saw Martez being zip tied. Do you remember that question? Is that a yes?
A I don't know.
Q You don't know if you ever saw him being tied; is that correct?
A Yes.
Q Okay. Now, today you're in court and this is a big deal, right?
A Yes.
Q And you've never been to court before, correct?
A No.
Q No?
A I been to court before.
Q But not about -- not about Rob, right? Let me rephrase that.
Not about Martez, right?
A Both of us was in court.
Q Okay.
A He was in there last week too.
Q Last week you were in court?
MR. GLENN: Objection, your Honor.
THE COURT: One second -- one second, Robyn.

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Can I have the attorneys approach?

(At 11:34 a.m., bench conference held.)

BY MR. MCCARTHY:

Q Robyn.

A Yes.

Q Before you came here today, you talked to people about taking that seat where you are right now and what you were going to say, correct?

A I don't know.

Q You don't know. Okay. So is today the first time you ever talked to Ms. McIntyre? You know who Ms. McIntyre is, right? The -- the lady who was asking you the questions that's sitting right here?

A Yes.

Q Today was the first time you ever talked to her?

A No.

Q Okay. You talked to her before, right?

A Yes.

Q And the reason you talked to her before was to get ready to come to court today, correct?

A Yes.

Q Okay. And what about the detective sitting over here in the white shirt. Have you ever talked to her before?

A No.
Q Never seen her before today?
A No.
Q Okay. Were there other people besides Ms. McIntyre that you ever talked to about getting ready for today?
A I don't know.
Q Okay. That's a good answer, if you don't know, you don't know. That's -- so you're keeping with what you promised about just telling things that are true to the best of your knowledge, right?
A Yes.
Q Okay. And you're six, so I didn't hear what you said about what grade you were in. Are you in first grade or kindergarten?
A First grade.
Q First grade. Okay. And excuse me just one second.

So when you lived in that trailer, did you go over to the house to like get a bath? Do you remember the house?
A Yes. It was my grandma's house.
Q Your grandmother's house. Right. Did you -- when you were staying in the trailer, did you go over to her house to use like the bathroom and to

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use the bath tub?
A Yes.
Q You did. And because your grandmother or your dad or your mom, they would take you over there to get a bath; is that right?
A Yes.
Q Okay. And did you ever stay overnight there in that grandmother's house?
A I don't know.
Q You don't know. This was a long time ago, wasn't it?
A A long, long time ago.
Q Okay.
A Like, about two weeks.
Q Okay.
A I don't know.
Q Well, you were three, right?
A No. Five.
Q Well, 10 weeks ago you were five?
A I was five.
Q Okay. But back when you lived in that trailer, were you three?
A I was still five.
Q You were still five?
A Yeah. Until -- I remember the part where they

went to jail. That's the only part I remember.
Q Okay. Do you know how old you were when that happened?
A Five.
Q Okay. And you're six now?
A Yes.
MR. MCCARTHY: I have no further questions.
THE COURT: Cross?
CROSS-EXAMINATION
BY MR. GLENN:
Q Now, when you were living at the trailer, who were you living there with again?
A My mom and my dad.
Q And any other brothers or sisters there?
A I don't know.
Q Okay. Now, you've testified that you saw Martez tied or zipped?
A I don't know.
Q You don't know. Now, you stated that your mom was at home; is that correct?
A Yes.
Q What room was your mom in when this was going on?
A She was in her room, like it's -- it was a room like some -- I forgot.

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Q You forgot. Okay. All right. So your mom was at home but you don't know where in the house she was?
A I know she was in the trailer.
Q In the trailer. Okay. But you don't remember what part of the trailer she was in?
A I do remember the trailer but I forgot what room she was in.
Q Okay. That's what I'm asking.

MR. GLENN: Nothing else.

THE COURT: Any redirect?

MS. MCINTYRE: No redirect.

THE COURT: Any questions for this witness from the jury?

All right. Seeing no hands, Robyn, you're all set. Thank you.

(At 11:42 a.m., witness excused.)

THE COURT: Call your next witness.

MS. MCINTYRE: May I step out to see who is outside?

THE COURT: You may.

(Brief pause.)

MS. MCINTYRE: At this time we would call Andrew Curti -- or, I'm sorry, Anthony Curti.

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THE COURT: All right. Sir, you can step up over here. There are visors, if you can remove your mask and put that visor on.

THE CLERK: Please raise your right hand. Please state your name.

MR. CURTI: Anthony Curti.

THE CLERK: Do you solemnly swear or affirm the testimony you're about to give in the matters before this Court will be the truth, the whole truth and nothing but the truth?

MR. CURTI: Yes, I do.

THE CLERK: Thank you. You may have a seat.

ANTHONY CURTI

(Called at 11:42 a.m. by Ms. McIntyre and sworn by the clerk, testified as follows)

DIRECT EXAMINATION

BY MS. MCINTYRE:

Q Good afternoon, Mr. Curti.

A Good afternoon.

Q Could you tell me where you're currently employed?

A I currently work for myself at a company called One Home Security Services.

Q Where were you employed on or about January 22nd

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of 2020?
A Universal Macomb Ambulance Service.
Q And what was your role in Universal Macomb Ambulance Services?
A I was an EMT assigned to the Detroit rescue truck under the (inaudible) contract.
Q And as -- did you need any special training as an EMT?
A Yes. You need a State of Michigan licensure and you have to go to school to continue credits along with AED, CPR certification.
Q So what type of training did you have?
A Currently serve as a firefighter 1 and 2, EMT basic. I have national incident management training. CPR, AED, everything that's needed to be an EMT in the State of Michigan and serve under it.
Q And is there a difference between an EMT and other people who worked within the ambulance?
A If I'm understanding your question correctly, there are different levels of licensure, yes. There would be an MFR, which is the most basic. It would be an EMT, which would be I am licensed as. There would be a specialist which Michigan is currently bringing back and there would be a

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paramedic. And then on top of paramedic would be a CCT medic. And then you would get into flight nurse or RN.

Q And on January 22nd of 2020 were you working alone or did you have a partner at that time, if you recall?

A I had a partner with me, Sarah Labeau.

Q You were dispatched to the area of 520 -- 5211 Berkshire in the City of Detroit, County of Wayne?

A Yes, that's -- if that's what my report says.

Q And do you recall, did you encounter any individuals during that -- during that call?

A Are you speaking of my patients that day or --

Q Yes. Did you have any patients?

A Yes. I had three patients.

Q And do you recall the ages of those patients?

A I would have to refer to my report but I do know the male was six years old and -- no, I do not know the exact ages of other two.

Q Do you have a copy of your report with you?

A On my cell phone, I do.

MS. MCINTYRE: Your Honor, may I approach the witness?

THE COURT: Have you showed it to

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opposing counsel?

MR. MCCARTHY: I have seen it before, your Honor.

THE COURT: All right. You may.

MS. MCINTYRE: All right. Thank you.

BY MS. MCINTYRE:

Q Can you identify what I have just handed to you?

A Yes. This is my run report.

Q All right. And with your run report, does it indicate who your patients were that day?

A Yes. It should. The first patient I have here, it says, is Martez Abdullah.

Q Okay.

A Sorry. I'm just trying to make sense of what I'm looking at here. Yes. This is just a one run report, yes.

Q All right. And that's just the one run report for Martez Abdullah?

A Yes.

Q All right. And with that one run report, does it note if you did any assessments on Martez?

A Yes, it does.

Q Without reading your report, would it help you to look at your report to refresh your recollection of what you did?

A If I can skip through it real quick, I would like to.

THE COURT: You may.

(Brief pause.)

THE WITNESS: Whenever you're ready.

BY MS. MCINTYRE:

Q Did you perform any assessments --

A I did.

Q -- on Martez? And what type of assessment did you do?

A I did our basic patient assessment, focus assessment, reassessment of everything from skin to circulatory to vitals.

Q And when you do an assessment, what is involved with the assessment?

A Looking at my report of that patient's body from head to toe, looking for any abnormalities, injuries, anything of that nature that might need to be documented or -- or cared for during the treatment process.

Q Okay. And did you notice any injuries that needed to be documented based on those assessments?

A I did.

Q And what did you notice?

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A I noticed that he had ligature marks around both of his ankles and he had ligature marks around both of his wrists. He also had a bruise on the side of his face.
Q Okay. And did you notice any other marks or abrasions?
A I would have to look back in my report, but the ones that I distinctly remember, the bruise on his face and the ligature marks on all four extremities.
Q Okay. Before you refer to your report, what was it about the marks or bruise to the case that caused you to --
A They just stood out. You could see without doing a focus assessment, which is when you're right up close to the patient, that he did have swelling on his face and that there was bruising.
Q And you indicated that you would need to refer to your report to remember any other marks or injuries?
A I just want to be accurate with exactly what was documented based on the question.
Q You may refer to your report if that would refresh your recollection.
A It does say in my report the patient had bruising

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on the side of each eye. But that would be the only other injury that was -- that stood out to me at that time.

Q What other injuries, I'm sorry, stood out to you?

A It's going to be the -- it's going to be the one, to -- patient also had bruising on each side of each eye.

Q Okay. And you noticed that, you indicated that you noticed the swelling around his eyes. Did you notice swelling to any other part of his body?

A Where the ligature marks were.

Q And that would have been around his wrists?

A Wrists and ankles.

Q And his ankles were swollen as well?

A To the best of my recollection.

Q Okay. To your recollection, did you notice -- did you ever see Martez walk?

A I can't recall.

Q All right. Did you notice any other abrasions?

A Not at that time.

Q And all of this is documented in your report?

A Affirm.

Q Did you treat him at the scene?

A I did.

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Q And what type of treatment did you provide?
A I decided the primary focus, based on his injuries, I gave him some ice packs for the swelling and it looked like the material irritation from like he was tied up with on his arm, in my report it indicates zip ties, so probably some type of plastic burn, and I gave him an ice pack. I put him in a position of comfort. We finished with our assessment with the other patients and we transported emergently to Children's Hospital.
Q And when you -- do you recall who the other patients were?
A I believe it was his brother and sister.
Q Okay. And do you recall if there were any other -- did you note any other injuries to either of the other patients?
A Not that I can recall, no.
Q All right. And did -- when -- where did you indicate that you transported the patients to?
A Children's Hospital, City of Detroit, right next to Detroit Receiving Hospital.

MS. MCINTYRE: All right. I have no further questions.

THE COURT: Cross?

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MR. MCCARTHY: Thank you.

CROSS-EXAMINATION

BY MR. MCCARTHY:

Q Mr. Curti, my name is Michael McCarthy. I'm an attorney representing one of the defendants in this case, Mr. Scott.

I have a few questions to ask you regarding your testimony. If I don't make myself clear, please tell me that, I will rephrase the question. Okay?

A Yes, sir.

Q I would like you to take a look at your report on page number two, the narrative part of that report and look on the fifth line, there's a sentence that --

A I'm sorry. Would you repeat that?

Q On the fifth line of your narrative report on page number two?

A Mm-hmm.

Q There's a sentence that begins on the right-hand side of that page, it begins with PT in caps, also had. Do you see that?

A I'm looking. I'm sorry. Reading is not my strong suit. Patient respond. Yes, I see it.

Q Patient -- okay. They has to do with this injury

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to the eye that you noted, okay?
A Yes, sir.
Q So what it says here is patient also had bruising on side of each eye. Is that what's in your report?
A Yeah.
Q Okay. Do you remember that testimony you gave just a few minutes ago on direct examination?
A Yeah.
Q Where you said that the patient had bruising on each side of each eye?
A I was just restating exactly what was in my report without actually holding it in my hand.
Q Okay. So would you agree, then, you didn't get it exactly the way it is in your report because it doesn't say in your report patient also had bruising on each side of each eye. It says patient also had bruising on side of each eye, correct?
A Best way to answer that is whatever is in my report is what happened at the scene.
Q Okay. Would you agree that the answer that you gave on direct examination to Ms. McIntyre regarding this since was inaccurate?
A I don't believe so.

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Q So why didn't you write down, then, that he had bruising on each side of each eye in your report if that was accurate?
A I wouldn't be able to answer that question. That was two years ago.
Q So now your memory of two years ago or from two years ago, actually, it's two years and eight months ago, your memory of the injury that you saw is better now than it was on the day when you wrote the report?
A I don't understand what you're asking.
Q Well, you said that was two years ago. And my question is, I'm asking you why you didn't write this accurately in your report to reflect what your testimony was.
A All I can say is whatever I wrote in my report is -- I wasn't able to look at the report when I made my testimony. So I was just trying to repeat what was in my report.
Q So let me ask you this. Before you came to court today no one made it available to you, to look at your report to refresh your recollection and to prepare to testify?
A No, sir. I don't work for that company anymore and I was notified through e-mail that I was

supposed to -- actually a phone call that I was to come into court.

Q Okay. How long ago did you receive that information?

A About two weeks ago.

Q Okay. Now, during your direct testimony you said that one of your duties when you got to the scene was to do a head to toe assessment on the patient; is that right?

A Yes.

Q Okay. So taking a look at the first page of your report, we have a number of things itemized about the -- about the body; is that correct?

A It appears so.

Q On the bottom side?

A I'm sorry, what page?

Q On the bottom side of page one of three.

A Yep. I'm on it.

Q At the bottom half. There you go. There's a lot of stuff in this head to toe assessment that you did not assess; is that correct?

A I do not believe that's correct. I -- one of the actions on the computer system that we used was not assessed. And that -- because this was part of the focused assessment that I was doing, the

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main thing that I was assessing at that point in time, my partner did the vitals and I was being focused on the trauma of the head and face abrasion and the other abrasions listed in my report.

Q Okay. So you don't know anything about the assessment that your partner did at the time; is that correct?

A I can't say that, but --

Q Well --

A I don't understand how you're asking that question.

Q You said that you did a head to toe assessment when you testified on direct examination. Now what I'm hearing is your partner did quite a bit of that assessment; is that correct?

A That is not correct.

Q Okay. So you did the -- the head to toe assessment?

A It -- I don't know if you're familiar how --

Q The question is not about whether I'm familiar. The question is the one I just asked you.

A I was the primary person for the care --

Q Okay.

A -- of -- for documenting this. I don't know how

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you want me to --
Q Okay. How about this. Second item there, it says skin.
A Okay.
Q Not assessed. So you didn't look at the patient's skin; is that correct?
A No. It's not correct. Because as I said, this is for the focus assessment that I was doing, the ligature marks and the bruising.
Q Okay. Let's look down two more.
A Yes.
Q Eyes, see that.
A Okay.
Q That says not assessed?
A Okay, that's an actual visual -- he had no visual impairments.
Q Okay. So there wasn't anything wrong with his eyes then; is that right?
A Not his eyeball.
Q Okay. So if you know that and you're telling this jury and this one over here under oath here this morning that he didn't have anything wrong with his eyes, why in this report you wrote two and a half years ago did you say not assessed?
A Because that was the option on the focused

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assessment on the computer program that we use.
Q So I actually did an assessment, but I'm writing this report, it might be important to somebody later on, but I'm going to put something down that isn't accurate, I'm going to put down that I didn't assess it even though I did; is that right? Is that what you're telling this jury? Or these juries?
A I don't believe we're understanding each other. That's not correct.
Q Well, then why didn't you say -- why did you say not assessed if you had satisfied yourself that his eyes were okay?
A Because my primary focus at that time was the -- the trauma that he was complaining of.
Q Okay.
A His chief complaint.
Q And that, you were really cautious about that, right?
A As into what?
Q As into seeing that there was just a bruise on each side of each eye, or was it on the side of each eye? Because your report says something different than what you've testified to today?
A I'll say again, I was told I couldn't look at my

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report before I was questioned on that. I was able to look at it for two seconds and look to see what the prosecutor was asking me.

Q Okay. So then it's someone else's fault that you didn't get an opportunity to review this until just now; is that right?

MS. MCINTYRE: Well, I think that's argumentative.

MR. MCCARTHY: All right. Let me -- let me withdraw that question and let me ask you this one instead.

BY MR. MCCARTHY:

Q Somewhere during the direct examination you stated that you actually had your report on your phone. Remember that testimony?

A I just received it this morning.

Q Well, what time this morning?

A I can't recall.

Q Will, right now it's about noon. So was it 8:00 this morning or --

A Probably 8:00, 9:00-ish.

Q So did you read it when you got it?

A I did. But it wasn't the actual report like this. I only got a screen shot of my narrative.

Q Well, did you read the narrative?

A I did, but I didn't have any of these other inserted things of information on it, so it wasn't very helpful to me.

MR. MCCARTHY: All right. I've got nothing else.

THE COURT: Mr. Glenn, cross?

MR. GLENN: I have no questions.

THE COURT: Any redirect?

MS. MCINTYRE: Yes.

REDIRECT EXAMINATION

BY MS. MCINTYRE:

Q So I'm going to keep you on page one of three of your report.

A Yes, ma'am.

Q And it says category which is HEENT. What does that mean?

A I'm sorry, what was it?

Q There's a graph, like kind of a grid? Do you see it? All the way to the left side of the page it says category, mental status, skin, HEENT?

A What is.

Q What does HEENT stand for?

A To be 100 percent honest, I have not been a practicing EMT in about two years, so I -- I do not have a recollection of that.

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Q Okay. What does it say next to the subcategory? Does it say head and face?
A Yes.
Q Okay. And does -- did you assess the head and face?
A Oh, I'm sorry, head, ear, eyes, nose and throat. My fault. I apologize.
Q HEENT is head, ears, eyes, nose and throat?
A Yes, ma'am.
Q Okay. And did you assess the head, ears, eyes, nose and throat?
A I made a rapid assessment of those, yes.
Q Okay. And during your rapid assessment did you make any notations as to the head and the face? You can refer to your report.

THE COURT: One moment. I know a juror needs a break. However, we are going to break right when this is done. Which juror is it? Can you wait or -- can you wait or do you want to -- if you want, you can take a break and we'll wait until you come back. You can go. We'll let you go.

All right. One moment. Just hold on a second.

Does anyone else need a -- a quick

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break? Yeah? Okay. You can -- you can -- well, I'm just going to let the jurors who need the break break shortly, so if anyone wants to go into the restroom, you can go.

All right. You know, let's just break. That -- this just doesn't make sense.

THE DEPUTY: All rise for the jury.

(At 12:03 p.m., both juries exit courtroom.)

THE DEPUTY: Thank you. You may be seated.

THE COURT: All right. As soon as we can come back out, we're going to come back out.

(At 12:03 p.m., recess taken.)

(At 12:12 p.m., proceedings reconvened.)

THE COURT: All right. Recalling Case Number 20-1501-01, People versus Errown Robinson-Burton Scott. And Case Number 20-001501-02, People versus Gwendolyn Alexander.

Appearances again, please.

MS. MCINTYRE: Good afternoon, your Honor. Abigail McIntyre, appearing on behalf of the People. P71143.

MR. MCCARTHY: Good afternoon, your

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Honor. Michael McCarthy, P30169, appearing on behalf and with Errown Scott. Mr. Scott is standing with me.

MR. GLENN: William Glenn, P36794, on behalf of Ms. Alexander.

THE COURT: All right. We are about to -- we're waiting for the jury to bring them back out just to wrap up this witness. But there was a Ms. Sarah Labeau. Is defense still going to require her presence or are the People intending on calling her?

MS. MCINTYRE: Your Honor, I had conversation with both Mr. McCarthy and Mr. Glenn and everybody is in agreement that we can discharge Ms. Labeau.

MR. MCCARTHY: And that is an accurate statement, your Honor, on behalf of Mr. Scott.

MR. GLENN: That's true, your Honor.

THE COURT: All right. We'll waive that witness's presence, then. I'll allow the waiver.

MS. MCINTYRE: Thank you.

THE COURT: All right. Let's bring the jury back.

THE DEPUTY: All rise for the jury.

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(At 12:12 p.m., both juries enter courtroom.)

THE DEPUTY: Thank you. May be seated.

THE COURT: All right. We are back on the record.

You want to continue with your questioning, Ms. McIntyre?

MS. MCINTYRE: Yes. Thank you.

BY MS. MCINTYRE:

Q So you had just explained what's the HEENT?

A Yes, ma'am.

Q All right. And did you note in your report if there was any -- anything of significance in your assessment of the head and face?

A Just as I stated before, the bruising.

Q Did you notice of -- anything of significance of the eyes?

A Unfortunately, what -- like I said, whatever is in my report is what I am going to have to refer to.

Q Okay. So when you -- you were asked this question by Mr. McCarthy. So when you assessed a patient's eyes, are you looking at the visual eyeballs?

A I -- I'm looking at other things, I'm looking

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first to see if the eyes are reactive and responsive enough. I want to make sure that he can't -- that you have -- that they're not visually impaired. I'm going to do muscle test to make sure the eyes can move correctly and they're not jumping or they may not be having some type of another medical emergency.

We're checking for burst blood vessels when we shine a light in the eye. We're checking for potential hemorrhage of the eyeball. There's a bunch of things that we're looking for when we do that ocular eye assessment.

Q Okay. So when you do the ocular eye assessment, is there anything that you recall of significance to the eye itself?

A Not that I recall, just the bruising, what's stated in my report.

Q Okay. But is the bruising to the eye or is it to an area --

A It's to the side of the eye.

Q So you're pointing to -- and correct me, where were you just pointing to when you just did that?

A Side of the ocular wall.

Q So is that your skin?

A No, that would be the side of the ocular --

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ocular wall.
Q What part of your body is that?
A Your face.
Q Okay. So that's under your assessment of head and face, if you noticed any marks or bruising to that area? And that's on page one of three.
A Yes. It is noted.
Q Okay. What is noted in that?
A That on the head, face, that there's -- I've noted two abrasions and then on the neck and airway that there's two abrasions.
Q All right. And neck airway is where on your body?
A The upper airway and then the lower airway.
Q Okay. So you noticed abrasions and you were just pointing to, I believe your neck --
A My neck area, yes.
Q And your upper chest?
A Yes.
Q And you noticed abrasions to that area as well?
A Of the upper area, yes.
Q Okay. And are -- when you note abrasions, are abrasions different than bruising? Or are they the same?
A I don't have an actual medical definition of

abrasions versus bruising, but there would be marks on the body, like burst blood vessels due to some type of an injury.

Q Okay. And that was what you marked as an abrasion?

A Yes.

Q Okay. I'm going to direct you to page two of three. In regards to that, page two of three, did you assess his extremities?

A Yes.

Q And what did you assess?

A I obviously assessed -- the initial chief complaint is what we always go to, which would be the ligature marks. That's what was hurting him the most at that point.

Q And that's noted by other?

A Yes.

Q Okay. Did you note any abrasions, sprains or anything to any of the extremities?

A Not that he was complaining of. His main --

Q Did you note any of them?

A Yes.

Q What did you note?

A Like when you say other and then -- injuries to the foot.

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Q Okay.
A That would be under signs and symptoms, but that would be the only thing that I think would be answering your question.
Q And did you note any abrasions or anything to his left leg?
A I did.
Q What did you note?
A It would be the mark on the -- I do not have that paper actually with me, but on the CAD system there's an anatomical human that you can put different points on of what you saw and on that anatomical human on our CAD system, that is where --

MR. MCCARTHY: I'm going to object because this is hearsay. That document is not before us and we've never seen it before and the witness is telling us something about some machinery that describes, makes a photo of a body, an image of one. That's not before us.

THE COURT: Response?

THE WITNESS: Is it --

MS. MCINTYRE: No, it's my response.

THE COURT: One moment, one moment.

THE WITNESS: I'm sorry.

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THE COURT: Well, it's -- it's not hearsay because he's just indicating that there would be another document that he would have notated injuries on the body. However, that document is not here.

Do we have that document?

MS. MCINTYRE: I have never seen that document. No, I don't have it.

THE COURT: One moment. There's no question, sir.

All right.

MS. MCINTYRE: I was just -- I was surprised about the revelation of this document as Mr. McCarthy.

THE COURT: Well, let's see if the document even exists. Why don't you ask that question.

BY MS. MCINTYRE:

Q Do you have a copy of that document?

A I'm sure you have the ambulance, it is under -- it is a tab under their computer animated dispatch TCF software that has a person and you're able to mark male or female. And then based on certain injuries, you will be able to click the little point on a joint or the arm or

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whatever and notate those injuries.

And that's why in my report here, as you noted, it said other, and then why it says two right here. The two things you can't see is what I clicked on the anatomical human being. I don't know if that page will print off the EPCR. That's something you have to contact Universal Ambulance and the company about.

But it is a -- it is a -- it is a screen on that software and that's why it is showing up on my report as such.

MR. MCCARTHY: I have nothing further.

THE COURT: All right. Thank you.

MS. MCINTYRE: After -- I have no other questions at this point for this witness, your Honor.

MR. MCCARTHY: May I just follow up on one point that was brought up in redirect?

THE COURT: Yes, you may. Go ahead.

RECROSS-EXAMINATION

BY MR. MCCARTHY:

Q You said, when I was asking you questions on direct examination and your report said that you did not assess the eyes, but you just testified on redirect examination that you went through a

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detailed analysis of the patient's eyes, you looked to see -- you put a light in his eye, you talked about whether there was any reaction. Is that something you actually did with this patient Martez Abdullah or is that something that you would do when you conduct an eye assessment?

A That's me answering the prosecutor's question of what an ocular exam was.

Q So you didn't conduct one of those, correct?

A Not an in-depth ocular exam --

Q Yes or no?

A No.

Q You didn't do that. Right?

A Wait. Hold on. I have to think how you're asking this question.

Q Page one.

A I know. Well, obviously if I assessed the face, I would have to look at the eyes.

Q Well, I don't know what's obvious. Okay? We need your testimony to tell us what happened. You wrote down --

A Well, I --

Q Excuse me. You wrote down that you didn't assess it. Can we rely on this report at all?

A I'm answering the questions how you just asked me

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and it shows that I had looked at the head and face. So obviously when I looked at the head and face I'm looking at your mouth, I'm looking at your nose, I'm looking at your ears, I am making a visual assessment.

Q Why did you write down not assessed for eyes?

A That was the option on the CAD.

Q The machine told you what to write down?

A No. There's options on a drop down box.

MR. MCCARTHY: Judge, I have nothing further.

THE COURT: Any questions from the jury for this witness? If so, please raise your right hand. All right. I see one question, two questions.

All right. Could I have the attorneys approach?

(At 12:23 p.m. to 1225 p.m., bench conference held.)

THE COURT: All right. Sir, I have a couple questions for you.

The first is, is it correct to say the EMT documented the patient had facial swelling adjacent to those eyes and did not document an ocular exam?

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THE WITNESS: One more time?

THE COURT: Is it fair to say that the EMT documented the patient had facial swelling adjacent to both eyes and did not document an ocular exam? Would that be a fair statement?

THE WITNESS: Yes.

THE COURT: Okay. And sir, as you sit here today, do you recall the nature of the run, why you went to that location?

If you remember.

THE WITNESS: I do. I'm just trying to think which one it was. It's one of -- could be dispatched differently sometimes. It was either --

THE COURT: Okay. One moment.

THE WITNESS: A welfare check --

THE COURT: One moment. If you're not sure, then you're not sure. If you don't recall, then that would be --

THE WITNESS: Yes, ma'am.

THE COURT: -- the proper answer. All right.

Anything further, Ms. McIntyre.

MS. MCINTYRE: Nothing further, your Honor.

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THE COURT: Ms. McCarthy?

MR. MCCARTHY: Nothing on behalf of Mr. Scott.

THE COURT: Mr. Glenn?

MR. GLENN: No, your Honor.

THE COURT: All right. Sir, you are excused. Thank you very much.

Please just take the mask with you. Toss your visor out in the garbage as you're leaving and please replace -- put your mask back on. Thank you very much.

(At 1226 p.m., witness excused.)

THE COURT: All right, it is now 12:25. We are going to break for lunch. We're going to break for an hour. We might as well just return at 1:30. I can't get started until each one of you is back, so please do your best to be outside of this courtroom promptly at 1:30. And as long as everyone is here, we will begin on time.

There is lunch available for everyone in the jury room. You may go to the jury room, have lunch. You may go about your business, walk outside of the courtroom -- courthouse, if you like, get some fresh air, as long as you are outside of my courtroom at 1:30. All right?

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THE DEPUTY: All rise for the jury.

THE COURT: Oh, and all your binders should always remain in my courtroom. They're never to even go into the jury room until time has come for deliberations. Thank you very much.

(At 12:26 p.m., both juries exit courtroom.)

THE DEPUTY: Thank you. May be seated.

THE COURT: All right. Was there any objection to, I guess -- where did have a side-bar discussion as to those last two questions. Is there any objection to those questions being asked in the manner that they were of that witness?

MS. MCINTYRE: None from the People.

MR. MCCARTHY: Not on behalf of Mr. Scott.

MR. GLENN: No, your Honor.

THE COURT: All right. Anything else that needs to be placed on the record at this time?

MS. MCINTYRE: Nothing from the People.

MR. MCCARTHY: No.

MR. GLENN: No.

THE COURT: All right. We'll see you

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back -- we'll open the door five minutes early. Just come in with your client so that if the jury is ready I'm going to bring them right into their chairs so they can sit promptly at 1:30. All right. Thank you very much.

(At 12:28 p.m., recess taken.)

(At 1:33 p.m., proceedings reconvened.)

THE DEPUTY: All rise for the jury.

(At 1:34 p.m., both juries enter courtroom.)

THE DEPUTY: Thank you. May be seated.

THE CLERK: Back on the record on case 20-001501. People of the State of Michigan versus defendant one, Errown Scott, defendant two, Gwendolyn Alexander. Ongoing jury trial.

Appearances, please.

MS. MCINTYRE: Good afternoon, your Honor. Abigail McIntyre, appearing on behalf of the People, P71143.

MR. MCCARTHY: Good afternoon, your Honor. Michael McCarthy, P30169, appearing on behalf and with Mr. Scott.

MR. GLENN: William Glenn, P36794, on behalf of Ms. Alexander.

THE COURT: All right. You may be

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seated.

Good afternoon to the jury panel. I want to thank you all for your timeliness this afternoon.

Ms. McIntyre, are you ready with your next witness?

MS. MCINTYRE: Yes. At this time the People would call Gwendolyn Douglas. I'll go get her.

THE COURT: All right.

All right. Ms. Douglas, I'm going to ask you, if you see that visor that's right there, if you can please put that on and remove your mask.

THE CLERK: I'm going to have you raise your right hand. Please state your name.

MS. DOUGLAS: Gwendolyn Douglas.

THE CLERK: Do you solemnly swear or affirm the testimony you're about to give in the matters before this Court will be the truth, the whole truth and nothing but the truth?

MS. DOUGLAS: Yes.

THE CLERK: Thank you.

THE COURT: All right. Ms. Douglas, I'm just going to ask that you keep your voice

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loud and clear. Okay?

THE WITNESS: Okay.

THE COURT: Can you state and spell your name, for the record?

THE WITNESS: Gwendolyn Douglas. G-W-E-N-D-O-L-Y-N D-O-U-G-L-A-S.

THE COURT: All right. Your witness.

MS. MCINTYRE: Thank you.

GWENDOLYN DOUGLAS

(At 1:37 p.m. called by Ms. McIntyre and sworn by the clerk, testified as follows)

DIRECT EXAMINATION

BY MS. MCINTYRE:

Q Good afternoon, Ms. Douglas.

A Hi.

Q Do you know an individual by the name of the Gwendolyn Alexander?

A Yes.

Q How do you know Ms. Alexander?

A She's my cousin.

Q Do you see her in court today?

A Yes.

Q Can you point to her and tell me what she's wearing?

A She has on a black leather jacket.

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MS. MCINTYRE: All right. Let the record reflect the witness has identified the defendant, Ms. Alexander.

THE COURT: The record should so reflect.

I am going to ask if any of the jurors have a difficulty hearing this witness or any witnesses, please raise your hands.

All right. You're all having difficulty hearing?

All right. Ma'am, I'm sorry. I just need you to speak up a little bit. It might also help, see that microphone right there? That will help magnify your voice a little bit so as you're answering questions, answering it above that will help. Okay?

THE WITNESS: Okay.

THE COURT: All right. Thank you. Go ahead.

MS. MCINTYRE: Thank you.

BY MS. MCINTYRE:

Q Do you know an individual by the name Errown Scott?

A Yes.

Q And how do you know Mr. Scott?

A That's my cousin's children's father.
Q And do you see him in court today?
A Yes, I do.
Q And can you point to me and tell me -- or point to him and tell me what he's wearing?
A He's in the black suit with a purple tie.
MS. MCINTYRE: Let the record reflect that the witness has identified the defendant Mr. Scott.
THE COURT: Record shall so reflect.
MS. MCINTYRE: Thank you.
BY MS. MCINTYRE:
Q You just indicated that Mr. Scott is the father of Ms. Alexander's -- Alexander's children, correct?
A Yes.
Q What are the names of Ms. Alexander's children?
A All -- all of them?
Q If you can name all of them.
A Marquis. Monez(phonetic) Martez, Robyn, Mishayla, Prince and Princess.
Q And did you ever have a chance to see Ms. Alexander with her kids when she lived on Berkshire?
A Yes.

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Q Okay. And when she resided on -- when Ms. Alexander resided on Berkshire with her children, which children did she reside with?
A Martez, Robyn and Mishayla.
Q Okay. And did she reside in -- what did they reside in?
A A mobile home, I guess you would call it.
Q All right. And can you describe the mobile home for me?
A I really can't. I haven't been inside too many times. But the outside like, it had like a covered porch type thing on the side of it.
Q Okay. Did you ever have a chance to observe Ms. Alexander with her kids?
A Yes.
Q Did you ever -- did you observe her with Martez, in particular?
A Yeah.
Q And was there anything that would cause you concern?
A Only thing that would cause me concern was the weight loss at the time of Martez and, you know, I would ask her --
Q You would ask who?
A My cousin.

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Q And what would you ask her?
A What was going on. Everything okay?
Q And what would she tell you?
A Is there anything I could do to help.

MR. GLENN: Your Honor, I'm going to object to this. This is all -- this is not verbatim as to what my client has said. This is speculation and hearsay on what she claims my client said, unless she's going to say specifically what my client might have said.

THE COURT: Response?

MR. GLENN: I -- I would object to her paraphrasing anything.

THE COURT: Response?

MS. MCINTYRE: I believe I just asked her what did Ms. Alexander say to her when she asked if there was anything that she could do and what was going on. So I was asking for the specific response.

THE COURT: All right. I'm going to allow it. You will be able to cross-examine on that issue, Mr. Glenn.

Continue. I guess go to your next question.

MS. MCINTYRE: Okay.

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BY MS. MCINTYRE:
Q Did Ms. Alexander ever tell you why Martez was losing weight?
A No.
Q Did she tell you anything that was going on with Martez?
A She said it was his behavior, he was acting out. She didn't know what was going on with him and that was it.
Q Okay. Did you ever see Martez?
A Yes. All the time.
Q Okay. And other than the weight loss, were there -- was there anything about Martez that made you concerned?
A Not that I can remember.
Q Did Martez ever have any marks on him?
MR. MCCARTHY: Objection, leading.
BY MS. MCINTYRE:
Q Did you ever notice if marks -- if Martez had any marks on him?
A No.
Q Did you ever notice if Martez ever had any bruises on him?
A No.
Q Did you ever see Ms. Alexander discipline Martez?

A No, I did not.
Q Okay. Did you ever see Ms. Alexander tie Martez up?
A No.
Q Okay. Do you recall going to the Detroit Police Department to make a statement regarding allegations?
A Yeah, about two years ago.
Q Okay. And do you recall going and telling the detectives that you saw Martez tied up?

MR. GLENN: Objection. If she's going to impeach this witness, I would object because the prosecutor has not allowed the witness to review her statement to refresh her recollection.

THE COURT: Response? Well, impeachment -- she's not -- she's impeaching her. You don't have to give the person a statement to review -- to refresh their recollection. If she indicated she doesn't recall, then you would give the statement to refresh the recollection.

Objection overruled.

MS. MCINTYRE: Thank you.

BY MS. MCINTYRE:
Q Do you recall telling the Detroit detectives, believe you met with Detective Brown, that you

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saw Martez being tied up?
A I don't remember saying that. And I don't remember him being, you know -- I don't remember seeing him tied up, I don't remember saying that.
Q Okay. And do you recall telling any family members that Martez was being abused?
A I didn't say abused but I did call her mother and I did say I was concerned.
Q What were you concerned about?
A I was concerned about -- I guess him not eating because where else was the weight loss come from, you know? I don't know what's going on.

MR. GLENN: I'm going to object. The weight loss, this is all speculation. This is very highly medical diagnosis and this witness has not been qualified to testify as to what a particular person's weight loss is as what is a normal, what is abnormal.

And I believe if this witness is going to testify as to what someone's weight loss should be, she must be qualified as an expert to give that opinion.

THE COURT: Response?

MS. MCINTYRE: I believe that she indicated that she's had contact with Martez over

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the time and that she noticed that he looked like he was getting weight loss. I think that's a normal observation for someone who has normal contact with an individual or a family member.

I think I don't think you have to have a medical degree to notice that somebody has lost weight.

THE COURT: Objection overruled. You may continue.

BY MS. MCINTYRE:

Q So you believed he was losing weight?

A Yes.

Q Okay. Was Martez -- do you have kids?

A Yes, I do.

Q How many children do you have?

A I have four children.

Q All right. And how old was Martez, if you know, in 2022 -- or 2020?

A Honestly, I don't remember.

Q Do you know how old he is now?

A No.

Q Okay. All right. But you're concerned that he was losing weight?

A Yes.

Q Would you say you thought he was small?

A He was smaller than, you know, when I was seeing him before, yes.
Q Okay. And how often would you see Martez?
A Maybe once or twice a week during that time. I had just recently moved in the neighborhood, you know, we weren't really around each other like every day, all day, all year or anything like that. So just during that time, maybe once or twice a week within maybe four months.
Q Okay. Do you recall in your -- did you ever ask Martez if he was eating?
A I never asked him.
Q Okay. Did you ever ask Ms. Alexander if he was -- if Martez was eating?
A No.
Q Okay. Do you remember talking to the Detroit Police Department and in your statement you said that Martez hadn't eaten for three days because he wasn't counting to 15?
A I don't recall, I'm sorry.
Q Okay. All right. And you don't recall telling the Detroit Police that you went over to Ms. Alexander's and she had Martez tied to the couch?
A No. Because I don't remember seeing him being tied up, I don't.

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Q You don't remember seeing like -- recall what the inside of the trailer looked like either?
A No.
Q Okay. And do you recall telling the Detroit Police that you recalled seeing Martez with a black eye?
A No.
Q All right. And that you also recall telling the Detroit Police you --

MR. GLENN: I'm going to object.

THE COURT: One moment.

MR. GLENN: If she's going to try to impeach this witness, she should at least be allowed to look at her statement.

MS. MCINTYRE: We can pull up her statement and she can watch it. It's a recorded statement.

MR. GLENN: Outside the presence of the jury.

THE COURT: Objection overruled. You may proceed.

BY MS. MCINTYRE:

Q All right. And you don't --

THE WITNESS: I'm sorry. Can I go to the bathroom?

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THE COURT: Okay. You're not feeling well? Okay.

THE WITNESS: I feel like I have to throw up.

THE COURT: All right. Let her out.

(At 1:48 p.m., witness excused from courtroom.)

THE COURT: All right. I'm going to excuse the juries into the jury room.

THE DEPUTY: All rise for the juries.

(At 1:48 p.m., both juries exit courtroom.)

(At 1:52 p.m., proceedings reconvened.)

THE COURT: Let's bring the juries back out.

THE DEPUTY: Thank you. May be seated.

(At 1:52 p.m., both juries enter courtroom.)

THE COURT: All right. We're back on the record. You may proceed.

MS. MCINTYRE: Thank you.

BY MS. MCINTYRE:

Q So Ms. Douglas, you indicated that Ms. Alexander is your cousin?

A Yes.

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Q And were you nervous coming to court today?
A I was.
Q And why were you nervous?
A It's just too much. This -- this whole everything is just too much for me. I'm already going through a lot within my own life. I had to come, take time off from what I had to do to come here and talk in front of all these people. I did not want to do it.

MR. MCCARTHY: I didn't hear that last answer.

THE WITNESS: I didn't want to come and talk in front of all these people. I did not want to come here today.

MR. MCCARTHY: Thank you.

BY MS. MCINTYRE:
Q So Ms. Alexander is your cousin, Martez would be your cousin as well, correct?
A Yes, he is.
Q Were you -- you didn't want to come to protect your cousin?

MR. MCCARTHY: Well, objection to the term protect.

MS. MCINTYRE: I'll rephrase it.

MR. MCCARTHY: There's no jeopardy that

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he's in.

MS. MCINTYRE: I'll rephrase it.

THE COURT: Objection sustained.

BY MS. MCINTYRE:

Q You didn't want to come and tell anybody -- well, the jurors today exactly what you told the Detroit Police Department want happened to your cousin?

A No.

Q No, you didn't want to do that?

A It's not that I didn't -- it's not that I didn't want to.

Q That's all I needed was a no. You didn't want to do it.

A That's fine.

Q Okay. Thank you.

THE COURT: Cross?

MR. MCCARTHY: I have no questions.

MR. GLENN: No questions.

THE COURT: Any question from the jury for this witness? If so, please raise your hand. All right. Seeing no hands --

THE DEPUTY: There's one over here, your Honor.

THE COURT: Oh, there is one question.

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No questions? All right.

UNIDENTIFIED JUROR: I have one. What did you --

THE COURT: Well, no, no, no. One moment. You can't say it out loud, you have write it down on a piece of paper and fold it.

UNIDENTIFIED JUROR: I'm sorry.

THE COURT: That's okay. If you have a question, go ahead, write it down. Put your question on the inside of the fold and we'll come around and collect all the questions.

All right. Is there anyone else who has a question that hasn't been collected from you already? All right. Still have one more -- one person. Possibly two.

I'm going to have the attorneys approach.

(At 1:57 p.m. to 2:00 p.m., bench conference held.)

THE COURT: All right. Ma'am, I have a couple questions for you. If you don't understand one of my questions, let me know. Okay?

Did you notice weight loss with any of the other children?

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THE WITNESS: No.

THE COURT: Do you remember talking to the police about -- about the children?

THE WITNESS: No, when I went and talked about it, they didn't ask about children. They asked about one child.

THE COURT: Okay.

THE WITNESS: That's all I remember.

THE COURT: So you remember talking to the police about one child?

THE WITNESS: Yes. Martez.

THE COURT: And that was Martez. Okay. Do you recall what you told the police when you talked to them?

THE WITNESS: I don't. I'm not even going to lie. I don't remember anything I said to the police two years ago.

THE COURT: Okay. You were asked earlier about whether you had ever been in the mobile home or trailer. Had you ever been inside --

THE WITNESS: Yes.

THE COURT: -- Ms. Alexander's mobile home?

THE WITNESS: I haven't been inside. I

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have been to the mobile home but I haven't been inside.

THE COURT: When you say haven't been inside, are you talking like about physically inside of Ms. Alexander's trailer?

THE WITNESS: Yes.

THE COURT: All right. Do you recall any of the details of what you told the police about Martez?

THE WITNESS: No.

THE COURT: Earlier the prosecutor asked you a question about you telling the police that you had seen him tied up. Is what you said to the police about seeing Martez tied untrue?

THE WITNESS: I haven't seen Martez tied up.

THE COURT: Any questions based on the jury's questions, Ms. McIntyre?

MS. MCINTYRE: Just one follow-up.

BY MS. MCINTYRE:

Q So everything you told the Detroit Police was a lie?

A Can I see -- can I see the video? Because I said three times I don't remember what I told the Detroit Police three years ago.

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MS. MCINTYRE: I will find a laptop to put up for her to watch.

THE COURT: All right. Any questions? Or would you like to wait until she watches the video.

MR. MCCARTHY: I have no questions based on her answers to those jury questions. If there's a follow-up question that Ms. McIntyre asked, if she's going to watch the video, fine, then we can follow-up from there.

THE COURT: All right. Where's the video?

MS. MCINTYRE: Pardon?

THE COURT: Are you done?

MS. MCINTYRE: Well, I have this laptop for a couple exhibits that I need, so I would have to locate a laptop. So the question is can we recall Ms. Alexander(sic) tomorrow morning after she's had an opportunity this afternoon? I'm sorry, Ms. Douglas. After she's had an opportunity to review the video?

THE COURT: Why don't we -- any objection to that?

MR. MCCARTHY: No. I think that's reasonable.

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MR. GLENN: No.

THE COURT: Mr. Glenn?

MR. GLENN: No, your Honor.

THE COURT: All right. Ma'am, I'm going to order -- are you going to get the laptop for her to view today?

MS. MCINTYRE: When we are done here at 3:30, so she's going to have to wait around until I'm done.

THE COURT: All right. Ma'am, you're going to wait here. You also have to come back here, I'm going to ask that you're back here tomorrow at 8:30. Okay? All right. Thank you. You may step down.

(At 2:04 p.m., witness left the stand.)

THE COURT: All right. Your next witness.

MS. MCINTYRE: People would call Ranisha Bowden.

THE COURT: All right. Ma'am, there's some visors on the desk right there. Do you see that? Do you want to put on a visor? You can put that visor on and take the mask off. Okay?

MS. BOWDEN: Take the mask off?

THE COURT: Yes.

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THE CLERK: Please raise your right hand. Please state your name.

MS. BOWDEN: Ranisha Bowden.

THE CLERK: Do you solemnly swear or affirm the testimony you're about to give in the matters before this Court will be the truth, the whole truth and nothing but the truth?

MS. BOWDEN: I do.

THE COURT: All right. Ma'am, I do actually believe there's a film on the visor, but on the outside of the visor. It's not as clear as the other ones.

THE WITNESS: It is not.

THE COURT: It's difficult to see, I'm assuming?

THE WITNESS: I can see.

THE COURT: You can see?

THE WITNESS: I wear glasses, too, so --

THE COURT: There's a film -- yeah, that don't -- I don't think -- does that one have the film on it? I can tell you that one has the film on it. You can see it. That's a little -- okay. All right.

Ma'am, I'm going to ask that you state

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and spell your name, for the record, and do your best to speak loud and clear. Okay?

THE WITNESS: Ranisha Bowden.

R-A-N-I-S-H-A, Bowden, B-O-W-D-E-N.

THE COURT: All right. Your witness.

RANISHA BOWDEN

(Called at 2:05 p.m. by Ms. McIntyre and sworn by the clerk, testified as follows)

DIRECT EXAMINATION

BY MS. MCINTYRE:

Q Good afternoon, Ms. Bowden.

A How are you?

Q Good. How are you?

A Fine.

Q Good. So Ms. Bowden, I'm going to bring you back to the date of January 22, 2020. Were you in the area of 5211 Berkshire in the City of Detroit?

A I was.

Q I'm going to need you to speak really loud. Pretend like you're talking to the deputies in the back of the courtroom. Okay?

A Yes, ma'am.

Q So is that a yes, ma'am?

A Yes, ma'am.

Q All right. And what were you doing there?

A I was calling for a wellness check on my godchild, Martez Abdullah.
Q All right. And what made you call for a wellness check on your Godson?
A Because his mother informed me that she's going to give him away and she wanted me to give her rights against him.

MR. MCCARTHY: Excuse me. I would ask that the witness speak up, I'm having a very difficult time hearing her.

THE COURT: It's -- ma'am, sometimes if you can see that visor, if you can kind of tilt it up, that might help.

THE WITNESS: Yes, ma'am.

THE COURT: You don't have to followed it up, sometimes --

THE WITNESS: Is that --

THE COURT: Yeah. Tilt your head up. That will be a little bit easier.

MS. MCINTYRE: And try speaking into microphone.

THE WITNESS: I was going --

BY MS. MCINTYRE:
Q That is so much better.
A I was going over there to do a wellness check

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against my Godchild, Martez Abdullah.
Q Okay. And again, what caused you to do a wellness check for Martez?
A Because his mother informed me on the 4th of January that she wanted me to get custody of him.
Q Okay. And who is his mother?
A Gwendolyn Alexander.
Q And do you see her in court today?
A Yes, I do.
Q And can you point to me -- her and tell me what she's wearing?
A Yes. Black leather jacket.
MS. MCINTYRE: Your Honor, let the record reflect that she's identified the defendant Ms. Alexander.
THE COURT: The record should so reflect.
MS. MCINTYRE: Okay.
BY MS. MCINTYRE:
Q So you said she indicated that to you on or about January 4th?
A Correct.
Q Why did you wait until January 22nd to do a wellness check?
A Oh, I was contacting her family to see exactly

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where she was located because she had told me she wanted to meet in a public place but didn't give me no idea where that would be or who would be there.

Q Okay. And were you there when the police arrived?

A Yes.

Q And what did you observe after the police arrived?

A She was living in the trailer and next to Errown Scott's mother's house. Errown Scott's mother's house.

Q All right. And do you see Errown Scott in the courtroom today?

A Yes, I do. He's right there with the purple shirt on and the purple tie.

MS. MCINTYRE: Your Honor, let the record reflect that the witness has identified Mr. Scott.

THE COURT: The record should so reflect.

MS. MCINTYRE: Thank you.

BY MS. MCINTYRE:

Q Did you have any contact with Martez on January 22nd?

A That's when we took him out the trailer, yes, I ended up going to the emergency room. Well, I made a -- I was in the ambulance, I went to the emergency.
Q Okay. So you saw him?
A Yes.
Q All right. And did you notice anything about him?
A Yes.
Q What did you notice?
A He didn't look normal.
Q What does that mean?
A The last time I seen him before he went back into her custody he didn't look like my child.
Q Okay.
A He -- he was malnourished, had on big clothes --

MR. GLENN: Object, your Honor. I'd like to address the Court on something outside the presence of the jury.

THE COURT: All right. Please approach.

THE DEPUTY: All rise for the jury.

(At 2:10 p.m., both juries exit courtroom.)

THE DEPUTY: Thank you. You may be

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seated.

MR. GLENN: Your Honor, I would object to this witness just voluntarily -- she's not being responsive to the questions. She's volunteering that she had custody prior, that she got it back --

THE WITNESS: I did not get --

THE COURT: One moment. One moment. There's an objection so you can't respond.

THE WITNESS: Okay.

MR. GLENN: She's implying that she had custody of this child, the child was living with her and that this wasn't -- didn't look like her child. She's telling the jury, trying to infer to the jury and not being questioned -- not being asked by the prosecutor, she's trying to volunteer that there's some type of custody proceeding prior to this and I would object to that. That wasn't responsive to the question and that's highly prejudicial to my jury.

THE COURT: Response?

MS. MCINTYRE: I believe she was being responsive to the question because I asked her why she thought he was being malnourished and she said when Martez was in her care prior to when

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she had custody, he didn't look like the same child after she gave him back to Ms. Alexander. I think she answered the question fully.

THE COURT: All right.

MR. GLENN: Your Honor, if she's talking about custody of any legal proceedings and that wasn't the question --

THE COURT: Just one moment.

MR. GLENN: -- I would object to that.

THE COURT: All right. First, nonresponsive is the objection there's an objection. So I'm overruling it for that. But I do have a question.

Were there custody proceedings --

THE WITNESS: I never custody of Martez, my mother did. I just have always had him since he was born.

THE COURT: Okay. So let me ask you, because I'm trying to understand this. Did you -- were there legal proceedings or did Martez just live with your mother?

THE WITNESS: After he was three or four years old, then the legal things came into play. But from two weeks old up to three years old, he was just at my residence with my mom.

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THE COURT: Okay. So when you're saying -- so there were actual custody proceedings prior to the incident --

THE WITNESS: Correct.

THE COURT: -- in January of 2022?

THE WITNESS: Correct.

MS. MCINTYRE: If -- your Honor, if I may clarify in terms of custody, I think they're talking about a guardianship.

THE WITNESS: Correct.

THE COURT: Okay.

MR. GLENN: Well, your Honor, that's implying to this jury that because there was problems with abuse or neglect and that's the --

THE WITNESS: That wasn't my --

THE COURT: One moment. One moment. All right. I think what we need to do in this particular case, the only issue in front of this Court right now is what was occurring on or about January 22nd of 2020.

And so ma'am, I don't want you to talk about who had custody or anything of that nature. What is relevant, however, is how he appeared to you -- how he appeared to this witness the last time she had contact with Martez. I think that

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is the fair question. We're not talking about custody or legal proceedings or things of that nature. Do you understand that?

THE WITNESS: Mm-hmm.

THE COURT: Is that yes?

THE WITNESS: Yes, ma'am.

MS. MCINTYRE: And I understand that and I agree with the Court on that. And in terms of -- I don't know if this is the proper place to ask this question and if it's not, then the Court can tell me and we'll address it when Ms. Alexander's interrogation comes on regarding some of the redactions that the People want to do that haven't been agreed to by Mr. Williams(sic) in terms of their -- it would apply to the same principle that the Court is talking about at the moment.

THE COURT: The custody issue, the issue of custody.

MS. MCINTYRE: And -- and prior CPS contact and things of that nature that I believe should be redacted.

THE COURT: Well, Mr. Glenn, are you objecting to those redactions?

MR. GLENN: Well, I would have to talk

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to my client about that.

THE COURT: All right. Well, if that is going to come in, then you understand I'm going to allow the People -- depending on -- I don't know what was said on your client's video and obviously that's a different issue at a different time. But understand that the People -- that comes in and you want it to come in, because the People are saying they are planning to redact it out, then you might open the door for this witness to come back on on that issue. You understand that.

MR. GLENN: Well, I think that would come back in on rebuttal.

THE COURT: Well, that's what I'm saying. I'm not saying she can testify to it right now. Today you understand that I don't want you mentioning any previous custody issues or anything of that nature, just how he looked to you previously.

THE WITNESS: Mm-hmm.

THE COURT: All right. Does -- does anyone object to that?

MS. MCINTYRE: No.

MR. MCCARTHY: No, I don't have an

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objection to that.

MR. GLENN: No, your Honor.

THE COURT: Mr. Glenn? Okay.

All right. Let's bring the jury out and continue at this time.

(At 2:15 p.m., both juries enter courtroom.)

THE DEPUTY: Thank you. May be seated.

THE COURT: All right. You may continue.

MS. MCINTYRE: Thank you.

BY MS. MCINTYRE:

Q Ms. Bowden, you indicated that Martez looked different from the last time you saw him; is that correct?

A Yes, ma'am.

Q When was the last time you saw him?

A I wouldn't be able to tell you that. Before the -- before the -- before the day we got him out the trailer, we (inaudible).

Q Okay. But --

MR. MCCARTHY: I didn't hear what she was saying.

THE WITNESS: I'm not sure when was the last date I actually seen him before we took him

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out of the trailer.

MR. MCCARTHY: Thank you.

BY MS. MCINTYRE:

Q How did he look different to you, though?

A His hair was matted to his head, he had two black eyes, scars on his face, scars on his hand and his wrist and his ankles. Once we got into the ambulance truck.

Q Okay. And did you see any of the other children?

A Yes, I did.

Q Did you notice anything about the other children?

A No, ma'am.

Q All right. And can you describe to me the marks around -- or the -- what you saw on Martez's wrists?

A I saw lacerations that stated that he has been zip tied for a long amount of time for it to leave black marks and scabs.

Q Okay. And was it on one wrist or both wrists?

A Both wrists. Both legs.

Q Okay. And when you say, where on the legs?

A On his ankles.

Q Okay. And was anything -- did you notice anything else about his ankles?

A They were purple as if he had frostbite.

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MR. GLENN: Objection. That would be a medical conclusion. I don't know what the foundation is as to whether or not this witness is familiar with frostbite.

THE COURT: All right. Objection sustained.

MS. MCINTYRE: I'll move on.

BY MS. MCINTYRE:

Q And you indicated -- describe to me his eyes.

A They were black as if he has not slept or he has been hit. And they wasn't like -- they wasn't swollen or anything, they was black for a long amount of time.

Q Okay. And did you go with Martez to the hospital?

A Yes, I did.

Q All right. And have you seen Martez lately?

A Yes, I have.

Q All right. And how often are you seeing Martez these days?

A I see him very often.

Q What is very often mean? Like once a week, once every couple weeks?

A Once every couple weeks, every two weeks.

Q Okay.

A Throughout the summer.
Q And have you noticed any changes in Martez since he was removed from --
A Changes like what?
Q Well, has his behavior changed?
MR. GLENN: Objection, not relevant.
THE COURT: What's the relevance?
MS. MCINTYRE: I think it's extremely relevant to show any changes in behavior or emotions. I can rephrase the question.
MR. GLENN: Your Honor, that would be -- that would be for some type of psychiatrist, psychologist or child counselor, not this witness.
THE COURT: I think she can testify as to what she's observed. But she can't testify as to why -- the ultimate conclusions of those observations.
All right. Go ahead. I'll allow it.
MS. MCINTYRE: Okay.
BY MS. MCINTYRE:
Q Have you noticed any changes in Martez's behavior since being removed from the trailer in January?
A Yes, ma'am.
Q And what type of changes have you noticed?

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A I notice that he's very more caring and he's very more loving. Because I do have my own child that he considers his brother. And being around the family for this amount of time, I've seen his interactions with other siblings that Ms. Alexander also gave birth to is very different.
Q Okay. And did you observe any changes with his weight since he has left?
A I want to make a joke, he eat me out of the house and home.
Q Okay. So he likes his food?
A He hides food, the snacks and everything that I buy, because I try to limit it. Because I don't want him to have any medical -- medical -- what can I say, differences as in diabetes or he lose any more teeth that he already had to lose before this time.
Q All right. So he like his food?
A Yes, he does.
Q All right.

MS. MCINTYRE: I have nothing further questions, your Honor.

THE COURT: Any cross?

MR. MCCARTHY: Thank you, your Honor.

CROSS-EXAMINATION

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BY MR. MCCARTHY:
Q Ms. Bowden, my name is Michael McCarthy. I represent Errown Scott. I have a few questions to ask you here this afternoon regarding your testimony. If I don't make myself clear, please tell me that and I'll rephrase the question.
A I definitely will do so.
Q All right. That's very good. So you're seeing Martez on a regular basis now; is that correct?
A Yes, sir.
Q And there was a time a number of months before January of 2020 where you saw him on a regular basis; is that correct?
A No, I did not.
Q No, you did not?
A No.
Q So you don't remember exactly how long it had been since the last time you saw Martez before January 22nd of 2020?
A Correct.
Q Okay. Well, do you know whether it was one month?
A I know it was a lot of months because his --
Q Okay. That just answers the question, numerous amount of months. So numerous meaning four

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months five months, 12 months?
A Maybe around six or seven.
Q Okay. And now you saw him within the last week or so; is that correct?
A No.
Q When was the last time you saw him?
A Maybe two to three weeks ago, before school started because I bought him school supplies.
Q Okay. You saw him two or three weeks ago and you say he -- was he over --
A Very much so healthy.
Q Was he eating at your house?
A He was very much so healthy.
Q What was that?
A He was very much so healthy. I never stated that he was at my residence.
Q Okay. So he wasn't at your house?
A I don't think he can buy school supplies at home.
Q Oh, I see. You took him to the store, is that what you're telling the jury?
A Correct.
Q Okay. And so you took him to the store that day. I want to ask you about when it was that he was over at your house eating?
A I would say throughout the summer.

Q Throughout the summer. So he's visited you on a regular basis?
A Throughout the summer.
Q Before the day you went to the school or to the store to buy the school --
A Yes.
Q -- supplies; is that right?
A Yes.
Q Okay. And at that time he was eating you out of house and home, your words, right?
A That's correct.
Q And you had to hide food; is that right?
A I had to limit, I didn't say hide.
Q Okay. Limit food. And you agree, he's not a fat kid, right?
A I would say he's overweight. I'm not a doctor so I can't tell you how -- how overweight or underweight he might be.
Q Okay. You would agree that he's small in stature?
A Excuse me?
Q Would you agree that he is small in stature?
A I would agree that he's healthy for his age.
Q Pardon?
A I would agree that he's healthy for his age.

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Q He's healthy for his age?
A Correct.
Q Okay. Do you have a medical background?
A Yes, I do.
Q What do you -- what do you -- what's your profession?
A I don't understand what would be the relevance of this case.
THE COURT: Ma'am, you have to answer the question unless there's an objection. Okay?
THE WITNESS: I'm a phlebotomist and a lab technician.
BY MR. MCCARTHY:
Q You're a phlebotomist and a lab technician?
A Correct.
Q Is that right? Okay. Great. Thank you very much.
MR. MCCARTHY: I've got nothing further.
THE COURT: Very good. Mr. Glenn, cross?
MR. GLENN: Just a few.
CROSS-EXAMINATION
BY MR. GLENN:
Q Now, prior to January of 2020, how often did you

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see Martez?
A I didn't see him for Martez for seven to eight months because Ms. Alexander had (inaudible).
THE COURT REPORTER: Had what?
THE WITNESS: On day one it was stated to my family and all the --
THE COURT: One moment, one moment.
MR. GLENN: Your Honor, I'm going to object. This is not responsive to my question.
THE COURT: Okay. Objection sustained.
BY MR. GLENN:
Q Now, when you saw him seven, seven months or so prior to January 2020, where was that?
A At my residence or my mother's the residence.
Q Your mother's residence or your residence?
A My mother's residence.
Q And how old was Martez at that time?
A Four.
Q Four?
A Correct.
Q You stated --
A Four or five. Around from the time he's been -- as long as the amount of months before the case has been.
Q All right. You stated on January 22, 2020 you

went to the trailer where Martez was; is that correct?
A Correct.
Q And you went to meet with Ms. Alexander?
A That's right.
Q And you stated that the EMS came out?
A The EMS did come out because I contacted them after Child Protective Services.
Q Just answer my question. You were there, right?
A Correct.
Q Now, did you actually see Martez while he was there?
A Did I actually?
Q See Martez tied up to any piece of furniture or any part of the trailer on January 22 --
A No, I did not.
Q -- 2020?
A I was not allowed on the premises near --
Q Ma'am, just yes or no. You didn't see him tied?
A Nom I did not.
Q All right. Who else was in the house at that time or the trailer?
A I wouldn't be able to tell you if I wasn't able to go to nowhere near there.
Q So you don't know what conditions or who was in

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the trailer; is that correct?
A They took her out of the trailer or out of the area of the trailer, I should say.
Q And how long were you there before the police arrived?
A 20 minutes.
Q 20 minutes. And before that you hadn't seen Martez in the last seven months?
A No, sir.

MR. GLENN: Nothing else.

THE COURT: Redirect?

MS. MCINTYRE: No redirect.

THE COURT: Any questions from the jury for this witness? If so, please raise your happened. All right. We have one question. We have two questions.

All right. I'm going to ask the attorneys to approach.

(At 2:27 p.m. to 2:30 p.m., bench conference held.)

THE COURT: All right. Ma'am, I have a few questions for you.

THE WITNESS: Ma'am, will I be speaking to you?

THE COURT: I'm sorry?

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THE WITNESS: You asking the questions, am I speaking to you?

THE COURT: You can -- well, you're speaking to the whole court. But if you don't understand a question or if you need it rephrased, please let me know.

Why had you not seen Martez for several months prior to January 22nd of 2020?

THE WITNESS: Because his mother had him and she did not tell anyone where they were at. She had him and two other children of hers.

THE COURT: Okay. Prior to that, did you see him often?

THE WITNESS: He lived with me prior to that or with my mother, which was -- I went to my mother's house every day.

THE COURT: Okay. What specifically caused you to go to the trailer on January 22nd of 2020?

THE WITNESS: After speaking with her cousin, Gwendolyn Douglas, and she stated that she --

THE COURT: Wait a minute. You can't talk -- you can't say what anyone else told you.

THE WITNESS: Okay. So after speaking

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with her family and I spoke with her, that was the last place that everyone seen her at or knew where she was.

MR. GLENN: This is all hearsay.

MR. MCCARTHY: Objection.

THE COURT: One moment, one moment. One moment.

MR. MCCARTHY: Yes, it is. This is a hearsay, what other people told her and it's not responsive to the question, which is what specifically made her go that day.

THE COURT: Well, the question was what specifically made you go that day and she indicated that was the last known address.

THE WITNESS: Right.

THE COURT: One moment. One moment. You can't respond to it unless there's a question. Okay. I'll allow it.

MR. MCCARTHY: And that part is fine. It's just all that other stuff about what other people told her.

THE COURT: I think -- she said other people told her that the was last address they're aware of. I'll allow it for the purpose of not being offered for the truth of matter asserted,

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but why she went to that area that day.

MR. MCCARTHY: Very good. Thank you, your Honor.

THE WITNESS: Can I answer that --

THE COURT: No, you can't.

THE WITNESS: No? Okay.

THE COURT: All right. Thank you.

If you know, when did Ms. Alexander reach out to you saying she wanted to give you custody of Martez?

THE WITNESS: January 4th of that year.

THE COURT: January 4th of -- when you say that year, are you talking about 2020?

THE WITNESS: Correct.

THE COURT: All right. Did you ever have an opportunity to observe Martez, the other -- and the other two children in the custody of Ms. Alexander?

THE WITNESS: Yes.

THE COURT: And not -- you did?

THE WITNESS: Yes.

THE COURT: All right. Any follow-up questions?

MS. MCINTYRE: Just a couple, your Honor.

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REDIRECT EXAMINATION

BY MS. MCINTYRE:

Q You indicated that the reason you did the wellness check was because of a conversation you had with Ms. Douglas, correct?

A Correct.

Q Ms. Douglas tell you something that caused you concern to make that wellness check?

A Yes, ma'am.

Q Okay. And you indicated that Ms. Alexander asked you to take custody of Martez, correct?

A Correct.

Q Did she ask you to take care and custody of the other children?

A No.

Q Just Martez?

A Yes.

Q And did she tell you why?

A Yes.

Q What did she tell you?

A She was tired of him and she was going to give him away by the end of the month.

MS. MCINTYRE: I have no further questions.

THE COURT: Mr. McCarthy.

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MR. MCCARTHY: I have a question.

RECROSS-EXAMINATION

BY MR. MCCARTHY:

Q You said that you had an opportunity to observe all three of the children, that would be Robyn, Mishayla and Martez, in the company of both Mr. Scott and --

A That's not what I said.

Q Excuse me. Let me finish the question and then you can correct me.

THE COURT: I'm sorry, Mr. McCarthy. I only asked about Ms. Alexander. I didn't say in the company of Mr. Scott.

MR. MCCARTHY: Oh. Well, in that case I have no questions.

THE COURT: Thank you.

REDIRECT EXAMINATION

BY MR. GLENN:

Q Now, you stated that on January 4, 2020 Ms. Alexander reached out to you to take custody of Martez?

A Correct.

Q And how about that come about?

A She sent me a text message.

Q She sent you a text message. And what was Ms.

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Alexander's phone number?
A I'm not sure.
Q You still have a copy of that text?
A Yes, I do.
Q Now, did you -- did you go and talk to her face-to-face on January 4th?
A No, I did not.
Q Did you talk to her on the telephone?
A No, I did not.
Q To follow up the text?
A Excuse me?
Q To follow up the text message, did you ever talk to her --
A Yeah, I texted her back that day.
Q Talk to her on the phone? Did you talk --
A Yes.
Q Okay. And at that time did you know where Ms. Alexander was living?
A Yes, I did.
Q Did you go over there to talk to her?
A No, I did not.

MR. GLENN: Nothing else.

THE COURT: All right. Miss, you may step down and be excused. Thank you.

THE WITNESS: Thank you.

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(At 2:35 p.m., witness excused.)

THE COURT: All right. Your next witness?

MS. MCINTYRE: Your Honor, at this time the People would call Officer Janelle Thomas.

THE COURT: All right. Ma'am, I'm going to ask you to get one of those visors that's on the desk there. If you are able to, there's actually a film on the outside of that visor, if you can kind of get it in the blue area.

OFFICER THOMAS: Do what?

THE COURT: If you want to make it clear, there's a film on the outside of visor. All right. That's fine.

All right. Why don't you step up, put the visor on and take your mask off.

THE CLERK: Please raise your right hand. Please state your full name.

OFFICER THOMAS: Officer Janelle Thomas.

THE CLERK: Do you solemnly swear or affirm the testimony you're about to give in the matters before this Court will be the truth, the whole truth and nothing but the truth?

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OFFICER THOMAS: Yes.

THE CLERK: Thank you. You may have a seat.

THE COURT: All right. Ma'am, I'm going to ask that you state and spell your name, for the record.

THE WITNESS: Janelle Thomas. Spelling is J-A-N-E-L-L-E, Thomas, T-H-O-M-A-S.

THE COURT: All right. Your witness.

MS. MCINTYRE: Thank you.

JANELLE THOMAS

(Called at 2:37 p.m. by Ms. McIntyre and sworn by the clerk, testified as follows)

DIRECT EXAMINATION

BY MS. MCINTYRE:

Q Ms. Thomas, where are you currently employed?

A Detroit Police, 9th Precinct.

Q And what is your rank?

A Police officer.

Q And were you employed with the Detroit Police on or about January 22nd of 2020?

A Yes.

Q And were you dispatched to the area of 5211 Berkshire in the City of Detroit, County of Wayne, State of Michigan?

A Yes.
Q And do you recall the nature of that run?
A The nature of that run was child abuse.
Q And were you by yourself or were you with a partner?
A With my partner.
Q Who was your partner?
A Evelyn Dority.
Q And when you arrived at 5211 Berkshire, what did you observe?
A I believe when we arrived there was a family member who was already on scene, a female. I don't remember her name. The house that we were dispatched to and then the trailer that was right next to it in a vacant lot.
Q Okay. And what did you -- what did you do once you arrived to the scene?
A We spoke to the family member who said that the kids were living in the trailer.

MR. MCCARTHY: Objection to hearsay.

THE COURT: Sustained.

BY MS. MCINTYRE:
Q Okay. Without saying what you were told --
A Oh.
Q -- what did you do?

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A We went to the trailer, we were knocking multiple times. No one was coming to the door but we could hear someone inside. We were going to kick the door in but eventually through the window we talked the gentleman into coming to the door.
Q Okay. And were you allowed entry into the trailer?
A After that, yes.
Q Okay. And what did you -- what did you observe once you were allowed entry into the trailer?
A From my memory, I believe we walked in, there was two kids sitting in the trailer on a bed and there was -- it was dirty. There was food and beds on the ground, there were zip ties on the ground out front. There was the two children and then the male that was there.
Q Okay. And did you generate a report for this run?
A Yes.
Q And have you reviewed your report?
A No.
Q Do you have a copy of it?
A No.
Q Would you like to review it briefly?
A Yes, please.

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MS. MCINTYRE: Your Honor, may I approach the witness?

THE COURT: You may. One second.

Mr. McCarthy, I'm just -- remember, if you're talking and you don't want that, you keep your finger on that button. As long as it's always yellow, then it won't record what you're saying or magnify it. Okay?

MR. MCCARTHY: Thank you.

(Brief pause.)

BY MS. MCINTYRE:

Q Did that help to refresh your recollection?

A Yes.

Q So what did you observe when you approached the -- when you were being allowed entry into the trailer?

A I observed the kids sitting on the bed.

Q And how many kids were there?

A Three.

Q Okay.

A The kids sitting on the bed, the male in the house and then there was water bottles of urine, there was rancid food in bags, like raw meat on the floor. They were sitting on the bed.

Q Who is they?

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A The three victims.
Q Okay. And did you notice anything about the three children?
A The little boy had bruises on his face and swelling as well as his neck. He had thick, thick scarring on his wrists, like raised scarring on his wrists. He stated to me he --
MR. MCCARTHY: Objection to hearsay.
THE COURT: Objection sustained.
MR. MCCARTHY: Thank you.
BY MS. MCINTYRE:
Q You -- when you were describing his wrists, you went from one wrist to the other. So was it on one wrist or both wrists?
A It was both wrists. Very thick, very raised up.
Q And --
A Bruising and swelling on the face and neck as well.
Q When you say on the face, was it on one side of the face, two sides of the face?
A I believe it was one side of the face.
Q Okay. All right. And you indicated -- where else was there bruising, I'm sorry?
A On his neck.
Q All right. And you were told where on his neck

there was bruising?
A I don't recall exactly. I just remember it was only on one side.
Q Okay. Was it on the same side as the swelling of his face, if you recall?
A I don't recall.
Q Okay. So you indicated -- what else did you notice?
A The little girl had some swelling and bruising, too. I don't recall exactly where on the body it was. And the zip ties were out front near the chair and there was a couple, I believe, inside the house as will. We seen that there was a shotgun on the one bed in the room.
Q Okay. What else did you notice?
A Just --
Q That you recall.
A Just how dirty and gross it was in there.
Q Okay.
A And there was propane tanks outside. There was no running water. No heat.
Q Okay.
A Nothing like that.
Q All right. And what did you do once you made these observations?

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A We called for medics. We took the children out of the trailer -- well, we handcuffed the male that was inside the house.
Q Okay.
A Detained him. Called for medics, took the children out of the trailer and into the medic rig and sat with them for a minute.
Q Okay. And what did you do after that?
A We talked to the kids as much as we could and then we waited for investigators. We also talked to the mother that lived in the house that was adjacent to the vacant lot. Spoke to her. And then waited for detectives. And then drove, I believe it was the mother but I'm not sure, down to headquarters.
Q All right. And did you by chance, I guess, process the scene?
A I don't process scenes, no.
Q Okay. So that's not your --
A No.

MS. MCINTYRE: All right. I have no further questions.

THE COURT: Cross?

MR. MCCARTHY: I have no questions, your Honor.

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THE COURT: Mr. Glenn, cross?

CROSS-EXAMINATION

BY MR. GLENN:

Q Now, when you went to the trailer you stated that there was no running water; is that correct?

A Inside the trailer there wasn't water.

Q Inside the trailer. And you said there was no heat?

A I don't believe so, no. There was no electricity. I believe there was like an illegal hookup but I don't think -- there wasn't any inside.

Q Was there any gas?

A I don't believe so.

Q So -- now, were any of the -- any of the food items or articles in the trailer frozen?

A No.

Q Now, when you went there you stated there was no heat. What were the children wearing?

A I don't remember. I don't recall.

Q Now, you stated that there was urine bottles; is that correct?

A Yes.

Q Were they frozen?

A No.

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Q And when was this? Was this in January, January 22nd?
A Yes.
Q And what was the weather like that day?
A I believe it was cold but I don't think there was snow or anything. I'm not sure.
Q Okay. All right. Any ice outside?
A I don't recall.
Q But there was no ice inside?
A Not that I can recall.
Q All right. So you could be mistaken about the heat; is that correct?
A I could be.
Q All right.

MR. GLENN: Nothing else.

THE COURT: Any redirect?

MS. MCINTYRE: None from the People.

THE COURT: Any questions from the jury for this witness? If so, please raise your hand.

All right. We have at least one question. Any others? Yes.

And I'll have the attorneys approach.

(At 1:48 p.m., bench conference held.)

THE COURT: All right. Ma'am, I have a couple questions for you.

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THE WITNESS: Yes.

THE COURT: Did you see the children's mother at the scene when you got there?

THE WITNESS: I don't believe she was there yet. She may have been. But I know she was there at some point.

THE COURT: So you just don't know if she was there when you got there or not?

THE WITNESS: Right.

THE COURT: Okay. Why was Mr. Scott or the male, the adult male at the scene, detained and not the children's mother?

THE WITNESS: I believe it was because he was the only one that was in the house when we first got there. I could be mistaken. We did eventually detain her as well. But he was in the house, the one that was talking to us when we first arrived, saying at first that there was no kids in the house. Then once the door opened, then there was.

THE COURT: All right. So ultimately they were both detained?

THE WITNESS: Yeah.

THE COURT: Any follow-up questions?

MS. MCINTYRE: None from the People.

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MR. MCCARTHY: I have one.

THE COURT: Go ahead.

CROSS-EXAMINATION

BY MR. MCCARTHY:

Q Officer, would it be fair to say that you don't have a real good recollection of this incident from January 22, 2020?

A I have a recollection, I just don't remember it like it was yesterday.

Q Sure. And you wrote a report?

A Yes.

Q And you said that, you indicated that the individual that you took to jail was the mother; is that correct?

A We drove the mother and then we had another car drive the male down to headquarters, both went to head quarters.

Q So the answer to the question is, you in your car, you and your partner took the mother --

A Yes.

Q -- Ms. Alexander; is that right?

A Yes. I believe so.

Q So at some point she was --

A Yes.

Q -- there, right? You don't remember now today

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whether --
A When she was there, yes.
Q You don't remember whether she was in the trailer when you arrived?
A Correct.
Q Is that correct? And that's just because you don't remember. She could have been, right?
A Correct.

MR. MCCARTHY: Okay. Thank you.

MR. GLENN: No questions.

THE COURT: All right. Ma'am, you may step down and be excused.

THE WITNESS: Thank you.

(At 2:50 p.m., witness excused.)

THE COURT: Does anyone need a break before we call the next witness? If so, please raise your hand.

All right. Are you ready with the next witness?

MS. MCINTYRE: Yes. At this time the People would call Ryan Mathews.

Your Honor, we have a stipulation as to releasing Ms. Dority, who is Officer Thomas's partner. She will not be called.

THE COURT: Is that correct?

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MR. MCCARTHY: And I have no objection to that, your Honor.

THE COURT: Mr. Glenn, any objection?

MR. GLENN: No objection, your Honor.

THE COURT: All right. We'll waive the presence -- the Court will allow the waiver of the presence of Officer Evelyn Dority. She may be released.

All right. I'm going to ask that you grab one of those visors that you see on the desk there and then you step up. Please put that on and remove your mask.

THE CLERK: Could you please raise your right hand? Please state your name.

MR. MATHEWS: Ryan Mathews.

THE CLERK: Do you solemnly swear or affirm the testimony you're about to give in the matters before this Court will be the truth, the whole truth and nothing but the truth?

MR. MATHEWS: I do.

THE CLERK: Thank you.

THE COURT: All right. Sir, I'm going to ask that you state and spell your name, for the record.

THE WITNESS: My name is Ryan Mathews,

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spelled R-Y-A-N M-A-T-H-E-W-S.

THE COURT: All right. Your witness.

MS. MCINTYRE: Thank you.

RYAN MATHEWS

(Called at 2:52 p.m. by Ms. McIntyre and sworn by the clerk, testified as follows)

DIRECT EXAMINATION

BY MS. MCINTYRE:

Q Mr. Mathews, where are you currently employed?

A At the Detroit Police Department.

Q And in what capacity are you employed there?

A As a forensic technician.

Q And what does a forensic technician do?

A They go to crime scenes, take pictures, process evidence and collect it.

Q Okay. And do you do that on your own initiative or how is that requested?

A I receive requests from an officer in charge of the case.

Q Okay. And were you requested to process any evidence on or about January 22nd of 2020 in the area of 5211 Berkshire in the City of Detroit, County of Wayne?

A Yes, I was.

Q Okay. What did you do to process that scene?

A I photographed the scene. I search the scene for evidence and then I collected evidence.
Q Okay. And were you by yourself or do you have a partner when you process evidence? Or process a scene, I'm sorry.
A I had a partner.
Q Okay. And who was your partner that day, if you recall?
A It was Corporal Nathan Johnson.
Q Okay. And did you write a report?
A Yes, I did.
Q And what do you document in this report?
A The general scene, location and what we found in it.
Q Okay. And do you recall the general scene, location?
A It was 5211 Berkshire, a two story brick house and in a grass lot to the north of it was a camper trailer.
Q Okay. And do you recall -- what was the weather like then? If you recall.
A I -- I do not recall.
Q Would looking at your report refresh your recollection?
A It would.

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MS. MCINTYRE: Your Honor, may I approach?

THE COURT: You may.

MS. MCINTYRE: Thank you.

THE COURT: All right. Mr. McCarthy and Mr. Glenn, do you have that report?

MR. MCCARTHY: I didn't hear the question.

THE COURT: Do you have the report?

MR. MCCARTHY: I do, your Honor, yes.

THE COURT: All right. I just wanted to make sure.

You may approach.

MR. MCCARTHY: Thank you.

THE WITNESS: Okay.

BY MS. MCINTYRE:

Q What was the weather like?

A The weather was cold and cloudy.

Q Okay. And so when -- what other observations did you recall on that day? What did you recall about the trailer?

A Well, the trailer is to the north of the house and in front of the front entrance of the trailer there was an awning covering the entire, like the outside of the trailer. And underneath the

awning there was a lawn chair, some hard plastic zip ties.

Q Okay. And did you ever enter the inside of the trailer?

A Yes, I did.

Q And what did you -- what do you recall from -- what is your recollection of the inside of the trailer?

A Upon entering the trailer there's a couch across from the front door of it. I searched underneath the couch and I found one more zip tie. Upon going into the entrance and turning left, there's a bathroom area to the left and a small bed to the right. And above the bed there was a rifle.

Q Okay. All right. And did you photograph what you observed?

A No. I think my partner photographed it.

Q Okay. Have you observed -- do you -- as a part of -- what was your role?

A To write the report and --

Q Okay.

A -- process evidence.

Q Have you reviewed the file?

A No, I was not able to.

Q Okay. All right.

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THE COURT: Were you with your partner while your partner was photographing the residence?

THE WITNESS: I don't recall.

BY MS. MCINTYRE:

Q Was there ever a time that you weren't with your partner during the scene?

A I don't recall.

Q I'm going to have you look at page -- the sixth page of your report, what's on the bottom noted as page six. Do you see that?

A Yes.

Q Does it say that you took photographs of the seen?

A Yes, it does.

Q All right. I am going to -- 1, 7, 8, 9, 10, 15, 16, 17, 18, and 19.

MS. MCINTYRE: Your Honor, at this time the People are going to hand what is I guess stipulated to Exhibit 1, 7, 8, 9, 10, 15, 16, 17, 18 and 19.

THE COURT: All right. Let me make sure I have this correct. Exhibit 1, Exhibits 7, 8, 9, 10, and then Exhibits 15, 16, 17, 18 and 19.

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MS. MCINTYRE: At this time, yes.

THE COURT: You're moving for them to be admitted?

MS. MCINTYRE: And I'm moving for their admission and then publication.

MR. MCCARTHY: No objection.

MR. GLENN: No objection.

THE COURT: All right. Hearing no objection, the Court will receive People's Exhibits 1, 7 through 10 and 15 through 19.

(At 3:00 p.m., PX 1, PX 7-10, PX 15-19 admitted.)

BY MS. MCINTYRE:

Q I'm going to hand these to you. I'm going to direct your attention to Exhibit Number 1.

MS. MCINTYRE: Can everybody see it?

UNIDENTIFIED JUROR: May we have this moved a little bit?

MS. MCINTYRE: Sure. I know that side we're -- it's a little --

THE COURT: Can everyone in jury box No. 1 see the screen or does anyone need to move?

THE JURORS: We need to move.

THE COURT: All right. Just be careful with it. As you move it, move it slowly.

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Can Juror Number 1 see it?

UNIDENTIFIED JUROR: Yes.

THE COURT: All right. Very good. Go ahead.

MS. MCINTYRE: Okay.

BY MS. MCINTYRE:

Q Could you identify for me Exhibit Number 1, please?

A This is my photo identifier card.

Q And what is the purpose of that?

A To state relevant information about the scene.

Q Okay. So it tells you the date, kind of the time?

A Yes.

Q Okay. And I'm going to direct you to Exhibit Number 3. What is Exhibit Number 3? Or you don't have it. It's your next Exhibit Number.

A My next one says 7.

Q Okay. Exhibit Number 7. What is Exhibit Number 7?

A That's a black zip tie on the ground.

Q All right. What's your next Exhibit, Number 8?

A 8.

Q And Exhibit Number 8?

A It is another zip tie.

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Q Next number, please?
A Number 9, it is two zip ties on the ground near a lawn chair.
Q All right. And next number?
A 10, it is a zoomed out picture of a zip tie next to a lawn chair.
MR. MCCARTHY: Excuse me, I didn't hear that last answer.
THE WITNESS: It was a zoomed out picture of a zip tie next to a lawn chair.
MR. MCCARTHY: Thank you.
BY MS. MCINTYRE:
Q And where is that -- in that photograph, where is that zip tie located?
A On the ground.
Q Is it next to -- what is it next to?
A A blanket, the trailer, the chair.
Q Okay. What's your next number, please?
A 15.
Q Could you describe to me what is in Number 15?
A This is the bed inside of the camper trailer.
Q All right. And what specifically, what were you photographing on this? What items are located on the bed?
A The rifle.

Q Is there anything else located on the bed?
A I don't remember.
Q Okay. Would looking at your notes reflect -- recall your recollection?
A Yes.
Q Would you like to?
A Yes.
Q Does that refresh your recollection?
A Yes.
Q And what is also photographed on that -- that bed?
A The live rounds from the rifle.
Q What's your next number?
A 16.
Q And what is this a photograph of?
A The side of the trailer opposite the bed with cabinets above it.
Q Okay. And what is your next number?
A 17.
Q And what is this a picture of?
A It is -- I do not know.
Q Okay. It's located in the trailer, though?
A Yeah.
Q All right. Next number?
A 18.

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Q Can you describe that?
A That's the bathroom of the trailer.
Q What is your next number?
A 19.
Q And that?
A That is underneath the couch of the trailer where I located a zip tie.
Q Okay. Mr. Mathews, was that the only place you did photographs?
A No.
Q Where it did you photograph?
A The inside of the house.
Q All right. Did you take any photographs at the hospital?
A Yes.
Q All right. And do you recall what you photographed while you were at the hospital?
A A child.
Q All right.

MS. MCINTYRE: May I approach, your Honor?

THE COURT: You may.

MS. MCINTYRE: Your Honor, at this time the People are going to move to admit stipulated Exhibits 20, 21, 22, 23, 24, 25, 26, 27, 28, 29

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and 30.

MR. MCCARTHY: So stipulated on behalf of Mr. Scott.

MR. GLENN: Stipulated.

MS. MCINTYRE: And the People would move for publication.

THE COURT: All right. Hearing that stipulation, the Court will receive them and you may publish them.

(At 3:05 p.m., PX 20-30 admitted.)

MS. MCINTYRE: May I approach the witness?

THE COURT: You may.

BY MS. MCINTYRE:

Q I'm going to hand you what has been admitted as People's or Exhibits 20 through 30. Could you identify for me what is contained on Exhibit 20?

A It is the back of the photo card from the first scene stating that we are at Children's Hospital.

Q And that was approximately 7:00 at night on January 22nd of 2020?

A Yes.

Q Okay. So these are going to be photographs that were taken at that time?

A Yes.

Q Okay. So could you describe to me what Exhibit 21 is?
A It is a picture of a child's arm.
Q And is it -- does it note any marks on the child's arm?
A Yes. There's a mark on the wrist.
Q And 22?
A The arm of the child's left hand.
Q Okay. And 23?
A The right wrist.
Q All right. And does it denote any marks on the -- that area as well?
A Yes, there are some marks on that arm.
Q And 24?
A That's the palm of the right hand.
Q Okay. And does it denote marks on that area as well?
A It looks like there are marks on the wrist.
Q And 25?
A That is the left leg.
Q And are there marks noted on that photograph?
A Yes.
Q And 26?
A That is the lower half of the child's body.
Q Are there marks noted -- notated on that as well?

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A Yes.
Q 27?
A That is the lower back of the child.
Q The back side?
A Yes.
Q And are there marks located on that as well?
A I cannot see it --
Q Okay.
A -- clearly enough.
Q And 28?
A That's the face of the child.
Q Okay. And that is -- and 29?
A That's the left side of the face.
Q And do you know if any marks were notated on that?
A It looked like there was a bruise there.
Q And 30?
A That's the top on the child's head.
Q And that's a different child?
A Yes.
Q And those are the only pictures that you took and did you do anything else at the scene?
A At a later date I also went to a search warrant at that location.
Q And what did you do as a result of that search

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warrant?
A I collected two more zip ties from the camper and photographed the inside of the house.
Q Okay. Who were you with on that day?
A I was with forensic technician Donald Watson.
Q Okay. Did you only photograph the inside of the house or did you do any other additional photographs at the time, that additional date?
A I also photographed the outside of the house and the camper trailer.
Q And you did the camper trailer as well?
A Yes.
Q Okay. Have you had an opportunity to review those photographs?
A No.

MS. MCINTYRE: May I approach, your Honor?

THE COURT: You may.

BY MS. MCINTYRE:
Q Can you review those for a quick second, please?

THE COURT: For the record, what have you handed him, proposed exhibits what?

MS. MCINTYRE: Pardon?

THE COURT: What are the proposed exhibit numbers that you have handed the witness?

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MS. MCINTYRE: I had them written down and then -- they were 2, 4 -- or 2, 3, 4, 5, 6, 11, 12, 13 and 14.

BY MS. MCINTYRE:

Q Did you take those photographs?

A Yes.

Q Okay. And do you recognize those photographs?

A Yes.

Q All right. I'm going to take those back from you a minute so I can show defense counsel.

MS. MCINTYRE: Your Honor, at this time People would move for admission of stipulated Exhibits 2, 3, 4, 5, 6, 7, 11, 12, 13, and 14.

MR. MCCARTHY: No objection by and on behalf of Mr. Scott.

MR. GLENN: No objection.

THE COURT: All right. There being no objection, the Court will receive those exhibits and you may publish them.

(At 3:11 p.m., PX 2-7 and PX 11-14 admitted.)

MS. MCINTYRE: Thank you. And may I approach the witness again?

THE COURT: You may.

MS. MCINTYRE: Thank you.

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BY MS. MCINTYRE:
Q Okay. So I'm going to direct your attention to Exhibit 2. Can you please identify that for me, please?
A That is another one of my photo cards.
Q So you went back out to the location on January 28th of 2020?
A Yes.
Q And Exhibit Number 3, can you identify that for me, please?
A That is the inside of the awning next to the camper trailer.
Q Number 3?
A I don't have a Number 3.
Q You do.
A Okay. They're out of order. It's the side of the house.
Q Okay. And when you say you photographed an additional residence, is that residence depicted in this photograph as well?
A Yes.
Q Okay. And so that accurately depicts the location of the trailer in relation to the house?
A Yes.
Q All right. And Exhibit Number 4?

A That is inside the awning next to the camper trailer.
Q Okay. And can you tell, describe what you see in that photograph?
A An overturned blue and white lawn chair.
Q And Exhibit Number 5, what is that?
A That is the entrance in front of the camper trailer.
Q All right. Number 6?
A That is the lawn chair.
Q And do you -- what is photographed at the bottom, I guess middle by the lawn chair?
A Another zip tie.
Q And Exhibit Number 11?
A This is a close-up photograph of the zip tie.
Q Okay. And would that be your hand?
A Yes.
Q All right. And Number 12?
A It's the entrance to the trailer.
Q And that's how it -- that was depicted the day that you photographed it?
A Yes.
Q And Number 13?
A It's the top of the couch in the trailer.
Q Okay. And Number 14?

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A It is a zip tie on top of the couch.
Q And is that a close-up of this? Of Exhibit Number 13?
A Yes. It's a closer photograph.
Q Okay. So that's number -- all right. And after photographing on the 28th, did you process any more evidence as it relates to this case? That you recall.
A I collected the lawn chair, the two zip ties in those photographs, as well as a belt inside of the house.
Q Okay.

MS. MCINTYRE: I have no further questions of this witness.

THE COURT: Cross?

CROSS-EXAMINATION

BY MR. MCCARTHY:

Q Good afternoon. My name is Michael McCarthy, Mr. Mathews, and I have some questions to ask you. I represent one of the defendants in this case, Mr. Scott.

If I don't make myself clear, please tell me that, I'll rephrase the question. Okay?

A That's clear.
Q Thank you. So on the 22nd of January you

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responded to the scene on Berkshire Street and you took a number of photographs, correct?
A Yes.
Q Did you -- and I know you -- you showed photographs of zip ties in particular that you saw that day, correct?
A Yes.
Q Did you take those items into custody or into evidence?
A Yes.
Q You collected them that day; is that right?
A Yeah. All the ones we saw we collected that day.
Q Okay. So you get out to the scene and you are not only outside of the trailer but on the inside of the trailer on January 22nd, correct?
A Yes.
Q And you did a thorough search on the day that you went to begin with, correct?
A I suppose it wasn't so thorough.
Q Well, I mean, that's the whole point of you being there is a forensic technician, correct?
A Mm-hmm. Yes.
Q To -- to look at whatever is at the scene and to collect those items that appear to have some significance or potential significance, correct?

A Yes.
Q And so -- and you took photographs of the ground on the day that you first went there on the 22nd, right?
A Yes.
Q And it's six days later that you go back on the 28th, correct?
A Yes.
Q And you don't have any idea who's been there or what's going on in between your first visit there and your second visit there, correct?
A That is correct.
Q And so you don't -- for all you know, all the zip ties were picked up on the first time that you were there, right?
A Yes, for all I know.
Q Because the one that you found on the ground that you talked about in the photograph you took on the 28th, there wasn't any reason for you not to be collecting it there on the 22nd, correct?
A Correct.
Q For all that you know, that got put there after you left and before you returned, right?
A Yes. I can't say for sure what happened when we were gone.

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Q Okay. And then the same thing would be true about the things that you picked up inside, right?
A Yes.
Q I mean, you took a picture of finding one of those zip ties on the 22nd of January underneath the couch, correct?
A Yes.
Q Is that would require you to get down on your hands and knees to be able to really look around and do a thorough job, right?
A Yes.
Q Yet it spite of that, you go back a few days later and there's more zip ties, right?
A Mm-hmm. Yes.
Q It wasn't because you weren't looking on the 22nd, right?
A I can't say for sure. I'm not perfect at finding everything.
Q Very good. You're not perfect. But nevertheless, these things were open view when you went back there on the 28th, right?
A Yes.
Q So you were doing your job as well as you could on the 22nd, correct?

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A Yes.
Q All right. And while you were on the outside, you noticed that awning that's on the side of the building?
A Yes.
Q Or not the building but the trailer, and then there was the sides to that, correct?
A Yes.
Q Did you take any note of how those sides -- because those were like canvass sides and there was like poles there to make this into like -- like a tent area, correct?
A Yes.
Q And there was a concrete bottom to it?
A Yes.
Q And -- and so on those poles where those pieces of canvass were hanging, were those secured by any item? Did you notice?
A I don't know for sure.
Q Well, you didn't notice that they were secured with zip ties?
A No, I did not notice that.
Q Okay. All right. Did you notice whether those pieces of canvass had eyelets in them in order to be used to secure that to the pole, the canvass

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to the pole?
A Yes, I do remember there being poles in the canvass.
Q And -- and you would agree that that tent was not flapping around, those pieces of canvass, they were secured somehow, correct?
A Yes.
Q And you just don't remember looking at how they were secured; is that correct?
A That's correct.
Q Would you agree that those zip ties that you saw and -- and collected or items like that would be a useful or a tool to use or item to use to secure the canvass to the poles?
A They could be used that way.
Q Yes. Okay. Thank you. When you went to the hospital, was that shortly after you took the pictures at the house or the trailer on the 22nd?
A Yes, we went there next.
Q And you saw the child that you took the photographs of, correct?
A Yeah.
Q And that was at the direction of a police officer involved?
A Yes, a police officer at the hospital.

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Q Okay. And -- and he or she directed you toward where the child was and then you were asked to take these photographs, correct?
A Yes.
Q You don't know anything more about -- or you don't know anything about how those markings on that child's body occurred, right?
A No, I don't know.
Q You're just there to take a look to see what should be photographed, you're following the direction of the officer who was on the scene and you collected those photographs, right?
A Yes.
Q You didn't have any interaction with the child other than to ask him to stand up or sit down or show me you're hand or your leg, whatever it was, correct?
A That is correct.
Q And the same thing goes with the girl, right?
A Yes.
Q And you just took one picture of her, right?
A Yes.
Q And that was just a picture of her face, right?
A Yes.
Q Okay. When you went back to the house on the

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28th and you actually went into the house, correct?
A Mm-hmm.
Q Is that a yes?
A Yes.
Q You did not take any photographs inside that house, did you?
A I don't remember.
Q Okay. Fair enough.

MR. MCCARTHY: I have no further questions. Thank you very much.

THE COURT: Mr. Glenn.

MR. GLENN: Just a couple.

CROSS-EXAMINATION

BY MR. GLENN:
Q Now sir, when you go out to process a scene for forensic purposes, at certain times do you gather evidence for DNA purposes?
A Yes.
Q Now, the zip ties that you collected on this individual date -- well, there's two dates, January 22nd and the 28th, did you collect any of those zip ties to be sent to a DNA lab to see whose DNA was on those zip ties?
A I collected the zip ties but I'm not in charge of

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whether or not they get sent to a lab to be analyzed.

Q Okay. So you don't know whose DNA was on those zip ties?

A No.

MR. GLENN: Nothing further.

THE COURT: Any redirect?

MS. MCINTYRE: Just a couple questions.

REDIRECT EXAMINATION

BY MS. MCINTYRE:

Q So when you went out to photograph, I am going to refer you back to Exhibit Number 6. Mr. McCarthy asked you about the zip ties that could possibly have been used on the poles, correct?

A Correct.

Q All right. I'm going to have you look at Exhibit Number 6. Where is that zip tie located?

A On the ground.

Q Is it by a pole?

A No.

Q All right. And I'm going to have you look at Exhibit Number 10. Can you see that up on the screen?

A No. I have the Exhibit 10.

Q Pardon me?

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A I found Exhibit 10.
Q Okay. Is that zip tie located to that pole of the tarp?
A No.
Q And I'm going to direct you to Exhibit Number 14. Find it?
A Yes.
Q Is that zip tie located by the tarp or a pole?
A No. It's on a couch.

MS. MCINTYRE: I have no further questions.

MR. MCCARTHY: May I follow up on that?

THE COURT: Yes. Well --

MR. MCCARTHY: Just on this issue.

THE COURT: Didn't you already --

MR. MCCARTHY: As to the poles.

THE COURT: All right. I'll allow a little bit of leeway.

MR. MCCARTHY: Thank you.

THE COURT: But I do believe you've already covered this during your cross. But go ahead.

RECROSS-EXAMINATION

BY MR. MCCARTHY:

Q You didn't take any pictures of poles themselves,

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correct?
A No, I did not.
Q Okay. Thank you.
MR. MCCARTHY: Thank you, your Honor.
THE COURT: Thank you. Any questions from the jury for this witness? If so, please raise your hand. All right. There's one question, two, three. All right.
All right. You can approach.
(At 3:26 p.m. to 3:27 p.m., bench conference held.)
THE COURT: All right. Sir, I have a few questions for you.
Is it normal to go back to a scene a second time?
THE WITNESS: Occasionally, if they do a search warrant on that house to collect more evidence or if they find more evidence that they didn't notice the first time around.
THE COURT: Okay. And if you recall, what time did it get back on January 22nd of 2020?
THE WITNESS: I do not recall for sure.
THE COURT: Was it daylight when you were at the location on January 28th of 2020?

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THE WITNESS: May I review my report?
THE COURT: You may.
THE WITNESS: On the 28th?
THE COURT: On the 28th when you went back.
THE WITNESS: I don't have that report. But I arrived at 5:28.
THE COURT: 5:28 p.m.?
THE WITNESS: Yes.
THE COURT: Do you know what time you arrived on January 22nd of 2020?
THE WITNESS: May I review my report?
THE COURT: You may.
THE WITNESS: It was 5:20 p.m.
THE COURT: On both days?
THE WITNESS: On the 28th it was a different time. It was 1:50 p.m.
THE COURT: Okay. So just to be clear, on January 22nd of 2020 you arrived at 5:20 p.m.?
THE WITNESS: Yes.
THE COURT: On January 28th of 2020 you arrived at one?
THE WITNESS: 1:50 p.m.
THE COURT: 1:50 p.m. Okay.
How long are the zip ties, if you know?

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THE WITNESS: I don't know for sure but they look like normal length ones.

THE COURT: Can you say that out louder? I don't know if everyone heard you.

THE WITNESS: I don't know how long the zip ties were, but they seemed normal length for zip ties.

THE COURT: Had the zip ties been zipped closed?

THE WITNESS: All but one of them had been zipped closed.

THE COURT: I'm sorry. There's a second part to the question.

And for those that had been zipped closed -- I guess that answers that question. So all but one were zipped closed?

THE WITNESS: Yes.

THE COURT: Okay. And of the ones that were zip closed, were they cut?

THE WITNESS: Yes.

THE COURT: All right.

Any questions based on the juror questions?

MS. MCINTYRE: None for the People.

MR. MCCARTHY: No, your Honor.

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RECROSS-EXAMINATION

BY MR. GLENN:

Q Of the ones that were cut, how -- how large was the loop?

A I can't say for sure.

MR. GLENN: Nothing else.

THE COURT: All right. Sir, you may step down and be excused.

(At 3:30 p.m., witness excused.)

THE COURT: All right. It is now 3:30 p.m. and I indicated we would go until 3:30. I'll have you all return -- I know I indicated at the first day of the trial we would begin at 9:30. We did start a little later today than I had hoped.

Would it be a burdensome to have everyone come back at nine a.m. tomorrow morning? Is there anyone who would not be able to be there at nine a.m., please raise your hand.

All right. Then what we're going to do tomorrow, just to make up some time so that we can try to stay on schedule with having this trial completed by Friday, is to have you all appear at nine a.m. in the morning. All right.

Once again, I don't know what traffic

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conditions are going to be like, so please take that into account when you're deciding when you want to leave tomorrow.

Please leave your binders and note pads on the chairs. They will remain undisturbed while we are not in session. All right.

And as a reminder, do not discuss anything you have heard in court today with anyone, not even each other, as you are leaving.

We're going to excuse you into your jury rooms where you can collect any belongings you may have and then we will release you all together.

THE DEPUTY: All rise for the jury.

(At 3:31 p.m., both juries exit courtroom.)

THE DEPUTY: You may be seated.

THE COURT: Ms. McIntyre, do you think you're going to be getting to the statements tomorrow?

MS. MCINTYRE: Absolutely.

THE COURT: All right.

MS. MCINTYRE: I was hoping tomorrow morning to do them actually first thing, because my doctors have scheduling issues, they need to

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appear in the afternoon.

THE COURT: Why can't -- so the doctors can't be here in the morning?

MS. MCINTYRE: One doctor is doing -- she's got a training that she committed to months ago between 10 and 11:15.

THE COURT: Do either of you have any objection to us, I guess, letting the jurors know maybe to bring a book, there may be a long break? Tomorrow. Because each video, I'm assuming, is an hour to an hour and a half; is that correct?

MR. MCCARTHY: That's accurate. Yes. At least an hour.

THE COURT: All right. And so maybe letting them know they can bring a book or something because there may be a long break tomorrow. Do you have any objection to that?

MR. MCCARTHY: Oh, no.

THE COURT: Corporal Fleming? Can you advise the jurors that there may be a point where there's a long break tomorrow and they might want to bring a book or something with them? There's going to be an hour or hour and a half break for each jury.

MS. MCINTYRE: And your Honor, I don't

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know if we want to address this now or wait until the jury has been excused but as to the redaction of Ms. Alexander's statement.

MR. GLENN: I'll agree to the redaction.

MS. MCINTYRE: Okay. And just so the Court is aware, I know Mr. Williams is aware, also redacted out any information regarding her past history of abuse, I'm not sure that's relevant at this time, too.

MR. GLENN: I would agree to the redactions.

THE COURT: All right. Very good. There were a number of jury questions that were submitted. I did not ask all the questions. I slightly rephrased some of the questions to the witnesses. Did either side have any objections to the way the questions were asked?

MS. MCINTYRE: None from the People.

MR. MCCARTHY: None on behalf of Mr. Scott.

MR. GLENN: No, your Honor.

THE COURT: And any objections -- and did you have any objections to the questions that were not asked? I guess any side object to the

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Court not asking the questions that were not asked?

MS. MCINTYRE: No.

MR. MCCARTHY: No.

MR. GLENN: No.

MR. MCCARTHY: Not on behalf of Mr. Scott.

MR. GLENN: No, your Honor.

THE COURT: Okay. Is there anything else we need to place on the record?

MS. MCINTYRE: Nothing from the People.

MR. MCCARTHY: No, your Honor.

MR. GLENN: No, I don't have anything else.

THE COURT: All right. Very good.

Do we need to go back on the record? Can I close out of Zoom? Any reason?

All right. I'm going to close out of Zoom. We'll wait until the jurors leave but I just wanted to turn Zoom off. And just so that you are aware, in case there's anyone trying to watch the live stream, we've had -- we have to live stream from G2, not from my regular Zoom channel. And so if any -- anyone on either side wants to watch it, direct them to the proper Zoom

channel.

THE DEPUTY: All rise for the jury.

(At 3:37 p.m., both juries entered courtroom and exited the courthouse.)

THE COURT: All right. I'm going to ask that the attorneys come at 8:30 tomorrow, since I'm having the jury here at nine and that way we can address any issues that need to be addressed.

MS. MCINTYRE: Okay.

(At 3:40 p.m., proceedings concluded.)

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STATE OF MICHIGAN)
) ss.
COUNTY OF WAYNE)

I, Marguerite H. Anderson, CER, CSR-2334, do hereby certify that this transcript, consisting of 203 pages, is a true and accurate transcript of the proceedings and testimony taken in this case by Brion D. Coury, CSR/CSMR/CER-0038, on September 20, 2022.

/s/ Marguerite H. Anderson

_____
Marguerite H. Anderson, CER, CSR-2334
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Dated: March 3, 2023.

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STATE OF MICHIGAN

THIRD JUDICIAL CIRCUIT COURT (WAYNE COUNTY)

THE PEOPLE OF THE
STATE OF MICHIGAN,

-vs- Case No. 20-001501-02-FC

GWENDOLYN JOSEPHINE ALEXANDER,

Defendant.
_____/

JURY TRIAL

BEFORE THE HONORABLE MIRIAM BAZZI, CIRCUIT JUDGE

Detroit, Michigan - Wednesday, September 21, 2022

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Detroit, Michigan

Wednesday, September 21, 2022 - 9:10 a.m.

(At 9:10 a.m., both juries enter courtroom.)

THE DEPUTY: Thank you. May be seated.

THE CLERK: This is case 20-1501, People of the State of Michigan versus defendant 1, Errown Scott and defendant 2, Gwendolyn Alexander.

The matters are scheduled here today for purposes of jury trial in progress.

THE COURT: Appearances for the record, please.

MS. MCINTYRE: Good morning, your Honor. Abigail McIntyre, appearing on behalf of the People, P71143.

MR. MCCARTHY: Good morning, your Honor. Michael McCarthy, P30169, appearing on behalf and with Errown Scott, who is standing before me at the counsel table.

MR. GLENN: William Glenn, P36794, on behalf of Ms. Alexander.

THE COURT: Good morning. You may be seated.

And good morning to the jury panel.

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Again, I want to thank you all for your timeliness this morning.

Ms. McIntyre, are you ready with your next witness?

MS. MCINTYRE: Yes, your Honor. At this time we would like to excuse the jury for Ms. Alexander.

THE COURT: All right. I am going to -- I know we called you all here, asked you to be here bright and early at nine a.m. this morning, just to excuse you. But I will be excusing you for an hour and a half. Unfortunately, we can't even get started until you're all here.

What I am going to indicate to you is that you may, if you wish, stay in that room. However, if you choose to stay in that room you will have to remain in that room for the next hour and a half in the jury room. You can also go about your business. You can leave the building, walk around and, you know, just really do what you would like to do for the next hour and a half.

However, I do need you to be here promptly -- it is 9:12, if you can be here just to be safe by 10:30, right outside of my

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courtroom.

Is there anyone who would like to stay in the jury room? If so, please raise your right hand so we know. All right.

UNIDENTIFIED JUROR: Your Honor, can I just grab my bag --

THE COURT: Yes, we're going to release you into the jury room and then let you go out from there. But is there anyone that is going to be wanting to stay or requesting to stay in there? No?

All right. Very good. I'm going to release you all in there and then you may be excused. Just please be outside of the courtroom promptly at 10:30.

THE DEPUTY: All rise for the jury.

(At 9:12 a.m., Jury No. 1 exits courtroom.)

THE COURT: And your next witness?

MS. MCINTYRE: At this time the People would like to call Detective Ben Biddle.

DETECTIVE BIDDLE: Good morning, ma'am.

THE COURT: Sir, you see those visors there? If you can please put a visor on and remove your mask.

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Sir, please raise your right hand.

Do you solemnly swear or affirm the testimony you're about to give is the truth, the whole truth and nothing but the truth, so help you God?

DETECTIVE BIDDLE: I do.

THE COURT: All right. Please state and spell your name, for the record.

THE WITNESS: Ben Biddle. B-E-N B-I-D-D-L-E.

THE COURT: You may proceed.

MS. MCINTYRE: Thank you.

BEN BIDDLE

(At 9:14 a.m. called by Ms. McIntyre and sworn by the Court, testified as follows)

DIRECT EXAMINATION

BY MS. MCINTYRE:

Q Good morning, Detective.

A Good morning.

Q Where are you currently employed?

A Detroit Police Department.

Q And are you with a specific unit?

A Child abuse unit.

Q And you indicated -- well, you introduced yourself as Detective Ben Biddle?

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A Yes, ma'am.
Q How long have you been a detective for the Detroit Police Department?
A Eight, nine years.
Q How long have you been -- how long have you been with the child abuse unit?
A 22 years.
Q So you were with the child abuse unit on or about January 22nd of 2020?
A Yes, ma'am.
Q And were you asked to assist in the investigation involving an individual with the name of Errown Scott?
A Yes, ma'am.
Q And what -- what did you do to assist in this investigation?
A I took a statement from him.
Q And when you take a statement, what is the normal procedure for taking a statement?
A Giving them constitutional rights, doing a background page on them, and taking a statement from them.
Q Okay.

MS. MCINTYRE: Proposed Exhibit 35.

MR. MCCARTHY: I have no objection.

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MS. MCINTYRE: Your Honor, People would like to introduce People's Exhibit 35 as Mr. Scott's jury only, which was stipulated to by Mr. McCarthy.

THE COURT: Is that right, Mr. McCarthy?

MR. MCCARTHY: It is, your Honor, yes.

THE COURT: All right. No objection. All right.

And when you say People's Exhibit 35, what is it exactly?

MS. MCINTYRE: The constitutional rights and certificate of notification for Mr. Scott.

THE COURT: All right. Hearing no objection, the Court will receive People's proposed Exhibit 35 as People's Exhibit 35.

MS. MCINTYRE: Thank you.

(At 9:16 a.m., PX 35 admitted.)

MS. MCINTYRE: May I approach the witness?

THE COURT: You may.

MS. MCINTYRE: Thank you.

BY MS. MCINTYRE:

Q I'm going to hand you People's Exhibit 35.

A Okay.
Q Can you identify that for me, please?
A Yes, ma'am. Constitutional rights, certificate of notification.
Q Okay. What is the purpose of the constitutional rights?
A To read the -- well, give the defendant his constitutional rights, you know, he has rights regarding -- before we take a statement from him.
Q Okay. And what are those constitutional rights listed on your form?
A You want me to read them?
Q Yes, please.
A Okay.
Q The first one.
A I have the right to remain silent and I do not have to answer any questions put to me or make any statements. And I have the --
Q Is there another right underneath that?
A Yes.
Q What's the next one?
A Any statement I make, anything I say will be used in a court of law.
Q Is there another right?
A Yes, ma'am.

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Q What's the third right?
A I have the right to have attorney, lawyer present before or during the time I answer any questions or make any statements.
Q Is there another right under that?
A Yes, ma'am.
Q What's the next one?
A If I cannot afford an attorney, lawyer, one will be appointed for me without cost by the court prior to any questioning.
Q Is there another one after that?
A Yes, ma'am.
Q What's that?
A I can decide at any time to exercise my rights and not answer any questions or make any statements.
Q Is there another one after that?
A Yes, ma'am.
Q What's the next one?
A I understand that these are my rights under the law. I have not been threatened or promised anything and I now desire and agree to answer any questions put to me or make a statement.
Q Okay. Is there any other rights after that?
A No, ma'am.

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Q So do you read those during your interview with Mr. Scott or did he read them?
A He read them.
Q And how do you know if he understood them?
A I have him read the first one out loud to me and I have him read the rest of them, sign his initials to each one of them, that he understand them. If he have any questions, I ask him to -- I ask him if he have any questions regarding those statements and then I can ask those questions.
Q And are there initials next to each of those --
A Yes, ma'am.
Q -- rights? And is there an area under the rights for Mr. Scott's signature?
A Yes, ma'am.
Q And does that indicate that he understood his rights?
A Yes, ma'am.
Q Did he exercise any of those rights during his interview with you?
A No, ma'am.
Q And do you sign that form?
A Yes, ma'am.
Q Do you date it?

A Yes, ma'am.
Q What is the date on that form?
A 1/22/2020.
Q And is there a time?
A 7:56.
Q And do you recall -- strike that.
And when you interview -- when you interviewed Mr. Scott, where did you interview him?
A Detroit Police Headquarters, 1301 Third.
Q All right. Is there a specific area that you interview him?
A Yes. Like room five, I think it was 516 on the fifth floor.
Q All right. And with those rooms, like, do you record the interview?
A Yes, ma'am.
Q How do you record them?
A As soon as you walk in the room and turn on the light it starts recording.
Q Okay. So it's an automatic recording?
A Yes, ma'am.
Q And you don't have anything to do with it?
A No, ma'am.
Q Okay. Do you know if this interview was in fact

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recorded?
A Yes, ma'am.
Q And have you reviewed the interview?
A Yes, ma'am.
Q Okay.

MS. MCINTYRE: Your Honor, at this time the People would move for proposed exhibit, I believe it's 36, and publication, which is the video of Mr. Scott.

THE COURT: I do have a question for you. Is it possible to connect it to that TV as well?

MS. MCINTYRE: You would have to publish it over YouTube because it would stream live to YouTube.

THE COURT: Okay.

MS. MCINTYRE: I don't actually have any Internet access in this courtroom. So it would require a completely different set -- I think it has to do with the cable, so IT would have to come down and hook my computer up.

THE COURT: Is there any objection to moving that over here? I think because this is an open courtroom, we need to comply to making it open to the public.

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MR. MCCARTHY: I have no objection to having it made open to the public.

THE COURT: I mean, it is open to the public but the issue is it's not -- if we -- is it possible to move this over here or will that -- oh no, it's connected to the floor.

THE DEPUTY: It's taped down to the floor.

THE COURT: I'm sorry?

THE DEPUTY: It's taped down to the floor.

THE COURT: Is it possible to move it here without disturbing the wires?

THE DEPUTY: I think it can be pulled up.

THE COURT: So that would be the only way? Is the wire long enough to bring it to here?

THE DEPUTY: To there, yeah. No, this one is over here and then the other one, we'll have to go to another outlet.

THE COURT: Can you connect it to both of those?

MS. MCINTYRE: They are connected. I mean, it's connected to both of those. I would

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have to turn that on -- one question I avoid having about playing a video at the same time on two TVs is the issue of like delay and reverb. If that makes sense.

THE COURT: It doesn't play at the same time?

MS. MCINTYRE: They should. I mean, the videos went up -- or the pictures went up at the same time yesterday. I do not know how fast the audio is going to be. I mean, we can turn it --

THE COURT: The audio would be turned off on that one.

MS. MCINTYRE: Right.

THE COURT: Do you have any objection to us moving that over here?

MR. MCCARTHY: No, your Honor.

THE COURT: All right. Can we try to do that?

(Brief pause.)

THE COURT: It's right over here. Because it needs -- it needs to be part of public. Yes. While you're doing that, I should put that -- will comply.

THE DEPUTY: You want it turned that

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way?

THE COURT: You know what, hasn't come out up here. One second. Yes. A little bit further and then just -- it would have to be facing the -- the screen.

THE DEPUTY: The screen.

THE COURT: Yeah. So it would have to be just turned. Yes. That is perfect. Thank you.

Mr. Scott, if you need to adjust your chair, you may do so. And Mr. Glenn, it might -- if Ms. Alexander can sit on that back chair, just for --

MR. GLENN: Yes.

MS. MCINTYRE: We have no volume on this TV.

THE COURT: Thank you.

MS. MCINTYRE: Can everybody see in the jury, the full screen?

THE JURORS: Yes.

MS. MCINTYRE: Okay.

Your Honor, I just want to make sure that I moved for the admission of People's proposed Exhibit 36.

THE COURT: Any objection?

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MR. MCCARTHY: And your Honor, subject to the Court's prior ruling.

THE COURT: All right. The Court will receive it at this time.

(At 9:25 a.m., PX 36 admitted.)

MS. MCINTYRE: Thank you. People's redacted video 36, I move for publication.

THE COURT: You may.

MS. MCINTYRE: Thank you.

(At 9:26 a.m., played PX 36.)

THE COURT: Ms. McIntyre, is there more on the video?

MS. MCINTYRE: I don't believe so. You okay with stopping it?

MR. MCCARTHY: I have no objection.

THE COURT: Any further questions for this witness?

MS. MCINTYRE: Just one or two.

BY MS. MCINTYRE:

Q Detective Biddle, you sat and watched the video, correct?

A Yes, ma'am.

Q Who is the individual in the -- in the interview with you, the other detective?

A The detective. Mr. --

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Q The other detective?
A Oh, the -- that would be Calvin Lewis. I'm sorry, Calvin Lewis.
Q And did you two operate as a -- as partners that day?
A Yes, sir -- yes, ma'am.
Q So when -- you actually at one point left the interview, correct?
A Yes, ma'am.
Q Do you happen to know where you went, if you recall?
A Probably to my desk to run some names and do some different things for the kids.

MR. MCCARTHY: Excuse me. I didn't hear that answer.

THE COURT: To run some names and do some different things for the kids.

MR. MCCARTHY: Thank you.

BY MS. MCINTYRE:
Q Were you involved in any other interviews with this case, if you recall?
A I don't recall.
Q Okay. Thank you.

THE COURT: Cross?

MR. MCCARTHY: Thank you, your Honor.

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CROSS-EXAMINATION

BY MR. MCCARTHY:

Q Detective Biddle, my name is Michael McCarthy. I represent Mr. Scott. I just have a couple of questions to ask you here this morning regarding your testimony.

If I don't make myself clear, please tell me that.

A Yes, sir.

Q Do you recall in the beginning part of the interview, Mr. Scott asked a question. He said, am I under arrest. Do you remember that?

A Yes. Yes.

Q And you responded by asking him a question. You got handcuffs on you? Do you remember that answer?

A I said you don't have handcuffs on.

Q You don't have handcuffs.

A Right.

Q Okay. And then you said, we read you your constitutional rights every time somebody comes down here?

A Yes.

Q Is that right?

A Yes.

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Q Okay. Now, you would agree that Mr. Scott, when he was questioned by you, he was in custody, correct?
A Not at that time.
Q Well, you understood -- did he just walk in the police station that day?
A I think -- no, I'm not sure. He was conveyed down.
Q He was conveyed down?
A Yes.
Q And he was conveyed down in handcuffs, would that sound right to you?
A Yes. That's our protocol, yes.
Q Okay. So the protocol is, is on the scene where he's picked up for being conveyed, handcuffs are put on him?
A Yes.
Q To get in the car?
A Yes.
Q The police car?
A Yes.
Q And then he's brought down to the police station?
A Mm-hmm.
Q And escorted into that room that we see on the screen, correct?

A Yes, sir.
Q And -- now that room, I saw you walking in and out of it and Detective Lewis, but Mr. Scott, he wasn't free to leave that room then, was he?
A If he wanted to get up after he read his constitutional rights and wanted to make a statement with us, he was free to go.
Q You had him read the first right out loud, correct?
A Yes. Yes, sir.
Q You didn't have him read any of the other ones out loud?
A No, sir.
Q You didn't tell him out loud hey, if you want to, you're free to leave?
A No, sir.
Q Okay. And then he wasn't free to leave when this was all done, right?
A Not at that -- not after -- I think he was arrested after interrogation.
Q Then he -- he was remanded or he was taken away to jail?
A Yes, sir.

MR. MCCARTHY: I don't have any further questions. Thank you.

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THE COURT: Any redirect?

MS. MCINTYRE: Yes, your Honor.

REDIRECT EXAMINATION

BY MS. MCINTYRE:

Q Detective Biddle, if Mr. Scott wanted to stop the interview at any time, was he free to do so?

A Yes, ma'am.

Q And he didn't have to talk to you if he didn't want to?

A No, ma'am.

Q And did you coerce him into talking to you?

A No, ma'am.

Q Did you threaten him at any time?

A No, ma'am.

Q You watched the video. Was he provided food and water?

A Yes, ma'am.

MS. MCINTYRE: I have no further questions.

THE COURT: Any questions from the jury for this witness? If so, please raise your hand.

All right. Seeing no hands, you are excused.

THE WITNESS: Thank you.

(At 10:45 a.m., witness excused.)

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THE COURT: All right. At this time I'm going to -- well, Ms. McIntyre?

MS. MCINTYRE: Yes?

THE COURT: Are you --

MS. MCINTYRE: No, just for a different part of the case.

THE COURT: All right. I'm going to excuse you at this time. I -- you are going to have a lengthy break. Rather than have you come back in an hour and a half and then just release you to lunch, I'm just going to incorporate all that time together.

You are free to leave the building and you are free to stay in the main building. What I am going to say, since I'm going to release you to go to lunch, I am going to ask that no one remain inside of the jury room.

The lunches will not be in the jury room upstairs until about noon, until you are at that time you are free to go there and see if the lunches are ready and available for you and at that point you can pick up your lunch if you choose.

Right now it is 10:46. I'm thinking we probably need an hour and a half and then an hour

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for lunch. So 1:15, I'll ask that you all come back at 1:15 outside of my jury room -- I'm sorry, outside of my courtroom and I will bring you all in together. All right?

I'm going to remind everyone not to discuss anything you have heard in this court during the pendency of this trial, with anyone, not even other during the break. Okay?

All right. Thank you all very much. I'm going to release you into the jury room to collect your belongings, and we'll release you all together.

THE DEPUTY: All rise for the jury.

(At 10:47 a.m., Juror Number 2 exits courtroom.)

THE DEPUTY: May be seated.

THE COURT: We are not on the record at this time.

(At 10:47 a.m., recess taken.)

(At 11:00 a.m., proceedings reconvened.)

THE COURT: You ready to have the jury brought in?

MS. MCINTYRE: Yes.

THE COURT: Let's bring the juries in.

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(At 11:00 a.m., both juries enter courtroom.)

THE DEPUTY: Thank you. May be seated.

THE COURT: All right. We are back on the record on the case of People versus Errown Robinson-Burton Scott, Case Number 20-1501-01 and Gwendolyn Alexander, Case Number 20-1501-02.

Appearances for the record, please.

MS. MCINTYRE: Good morning, your Honor. Abigail McIntyre, appearing on behalf of the People, P71143.

MR. MCCARTHY: Good morning, your Honor. Michael McCarthy, P30169, appearing on behalf and with Mr. Scott.

MR. GLENN: William Glenn, P36794, on behalf of Ms. Alexander.

THE COURT: Good morning. Are you ready with your next witness?

MS. MCINTYRE: The People are, your Honor. The People at this time would call Ms. Renia Scott.

THE COURT: All right. Ms. Scott, do you see those visors right there.

MS. SCOTT: Yes, ma'am.

THE COURT: Would you please get a

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visor, place it on and then remove your mask.

MS. SCOTT: I have a poor renal system, I really don't want to take no chances.

THE COURT: Do you have any objection to Ms. Scott keeping her mask on?

MS. MCINTYRE: Not unless she speaks really loud.

THE COURT: Mr. McCarthy?

MR. MCCARTHY: I'd agree with Ms. McIntyre. It's difficult enough to hear with the mask off and the screen on, so to have a double --

THE COURT: Well, she doesn't have to wear the mask if she keeps -- I'm sorry, she doesn't have to wear this -- the visor if she has the mask on. Do you have any objection to her keeping the mask on, Mr. Glenn?

MR. GLENN: No objection. Whatever makes her comfortable.

THE COURT: All right. You may be seated. Since you have already put that on, however, just keep the visor with you.

MS. SCOTT: Absolutely.

THE COURT: All right. Ma'am, can you please state and spell your name, for the record?

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THE WITNESS: Absolutely. Renia Scott. R-E-N-I-A. My last name is Scott, S-C-O-T-T.

THE COURT: All right. Ma'am, I'm going to ask that you just keep your voice loud and clear.

MS. SCOTT: Yes, ma'am.

THE COURT: Go ahead.

MS. MCINTYRE: Thank you.

THE COURT: I'm sorry, one second. I did not swear her in.

Ma'am, please raise your right hand.

Ma'am, do you solemnly swear or affirm the testimony you're about to give is the truth, the whole truth and nothing but the truth, so help you God?

MS. SCOTT: I do.

THE COURT: Thank you.

RENIA SCOTT

(Called at 11:05 a.m. by Ms. McIntyre and sworn by the Court, testified as follows)

DIRECT EXAMINATION

BY MS. MCINTYRE:

Q Good morning, Ms. Scott.

A Good morning.

Q Just so -- you can pretend like you're talking to

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the deputies in the back of the courtroom, that will be greatly appreciated for everyone.

A I will.

Q Thank you very much.

A You're welcome.

Q Ms. Scott, do you know an individual by the name of Errown Scott?

A Yes.

Q And who is that to you?

A That is my son.

Q And do you see him in the courtroom today?

A I do.

Q And can you point to him, tell me what he's wearing, please?

A A red vest, burgundy shirt and black pants.

MS. MCINTYRE: Your Honor, let the record reflect that the witness has identified the defendant, Mr. Scott.

THE COURT: Record should so reflect.

BY MS. MCINTYRE:

Q And on or about January 20th or 22nd of 2020, did Mr. Scott reside on your property on Berkshire in the City of Detroit, State of Michigan?

A Yes, he did.

Q And did he reside in your physical dwelling or

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something else?
A He reside in a -- something else.
Q And what's that something else?
A A mobile home.
Q Okay. And who did he reside in that mobile home with?
A Gwendolyn.
Q And do you know Gwendolyn's last name?
A Alexander.
Q And is she present in the courtroom today?
A Yes, ma'am, she is.
Q Okay. Can you point to me -- or point to her and tell me what she's wearing, please?
A Black. All black.
MS. MCINTYRE: Let the record reflect that the witness has --
BY MS. MCINTYRE:
Q What color mask is she wearing?
A Blue mask.
MS. MCINTYRE: Let the record reflect that the witness had identified Ms. Alexander.
THE COURT: The record should so reflect.
BY MS. MCINTYRE:
Q And did they reside there with anybody else?

A The children.
Q Who were the children?
A Mishayla Scott, Robyn Scott, Martez Abdullah.
Q And they resided with Mr. Scott and Ms. Alexander?
A Both of us.
Q Both of you. So when you say both of you, what does that mean?
A That means around about, I want to say back in the summer of -- early summer of 2020 my son came to me and he explained to me that they were being evicted and that he needed somewhere to go. He -- his girlfriend was having a baby and if I could allow them to stay on my property.

And I agreed yes, and I explained to him the situation as far as the -- the mobile home. That it had lights, that it had water but it didn't have running water where you could flush the commode.

And I also explained to him what was he going to do about the babies, given the fact that Gwendolyn was pregnant and he had three little ones. And he said -- well, we both discussed that the children were going to be with me the majority of the time.

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Q Okay. I'm going to stop you right there. What does it mean for the majority of the time?

A So given my circumstances of just with the new situation, the majority of the time would have been the kids were brought to daycare, the kids were gonna -- I was going to prepare meals for them. They were going to sleep there and some of the time during the night hours, especially during the really hot hours -- I mean hot hours of the night, I would need a relief.

I have a -- a breathing issue. And with that, I would need to have time to just get out and go in the back and relax. Those were the times that the young parents would keep -- get the kids, keep the kids and they would come after I get my break.

Q Okay. So in your estimation, was -- so it sounds like -- and correct me if I'm wrong -- were the kids with you during the day?

A Yes. The children were with me during the day, especially during the summer hours.

Q So they were with you at your house during the summer?

A Really, the whole time. In the winter, especially with the weather changing, my

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breathing became more difficult. So I believe around about the first -- maybe the end of October, somewhere in between the middle of November I had to take a break.

And during that time I advised the young parents, you know, what -- I need to take a break and that's what I did. They were bathed there -- they still were bathed there. They would seen there. But I wasn't hands-on as much as I was previous.

Q Okay. So when you weren't as hands-on as previous, then you would tell the parents that you needed a break?

A Mm-hmm.

Q Were the children back in the care of Ms. Alexander and Mr. Scott?

A Not the full day. Not the full day because you've got to remember that there wasn't any toilet --

Q But they would come back and forth to use the toilet to your house?

A Well, they weren't there the whole time. So when I say the whole time, that means, no, they didn't stay like 24 hours stay a day, like they probably were there during -- let's just say 12 hours.

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Q Okay.
A And I specifically pointed out 12 hours, especially during -- once I got really ill. I said, you know what, after you get off work, you know, you need to come and give me some relief. And that's what happened.
Q Okay. So they weren't with their parents for at least 12 hours out of the day?
A I want to say during the winter months.
Q Okay.
A During the winter months.
Q And that was beginning, you said about October is when your respiratory issues became --
A Yeah. I want to say about the end of October, somewhere in between, November, and I particularly remember because I got, you know, really sick during that time.
Q Okay. So when Martez slept at your house --
A Mm-hmm.
Q -- where did he sleep?
A He slept in -- well, he slept in several different places. One of them was, I had a two story flat. I have an upstairs and I have a lower part, which is like the second -- I mean, first floor and second floor.

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During the summer months he slept on the second floor. During the colder months he slept on -- he slept upstairs. And I had two rooms upstairs and two rooms downstairs. And so he slept in a room by himself.

Sometimes he sleep by himself. If he got scared he will sleep in the hallway and of course he slept on a mattress from the baby bed.

Q Okay. So he had his own room?

A Pretty much.

Q All right. And did you have any concerns with Martez having his own room?

A No, not really. I have a very big house and an -- and an empty nest, so it's like no.

Q Okay. All right. And at any point in time did you -- did there ever come a point in time where you no longer saw Martez?

A There was never a time that I never not saw Martez.

Q So you saw him every day?

A When I didn't see him, I would call and I would ask the parents how's the kids, can you put them on Facebook -- I mean, can you put them on the camera, let me see how they're doing. And it was just a habit. I do it to all my kids, you know.

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I want to see how they're doing.
Q Okay.
A So --
Q All right. Did you ever notice any marks or anything on Martez?
A So when the kids -- when I first was introduced with the kids, I had noticed that all the kids were breaking out. And I asked the mom, I was like hey, what's going on? She said well, they have eczema. They have it really, really bad, especially during the winter months. And I was like, uh, what do you use? So she tells me, I use hydrocortisone cream.
Q So did you ever notice any marks around Martez?
A Not marks. The marks from the eczema, which left red patches, like big patches of --
Q So it would be like a patch but nothing to be like a circle around a wrist?
A Well, so during -- I believe it was like Thanksgiving, during -- during Thanksgiving -- and again, this is what the kids would do, all the kids come to me, say grandma, can you put some cream on my --
MR. MCCARTHY: I don't want any hearsay from -- I'm objecting to hearsay.

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THE WITNESS: With -- okay.
BY MS. MCINTYRE:
Q So what happened -- what do you --
THE COURT: I'm sorry. Objection sustained. Ma'am, you can't --
MR. MCCARTHY: Thank you very much.
THE COURT: -- testify about what any -- someone else may have told you. All right?
THE WITNESS: Yes, ma'am.
THE COURT: All right. You may go to the next question.
MS. MCINTYRE: Thank you, your Honor. I apologize for interrupting.
BY MS. MCINTYRE:
Q So -- but around Thanksgiving did you notice any marks around Martez's wrists?
A I noticed that Martez had a ring that appeared to be -- it wasn't open, that appeared to be a ring. He asked me to put some cream on it, like a -- put some cream on it like always.
Q All right. So you noticed a ring around his wrist?
A I did -- well, he came to me and I should -- I can't what he said. But he came to me and I put some cream on it.

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Q Okay. All right. That's fair enough.
You indicated that the kids had bath time at your house?
A Yes, ma'am.
Q Were you present for any of that time?
A All the time.
Q All the time?
A All the time.
Q So did you notice any bruising or anything on Martez?
A Never. No bruises. Patches only.
Q Patches only and the ring around his wrist around Thanksgiving?
A Right around Thanksgiving.
Q Okay. All right.
MS. MCINTYRE: I have no further questions.
THE COURT: Any redirect? I'm sorry, any cross?
MR. MCCARTHY: Thank you, your Honor.

CROSS-EXAMINATION

BY MR. MCCARTHY:
Q Ms. Scott, my name is Michael McCarthy. I represent Mr. Scott, your son.
I have just a couple of questions to

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ask you. If I don't make myself clear, please tell me that and I'll rephrase the question. Okay?

A I certainly will.

Q So you've got this trailer on your property; is that correct?

A Yes, I do.

Q And you've made arrangements to allow Mr. Scott and Ms. Alexander to live on your property. You said the summer of 2020 but would that be much more accurate to say 2019?

A It most likely probably would be.

Q Okay. So in the summer of 2019 they and the three children came to stay on your property; is that right?

A Yes, sir.

Q And the children were staying at your house for the vast majority of the day, up until the point where you started to not feel so well; is that correct?

A Yes, sir.

Q That was more like in the winter time; is that right?

A Yes.

Q Or the late -- later fall, even November; is that

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right?
A Yes, sir.
Q And then you said you needed a break and so then the parents had responsibility for the children more of the day; is that correct?
A No, sir.
Q No?
A No. Not more of the day. My son worked long hours, very long hours. When he would come, I would ask him then to come into my home, not leave the children and go out of the home.
Q Okay.
A But to clean the children in the home because remember, they did not have any access to flushing water or flushing the commode. So the children stayed on my property while he came in and bathed the children, prepared meals and the children stayed with me.
Q Okay. So let me just see if I got this straight. The children at that point, when it's cold out, they're not staying in the trailer; is that correct?
A No. No, sir, they're not.
Q Did they ever go over there and visit at the trailer?

A Oh, sure, absolutely. I encouraged that quite a bit.
Q All right. And when they went over and visited at the trailer, would that be in the afternoon, then?
A Martez was in school so it would most likely be in the -- yeah, I want to say in the afternoon. And it would vary, given the -- you know, given the fact that my son was long hours working and the mom was expecting.

And when I would see her, she was sitting on the side of the trailer with a book and some tea or whatever. And this is -- this is when the kids would go and visit.

Q All right.
A And they would play between my house and the trailer.
Q So -- now Martez, he's going to school, correct?
A Martez was in school.
Q Okay. And so he's gone during the school day; is that right?
A That's -- that's right.
Q And then every night he stayed at your house?
A The -- yes. I'm not going to say every night, I want to say -- there's just -- once I got ill, I

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want to say back in November, around about that time, it could have been like maybe -- it was probably about like three nights that I remember that -- and it was late when he picked them up. And I want to say it was like about 10, maybe 11. And I hey, you know what, I don't know if I'm going to live or die, you know. You need to --

Q Okay.

A -- and my children are very rambunctious.

Q So you say three times into the winter from November, whenever it was that you started feeling ill?

A Uh-huh.

Q Until the 22nd day of January, which is the day the police came to your house.

A Okay.

Q Do you remember that day?

A Yes, I do.

Q Maybe three times those kids were taken home in the later evening, 10:00, because you weren't feeling well, and taken over to the trailer; is that right?

A Yes.

Q Okay. And that trailer, you know about that trailer, right? The toilet doesn't flush; is

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that correct?
A Yes, I -- yes.
Q And did it have heat?
A It did have heat.
Q Okay.
A Good heat. 'Cause he was using my heat.
Q But you involved yourself in bathing those children, correct?
A Absolutely.
Q All right. And you never saw any marks on Martez; is that right?
A I never saw any marks of concern. I've seen and I addressed this in the beginning with his mom, like you know, the boys. I kept all the boys at one time. All the boys would break out.
Q I'm just talking about Martez.
A Yes. Martez.
Q Martez --
A Okay.
Q -- Robyn, Mishayla.
A All right.
Q Those are the kids that you bathed, right?
A Yes, sir.
Q On a regular basis?
A Yes, sir.

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Q You -- those are the kids that you fed on a regular basis?
A That is correct.
Q And you made good meals for them?
A Absolutely.
Q And -- and they ate all three meals over there?
A All three meals. I want to say probably about, you know, dinner time, my son would prepare. But all three meals were definitely ate there but I didn't prepare dinner towards the end of this stay.
Q Okay. But you were present and you know that the meals were consumed by the children?
A Absolutely.
Q In your house, the big house?
A Yes.
Q That's got heat and plumbing and all that?
A Absolutely.
Q And running water, and those kids were there?
A Absolutely.
Q Okay. Thank you.

MR. MCCARTHY: I have nothing further.

MR. GLENN: Judge, just a couple.

CROSS-EXAMINATION

BY MR. GLENN:

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Q Now, when the kids were over there bathing, you said that you didn't see any strange marks on Martez; is that correct?
A Nothing to be of concern, no.
Q All right. Did Martez ever complain to you about mistreatment or any type of excessive punishment at his parents' home?
A No, he did not.
Q Now, did you ever have an issue or a concern about Martez's weight?
A No. No.
Q Now, when you prepared the meals for the children, Martez in particular, did he eat his food?
A All the time.
Q Did he ever ask for more?
A Yes.
Q Was he ever denied food on any occasion?
A Never.
Q And to your knowledge, he never had any issue with weight?
A No, not to my knowledge.

MR. GLENN: Nothing further.

THE COURT: Any redirect?

MS. MCINTYRE: Just to follow-up.

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REDIRECT EXAMINATION

BY MS. MCINTYRE:

Q So you were not with the children 24 hours a day, seven days a week, correct?

A In the beginning I was.

Q From October to January you were not with them 24 hours a day, seven days a week?

A I want to say the end of --

Q That's a yes or no. Were you with them 24 hours a day, seven days a week from October to January?

A I can't answer that. Because from the end of three days, like I said, towards the end of it, the only -- was the only time that they was not there that I did not see them.

Q I'm not saying that you didn't see them, but they weren't in your care, custody or control 24 hours a day, seven days a week, correct? Because there was times that you needed a break?

A So --

Q Yes or no. There were times that you needed a break?

A Okay. Give me time to think about it so I can --

Q But you just testified there were times that you needed a break?

A Oh, yeah.

Q Okay. That's all I'm asking.

MS. MCINTYRE: I have no further questions.

THE COURT: Any questions from the jury for this witness? If so, please raise your hand.

All right. We have one question. Two questions.

All right. I have two questions or a few questions for you.

Was Ms. Alexander in the house with you while the kids were there eating or taking baths?

THE WITNESS: No.

THE COURT: Okay. Did Martez go to school every day?

THE WITNESS: He went to school, I believe, up until like -- it was very cold. And as I previous stated, the weather really -- really allowed his skin to become very irritated.

But as far as I would get up, make sure Martez was ready to be taken by his mom or his dad to school, Martez went to school every day except on those winter days where it was a lot of snow and at my advice -- I would tell my son to ask Gwen if Martez could take some time to be at home and I would home school him. Because his

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skin was very sensitive in the cold weather.

THE COURT: Did you ever enter the trailer?

THE WITNESS: Once.

THE COURT: If yes, what did you observe?

THE WITNESS: I sat on the couch that -- the trailer is designed where the couch is first entry and I set it on -- and I sat on the couch with the new baby. And when I observed, the trailer was in decent order. It wasn't, you know, it wasn't like my house but for a family with new children, small children, it appeared to be expected, about what I expected.

It was warm, very warm. It had covers on the couch. It had some -- it had some stuff, you know, around, like clothing. But it wasn't to a point where I would have asked my son hey, what's going on, you know, this is my property. Because I'm very particular about my property.

THE COURT: Okay.

THE WITNESS: And, you know, I did ask Gwen does she need help cleaning, cleaning the stove.

THE COURT: All right. I just --

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you've answered the question.

THE WITNESS: Okay.

THE COURT: Any further questions from the People?

MS. MCINTYRE: Nothing from the People.

MR. MCCARTHY: No, your Honor. Thank you.

THE COURT: Mr. Glenn?

MR. GLENN: No, your Honor.

THE COURT: All right. Ma'am, you may step down and be excused.

(At 11:26 a.m., witness excused.)

THE COURT: Is your next witness here?

MS. MCINTYRE: My next witness is not here until about noon, 12:30.

THE COURT: I'm going to ask the jurors to enter into the jury room, please.

THE DEPUTY: All rise for the jury.

(At 11:26 a.m., both juries exit courtroom.)

THE DEPUTY: Thank you. May be seated.

THE COURT: All right. We had an off-the-record discussion that I would like to place on the record at this time. And that was regarding one of the People's witnesses, Officer

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Calvin Lewis, who is now retired, it's my understanding, and was subpoenaed to come to court and is the person who went through the advice of rights with Ms. Alexander. He has failed to appear at this point. Is that correct, Ms. McIntyre?

MS. MCINTYRE: That is correct, your Honor. I've also talked to my officer in charge, who can discuss that how Mr. Lewis or detective, Officer Lewis was notified. It doesn't appear he was personally served, he was texted the message. It was also left in his door.

His supervisors were made aware of it. He had been in constant contact with Detective Brown as well as Detective Biddle and a couple of the other child abuse detectives, including his former partner and for all intents and purposes was supposed to walk through the door and we have been attempting to reach him, to no avail.

THE COURT: Detective, if you can stand up, I'm going to place you under oath.

Do you swear or affirm the testimony you're about to give is the truth, the whole truth and nothing but the truth, so help you God?

THE DETECTIVE: I do.

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THE COURT: All right. Based on your conversations with, I guess officer or Mr. Lewis at this point, he's no longer an officer, did he indicate he was going to be coming to court?

THE DETECTIVE: He did.

THE COURT: Did he ever at any point indicate he would not be coming?

THE DETECTIVE: No.

THE COURT: Did you communicate with him this morning?

THE WITNESS: No, I did not.

THE COURT: Did you communicate with him yesterday?

THE WITNESS: I did, yesterday.

THE COURT: And what was the communication yesterday?

THE DETECTIVE: I advised him that he was to be in court today at 8:30 a.m., G2, Judge Bazzi. I apologize if I pronounce your name wrong. But that's the information that I gave him.

THE COURT: And how -- what was his response?

THE DETECTIVE: He did not respond to that.

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THE COURT: He did not respond to that text message?

THE DETECTIVE: He did not respond to that text message.

THE COURT: All right. Previous to that was he responding to your messages?

THE DETECTIVE: Yes.

THE COURT: Do you have any reason to believe that he may be sick?

THE WITNESS: I don't think he's sick. I mean, there's a lot of stuff going around but I can't say that for sure. But I don't have a reason to believe that he is sick.

THE COURT: Has anyone gone out to his house?

THE DETECTIVE: I have not gone out to his house recently, no.

THE COURT: Okay. All right. Mr. Glenn, I know it was an off-the-record discussion. You were objecting to the playing of the video?

MR. GLENN: Yes, your Honor. As far as the advice of rights for the officer who administered the advice of rights to my client has to testify that those were the rights that he

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gave my client, that she waived them, that there was nothing said or threatened or promised to her before the camera was played or afterwards.

And I would object to him -- the tape being played without him laying the proper foundation as to whether the rights were given to my client, whether she was not going to -- I mean, she was pregnant at the time, whether she wasn't under -- whether she was of in need of using the restroom, that she wasn't complaining of water. Just because you have a tape, that doesn't mean that there weren't problems or issues with that beforehand.

Now, before the -- the tape was played, did she ask for a lawyer. Did she say that she wanted to remain silent and they went forward with the interview anyway. We don't have any of that and I would object.

THE COURT: Ms. McIntyre?

MS. MCINTYRE: Your Honor, the advice of rights are recorded on the video and I know that the officer in charge has reviewed the video. She also was in receipt of the signed advice of rights.

Detective Biddle was also in and out

during the interview and can attest to whether or not there was any issues during the interview when he was present.

I think that -- I also think that the issue regarding the advice of rights was something that was pre -- should have been pre-litigated prior to today and prior to the start of the trial. I think that's a pre-litigation issue, not a trial issue. Because if there's a defectiveness in the advice of rights, then it would I think go to the issue of suppression of the statement.

MR. GLENN: Well, your Honor --

THE COURT: Well, Mr. Glenn, let me ask you something. What authority do you have that indicates that an officer has to get on the stand and swear under oath that nothing happened prior to a -- the video that purports to show the entire interaction between the officer and your client?

MR. GLENN: You can't go in here and say that my client waived her rights when you don't have proof from the person who administered the rights that she waived them.

THE COURT: Isn't that on video?

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MR. GLENN: No. That -- she waived her rights, that she understood her rights. Nobody can sit up here and take the place of an officer who did that. Miranda. US versus Miranda.

THE COURT: And I understand it. Isn't that exactly what she does on the video?

MR. GLENN: You have to say that there was no promises, threats or things prior to that. And you cannot assume that there was any conversation where my client asked for a lawyer, that she wanted to remain silent. That she wanted to go home and was told that she couldn't. That has to be done by the officer who did that and we don't have that.

THE COURT: And isn't that on the video? Doesn't he go through her Miranda rights and ask her if she was promised -- and Mr. Glenn, I'm asking you very specifically about the Miranda rights that are reviewed and are on the video. I have not observed this video. As an officer of the court, I'm assuming you have -- you have observed it and will be forthright with the Court.

Isn't it on the video that she was asked if she was threatened or promised anything

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to make that statement?

MR. GLENN: Yes, it's on the video but my client has told me that there was a meeting in another room prior that.

THE COURT: Okay. And why wasn't that the subject of a pretrial motion then?

MR. GLENN: Because I thought this officer was going to be here today.

THE COURT: But if there was an issue based on a conversation that you had with your client as to any previous conversation, why wasn't that brought up in a pretrial motion?

MR. GLENN: Well, when I was made aware of this, I talked to my client and she told me that there was a conversation prior to that. And if -- if the People had told me that Mr. -- that this detective wasn't going to be here, I would have filed all kind of motions. But that wasn't done. Where he wasn't going to cooperate.

No, we're not -- I'm not stipulating to anything and I'm strongly objecting.

THE COURT: All right. I am going to allow the video. Your objections are noted for the record.

As long as officer -- is Officer Biddle

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here to testify? Somebody needs to authenticate the video. As long as that video can be authenticated, I will allow it. I do believe that if there was an issue with the -- that really should have been a pretrial motion.

MR. GLENN: Also, your Honor --

THE COURT: One moment. That should have been a pretrial motion. In fact, we -- there was a pretrial motion argued and for Mr. Scott on this exact issue. And I understand, Mr. Glenn, you came onto the case later and I recognize that.

But that wasn't a motion that was brought by previous counsel. And at this point, I mean, we're at trial and I know you have spoken with your counsel, it should have been a pretrial motion. It was not.

MR. GLENN: Your Honor, I received this at the final conference, well after all the motions were filed and litigated. And your Honor, this is a new wrinkle that -- that my client is entitled to her due process and her right of confrontation, that she's clearly being denied that now.

THE COURT: Okay. And I understand

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that, but I have never denied an attorney an opportunity to file a motion, even after a motion filing deadline. Had it been brought to the Court's attention, I would have certainly allowed that.

With that said, I'm still going to be signing a witness detainer.

MS. MCINTYRE: Absolutely.

THE COURT: I do expect Officer Lewis here when I give the time for you to return, I expect him here and I expect him to testify. However, if he's not here, I'll allow the video in as long as someone can authenticate that video.

MS. MCINTYRE: I -- the officer in charge can also authenticate the video, she has reviewed it as part of her duties as the officer in charge. But I have both of them here and I'll put both of them on.

THE COURT: I don't believe -- I think it has to be an officer who is actually present there.

MS. MCINTYRE: Absolutely. Fine.

MR. GLENN: And your Honor, also, there was a lot of CPS topics or conversations here and

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I don't believe that the officer who came in during the interview can testify that -- were there any threats or promises made to her regarding CPS concerns. Because that's been edited out of the -- this video.

THE COURT: Well, if a video has been edited to remove CPS for your client's benefit, was there anything in the video that indicates that the CPS -- she was threatened with CPS allegations?

MR. GLENN: Prior to the interview, your Honor.

THE COURT: All right. I've already -- I've already --

MS. MCINTYRE: But your Honor, I mean, I'm just going to disclose the fact that the reporting officers are mandatory reporters and I don't actually believe that any of them filed a 3200, which is the form that is needed to file a CPS action. But I do believe that CPS was notified with -- by either EMS or the hospital at that point.

MR. GLENN: Your Honor, that's not true because CPS was there on January 22, 2020 when they went to the house.

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THE COURT: Because the witness testified she called CPS before she called the police.

MR. GLENN: And CPS was there.

THE COURT: Yes. All right. I'm going to allow the video. All of your objections are noted for the record, Mr. Glenn.

I will also sign a witness detainer. I do need that detainer brought to the Court.

MS. MCINTYRE: Yes.

THE COURT: We are going to break -- it is 11:37 at this time. We are going to break until 12:45. That is an hour. I expect when we come back we are going to have Officer Lewis, but we will -- we will be starting the video at that time.

And I'm going to have Mr. Scott's jury return -- one moment. You think it's going to be an hour and a half?

MS. MCINTYRE: Yes.

THE COURT: What is your position as to the redactions? I understand you are objecting to the video in its entirety, but based on my ruling, what is your position as to the redactions?

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MR. GLENN: Subject to your ruling, I have no objections to the redact -- redacted version of my client's interview.

However, I am not stipulating to anything that the officer in charge, who was not the officer who gave my client her rights or had conversations before the video was made, promised or denied her her rights to remain silent or what, I'm not stipulating or agreeing to any of that.

But subject to the Court's ruling, I have no objections to the redacted.

THE COURT: I understand. And obviously, the -- as you go through the video, the only part initially that's going to be put forth is the advice of rights.

Once the advice of rights is read and gone through with your client, I would expect the video to be stopped and at that point the People would have to make their motion to continue.

I think that there has to be -- I mean, we have to -- there has to be a finding that there was a voluntary waiver because counsel is objecting to it.

MS. MCINTYRE: That's fine.

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THE COURT: All right. All right. So I've got 11:45 we break for lunch. We break until 12:45. We have the other jury, the one jury start, the other jury will come back at 1:45, 2:15.

Please let Mr. Scott's jury know that we are -- they are on break until 2:15, to be outside of our courtroom at 2:15.

THE DEPUTY: Okay.

THE COURT: Thank you very much. The other jury must be back at 12:45.

THE DEPUTY: Yes, ma'am.

THE COURT: All right. Thank you. And we're just not live streaming while the jurors leave.

(At 11:40 a.m., both juries exit for luncheon recess.)

THE DEPUTY: Thank you. You may be seated.

THE COURT: All right. Do we have to go on the record with anything?

MS. MCINTYRE: I don't think so.

THE COURT: All right. Please be back at 12:45.

MS. MCINTYRE: I will be back before

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then. Judge, are you going to be in chambers so I can bring you the detainer to sign?

THE COURT: Yes.

MS. MCINTYRE: Okay. As soon as I get it printed, I will be back down.

THE COURT: Actually, I'll be my courtroom upstairs.

(At 11:43 p.m., recess taken.)

(At 1:00 p.m., proceedings reconvened.)

THE DEPUTY: All rise for the jury.

(At 1:00 p.m., Jury No. 1 enters courtroom.)

THE COURT: What I'm going to ask all of you to do is for the viewing of the video, I'm going to ask just for that purpose, I'm going to have you come sit over here in these chairs. It does not matter which chair you sit on. If you want to take your binder with you, you may take your binder with you. You won't be able to come back and get it while we're viewing the video.

(Brief pause.)

THE COURT: There's two TV screens. There's a TV screen on the jury right here.

All right. We are still waiting for one person before we can call the case.

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(Brief pause.)

THE COURT: Case Number 2020-001501-02. People versus Gwendolyn Alexander. We are here today for a continuing jury trial.

Appearances for the record, please.

MS. MCINTYRE: Good afternoon, your Honor. Abigail McIntyre, appearing on behalf of the People, P71143.

MR. GLENN: William Glenn, P65794, on behalf of Ms. Alexander.

THE COURT: Good afternoon. You may be seated.

Ms. Alexander, next time you have to be back promptly.

DEFENDANT ALEXANDER: Yes, ma'am.

THE COURT: Good afternoon to the jury panel. I want to thank you all for your promptness in coming back to court this afternoon.

Are we ready with the next witness, Ms. McIntyre?

MS. MCINTYRE: We are, your Honor. At this time the People would call Calvin Johnson -- or Calvin Lewis, I'm sorry.

THE COURT: Mr. Lewis, if you want to

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approach right here, next to the chair are some visors. If you can please but a visor on and remove your mask.

Sir, please raise your right hand.

Sir, do you solemnly swear or affirm the testimony you're about to give is the truth, the whole truth and nothing but the truth, so help you God?

MR. LEWIS: Yes.

THE COURT: All right. You may be seated.

Please state and spell your name, for the record.

THE WITNESS: My name is Calvin Lewis. C-A-L-V-I -- C-A-L-V-I-N. Last name Lewis, L-E-W-I-S.

THE COURT: All right. Your witness.

MS. MCINTYRE: Thank you.

CALVIN LEWIS

(Called at 1:07 p.m. by Ms. McIntyre and sworn by the Court, testified as follows)

DIRECT EXAMINATION

BY MS. MCINTYRE:

Q Mr. Lewis, now where are you currently employed?

A I'm currently employed with the Wayne County

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Airport Authority.
Q And in what capacity?
A A police officer.
Q All right. Were you ever employed with the City of Detroit Police Department?
A I was. I did 20 years for the City of Detroit and I retired a year and two months ago.
Q So that would be in 2021 you retired?
A That's correct.
Q Okay. So you were with the City of Detroit Police Department on or about January 22nd of 2020?
A I was.
Q All right. And were you assigned to a specific unit?
A Yes, ma'am. I was assigned to the child abuse unit.
Q All right. And what was your rank at that time?
A At that time I was a corporal.
Q Okay. And were you involved in the investigation of an incident with one of the people of interest by the name of Gwendolyn Alexander?
A I was.
Q And what did you do during that investigation?
A During that investigation I remember completing a

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constitutional rights form of the defendant and we were out to the house, did an investigation at the home. And I also remember completing a constitutional rights form with one of the grandmothers.

Q Okay. Did you interview Ms. Alexander, if you recall?

A I did. I remember interviewing Ms. Alexander along with, I believe Officer Biddle or Detective Biddle at the time.

Q All right.

MS. MCINTYRE: Your Honor, at this time the People would move to -- for the admission of People's Exhibit 37, which is the certificate of notification, which I believe is being stipulated to.

THE COURT: Is that correct, Mr. Glenn?

MR. GLENN: Yes, your Honor.

THE COURT: All right. With that stipulation, the Court will receive People's Exhibit 37 -- proposed Exhibit 37 as People's Exhibit 37.

(At 1:10 p.m., PX 37 admitted.)

MS. MCINTYRE: Thank you. May I approach the witness?

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THE COURT: You may.

MS. MCINTYRE: Thank you.

BY MS. MCINTYRE:

Q I'm going to hand you what has been admitted as People's Exhibit 37. Could you look at that and identify it for me?

A Yes. This is the constitutional rights certificate for Gwendolyn Alexander.

Q And what is the purpose of the constitutional rights certificate or certification?

A It's actually the Miranda warning where we advise the defendant of her Miranda warnings.

Q Okay. Is there one right located on that form or are there several?

A There's several.

Q Could you read the first one for me, please?

A Yes, ma'am. The first one is, I have a right to remain silent and that I do not have to answer any questions put to me or make any statements.

Q Okay. Is there another right under that?

A Number two. Any statement that I make or anything that I say will be used against me in a court of law.

Q Is there another right under that?

A Number three, I have the right to have an

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attorney, a lawyer, present before and during the time of answering any questions or make any statements.

Q Is there another right under that?

A Number four. If I cannot afford an attorney, a lawyer, one will be appointed for me without cost to the court -- I'm sorry, without cost by the court prior to any questioning.

Q Is there another one under that?

A I can decide at any time to exercise my rights and not answer any questions or make any statements.

Q Is there a statement under that?

A It is. I --

Q What's the statement?

A I understand that these are my rights under the law and I have not been threatened or promised anything and I now desire and agree to answer any questions put to me or to make a statement.

Q Okay. So my -- how do you -- do you read those to Ms. Alexander or did she read them to herself?

A I think that she read them to herself. I'm not really -- I'm not actually sure if I did or if I didn't. This was a year or so, maybe almost two years ago.

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Q Okay. But during your course as a corporal with the City of Detroit and with the child abuse unit, how would you mark or identify that the individual who you read these rights to or had them read to themselves understood them?
A Well, what I would do is I would have them put their -- mark it with their initials here, to the right.
Q Okay. To the right of there.
A And put --
Q Are there initials there?
A Yes, it is.
Q Okay.
A And I would have them sign here at the signature block.
Q All right. And whose signature is that?
A That's Ms. Alexander.
Q Is it dated and timed?
A It is.
Q And what is the date on that?
A It is going to be January 22nd of 2020 and the time is at 6:27 p.m.
Q Okay. Do you sign and date that?
A I do.
Q And is your signature affixed to it?

A It is.
Q And what is the date of your signature?
A My signature is going to be at 6:28 p.m., the same date, 1/22 of '20.
Q Okay. So when an individual or Ms. Alexander is reading those rights, can they stop and ask you questions?
A Yes.
Q And they can exercise their right to not answer any questions; is that correct?
A If this choose, if she chooses, yes.
Q And did she choose to exercise any of her rights?
A No.
Q And did you conduct an interview with Ms. Alexander?
A I did.
Q And where was that interview conducted?
A That interview was conducted at the police headquarters.
Q And is there a certain area where those interviews are conducted?
A Inside of -- it was on the fifth floor in our interrogation room.
Q Okay. Are those interviews recorded?
A That's correct.

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Q Yes, they're recorded?
A Yes, they're recorded.
Q All right. And how -- do you record them or how is that recorded?
A There's a -- a starting mechanism. But however, the City allowed us to have an interrogation room, they provided an interrogation room that is -- that is recorded. And the defendant was known, we let her know that the room is also recorded and that's when I read off the interrogation.
Q So is it -- you said there's a recording mechanism. Are you in control of that mechanism when it's recorded, when the start is recorded -- or to start the recording?
A As far as when the door shuts.
Q Okay. All right.

MS. MCINTYRE: Your Honor, at this time the People would move for the admission of People's proposed Exhibit 38, which is the redacted video.

THE COURT: If you have any voir dire as to voluntariness?

MR. GLENN: Just a few questions.

VOIR DIRE EXAMINATION

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BY MR. GLENN:

Q Now, you stated that you started your interview with Ms. Alexander at -- what was it, 6:27 p.m. on January 22, 2020?

A I signed it at 6:28. She signed it at -- she signed hers at 6:27, I signed mine just shortly.

Q Now, how long had she been at police headquarters before you talked to her?

A Oh, I can't -- I can't remember that.

Q Isn't it true that Ms. Alexander was pregnant at the time?

A That's a possibility, yes.

Q All right. Now, did you offer her any food, water before her interview?

A I want to say that my partner did. I'm not sure.

Q Now, did you have any conversations prior to you going to the room on the fifth floor with Ms. Alexander?

A I don't recall having them, no.

MR. GLENN: Nothing else, your Honor.

THE COURT: All right. As to -- any objection as to voluntariness?

MR. GLENN: No, your Honor.

THE COURT: All right. The Court will -- finds that the waiver was knowingly, clearly

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and intelligently made and you may proceed with the video. Any objection to the video?

MR. GLENN: No, your Honor.

THE COURT: All right. That's -- what exhibit is that?

MS. MCINTYRE: It is Exhibit 38. And request for publication.

THE COURT: All right. Hearing no objection, the Court will receive People's proposed Exhibit 38.

(At 1:16 p.m., PX 38 admitted.)

THE COURT: And you may publish it.

MS. MCINTYRE: Thank you.

(At 1:16 p.m., played PX 38 to the jury.)

THE COURT: One moment. Can you pause it?

Why is the volume so low?

MS. MCINTYRE: That's the nature of the recording, your Honor, unfortunately. It's a low recording and that's all the way up. I don't know if this TV is any louder. I can try it.

THE COURT: Why don't you try this TV. Let me ask you something: As you're playing it, it's playing both TVs at the same time?

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MS. MCINTYRE: Yes.

THE COURT: Why don't we try playing both TVs, then?

MS. MCINTYRE: Both volumes?

THE COURT: Both volumes on those TVs. Let's see how that works.

MS. MCINTYRE: Okay. It is -- I even know with headphones and listening to it, it's a low recording. All right. We're going to turn that one all the way up. And Tika(phonetic), hit the volume up, can you hit play?

UNIDENTIFIED JUROR: May I turn this?

THE COURT: Yes.

MS. MCINTYRE: Absolutely. You may turn it a little. Here we go. Okay. Tika, hit it.

(At 1:18 p.m., continued playing PX 38.)

THE COURT: Mr. Glenn, Ms. McIntyre, while this is playing, will you approach?

(At 1:30 p.m. until 1:31 p.m. bench conference held as PX 38 continued playing.)

THE COURT: Can you pause it?

(At 1:46 p.m. PX 38 paused.)

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THE COURT: All right. I know we're not in our jury seats. Juror in the blue, my apologies, because you're not in your regular seats. Juror in the blue and yellow? I noticed your eyes were closed. Sometimes people have their eyes closed and they're still listening to everything that's going on and sometimes they have their eyes closed, they're missing stuff.

You heard everything?

UNIDENTIFIED JUROR: Yes, ma'am.

THE COURT: Okay. You satisfied?

MS. MCINTYRE: Yes. Thank you.

THE COURT: Satisfied, Mr. Glenn?

MR. GLENN: Yes.

THE COURT: Okay. Proceed.

(At 1:47 p.m., continued playing PX 38.)

(At 2:15 p.m., bench conference while PX 38 continued playing.)

(At 2:35 p.m., PX 38 concluded.)

THE COURT: All right. Do you have any questions -- any further questions for this witness?

MS. MCINTYRE: Just one additional question.

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DIRECT EXAMINATION (Continued)

BY MS. MCINTYRE:

Q Officer Lewis, who was the individual that -- outside of Ms. Alexander, who was the individual that was in the room with you?

A Detective Ben Biddle.

Q Thank you.

THE COURT: Cross?

MR. MCCARTHY: No.

MR. GLENN: No questions.

THE COURT: Any questions from the jury for this witness? If so, please raise your hand.

All right. Seeing no hands, we are going to take a short break. I'll excuse you into your jury room. If you want to take -- if you brought your note pad with you, please take it back or leave it on your seat.

THE DEPUTY: All rise for the jury.

UNIDENTIFIED JUROR: Do you take it with you?

THE COURT: If that's yours, please set it on your seat and then enter into the jury room.

(At 2:36 p.m., Jury No. 1 exits courtroom.)

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THE COURT: All right. You may step down and be excused.

(At 2:37 p.m., witness excused.)

THE COURT: I guess there was the issue of the witness detainer. At this time the People are closing out that detainer?

MS. MCINTYRE: Thank you, your Honor. And --

THE COURT: Was it entered into LEIN?

MS. MCINTYRE: No. I don't believe so. It was just received right before, I don't think they entered into LEIN. I will go check.

THE COURT: All right. Just one thing to place on the record and then we'll take a quick break.

We told the other jury to be back here at 2:45 promptly. Ms. Alexander and Mr. Scott, I need you guys to be on time. There was an hour break for lunch. That was more than adequate time to go get lunch and come back. We waited a good, at least 15 minutes I think before I finally sat the jury down.

I will do that if you're late, frankly, I'll do that if the People are late. I don't -- in that regard, I expect everyone to be here on

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time. Is that understood? All right.

One other matter. I know I asked off the record, Mr. Glenn, prior to Officer Lewis taking the stand, if you still had the same objection in terms of wanting a hearing regarding the voluntariness of the statement and you indicated you would deal with that with cross-examination when the witness was on the stand. Is that correct?

MR. GLENN: That's correct.

THE COURT: Okay. And so I just wanted to make sure that that was clear for the record, because there was previously a request for a hearing.

Is there -- so I'm assuming, then, you withdraw your request for a hearing?

MR. GLENN: Yes, your Honor.

THE COURT: All right. Anything further that needs to go on the record before we come back?

MS. MCINTYRE: Judge, I know I had talked to Mr. McCarthy about releasing Mr. Lewis from Mr. Scott's case but because it's duplicative witnesses and I just --

THE COURT: Any objection, Mr.

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McCarthy?

MR. MCCARTHY: Oh, no. Absolutely not.

MS. MCINTYRE: So the People would request that Mr. -- or Detective Biddle be released from Ms. Alexander's case because of duplicative --

MR. GLENN: No objection.

THE COURT: All right. Both Detective Biddle and Mr. Lewis can be released.

MS. MCINTYRE: Thank you.

THE COURT: Anything further?

MS. MCINTYRE: Nothing for the People. I just, I guess in terms of scheduling.

THE COURT: We're going to go until 3:30.

MS. MCINTYRE: Okay.

THE COURT: And then we will break at 3:30 sharp. I know you have to be out of here.

MS. MCINTYRE: Yeah, I just have to be upstairs by four.

THE COURT: That's fine. I said yesterday we would break at 3:30, I've been telling the juries we'll break at 3:30. So we'll start with the witness right now and then as -- we will break -- does nine a.m. work for

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everyone?

MR. MCCARTHY: Yes.

MR. GLENN: Yes.

THE COURT: All right. And come back at nine.

MS. MCINTYRE: Because I have a feeling both my doctors are going to have to come back tomorrow morning.

THE COURT: And that way we can get through their testimony. And I would still request that any defense witnesses be here. I have no idea how long or short that testimony is going to be.

MR. MCCARTHY: I understand and that's my plan.

THE COURT: Thank you very much, Mr. McCarthy.

MS. MCINTYRE: So your Honor, may I release my doctors until 9:00 this morning? No?

THE COURT: No, because you've got 45 minutes of testimony that we could get.

MS. MCINTYRE: Okay.

THE COURT: All right. Thank you very much.

MR. MCCARTHY: Thank you. How long is

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the break?

THE COURT: I'm going to start promptly at 2:45, it's 2:40, so it's five minutes.

MR. MCCARTHY: Thank you, your Honor.

(At 2:40 p.m., recess taken.)

(At 2:45 p.m., proceedings reconvened.)

THE DEPUTY: All rise for the jury.

(At 2:45 p.m., both juries enter courtroom.)

THE DEPUTY: Thank you. May be seated.

THE COURT: All right. Recalling Case Number 20-1501-01, People versus Errown Robinson-Burton Scott. And Case Number 15 -- I'm sorry, Case Number 20-001501-02, People versus Gwendolyn Alexander.

They are both here today for a jury trial in progress.

Appearances for the record, please.

MS. MCINTYRE: Good afternoon again, your Honor. Abigail McIntyre, appearing on behalf of the People, P71143.

MR. MCCARTHY: Good afternoon, your Honor. Michael McCarthy, P30169, appearing on behalf and with Errown Scott. He's seated at the counsel table.

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MR. GLENN: William Glenn, on behalf of Ms. Alexander, P36794.

THE COURT: Good afternoon. You may be seated.

And good afternoon to all my jurors. I want to thank you for your timeliness and your patience throughout the day today.

Ms. McIntyre, do you have your next witness available?

MS. MCINTYRE: Your Honor, the People would like to recall Gwendolyn Douglas.

THE COURT: All right. All right. You may.

MS. MCINTYRE: May I approach the deputy for a minute?

THE COURT: You may.

MS. MCINTYRE: Thank you.

THE COURT: Ms. Douglas, you're going to come around the back the way you did yesterday. You're going to come up to the chair. There is a visor sitting right there by the chair. There's a visor there.

MS. DOUGLAS: Okay.

THE COURT: And just so you're aware, Ms. McIntyre, there is a film on those visors, on

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the back side of the visor.

MS. MCINTYRE: Okay.

THE COURT: So it makes it easier to see if you remove that film.

All right. So Ms. Douglas, you want to take that visor?

All right. Ms. Douglas, I'm going to remind you that you are still under oath. Okay?

MS. DOUGLAS: Okay.

THE COURT: All right. Ms. McIntyre, go ahead. I believe when we broke yesterday Ms. Douglas had asked for an opportunity to review her recorded statement to the police.

MS. MCINTYRE: That's correct.

GWENDOLYN DOUGLAS

(Called at 2:49 p.m. by Ms. McIntyre and previously sworn, continued testifying as follows)

DIRECT EXAMINATION (Continued)

BY MS. MCINTYRE:

Q Ms. Douglas, had -- did you -- were you provided an opportunity to review your recorded statement that you did with the Detroit Police Department?

A Yes.

Q You need to be really loud.

A Yes, I reviewed the video.
Q Okay. And did that reflect -- refresh your recollection of what you said?
A Yes, it did.
Q Okay. And so did -- is it true that you told the Detroit Police Department that you witnessed Ms. Alexander tying up Martez?
A No.
Q What did you witness?
A I never witnessed her tying him up.
Q What did you witness?
A I witnessed the scars and the weight loss.
THE COURT: And the what?
THE WITNESS: The weight loss.
BY MS. MCINTYRE:
Q And where did you witness the scars?
A Right underneath the eye -- right under the left eye.
Q The left eye. And when did you witness this? If you recall.
A I cannot give you the exact timeframe.
Q Was that --
A I can't give you the exact timeframe, I'm sorry.
MR. MCCARTHY: Excuse me. I didn't hear what she just said.

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THE WITNESS: I can't give you an exact timeframe.

MR. MCCARTHY: All right.

BY MS. MCINTYRE:

Q Do you remember what season it was?

A It was cold outside.

Q So --

A It was, you know, it was cold outside. I mean, in the winter. Fall, winter.

Q And did you ever ask Ms. Alexander how Martez got the marks on his face? If you recall.

A Not that I recall, no.

Q Okay. Do you recall telling Detroit Police Department that Ms. Alexander told you that she had not fed Martez in three days?

A Yes. I -- I honestly don't remember if it was Martez himself that told me that or if it was Ms. Alexander, but I -- I do remember. Yes.

Q Okay. And that's what you --

THE COURT: I didn't even hear that.

THE WITNESS: I'm sorry.

THE COURT: Will you just try to speak -- kind of -- sometimes if you tilt the visor up, yeah, kind of do it like that, it's a little bit easier. Okay?

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THE WITNESS: Okay.
THE COURT: Go ahead.
THE WITNESS: Can you hear now?
THE COURT: I can hear you better.
THE WITNESS: Okay.
THE COURT: If you can repeat that answer.
THE WITNESS: I'm sorry, what was the --
THE COURT: What was the question again?

BY MS. MCINTYRE:

Q The question was, is do you remember telling Detroit Police Department or Detective Brown that Ms. Alexander told you that she had not fed Martez for approximately three days?

A Okay. Yes. So I don't remember if it was Martez himself who told me that or if it was Ms. Alexander, but I do remember hearing that he did not eat for three days.

Q Okay. And do you remember hearing the reason why?

A Because he didn't count to whatever number -- I don't know if it was 16 or not, but because he didn't count.

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Q All right. Did you ever see Martez tied up?
A No. I don't recall, honestly, I do not recall seeing him tied up. No.
Q Okay. But you did tell the Detroit Police Department, based on your recollection and watching your video, that you told --
A Yeah, I didn't say details, but I honestly don't recall.
THE COURT REPORTER: I'm sorry, I didn't -- I didn't hear that.
BY MS. MCINTYRE:
Q Do you remember telling them that you did -- you did witness Martez tied up to the couch?
A Yes.
Q Okay. All right. And that interview you gave with Detective Brown, was on or about, I believe, January 26th, was that correct?
THE COURT: Of what year?
BY MS. MCINTYRE:
Q 2020.
A Yes.
Q Okay. So when you gave that information to Detective Brown, that was fresh in your memory?
A Yes.
Q Okay. And so that would be the best time that

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you recall those events, correct?
A Yes. It's been two years.
Q And things have become a little more hazy since then?
A Yes.
Q All right.
MS. MCINTYRE: People have no further questions.
THE COURT: Mr. McCarthy.
MR. MCCARTHY: I have no questions of this witness.
THE COURT: Mr. Glenn.
MR. GLENN: Just a few.
CROSS-EXAMINATION
BY MR. GLENN:
Q Now, you stated that you saw some type of mark on Martez's left eye?
A Yes.
Q You can't remember when?
A No.
Q And you stated that you saw weight loss?
A Yes.
Q On Martez?
A Mm-hmm.
Q And when was this again?

A I cannot give you an exact timeframe, I'm sorry.
Q How old was Martez, if you know?
A I believe he was six at the time. Six.
Q But you don't know when?
A No.
Q Now, you stated that you did not see Martez tied up?
A I don't remember. I don't -- I honestly do not remember seeing him tied up, I'm sorry.
Q You did not see him tied to a couch?
A No.

MR. GLENN: Nothing else.

THE COURT: Any questions from the jury for this witness? Please raise your hand.

All right. One question. All right. Please write your question down and my deputy will come get it.

(Brief pause.)

THE COURT: I'll have the attorneys approach, please.

(At 2:58 p.m. to 2:59 p.m., bench conference held.)

THE COURT: All right. Ma'am, I have two questions for you.

THE WITNESS: Okay.

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THE COURT: First one is why were your statements to Detroit Police different today or changed from your statements -- well, I guess -- let me rephrase it.

Why are your statements -- why is your testimony here in court different from what you might have said to the Detroit Police back in 2020?

THE WITNESS: I'm not sure. What the -- like the prosecutor just said, it's a bit hazy. It's been over two years now. I am still trying to like suppress this and not think about it, so it is a bit hazy.

I'm sorry. I really can't remember everything like I did at the beginning. And I'm a mother myself, I have four children and my thoughts are on them and things, so I apologize.

MR. MCCARTHY: Excuse me.

THE COURT: We didn't hear that last part. When you're speaking, I'm sorry, you're speaking a little bit fast and your voice kind of goes a little bit low.

THE WITNESS: I've been up for 72 hours. I'm sorry. I'm so sleepy.

THE COURT: I understand. That's okay,

ma'am. But you said -- all right -- that you -- I guess the part you didn't hear, you said you have four children and what?

THE WITNESS: I'm a mother, I have four children and there's a lot still on my mind. I'm sorry. I apologize if this isn't the first thing that I think about every day, so --

THE COURT: Okay. All right. Thank you, Ms. Douglas.

I have one other question for you. Do you remember what you had for dinner on January 26th of 2020?

THE WITNESS: Yes, I do.

THE COURT: All right. If you saw a video of your dinner from that date, would you trust the video or what you remember now?

THE WITNESS: I probably wouldn't, no.

THE COURT: You probably wouldn't what?

THE WITNESS: I wouldn't trust the video because I couldn't remember what I had on that day. I'm sorry.

THE COURT: All right. Any follow-up questions, based on those questions, Ms. McIntyre?

MS. MCINTYRE: Just, I guess -- yes.

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REDIRECT EXAMINATION

BY MS. MCINTYRE:

Q To follow-up on that, so if there was a video of you eating on January 26th of 2020 and you watched it --

A I'm sorry, that was a video of me eating the food?

Q Or what your dinner was that day, would you trust the video or what you remembered of your meal now or what you remember eating on that day now?

A Yes, if it's a video of me eating that day, of course I would trust the video.

Q Okay.

MS. MCINTYRE: I have no further questions.

MR. MCCARTHY: I have no questions.

THE COURT: Mr. Glenn.

MR. GLENN: Just --

RECROSS-EXAMINATION

BY MR. GLENN:

Q Now, when you went to the police station back in January of 2020, were you telling the police the truth?

A Yes.

Q Okay. Are you telling the truth today?

A Yes.

MR. GLENN: Nothing else.

THE COURT: All right. Thank you, ma'am. You may step down and be excused.

(At 3:01 p.m., witness excused.)

THE COURT: Call your next witness, Ms. McIntyre.

MS. MCINTYRE: At this time the People would call Dr. Shazia Maqbool.

THE COURT: Juror in Seat Number 1, can you see the video if it is turned like that? You can't?

UNIDENTIFIED JUROR: Kind of.

THE COURT: One second. If you like, sir, you can kind of --

UNIDENTIFIED JUROR: I will --

THE COURT: That will be the same thing. If you think you can see what's in there.

UNIDENTIFIED JUROR: Yeah, I can see.

THE COURT: Okay. That's fine. Then you can leave it like that. Can everyone else see the video the way it is?

UNIDENTIFIED JUROR: I can't, your Honor.

THE COURT: Okay. That needs to be

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turned. Off. I'm sorry.

UNIDENTIFIED JUROR: I can still see that one.

MS. MCINTYRE: You can still see that one?

UNIDENTIFIED JUROR: I'd rather do that. Yes.

THE COURT: All right. Does everyone have a good view of one of the screens? If you do not have a good view of the screen, please raise your hand. All right. Seeing no hands.

All right. You can please hand the doctor a visor. If you go into the blue area, turn it around, on the other side.

DR. MAQBOOL: This side?

THE COURT: That side, there is actually a film on there. Scratch it a little bit, it will -- you're not able to get it? You can hand it to me.

DR. MAQBOOL: I got it.

THE COURT: You got it?

DR. MAQBOOL: Oh yes, got it.

THE COURT: All right. Ma'am, if you could please put that visor on and take your mask off.

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If you could please face me and raise your right hand.

Ma'am, do you solemnly swear or affirm the testimony you're about to give is the truth, the whole truth and nothing but the truth, so help you God?

DR. MAQBOOL: I do.

THE COURT: Thank you. If you could turn around and please state and spell your name, for the record.

THE WITNESS: First name S-H-A-Z-I-A. Last name M-A-Q-B-O-O-L.

THE COURT: All right. I'm going to ask that -- you see this is a pretty big courtroom and it's sometimes hard to hear, especially in the far corners of the courtroom. So as much as possible, if you can speak loud and clear. That will help magnify your voice.

THE WITNESS: Okay.

THE COURT: All right. Thank you very much.

Your witness.

DR. SHAZIA MAQBOOL

(Called at 3:03 p.m. by Ms. McIntyre and sworn by the Court, testified as follows)

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DIRECT EXAMINATION

BY MS. MCINTYRE:

Q Good afternoon, Doctor.

A Good afternoon.

Q Where are you currently employed?

A Children's Hospital.

Q And in what capacity? Are you assigned to a special unit in Children's Hospital?

A Right. I work in the emergency department.

Q All right. Let's talk about your education. What is your educational background?

A I graduated from medical school in 1985 from Pakistan. Then I did my residency in pediatrics at Henry Ford Hospital. Then I did a fellowship in pediatric emergency medicine from Henry Ford Hospital.

Then I was employed by Henry Ford Hospital, I worked in emergency department there. Then I worked at St. Joseph Macomb -- St. Joseph Oakland in Pontiac for five years. Then I joined Children's Hospital in 2005.

Q Okay. And do you currently hold a medical license?

A Yes.

Q In what state?

A Michigan.
Q And how long have you held that medical license?
A Since 1990.
Q Okay. And are you board certified?
A Yes.
Q In what specialties are you board certified?
A I am board certified in pediatrics and I am board certified in pediatric emergency medicine.
Q Is pediatric emergency medicine a subcategory of pediatrics?
A Yes.
Q So you hold -- it's a specialization?
A Yes.
Q Okay. And were you on duty on or about January 22nd of 2020?
A Yes.
Q And at that time did you have an opportunity to examine three children: Martez Abdullah, Robyn Scott and Mishayla Scott?
A Yes.
THE COURT: Before you go on, are you going to have her qualified as an expert?
MS. MCINTYRE: I wasn't planning on it.
THE COURT: She's testifying as a doctor, correct?

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MS. MCINTYRE: Yes. We can -- I will qualify her. I mean --

BY MS. MCINTYRE:

Q So how long have you been board certified as a pediatric ER doctor?

A So I finished my fellowship program in 1996 and I took my boards since then.

Q Okay. And how often do you have to renew your boards?

A Every 10 years.

Q And are -- are they currently renewed?

A Yes.

Q Or are you about to renew them?

A No, they are renewed.

Q Okay. And other than working in Children's Hospital's ER, do you hold any other positions?

A No.

Q Have you ever testified in court before?

A Yes.

Q Have you ever qualified as an expert witness?

A Yes.

MS. MCINTYRE: I would yield for voir dire.

THE COURT: Mr. McCarthy?

MR. MCCARTHY: Thank you.

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VOIR DIRE EXAMINATION

BY MR. MCCARTHY:

Q Doctor, how many times would you estimate that you have testified as an expert in pediatric emergency medicine?

A Oh, roughly, I don't remember the total time, maybe eight or nine times.

Q Okay. And would that be in the Circuit Court here in Wayne County or other circuit courts throughout the State of Michigan?

A Yes. I did -- I think, I believe this is my third time here.

Q Very good.

A A few times in the one that is across Children's Hospital. It's the family court.

Q Let me ask you this: In this area of your specialty, have you published any articles?

A No.

Q Have you presented any topics --

A No.

Q -- and seminars for other physician, things of that nature?

A No, sir.

Q Okay. Thank you.

MR. MCCARTHY: I have no further

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questions.

THE COURT: Mr. Glenn?

MR. GLENN: Just one.

VOIR DIRE EXAMINATION

BY MR. GLENN:

Q When was the last time that you were qualified as an expert witness in pediatric emergency medicine?

A I think it was regarding the same case, I was --

THE COURT: One moment.

BY MR. GLENN:

Q Other than this case. When was the last time you were qualified as an emergency pediatric doctor prior to this case?

A Prior to this case?

Q Right.

A I can't remember exactly. But I think for this case I was -- I went to the --

THE COURT: One moment, ma'am.

Can I have the attorneys approach?

(At 3:09 p.m. to 3:10 p.m., bench conference held.)

THE COURT: Mr. Glenn.

MR. GLENN: Yes.

BY MR. GLENN:

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Q Now, Doctor, you stated that you were qualified in this case as an expert at what date?
A I don't remember the date, sir.
Q Okay. All right. Now, prior to that, when was the last time you were -- you went to court as an expert?
A I don't remember the date.

MR. GLENN: Nothing further.

THE COURT: All right. Any objection to this witness testifying as an expert in pediatric emergency medicine and pediatrics?

MR. MCCARTHY: I'll leave it in the Court's discretion.

THE COURT: Mr. Glenn?

MR. GLENN: I'll do the same.

THE COURT: All right. I believe there has been testimony that she's board certified in both pediatric emergency medicine as well as pediatrics.

She has been qualified at least eight or nine times to testify in the circuit court, including -- I believe you indicated, was this your third or fourth time in this court?

THE WITNESS: I'm sorry, I think this is my third time.

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THE COURT: Third time in our court. And so I will allow her to testify as an expert in this matter.

MS. MCINTYRE: Thank you.

DIRECT EXAMINATION (Continued)

BY MS. MCINTYRE:

Q So Doctor, on or about January 22nd of 2020, did you have an opportunity to examine three individuals: Martez Abdullah, Robyn Scott and Mishayla Scott?

A Yes.

Q And where did you examine them?

A In the emergency department.

Q Of Children's Hospital?

A Children's Hospital.

Q Okay. And when you examine an individual, are your notes and diagnoses and findings contained in any sort of medical record?

A Yes.

Q Okay. I'm going to hand you what I believe has been stipulated to as People's Exhibit 31.

MR. MCCARTHY: No objection. So stipulated.

MR. GLENN: No objection.

THE COURT: All right. Hearing the

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stipulation, the People -- are you going to move to admit?

MS. MCINTYRE: I am moving to admit it as well.

THE COURT: All right. The Court will receive People's proposed Exhibit 31 as People's Exhibit 31.

MS. MCINTYRE: Thank you.

(At 3:12 p.m., PX 31 admitted.)

BY MS. MCINTYRE:

Q I'm going to hand you what are the certified medical records of -- can you tell me whose records those are?

A Okay. These records are for Martez Abdullah.

Q Are there any others in there?

A There's Robyn Scott and Mishayla Scott.

Q Okay. All right. So when you examine an individual, what do you do?

A You mean the physical exam?

Q Do you -- okay. Do you conduct a physical examination?

A Correct. Yes.

Q All right. And did you conduct a physical exam of Martez Abdullah?

A Yes.

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Q And when you do a physical exam, how do you -- what do you do for him? Do you have a system that you go through?
A Right. Basically, you examine each and every body part. So you get the patient a gown to wear. And you examine them from head to toe.
Q Okay. And do you -- do you recall -- well, let's start at the head.

Do you recall your examination of Martez?
A I mean, I can't -- I couldn't recall some matters.
Q That would help refresh --
A Yeah, okay.
Q -- refresh your recollection?
A Yes.
Q Please do so. So when you examined him, did you note anything within the head?
A The head exam, there was no sign of trauma.
Q Okay. What did you examine next?
A You know, the eyes.
Q Was there anything significant in that examination?
A There was nothing significant, it was a normal exam.

Q Okay. And what was the next thing that you examined?
A Examined the ears. No --
Q Was there anything significant?
A No sig -- nothing significant noticed.
Q And next?
A Nose.
Q Anything significant?
A No.
Q Anything -- what's the next one?
A Throat.
Q Anything significant?
A Nothing significant.
Q Okay. And what's the next thing you examined?
A The neck was nothing significant. It was a normal exam.

Then heart exam was normal.

The lung exam was normal.

The skin exam revealed some linear scar around the ankles and wrists.

Q Okay. Any other findings other than the linear scars around the ankles and wrists?
A Yes. And the musculoskeletal exam, there was swelling and tenderness, which means, you know, he has pain with touch around his ankle.

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Q And did it say which ankles or just both ankles?
A Ankles. Both ankles.
Q Okay. All right. And there any other significant findings on the examination of Martez?
A No other significant findings.
Q Okay. As part of your examination in -- other than writing notes and having medical records, do you take photographs?
A Yes.
Q And do you recall if medical photographs were taken in this matter?
A Yes. From my record it says we have taken photographs.
Q Okay. All right.

MS. MCINTYRE: I have already showed this to defense counsel, it's going to be People's Exhibit 40 through 50.

And I believe there's a stipulation to the admission.

MR. MCCARTHY: Yes, your Honor. No objection to the admission.

MR. GLENN: No objection.

THE COURT: All right. Hearing no objection, the Court will receive People's

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Exhibit 40 through 50.

(At 3:16 p.m., PX 40 through PX 50 admitted.

THE COURT: And you may, I guess, approach the witness.

MS. MCINTYRE: And then publish.

BY MS. MCINTYRE:

Q I'm going to have you look through those.

(Brief pause.)

Q (Continuing) And you've had an opportunity to review those, Doctor?

A Mm-hmm.

Q Are those -- what are those?

A These are photos of body parts. They are mostly -- most of the photos are from the ankles and wrists.

Q Okay. We are going to go through them. Hold on just a second.

I apologize. It didn't boot up the way it was supposed to.

Okay. We're going to start with Exhibit 40. Could you describe what that is?

A So in this there are -- looks like a scar, which is very hyperpigmented.

Q What does hyperpigmented mean?

A Where there's a lot of -- you know, you have melanin in your -- under your skin. Those are the melanins that gives you the color to the skin. So you have hyperpigmentation and there is insult to the skin, the melanin clumps and it gives you the darker colors.
Q Is there a layman's term for hyperpigmentation?
A You can say scar.
Q Okay.
A Mm-hmm.
Q All right. And what is the purpose behind the measuring tape?
A So sometimes, you know how if you have to -- there are multiple lesions, you have record each wound, their length, to put it down in writing. So sometimes taking pictures and putting a tape next to it helps tell us how big the -- the scars are or how big the cut is, so it gives you a good estimate.
Q Okay. Based on your expertise as a pediatric ER doctor, to get a scar like that, is that a fresh wound or is that older?
A Yeah. So it's hard -- always hard to date a wound, to date a bruise. But if it's not red in color, we -- our term is estimated. If it's not

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red in color then we say okay, this looks like an old wound.

So you can -- at least it was red you say okay, this is less than 24 hours. But anything that -- longer than that, you cannot date.

So this looks like an old.

Q Okay. I'm going to direct you to slide, Exhibit 41. Can you tell me what that is?

A Again, is there a linear scar, a linear hyperpigmented scar.

Q And that would be on the?

A This is the --

Q The right wrist?

A -- right wrist.

Q Okay. And Exhibit 42?

A Exhibit 42 is not a very good picture, so it's hard to say what we are looking here.

Q Would it help you to look on the screen, it might not --

THE COURT: She can't see the screen.

THE WITNESS: Yeah. It's hard. I mean, I think we try to take pictures but it really doesn't -- it doesn't -- doesn't tell you much.

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BY MS. MCINTYRE:
Q Would it be fair to say that you are trying to attempt to take pictures of marks on the arm?
A Yes, some. We were trying to but it didn't come out right.
Q Okay. And what about for slide 43?
A Okay. Which one?
Q 43?
A 43. Okay. So 43 is the back, lower back. It is a circular type of pigmented lesion. Looks like an old lesion.
Q Anything else of note?
A Yes. The -- the back area is very dark. Again, this is a very hyperpigmented skin.
Q Okay. And what about Exhibit 44?
A There's another circular lesion with some crusting around the skin. But again, it doesn't -- it's not like -- it doesn't -- it's not specific for anything, no. It's just --
Q You were just noting --
A Just noted, yeah, a few things that I saw.
Q Okay. And 45 is more of the same notation?
A Yes. And this also is not a very good picture, so -
Q Oops, I'm going the wrong way, I apologize.

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What about 46?
A Again, a hyperpigmented linear scar.
Q And 47?
A Multiple linear scars.
Q And 48?
A Yeah. There are a few hyperpigmented scars.
Q I'm sorry?
A Few hyperpigmented scars.
Q Okay. And 49?
A The same.
Q So for 49, 48, 47 and 46, which body part is that, do you know?
A This looks like -- it's hard to say. 49 is hard to say which body part.
Q What about 46?
A Which one, you said?
Q 46.
A 46. Do I have 46?
Q You do.
A Okay. Okay, here. 46.
I assume this is an arm because the arm band is there.
Q Okay.
A Wrist -- the patient's wrist band is there.
Q Okay. All right. What are we looking at in

terms of Exhibit 50?
A I'm sorry, you know what?
Q Okay.
A I take that back. This is the -- this is the heel, so this is the ankle.
Q So 46 is the ankle?
A 46 is the ankle.
Q And just to clarify, what about 47? If you can tell what body part that it is.
A This is also a foot. A foot and ankle. Right here. This is the heel and this is the ankle.
Q That's a heel and ankle. Okay.
And I'm going to skip ahead because we talked about 48 and 49. What are we looking at in terms of 50?
A I messed up, they are out of sequence here. Sorry.
Q That's okay.
A 50 are the -- both knees.
Q Okay. And so Doctor, based --
MR. MCCARTHY: I didn't hear that answer. 50 is what?
THE WITNESS: Both knees.
MR. MCCARTHY: Both knees. Thank you.
BY MS. MCINTYRE:

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Q So Doctor, based upon your physical examination of -- well, first off, did you have any tests performed for -- or any other type of examined -- diagnostic examinations done for Martez?
A Yes. X-rays of the ankle.
Q And was there any -- what were the findings based on the x-rays?
A They just noticed some swelling in the soft tissue but no fracture.
Q Okay. So would that be consistent with like a sprain?
A A contusion.
Q Or a contusion, okay. And based upon -- did you formulate a diagnosis for Martez?
A Yes. So the significant lesions that can -- yu know, were suspicious or nonaccidental.
Q What is nonaccidental?
A That was not -- it was not unintentional.
Q So not intentional?
A Meaning that he didn't like -- like, it wasn't by some accident that this happened.
Q Okay.
A He didn't, you know, fall or something like that.
Q That there was something that contributed to this, correct?

A Correct.
Q Could a six year old have created these marks on himself, do you know?
A Unlikely.
Q Okay. And so based upon -- I'm sorry.
You were indicating that it was nonaccidental. And then based upon that, what did you have a diagnosis of?
A Possible child abuse.
Q Possible child abuse. Okay.
And did you perform a physical examination for Robyn?
A Yes.
Q And would -- do you recall if you had any significant findings for that examination?
A As far as when I went through my records, I did not find anything.
Q Okay. And did you have -- did you conduct an examination of Mishayla?
A I did.
Q And were there any significant findings for -- based upon your examination of Mishayla?
A No.
Q Okay.
MS. MCINTYRE: I have no further

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questions.

THE COURT: Mr. McCarthy?

MR. MCCARTHY: Thank you very much, your Honor.

CROSS-EXAMINATION

BY MR. MCCARTHY:

Q Doctor, my name is Michael McCarthy. I represent one of the defendants in this case, Errown Scott.

I just have a couple questions to ask you this afternoon regarding your testimony. But if I do not make myself clear, please tell me that, I'll rephrase the question.

A Okay.

Q Did you do any evaluation about weight or weight loss or anything like that?

A Not that I can recall. But I -- if you mean did I ask them about weight loss? I asked the patient about weight loss?

Q Did you -- did you make any -- include anything in your report related to that topic?

A No, not from my --

Q Okay. And --

A -- as far as I recall.

Q And if you made any finding along those lines, you would have included it in the report; is that

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correct?
A Yes.
Q Because that would be something, if you did find it, that you would think is significant, correct?
A Yes.
Q All right. And this evaluation that you conducted is in the emergency department at Children's Hospital, correct?
A Correct.
Q And before you saw the patient Martez Abdullah, you had an understanding that he had been brought in an emergency vehicle or ambulance to the hospital; is that correct?
A Can you repeat the question?
Q Did you know that he had been brought to the hospital in an ambulance?
A I cannot recall.
Q Okay.
A I do not have that knowledge.
Q Now, when you saw him, was that shortly after he arrived there?
A So we would have to go back on the time, like, you know, patient sometimes come, they wait in the triage area, they wait in the waiting room and then they are brought to the room. So I

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don't know how long it took me to, you know, actually examine him.

Q Okay.

A But you can find that from our record, like what time he was registered and what time he was brought to the room.

Q Well, if -- let me ask you this, is there a protocol for how long a patient brought into your emergency department on the suspection(sic) or suspicion rather of child abuse --

A Mm-hmm.

Q -- must stay in the emergency department before they are discharged?

A There's no such protocol.

Q Okay. In your records it indicates that he was there for a total of three hours. Does that sound right?

A That sounds right, yes.

Q And you conducted your evaluation during that period of time, correct?

A Correct.

Q And prior to you seeing him some other nurses had had interaction with Martez Abdullah, correct?

A Correct.

Q And you had an understanding of why it was that

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you were going to conduct this evaluation, correct?
A Yes.
Q Or examination, rather?
A That's correct.
Q And then you made your findings?
A Mm-hmm.
Q You saw some things on his wrists and his ankles and, in fact, you wanted to have those ankles examined even further, that's why he was sent to the radiology department, correct?
A Correct.
Q And then you got the report --
A Mm-hmm.
Q -- from the radiologist --
A Mm-hmm.
Q -- which indicated that there were no fractures on either one of his ankles?
A Correct.
Q And you ordered that because he had made a complaint that, I think it was his left ankle was sore; is that right?
A Correct.
Q Giving him some pain. He didn't say that his right ankle was giving him pain, right?

A Correct.
Q And he didn't tell you that there was similar pain on either one of his wrists; isn't that true?
A He didn't complain -- from my record he didn't complain that his wrist was hurting.
Q And you didn't even notice swelling on either wrist, correct?
A Okay. Let me go back and --
Q Okay.
A So my musculoskeletal exam said good range of motion in all major joints. No tenderness to palpation or major deformity noted except on examination of the ankle.
Q Okay. So there were no x-rays taken of the ankle because there was -- I mean of the wrist?
A Right.
Q Because there was no indication that you saw that such a further examination --
A No.
Q -- by radiology would be appropriate?
A Right.
Q Is that right?
A Yes.
Q And then he was discharged?

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A Mm-hmm.
Q He was let out of the hospital?
A Mm-hmm, mm-hmm.
Q After 180 minutes, according to the records, right?
A Mm-hmm, mm-hmm.
THE COURT: Is that a yes?
BY MR. MCCARTHY:
Q Is that a yes?
A Yes.
Q Okay. And that's three hours time?
A Right.
Q And that's about how much time it took for the people that admit patients into the emergency room to process him, to get him in there, to have the nurses do the initial evaluation and then for you to have the opportunity to conduct a thorough examination; is that right?
A Right.
Q And then after you got the radiology report and you saw there were no fractures to be treated, it was okay for him to leave?
A Correct.
Q Okay. Very good. Now -- and because sometimes a person comes into the emergency room and then

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they're actually admitted --
A Mm-hmm.
Q -- as an inpatient --
A Mm-hmm.
Q -- to the hospital, correct?
A Correct.
Q Didn't happen in this case, correct?
A Correct. Correct.
Q And then you examine these two small children, Robyn Scott. I know you just evaluated or just looked at those records and gave some testimony.
A Right.
Q You do the same thing with them, head to toe examination, right?
A Correct.
Q And as to Robyn Scott in particular, you found absolutely nothing wrong there, right?
A Yes, correct.
Q And then how about the other child, Mishayla, who was about one year old at the time?
A Correct. There was no -- exam was negative.
Q Okay. Now, this hyperpigmentation that you talked about -- and you say that's a word that can be like a scar --
A Uh-huh.

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Q -- is that right?

But you don't know exactly what that -- what that's a scar from; is that correct?

A Yes. So there -- depending on what, you know, like -- depending on how they look, like scar how they look and there they are.

Q Right. And I understand that. But there were some things on the buttocks.

But those -- that scar that you noticed on the buttocks and I think is in one of the photographs that we saw here a few moments ago, could that be caused like by scratching?

A Yes.

Q Okay. So did you see whether there was any rash any place on Martez Abdullah's body?

A Nothing infectious rash. Does not look like the skin was infected.

Q But scratching could cause the kind of hyperpigmentation you noted on his body; is that correct?

A On his buttocks.

Q On his buttock. Okay. Very good.

A And there -- if you look at the pictures on his knees.

Q Yes.

A There's so much hyperpigmentation of the knees also.
Q Would that have been from scratching?
A I mean, that could be from just extra dry skin or like if the skin is not -- you know, friction, you know how kids fall all the time, so that's -- it is hyperpigmented. But if you have chronic dryness to the skin, that area may become hyperpigmented.
Q Okay. So those could be innocently --
A Yes.
Q -- or for lack of a better term, contracted to --
A Yes.
Q -- on his skin. Because this was in January, correct?
A Mm-hmm.
Q And that's a yes?
A Yes.
Q And so in January here in Michigan and southeast Michigan, the weather is cold?
A Mm-hmm.
Q And there's a lot of dry skin caused because of the fact that people are in houses where they have furnaces keeping them warm and that has an effect on their skin, correct?

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A Correct.
Q Okay. So the only things that you could really document in your evaluation are these linear items on both wrists and on both ankles; is that right?
A Right. Again, you know, the -- the -- the linear marks on the wrist and the ankles, they are different than the hyperpigmentation noted on the knees and the buttocks.
Q Understood. Thank you.

MR. MCCARTHY: I have no further questions.

THE COURT: All right. Before we continue, I know that you have another obligation you need to get to. Do you have a long cross-examination?

MR. GLENN: No. No. Just -- I'm not going to repeat what attorney McCarthy just asked.

THE COURT: Can you go until 3:45?

MS. MCINTYRE: Yes.

THE COURT: Okay. Cross-examination.

CROSS-EXAMINATION

BY MR. GLENN:
Q Okay. Now, Doctor, you say that you examined

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Martez's body from head to toe; is that correct?
A Yes.
Q And you found no injuries of no trauma to his head; is that correct?
A Yes.
Q You found no injuries of trauma to his eyes?
A Yes.
Q So did Martez have two black eyes?
A Not on my exam, he did not.
Q Okay. And you examined Martez on January 26, 2020?
A January --
MR. MCCARTHY: January 22nd.
BY MR. GLENN:
Q January 22nd?
A January 22, 2020.
Q Okay. Now, as a pediatrician, you always monitor a person's weight, is that correct, a baby's weight?
A Yes.
Q And if the baby is not eating properly or growing properly, you make a notation of failure to thrive; is that correct?
A Correct. Yes.
Q Now, were there any issues or concerns about

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Martez's failing to thrive for a six year old?
A Not from my record that I think, but I cannot recall the patient, you know, otherwise.
Q Okay.
A But not that this was mentioned in my record.
Q All right. So from your point of view as a -- as a medical expert in pediatric and emergency medicine, there was no issues of him failing to thrive?
A Right.

MR. GLENN: Nothing further.

THE COURT: Any redirect?

MS. MCINTYRE: No. No redirect, your Honor.

THE COURT: Anything from the jury for this witness? If so, please raise your hand.

All right. Seeing no hands, you are excused.

THE WITNESS: Okay. Thank you.

(At 3:38 p.m., witness excused.)

THE COURT: All right. We're starting at nine a.m. tomorrow morning. Does that work for everyone again? And we will all be together tomorrow morning in testimony.

So does that -- anyone cannot be here

tomorrow at nine a.m.? All right. Very good.

I'm sorry. All right. I am going to excuse all the jurors into the jury rooms, collect your belongings and we'll release you all together. Thank you very much.

(At 3:38 p.m., both juries exit courtroom.)

(Brief pause.)

(At 3:42 p.m., both juries leave courtroom and proceedings concluded.)

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STATE OF MICHIGAN)
) ss.
COUNTY OF WAYNE)

I, Marguerite H. Anderson, CER, CSR-2334, do hereby certify that this transcript, consisting of 129 pages, is a true and accurate transcript of the proceedings and testimony taken in this case by Brion D. Coury, CSR/CSMR/CER-0038, on September 21, 2022.

/s/ Marguerite H. Anderson

_____
Marguerite H. Anderson, CER, CSR-2334
78 Bobolink Street
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Dated: March 7, 2023.

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STATE OF MICHIGAN

THIRD JUDICIAL CIRCUIT COURT (WAYNE COUNTY)

THE PEOPLE OF THE
STATE OF MICHIGAN,

-vs- Case No. 20-001501-02-FC

GWENDOLYN JOSEPHINE ALEXANDER,

Defendant.
_____/

JURY TRIAL

BEFORE THE HONORABLE MIRIAM BAZZI, CIRCUIT JUDGE

Detroit, Michigan - Thursday, September 22, 2022

APPEARANCES:

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TRANSCRIBED BY:
Marguerite H. Anderson, CER/CSR-2334

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Detroit, Michigan

Thursday, September 22, 2022 - 9:13 a.m.

THE COURT: Calling Case Number 20-1501-01, People versus Errown Scott and Case Number 20-1501-02, People versus Gwendolyn Alexander.

They are here today for a jury trial in progress.

Appearances for the record, please.

MS. MCINTYRE: Good morning, your Honor. Abigail McIntyre, appearing on behalf of the People, P71143.

MR. MCCARTHY: Good morning, your Honor. Michael McCarthy, P30169, appearing on behalf and with Errown Scott, who is standing at the counsel table.

MR. GLENN: William Glenn, P36794, on behalf of Ms. Alexander.

THE COURT: Good morning. You two may be seated.

Is there anything we need to go on the record with before we bring the jury in?

MS. MCINTYRE: There is, your Honor. As previously discussed, the People are making a motion to amend the felony information regarding

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the following:

The date of offense should be, based on the testimony, from December 2019 through January of 2020 instead of one specific date, which it is listed as January 22nd of 2020.

The complainant or victim in this case as well as the complaining witness should be amended. It is listed as Ranisha Bowden and it should be Martez Abdullah and Robyn Scott.

And then based on the testimony that's been elicited so -- thus far, the People would move to amend the language contained in Count 2 and Count 3 to include -- it says for Count 2, by tying Martez Abdullah up with zip ties. The People would move "and/or a belt." And the same with Count 3, by tying Martez Abdullah up with zip ties and/or a belt.

THE COURT: I will start with you, Mr. McCarthy.

MR. MCCARTHY: Your Honor, I -- as an officer of the court I must acknowledge the testimony and evidence to those effects that confirms the time period, December 19th to January 22nd or January of 2020, I don't have any problem with that. No objection.

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THE COURT: Did you say December 19th or November 19th?

MR. MCCARTHY: December is what I meant to say.

MS. MCINTYRE: I think you meant to say 2019.

MR. MCCARTHY: 2019. January of 20 -- 2020. And so that I have no objection to. The changing of the complainant's name, I have no objection to that.

And as to adding and/or a belt, I have to knowledge that there was some evidence presented during the course of the trial regarding that issue.

THE COURT: All right. Mr. Glenn?

MR. GLENN: Your Honor, well, I would strongly object. The -- the information here has to be consistent with what the testimony was from the very beginning.

When we got the plaintiff -- when this case went to preliminary exam, all this information was known to the prosecutor handling the case at the preliminary exam almost three years ago. Nothing here has been testified to that wasn't known back then. There was never any

motion made at the preliminary exam to amend or change anything on the information.

It's my position that now that we're almost done with the trial, that the prosecutor has clearly waived that right to waive -- to amend the information.

My client has a due process right to have a preliminary exam as to the time of the incident, the complaining witnesses of the incident and the location. If you want to change the -- all that along with whether it was zip ties or a belt, that's almost essentially changing the elements of everything here that we have.

If this information was not known to the prosecutor, that would be one thing. But it was clearly known to them three years ago, almost three years ago.

So I believe that you can't wait until you see how your testimony comes in at the trial and then try to change it up at the last minute. Where the defendant has no way of going back to defend herself or make a record at the prior hearing.

So I believe that the prosecutor has

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clearly waived all those rights because the information was known to the Prosecutor's Office as well as the Detroit Police Department back then.

THE COURT: Response?

MS. MCINTYRE: Well, your Honor, the Court Rule clearly states that a motion to amend an information can be made all the way through trial at the discretion of the Court. And while --

THE COURT: Well, let me ask you this.

MS. MCINTYRE: Yes.

THE COURT: Was there testimony about the -- the abuse or the allegations had been occurring from 2019 through 2020 at the exam?

MS. MCINTYRE: I believe so. I mean, I would have to double check. I can't say, I haven't reviewed the transcript in the past --

MR. MCCARTHY: Here's what I would say in terms of the testimony given. The only witness who testified to the facts was Martez Abdullah. He talked about a number of things that occurred to him over time. He didn't say December any more than he said on January 22nd. He was only six years old at the time. But he

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did describe something that had occurred more than just on the date of the offense.

THE COURT: And that's what I recall from reading the transcript of the exam. When we're looking at an amendment, it is true you can amend up through trial. The question is, is there an unfair surprise to defense.

And when we look at the transcript of this, I do agree with Mr. Glenn, this is information that has been known to the People. To that same effect, it's been known to the defense as well. These -- this wouldn't be an unfair surprise to change or allow the amendment to the date of the offense, to allow the amendment to the complaint or the victim. I think that has been clear throughout the course of these proceedings.

And then, even looking at and adding and/or a belt, when I look at one of the charges, I do believe that, that being charge four, it already indicates there is a belt. I also thought, when I read the transcript, there was testimony that the -- there was a belt tied around his waist at some point.

And so I don't believe that would be an

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unfair surprise to add that as well, based on my recollection of the transcripts and what Mr. Martez Abdullah testified back then.

And so I will allow the amendment at this point, but your objection is notated for the record.

MR. GLENN: Okay. One more point I would like to make, and if I'm making the record that there was a waiver, I believe a waiver as -- a waiver is surprise by law. Now, if I can't tell the prosecutor how to present their case at any stage of the proceedings.

So if they waive a right, if they want to change it later, I believe that's a matter of law that is a surprise to the defense because that was something that they should have said a long time ago and to say it now is a -- is surprise as a matter of law.

THE COURT: All right. And that is noted -- notated for the record. Thank you, Mr. Glenn.

Anything further we need to place on the record before I bring the jury in?

MS. MCINTYRE: Just to the affect that the People are requesting to endorse the officer

in charge and I don't believe there's any objection.

THE COURT: Any objection to that?

MR. MCCARTHY: I have no objection.

MR. GLENN: No objection.

THE COURT: All right. And I am aware that the officer in charge is wearing what would appear to be sunglasses. However, it's my understanding you have a medical condition?

THE DETECTIVE: Yes.

THE COURT: All right. And so I am going to allow her to do so. But I wanted you to be aware of why I'm allowing that.

MR. MCCARTHY: Well, I'm very happy to hear that. This morning I walked in with my subpoena glasses on and didn't realize it and I was in the men's room. I went back to my car and I was afraid I would be late. But I'm glad I'm carrying the ones I have on now.

THE COURT: I'm glad you are as well.

All right. Can we bring our jury in now?

THE DEPUTY: All rise for the jury.

(At 9:20 a.m., both juries enter courtroom.)

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THE DEPUTY: Thank you. May be seated.

THE COURT: All right. We're calling Number 20-1501-01, People versus Errown Scott, and Case Number 20-1501-02, People versus Gwendolyn Alexander.

They are both here today for a jury trial in progress.

Appearances for the record, please.

MS. MCINTYRE: Good morning again, your Honor. Abigail McIntyre, appearing on behalf of the People, P71143.

MR. MCCARTHY: Good morning, your Honor. Michael McCarthy, P30169, appearing on behalf of and with Errown Scott.

MR. GLENN: William Glenn, P36794, on behalf of Ms. Alexander.

THE COURT: Good morning. You may be seated.

Good morning to my jury panels. I want to thank you all for your timeliness. I know traffic was pretty horrendous just about everywhere this morning, so thank you for getting here, really I guess punctual this morning. Thank you.

M. McIntyre, you ready with your next

witness?

MS. MCINTYRE: The People are ready to call Dr. Dena Nazer.

THE COURT: Can you hand the witness a mask?

MS. MCINTYRE: Yes. I already pulled the firm off of it.

THE COURT: Ma'am, if you can please put the mask on -- or I'm sorry, put the visor on and remove your mask. It might help to just remove the mask completely, if you're able to do that.

All right. Could you please raise your right hand?

Do you solemnly swear or affirm the testimony you're about to give is the truth, the whole truth and nothing but the truth, so help you God?

DR. NAZER: I do, your Honor.

THE COURT: All right. If you can step up over here and be seated.

Now, this courtroom is fairly large and it's a bit difficult to hear people so as you're speaking, if you could just speak a little bit louder than you're comfortable speaking, just to

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make sure that everybody, even the furthest people in the room can hear you.

Also, that microphone right there will help magnify your voice somewhat. Okay?

THE WITNESS: Okay.

THE COURT: Okay. Please state and spell your name, for the record.

THE WITNESS: My name is Dena Nazer. It's spelled D-E-N-A, last name is spelled N-A-Z-E-R.

THE COURT: Is everyone able to hear that?

MR. MCCARTHY: No.

THE COURT: All right. Can you please state it again? If you find of tilt your visor up a little bit, that helps. That might help it a little bit.

THE WITNESS: My name is Dena Nazer. D-E-N-A, and last name is N-A-Z-E-R.

THE COURT: Thank you. That was much better.

THE WITNESS: Thank you, your Honor.

THE COURT: Go ahead.

MS. MCINTYRE: Thank you.

DR. DENA NAZER

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(Called at 9:23 a.m. by Ms. McIntyre and sworn by the Court, testified as follows)

DIRECT EXAMINATION

BY MS. MCINTYRE:

Q Good morning, Dr. Nazer.

A Good morning.

Q And where are you currently employed?

A I'm currently employed at Kids-TALK Children's Advocacy Center at Wayne State University.

Q Okay. And what is Kids-TALK Children's Advocacy Center?

A It's a child advocacy center where children who are victims of abuse or neglect are offered different services and I'm employed as a medical director at the medical clinic at that center.

Q Okay. And what are your -- what is your role as a medical director?

A My role as a medical director is to offer medical examinations and evaluations for children who are suspected victims of child abuse or neglect.

I also review cases that are referred to us by child Protective Services.

And I also teach, I do research and I work when the multidisciplinary team in order to give my medical expertise when children are

referred to the center.
Q Okay. And how long have you been the medical director at Kids-TALK?
A For approximately 10 years.
Q All right. And what is your educational background?
A I when to medical school for six years and then I did one year internship. That was followed by three years of training in the specialty of general pediatrics. I then did one year of chief residency in pediatrics and that was followed by two years of subspecialty in child abuse and neglect.
Q And at what -- are you currently board certified?
A Yes, I am board certified.
Q What are you board certified in?
A I'm board certified in two specialties. I'm board certified in general pediatrics and also in child abuse pediatrics.
Q And what is child abuse pediatrics?
A Child abuse pediatric is a subspecialty, it's part of pediatrics so it is a subspecialty of the general pediatric specialty and it has to do with how to evaluate children, how to perform medical exams, how to identify injuries, how to diagnose,

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how to teach, how to conduct research all related to child abuse and neglect.

Q And when did you become board certified in child abuse pediatrics?

A In the year 2009.

Q And since that time you have maintained your board certification?

A Yes, I have.

Q Since you've become board certified, have you published any papers regarding child abuse?

A Yes.

Q And how many papers, if you recall?

A I don't recall how many, but I have approximately over a hundred publications in total, including articles, book chapters in books and editorials.

Q And as child abuse pediatric or doctor in child abuse pediatrics, do you perform any trainings?

A Yes, I do.

Q And for what population do you perform these trainings?

A I do trainings at Wayne State University for the medical students. I also do training through the Michigan Society for Medical Practitioners and medical professionals across the state of Michigan.

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I also train Child Protective Services workers as part of the Department of Health and Human Services. I train attorney generals, law enforcement and I also train within Kids-TALK forensic interviewers and advocates as well.

Q Are all the publications that you have done located on your CV?

A Yes, they are, except one new book that I am currently editing. That one hasn't been out as yet.

MS. MCINTYRE: It's going to be People's stipulated to Exhibit 39, which is the doctor's CV.

MR. MCCARTHY: I have no objection, your Honor. I have had an opportunity to review it.

MR. GLENN: No objection.

THE COURT: All right. There being no objection, the Court receives People's Exhibit Number 39 -- the People's proposed Exhibit 39 as People's Exhibit 39.

(At 9:29 a.m., PX 39 admitted.)

MS. MCINTYRE: Thank you. May I approach the witness?

THE COURT: You may.

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MS. MCINTYRE: Thank you.

BY MS. MCINTYRE:

Q I'm going to hand you what's Exhibit 39.

A Thank you.

Q Could you identify that for me, please?

A Yes. It's my CV.

Q And that contains all of the publications that you have -- well, all of your publications?

A Yes, it does.

Q Does it contain all of your trainings?

A Yes, it does.

Q Okay. Dr. Nazer, have you ever been certified as an expert in general pediatric?

A Are you referring to courts?

Q Yes.

A Yes, I have.

Q Okay. Have you ever been certified as an expert as a child abuse -- expert in child abuse pediatrics?

A Yes, I have.

Q How many times have you been certified as an expert for child abuse pediatrics?

A I would say over 50 times.

Q Okay. And what about being certified as an expert for general pediatrics?

A Approximately the same.
Q Okay.
MS. MCINTYRE: Your Honor, at this time the People would yield for voir dire.
THE COURT: Mr. McCarthy.
MR. MCCARTHY: I have no questions for this witness. I'd leave the motion to the Court's discretion.
MR. GLENN: No questions.
THE COURT: All right. Hearing no objection, the Court will receive Dr. Nazer's testimony as an expert in child abuse pediatrics and pediatrics -- is that what you're looking --
MS. MCINTYRE: Yes. And general pediatrics.
THE COURT: Both in general pediatrics and child abuse pediatrics.
BY MS. MCINTYRE:
Q Dr. Nazer, did you, on or about -- did you ever have an opportunity to interview or I guess evaluate an individual by the name of Martez Abdullah?
A Yes, I did.
Q Do you recall the date of your evaluation?
A Yes. I evaluated him on March 3, 2020.

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Q And do you recall the reason for such a consultation?
A Yes, I do.
Q And what was that reason?
A He was referred to our medical clinic for a medical examination because there was suspicions of physical abuse --

MR. MCCARTHY: Objection to that conclusion. He's referred to the medical clinic for evaluation, that's fine. But someone else's hearsay determination should be stricken.

MR. GLENN: I'll join in that objection.

THE COURT: Response?

MS. MCINTYRE: I'll do a follow-up question.

THE COURT: All right. Objection sustained.

BY MS. MCINTYRE:
Q So he -- he was referred for a medical evaluation, correct?
A That's right.
Q And you indicated earlier that children are referred to Kids-TALK, the medical center for suspicions of physical abuse, correct?

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A Correct.
Q Was Martez referred for suspicion of child abuse?
A Yes, he was.
Q Was it just Martez you affiliated or were there other family members as well?
A I evaluated Martez and his two sisters.
Q Do you recall the names of the sisters?
A Yes. Robyn Scott and Mishayla Scott.
Q Okay. And when you conduct an evaluation or concerns of physical assault or physical abuse, what -- describe to me how the children are evaluated.
A So usually before the children are seen at my clinic, before their clinic visit, I try and collect as much information as I can. So because I'm employed at Kids-TALK Advocacy Center, what I do is that I get the information from the advocacy center. So I get the information from the child's forensic interview.

I also, because I had an affiliation with Children's Hospital of Michigan, I also review the medical records as to the child and all the children, if they were seen at the hospital if before they come to the visit.

So before the child comes in, I already

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obtained some information about the medical history and some information about the reasons for referral.

If there were any photos, I also obtain photos. I obtain the laboratory testing. I obtain the x-rays, to make sure that I have all the information that's necessary.

When the child comes in, I also --

MR. MCCARTHY: Well, objection, your Honor. This is a general description of what she usually does. I would ask that the witness be directed to say what she did in this case.

MS. MCINTYRE: I will do a follow-up question.

MR. MCCARTHY: Thank you.

THE COURT: All right.

BY MS. MCINTYRE:

Q Dr. Nazer, so did you obtain the medical records for Martez, Robyn and Mishayla in this matter?

A Yes, I did.

Q And did you review those records?

A Yes, I did.

Q Did you obtain photographs regarding -- if -- if there were photographs taken as a part of those medical records, did you obtain them?

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A Yes, I did.
Q And did you review them?
A Yes, I do did.
Q And that would include all x-rays or any other teach of scan that were ordered from Children's Hospital?
A In this particular case it includes the x-ray report and it includes photos for Martez that were taken at Children's Hospital.
Q Okay. There were no x-ray reports or photos for Robyn or Mishayla; is that correct?
A Yes, that's correct.
Q All right. And did you review -- you indicated that part of your evaluation is also reviewing forensic interviews, correct?
A I review information that's given to me by the forensic interviewer, so not the forensic interview itself.
Q Okay. But did you review the information that was provided regarding Martez and Robyn in this matter?
A Yes, I did.
Q All right. And then what -- what do you do from there?
A And then from there I obtain information so

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that's called a medical history, from the guardian that brings the child in.

Q And did you do so at this time?

A Yes, I did. So I obtained the medical history from Ms. Bowden and from Ms. Alexander. Ms. Bowden had brought Martez in and Ms. Alexander had brought in Robyn and Mishayla.

Q As a part of your interview, do you speak directly to the children?

A Yes, I do.

Q And at that time did you speak directly to Martez?

A Yes, I did.

Q And did you speak directly to Robyn?

A Yes, I did.

Q And did you speak directly to Mishayla?

A Mishayla was younger, she was not verbal, so it was more of just a very brief interaction with her.

Q And once you obtained the history from the individuals who bring the children to the examination, what do you -- what is the next part of your process?

A The next part of the process is to do a physical exam and that entails a head to toe examination,

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looking in their eyes, ears, nose, listening to their chest, feeling their bellies. And then doing a whole skin exam, head to toe. And also doing a genital exam.

Q Okay. And did you do an external evaluation of Martez?

A Yes, I did.

Q And do you recall whether or not you had any significant findings regarding the external examination of Martez at that time?

A Yes, I recall.

Q And what were those significant findings?

MR. GLENN: Your Honor, I'm going to object unless we have some time of timeframe here. Because if she examined the child on March 3, 2020, I don't even know in this -- and when the child was taken to the emergency room on January 22nd, I need to know a timeframe of what she's looking at what it might affect. Because there's a six week gap there.

THE COURT: Well, I think you can ask her that in cross. She's already testified she examined everything that she received from the hospital from January 20, 2022 and on, so I'm -- I'm going to allow it. Objection overruled.

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MS. MCINTYRE: Thank you.

BY MS. MCINTYRE:

Q So part of your physical examination of Martez, did you have any significant findings?

A Yes, I did.

Q And what were your significant findings?

A The significant findings on his exam were scars that are almost circumferential, meaning that they go around both of his wrists and go both -- around both of his ankles as well.

Q Were there any other significant findings at that time?

A No. These were the significant findings.

Q Okay. And you indicated you did a -- you did a skin examination, correct?

A That's correct.

Q And were there any significant findings upon those skin examinations?

A Just the scars around his wrists and also around his ankles.

Q Okay. So is that a separate independent finding from the external examination?

A So it's the same. His external examination where I look at all of his skin from the outside. So this is part of the examination or the physical

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examination that I conduct.
Q Okay. But -- okay. But when you do the external examination do you start from head to toe and check like his head, his eyes, his ears, his breathing, things of that nature?
A Yes, I do.
Q And there were no other significant findings other than the marks on his wrist, correct?
A That's right.
Q And what is the purpose for you doing a genital examination?
A It's part of the whole body examination, something that we do. In this case, there were no concerns of sexual abuse so it was just part of his general examination. It's something that we always do in general pediatrics, which is examining the privates as part of the whole exam.
Q Okay. All right. And after you did the genital examinations, what did you do next?
A After I did that, then I was able to obtain more information, talk with Martez also at the same time and then I reached my assessment after that.
Q And what was your assessment as to Martez?
A My assessment to Martez -- in terms of Martez, I gave him the diagnosis of medical torture.

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Q And Doctor, what is medical torture?
A So medical torture is a clinical diagnosis. It's a medical diagnosis that we give children who have been exposed to at least two different physical assaults, so two physical assaults at two different times.

And it's not just the physical assaults. To qualify for the diagnosis of medical torture, it has to be accompanied by at least two psychological maltreatments or two forms of psychological abuse.

So, for example, isolation, deprivation, intimidation. If we have two of those and then two physical assaults or one prolonged physical assault, then we can reach the diagnosis of medical torture.

So it's beyond the examination or beyond the evaluation of just physical abuse. This is a child who is diagnosed with physical abuse and it's psychological maltreatment as will.

Q And you came to the conclusion of psychological maltreatment based on your interviews and other evaluation of the materials that you received?
A Yeah. So that was based on information that I

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received --

MR. MCCARTHY: Objection. That's hearsay.

THE COURT: I'm sorry?

MR. GLENN: Hearsay.

MS. MCINTYRE: I don't think she's --

MR. GLENN: She's talking about information that she's received, that's hearsay.

THE COURT: Well, she's not -- hearsay is an out-of-court statement made for the truth of the matter asserted. She hasn't made an out-of-court statement and repeated it here. So objection overruled.

MS. MCINTYRE: Thank you.

BY MS. MCINTYRE:

Q You can continue your answer as to how you determined -- you were indicating how you came to the conclusion of the two independent psychological types of abuse.

A That was based on information that I received from the forensic interview as well as information that I received during obtaining the medical history from Ms. Bowden, and also information from Martez himself.

Q Okay. All right. And did you also perform an

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evaluation -- were there -- let me back up.

With Martez, were there any other diagnosis associated with him other than medical torture?

A No, that was the only diagnosis, which entailed the psychological maltreatment as well as the physical abuse.

Q Okay. And did you make any recommendations based on that assessment?

A Yes, I did.

Q What was your recommendations?

A My recommendations were to continue medical follow-up with his pediatrician and to continue medical follow-up with his dentist. I also spoke with Ms. Bowden extensively about a lot of the behaviors that he was exhibiting at home. He was highly --

MR. MCCARTHY: Objection. This is hearsay.

THE COURT: Response?

MS. MCINTYRE: Without telling us what he -- what you heard or what he was exhibiting, what your recommendations based on that?

THE COURT: That's sustained.

MR. MCCARTHY: Thank you.

THE WITNESS: In addition to that, I determined that he obtain trauma based therapy.

BY MS. MCINTYRE:

Q Okay. And how long was your assessment of Martez, like how long did the whole assessment take and how much face-to-face time did you have with him?

A Approximately two hours of face-to-face time.

Q And did you perform an assessment of Robyn?

A Yes, I did.

Q And did it follow the same format of an external evaluation and then a skin evaluation, genital evaluation?

A Yes, it did.

Q And were there any significant findings for Robyn in terms of her external and skin evaluation?

A No. She had a normal exam.

Q Okay. And what about the genital exam evaluation?

A She also had a normal genital exam.

Q And did you have a medical diagnosis or assessment as to Robyn?

A Yes. So in Robyn's case, I also diagnosed her with medical torture.

Q And how did you, I guess, come up with that

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diagnosis if her physical and external examinations were completely normal at that time?

A Even though her physical examination was normal, at that time, she had talked about --

MR. MCCARTHY: Objection to the hearsay.

THE COURT: Response?

BY MS. MCINTYRE:

Q Without telling us what she talked about, how did you come to the conclusion of medical torture?

MR. GLENN: Your Honor, I'm also going to object. If we're going to talk about psychology or psychiatry, I don't believe that falls within this witness's level of expertise. There's been no -- no showing of her -- her curriculum vitae that she has any type of residency in psychiatry, there's no training in psychology.

So I believe that this witness is unqualified to give to psychology opinions or psychiatric unless that better foundation is made as to her qualifications that go beyond pediatric.

THE COURT: Response?

MS. MCINTYRE: I believe that -- well,

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I mean, I believe that part of her training as child abuse pediatric involves the psychological impact of physical assault on a victim. But I can voir dire her.

THE COURT: Why don't you ask? I have not seen the CV, it hasn't been provided to the Court, so I don't know what's in her training. But if you want to ask her what her -- if her training involved that.

MS. MCINTYRE: Absolutely.

BY MS. MCINTYRE:

Q So before we get into Robyn, Doctor, what is your training as to evaluating the psychological aspect or a psychological impact on a child as to abuse?

A So part of our training in general pediatrics and also part of my training in child abuse pediatrics, that I spent two years doing, is in all forms of child maltreatment. And these forms of child maltreatment, they also including psychological maltreatment. So they include psychological neglect and psychological abuse as well.

So we have been trained on how to identify psychological abuse. We have identified

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-- we have been able to identify what -- what, for example, reaches the diagnosis of deprivation, what deprivation is, what neglect is, how a child needs to be treated and talked to. And what constitutes child neglect and what constitutes intimidation, deprivation, isolation.

So actually the diagnosis or the definitions of child abuse, they include child psychological abuse, psychological neglect.

MR. MCCARTHY: Excuse me. I'm going to object to this because the question is about torture, not child abuse.

THE COURT: Well, that's -- Mr. McCarthy --

MR. MCCARTHY: That's the objection --

THE COURT: -- that's what Mr. Glenn was -- he was asking about her qualifications, talking about the -- being able to assess children for psychological abuse. And so I don't -- this is right in line with Mr. Glenn's objection.

MR. MCCARTHY: Very well. I'll withdraw the objection.

THE COURT: And so -- thank you.

BY MS. MCINTYRE:

Q You may continue.
A So to reach the diagnosis of medical torture, it has to have the two elements of physical abuse that we have been trained to identify and it also has to include the element of psychological abuse that we have been trained to identify as well.

So medical torture is actually part of child abuse pediatrics and it's part of our training, part of what we're trained to identify as well.

Q So when you identify someone as having like a psychological abuse, you're not diagnosing them as a psychologist or as a psychiatrist in order to have them treated, correct?
A That's right.
Q And would that be a separate, I guess, board certification and specialty in training that you would need?
A That is a special board certification and that's why we refer them to therapy. So that's why we don't -- we don't provide them with therapy. We provide them with diagnosis and then from there on we refer them to psychiatry and to the therapist for treatment.
Q Okay. So your training is based solely on

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identifying what would cause such an impact?
A That's right.
Q Okay. And you have been trained as a child abuse pediatrics since, I think you said 2004 -- '9?
A Yes. I was certified in 2009. I did my training in 2006 and 2008.
Q Okay. And as part of your continued training in development, do you continue to I guess take training in --

THE COURT: Ms. McIntyre, I think she's answered --

MS. MCINTYRE: Okay.

THE COURT: -- the objection.

MR. GLENN: Just briefly. I would still object because she just admitted that when she comes across that, she has to refer out to a person who is board certified in psychiatry or psychology to let her finish. All she can do is make a -- make the referral.

What she's saying here in -- in court today is a conclusion that she has not been board certified or qualified as an expert to reach that conclusion. She just admitted that when she comes across that, she sends them out to an expert for follow-up and she can't do that.

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THE COURT: All right. Thank you.

I think the testimony that was put before the Court does -- she's provided an adequate basis in order -- in terms of her qualifications to be able to testify as to child abuse pediatric and her conclusions and why she reached the conclusions that she did and her training and experience.

Your objection is notated for the record and overruled.

Please continue.

MS. MCINTYRE: Thank you.

BY MS. MCINTYRE:

Q So back to Robyn's evaluation. So what was your assessment of Robyn based on your evaluations?

A My assessment was that she was also a victim of medical torture as well.

Q Okay. And the question was, is how did you come to a conclusion of medical torture when the physical examinations didn't provide with you anything of significance?

A So in many of the children that we see at our clinic, we see them and they have no medical findings. So in Robyn's case, when she presented to us she had no physical findings --

MR. MCCARTHY: Excuse me. I'm going to object about "us." I just ask that you -- the doctor confine her testimony to what she observed and what she did thereafter.

THE COURT: All right. Objection sustained.

MR. MCCARTHY: Thank you.

THE COURT: You can only say what you did, what you observed; not what anyone else at your clinic might have done or observed.

THE WITNESS: Okay. Yes, your Honor. So when I did my medical evaluation for Robyn, she did not have any medical findings or any physical findings on her skin exam. Yet we don't just make the diagnosis based on the skin findings. We always take into account the child's disclosure and what the child has mentioned during the forensic interview.

My clinic is part of the Children's Advocacy Center and to work at Children's Advocacy Center, we have to obtain information from many different team members. And those team members including the forensic interviewers.

So as a medical provider, I don't forensically interview the child because this is

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something that is done by a forensic interviewer. But I am provided with that information because it helps me make my diagnosis.

So we would diagnose physical abuse based on what Robyn disclosed and what Robyn talked about versus just based on her medical finding or on her skin exam.

So to make the diagnosis it's usually history and physical exam. Even if the physical examination is normal, we obtain everything together and that's how we make diagnosis.

BY MS. MCINTYRE:

Q Okay. So the date of evaluation for you is March 3rd of 2020, correct?

A That's right.

Q So it's about a month and a half after the initial incident; is that correct?

A Yes, that's right.

Q The initial incident that's recorded, I should say.

So is it fair to say, in your expertise, that if there was any signs of physical assault, like marks or bruises or anything, it could have faded within that amount of time, the month and a half period?

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A Yes, that is possible.
Q So just because there is no physical finding of physical abuse doesn't mean that a physical assault did not happen; is that correct?
MR. MCCARTHY: Well, I'm going to object to that hypothetical because it's contrary to the facts that are already in the testimony that's already in the record from Dr. Maqbool who gave testimony yesterday about her findings regarding this specific person, Robyn Scott.
THE COURT: Objection overruled. I'm -- you can get into that in cross-examination.
MR. MCCARTHY: All right.
BY MS. MCINTYRE:
Q So the question -- I'll repeat the question. So the question was, is it fair to say that just because a mark was not apparent at the time of your evaluation doesn't mean that physical assault did not occur at some point?
A That's correct.
Q Okay. Did you have any other significant findings as to Robyn?
A No, I did not.
Q And did you all evaluated Mishayla?
A Yes, I did.

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Q And were there any significant findings as to Mishayla during your physical examination, your genital examination?
A No. She had a normal exam.
Q And did you have an assessment as to Mishayla?
A Yes, I did.
Q What was her assessment?
A Her assessment that was she was a victim of physical abuse; however, I was enable to make any further diagnosis because of her young age.
Q All right. And that was -- but at that time you didn't see anything on her?
A That's right.
Q Okay. And you couldn't take an adequate history from her?
A Correct.
Q And Doctor, your findings are contained in reports, correct?
A Yes.
Q And they are considered your medical records with the Kids-TALK Advocacy Center?
A Yes, they are.

MS. MCINTYRE: And I have what would be People's proposed Exhibit 33 -- 32, 33 and 34, that the People would move for admission.

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MR. MCCARTHY: I object to the admission of all of those documents and the reason is that they are loaded with hearsay statements from other individuals who have testified, some have, others did not. But the fact of the matter is those statements recounting in there are complete -- or they're all hearsay and I think these exhibits, if they can be put in, could be limited to what the doctor's conclusions are without including all of that hearsay.

MR. GLENN: I would -- I would agree with brother counsel, Mr. McCarthy, but I would also join, is that as the Court is well aware, Kids-TALK are reports specifically designed for litigation and litigation records are not part of the medical records. So we are -- we're talking about hearsay and this does not come into the exception of any medical records because it was designed for litigation.

THE COURT: Response?

MS. MCINTYRE: All right. The People would be willing to redact out the hearsay information if it meets with defense counsel's standards. This is the first --

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MR. GLENN: Well that would be the whole report, your Honor.

MS. MCINTYRE: I don't think it would be the whole report.

THE COURT: Wait one moment.

MR. GLENN: Well, it's --

THE COURT: All right. I'm going to excuse the jurors.

MR. GLENN: Sure.

THE COURT: I'm going to ask this jury just to head right into your room and my Jury No. 1 can head over there as well.

(At 9:55 a.m., both juries exit courtroom.)

THE DEPUTY: Thank you. May be seated.

THE COURT: All right. I have not seen these reports so I don't know what it is in these reports. But looking at the reports, I suppose what are you -- what are you indicating that you would be willing to redact?

MS. MCINTYRE: So there is a portion where she does talk about the child, the Kids-TALK. There are a bunch of statements from Ms. Bowden, which -- I mean, it's their social history.

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THE COURT: So why don't -- why don't we do this. Why don't I give you guys an opportunity to sit down and look at the reports and see if you can reach consensus. If you three can reach consensus, we'll go forward. If there are items you cannot reach consensus with, then bring it to the Court and I'll make a ruling.

MR. MCCARTHY: Yes, your Honor.

MS. MCINTYRE: That's fair.

THE COURT: All right. Why don't you guys go ahead and do that. We'll break.

MS. MCINTYRE: Thank you.

THE COURT: You can step down, you don't have to remain seated there.

(At 9:56 a.m., recess taken.)

(At 10:12 a.m., proceedings reconvened.)

THE COURT: All right. We're back on the record in the case of People versus Errown Scott and Gwendolyn Alexander.

I've -- appearances, please.

MS. MCINTYRE: Good morning again, your Honor. Abigail McIntyre, on behalf of the People, P71143.

MR. MCCARTHY: Good morning, your

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Honor. Michael McCarthy, P30169, on behalf of Mr. Scott.

MR. GLENN: William Glenn, P36794, on behalf of Ms. Alexander.

THE COURT: All right. Have you had an opportunity, I guess to discuss the records that you're seeking to introduce?

MS. MCINTYRE: We have, your Honor. And we have agreed to redaction on People's proposed Exhibit 32, 33 and the People will not be admitting Exhibit 34.

THE COURT: And Exhibit 34 relates to --

MS. MCINTYRE: Mishayla.

THE COURT: Okay. I guess I was wondering why that was relevant for today's trial anyway.

Is that correct, you've agreed to the redactions?

MR. MCCARTHY: Yes, your Honor.

MR. GLENN: Yes, your Honor.

MS. MCINTYRE: And so the People would be moving for their admission.

MR. MCCARTHY: So those are going to -- those exhibits are going to be redacted. I mean,

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right now all we have is lines going through the offensive parts. And then they'll --

THE COURT: You're not going to place the exhibits on the monitors, correct?

MS. MCINTYRE: No.

THE COURT: Okay. Very good. So we just need the fully redacted exhibits by the time the jury is ready for deliberations.

Very good. Let's bring the jury out.

MS. MCINTYRE: Would you like the witness back on the stand?

THE COURT: Yes.

THE DEPUTY: All rise for the jury.

(At 10:30 a.m., both juries enter courtroom.)

THE DEPUTY: Thank you. May be seated.

THE COURT: All right. We're back on the record on the case of People versus Errown Scott and Gwendolyn Alexander.

Appearances again, please.

MS. MCINTYRE: Good morning, your Honor. Abigail McIntyre, appearing on behalf of the People, P71143.

MR. MCCARTHY: Michael McCarthy, appearing on behalf of and with Errown Scott,

P30169.

MR. GLENN: William Glenn, P36794, on behalf of Ms. Alexander.

THE COURT: All right. Ms. McIntyre, you were making a motion before we broke for the medical records?

MS. MCINTYRE: Your Honor, at this time the People would move for the redacted versions of Exhibit 32 and 33 which I believe, based on those redactions, are stipulated to.

MR. MCCARTHY: That is correct, your Honor. So stipulated by Mr. -- or on behalf of Mr. Scott.

MR. GLENN: So stipulated as to the redacted.

THE COURT: All right. With those stipulations, the Court will receive People's proposed Exhibit 32 and People's proposed Exhibit 33 as People's Exhibits 32 and 33.

(At 10:15 a.m., PX 32 and PX 33 admitted.)

MS. MCINTYRE: Thank you so much.

BY MS. MCINTYRE:

Q Just a couple more questions for you, Doctor.

A Okay.

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Q Do you -- if you -- do you know why your -- your examination of Martez and Robyn and Mishayla occurred I guess almost a month and a half after their medical evaluation by Children's Hospital?
A Yes. Because it took some time for them to be referred to our Kids-TALK Children's Advocacy Center, for them to also have their forensic interview and to arrange for an appointment for them to see us at our clinic.
Q Okay. And in terms of the diagnosis of medical torture, in your expertise as a child abuse pediatric doctor, is it a common diagnosis?
A No, it's not.
Q And why is it not a common diagnosis?
A It's not a very common diagnosis, it's only reserved for severe cases of severe psychological maltreatment. It's not something that we make very often and we have to be able to obtain information from other sources regarding the treatment at home.

So depending on that information, depending on the criminology of the psychological maltreatment. So it's not a diagnosis that we take lightly at all, so that's why we don't make it unless in very severe cases.

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Q Okay.

MS. MCINTYRE: I have no further questions. Thank you.

THE COURT: Mr. McCarthy, your witness.

MR. MCCARTHY: Thank you very much, your Honor.

CROSS-EXAMINATION

BY MR. MCCARTHY:

Q Good morning, Doctor. My name is Michael McCarthy. I represent Mr. Scott, one of the defendants in this case.

I have some questions to ask you here this morning regarding your testimony. And if I do not make myself clear, please tell me that and then I'll rephrase the question. Okay?

A Okay.

Q Thank you. Now, you understood when these three children came to your facility that they had been scene on January 22nd at Children's Hospital in Detroit and evaluated there or examined there in order to determine what if any injuries they had sustained; is that right?

A Yes. That's right.

Q And you had an opportunity to review the -- the records as it affected not only Martez Abdullah

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but also Robyn Scott and Mishayla Scott, correct?
A Yes, that's correct.
Q And you saw the finding of doctor, I believe it's Maqbool from Children's Hospital?
A Yes, I did.
Q That was nothing, no trauma noted at all on Robyn Scott or on Mishayla Scott, correct?
A That's correct.
Q And you said that your diagnosis of medical torture, if I understand what you said correctly, it requires two different assaults and two different psychological abuse instances, correct? Physical assault and psychological abuse instances in order to make that diagnosis of medical torture, correct?
A May I clarify.
Q Sure.
A So it's two incidents of physical assaults occurring at two different timings or one prolonged physical assault that causes the pain and suffering and two incidents of psychological maltreatment as you just clarified.
Q And those, are they to be separated from the instance of physical assault in order to make that diagnosis or can the mental assault be a

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part of or contiguous with the physical assault?
A They can both be together, so the physical and psychological assaults can happen at the same time or they can happen at different timings.
Q Now, you would agree that this term, medical torture, is a specific term used by medical professionals such as yourself, correct?
A That's right.
Q The practice of medicine requires its practitioners and the other people that work for you as nurses and other types of assistance, they need to know the language of medicine in order to be able to conduct their business, whatever that might be, depending on their position, correct?
A That's right.
Q And these are terms, like the body parts, they're -- medicine has a lot more particular definition or description terms for a simple thing like an arm that I can point to and say well, this is my arm but you know that it's made up of a number of different bones and ligaments and things of that nature, muscles, that constitute what an arm actually is, correct?
A That's correct.
Q Each one of those things has a specific

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definition understood by yourself, as a professional in the field of medicine and -- and the other people that work in that field in order for help to do their daily business, correct?

A That's correct.

Q And you may not understand this exactly, but the law is made up of specific terms as well?

A That's right.

Q Okay. And sometimes legal definitions and medical definitions may not be exactly the same, correct?

A I can only speak of the medical ones --

Q Okay.

A -- so I do not know the answer.

Q So you don't know what a, say, a legal definition of the term torture would be, then, correct?

A I would not able to testify to that.

Q Fair enough. So you did a physical examination on Martez Abdullah on March 3, 2020 after having reviewed the other materials that you talked about, which included the assessment and evaluation, examination done on the 22nd of January, correct?

A That's correct.

Q Now, nowhere in your findings did you or any of

the materials you reviewed or the physical examination that you conducted, he didn't lose any limbs, do he?

A Pardon me.

Q He didn't lose a limb like a foot, a hand, a finger, a thumb. He didn't have anything like that missing on him, right?

A Will you clarify that question, please?

Q Martez, did he have -- was he missing an arm?

A No, he wasn't.

Q Was he missing an ear?

A No.

Q An eye?

A No.

Q A finger?

A No.

Q Was he missing a foot or a leg?

A No, he wasn't missing a foot or a leg.

Q He was a hundred percent there, correct, physically? Had all his body parts from an external -- the external examination you conducted, correct?

A That's right.

Q All right. And then, had he suffered a substantial impairment of a -- of a body

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function? In other words, was his heart not working properly or was he unable to breathe or did he have any other kind of a substantial impairment of him being able to just live from day-to-day from when you examined him?

A He was able to live and his heart was beating (inaudible) and he was breathing when he came to see me.

Q With the exception that you said that you could still see some evidence in your physical examination of these marks on his two wrists and on his two ankles; is that correct?

A That's correct.

Q So if he were to think that they were gone except for the one on his right wrist, about a week before you did your examination, he would be wrong; is that correct?

A I wouldn't say that he was wrong. I would say that he's a child and when I examined him, I examined him as a physician. So I'm looking at him a lot more carefully than he is at himself.

Q Okay.

A I mean, I have to add that the marks that they had on his left wrist were significantly more than the ones that he had on his right. So for a

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child to say that, that for example, something was gone or something was removed out, I'll have to -- I'll have to be able to clarify what he said a bit more in order to answer.

Q And then what about on the -- how about this: Would you agree that, as you just said, that the right wrist was a lot less clear than what you observed on the left wrist; is that correct?

A That's correct.

Q And this is over the passage of time, correct?

A That's right.

Q And then those marks that you noted on his ankles, those were faded the same as the one on his right wrist by the time you saw him six weeks after his initial examination by Dr. Maqbool at Children's Hospital?

A They were healed compared to the one that Dr. Mack wool had seen him when she examined him in January, that they were not completely gone.

Q Okay. He wasn't comatose, right? I mean, he's talking to you, giving a history?

A Yes, he was talking to me.

Q He didn't have any brain or mental impairment, did he?

A Nothing that I was able to identify. He did have

some symptoms that are exhibiting -- he was exhibiting some trauma symptoms. So that could be considered mental impairment.

Q Well, what about any other type of bone fracture?

A I wasn't able to identify any fractures. I had no suspicions of fractures when I saw him.

Q Subdural bleeding or bruising?

A I did not assess for that.

Q No internal injury that you were able to determine, correct?

A I did not test him for any internal injuries. It was an external examination.

Q There wasn't any report in your review that he had been poisoned?

A I was not provided with information on poisoning.

Q You didn't -- I mean, you took a history. If somebody was giving a history to you, you looked at all the medical records, there wasn't anything like that to support that?

A Nothing to support poisoning, no.

Q And then what about serious burns or scalding, you didn't note anything like that on your head to toe evaluation of Martez, correct?

A That's correct.

Q And severe cuts or multiple puncture wounds, you

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didn't see anything like that, did you?
A No, I did not.
Q Okay. Now, he was not administered, to your knowledge of his history, any kind of mind-altering substance, given drugs or anything like that, that would alter his mind, his thinking?
A He did not tell me that information during his visit.
Q Was he -- did he give anything in the history of your evaluation that someone had threatened that they were going to give him some mind-altering substances?
A Not to my knowledge.
Q Did you have a history or any indication in the records you reviewed, the evaluation and examination you conducted, that he had been threatened with imminent death?
A Not to my knowledge.
Q Was he threatened that someone else was would be killed imminently? Did you get anything like that.
A Not to my knowledge.
Q And was he threatened that he would be caused extreme physical pain or mental pain and

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suffering? In your -- not -- not in what you determine about what you think happened regarding medical -- medical torture, but he didn't relate anything about being threatened with those kinds of things, did he?

A He actually revealed to me that he was tied with zip ties, both of his wrists and both of his ankles. He was also tied around his stomach with a belt --

Q That wasn't the question. The question was, was he threatened with, did he report that?

A He wasn't threatened but -- maybe repeat the question that was just before that, because I remember you mentioning something about physical.

Q The question was, was he threatened that he was going to be sustaining anything along those lines? Did he relate that to you?

A He wasn't threatened but it actually did happen to him.

Q Well, that's your conclusion, correct? You do not know, you weren't there?

A It's based on what he told me, on the scars that were around his wrists --

Q Well, he's --

A -- and ankles.

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Q -- already testified. So the fact of the matter is, you were not present, you didn't see any of this, correct?
A I wasn't at the camper, no. But I was there at the clinic when he was telling me.
Q I understand that. That's six weeks later, correct?
A That's right.
Q Okay. And you don't know what kind of interactions he had with any other member of his family or friends or other folks during the period of time, the span between January 22nd and the 3rd of March, correct?
A Can you clarify that question, please?
Q You don't know who was talking to Martez Abdullah at the age of six between January 22nd of 2020 and March 3rd, when you actually met him for the first time?
A I knew that he was with Ms. Bowden, but other than that I don't know who he interacted with specifically.
Q Right. And so you don't know what kind of influence people may have had on him, told him about, you don't have any idea, right?
MS. MCINTYRE: Objection, calls for

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speculation.

MR. MCCARTHY: Well, I'm asking whether she knows if he was in the company on the other People during that period of time.

THE WITNESS: I guess --

THE COURT: I'll allow her to answer the question.

THE WITNESS: I don't know who he was in the company with during those six weeks.

BY MR. MCCARTHY:

Q Right. And so that means that you don't know what kind of effect being with those individuals may have had upon him, correct?

A That's right.

Q You don't know what conversations went on during that period of time, correct?

A No. I was not there at the time.

Q Sure. And you would agree that a child who was six is impressionable?

A Can you clarify that question?

Q Well, I mean, a person who is six isn't completely able to think for themselves, using critical thinking skills, correct? Because they're at an early stage of their development?

A Actually, a six year old is able to think.

Children as young as three and four are able to be interviewed very well at Kids-TALK. They're able to be asked questions, they're able to relay information. A child as young as four is able to also talk about what happened and relay a story from beginning to end. So --

Q But that's not answering my question. A child who is young and impressionable like that is also subject as to what they hear around them, correct?

A I think anyone is subject to what they hear around them, including children. But I feel that a child at age six is able to answer questions and able to relay information and is able to identify what has happened to him, specifically when asked about certain scars and how he obtained them.

Q You're dealing with children in a young age, you talked about your four year olds, three year olds, six year olds. You run across many kids that believe in Santa Claus in that age group?

A Pardon me?

Q Do you run across many children in that age group that happen to believe in Santa Claus?

A Yes, I do.

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Q Okay. And you know, as well as anyone, that's an adult, that there is no person as Santa Claus, right?
A That's (inaudible) question to answer. I can't go into the historic perspective of how that person came to exist to --
Q Well, you think he's up at the north pole now?
THE COURT: One moment. We can only do one person talking --
MR. MCCARTHY: Very good.
THE COURT: -- at a time. Let's move on from this point, Mr. McCarthy.
BY MR. MCCARTHY:
Q The point I'm making here is that we know that's not true and children believe it, correct?
A It's a very hard question to answer. They believe in the gift. They believe in some sort of person so I really can't answer this question. I'm sorry.
Q You can't answer.
MR. MCCARTHY: I've got nothing further. Thank you.
THE COURT: Mr. Glenn?
MR. GLENN: Just a few. Just a few, your Honor.

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CROSS-EXAMINATION

BY MR. GLENN:

Q Now Doctor, you stated that you saw the children on March 3, 2020?

A That's right.

Q And you stated that you spoke directly to Martez; is that correct?

A Yes, I did.

Q Now, how long was your face-to-face interview with him again?

A The whole visit was for approximately two hours and that included the physical examination, the history. So I would say approximately an hour of face-to-face time.

Q Okay. So out of the two hours, one hour was for the physical exam and one hour was for the interview; is that correct?

A Approximately.

Q All right. Now, did you have any other doctors in the room with you when you were talking to Martez?

A No, I did not.

Q All right. Now, you stated that you thought that there was psychological mistreatment of Martez; is that correct?

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A Yes, that's correct.
Q Now, you stated that as your training as pediatrician, that's some of the things that you look for; is that right?
A That's right.
Q Now, you are aware that Martez was examined by the doctor or the hospital emergency room at Children's Hospital on January 26th; is that correct?
A No, it's not. He was examined on January 22nd.
Q Okay. January 22nd. Now, did you have any conversations or interactions with the pediatrician who examined him at that time?
A Not at that time, no.
Q So now you have medical records and you're coming to what you call a very, very specific and serious conclusions about medical torture, wouldn't it be important for you to talk to the physician who examined him back in January?
A Not in this case. I was provided with the report and the photos and I was also provided with information from Kids-TALK. So I did not feel the need to speak with her directly.
Q All right. As far as the medical records in January of 2020, where in those reports did it

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say anything about a psychological or medical -- mental mistreatment?

A It talked about him being tied with a tie, and that's actually part of being restrained in an uncomfortable position, and that falls within the diagnosis of medical torture.

Q I said where in the reports did it -- did the pediatrician or the medical staff back in January of 2020 come to that conclusion? That's what I asked you.

A If you don't mind showing me the report, I can point out to the point she was talking about zip ties.

Q I'm not talking about the zip ties. I'm saying you are a pediatrician; is that correct?

A That's right.

Q Board certified?

A That's right.

Q Now, the medical records from the board certified pediatrician back in January 2020, did it have anything in those medical records about medical torture?

A I did not have the diagnosis --

Q All right.

A -- medical torture.

Q Now, you stated that when you examined Martez back in March of 2020, you stated that you saw the marks on his wrist; is that correct?
A That's correct.
Q And you saw marks on his ankles?
A Yes, that's correct.
Q Now, by this being six weeks from the prior examination, can you put some kind of timeframe on just how long ago these injuries were received?
A No, I can't. We're unable to date bruises. I can tell you that they were present in January but they had healed partially when I saw him. But I can't date as to when they occurred originally.
Q Now, as a -- as a physician, can you state within a reasonable degree of medical certainty that the injuries to the wrist or to the legs were something other than zip ties?
A No. The injuries on his wrists and on his ankles, they're consistent with ligature marks and they're consistent with his history of being tied with zip ties.
Q But you can't rule out any other injuries such as rough playing?

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A They were not consistent with rough playing. They're actually circumferential. They go all around his wrists and ankles.
Q Now --
A But they are consistent with him being tied up.
Q -- if the child has a medical condition of eczema, skin and there's a scratching and he uses maybe a sharp object to scratch, could that lead to same or similar scars on the wrists and the hands?
A No, it can't.
Q Now, you stated that when you saw him for these two hours, did you have any follow-up interviews with him?
A No, I did not.
Q Now, you stated that when you talk about medical torture, it's very, very important that you make the referrals to someone who is qualified to deal with those issues; is that correct?
A Yes, that's right.
Q Who did you refer Martez to for the issues of medical torture?
A We referred him --
Q Not -- I asked not we; you.
A I referred him to therapy.

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Q From a psychiatrist with an MD degree?
A No, to a psychologist, to a therapist.
Q Now, were there -- were there any references and referrals made during the time, the six-week time period from January to March for any type of treatment or counseling for medical or mental his treatment?
A When he was seen and Kids-TALK initially for his interview --
Q I said, ma'am, did you see any referrals for mental mistreatment between January 20th -- January 2020 and March 2020?

THE COURT: I believe that's what she was trying to answer.

MR. GLENN: All right.

THE COURT: You can complete your answer.

THE WITNESS: Thank you, your Honor. When children are interviewed, including Martez and his sister, at Kids-TALK Children's Advocacy Center, they are referred to the therapy at Kids-TALK. So he was referred to therapy at Kids-TALK at that point.

BY MR. GLENN:
Q And you stated earlier on cross-examination you

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don't know who -- who was talking to Martez during the six-week time, do you?
A No, I don't.
Q Now, you stated that when you looked at the -- the photos and the medical records his eyes were normal; is that correct?
A Yes, that's correct.
Q There were no injuries to his eyes from what you could see on the photographs and what you read in the medical records?
A That's correct.
Q There was no injuries to the neck?
A There was one scar that was documented on his neck, but it wasn't disclosed as being part of the physical abuse.
Q All right. Any -- anything in the medical records showing that his neck was swollen?
A No.
Q Now, did you see anything in the medical records that talked about failure to thrive?
A No, I did not.
Q And can you explain to the jury what medical -- what failure to thrive means?
A Failure to thrive is a diagnosis that we give to children who are not gaining weight appropriately

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or who fall under their expected growth chart.
Q And Martez was normal; is that correct?
A That's right. In his case I only had one point in time so it was hard to make the diagnosis of failure to thrive.
Q And you -- you looked at the medical records back in January and you saw no evidence of failure to thrive?
A I looked and it's hard to make a diagnosis at one point in time. I didn't have his previous weeks. I do not know how he was growing. So it's -- it's really hard to make a diagnosis of failure to thrive in a child without looking at different points in time and seeing how he was growing or not growing. So I did not make the diagnosis in this case.
Q But when you looked at the -- the records back in January, there was no evidence of that; is that correct?
A That's right. They did not make that diagnosis.
Q All right. When was for the last time you saw Martez?
A March 3, 2020.
Q So over two and a half years ago?
A Yes.

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MR. GLENN: Nothing else, your Honor.

THE COURT: Redirect?

MS. MCINTYRE: Just a couple questions.

REDIRECT EXAMINATION

BY MS. MCINTYRE:

Q So Doctor, Mr. McCarthy went through a series of questions asking you if there was any injuries to any internal function and things of that nature. Do you recall that line of questioning?

A Yes, I do.

Q Okay. And just because you didn't see them, any of what he asked you on March 3rd of 2020, doesn't mean that there wasn't -- it couldn't occur prior to any records that you received starting in January 22nd of 2020; is that correct?

MR. MCCARTHY: Well, objection to speculation.

THE COURT: Well, didn't you just ask for the same type of question?

MR. MCCARTHY: I asked what she observed on that day, not what happened before January 22, 2020 because we don't have any record of that.

THE COURT: Well, no, you asked in the

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same context of she doesn't know what could or could not have happened in the six weeks, who he could have talked to.

She's not asking her so speculate, she's just telling her you don't know what happened before that date. That wouldn't be speculation.

MR. MCCARTHY: Fair enough. Withdrawn.

THE COURT: Objection overruled.

THE WITNESS: Yes. I'm sorry.

BY MS. MCINTYRE:

Q Okay. So you wouldn't know if -- you didn't have any record to review, you wouldn't know if any injury occurred prior to that date; is that correct?

A Yes, that is correct.

Q Okay. And you indicated that -- so six weeks later Martez still had marks on his wrist, correct?

A That's correct.

Q And based on your expertise as a pediatric doctor and a child abuse pediatric doctor, would you consider those marks to be severe that they're still noticeable after six weeks?

A It's a hard question to answer. I consider them

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severe but have they healed, I would still have considered them severe because of the nature of the wounds.

Q And you referred to them as wounds. Does that mean -- I guess, define for me, what is a wound? Because when I think of wound, I think of like a cut or puncture mark. What is a wound to you?

A So a wound to me is a cut. Now, when we examined him, he had the scars on his wrists. The scars were described as being hyperpigmented, which means that they had a darker color compared to the rest of his skin.

So it's hard to -- it's hard to say whether this had started off as abrasions or a cut in the skin or they had started off as bruises. It's really hard because at this point because it had healed.

Q Okay. But still, the hyperpigmentation could have been related to a cut or severe bruising?

A That's right.

Q And I guess in your medical opinion and expertise, for it to last over six weeks, would that be considered severe?

A It would be considered severe, just for -- just for the scars to happen. So even if I had seen

him at six weeks and they had healed, I would still maintain the same severity.

So different people and different children, they heal differently. So even the scenario if they had healed at six weeks I would still consider them severe because of the history and because of the occurrence of the ligature marks.

So them happening at six weeks doesn't add to the severity. It -- the initial diagnosis that was severe. But had they been present or not present at six weeks, I would have still maintained the same diagnosis of the same severity.

Q Okay.

MS. MCINTYRE: I have no further questions.

THE COURT: Any questions from the -- from the jury for this witness? If so, please raise your hand. All right. I have one question, two questions.

(Brief pause.)

THE COURT: I'm have counsel approach.

(At 10:45 a.m., bench conference held.)

THE COURT: Ma'am, I have a few

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questions for you.

What made you think Martez was psychologically abused?

THE WITNESS: So there are several reasons why I thought he was psychologically abused. Number one, deprivation. So he was -- he was deprived of food. He was only fed one time during the day and he was deprived of what we call hygienic excretory conditions, which means that he wasn't allowed to use the bathroom, he was made to wear pull-ups, he had to pee and poop in a bucket and a bottle.

He was also deprived of going to school, deprived of human contact. So that is called deprivation.

He was also isolated, so he was kept in a camper, kept out at night, tied with zip ties, tied to a chair and kept out at night and he was isolated sometimes in the camper, left at night alone. So with the isolation, with the deprivation, these are two types of psychological maltreatment.

The third reason would then be intimidation. So he was called a crybaby, for example. His mouth was tied with duct tape when

he would talk too much and he was -- he was also called greedy when he asked for food.

So these are types of psychological maltreatment that we take into consideration when -- when we diagnose someone with psychological maltreatment.

And again, like I had mentioned, we are not physically there in the children's home in order to -- to witness that. That's why in the Child Advocacy Center as model, we rely forensic interviewers, we're relying on other information --

MR. MCCARTHY: Well, I'm going to object. This whole thing about forensic interviews, I would ask that that be stricken and --

THE COURT: That they rely on forensic interviews?

MR. MCCARTHY: Well, she -- I think anything in this answer that is based on that should be stricken. It's something that she can say that I thought that that's what this was, that Martez related to her. But if she's reading it from a report, then I ask that that all be stricken.

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MR. GLENN: Also, your Honor, this witness is making medical conclusions on evidence that was not admitted at this trial. She's talking about duct tape, she's talking about the child being left outside tied up at night.

There's been no evidence presented on this record that I heard to support what she's talking about.

THE COURT: Well, she can make conclusions on items that aren't on the record. However, not all those conclusions would be appropriate. Not the reasoning -- doesn't mean that reasoning can be placed on the record.

Doctor, I'm going to ask, what did you actually -- what did Martez actually convey to you?

THE WITNESS: He conveyed to me that he was tied with zip ties. He showed me both his wrists and both his ankles and he said that he was tied around his wrists and tied around his ankles with zip ties that were black in color already. He also told me that a belt was used to tie -- tie him around his stomach.

THE COURT: Okay.

MR. MCCARTHY: Your Honor, I ask that

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that all that other information be stricken, duct tape, staying out all night, those kinds of things. I ask that that be stricken from the record.

THE COURT: All right. I am going to instruct the jury that you are not to consider that as evidence that that actually did happen. You may only consider it as to why this doctor reached her conclusions which would be appropriate.

But, however, the jury -- you are not to consider that that actually happened in your deliberations at all.

MR. MCCARTHY: Thank you, your Honor.

THE COURT: Satisfied, Mr. McCarthy?

MR. MCCARTHY: I am, your Honor. Thank you.

THE COURT: Mr. Glenn?

MR. GLENN: Yes.

THE COURT: All right. How did you come to the conclusion that Robyn had suffered two physical or one prolonged assault?

THE WITNESS: It was also based on information that was relayed to me from the forensic interview and I'm not sure that I'm

allowed to answer that. We don't obtain --

MR. MCCARTHY: Excuse me. I raise the same objection. If it wasn't from her interview with that child, then I would say that it can't come in.

THE COURT: All right. Did you have a conversation with Robyn?

THE WITNESS: I did not have a full conversation with her. Actually, your Honor, the model that we have at the Children's Advocacy Center is that we have the forensic interviewer ask the questions and then we do the exam, and relay information back and forth together.

So I don't interview the children, I only obtain some information from medical history and that's how our model works at the Child Advocacy Center. So we have a unique model dim that's specific to CAC or Children's Advocacy Center.

THE COURT: Okay. In your experience and expertise, how common is it to diagnose an occurrence of physical abuse if there are no physical signs of abuse during a medical exam?

THE WITNESS: It's very common that we diagnosis physical abuse based on the history

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alone in the absence of physical findings. So it's a diagnosis that we make -- to make a medical diagnosis we rely on history and we rely on physical exam.

So there are some situations that we would make the diagnosis of physical abuse just based on injuries and there are other situations that we would make it just based on medical history and absent physical exam findings.

So to make a diagnosis either/or has to be present, sometimes both are present at the same time.

MR. GLENN: Your Honor, based on that answer I would object because there's been nothing considered on this record into the evidence to support that conclusion.

THE COURT: To support the conclusion that it's common to have a diagnosis based on what, the physical exam and the history?

MR. GLENN: If she's going to make a medical conclusion like that, it has to be based on evidence that was presented at court and admitted into evidence and I would object to that.

THE COURT: No.

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MR. GLENN: That's -- that's not supported by the record here.

THE COURT: Experts can -- experts can rely on hearsay and items that don't come into the trial.

MR. GLENN: I disagree with that. I don't believe --

THE COURT: All right.

MR. GLENN: I would object. I don't believe that's the -- the proper ruling.

THE COURT: Your objection is notated for the record. Thank you.

You had said that medical torture is a relatively unusual diagnosis. Given the absence of physical injuries -- and we're going to talk about Robyn, what other information led you to the diagnosis? Without saying what was actually said, what did you rely on?

THE WITNESS: I relied on information that was given to me from the forensic interview and also from her brother as well. And that information made me make the diagnosis of psychological maltreatment and along with the physical abuse. That's how I reached the diagnosis of medical torture in Robyn's case.

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MR. GLENN: Same objection, your Honor.

THE COURT: All right. Your objection is notated for the record.

Any follow-up questions?

MS. MCINTYRE: None for the People.

THE COURT: Mr. McCarthy?

MR. MCCARTHY: No, your Honor.

THE COURT: Mr. Glenn?

MR. GLENN: No questions.

THE COURT: All right. Ma'am, you may step down and be excused.

THE WITNESS: Thank you, your Honor.

(At 10:55 a.m., witness excused.)

THE COURT: Any further witnesses?

MS. MCINTYRE: At this time the People rest.

THE COURT: The People rest? All right. We are going to take a short break at this time, then.

THE DEPUTY: All rise for the jury.

THE COURT: I'm going to excuse the panels into the jury -- jury rooms.

(At 10:56 a.m., both juries exit courtroom.)

THE DEPUTY: Thank you. May be seated.

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MR. MCCARTHY: Your Honor, I would like, if this is the appropriate time, to make a motion for directed verdict on Count 1.

THE COURT: Yeah, you may.

MR. MCCARTHY: Thank you.

In Count 1 Mr. Scott is charged with torture. And now that the People have rested all the evidence is in, I am asking the Court to grant this motion. And the reason that I bring it now is because I don't believe that there has been evidence on which a reasonable jury could find beyond a reasonable doubt that he committed that crime.

The instruction, 17.36, on torture, had specific elements identified and I will concede element number one, which is first, that the defendant had custody or physical control over the complainant.

Second element, which is that the defendant exercised custody or physical control over the -- over the complainant. That I have -- that's a true statement.

But then number three, that at the time the defendant had physical control -- custody or physical control he intentionally caused great

bodily harm and/or severe mental pain or suffering.

Well, great bodily harm is specifically identified. I went through in detail with Dr. Nazer the things that she did not find, which were all itemized throughout the jury instruction, which is based upon -- the operative statute here is MCLA 750.85 and the statute that identifies great bodily harm, which is MCLA 257. -- I think it's 58c.

And she agreed that there was none of those things that I asked her about present as far as the physical examination of Martez Abdullah on the day that she evaluated him, the 3rd of March of 2020 or on the day that Dr. Maqbool conducted her examination on January 22, 2022.

So then we go to this harm that is severe mental pain or suffering. And as far as that goes, the instruction in subpart six says that a, intentionally causing great bodily injury or threatening to cause great bodily injury.

Well, it's not there because by definition great bodily injury is not present on this record. Martez Abdullah suffered some

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injuries but those are not great bodily injuries, according to the statute that controls that and defines it.

Secondly, he, it says administering mind-altering substances or performing a procedure that would disrupt senses or personality. None of that happened and I asked Dr. Nazer about that very point. She conceded there was no evidence of anything along those lines.

Threatening imminent death -- death. Dr. Nazer again said that she had no record that anything along those lines happened and Martez Abdullah did testify during the trial. He never said anything like that.

Threatening that another -- subpart d, threatening that another person will be imminently killed, subject to great bodily injury or given a mind-altering substance. Once again, that is not in this record.

And so the People have not met their burden to establish that a reasonable juror could find any one of these elements beyond a reasonable doubt because they're not in evidence. That's not what this record is.

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Now, you know, there are other counts here about which I'm not going on a motion for a directed verdict, the child abuse and the second degree and the third degree as to each of the two complainants. That's a matter for the jury, the trier of fact.

But I believe that this is a legal question and I'm asking the Court to grant this motion and dismiss Count 1 on behalf of Mr. Scott.

Thank you.

MR. GLENN: Your Honor, on behalf of Ms. Alexander I will join that motion. I don't believe that the prosecutor in a light most favorable to the People have presented enough evidence to put the issue of torture to the jury and I -- I believe that count then should be dismissed.

The record is completely empty or void of what Mr. McCarthy just said to satisfy the elements of torture. So I don't believe in the light most favorable to the People that they have met their burden on that and I would ask that torture be dismissed by way of directed verdict on behalf of Ms. Alexander as well.

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THE COURT: All right. Response?

MS. MCINTYRE: Well, your Honor, I would wholeheartedly disagree. I believe that under great bodily injury, that serious visible disfigurement was established. I believe that the lacerations to the wrist are a bodily disfigurement as well as the swollen ankle.

I believe that's a serious visible bodily injury and it was occurring three weeks or six weeks after, from January 22nd to March 3rd, this serious physical disfigurement of the ligature mark were still visible on the wrist and were fading on the ankles, as you also heard from the doctor who said that those could be caused from severe cuts.

I believe the People have established those, that even the defendants -- Mr. Scott in his interrogation discussed how there was disfigurement and injury to the wrist, that they had to ice them during the swelling after zip tying the wrists together. That he was breaking the skin. I believe the mom even testified to all those injuries occurred when he was breaking the skin from wiggling out.

I think that there has been sufficient

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evidence to -- sorry -- placed on the record to meet the burden of serious visible disfigurement as well as severe cuts in order for torture to go forward to the -- to the jury.

THE COURT: Does serious visible disfigurement need to be -- need to last? We -- there was testimony in this particular case that the scars were healing. I guess, does serious visible disfigurement, is that something that -- something that heals?

And at the time of the exam, at least, which isn't part of the evidence but I'm going to consider for the trial. But I do recall the -- or isn't what I'm considering for the directed verdict -- but I do remember at that point the judge had seen that.

But for purpose of this trial we have the disfigurement lasting until at least March of 2020. I don't believe there was any testimony beyond March of 2020.

And so to qualify for serious visible disfigurement, is there a period of time for which that scar has to last for it to qualify? Do either of you know the answer to that?

MS. MCINTYRE: I don't know the answer

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to that.

MR. MCCARTHY: I don't know the answer, either. And the only thing that I was going to say in rebuttal as to that argument is that he was released from the hospital, you know, after he was there three hours on the 22nd of January. He was there for an evaluation and she noted those things, Dr. Maqbool did, in her report. But she certainly didn't characterize them as serious disfigurements. What she said was nonaccidental trauma, I believe, is a specific word.

That sounds -- she didn't say serious. She didn't use that term to characterize what she observed and she was the attending physician in the emergency room.

MR. GLENN: Also, your Honor, there was no evidence of any type of aftercare for these scratches back in January of 2020. Now, there was no testimony or evidence presented that these cuts or scratches needed stitches or surgery or any type of medication. They were -- they were in the well-healing stage back then. So you know, I don't believe this qualifies for torture.

MS. MCINTYRE: But that's not a

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requirement of that statute, is to show that there was treatment. I mean --

MR. GLENN: Well, it's serious disfigurement.

MS. MCINTYRE: It doesn't mean that you have to have treatment for a serious disfigurement, you just have to have the serious disfigurement.

MR. GLENN: Well, based upon what the emergency room doctor said, that her examination back in January of 2020, that doesn't qualify. There was no -- the child was there for, what, three hours, given a general examination. There was no follow-up.

If he had serious physical injuries or serious type of assault, there should be some evidence of a follow-up. Something ordinary -- beyond the ordinary cuts and bruises. We haven't even established on this record that the injury ever bled.

Now, we have evidence of zip ties on the floor, but there's been no DNA as to any of these zip ties having blood on them that was consistent with Martez.

THE COURT: We'll go off the record.

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I'll have you approach the bench.

(At 11:06 a.m. until 11:08 a.m., bench conference held.)

THE COURT: All right. We're back on the record.

I am going to reserve ruling at this time. I do want to take a moment to look at what the case law indicates is serious visible disfigurement. And so I will address that issue, hopefully once we come back from lunch but certainly before deliberations begin.

MR. MCCARTHY: Thank you.

THE COURT: All right. Anything else before we bring the jury back?

MR. MCCARTHY: I have two witnesses. I don't expect either to be very lengthy and the they're in the hall, at least they were when I came in the courtroom most recently. And they'll be ready to go, if I can just have a moment or two to talk to them, just to --

THE COURT: Mr. Glenn, do you have witnesses?

MR. GLENN: We're not going to call any witnesses.

THE COURT: You're not going to call

any.

MR. GLENN: Is that the witness out there?

THE COURT: Okay. Why don't you go into the hall. When you're ready to call the witnesses, you can come back in.

(At 11:09 a.m., recess taken.)

(At 11:13 a.m., proceedings reconvened.)

THE COURT: Are you ready?

MR. MCCARTHY: Yes, your Honor.

THE COURT: All right. Bring the juries out.

THE DEPUTY: All rise for the jury.

(At 11:13 a.m., both juries enter courtroom.)

THE DEPUTY: Thank you. May be seated.

THE COURT: All right. We're back on the record in the case of People versus Errown Scott and Gwendolyn Alexander.

Appearances, please.

MS. MCINTYRE: Good morning again, your Honor. Abigail McIntyre, appearing on behalf of the People, P71143.

MR. MCCARTHY: Good morning, your

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Honor. Michael McCarthy, P30169, appearing on behalf of Errown Scott.

MR. GLENN: William Glenn, P36794, on behalf of Ms. Alexander.

THE COURT: Thank you. Before we -- all right. If I could have you approach briefly.

(At 11:15 a.m., bench conference held.)

THE COURT: All right. Can I have a you approach one more time? I'm sorry.

(At 11:16 a.m., bench conference held.)

THE COURT: All right. Mr. McCarthy, are you ready with your first witness?

MR. MCCARTHY: I am, your Honor.

THE COURT: And who would that be?

MR. MCCARTHY: Rob-E Scott.

THE COURT: All right. There are the visors there, on the opposite side.

All right. Mr. Scott, I'm going to ask you that you step up over here, sir. Please raise your right hand.

Do you solemnly swear or affirm the testimony you're about to give is the truth, the whole truth and nothing but the truth, so help you God?

MR. ROB-E SCOTT: Yes.

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THE COURT: All right. Sir, you can put your hand down.

Can you please state and spell your name, for the record?

THE WITNESS: I'm Rob-E Scott.

THE COURT: All right. I'm sorry, spell it.

THE WITNESS: R-O-B-E, Scott.

THE COURT: All right. Can you spell your last name?

THE WITNESS: S-C-O-T-T. S-C-O-T-T.

THE COURT: All right. Mr. Scott, I'm going to ask that you speak loud and clear. This is a big courtroom and we have to make sure that everyone hears what you're saying.

Also, see that microphone right next to you? That does help magnify your voice a little bit. If you're having trouble, you can try to like bend your -- the visor up a little bit. If you tilt it up a little bit it, it might help. Okay?

THE WITNESS: All right.

THE COURT: All right.

Your witness.

MR. MCCARTHY: Thank you, your Honor.

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ROB-E SCOTT

(Called at 11:17 a.m. by Mr. McCarthy and sworn by the Court, testified as follows)

DIRECT EXAMINATION

BY MR. MCCARTHY:

Q So Mr. Scott, how old are you?

A 16.

Q And do you attend school?

A Yes, sir.

Q What grade are you in?

A 11.

Q 11th grade. Do you know a person by the name of Errown Scott?

A Yes, sir.

Q Can you tell both of these juries here -- and please, as Judge Bazzi, keep your voice up as loud so all the people can hear you. Okay?

A Yes, sir.

Q How is it that you know Errown Scott?

A He's my father.

Q Your father?

A Yes, sir.

Q All right. And have you ever lived with him?

A Yes.

Q Have you -- have you been able to see him on a

regular basis before January of 2020?
A No, sir.
Q All right. No, since January 2020 you haven't been able to see him; is that right?
A No.
Q How about before?
A Yes.
Q All right. And did you ever live with Mr. Scott?
A Yes.
Q And how old were you when you lived with him?
A Like, I'll say 14.
Q Okay. Now, you have a mother; is that correct?
A Yes, sir.
Q Your mom, mother is alive, correct?
A Yes.
Q And what is her name?
A Jaleesa Garner.
Q Jaleesa Garner?
A Yes, sir.
Q Okay. Please keep your voice up.
And is that who you live with now?
A Yes.
Q Okay. Did -- you said you lived with your father in 2014?
A No.

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Q When?
A I was around the age.
Q Oh, you were about 14?
A Yes, sir.
Q You're 16 now?
A Yes, sir.
Q So this was a couple of years ago?
A Yes, sir.
Q Would it perhaps been three years ago in 2019?
A Yes, sir.
Q Okay. And that was in the summertime, you said?
A Yes, sir.
Q Okay. Now, where was it that you were staying when you were living why your father in the summer of 2019?
A I was with my -- I was with him and my grandmother on Berkshire.
Q What is your grandmother's name?
A Renia Scott.
Q Renia Scott?
A Yes, sir.
Q And what street does she live on?
A Berkshire.
Q Berkshire?
A Yes, sir.

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Q Is that in Detroit?
A Yes, sir.
Q Okay. And so you stayed there for how long during the summer of 2019?
A From, like, I would say like the start of summer to like August.
Q Okay. And so the start of summer would be when school got out in June?
A Yes, sir.
Q So you were there for all of the July, part of June, part of August?
A Yes, sir.
Q Okay. You see your dad on a daily basis?
A Yes, sir.
Q You interact with him?
A Yes, sir.
Q So how would you characterize his treatment of you as a child, as a person who was 14 in the summer of 2019?
A Great dad to me.
Q Well, how -- tell the juries, how is it --
A He was a great dad to me.
Q -- you think your dad is a great dad?
A My dad is a great dad. I never had any trouble with my dad. Like, we had never had any

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problems. He would always put confidence in me when I'm down. Like, for that summer, I played football that the summer. My dad coached me through that whole summer, all of it. And like, we got a strong bond with each other.

Q Okay. And now before the summer of 2019, did you see your dad on a regular basis?

A Before the summer of 2019?

Q Yeah, before 2019. From the time you were born up until the time you got to be 14?

A Yeah.

Q And -- and how were your encounters with your dad during those other times as you were growing up?

A Very strong bond, like, like he's the best dad a kid could want.

Q Okay. Did you ever get physically --

A No.

Q -- harmed?

A No. Never.

Q No? You ever see him physically harm anybody else?

A No, never.

Q How about talking to you? When you interacted with your dad, did he yell at you?

A Never.

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Q How did he -- how did he talk to you?
A He always -- he always like -- how can I say. He talked to me like in good manner. Like, when we talked, it was always in a good manner. Like, he never tried to be rude about anything.
Q Okay. So you say it's a good manner and by that you said he was not being rude to you; is that right?
A No, sir.
Q Well, let me ask you this: Did your father listening to you when you were talking?
A Yes. Yes, he did.
Q Did you ever ask him any questions?
A About what we talked about?
Q Well, I mean, did you ask him for advice?
A Yes. Oh, yes, all the time.
Q Was he willing to give that to you?
A Yes, sir.
Q Did you think that something you asked him about advice for?
A I asked him -- he taught me how to cook.
Q He taught you how to cook. Now, when was that -- is that a yes? You have to make a verbal answer.
A Yes. Yes, sir.
Q Okay. Now, when was it that he taught you how to

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cook?
A Around that summer.
Q That summer of 2019?
A Yes, sir.
Q And so you know what this is -- why we're here, right, this trial?
A Yes, sir.
Q And is it fair to say that you love your dad?
A Of course.
Q You took an oath before you sat down in that chair, correct?
A Yes, sir.
Q And that was to tell the truth, correct?
A Yes, sir.
Q Are you telling these people and these two juries the truth?
A Yes, sir. I am.
Q Did you come down here to tell any lies to try and help your dad?
A No.
Q Have you ever known him to harm anyone?
A No.
Q Have you seen him interact with children beside yourself?
A Interact, like?

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Q Well, be together with children?
A Oh, yes, yes.
Q Have you ever seen him harm one of those children?
A No. Never.
Q I don't have any further questions. Now, Ms. McIntyre, the prosecutor, is going to ask you some questions. Thank you.

CROSS-EXAMINATION

BY MS. MCINTYRE:

Q Hi, Mr. Scott. How are you?
A Good.
Q Good. So you indicated that the last time you lived with your dad was August of 2019, correct?
A June of 2019. We saying --
Q Well, last time. So you moved in -- you lived solely with your mom after August of 2019, right?
A Yeah.
Q Okay. So it's pretty fair to say that you didn't live with your dad from 2019 of August until January 22nd of 2020?
A No, sir.
Q Okay.
A I mean no, ma'am.
Q No, ma'am, thank you.

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And so you weren't in the house with him every day, correct?
A In the house?
Q Yeah. The house or the trailer, at his house every day?
A No, I was at football practice.
Q Pardon?
A Football practice.
Q Okay. But you didn't live there, so you didn't see him every day?
A I didn't -- like, I can't -- like, seen him every day?
Q Well, did you live with him?
A Yeah.
Q You lived with him from August until January of 2020?
A No, no.
Q No, you did not. Okay. So how often would you see your dad from August to January of 2020?
A I didn't see him.
Q You didn't see him from August of January 2020 at all?
A No.
Q Okay. So it's fair to say you had no idea what happened in his house when you weren't there; is

that true?
A No, ma'am.
Q Okay. So you don't know if he zip tied Martez, do you?
A No.
Q You weren't there, you didn't see anything, did you?
A No.
Q You don't know if your dad beat his bare butt with a sandal, would you -- did he?
THE COURT: Hold on one second. Whose bare butt with a sandal?
MS. MCINTYRE: Pardon?
THE COURT: You said beat his. Who is he?
MS. MCINTYRE: Oh.
BY MS. MCINTYRE:
Q Martez's bare butt with a sandal.
A No.
Q Okay. And you don't know how your dad treated Martez when you weren't there, do you?
A No.
Q Okay.
MS. MCINTYRE: I have no further questions. Thank you.

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THE COURT: Okay. Let's get -- Mr. Glenn?

MR. GLENN: I have no questions of this witness.

THE COURT: All right. Redirect.

REDIRECT EXAMINATION

BY MR. MCCARTHY:

Q Were you ever zip tied?

A No.

Q Was your bare bottom ever struck with anything?

A No.

Q Your father ever engage in any physical punishment with you?

A No, sir.

MR. MCCARTHY: Nothing further.

THE COURT: All right. Any questions from the jury for this witness? If so, please raise your hand. All right.

There are a couple questions. If you can write your questions down, please.

All right. I'll just have the attorneys approach.

(At 11:28 a.m. until 11:32 a.m., bench conference held.)

THE COURT: All right. Sir, I have a

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few questions for you. If you don't understand my question, tell me you don't understand. Okay?

THE WITNESS: Yes, ma'am.

THE COURT: All right. And I'm just going to remind you again, you have to speak up.

THE WITNESS: Yes, ma'am.

THE COURT: Okay? How often did you see your father from the time you were born until you were 14 years old, before you moved in -- in -- you said you moved in in June of 2019?

Is that a yes?

THE WITNESS: Yes, ma'am.

THE COURT: Okay. How often did you see your father before that?

THE WITNESS: Like before -- like from birth until then?

THE COURT: Yes.

THE WITNESS: All the time.

THE COURT: All the time?

THE WITNESS: Yes, ma'am.

THE COURT: Okay. So would it be daily, weekly, monthly or yearly?

THE WITNESS: Yearly, you mean like all year round?

THE COURT: No. I mean like -- you

said once a year --

THE WITNESS: Oh, like once a year? No, no.

THE COURT: It would be like once a day, once a week, once a month. Do you understand what my question is?

THE WITNESS: Yes, ma'am.

THE COURT: So how often would you see him?

THE WITNESS: So like daily.

THE COURT: Daily? Okay. Are you -- you said Mr. Scott is your dad?

THE WITNESS: Yes, ma'am.

THE COURT: Is he your biological father?

THE WITNESS: Yes, ma'am.

THE COURT: Okay. Sir, when you said you moved in with your dad in June of 2019, where were you actually living?

THE WITNESS: My grandma's.

THE COURT: So were you living in the house?

THE WITNESS: Yes, ma'am.

THE COURT: Okay. Was your dad living in the house, too?

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THE WITNESS: Yes, ma'am.

THE COURT: And how about Ms. Alexander and the kids, were they living in the house as well?

THE WITNESS: I didn't see them.

THE COURT: You didn't see them?

THE WITNESS: No.

THE COURT: Okay. Did you always behave perfectly as a child?

THE WITNESS: Perfectly, ain't no kid perfect, I can't say that.

THE COURT: Okay.

THE WITNESS: So I had my ups and downs.

THE COURT: You had --

THE WITNESS: I had my ups and downs. I learned from them, though.

THE COURT: Okay. Did your dad ever correct your behavior when you didn't behave perfectly as a child and how did he do this?

THE WITNESS: Yeah. He talked to me.

THE COURT: He talked to you? Is that a yes?

THE WITNESS: In an understanding manner, yes.

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THE COURT: Mr. McCarthy, this is your witness. Any questions based on the jury questions?

MR. MCCARTHY: No, I don't have any questions. Thank you.

THE COURT: Ms. McIntyre?

MS. MCINTYRE: Nothing, your Honor.

THE COURT: Mr. Glenn?

MR. GLENN: No questions.

THE COURT: All right. Thank you very much, sir. You're excused. You may step down.

(At 11:24 a.m., witness excused.)

MR. MCCARTHY: I'll bring in my other witness, your Honor.

THE COURT: Thank you very much, Mr. McCarthy.

Actually, can you take that visor and toss it?

MR. MCCARTHY: Your Honor, at this time the defense calls Jaleesa Garner.

THE COURT: Okay. Ms. Garner, I'm going to ask that you actually come right up over here to where the chair is.

All right. You can remove your mask. Remove your mask completely, it'll just make it a

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little easier for you.

Sorry, I thought it would make it easier.

All right. Put the visor on. You have to -- yes. And ma'am, please face me, raise your right hand.

Do you solemnly swear or affirm the testimony you're about to give is the truth, the whole truth and nothing but truth, so help you God?

THE WITNESS: Yes, ma'am.

THE COURT: All right. So ma'am, your voice is -- you can put your hand down.

Your voice is just a little quiet, so I'm going to need you to speak loud and clear. And see that microphone right there? That will help magnify your voice somewhat. Okay?

All right. Ma'am, can you please state and spell your name, for the record?

THE WITNESS: Jaleesa Garner.

THE COURT: You're going to have to speak louder than that.

THE WITNESS: Jaleesa Garner.

THE COURT: See, that is perfect.

Your witness.

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MR. MCCARTHY: Thank you very much, your Honor.

THE COURT: Oh, I'm sorry. She didn't spell it.

Please spell your name.

THE WITNESS: J-A-L-E-E-S-A G-A-R-N-E-R.

JALEESA GARNER

(Called at 11:35 a.m. by Mr. McCarthy and sworn by the Court, testified as follows)

DIRECT EXAMINATION

BY MR. MCCARTHY:

Q Ms. Garner, you -- do you know a person by the name of Errown Scott?

A Yes, sir.

Q Do you see him in the courtroom?

A Yes, sir.

Q Could you point to him and identify a piece of clothing that he's wearing?

A He's right here with the black vest on and he purple shirt.

Q Thank you. Okay. Just keep yourself close to that microphone, so all the jurors in this box as well as in this jury box here have to be able to hear you.

A Okay.
Q So you know Mr. Scott and how is that that you know him?
A He's father of my son Rob-E Scott.
Q Rob-E Scott. That was a person who was just in this courtroom a few moments ago, correct?
A Yes, sir.
Q And he's your son; is that right?
A Yes, sir.
Q And -- and how old is Rob-E Scott?
A He's 16 years old.
Q And when he was born, you say that Mr. -- Mr. Scott, Errown Scott is his father; is that right?
A Yes, sir.
Q And at the time that Mr. Scott or that Rob-E, your son, was born, what was your relationship with Errown Scott?
A We were in a relationship and we lived in the same household together but then we had separated but he was still in my son's life, you know, as well as us being separated.
Q All right. Now, let me just back through that information that you have just provided me.
So your son Rob-E is 16 years old, he was born somewhere around 2006; is that right?

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A Yes, sir.
Q During 2006. And in 2006 you lived with Mr. Scott?
A Yes, sir.
Q And where did the two of you live?
A 5211 Berkshire Street.
Q Now, is that the house of Mr. Scott's mother?
A Yes.
Q Is that Renia Scott?
A Yes.
Q Okay. So that's where you were living when your son was born; is that correct?
A Yes.
Q And how long did you and Mr. Scott live together in that house?
A Probably 'til Rob-E was like three or four and then we separated. I had moved out of the house.
Q So you left the house; is that right?
A Mm-hmm.
THE COURT: Is that a yes?
BY MR. MCCARTHY:
Q Is that a yes?
A Yes, ma'am.
Q And that is because you said you separated. It was some sort of a disagreement between the two

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of you?
A No. I had moved to Mississippi, that's why.
Q You moved to Mississippi to live with other people?
A With my family. I went down there to get a job, that's all. But then I later came back and I moved back on Berkshire.
Q Okay. So when you came back, do you have any idea when that was?
A That was in like 2007, because I wasn't gone that long.
Q Okay. And when you left, did you take Rob-E with you or did Rob-E stay --
A Yes.
Q -- with Mr. Scott?
A I took him with me.
Q And then when you came back, was Rob-E with you?
A Yes.
Q And you lived at the house on Berkshire?
A Yes.
Q And how long did you stay there then?
A Probably like the summer and then I moved with my mom on the Boulevard, but he also -- Errown used to come over there also, so we never like really was separated, you know, we always had a

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friendship and stuff like that, to raise our child.

Q Okay. And so now you're not living with Mr. Scott, correct?

A No.

Q And you haven't lived with him for a number of years; is that right?

A Yes.

Q But you -- you have this child in common?

A Right.

Q Correct?

A Mm-hmm.

Q And has Mr. Scott been involved in the life of your son Rob-E Scott?

A Yes, sir.

Q How often would you estimate that Mr. Scott, the father of your child, and your son, were together during the time that Mr. Scott --

A They were --

Q -- lived together?

A They were together a lot.

Q What's a lot?

A Like when Rob-E was a baby, like I was still -- we were teenagers, though. It's like he would be at school and his mom would keep the baby and

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stuff like that. But he always been in his life until, like, we separated and, you know, went our separate ways.

Q When you went your separate ways --

A Mm-hmm.

Q -- let me just ask you this: How long ago was that?

A Well, we went our separate ways, that was in like 2008, about 2009.

Q Okay. So 13, 14 years ago, correct?

A Yes.

Q And your son was two?

A Yes.

Q Three, something like that?

A Yes.

Q Did Mr. Scott ever see your son on a regular basis then?

A Yes.

Q Okay. Had he -- did he continue to do that?

A Yes.

Q Do you have any recollection of the summer of 2019?

A Oh, yes.

Q Do you know where --

A He went to go stay with his dad because I had a

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living situation and he went to go stay with him, you know, during school because he was in -- in summer school.

Q Okay. So you said you had a living situation, you mean you had to find new housing?

A Yes.

Q All right. And you were able to do that?

A Yes.

Q And then your son came back to live with you?

A Yes. But I still was in, you know, we were still interacting and all of that, during the process of that.

Q So while that was going on during 20 -- the summer of 2019, you still visited over there to that house over on Berkshire?

A He -- Berkshire, yes. I used to go there and see my son, you know, take him clothes and stuff like that.

Q Okay. Now, let me ask you this: Have you observed Mr. Scott, Errown Scott, interact with your son? Have you done that?

A Yes.

Q Okay. And have you ever seen him harm your son?

A Never. He's never whipped him or nothing. Never.

Q Have you ever seen Mr. Scott yell at your son?
A Never. I never seen him confrontational before.
Q Had your son ever done anything wrong as children, some children do?
A Yes. My son was a problem child growing up in school, but we don't -- I don't discipline my son with, you know, with whipping or anything. We just basically talk to him.
Q We, meaning you and --
A Me --
Q -- Errown Scott?
A And Errown, yes.
Q All right. And is that the way it continued to be?
A Yes.
Q During the time that Mr. Scott was involved in your --
A Yes.
Q -- son's life?
A He has never whipped him, ever.
Q Okay. Do you have an opinion about Mr. Scott's character for peacefulness?
A Well --
MS. MCINTYRE: Objection. Calls for, I guess, speculation.

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MR. MCCARTHY: Well, she -- I think I've laid a pretty good foundation there. If she knows him since she was a teenager and she knows his behavior and -- I'm not asking for his reputation, I'm asking for her opinion under MRE 405, I think it is. 405a.

THE COURT: I'm sorry. One second. I'm going to have you approach.

(At 11:44 a.m. until 11:45 a.m., bench conference held.)

THE COURT: All right. I'm going to excuse the jury into the jury room, please.

THE DEPUTY: All rise for the jury.

(At 11:45 a.m., both juries exit courtroom.)

THE DEPUTY: Thank you. May be seated.

THE COURT: All right.

We're going to go to rule 404 first. Rule 404 indicates character evidence, not admissible to prove conduct and these are exceptions. Character evidence generally. Evidence of a person's character or a trait of character is not admissible for the purpose of proving action and conformity therewith on a particular occasion except, one says the

character of accused. Even if a pertinent trait of character offered by an accused or by the prosecution to rebut the same or if evidence of a trait of character of the alleged victim of this crime -- well, we're not dealing with that.

Evidence of a trait. So how does it meet this exception? Evidence of a pertinent trait of character offered by an accused? How are you meeting this exception?

MR. MCCARTHY: Excuse me, just a second.

THE COURT: No problem. And then 405a just goes into the methods in which that evidence could be introduced.

MR. MCCARTHY: I'll withdraw the question.

THE COURT: You'll withdraw it?

MR. MCCARTHY: Yes.

THE COURT: All right.

MR. MCCARTHY: Thank you.

THE COURT: Very good. Then let's just bring the juries back in.

THE DEPUTY: All rise for the jury.

(At 11:47 a.m., both juries enter courtroom.)

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THE DEPUTY: Thank you. May be seated.
MR. MCCARTHY: May I continue?
THE COURT: Your next question, counsel.
MR. MCCARTHY: Thank you.
BY MR. MCCARTHY:
Q Ms. Garner, in your interactions with Mr. Brown -- with Mr. Scott, rather, Errown, was he ever assaultive to you?
A Never.
Q Now, you don't -- you're not living together anymore, right?
A No.
Q And you had decided to go your separate ways, correct?
A Mm-hmm.
THE COURT: Is that a yes?
THE WITNESS: Yes.
THE COURT: You have to give verbal responses.
THE WITNESS: Okay. Yes.
THE COURT: All right.
BY MR. MCCARTHY:
Q And that reason, whatever it might be, for the two of you to separate, had nothing to do with

any kind of violence, correct?
A No.
Q Okay. Thank you. You consider Mr. Brown -- Mr. Scott to be your friend; is that right?
A Yes.
Q I mean, that's what you testified to --
A Yeah.
Q -- earlier. And you know why he's here today, you know what these charges are, correct?
A Mm-hmm.
THE COURT: Is that a yes?
BY MR. MCCARTHY:
Q Is that a yes?
A Yes.
Q Okay. You took an oath before you sat in that chair to testify, correct?
A Yes, sir.
Q All right. Are you telling this -- both of these juries the truth here today?
A Yes, I am.
Q All right. Did you come down here to lie, to help Mr. Scott?
A No.
Q Just tell -- you just came here to tell what you knew about him; is that right?

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A Yes, sir.
Q And how many years have you known him?
A Since I was 15, he was 14, so over like 15 and a half months -- plus years.
Q 15 plus years?
A Yes.
Q Okay. Very good. Thank you. I have no further questions but Ms. McIntyre is going to have some questions.

THE WITNESS: Okay.

THE COURT: Ms. McIntyre?

MS. MCINTYRE: Thank you.

CROSS-EXAMINATION

BY MS. MCINTYRE:
Q Good morning, Ms. Garner.
A Good morning.
Q So you haven't lived with Mr. Scott since, what did you say, 2008 or 2009; is that correct?
A Yes, ma'am.
Q Okay. So from December of 2019 to January of 2020, is it a fair thing to say that you have no idea how -- what was going on in his household?
A No, I didn't know.
Q Okay. And you don't know how he treated Martez at that time, do you?

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A No, ma'am.
Q Okay. So you weren't there when he zip tied Martez, were you?
A No, ma'am. And you know what -- can I say something?
Q No.
A Okay.
Q You weren't there when he beat Martez's bare --
MR. MCCARTHY: Well, I'm going to object to the form of the question. Those are the allegations, that's for the trier of fact to determine.
THE COURT: I would agree.
MR. MCCARTHY: Thank you.
THE COURT: Objection sustained. Rephrase your question.
BY MS. MCINTYRE:
Q You weren't there when he -- when Martez received any whippings, did you -- were you?
A No.
Q Okay. So you don't know what happens when you weren't there?
A No.
Q Okay.
MS. MCINTYRE: I have no further

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questions.

MR. MCCARTHY: I have no redirect.

THE COURT: Okay.

MR. GLENN: No questions, your Honor.

MR. MCCARTHY: Oh, I'm sorry.

THE COURT: All right. Any questions from the jury for this witness? If so, please raise your hand. We have two so far.

Approach the bench.

(At 11:52 a.m. until 11:53 a.m., bench conference held.)

THE COURT: All right. Ma'am, I have a few questions for you.

Was there a trailer on -- you said you lived in the house on Berkshire?

THE WITNESS: Not -- no. This was early 2000 when I lived there. I didn't live on there recently.

THE COURT: Okay. When you have lived over there, was there a trailer on the house -- on the side of house on Berkshire?

THE WITNESS: Was there a trailer?

THE COURT: Yes.

THE WITNESS: Not when I had dropped my son off, when I had come over, I didn't see a

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trailer over there.

THE COURT: So when -- you're saying when you dropped your son off in July of 20 -- I'm sorry, in June of 2019 there was no trailer?

THE WITNESS: No.

THE COURT: Did you ever see a trailer there that summer?

THE WITNESS: I did. Probably like -- I think probably closer to the fall time, I did.

THE COURT: Closer to the fall?

THE WITNESS: Yeah. Because -- I can't just state --

THE COURT: You can't just say everything, but closer to the fall you saw a trailer?

THE WITNESS: Yeah.

THE COURT: Okay. Did you ever meet -- and I'll ask separate questions. Did you ever meet Martez Abdullah?

THE WITNESS: The son? The son, Gwendolyn's son?

THE COURT: Yeah. Do you know who Martez Abdullah is?

THE WITNESS: I don't know his last name. So I don't know --

THE COURT: Did you ever meet Martez?

THE WITNESS: Yes, I have met him.

THE COURT: Okay. Did you ever meet Robyn Scott?

THE WITNESS: I have.

THE COURT: And did you ever meet Mishayla Scott?

THE WITNESS: Yes.

THE COURT: Did you ever go inside the trailer next to the house on Berkshire?

THE WITNESS: No. No.

THE COURT: Okay. Any questions based on those questions?

MR. MCCARTHY: We don't have any, your Honor.

MS. MCINTYRE: Nothing from the People.

MR. GLENN: No.

THE COURT: All right. Ma'am, you may step down and be excused.

(At 11:55 a.m., witness excused.)

MR. MCCARTHY: Your Honor, may we approach for just a second?

THE COURT: You may.

(At 11:55 a.m. until 11:56 a.m., bench conference held.)

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THE COURT: All right. At this time it is 11:57. I think it's a good time to break for lunch. I will see you all back, why don't we say at 1:10. So it will be just over an hour. That way, you guys can go to the jury room, collect your belongings. Again, lunch is provided in the jury room.

You are free about to go -- free to go about your business until 1:10. At 1:10 please be outside of my courtroom. Thank you very much.

THE DEPUTY: All rise for the jury.

(At 11:58 a.m., both juries exit courtroom.)

THE DEPUTY: Thank you. May be seated.

MR. MCCARTHY: Your Honor, I have one record that I would like to make with Mr. Scott before we break for the morning, if he could be sworn.

THE COURT: Yes. Please, Mr. Scott, stand up and raise your right hand, sir.

Sir, do you solemnly swear or affirm the testimony you're about to give is the truth, the whole truth and nothing but the truth, so help you God?

DEFENDANT SCOTT: Yes, ma'am.

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THE COURT: All right. You can put your hand down.

Mr. Scott, your voice is a little quiet, so I just need you to speak up loud. Okay?

DEFENDANT SCOTT: Yes, ma'am.

THE COURT: All right. Go ahead.

MR. MCCARTHY: Thank you.

Mr. Scott, you are the defendant or one of the two defendants in this case, correct?

DEFENDANT SCOTT: Yes, sir.

MR. MCCARTHY: And I have represented you since January of 2020 when you were first charged in this matter, correct?

DEFENDANT SCOTT: Yes, sir.

MR. MCCARTHY: And during the time that I have represented you, among other things we have discussed your right to a trial, correct?

DEFENDANT SCOTT: Yes.

MR. MCCARTHY: And we've talked about what witnesses could be called, defenses and other items of strategy regarding your trial, correct?

DEFENDANT SCOTT: Yes, sir.

MR. MCCARTHY: And one of the things

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that we have discussed is your absolute right to either testify on your own behalf or remain silent, correct?

DEFENDANT SCOTT: Yes, sir.

MR. MCCARTHY: And you understand that it is your choice to decide whether to testimony or to exercise your right to remain silent, correct?

DEFENDANT SCOTT: Yes, sir.

MR. MCCARTHY: And you have made a decision, isn't that right?

DEFENDANT SCOTT: Yes, sir.

MR. MCCARTHY: And that decision is what?

DEFENDANT SCOTT: Not to testify.

MR. MCCARTHY: Would you repeat that and say it louder?

DEFENDANT SCOTT: On the better counsel, refuse to testify.

THE COURT: On the what?

DEFENDANT SCOTT: Better counsel.

THE COURT: On the?

DEFENDANT SCOTT: Under better counsel, I refuse to counsel --

THE COURT: Under better counsel? No.

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MR. MCCARTHY: I don't understand.

DEFENDANT SCOTT: I don't want to testify.

THE COURT: And that's fine. So we just want to make sure, because under better counsel doesn't mean anything legally. So we just have to know --

DEFENDANT SCOTT: Okay. I don't want to testify.

THE COURT: All right. That's fine.

MR. MCCARTHY: Now, that's your decision, right?

DEFENDANT SCOTT: Yes, sir.

MR. MCCARTHY: You and I have discussed that issue, correct?

DEFENDANT SCOTT: Correct yes, sir.

MR. MCCARTHY: And I've given you advice about one way or how it could go either way, if you remain silent or -- or testify correct?

DEFENDANT SCOTT: Yes, sir.

MR. MCCARTHY: And ultimately you have made a choice, correct?

DEFENDANT SCOTT: Correct.

MR. MCCARTHY: And that is a free, a

voluntary choice on your behalf, correct?

DEFENDANT SCOTT: Yes, sir.

MR. MCCARTHY: I'm not deciding that for you, right?

DEFENDANT SCOTT: No, sir.

MR. MCCARTHY: And you're satisfied with the advice I have given to you regarding this specific point, correct?

DEFENDANT SCOTT: Yes, sir.

MR. MCCARTHY: All right. Thank you. I have no further questions.

THE COURT: All right. Thank you very much.

Mr. Glenn, does your client know what she wants to do and do you want to address that at this time.

MR. GLENN: Ms. Alexander?

THE COURT: May I swear her in?

MR. GLENN: Yes, your Honor.

THE COURT: Ms. Alexander, can you look at me and raise your right hand? Right. Right hand. All right.

Ma'am, do you solemnly swear or affirm the testimony you're about to give is the truth, whole truth and nothing but the truth, so help

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you God?

DEFENDANT ALEXANDER: Yes, ma'am.

MR. GLENN: Ms. Alexander, you understand that you have the absolute right under the United States constitution to testify on your behalf?

DEFENDANT ALEXANDER: Yes, sir.

MR. GLENN: You understand that you also have the right to remain silent and not have that silence used against you?

DEFENDANT ALEXANDER: Yes, sir.

MR. GLENN: Do you wish to testify in this trial?

DEFENDANT ALEXANDER: No, I do not.

MR. GLENN: Has anyone promised you anything?

DEFENDANT ALEXANDER: No, sir.

MR. GLENN: Has anyone forced you to waive your right to testify?

DEFENDANT ALEXANDER: No, sir.

MR. GLENN: Has anyone promised you anything to get you to waive your right?

DEFENDANT ALEXANDER: No, sir.

MR. GLENN: You're doing so freely and voluntarily?

DEFENDANT ALEXANDER: Yes, sir.

THE COURT: Thank you very much, Ms. Alexander. You may have a seat.

There are a number of questions that were submitted by the jury. I did have the attorneys approach on all of those questions and ultimately there was a side-bar discussion where some of those questions were asked and some, after a side-bar discussion, were not asked.

Did -- we'll start with the People. Did the People have any objection to the questions that were ultimately asked?

MS. MCINTYRE: None from the People.

THE COURT: Mr. McCarthy?

MR. MCCARTHY: No, I have no objection.

THE COURT: Mr. Glenn?

MR. GLENN: No, your Honor.

THE COURT: All right. Is there anything else we needed to place on the record?

MS. MCINTYRE: I don't believe so.

MR. MCCARTHY: The only thing I would add to that is I don't have any objection about the ones that were not asked, either.

MS. MCINTYRE: I would agree with that as well.

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THE COURT: Thank you, Ms. McIntyre. How about you, Mr. Glenn?

MR. GLENN: No objection.

THE COURT: All right. And Mr. Glenn, we did have a side-bar discussion wherein I asked if you were wishing to make an opening statement and you had indicated no.

MR. GLENN: I'm not. We're not calling any witnesses.

THE COURT: Okay. I'm just saying you had earlier reserved your opening.

MR. GLENN: Right.

THE COURT: And then at side-bar indicated that it was not your wish to make an opening statement.

MR. GLENN: Right.

THE COURT: All right. Thank you very much, Mr. Glenn.

All right. When we come back I will have -- I'm going to actually ask that you guys come back at 1:00 so we can address the directed verdict motion at that time. If there are any cases, feel free to e-mail them to Judge Bazzi. If there's something you want to e-mail in the next hours, Judge Bazzi, one word, dash-court at

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3rdcc.org. All right? And I'll try to, if I have the chance, I will try to read that so I can address it and have you address it at the next court hearing.

If you don't have an opportunity to e-mail it to me, I'll just look it up, it'll just take a little bit more time. Okay?

MR. GLENN: To make it easier, I will rely on attorney Morrow's prior brief as my legal authority for my directed verdict.

THE COURT: Well, she made -- she made different arguments. But at -- at side-bar -- just so -- I guess we should place that on the record.

At the side-bar I indicated I was going to reserve ruling. I do want to look at the case law. Why don't I tell you the case that she cited. Minter -- let me see, Minter v City of Grand rapids. And the site is 480 Mich 1181 and that was a 2008 case. I want to see if that's the only case that was cited.

All right. She has People v Nyis. That is an unpublished case and that case is 2008 WL4604068. That is a 2009 case. And that case is the one that actually cites Minter, which I

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just gave you the record for. So if you pull the unpublished opinion, it includes Minter in it as well.

MS. MCINTYRE: Okay.

MR. MCCARTHY: Very good.

MS. MCINTYRE: Thank you.

THE COURT: Thank you very much.

MR. MCCARTHY: Thank you, your Honor.

(At 12:05 p.m., recess taken.)

(At 1:03 p.m., proceedings reconvened.)

THE COURT: Calling Case Number 20-1501-01, People versus Errown Scott and 20-1501-02, People versus Gwendolyn Alexander.

They are here today for a jury trial in progress.

Appearances for the record, please.

MS. MCINTYRE: Good afternoon, your Honor. Abigail McIntyre, appearing on behalf of the People, P71143.

MR. MCCARTHY: Good afternoon, your Honor. Michael McCarthy, P30169, appearing on behalf of Errown Scott.

MR. GLENN: William Glenn, P36794, on behalf of Ms. Alexander.

THE COURT: All right. I guess before

the break I indicated I would give you an opportunity to look and see if there was any law you wanted to bring to the Court's attention.

I did have an opportunity to read the case that was brought to the Court's attention on a previous motion to quash by previous counsel for Ms. Alexander.

Are there any further arguments from the People?

MS. MCINTYRE: Nothing from me, your Honor.

MR. MCCARTHY: No, your Honor.

MR. GLENN: I don't have any.

THE COURT: Mr. Glenn?

MR. GLENN: No, your Honor.

THE COURT: All right. I have had an opportunity to read the unpublished opinion of People versus Nyis, N-Y-I-S. And that is -- that cite is 2008 WL 4604068. This is an unpublished opinion and so it's advisory but not mandatory that the Court follows it.

But even with that, what it does is, it doesn't -- it found that in particular care case the People -- or there was sufficient evidence to be presented to a jury to conclude beyond a

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reasonable doubt that the victim had sustained a serious physical disfigurement and then went on to explain what it had -- what was presented to the court.

Reviewing the evidence in the light most favorable to the People, we have here the testimony of -- it was not lengthy testimony, but it was testimony from Mr. Martez Abdullah, where he indicates that he -- they did zip tie him, that he did have scars and that at least as of today's date, he didn't see a scar anymore.

There was testimony from really through the statements of Mr. Scott as well as the statement of Ms. Alexander that Mr. Martez Abdullah was zip tied. He was zip tied inside the house at times and he was zip tied to keep him from, depending on the statement that you listen to, I think Ms. Alexander's statement was to keep him from getting into things he shouldn't be getting into. He was stealing stuff. Mr. Scott had made some similar type remarks.

So there's no question in the Court's mind that based on the evidence that was presented there was sufficient evidence for a reasonable jury to find that Mr. -- that Martez

Abdullah was in fact zip tied. The question is the scars that are on his hand, do those qualify as serious visible disfigurement.

We know that the scars existed. From the testimony here at trial the scars -- the scars existed on January 22, 2020 and they still existed, although they appeared to have healed somewhat, in March of 2020.

We know from the testimony of Ms. Nazer, when asked about the serious nature of the scars, she had indicated that even if the scars had -- one second -- had faded or had healed, it did not mean that they weren't serious. That people heal at different -- at different rates and I guess everyone -- everyone's body works differently ultimately was what she was conveying to the Court. One second.

She indicated that based on her findings, that Mr. Abdullah had suffered from what she was indicated was medical torture. And she described medical torture as being at least two forms of physical abuse or one prolonged physical abuse and psychological maltreatment.

There is no case law that indicates this is what is serious visible disfigurement.

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There is the case that I mentioned in which the Court found there was sufficient evidence of serious visible disfigurement.

And so when I look at Black Law's Dictionary, what -- when looking at serious, it defines it as being significant -- significant or worrying because of possible danger or risk, not slight or negligible.

The courts have also, in Black Law's Dictionary, it also indicates that our courts have defined disfigurement as something that mars, deforms or defaces the person's appearance. And that's citing Fisher, 286 Mich App at 66.

Here, through the testimony of -- that both doctors who testified, there was scarring on the -- what appeared to be scarring around each of the wrists as well as each of the ankles for Martez, that there was -- the skin appeared to be discolored because of the scarring that existed.

And what's important to note is that even the doctor that testified that had observed him or had I guess saw him in the emergency room, she had indicated that the scars did not seem to be fresh. And so that tells me that the scars were there for quite some time.

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I do believe that ultimately whether that is because the case law does not actually define what serious visible disfigurement is, that's really an issue -- that's a question for the trier of fact. That is a question of fact best left for the trier of fact.

And I believe there's been sufficient evidence on this record, based on the pictures that have been conveyed showing the injuries to Martez, the fact that those injuries lasted for at least a period of six weeks as we -- as was testified to here, it could have possibly been more based on the testimony that was provided to the Court.

And once again, reviewing the evidence in the light most favorable to the People, the Court believes that the People have -- there's sufficient evidence to take to a trier of fact as to the issue of great bodily harm.

Looking -- one moment. I do want to look at the jury instruction, because I believe it was also argued the -- the psychological impact as well?

MR. MCCARTHY: Yes, your Honor.

THE COURT: Yes.

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MR. MCCARTHY: And it's an either/or --

MS. MCINTYRE: Either/or.

MR. MCCARTHY: -- proposition, that's why I covered all of the -- both the physical and the psychological and mental harm.

MS. MCINTYRE: I think the People would concede about the mental, I think that -- it was the physical disfigurement that I think the People charged under.

THE COURT: I thought it was charged under both. And so are the People saying that the only -- they are only -- one moment. Let me look at the jury instruction for torture.

Torture is, third, at the time the defendant had custody or control over, he or she intentionally caused great bodily injury and/or severe mental pain or suffering to Martez Abdullah.

And so I do find that the great bodily injury, based on what I just indicated, under serious visible disfigurement, would qualify.

Then there's severe mental pain or suffering, means a substantial change in mental functioning that can be perceived by another. It must have been caused by the defendant in one of

two or more of the following ways. Intentionally causing great bodily injury, threatening to cause injury.

I -- I don't believe -- I think the -- A would be the only one I think would -- that would even come close to qualifying.

But are you -- are you --

MS. MCINTYRE: I would agree. I would agree with that.

THE COURT: What?

MS. MCINTYRE: That A was the only one that would be --

THE COURT: Yes. But you just said you concede that it's not, so which is it? Are you moving forward with the and/or or are you indicating that you're only moving forward with the great bodily injury?

MS. MCINTYRE: Great bodily injury.

THE COURT: So not -- not that it inflicted severe mental pain or suffering?

MS. MCINTYRE: No. Great bodily injury. I don't -- I don't think there's testimony to establish that --

THE COURT: That's fine. I just -- I just want the record clear --

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MS. MCINTYRE: Yes.

THE COURT: -- as to what you're asking for. Because it was the People's -- it's the Court's understanding that you were moving for it previously on both. So at this time you're only moving -- okay. That is fine.

MR. MCCARTHY: And so just following up on that, I want to make sure I understand. In the complaint, then, I know we have made some amendments to the complaint that the Court has on the People's motion.

Would we now be able to have that language taken from the complaint and in the instruction that you give only before to focus on the physical, caused cruel or extreme physical pain and suffering?

THE COURT: So they're not actually going to receive the information.

MR. MCCARTHY: No, I understand that.

THE COURT: But if you want --

MR. MCCARTHY: Yeah.

THE COURT: I mean, if --

MS. MCINTYRE: I haven't submitted it yesterday for amendment, so I can --

THE COURT: So if you want to make your

-- okay. I guess the Court will allow the amendment, then, in that it only lists the great bodily harm.

MR. MCCARTHY: And then in the instruction you'll be focused on the physical.

THE COURT: Yes.

MR. MCCARTHY: Thank you, your Honor.

THE COURT: And the instruction has already been provided by the -- by the People, but what -- subdural bleeding or bruising?

MS. MCINTYRE: I think that can be removed.

THE COURT: Yeah, I didn't see -- I didn't see any evidence of that. However, I did not see the medical records.

So unless there's something in the medical records that indicates that occurred, that is going to be removed.

All right. Anything further?

MS. MCINTYRE: Nothing from the People, your Honor.

MR. MCCARTHY: No. I -- if I might just have one second to once again look at that instruction.

I don't know why we would need, given

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the Court's ruling --

THE COURT: Internal injuries?

MR. MCCARTHY: Right. Poisoning, serious -- I mean, I know that's all part of --

MS. MCINTYRE: That's fine. Because I have no issue removing it.

THE COURT: Yeah, I don't believe that would qualify, either.

MR. MCCARTHY: Okay.

THE COURT: I think all we have is the -- the serious visible disfigurement.

MR. MCCARTHY: Thank you.

THE COURT: All right. I did prepare a proposed -- my assistant prepared a proposed verdict form. You guys can come up and just take a look. Let me know if there are -- the one question I had is on the first -- all of the counts, with the exception of Count 5, are supposed to reference only Mr. Martez Abdullah.

So there's no confusion, should we put Martez Abdullah on all -- all of the counts in parentheses, so they understand that that is the only person that it's being alleged?

MR. MCCARTHY: I think you should, yes.

THE COURT: Because there was testimony

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of medical torture as to Robyn, I don't want there to be confusion.

MR. MCCARTHY: Right.

MS. MCINTYRE: Yes, that's fine with me.

THE COURT: Okay. We will make that correction.

MR. MCCARTHY: We'll just put the name of the purportedly injured party for each count. Thank you.

THE COURT: Yes.

MR. MCCARTHY: Thank you.

THE COURT: All right. We'll make that correction.

Finally, I have -- okay. The People have prepared jury instructions. With the exception of the changes that we just made to the torture instruction, are either party or has -- we'll start with you, Mr. McCarthy. Are there any additional jury instructions you're requesting?

MR. MCCARTHY: No. I believe that the instructions provided by the People covered all the ones that I asked for. The Court ruled -- I mean, we had that argument regarding the question

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I asked having to do with character. That's -- I'm removing my request for 5.8a, I believe it is, the character instruction. And that is -- I think everything that's in here is exactly what I was looking for.

THE COURT: Okay.

MR. MCCARTHY: Everything that I requested to be given with otherwise is included in the People's packet.

THE COURT: All right. Mr. Glenn?

MR. GLENN: No changes, your Honor.

THE COURT: All right. I do have the one instruction that I indicated, I thought it was at side-bar, but I think we also mentioned it on the record.

You have heard testimony that for a period of time prior to November 2019 Martez Abdullah may not have lived with his mother Gwendolyn Alexander. During your deliberations you are not to speculate as to why he did not live with his mother at that time or consider the fact that he may not have lived with his mother at all -- at all in your deliberations. Do you want me to repeat that?

MR. MCCARTHY: I'm -- I followed it,

your Honor.

MS. MCINTYRE: I'm good.

THE COURT: All right. Are you fine with the way that is worded?

MR. MCCARTHY: Yes.

MR. GLENN: Yes, ma'am.

MR. MCCARTHY: I have no objection. Is that an instruction that would be given to my --

THE COURT: I'm going to give it to both.

MR. MCCARTHY: Okay.

THE COURT: I think it's -- I don't -- all it references Ms. Alexander, they might make an inference about it and hold it against your client.

MR. MCCARTHY: And that's --

THE COURT: So I am planning on giving it in both.

MR. MCCARTHY: And I have no objection to it.

THE COURT: All right. Any other instructions that you believe are needed?

MS. MCINTYRE: None from the People.

MR. MCCARTHY: I don't believe so, your Honor, no. I'm satisfied.

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MR. GLENN: Nothing.

THE COURT: All right. I'm going to bring the jury in. I'm going to have them go directly to their seats. Or you know what, we'll have them -- they might have stuff to put in their rooms.

We are going to -- we're going to have to bring them all out because you have to rest in front of them and then we'll excuse Ms. Alexander's jury.

MR. MCCARTHY: Very good.

THE COURT: All right. Let's bring the juries in.

(At 1:20 p.m., both juries enter courtroom.)

THE DEPUTY: Thank you. May be seated.

THE COURT: Calling Case Number 20-1501-01, People versus Errown Scott and 20-1501-02, Gwendolyn Alexander.

Appearances for the record, please.

MS. MCINTYRE: Good afternoon, your Honor. Abigail McIntyre, appearing on behalf of the People, P71143.

MR. MCCARTHY: Good afternoon, your Honor. Michael McCarthy, P30169, appearing on

behalf of and with Errown Scott.

MR. GLENN: William Glenn, on behalf of Ms. Alexander. P36794.

THE COURT: Thank you. Good afternoon. And good afternoon to the jury panel. Again, I want to thank you for your timeliness this afternoon.

Mr. McCarthy, any further witnesses?

MR. MCCARTHY: No, your Honor. At this time the defense of Mr. Scott will rest.

THE COURT: Mr. Glenn, any witnesses?

MR. GLENN: No, your Honor. We rest as well.

THE COURT: All right. At this time, then, I am going to excuse Ms. Alexander's jury and we will bring you back in a little bit.

(At 1:23 p.m., Juror No. 1 exits courtroom.)

THE COURT: All right. Ms. McIntyre, are you ready for the closing in the case of People versus Errown Scott?

MS. MCINTYRE: Yes, your Honor.

THE COURT: All right. One moment. I'm going to start the time. Would you like a -- when would you like me to notify you of that

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time?

MS. MCINTYRE: Can you notify me about 15 minutes in?

THE COURT: Okay.

MS. MCINTYRE: That would be great.

THE COURT: You may begin.

MS. MCINTYRE: Good afternoon.

THE JURORS: Good afternoon.

MS. MCINTYRE: So I would first like to thank you guys for being so attentive. You asked a lot of the questions and I appreciate that. It shows that you guys are really paying attention and on behalf of everybody, we appreciate your time and your service. I know this hasn't always been an easy case to listen to, with some of the facts and evidence that were presented over the course of the past four days.

You heard a lot. So as you remember back on Monday, when this whole thing got started and on Tuesday, when you were kind of told what was going to happen, you met Martez.

And you met Martez and about two years ago he told you how he was living with his mom and his dad, who he considers his dad, Mr. -- Mr. Scott and his sisters. And he lived in a trailer

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in Detroit.

And the police showed up to his house and at that time it was discovered that Martez had lacerations on both of his wrists. It wasn't just little marks. I mean, they were big substantial marks. You saw the -- the photographs of what Martez looked like when he was brought into Children's Hospital to be evaluated.

You heard Martez tell you that he would get tied up. He would get tied up with zip ties. His hands would get tied up with zip ties, that he got tied to his couch. You heard from his sister Robyn and Robyn said oh, yeah, no, he got -- she watched him getting tight up. So she saw it. That he was made to sleep on the floor without any pillows or blankets while she and her sister slept on couches.

You saw the pictures of Martez when he appeared at Children's Hospital. You saw the photograph of what looked like he had bruising on the side of his face, which was also confirmed when he was evaluated by the EMS when he was pulled out on the trailer. You saw the marks.

And you heard from the responding

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officer, Officer Thomas, where she sat in front of you and said he had big marks on his wrists. And this is what she did, she rubbed both of her wrists back and forth. He had marks on his wrists, he had marks on his ankles.

You saw the pictures of the marks. You saw the pictures of what the Detroit Child Abuse Unit or the forensic technicians took when they were at the hospital.

You saw the medical photograph that Dr. Maqbool reviewed when she was doing an assessment of him. And during her assessment, not only did she notice marks but she noticed swelling and because of that she ordered an -- an x-ray, which also confirmed the fact that he had swelling. He didn't have any other breaks or internal injuries but he had some serious marks, some serious ligature marks which, as everybody has indicated, Dr. Maqbool indicated, Dr. Nazer indicated, it's from tying up, being tied up.

You heard from -- you heard from Mr. Scott himself during his interrogation. Where he talked to DPD on his own and he said yeah, I tied him up. I tied him up with a belt. I tied him up because we couldn't trust him.

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But you also heard him say, Martez didn't live with us. He was only there for a couple hours. He was only there, you know, until his mom got back over on Berkshire. And during that time, that limited period of time, according to Mr. Scott, you couldn't trust Martez so Martez got tied up, pretty much is what he inferring, because he didn't stay there the whole time and he admits not to tying him up overnight. So it was hours at a time.

And he also admits that he was asked to tie him up. And instead of saying, time out, maybe we shouldn't do this, maybe this is wrong. Maybe -- but is there a six year old kid. Maybe we should figure out some other way to -- to address some of the issues that we're having with him. He said, all right, tied him up and then he left and went to work.

You heard Mr. Scott also say that yeah, he whipped Martez's ass, bare butt, pants down with a belt or the flip flop. You saw a picture of Martez when he was at the hospital. You saw the marks that he had on his back side. You saw he was in a diaper at the age of six. You saw how small he kind of looked in those pictures.

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But most important thing is you saw the marks that were inflicted on him -- sorry -- by Mr. Scott. Martez didn't put these marks on himself by falling down or by playing with other kids or by playing with zip ties on his own. These marks were put on him by Mr. Scott on a repeated basis. You are heard from Mr. Maqbool who said those were not fresh marks as of January 22nd. So they were older. So it had been done previously.

You also heard from Dr. Nazer today who was the expert in child abuse, child abuse pediatrician, who diagnosed Martez with medical torture, that he had suffered. You also heard from her about the nature of those injuries, about being tied up. And how in March of 2020, those marks were still on his body. They didn't go away. It wasn't like a bruise that'd heal in a couple weeks.

This was six weeks and he still had marks on his wrists. The same marks that were shown in the pictures on January 22nd of 2020, which Dr. Maqbool said were old. They weren't fresh, they weren't red, they weren't raised. They were deep, dark pigmented marks all over his

wrists. All of these were suffered at the hands of Mr. Scott.

Martez was repeatedly tied up. He claims maybe between five and 10 times. I mean, he's eight. It happened two and a half years ago. He's not remembering everything that happened. But he can tell you he's been tied up. He can tell you he got whooped. He can tell you his other siblings weren't treated that way, it was just him. You also heard that Robyn got popped and she got whooped.

So what we're asking you to do, is based on everything you have heard in the past four days, is to determine whether or not Mr. Scott is guilty of torture. And you remember when we did the openings and talked about voir dire, it's my burden of proof that I have to show beyond a reasonable doubt certain elements of certain crimes, right?

So we have the fact that Mr. Scott is the parent or guardian of Martez. He was at the time, which falls under the torture charge. Falls under the child abuse second charge. Falls under the child abuse third charge. He had care, custody and control over Martez at the time from

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when the incidents happened, when he then also used force to confine Martez. Martez didn't ask to be tied up. Mr. Scott did it. He did it by dragging Martez and zip tying him or tying him with a belt, because he admits he tied him with a belt, too. He was forced to confinement.

He interfered with Martez's liberty. You heard, I mean, Martez couldn't -- couldn't move. You heard Mr. Scott in his interrogation say, he tried to get up, told him to sit his ass down, pretty much.

And he intentionally caused great bodily harm on Martez. What does great bodily harm mean? So great bodily harm is a serious visible disfigurement. I think we have that. I think if you looked at all of the photographs, what you see on the wrists, what you see on the ankles are serious visible disfigurements.

They weren't fresh. They had been around for awhile. At one point, at least six weeks or maybe longer. Because when he showed up to the emergency room, they had been there for a bit. That constitutes a serious visible or visible disfigurement. That meets the statute.

Also, that Mr. Scott intended to cause

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Martez to suffer cruel or extreme pain. He did it. He knew what he was doing. It wasn't like, he was like, nah, maybe this is going to happen. I mean, he knew tying him up, he knew what tying him up was going to do. When the detective looked at him and said what do people do to dogs? Kind of like a light bulb went off and he realized he was treating his -- well, his child, who he considered his child, he referred to him, had him since he was one year old. He realized he was treating his child worse than a dog.

But I don't have to prove that Martez suffered any physical pain, but he caused Martez to suffer. I mean, they talked about the wrists and how he was scratching at them and how they had to ice them. How they had to ice the ankles, they were swollen.

For child abuse second, you have that Mr. Scott is -- had care, custody and control over Martez, that he knowingly or intentionally did an act that was likely to cause physical and/or mental harm. And harm resulted. Again, zip tying him or tying with a belt meets that statutory definition. Check that one off your list.

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Martez was under the age of 18. He was six.

And for the count of child abuse in the second degree, that the abuse was committed in front of another child. Robyn told you he -- she saw it. She saw him being whooped, she saw him being tied up.

And child abuse third for both Robyn and Martez, that he either was the parent or had care, custody and control over them. That he knowingly or intentionally committed that act that posed unreasonable risk of harm or injury and resulted in a harm.

You saw the marks. And he admitted to popping definitely Martez, but Robyn was also a victim of physical assault. And both children were under the age 18. Robyn was three, Martez was six.

You saw a lot, you heard a lot but all of it combined shows that Mr. Scott is guilty as charged. And it's beyond a reasonable doubt.

There may have been some witnesses, I mean, Ms. Douglas didn't really remember or want to remember what she saw. But she did mention the fact that yes, that the tape of her interview

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shows that she saw Martez with marks and being abused, then that's what happened. But you could tell when she was up on the stand, she didn't really want to be here.

I mean, Martez a hard time recalling, but he went through a major trauma when he was six and it's been two and a half years. But he can tell you the major stuff and the photographs show you what he went through.

And then there's Robyn, who was three. And she remembers. She look at you and said oh, yeah, no, he got tied up with zip ties. He slept on the floor. But she also, I mean, it's been awhile and it's a court, she didn't really want to recant(sic) -- or discuss a whole lot.

But everything else, the medical records, the photographs, the statements. Mr. Scott's statement, he admitted to it. He did it. And he knew what he was doing.

All of it is enough to prove beyond a reasonable doubt that Mr. Scott is guilty of: Torture, child abuse in the second degree, child abuse in the second degree in the presence of another child, child abuse third as it relates to Martez and child abuse third as it relates to

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Robyn.

Thank you.

THE COURT: Ms. McIntyre?

MS. MCINTYRE: Yes.

THE COURT: 16 left for rebuttal.

MS. MCINTYRE: Thank you.

MR. MCCARTHY: Good afternoon.

THE JURORS: Good afternoon.

MR. MCCARTHY: On behalf of Mr. Scott, I too want to express thank you's to all of you for paying attention during the course of the last three and a half days.

I am confident that whichever 12 of you end up selected to ultimately go back into the jury room and deliberate and determine what the facts of this case actually are, that it doesn't matter which of you -- which 12 of you go back there because you have all got the information you need to have in order to be able to come to a determination of the truth in this matter.

And on behalf of Mr. Scott and for myself personally, I truly appreciate the fact that you paid attention throughout this trial. Ms. McIntyre is absolutely correct in her statement about the questions that you asked.

That shows active engagement and some of those questions were insightful.

And I'm always impressed when a juror asks a question that I should have thought of. And it impresses me because I understand, then, that these people truly do have their head in the game. They're paying attention. So thank you for that.

And now let's talk a little bit about what you have seen in the evidence that's been presented throughout the course of trial.

A trial is a search for the truth and you all are the ones who are going to find the facts. You're going to determine in your deliberations, whichever 12 of you do that job, what the truth of this matter actually is.

And there's quite a bit to unpack and to think about when you deliberate, because there are five separate charges brought against Mr. Scott.

And each one of them, as I said during jury selection and opening statement, you've got to consider individually and then break down the elements of that individual crime and see whether or not you're satisfied beyond a reasonable doubt

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whether that case has been proven, that charge has been proven and beyond a reasonable doubt.

If so, then your proper thing to do, your final decision regarding the particular charge would be to find him guilty.

And then, on the other hand, if you don't see proof beyond a reasonable doubt that each and every element has been established, then the proper thing -- and Judge Bazzi will instruct you -- is you have to find the defendant not guilty of that charge.

I'm here to tell you about why it is that I believe you should find him not guilty of certain of these charges. And in particular, let's talk a little bit about torture.

One of the things that Dr. Shazer -- or Nazer, rather, just testified to this morning, she acknowledged that there was a difference in the legal definition of the term torture and what she has as a medical definition of torture. And she didn't know what the legal definition is.

But you all are going to know it. You all are going to be instructed by Judge Bazzi on that very point. She's already mentioned it once in the opening instructions but you will hear it

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again. And then you'll have a copy of the instructions and you'll be able to look at it and refer to it. And it's -- it's very important to keep that in mind.

I am in agreement with Ms. McIntyre, that the first two elements of that particular crime, torture, has been established. It says first that the defendant had custody or physical control over Martez Abdullah. Well, we've got plenty of evidence in this record that yes, they did -- or he did.

And the second element is that the defendant exercised custody or physical control over him. Well, of course he did. That is in the evidence as well.

It's the next element, that at the time the defendant had custody or physical control over Martez Abdullah he intentionally caused great bodily injury to him. And there's where we, myself and the prosecution, differ.

This is the issue that you all have to decide, the determination of what the fact is. And you're going to be instructed that great bodily injury means causing a serious impairment of a body function, which includes serious

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physical disfigurement. That is the essence of the charge facing Mr. Scott today regarding the crime of torture, is it serious physical disfigurement.

What the People have laid their hat on or rest their case upon as far as this charge goes is that this mark on Martez Abdullah's wrist or these marks on his wrists and his ankles that were observed by judge -- or not judge, Dr. Maqbool, who testified yesterday about the injuries she saw, were those serious disfigurements.

She noted them in her chart. She made a record of what it was she observed. Photographs were taken at the hospital. Those are in evidence. You all can look at them again, all you have to do is ask to see the exhibits. And then you have to determine this factual issue, is that a serious physical disfigurement.

And I submit that it is not. First of all, if it was so serious, why is it that Martez Abdullah was released from the hospital's emergency department three hours after he arrived there? Why wasn't he admitted to the hospital to get treatment for this injury? Why wasn't he --

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we didn't see any record of him -- there's nothing in evidence that he went to another doctor, that he saw anybody to have any kind of care given to him after January 22nd.

Now, then he comes to this place where he sees Dr. Nazer. And she tells you, you know, they got a team of people, they got a protocol that they follow. There's a lot of stuff that goes into what they do. But the bottom line is she's here to testify because that's a prosecution entity.

And so she's in here and she's telling you yeah, it's torture, it's medical torture. She can't tell you the legal definition.

The question is, for you all to decide, is that serious physical disfigurement. Yes, it's a mark. We all get marks occasionally, if you have some sort of an injury. The question is, is it a disfigurement?

Did you notice that in evidence here on Tuesday, when Martez Abdullah testified? Do you think if he had serious disfigurement still lingering on September 20th of 2022, that wouldn't have been shown to you? They wouldn't have asked, Ms. McIntyre wouldn't have asked

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questions, hey, show us, show the jury your wrist. Look at that serious disfigurement.

But that didn't happen. And it didn't happen because it isn't there. And you all have to decide whether that's a serious physical disfigurement.

I submit to you that it is not. And that is the essence of this charge, Count 1, torture. That's the factual determination that I am asking you to make in the negative, that it isn't there, and to find Mr. Scott not guilty of Count 1.

Now, what are the other instructions that Judge Bazzi is going to give you? And this affects all five of the charges, but I'm focusing on Count 1 right now, is that she's going to tell you you've got to find these things beyond a reasonable doubt. And then she's going to give you a definition of exactly what a reasonable doubt is. And it's a little bit circular, but this is the way the jury instructions are.

And when it says is a doubt -- a reasonable doubt is just that, it's a doubt based on reason and common sense, based upon the evidence or the lack of evidence.

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And what I -- you've seen what the evidence is. And then there's this big hole of the lack of evidence. There's a lot of talk about zip ties throughout this entire trial. And we saw a couple of photographs of some tip ties.

I asked the forensic -- I forget his -- technician who testified, his first name I was Ryan, his last name escapes me right now. But he testified. I believe it was on Tuesday afternoon, he was wearing a blue suit. He took the photographs there, he collected the evidence. He had a picture of him with blue plastic gloves on holding a zip tie that hadn't been used, that he picked up off the ground or the floor or something like that.

And he did, you know, a pretty thorough job. He's down on his hands and knees, looking underneath the couch and he picked a zip tie up. He took those into evidence. He collected them on January 22nd.

He might have gotten some other evidence over there in that trailer on January 28, six days later, but he took it into evidence and if he got a zip tie that day, that would just add to what they had, the police did.

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But you didn't see any zip ties presented during the course of this trial. I don't know where they are. Now, if Martez Abdullah had zip ties put around his wrists, my expectation is that that zip tie would have DNA material on it, stuff -- 'cause if he's got this, you know, scar that the doctor who testified this morning talked about, if he has that, then that would indicate to me if it truly was caused by this zip tie, that there's scientific data or evidence attached to that zip tie, it would be an important piece of the People's case.

But we didn't see anybody from any scientific lab to testify about, yeah, we got Martez's DNA on this zip tie. None of that was done, I guess, because it surely wasn't presented. And then how many of these zip ties did we see? You know, a few of them. That this is this crazy thing that's going on all the time and this is repeated.

Martez says more than five or at least five, not as many as 10, according to his testimony. Well, where are all those? If he's got them on his two ankles and his two wrists, there's four. And let's say it's five times.

Well, where is the 20?

I asked Martez, you ever help your dad out there with those pieces of canvass putting zip ties on those poles? To hold the canvass in place? And he said he was out there when that was going on, meaning Mr. Scott. So there's a question there about exactly what happened.

So now we have Mr. Scott's statement. And that's where the People also point and say, you know, hey, we got evidence here. It's the defendant himself who said that he did these things.

Okay. Well, that's -- you got the opportunity to watch that whole thing. And Detective Biddle is an accomplished police officer. He's a detective. He said he worked in the child abuse unit for 20 years. He's been a detective for nine. This wasn't his first interview.

But I don't think that there's any evidence in the record to show that Mr. Scott was an accomplished person who is the subject of an interview like that. And you saw him during the course of the time that he was there, the statements he made. He says yeah, this is her

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family, meaning Ms. Alexander's family, calling up the CPS on us, causing trouble.

And he seemed in the beginning to be a little bit relaxed and he didn't really know why he was there. He gets asked -- or he's smart enough to ask one question, though. He says, am I under arrest?

And what did Detective Biddle say? Well, you don't have any handcuffs on you. He didn't say you can take off. He didn't say anything like that. That was just the end of it. He diverted him by making a jocular response and then Mr. Scott still sits there.

Now, on cross-examination I asked him about that. I said, was he free to leave? Oh, yeah, he could have. Well, then, how is he going to do that up there on the fifth floor of the police headquarters unless Detective Biddle -- and then along comes Detective Lewis, who also participated in that interrogation -- were to say yeah, it's okay to leave.

And so Mr. Scott is sitting there and he's asked these questions over and again. Dr. -- Detective Biddle tells him, fairly close into the beginning of that interview or interrogation,

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he goes, my -- my glasses are fogging up because of all this bullshit in the room. You're giving me a lot of bullshit. I don't like that. And so that's a little bit of intimidation. He's the person that's in charge. No question about that.

Errown Scott, he's not in charge. You saw him. He's sitting there eating a bag of potato chips, doesn't know what's going to go on next. And then Detective Biddle laying the law down to him. Okay. I don't want you talking anymore. I listened to all that BS. Now I want you to start telling me what I want to hear.

A little while later, in comes the other detective. Now it's two on one. And he's sitting there at that table, surely he's not comfortable. And here his a grown man, 28 years old or thereabouts, or 30, he's in tears. They got him. They got him under control.

He's not free to leave and he's there answering their questions. And then they're telling him about how bad all this is and it looks bad. And so he makes some responses in which he says that he did it. He makes responses in which he says that he's the one. He's not blaming Ms. Alexander.

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And I wrote down some of the things that he said, talking about her. He goes, it's my wife. Whatever is wrong, I did it. Now, he already talked about working and you heard his mother testify, I don't even think in response to a question she was asked, but that her son worked long hours. And he said he worked a lot. And he didn't know what all went on there at his house.

And then after he says whatever is wrong, I did it, he's in tears again and he said, I did it. And then he says, I iced down the injuries. Then he says everything that happened, everything, I did it.

Well, now, is that what Martez said? Did he say the only guy hurting him was Mr. Scott? What about Robyn? She say that? Those are your eyewitnesses, these very, very adorable little children. An eight year old boy and a six year old girl talking about something that happened two years and eight months ago.

And we don't know, just like I asked Dr. Nazer this morning, you have no idea what influences, what discussions, what talk there was in the time between their discharge from Children's Hospital on January 22nd until the 3rd

of March of that same year, 2020 that went on for them to tell whatever it was they said to Dr. Nazer.

And she had to acknowledge that no, she didn't know that. She didn't want to. She didn't want to be conceding any point that common sense tells you is impossible. She never saw those children before and she hasn't seen them since.

And so all she knows is what she's heard from them that day. She has no idea who is telling her -- or what other people are telling those children. Obviously they're not independent livers or they're just going home, stay at my own apartment, nobody -- I'm not going to talk to anybody or anything like that.

I mean, they're -- and what is a bigger deal in the lives of these two kids in all this upheaval. Like, cops came to their house that day, they go to the hospital. They got this other thing going on in March.

You don't think that some of the folks that were looking out for them, probably with their best interest, probably well-intentioned, aren't chatting among themselves and expressing

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their opinions and the children pick up on that?

Now, many of you are parents. All of you are former kids, like me. And I know a lot about children just being around them. They -- they listen when you don't think they're there, they hear stuff and know stuff. I mean, I know that's true in my own family and I know it was true when I was a kid because I was always interested when the older people were talking. And if I wasn't supposed to hear it, I put myself in a place where I could if at all possible. So I learned a lot of stuff.

I don't think that makes me unique. I think that is just part of human nature and it's a common experience, the kind of thing I talked about on Tuesday, that you bring to your duty as a juror. Your common sense and your life-long experience. I ask you to employ those tools when you think about the facts of this case.

Now, it is a difficult thing to hear this information, to see the child who is alleged to be the victim of this horrible crime and you can't help but feel some compassion for each of those two children. That's also human nature. I can file compassion for them and I'm representing

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the person charged with this crime.

Your situation is a little different. You're in a worse spot than I am regarding that. You are going to get an instruction that you cannot allow sympathy to enter into your decision making. You cannot allow bias or prejudice.

So you can say that Martez is a cute little kid. And I think that he is. But that's, you know, something separate from your cold-eyed analysis that you must conduct in order to determine what the facts of this case actually are.

The doctor says medical torture. She can't tell you it's legal torture. The only people that can determine whether it's legal torture is you all.

THE COURT: Nine minutes.

MR. MCCARTHY: Thank you.

Now, there are other charges and I just want to speak about them a little bit.

Mr. Scott is charged with child abuse in the second degree. And in the second degree it's got those first two elements as Ms. McIntyre said, you know, that he had -- he's a parent or he had care and custody. We'll concede that

point.

And that -- and then it says that the defendant knowingly or intentionally did an act to cause serious physical or mental harm to Martez Abdullah. And by serious physical harm that means any physical injury to a child that seriously impairs a child's health or physical well-being, including but not limited to brain damage, skull or about bone fracture, subdural hemorrhage or hematoma, dislocation, sprain, internal injury, poisoning, burn or scald or severe cut.

I asked the doctor this morning about each and every one of those conditions or afflictions or injuries. And she conceded that none of them were there. And if their star witness can't establish that with evidence, where else is it?

Because the other piece of evidence that you have in this case besides the testimony of Dr. Maqbool is the medical records which are in evidence and they don't show that. Those -- those records tell you what I said earlier, that he was there for three hours and then he was let to go home.

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And then there's this second degree child abuse as it affects Robyn Scott. And that is, that she was abused because she was present when this happened. But what happened? Serious physical harm that seriously impairs a child's health or physical well-being. Do we have evidence of that? No. Including but not limited to brain damage, skull or bone fracture, subdural hematoma, hemorrhage or hematoma. Subdural meaning in the head.

THE COURT: Counsel, I don't mean to interrupt you, but can you please approach?

(At 2:03 p.m., bench conference held.)

MR. MCCARTHY: Just to make it completely clear, we're talking about Robyn and what Robyn saw. But what Robyn saw has to be the same thing as the count about Martez sustaining this child abuse in the second degree and those are those things.

She didn't see him get poisoned, burned or scalded, a severe cut, an internal injury, a sprain, a dislocation, subdural hematoma or hemorrhage or a bone fracture or a skull fracture. And he doesn't have brain damage. He looked to be to be a perfectly fine kid. He was

going to school, as I recall his testimony from the other day. So I'm asking you to find Mr. Scott not guilty of both Counts 2 and 3.

And then we get down to third degree child abuse. This is another two charges, one having to do with Martez, and it says that, you know, first, he's got some custody or control, we're conceding that element.

The second one is that he knowingly or intentionally did an act to cause serious physical or mental harm to Martez Abdullah regardless of whether such harm resulted. Okay. He did an act where he wanted to hurt him, that's what you would have to find. He wants to hurt him.

By physical harm I mean any physical injury to a child that seriously impairs a child's health or physical well-being, including but not limited to -- and it's all those same things about brain damage.

But you know guys -- or excuse me, if a guy sustained those types of injuries and he went over in an ambulance to the hospital, he wouldn't have been leaving three hour later without having been admitted to the main hospital after being re

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-- or examined by the doctor there in the emergency department.

And then we have the same thing with Robyn. And she didn't sustain any of those types of injuries. You didn't -- there's nothing on this record that Dr. Maqbool looks at Robyn, she gives her a thorough examination and she discharges her, she's got nothing wrong with her. That's another record that you have in evidence and I ask you to look at it because you're not going to find anything that would document Mr. Scott being guilty of child abuse in the third degree as to either child.

Now, my time to address you and to present this argument on behalf of Errown Scott is coming to an end. I'm going to sit down in just a minute.

Ms. McIntyre will get up and she'll give rebuttal. And she's going to give rebuttal because that's the way the law works. She gets a chance because she has the burden of proof. The People of the State of Michigan do and I don't, Mr. Scott doesn't. So it's fair.

But I don't get a chance to get up and talk some more after she gets done making the

points that she wants to make. I ask you to think about what you expect I would have said. The arguments that you've heard here, think about those as she gives her rebuttal.

I've done everything I can do for Errown Scott. I'm going to sit down and I'm going to leave him in your capable hands. He and I anxiously await what we understand are going to be true and just verdicts based on the evidence or the lack of evidence, on each of those five counts.

Thank you for all the attention that you have paid throughout the trial. Thank you for listening to me and I'm going to thank you in advance for all the hard work you have ahead of you. Because now, for the first time ever, you're going to be able to talk among one other about the one thing that brings us all together here, the facts of this case.

Thank you.

THE COURT: Thank you, Mr. McCarthy.

I'm going to reset the time for you. You may proceed.

MS. MCINTYRE: Thank you.

What I need you to remember is there's

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certain elements. Mr. -- Mr. McCarthy is right, it's my burden of proof. I don't think I have denied that through the entire proceedings. I have to establish and present the evidence that meets all the elements and nothing more.

Mr. McCarthy is very skilled and is asking you to consider things that you don't really need to consider, to determine whether or not Mr. Scott is guilty of torture, which he is.

He's telling you, he's trying to say well, you know, what else did they talk about? Treatment. There's nothing in any of the instructions that say that treatment is required in order to sustain a serious disfigurement. There's nothing. He could have been in the hospital for five minutes, he could have been in the hospital for two weeks.

He didn't even have to go to the hospital. There is nothing that says I have to prove that there was treatment involved. Or, or that the serious -- that the serious visible disfigurement had to be treated. There's nothing in there.

What you need you to remember is you have a six year old with severe ligature marks on

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his wrists and on his ankles. Oh, and he also had, which fits under child abuse second, which Mr. McCarthy skipped right over, that they had a sprain. He had a sprained ankle. It's in the medical records, you can look.

Actually, go through the medical records. There's an x-ray that talks about he had a sprain and swollen ankle. That's enough to make child abuse in the second degree.

Severe cut. The doctors testified that -- Dr. Nazer, actually, I think testified that the ligature marks were abrasions or lacerations. I mean, you are heard that there's swelling, that he needed ice. That Mr. Scott actually gave him ice. And when he started -- when the skin started breaking, that's when they gave him ointment. So is that a cut? The skin was broken.

So I need you to focus on the instructions that you're given of what the elements are and what needs to be proven. Do he have care, custody and control? Yes.

Did he intentionally cause great bodily injury to Martez? One hundred percent absolutely yes. He tied that poor child up on multiple

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occasions. He even did it at the direction of his girlfriend/wife, of Martez's mother. Didn't ask a question, didn't say no. Maybe we shouldn't do it. He did it. That doesn't absolve him for anything, if someone else asks you to do it. He did it.

Bottom line is Mr. Scott knowingly tied this child up with either zip ties or a belt. And, yeah, I mean, maybe all the zip ties weren't at the scene on January 22nd of 2020 when the evidence tech shows up. Maybe they cleaned some of them up. Who knows.

There were zip ties there. They were scattered around the chair, they were cut. There was one on the bed where Martez testified he had been tied up and put on the bed. There was one on the floor by the bed when he said that he was tied up and belted to the bed on the floor.

I think that pretty much goes to what Martez was saying and this -- the evidence that was photographed correlates to what he said here. I think that's pretty strong that he wasn't persuaded to say certain things a certain way.

I think it actually happened and I think you know it actually happened by listening

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to him and by seeing the photographs and by looking at his wrists and his ankles. And his bare butt. Those were all intentional. Those were done at the hands of Mr. Scott purposefully because he couldn't trust Martez for the limited amount of time that Martez was in the trailer with him, allegedly.

You heard Dr. Nazer say that the physical assault can occur even without any marks. That's how she made her determination, that she will admit Robyn didn't have any marks on her that day. Robyn also didn't have any marks on her the day of January 22nd of 2022 -- or 2020. Doesn't mean the physical assault didn't happen.

I don't remember if we talked about that in voir dire, the fact that there's no marks mean that there's no assault. Dr. Nazer pretty much laid it out and said no, that's not how it goes. That there can be physical assault, you just don't have to show marks. So the fact that there's no physical documentation doesn't mean that Robyn wasn't assaulted.

What I need you to remember, you have a six year old boy who was tight up with a belt and

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zip ties or both by the people who were entrusted to protect him and to take care of them. It was done repeatedly, it wasn't a one-time thing.

It was done to keep him so he could keep out of stuff when he was with them, because they couldn't take a nap. They couldn't shut their eyes for a second. They didn't ask for help. They didn't call the therapist and get him into therapy. They decided that the best course of action to treat -- to deal with their six year old child was to tie him up like a dog. Make him sleep on the floor without pillows and without blankets. They did this all in front of his siblings, who didn't get the same treatment.

Mr. Scott was the stepdad, had care, custody and control over Martez. He knowingly caused great bodily harm to that child. The visible disfigurement are the wrists, they are the ankles. Those lasted for well over six weeks and probably longer.

And while, you know, there was talk about well, he was released from the hospital right away, those marks are gone. Those marks were there and they were there as a result of the torture he endured.

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In March of 2022 -- or 2020, I apologize, March of 2020, when he saw Dr. Nazer, he wasn't with his parents. He was no longer being tortured. He was no longer being tied up by Mr. Scott. Those marks were going away and fading because he was not subjected to the repeated tying up with a belt or a zip tie or being beaten on his bare ass with a belt or with a sandal.

I think one of the things that struck me from Mr. Scott's interrogation was when he was talking to himself when both detectives had left the room. And he said that little nigger needs to go. He barely gets his ass whooped.

I don't know, I think tying up a six year old is pretty, pretty severe and beating him on the bare ass with a flip flop is getting his ass whooped.

I think the evidence presented, the testimony you have heard -- and I encourage you to review all of it again -- but it all shows beyond a reasonable doubt that Mr. Scott is guilty as charged. He is guilty of torture, he is guilty of child abuse in the second degree, he's guilty of the child abuse in the second

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degree in the presence of another child and he's guilty of two counts of child abuse in the third degree.

Thank you.

THE COURT: All right. I'm going to excuse the jury into the jury room for a brief period and I'll bring you all out shortly.

THE DEPUTY: All rise for the jury.

(At 2:17 p.m., Jury No. 2 exits courtroom.)

(At 2:17 p.m., Jury No. 1 enters courtroom.)

THE DEPUTY: Thank you. May be seated.

THE COURT: All right. We're back on the record in Case Number 20-1501-02, People versus Gwendolyn Alexander.

I'm just calling Gwendolyn Alexander at this time.

MR. MCCARTHY: Correct. I didn't know if you wanted appearances.

THE COURT: Yes. Well, Mr. McCarthy, I'm not calling your client's case, but thank you very much.

MR. MCCARTHY: Very good.

MS. MCINTYRE: Abigail McIntyre,

appearing on behalf of the People, P71143.

MR. GLENN: William Glenn, P36794, on behalf of Ms. Alexander.

MR. MCCARTHY: Before they begin, may we approach?

THE COURT: You may.

(At 2:19 p.m., bench conference held.)

THE COURT: All right. Ms. McIntyre you ready for closing?

MS. MCINTYRE: I am, your Honor.

THE COURT: All right. And at what point would you like me to give you a time?

MS. MCINTYRE: 15 minutes, your Honor.

THE COURT: All right. Mr. Glenn, at what point would you like me to indicate the time?

MR. GLENN: I'm not going to be long. Two minutes.

THE COURT: When you have two minutes left?

MR. GLENN: Two minutes left.

THE COURT: Okay. All right.

You may begin.

MS. MCINTYRE: Thank you.

Good afternoon. So I would like to

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begin by thanking you all for your service and for the fact you guys paid a lot of attention. You have been a very inquisitive group, as evidenced by the notes. And on behalf of the People, I appreciate that and I thank you for that.

So it's been a, kind of a long four days and you've heard a lot of information. And it's not the easiest information to listen to or the evidence to review or to be presented and the testimony to hear. But what it does show is that Ms. Alexander is guilty as charged beyond a reasonable doubt.

So on Tuesday you heard Martez and you heard him tell you how he was tied up and you heard him tell you that his mom was present and didn't do anything to stop it. You heard him -- you heard his sister tell you that she saw him tied up.

And you heard from Ms. Douglas, who was a little iffy on the stand, she obviously didn't want to be here and didn't really want to remember what happened and she admitted that. And said after she watched her video, that yeah, she had seen Martez tied up when she visited Ms.

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Alexander and she had seen the abuse.

And that her -- what she told the Detroit Police on or about January 26th, I think was the date, was a lot -- her recollection was better than it was two and a half, almost three years later, which makes sense. I mean, it's been awhile since this whole thing started.

You also heard from Ms. Bowden, who had talked to Ms. Douglas and had received some information that caused her to do a welfare check, to call 911. And 911 showed up. And you heard from Officer Thomas, who described for you the trailer that she say. You guys saw photographs of that, that was taken by the Detroit Police Department.

How it was unkept or for lack of a better term, that there were bottles of urine, that there were zip ties on the floor under the couch, which confirms Martez's statement. He said he got tied up, he got tied up on the floor and tied up on the couch. There was a zip tie on the floor, there was a zip tie on the couch.

You heard from Officer Thomas that when she grabbed Martez and transported him to EMS, he was evaluated and EMT Curti noted all the

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abrasions on his wrists, the ligature marks on his wrists, the bruising on his face -- on the side of his face, not his eye. We know there's nothing wrong with his eye. But there was bruising on the side of his face. And the marks on his ankle.

And then he was transported to, he and his sisters, were transported to Children's Hospital where they were evaluated by Dr. Maqbool. And Dr. Maqbool again noted the lacerations. The lacerations all over Martez's wrists. And if you remember when Officer Thomas testified, she deliberately rubbed her wrists back and forth. Because there were severe marks on the wrists and it was both wrists that she did.

And these were all noted by Dr. Maqbool and her medical records. Not only were the wrists noted, but the back side had a bunch of abrasions on it. And you saw the photographs that were taken at the hospital by DP.

You also saw the medical photographs. They all confirm the severe marks around the wrists and the severe marks around the ankles and the marking on the back side. Medical records

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also show that there was swelling, possibly sprain of Martez's ankle from being tight up.

And then, I mean, you heard from Dr. Nazer, who she diagnosed Martez and Robyn as having medical torture, which is -- which is different than legal torture. But it showed the severity of the abuse that Martez and Robyn suffered. It showed that it was more than one occasion and it had a psychological impact on them. That's why she did medical abuse.

But she reviewed all the records. She reviewed the medical records and the photographs and some other records and that's how she came her conclusion. And she also talked to Martez and she also talked to Robyn and heard about the abuse, just like you did.

And then you also heard from Ms. Alexander when she made her statement to the Detroit Police Department. She flat out said yep, tied him up. Yep, he got his ass whooped. There was no denying it. She was not hiding it at all.

He was getting into things. What else -- what other choice did she have? I mean, really. And if she didn't tie him up, she admits

to asking Mr. Scott to do it before he left for work because she was cooking or doing things so he tied him up for her. But it was at her request.

And you heard that Martez was six and he allegedly wasn't staying with them all the time. He was only there for, you know, couple hours at a time. Not maybe a full day. So when all that time she couldn't take a nap so she had to tie her son up.

Well, you saw the pictures of the trailer, it's not that big. But that was her only option to keep an eye on him, tie him up. Tie his hands together, tie his feet together. I mean, what else could she do? She didn't ask for help. What she did try to do was get rid of him when she called Ranisha. She said that in her statement.

But she didn't call to say he needs therapy, I need help addressing his behavior. She didn't even go to get medical treatment for him for his wrists or his ankles. She didn't do any of that. She tied him up with a belt or with a zip ties, you saw them.

So all of this presented shows beyond a

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reasonable doubt that she is guilty of torture. And we talked about this on, I think on Tuesday about the elements and how it's my burden to establish all of these elements of these crimes. Right? It's kind of like putting it together for making a peanut butter and jelly sandwich on white bread. You have to have two pieces of white bread, peanut butter and jelly. Right?

If you don't have it, though, you don't have a peanut butter and jelly sandwich on white bread. Fair enough?

So torture, I need to show you that Ms. Alexander had care -- the physical custody or care and custody or control over Martez. Check. She did. She will admit she had care, custody and control over him.

And that she exercised that physical care, custody and control over him without his consent to do so. She talks about how he tried to wiggle his way out of them. That's how he got the marks. He tried to wiggle his way out of them. He didn't want to be tied up. He didn't ask her to do it.

That at the time she had custody or control over him, she intentionally caused him

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great bodily injury. Check that one off the list. Well, what is great bodily injury? That's going to be the question, that's what defense counsel is going to say we don't have it. But we do.

Great bodily injury is serious visible disfigurement. You saw pictures of his wrists. It wasn't just a little scratch. You saw the pictures of his ankle. It wasn't just a little mark on one side. These were major marks that went all the way around.

You heard from Dr. Maqbool, who talked about the pigmentation of them and that they weren't red, so these marks that she saw at the ER were older marks. They weren't fresh, which means that they had been there for awhile. And you saw the photographs, I mean, these are visible marks.

You also heard from Dr. Nazer, who saw Martez in March of 2020. Six weeks, almost six weeks after he was brought into the ER and they were starting to heal. There were still some marks that were visible. Some of them had gone away, but within six weeks he still had a lot of -- he had those ligature marks. That is a

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visible, serious visible disfigurement.

You're going to hear that shouldn't happen, that doesn't count because he wasn't treated for it. He didn't have a serious disfigurement because he was released from the hospital for 24 hours. These marks lasted for over six weeks. You heard it from the doctor. There's nothing in the elements that say he has to be treated for, nothing. So treatment doesn't matter.

What matters is he had them. And he had them for at least six weeks. If not before, because Dr. Maqbool said she they had been around for that, they weren't fresh when she saw them. And.

You heard from Ms. Alexander that she had been having issues with him for about 45 days. And because of these issues, that's when she started tying him up because she didn't have another option.

The fourth element of torture is that Ms. Alexander intended to cause Martez extreme physical pain. And I don't have to show that he actually suffered any pain but I think tying a six year old up shows an intent to cause him

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serious physical pain. Especially when you try to get out and she wouldn't let him.

She's also charged with child abuse in the second degree and for that, again, she had care, custody and control over and was a parent of Martez. Check that one off the list.

That she knowingly or intentionally did an act that was likely to cause physical or mentally harm, regardless of whether that harm resulted. She did. She tied him up. She tied him up with a belt. She left him to sleep on the floor without pillows and blankets.

And for serious physical harm is defined as a sprain or severe cut. And Martez was under the age of 18. He was six.

And his sister watched, which then covers the child abuse second in the presence of another kid. All of this abuse occurred in front of his other siblings who were not treated the same way. Except for Robyn, she got whooped. Which is the child abuse third.

And they're going to say well, there's no physical injuries to Robyn, to show for the physical as well. But you remember when we talked about in voir dire, do you have to have

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physical injury to have physical assault? According to Dr. Nazer, no, you don't. And she based her medical diagnosis of medical torture that Robyn had suffered a series of physical assaults even though there wasn't a mark on her.

I think all the elements -- all the evidence together and the testimony that you heard shows beyond a reasonable doubt that Ms. Alexander is guilty of torture of Martez, child abuse in the second degree of Martez, child abuse in the second degree in front of another child of Martez, child abuse of the third degree of Martez and child abuse in the third degree of Robyn.

Thank you.

THE COURT: All right. Mr. Glenn, you have 16 left.

MR. GLENN: Ladies and gentlemen, this is the last time that I'm going to be able to talk to you. The way the legal system works is that the prosecutor get to go first in her closing and then I get to talk to you.

Now, before we get off into this, we're talking about children and that is a very, very delicate subject. So I have to represent Ms. Alexander and what I say, I don't want to come

off as a bully, but I have to do my job.

So understand that when you're talking about children, it's very delicate and even if I come in and try to make the conversation or the defense of Ms. Alexander to you, that might be offensive to someone.

But in our legal system I have to represent Ms. Alexander. So if I say something that you may not like, this is what I have to do. This is what I have to do. Ms. Alexander is entitled to be represented by counsel and that counsel must, must be able to address topics that might be sensitive or very troubling to a person to listen to.

So I'm going to get into my closing right now. When we're in our legal system right here in the United States we take it for granted. Whenever we go outside the country to visit, maybe Canada, Mexico, somebody might ask you, where are you from. We all stand up straight and we say, I'm from the United States.

Why do we say that? Because our democracy is the best in the world. And we've got freedom, we have liberty but we have a judicial system that is second to none.

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And when you talk about the body, the body of any type of system, what is the most important part of the body? That's the backbone. The backbone controls everything that we -- the arms, the legs, everything. The judicial system is the backbone of our society in the courts. It controls everything.

And the backbone of the legal society is the right to -- the absolute right to a jury trial. That's where people like yourselves come down here to decide the facts of cases.

Now, the cases don't always have to be criminal. They can be civil, they can be something involving a contract, land, personal injury. But jurors decide the facts.

And for you to come down here and to decide the facts of this case, I wish to take this opportunity to thank each and every one of you to get -- walk away from your jobs, your family, your time, everything that is important to you, to come down here and listen to this case. So at this time I wish to thank each and every one of you to contribute to our democracy and our legal system.

Every year we all pay our taxes but

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that's not all we have to contribute in our lives here in the United States. Every now and then we'll get a subpoena from the court system telling us we have to come down here and give our time.

Now, we cannot live in a society where we have all these freedoms in this democracy if we don't contribute and our money for the system to work. And once again, for that I wish to thank you.

Now that we have gone to the jury obligations and duties, you ask yourself well, how am I supposed to be a juror? What am I supposed to do? What are the guidelines? What are the directions? What are the instructions that I must follow?

Well, there are none. You have to go about this in the way you would go about your regular lives and what you do that is important to you. The example that I always like to use is that we are all very proud of our homes. We're all very proud of our homes.

Now, if there's a room inside your house that you want to paint, you want to make sure that when you paint that room, that you use

your duties and work in a manner that is careful and deliberate.

What do I mean by that? We have all had very, very long experience with paint. When you open that can of paint, that paint does not care if you're having a bad day. That paint does not care if you're having trouble at your job. That paint does not care if you have a headache, backache, your feet hurt, if you're tired. Nothing.

If you're not careful and deliberate with that can of paint, what are you going to do in your room when you're trying to paint? You're going to make a mess.

Why do I say that? Because when you come to court and you use your duties and obligations to review evidence and testimony, it's very easy to make a mess if you are not careful and deliberate. So I'm asking each -- each and every one of you that when you review the evidence of this case, you do so in a manner that is careful and deliberate. Reckless and indifferent benefits no one.

I know you don't want to be here. You been here all week. Monday, Tuesday, Wednesday,

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Thursday. 20 minutes to three, you might be here tomorrow. Fine. But this case doesn't involve you, it involves other people.

This is a case that is very important to other people. So we ask you to be careful and deliberate, not reckless and indifferent when you go home and just say hey, this thing got nothing to do with me, I'm out of here.

No, that benefits no one 'cause if we come to court and there's a personal injury, contract, whatever, and you have to have a jury to decide that case, you want them to be careful and deliberate. Not reckless and indifferent; careful and deliberate.

Well, now that we get down to what the evidence is, what is the evidence of this case? Well, we all know that the police were called out to Berkshire Street on January 20, 2020. Let me make sure I get the date right. 22nd. That's when the police came out and went to the trailer.

We have testimony from individuals that are all over the place. Now, we heard from several witnesses who are relatives of the children and their testimony is all over the place. So I'm not going to talk about that right

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now.

I'm going to talk about the people who have no relationship or interest in this case. That would be the science. That would be the science.

Now, this is one of the few times that I've ever had a trial where there was no physical evidence presented. Now, we've heard a lot of testimony about zip ties. We heard about a ruler. We heard about a sandal. We heard about all these things.

Now, if you're going to decide this case -- and we're talking about zip ties, zip ties that may have caused marks on a young child's wrists, if I was sitting in your seat, I'd like to see one of those. Let me hold it up to the light. Let me take a close look at it. Were they cut? If (inaudible) how thick was the (inaudible)?

Now, if you zip tie my wrist, you know, they might be a little bit bigger. You zip tie a small child and you cut it. If we talking about zip tying that left marks, marks that we saw here today, was the skin ever broken? And if the skin was never broken, you're talking about blood or

some type of DNA along those zip ties.

Why do I bring that? Why do I bring that up? Because we're talking about marks on this young child, Martez's wrists and ankles. But when did this happen?

THE COURT: Mr. Glenn, I don't mean to interrupt you, but every time you turn and look that way, it's hard for me to hear, so I'm assuming it's hard for our court reporter to hear. When you look towards --

MR. GLENN: Your Honor, may I take my mask off?

THE COURT: You can take your mask off.

MR. GLENN: Okay.

THE COURT: No problem.

MR. GLENN: As I was saying, if you were to take a Ziploc from my wrist, they're going to be a lot bigger than from a small child. In the case like this, burden of proof is everything.

You may say well, wait a minute, Mrs. Alexander didn't say anything. She didn't present any evidence. She don't have to. The burden of proof is not on Ms. Alexander to show or prove her innocence. The prosecutor must

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prove each and every element of this case beyond a reasonable doubt.

Now, we talking about Ziplocs that caused injuries to a small child's wrist. I think that's very important that you see that. And I'm not saying that every zip tie or every little piece of wire or every shoelace inside the house needs to go out and be DNA tested.

But if you're talking about zip -- a Ziploc or zip tie that was found close to the couch, maybe we might want to know what's on that zip tie. That might be important.

I mean, you know, let's say that this was a civil lawsuit and you know, somebody, you know, hurt your child or hurt someone else's child and you had to prove that this individual caused this injury to this child and you have the burden of proof doing that, you got to go and you want to collect a lot of money and you've got to prove that case.

If you don't have the zip ties analyzed or the zip ties presented, what -- what kind of case are you talking about? What kind of proof are you going to make in a court if you can't show is that the zip ties that you claimed hurt

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this child or hurt this individual are not present?

Now, I'm not going to tell the police or the prosecutor how to present their case. That's not my job. I'm not going to do that. But that's very important. Because see, now I might be talking to you in a manner that's like, oh, Mr. Glenn, I'm offended. I saw those marks on that kid and how dare you sit up here and say that we need to see the Ziplocs.

Well, wait a minute. In our legal system where the prosecutor must prove each and every element of this case beyond a reasonable doubt, that is important.

Now, there's testimony about getting spanked over sandals. What sandal? I'm not saying that there were no shoes or sandals inside the house, but where is it? I need to see that.

If you're saying that this kid had cuts that were caused on his wrist, what evidence did you have of the clothing inside the trailer that would support that. Why do I say that? These injuries happened inside that trailer.

Now, the doctors stated that -- well, Nazer, I believe it was, she stated that she

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examined Martez in March 2020. Okay. About five, six weeks after the EMS took him to the hospital. Well, she -- Dr. Nazer stated that she still saw the marks.

Well, we saw the pictures from the first hospital visit. Maybe I missed it. I didn't see any marks or pictures from the second visit. So Ms. -- or Dr. Nazer stated she examined and spoke to Martez for about two hours. One hour for a physical exam and one hour face-to-face conversation.

I asked her, did you have any follow-up? No. Did you have any conversations or contact with the ER doctor who examined Martez six -- five, six weeks earlier? She did not.

If Dr. Nazer, this sort of like second opinion, isn't it sort of important that you talk to the first one to make sure that you are on the same page? Okay.

So when the EMS technician came out to the house in January, he stated that he saw injury rise to the eyes, I think swelling. He said nothing was wrong with the eyeball itself, but there was some kind of swelling around the eyes. He said he saw swelling around the neck.

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He saw the wrists.

But the funny thing about that, well, he's not an MD, he admitted that he's not an MD. When Martez went to the hospital he immediately right after that, Dr. Maqbool -- I can't pronounce her name, but the ER doctor at Children's Hospital examined him.

What injuries do we have to the head? None. What injuries did he have to the eyes? None. Did he have two black eyes? No. Did he have any injuries to his neck? No. Was there any swelling around the neck? No.

Now, we heard testimony about Martez being denied food. Well, when you go to a pediatrician they are obligated to examine a child from head to toe and look at his weight, his height and his weight. They call that failure to thrive when the child is being malnourished.

What did Dr. Maqbool say about his failure to thrive? She said there was none. He was not malnourished. He's not a big guy. He's not a big guy. But is there any evidence of failure to thrive? No. Even the second doctor back in March, no failure to thrive.

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So all this business about oh, he was being denied food. Oh, he only had one meal a day. Well, you know, he was getting enough to thrive and grow in a normal rate.

Once again, I don't want you to be offended by what I'm saying, but I have to say this. Every pediatrician, when they bring the child in, what's the first thing they do? They check their weight and they check their height. Why? Because they want to know is this child growing up at a normal, healthy rate. If there's something wrong with his weight, they'll say something. That's not here. Not here at all.

Now, I'm think inn one of the Kids-TALK or Kids Speak documents, there's something about him being denied food. There's just nothing here on that. Nothing here.

Now, you heard my client's statement that Martez was tied and that he was spanked. But if these marks were visible back in January and they weren't raw, they weren't open, when did they happen and when -- who had the custody and control of them when that happened?

So now, if you go back to January, two months, one month, two months prior to that,

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okay, was that early December, mid December? Mid November, early November? We have no way of knowing. That's why DNA is very important. Because if this happened inside the trailer -- and we don't know that it did -- something was put around Martez's wrist but we don't know when. We don't know who had the care, custody and control of that child when it happened.

When you look at this case from top to bottom, you say well, Ms. Alexander didn't say a whole lot. But once again, she doesn't have to do that. Doesn't have to.

If you look at this case in a manner that is careful and deliberate, find it lacking. I'm not saying that there's not suspicion or probable cause or concern to look at it further. I'm saying have the People proved this case beyond a reasonable doubt? And they didn't.

Why? Well, when did this happen? We don't know. How did this happen? We don't know. What was used to make this happen or make this occur? Well, we think it might be Ziplocs or zip ties but we don't know. Who was present? We don't know. If you have too many "I don't knows" about any case, isn't that a reasonable doubt?

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I asked you earlier this week, we're going to talk about a case, very sensitive, very troubling at times. If you look at these pictures, if you look at all of these medical records, if you look at the testimony and evidence of this case, and you say well, you know, I believe -- I feel sorry for Martez. I wonder what's going to happen to him.

If the prosecutor fails to prove this case beyond a reasonable doubt, can you find Ms. Alexander not guilty. Ms. Alexander didn't torture Martez. She didn't abuse him either. So why you -- why you say that, Mr. Glenn? Because the People haven't proven that.

Now, I wish we had a video to have 24 hour surveillance of this trailer to where we could all look in and see what happened or what didn't happen or throughout the last year or whatever. But we don't. We have testimony that the children went to the grandmother's house next door, they ate, they bathed. And sometimes they slept. She needed a break.

That's when mom and dad came home and the kids went back over there. But let the police or the prosecutor tell it, no, they were

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just stuck in this trailer for just hours and hours and days alone and that's just simply not true. Not at all.

When you look at this case there's nothing but reasonable doubt. I'm not saying that there's not suspicion or -- or some type of concern. But is concern a reasonable doubt? Is concern proof beyond a reasonable doubt?

Thank you.

THE COURT: All right. Any rebuttal?

MS. MCINTYRE: Yes.

So you just heard Mr. Glenn say there's a whole bunch of holes in my case. We don't know how. I think we do. We know that Martez was tied up with a belt, according to Ms. Alexander's own admission that she made during the interrogation to DPD. Or with zip ties.

Robyn saw him tied up with zip ties, Martez testified that he was tied up with a belt and zip ties. You saw the zip ties right around where he said he was tied up. He said he was tied up to the floor by the couch.

You guys remember the picture of the two shoes on the floor? By the couch with the zip tie next to it? Kind of adds up.

What was used? Well, a belt. Zip tie. She admits to whooping his ass, too. I mean, we know how it happened, we know who did it. Because if Ms. Alexander didn't do it, she asked someone else to do it on her behalf while she sat there with her child still zip tied up. Or tied up. We'll just call it tied up.

So we know the who, the where, the what was used. We also know the when. The police showed up on January 22, 2020. Ms. Alexander said they had been having issues for 45 days and that's when she started doing it. Seems to me she fully explained when it happened. Check, check, check.

There's all this talk about you didn't have the DNA analyzed. You didn't get to see the zip ties. True. But does that mean that I didn't meet my burden? No. You heard testimony. You heard that Ms. Alexander had care, custody and control over Martez. She's the parent. You heard that she exercised this control and remained over him without his permission.

He tried to get out of it. He didn't want to be tied up. You heard that he suffered serious bodily injury at her hands, literally at

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her hands. So does the fact that there was no DNA show she didn't do it? No. Does it bring in reasonable doubt? No. Does it mean that I didn't meet the elements as you need to decide them? No. That's not what it means.

How am I making a peanut butter and jelly sandwich, do I need to send the peanut butter out to be analyzed to determine whether or not it contains peanuts in order to do peanut butter and jelly -- well, no, I wouldn't, because you have to show that it's peanut butter.

But I don't have to do a DNA analysis to show that he had serious disfigurement. You saw it. You saw the photographs. You heard the medical testimony. You heard the testimony from the witnesses who saw the marks. That is the evidence. That's what you need to decide.

You've been presented with everything that you need to look at the elements and it shows that I have proved my case beyond a reasonable doubt.

Everything that you have heard, everything that you have seen over the past four days proves that Ms. Alexander is guilty of torture of Martez. It proves that she committed

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child abuse in the second degree of Martez. It proves beyond a reasonable doubt that she committed child abuse in the second degree in the presence of her kids, of Robyn, beyond a reasonable doubt. It proves that she also committed child abuse third against Martez and child abuse third against Robyn. Robyn got whooped.

Everything that you have heard lines it up. It doesn't matter if there wasn't treatment, doesn't matter that there wasn't DNA analysis. Doesn't matter you didn't get to see the zip ties, you saw them on the photographs. You heard the testimony. You saw the marks, which is what matters.

Ladies and gentlemen of the jury, I thank you for your service and for your attention in this matter. And I ask that you do the right thing, and that based on everything that was presented, everything that you heard and saw, and that you have an opportunity to review on your own, will find Ms. Alexander guilty as charged.

Thank you.

THE COURT: All right. Can we bring our other jury out, please?

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While they're coming out, can the attorneys approach?

(At 3:00 p.m. until 3:01 p.m., bench conference held.)

THE DEPUTY: All rise for the jury.

(At 3:01 p.m., both juries present.)

THE DEPUTY: You may be seated.

THE COURT: Members of the jury, the evidence and arguments in this case are finished and I will now instruct you on the law. That is, I will explain the law that applies to this case.

Remember that you have taken an oath to return a true and just verdict based on the evidence and my instructions on the law. You must not let sympathy or prejudice influence your decision.

As jurors you must decide what the facts of this case are. This is your job and nobody else's. You must think about all of the evidence and then decide what each piece of evidence means and how important you think it is. This includes whether you believe what each of the witnesses said. What you decide about any fact in this case is final.

It is my duty to instruct you on the

law. You must take the law as I give it to you. If a lawyer said something different about the law, follow what I say.

At various times I have already given you some instructions about the law. You must take all my instructions together as the law you are to follow. You should not pay attention to some instructions and ignore others.

To sum up, it is your job to decide what the facts of this case are, to apply the law as I give it to you and, in that way, to decide the case.

A person accused of a crime is presumed to be innocent. This means that you must start with the presumption that the defendant is innocent. This presumption continues throughout the trial and entitles the defendant to a verdict of not guilty unless you are satisfied beyond a reasonable doubt that he or she is guilty.

Every crime is made up of parts called elements. The prosecutor must prove each element of the crime beyond a reasonable doubt. The defendant is not required to prove his or her innocence or to do anything. If you find that the prosecutor has not proven every element

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beyond a reasonable doubt, then you must find the defendant not guilty.

A reasonable doubt is a fair, honest doubt going out of the evidence or lack of evidence. It is not merely an imaginary or possible doubt but a doubt based on reason and common sense. A reasonable doubt is just that, a doubt that is reasonable after a careful and considered examination of the facts and circumstances of this case.

Every defendant has the absolute right not to testify. When you decide the case you must not consider the fact that he or she did not testify. It must not affect -- affect your verdict in any way.

When you discuss the case and decide on your verdict, you may only consider the evidence that has been properly admitted in this case. Therefore, it is important for you to understand what is evidence and what is not evidence.

Evidence includes only the sworn testimony of witnesses, the exhibits admitted into evidence and anything else I told you to consider as evidence. Many things are not evidence and you must be careful not to consider

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them as such. I will now describe some of the things that are not evidence.

The fact that the defendant is charged with a crime and is on trial is not evidence. Likewise, the fact that he or she is charged with more than one crime is not evidence.

The lawyer's statements and arguments and any commentary are not evidence. They are only meant to help you understand the evidence and each side's legal theories. You should only accept things the lawyers say that are supported by the evidence or by your own common sense and general knowledge.

The lawyers' questions to the witnesses, your questions to the witness and my questions to the witnesses are also not evidence. You should consider these questions only as they give meaning to the witness's answers.

My comments, rulings, questions and instructions are also not evidence. It is my duty to see that the trial is conducted according to the law and to tell you the law that applies to this case.

However, when I make a comment or give an instruction, I'm not trying to influence your

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vote or express a personal opinion about the case. If you believe that I have an opinion about how you should decide this case, you must pay no attention to that opinion. You are the only judges of the facts and you should decide this case from the evidence.

At times during the trial I have excluded evidence that was offered or stricken testimony that was heard. Do not consider those things in deciding the case. Make your decision only on the evidence that I let in and nothing else.

Your decision should be based on all the evidence, regardless of which party produced it. You should use your own common sense and general knowledge in weighing and judging the evidence, but you should not use any personal knowledge you may have about a place, person or event.

To repeat once more, you must decide this case based only on the evidence admitted during this trial.

As I said before, it is your job to -- it is your job to decide what the facts of this case are. You must decide which witnesses you

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believe and how important you think their testimony is. You do not have to accept or eject everything a witness said. You are free to believe all, none or part of any person's testimony.

In deciding which testimony you believe, you should rely on your own common sense and everyday experience. However, in deciding whether you believe a witness's testimony, you must set aside any bias or prejudice you may have based on the race, gender or national origin of that witness.

There's no fixed set of rules for judging whether you believe a witness, but it may help you to think about these questions:

Was the witness able to see or hear clearly?

How long was the witness watching or listening?

Was anything else going on that might have distracted the witness?

Did the witness seem to have a good memory?

How did the witness look and act while testifying?

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Did the witness seem to be making an honest effort to tell the truth or did the witness seem to evade the questions or argue with the lawyers?

Does the witness's age and maturity affect how you judge his or her testimony?

Does the witness have any bias, prejudice or personal interest in how this case is decided?

Have there been any promises, threats, suggestions or other influences that affected how the witness testifies?

In general, does the witness have any special reason to tell the truth or any special reason to lie?

All in all, how reasonable does the witness's testimony seem when you think about all of the other -- all of the other evidence in the case?

Sometimes the testimony of the different witnesses will not agree and you must decide which testimony you accept. You should think about whether the disagreement involves something important or not and whether you think someone is lying or simply mistaken.

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People can see and hear things differently and witnesses may testify honestly but simply be wrong about what they thought they saw or remembered. It is also a good idea to think about which testimony agrees best with the other evidence in the case.

However, you may conclude that a witness deliberately lied about something that is important to how you decide the case. If so, you may choose not to accept anything that witness said.

On the other hand, if you think the witness lied about some things but told the truth about others, you may accept the part that you think is true and ignore the rest.

Possibly penalty should not influence your decision. It is the duty of the judge to fix the penalty within the limits provided by law.

If you want to communicate with me while you are in the jury room, please have your foreperson write a note and give it to one of my court officers. It is not proper for you to talk directly with the Judge, lawyers, court officers or other people involved in the case.

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Basically, you just write a note on a piece -- on a blank piece of paper, fold the paper so your note is on the inside of the fold, knock on the door and one of the court officers will come and get the note from you.

Even if you've gotten to the point where you have reached a verdict, simply sign -- fill out the verdict form, sign it, leave it inside until we call you out for that purpose. You would let Court know by writing "We have reached a verdict," knock on the door, hand the note to one of the court officers. Okay?

As you discuss the case you must not let anyone, even me, know how your voting stands. Therefore, until you return with a unanimous verdict do not reveal this to anyone outside the jury room.

When you go to the jury room to deliberate, you may take your notes and full instructions. If you want to look at any or all of the reference documents or exhibits as -- exhibits that have been admitted, just ask for them.

When you go to the jury room you will be given a written copy of the instructions you

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have just heard. As you discuss the case you should think about all of my instructions together as the law you are to follow.

The defendant is charged with five counts, that is, with the crimes of torture, child abuse in the second degree, child abuse second degree in the presence of another child and two counts of child abuse in the third degree. These are separate crimes and the prosecutor is charging that the defendant committed all of them.

You must consider each -- you must consider each crime separately in light of all the evidence in the case. You may find the defendant guilty of all or any -- or any one, any combination of these crimes or not guilty.

The prosecutor has introduced evidence of a statement that it claims the defendant made. Before you may consider such an out-of-court statement against the defendant, you must first find the defendant actually made the statement as begin to you. If you find the defendant not make the statement, you may give the statement whatever weight you think it deserves. In deciding this you should think about how and when

the statement was made and about all the other evidence in the case.

You may consider the statement in deciding the facts of the case and in deciding if you believe that -- one second.

The last line does not apply, would you agree, Ms. McIntyre?

MR. MCCARTHY: Yes, your Honor.

MS. MCINTYRE: Yes.

MR. GLENN: Yes.

THE COURT: Evidence has been offered that one or more of the witnesses in this case previously made statements inconsistent with their testimony at this trial. You may consider such earlier statements in deciding whether the testimony at this trial was truth -- was truthful -- please approach.

(At 3:10 p.m., bench conference held.)

THE COURT: I'm going to re-read that last instruction.

You have heard evidence that before the trial a witness made a statement that may be inconsistent with his or her testimony here in court. You may consider an inconsistent statement made before the trial only to help you

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decide how believable the witness's testimony when testifying here in court.

Satisfied with that correction?

MS. MCINTYRE: Yes.

MR. MCCARTHY: Yes, your Honor.

MR. GLENN: Yes, your Honor.

THE COURT: All right.

When the lawyers agree on a statement of facts, these are called stipulated facts. You may regard such stipulated facts as true but you are not required to do so.

You may consider whether the defendant had a reason to commit the alleged crime, but a reason by itself is not enough to find a person guilty of a crime.

The prosecutor does not have to prove the defendant had a reason to commit the alleged crime, she only has to show that the defendant actually committed the crime and that he or she meant to do so.

The defendant's intent may be proved by what he or she said, what he or she did, how he or she did it or by any other facts and circumstances in evidence.

You should not decide this case based

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on which side presented more witnesses. Instead, you should think about each witness and each piece of evidence and whether you believe them. Then you must decide whether the testimony and evidence you believe proves beyond a reasonable doubt that the defendant is guilty.

You have heard that a lawyer or lawyer's representatives talked to one of the witnesses. There's nothing wrong with this. A lawyer or lawyer's representative may talk to a witness to find out what the witness knows about the case and what the witness's testimony will be.

You have heard that -- I'm sorry. For a witness who is a young child, a promise to tell the truth takes the place of an oath to tell the truth.

You have heard testimony from a witness, Dr. Maqbool, who has given you her opinion as an expert in the field of pediatric emergency medicine and Dr. Dena Nazer, who has given her -- given you her opinion as an expert in the field of child abuse.

Experts are allowed to give opinions in court matters -- in court about matters they are

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experts on. However, you do not have to believe an expert's opinion. Instead, you should decide whether you believe it and how important you think it is.

When you decide whether you believe an expert's opinion, think carefully about the reasons and facts she gave for her opinion and whether those facts are true.

You should all think about the expert's qualifications and whether she -- whether her opinion makes sense when you think about the other evidence in the case.

You have heard testimony from witnesses who are police officers. That testimony is to be judged by the same standards you use to evaluate the testimony of any other witness.

The defendant is charged with the crime of torture. To prove this charge the prosecutor must prove each of the following elements beyond a reasonable doubt.

First, that the defendant had custody or physical control over Martez Abdullah. This means the defendant used force or the threat of force, either to confine Martez Abdullah by interfering -- by interfering with his liberty or

to restrict Martez Abdullah's freedom of movement.

Second, the defendant exercised custody or physical control over Martez Abdullah without his consent or without lawful authority to do so.

Third, that at the time the defendant had custody or physical control over Martez Abdullah, he or she intentionally caused great bodily injury to Martez Abdullah.

Great bodily injury means causing a serious impairment of a body function, which includes the following: Serious visible disfigurement.

Fourth, that the defendant intended to cause Martez Abdullah to suffer cruel or extreme physical pain or mental pain and suffering. The prosecutor does not need to prove that Martez Abdullah actually suffered any pain.

The defendant is charged with the crime of second degree child abuse. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

First, that the defendant is the parent of Martez Abdullah or had care or custody of or authority over Martez Abdullah when the abuse

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allegedly happened, regardless of the length of time the child was cared for by, in the custody of, or subject to the authority of that person.

Second, that the defendant knowingly or intentionally did an act likely to cause physical or mental harm to Martez Abdullah, regardless of whether such harm resulted.

By serious physical harm I mean any physical injury to a child that seriously impairs the child's health, or physical well-being, including but not limited to brain damage, a skull or bone fracture, subdural hemorrhage or hematoma, dis -- dislocation, sprain, internal injury, poison, burn or scald or severe cut. Or that the defendant knowingly or intentionally did an act that was cruel to Martez Abdullah. Cruel means brutal, inhumane, sadistic or that which torments, regardless of whether harm results.

Third, that Martez Abdullah was at the time under the age of 18.

The defendant is charged with the crime of second degree -- second degree child abuse in the presence of another. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

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First, that the defendant is the parent of Martez Abdullah or had care or custody of or authority over Martez Abdullah when the abuse allegedly happened, regardless of length of time the child was care for by, in the custody of, or subject to the authority of that person.

Second, that the defendant knowingly or intentionally did an act likely to cause serious fiscal or mental harm to Martez Abdullah, regardless of whether such harm resulted.

By serious physical harm I mean any physical injury to a child that seriously impairs a child's health or physical well-being, including but not limited to brain damage, a skull or bone fracture, subdural hemorrhage or hematoma, dislocation, sprain, internal injury, burn or scald, or severe cut.

Can I have the attorneys approach, please?

(At 3:17 p.m., bench conference held.)

THE COURT: Continuing on the instruction, or that the defendant knowingly or intentionally did an act that was cruel to Martez Abdullah. Cruel means brutal, inhumane, sadistic or that which torments, regardless of whether

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harm results.

Third, that Martin Abdullah was at the time under the age of 18.

Fourth, that the abuse occurred in the presence of another child.

The defendant is charged with the crime of third degree child abuse. To establish this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

First, that the defendant is the parents or guardian of Martez Abdullah or had care or custody of or authority over Martez Abdullah when the abuse allegedly happened.

Second, that the defendant knowingly or intentionally committed an act that under the circumstances posed an unreasonable risk of harm or injury to Martez Abdullah and the act resulted in physical harm.

Third, that Martez Abdullah was at the time under the age of 18.

The defendant is charged with the crime of third degree child abuse. To establish this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

First, that the defendant is the parent

or guardian of Robyn Scott or had care or custody of or authority over Robyn Scott when the abuse allegedly happened.

Second, that the defendant knowingly or intentionally committed an act that under the circumstances posed an unreasonable risk of harm or injury to Mar -- that should read Robyn Scott?

MS. MCINTYRE: That's correct.

THE COURT: Unreasonable risk of harm or injury to Robyn Scott and the act resulted in physical harm.

Third, that Robyn Scott was at the time under the age of 18.

You have heard testimony that for a period of time prior to November 2019 Martez Abdullah may have not lived with his mother, Gwendolyn Alexander. During your deliberations you are not to speculate as to why he did not live with his mother -- with his mother at that time or to the fact that he may have not lived with his mother at all in your deliberations.

The prosecutor must also prove beyond a reasonable doubt that the crime occurred on or about December 2019 through January 2020 within Wayne County.

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When you go to the jury room you will be provided with a written copy of the final jury instructions. You should first choose a foreperson. The foreperson should see to it that your discussion are carried on in a businesslike way and that everyone has a fair chance to be heard.

During your deliberations please turn off your cell phones and other communications equipment until we recess.

A verdict in a criminal case must be unanimous. That -- in order to return a verdict, it is necessary that each of you agrees on that verdict. In the jury room you will discuss the case among yourselves but ultimately each of you will have to make up your own mind. Any verdict must represent the individual considered judgment of each juror.

It is your duty as jurors to talk to each other and make every reasonable effort to reach agreement. Express your opinions and the reasons for them, but keep an open mind as you listen to your fellow jurors. Rethink your opinions and do not hesitate to change your mind if you decide you were wrong. Try your best to

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work out your differences.

However, although you should try to reach agreement, none of you should give up your honest opinion about the case just because other jurors disagree with you or just for the sake of reaching a verdict.

In the end, your vote must be your own and you must vote honestly and in good conscience.

If you have any questions about the jury instructions before you begin deliberations or questions about the instructions that arise during deliberations, you may submit them in writing in the same manner as you would send any note out.

Just write it on a piece of paper, fold it so that the note is on the inside of the fold, knock on the door and one of my court officers will come and get it from you.

Are you satisfied with the readings of the instructions, Ms. McIntyre?

MS. MCINTYRE: Yes, your Honor.

THE COURT: Mr. McCarthy?

MR. MCCARTHY: I am, your Honor. Thank you.

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THE COURT: Mr. Glenn?

MR. GLENN: Yes. Your Honor.

THE COURT: All right. Ms. McIntyre, any objection to the verdict forms?

MS. MCINTYRE: None from the People, your Honor.

THE COURT: Mr. McCarthy?

MR. MCCARTHY: No, your Honor.

THE COURT: Mr. Glenn?

MR. GLENN: No, your Honor.

THE COURT: All right. At this time it is 3:22. What we're going to do is we're going to swear in our deputies and then I'm going to pull names for the alternates.

THE CLERK: Please raise your right hand.

Do you solemnly swear or affirm to keep the jurors in a manner and form as prescribed -- prescribed by law?

THE DEPUTIES: I do.

THE CLERK: Thank you.

THE COURT: All right. We're going to start with the jury for the People versus Errown Scott.

THE CLERK: Juror in Seat Number 9.

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And jury in Seat Number 11.

THE COURT: All right. I'm going to ask you to two to remain just a minute, I'm going to speak with you. Do either of you have any items in the jury room that you need to collect? No? All right. You can remain there.

Now I'm going to call two alternate jurors in the jury of People versus Gwendolyn Alexander.

THE CLERK: Juror in Seat Number 4. And juror in Seat Number 7.

THE COURT: All right. Do either of the you have items that are in the jury room that you need to collect?

UNIDENTIFIED JUROR: Yes.

THE COURT: Yes? All right. Why don't you go ahead and collect it and I'll have you come back out.

One quick matter, can I have the attorneys approach one last time?

(At 3:23 p.m., bench conference held.)

THE COURT: Before I release everybody, I am going to -- what I am going to do is I'm going to release everyone. And for the jurors who are going to be returning tomorrow, once you

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come back tomorrow, I'm going to have you come back at nine a.m. And once you come back tomorrow you will receive the full instructions, we will have laptops ready for you to view the evidence.

But I'm going to instruct everyone, including my alternates, there may or may not be media coverage on this case. I am going to ask that if you happen to come across anything, you please turn it off immediately.

It is very important as you are -- as you have seen, we have been here over the past four days, some of you may be returning for a fifth day, so it is very important that the integrity of what we have been doing here in court remains.

And so I'm going to ask that if you see anything or if you hear anything that you think might be about this case or any case, frankly, that has a similar type of topic, I'm going to ask that you immediately turn it off and not pay attention.

If anyone tries to talk to you about anything, about this case or anything similar to this case, again, I'm going to ask that you

immediately end the conversations. We want to make sure that this is -- that this process continues with integrity. Everyone understand?

THE JURORS: Yes.

THE COURT: All right. So for my jurors whose -- whose numbers weren't picked, you may go into your -- please go into the jury room, collect your belongings, we're going to release you all together and we will see you here tomorrow at nine a.m.

As long as you're all here, you will begin deliberations at nine.

THE DEPUTY: All rise for the jury.

(At 3:25 p.m., both juries exit courtroom.)

THE DEPUTY: Thank you. May be seated.

THE COURT: All right. For my alternate jurors, I want to thank you very much for your -- really your timeliness, your attention throughout the last four days. We could not do this without having alternate jurors.

On occasion something happens and we lose a juror, we have to maintain a jury of 12 or else we would have to start this whole process

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over.

And so your service for over for the last four days has been incredibly important. We could have not -- we could not have gone forward without all of you.

I do want to instruct you that you are to remain silent about what you have heard here in court. You may be called at a future time to come and deliberate with your fellow jurors. It doesn't happen often, but frankly, it's actually happened quite recently in a case that I have had, where we have had to call an alternate jury back -- alternate juror back to deliberate with the remaining jurors.

Sometimes people get sick, emergencies happen and we need 12 jurors to deliberate. So it's important that you continue to not discuss the case at all, not even with each other as you are leaving. If the jury reaches a verdict, then we will call you and we will let you know what that -- what that is. All right? And at that point you can discuss it with anyone you choose to talk to about.

We do have letters indicating you have been in court over the last four days. We have

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called the jury office and let them know. So at this time I'm excusing you to go up to the jury office.

Please leave your binders on the chairs. Your binders will be undisturbed until the point that -- unless the jury reaches a verdict. And at that time we will take your notes and my assistant will destroy them. We'll destroy those. Okay?

All right. Thank you all very much. You are excused.

THE DEPUTY: All rise for the jurors.

(At 3:27 p.m., alternate jurors left courtroom.)

THE DEPUTY: Thank you. May be seated.

THE COURT: Anything for the People?

MS. MCINTYRE: Nothing.

(At 3:30 p.m., both juries leave the jury room and proceedings concluded.)

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STATE OF MICHIGAN)
) ss.
COUNTY OF WAYNE)

I, Marguerite H. Anderson, CER, CSR-2334, do hereby certify that this transcript, consisting of 247 pages, is a true and accurate transcript of the proceedings and testimony taken in this case by Brion D. Coury, CSR/CSMR/CER-0038, on September 22, 2022.

/s/ Marguerite H. Anderson

_____
Marguerite H. Anderson, CER, CSR-2334
78 Bobolink Street
Rochester Hills, Michigan 48309
(248) 935-5190

Dated: March 10, 2023.

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STATE OF MICHIGAN

THIRD CIRCUIT COURT FOR THE COUNTY OF WAYNE

CRIMINAL DIVISION

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

Case No. 20-001501-01-FC
Case No. 20-001501-02-FC

-v-

ERROWN ROBINSON-BURTON SCOTT,
GWENDOLYN JOSEPHINE ALEXANDER,

Defendants.

_____/

JURY TRIAL/CONTINUED

BEFORE THE HONORABLE MARIAM BAZZI, CIRCUIT JUDGE,

Detroit, Michigan - Friday, September 23, 2022

APPEARANCES:

For the Plaintiff:
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Assistant Wayne County Prosecutor
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(313)224-5777

For the Defendant:
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For the Defendant:	WILLIAM L. GLENN, (P36794) Glenn & Glenn, PC PO Box 4887 Detroit, MI 48204 (313)934-3769
Reported By:	Athalia Cargile, CSMR 6836 Official Court Reporter (313)224-5216

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WITNESSES: PAGE

None.

EXHIBITS: IDENTIFIED RECEIVED

None.

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Detroit, Michigan

Friday, September 23, 2022

Approximately: 9:50 A.M.

- - -

THE COURT: Calling Case No. 20-001501-01. People versus Errown Scott and Case No. 20-001501-02. People versus Gwendolyn Alexander, they are supposed to be here today for a jury trial in progress.

Appearances for the record, please.

MS. MCINTYRE: Good morning, Your Honor, Abigail McIntyre appearing on behalf of the People, P-71443.

MR. MCCARTHY: Good morning, Your Honor, Michael McCarthy appearing on behalf of but without Errown Scott, 830169.

MR. GLENN: William Glenn, P-36794 on behalf of Mr. Alexander, who is not present.

THE COURT: All right, I'll start with you, Mr. McCarthy, where is your client?

MR. MCCARTHY: That I can not tell you. I know this when I left the courthouse with him yesterday or parted, he understood that he was to be here by 9 o'clock this morning. I sent a text to him about 9:15 inquiring where he was. I did not receive a response. I called him at 9:29, I think it was, and the phone went directly to voicemail. So, I left a detailed message. I asked that

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he call me back. It is about 7 or 8 minutes before 10:00. I have not received a reply to either of my inquiries.

THE COURT: Mr. Glenn, where is your client?

MR. GLENN: Your Honor, the last contact I had with Ms. Alexander was yesterday after court. I've been trying to reach her for the last 45 minutes, without any success.

THE COURT: All right. At this time your clients have been in trial. They've been appearing and so it's not as if they don't know to be here, be here promptly. I believe I asked your clients to actually appear at 8:45 AM, with said, it now 9:52 AM and they both have failed to appear. At this time I am going to issue a capias on both of them and I'm going to set any previously posted bond as forfeited. The new bond is set a remand.

They have, effectively, waived their right to be at their jury trial by purposely failing to appear this morning. And so I want that notated on the record as well. They have not called the Court. I do have my assistant upstairs in my regular courtroom and she hasn't indicated there were any phone calls from either one of your clients.

At least she has not called down to the Court indicating such and we have received any phone calls to this courtroom, either, indicating why they are not here.

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It simply appears to be that they have chosen not to come.

MR. MCCARTHY: Your Honor, and I understand the Court's ruling. The jury will continue to deliberate, correct?

THE COURT: Yes, but if the jury we will -- if the jury reaches a verdict and your client's aren't here we will hear that verdict.

MR. MCCARTHY: Well, I understand that.

THE COURT: Okay.

MR. MCCARTHY: I would just ask in the event that there was a jury question, during the deliberations, that their absence not be made -- nothing said about it only so that it doesn't have a negative effect on the triers-of-fact.

THE COURT: I understand, Mr. McCarthy, if a juror question requires the jury to come out into the courtroom, we will call the case your clients won't be here, but we will proceed without -- I don't see any reason why that has to be indicated.

MR. MCCARTHY: Thank you, Your Honor.

MR. GLENN: Thank you, Your Honor.

THE COURT: All right. One other matter, we need to place on the record in the jury for Mr. Scott. Juror No. 6 called the court and indicated that they were in the emergency room with their child and they would not

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be able to be here this morning. We did have a sidebar discussion about that, we were able to -- well, we randomly selected Juror No. 11. Juror No. 11 indicated that they would be able to come and begin deliberations. I just wanted to make sure there a -- and I believe neither counsel had any objection to that; is that correct?

MS. MCINTYRE: That's correct.

MR. MCCARTHY: Oh no, and I have observed the random selection of Juror No. 11, so I'm perfectly satisfied with that was going to be done according to proper procedure.

THE COURT: All right. I thank you so much.

MS. MCINTYRE: Just one more thing, Your Honor, is that the People and both defense counsel have entered into a stipulation regarding the jury's use of laptops. All laptops have been reviewed and are back with the juries. I do have all the exhibits still at this time, until the Court instructs me to give them.

THE COURT: Well, they haven't -- once they request the exhibits we'll send them in.

Is that correct, Mr. McCarthy?

MR. MCCARTHY: Oh, it is and I signed the stipulation.

THE COURT: Mr. Glenn?

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MR. GLENN: Yes, that is true, the stipulation as well.

THE COURT: Thank you both very good.

(At 9:57 a.m., court in recess)

(At 10:14 a.m., court resumed)

THE COURT: Calling Case No. 20-1501-01. People versus Errown Scott, we are here today for a jury trial in progress.

Appearances for he record, please.

MS. MCINTYRE: Good morning, Your Honor, Abigail McIntyre appearing on behalf of the People, P-71143.

MR. MCCARTHY: Good morning, Your Honor. Michael McCarthy, P30041 on behalf of Mr. Scott.

THE COURT: All right. We received a message today that Juror No. 6 was unable to proceed with deliberations at this time, we have Juror No. 11 that is here. I'm going to review one other instruction.

Members of the jury, one of your fellow jurors is unable to continue deliberations with you. Do not consider the reasons for the juror's discontinued service. Alternate Juror No. 11 will now participate. You are now a new jury and must start over with your deliberations.

I do want to thank you all for your timeliness this morning and I want to thank Juror No. 11 for your coming down to the court as quickly as you did.

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You may all go back into the jury begin deliberations.

DEPUTY: All rise for the jury.

(At 10:14 a.m.; the jury exits the court room)

(At 10:15 a.m.; court in recess)

(At 10:56 a.m., court resumes)

THE COURT: Calling Case 20-1501-02, People versus Gwendolyn Alexander.

This matter is a jury trial in progress.

Appearances for the record, please.

MS. MCINTYRE: Good morning, Your Honor, Abigail McIntyre appearing on behalf of the People, P-71143.

MR. GLENN: William Glenn, P-36794, on behalf of Ms. Alexander.

THE COURT: All right, at 10:50 a.m., I received a note from the jury and the note reads we have reached a verdict on all five charges.

At this time we'll ask the foreperson to please stand up.

THE CLERK: In the case of the People of the State of Michigan versus Gwendolyn Alexander as -- would the foreperson, can you please read the verdict form as to Count 1.

FOREPERSON: Guilty --

COURT REPORTER: I'm sorry, can I have the

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foreperson's number, please?

THE CLERK: I'm sorry.

Mr. Foreperson, can you please state your seat number for the record?

JUROR NO. 13: Thirteen.

COURT REPORTER: I'm sorry.

JUROR NO. 13: Thirteen.

COURT REPORTER: Thirteen?

JUROR NO. 13: Yeah.

COURT REPORTER: Thank you.

THE CLERK: Mr. Foreperson, can your please state your verdict as to Count 1, Torture.

JUROR NO. 13: Guilty.

THE CLERK: As to Count 2, Child Abuse, 2nd-Degree.

JUROR NO. 13: Guilty.

THE CLERK: As to Count 3, Child Abuse, 2nd-Degree in the Presence of Another Child.

JUROR NO. 13: Guilty.

THE CLERK: As to Court 4, Child Abuse, 3rd-Degree, Martez Abdullah.

JUROR NO. 13: Guilty.

THE CLERK: As to Court 5, Child Abuse, 3rd-Degree, Robin Scott.

JUROR NO. 13: Not guilty.

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THE CLERK: Members of the jury, please listen to your verdict as recorded by the court. Do you say -- oh.

Members of the jury, can you please stand and raise your right hand?

Please listen to your verdict as recorded by the Court. Do you say upon your oath that you find the Defendant, Gwendolyn Alexander, as to Count 1, Torture.

Guilty.

Count 2, Child Abuse, 2nd-Degree.

Guilty.

Count 3, Child Abuse, 2nd-Degree in the Presence of Another Child.

Guilty.

Count 4, Child Abuse, 3rd-Degree, Martez Abdullah.

Guilty.

Count 5, Child Abuse, 3rd-Degree, Robin Scott.

Not guilty.

So say you, Mr. Foreperson, so say you, members of the jury panel?

JURORS: Yes. (UNISON)

(At 11:00 a.m., juror's oath by clerk)

THE COURT: Would either side like the jury polled?

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You may be seated.

MR. GLENN: No, Your Honor.

MS. MCINTYRE: No, Your Honor.

THE COURT: All right. I'm going to excuse you all into the jury room and I'll be in there briefly to speak with all of you.

(At 11:01 a.m., jurors exit courtroom)

THE COURT: Mr. Glenn, at this time there is a pending -- well, there is a warrant out for your client's arrest for her failure to appear court. And your client is already on remand status. If you are able to reach your client, she must turn herself in to the Wayne County Jail and please contact the Court and let the Court know, if she is taken into custody before she turns herself in, then we will contact you.

MR. GLENN: Yes, Your Honor.

THE COURT: All right. Thank you very much, Mr. Glenn.

And I do want to thank both you and Ms. McIntyre for your professionalism and timeliness throughout the course of this trial.

(At 11:03 a.m., court in recess)

(At 3:00 p.m; court resumes)

THE COURT: All right. Recalling Case No. 20-001501-01. People versus Errown Scott, the matter is

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up today for jury trial in progress.

Appearances for the record, please.

MS. MCINTYRE: Good afternoon, Abigail McIntyre appearing on behalf of the People, P-71143.

MR. MCCARTHY: Good afternoon, Your Honor. Michael McCarthy, P-30169, on behalf of Errown Scott.

THE COURT: All right. Thank you very much. You may be seated.

At 14:54 military time, I received a note we have reached a decision; is that correct?

JUROR NO. 10: Yes.

THE COURT: All right. One moment.

COURT REPORTER: Your Honor, which juror said yes? I'm sorry, I had my back...

JUROR NO. 10: Juror number ten.

COURT REPORTER: Thank you.

THE CLERK: Madame Foreperson, can you please stand and state your seat number, for the record?

JUROR NO. 10: Seat number ten.

THE CLERK: Thank you.

In the case of the People to State of Michigan versus Errown Scott. Madame Foreperson, would you please read the verdict form as marked as to Count 1, Torture.

JUROR NO. 10: Not guilty.

THE CLERK: Count 2, Child Abuse, 2nd-Degree.

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JUROR NO. 10: Guilty.

THE CLERK: Count 3, Child Abuse, 2nd-Degree in the Presence of Another Child.

JUROR NO. 10: Guilty.

THE CLERK: Count 4, Child Abuse, 3rd-Degree, Martez Abdullah.

JUROR NO. 10: Guilty.

THE CLERK: Count 5, Child Abuse, 3rd-Degree, Robin Scott.

JUROR NO. 10: Not guilty.

THE CLERK: Members of the jury panel, can you please stand and raise your right hands?

Listen to your verdict as recorded by the Court. Do you say upon your oath that you find the Defendant, Errown Scott, as to Count 1, Torture.

Not guilty.

Count 2, Child Abuse, 2nd-Degree.

Guilty.

Court 3, Child Abuse, 2nd-Degree in the Presence of Another Child.

Guilty.

Count 4, Child Abuse, 3rd-Degree, Martinez Abdullah.

Guilty.

Count 5, Child Abuse, 3rd-Degree, Robin Scott.

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Not guilty.

So say you, Madame Foreperson, so say you members of the jury panel?

JURORS: Yes. (UNISON)

THE CLERK: Thank you.

(At 3:03 p.m., juror's oath by clerk)

THE CLERK: Thank you.

THE COURT: Would either side like the jury polled?

MS. MCINTYRE: No thank you.

MR. MCCARTHY: I would, Your Honor. Thank you.

THE CLERK: Juror in seat one, was that and is that your verdict?

JUROR NO. 1: Yes.

THE CLERK: Juror in seat two, was that, and is that your verdict?

JUROR NO. 2: Yes.

THE CLERK: Juror in seat three, was that and is that your verdict?

JUROR NO. 3: Yes.

THE CLERK: Juror in seat four, was that and is that your verdict?

JUROR NO. 4: Yes.

THE CLERK: Juror in seat five, was that and is that your verdict?

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JUROR NO. 5: Yes.

THE CLERK: Juror in seat seven, was that and is that your verdict?

JUROR NO. 7: Yes.

THE CLERK: Juror in seat eight, was that and is that your verdict?

JUROR NO. 8: Yes.

THE CLERK: Juror in seat ten, was that and is that your verdict?

JUROR NO. 10: Yes.

THE CLERK: Juror in seat eleven, was that and is that your verdict?

JUROR NO. 11: Yes.

THE CLERK: Juror in seat twelve, was that and is that your verdict?

JUROR NO. 12: Yes.

THE CLERK: Juror in seat thirteen, was that and is that your verdict?

JUROR NO. 13: Yes.

THE CLERK: Juror in seat fourteen, was that and is that your verdict?

JUROR NO. 14: Yes.

THE COURT: I thank you very much. I'm going to excuse you all into the jury room and I'll be in there, briefly, to speak with you.

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DEPUTY: All rise for the jury.

(At 3:04 p.m., the jury exits the court room)

THE COURT: All right. I want to thank you both for your professionalism throughout the course of this proceeding, your timeliness. I do know that this was a long trial. I kept you both here all day, you have matters in other courts. But I do appreciate you making the necessary accommodations for the trial.

Mr. McCarthy, your client is on capias status already and remanded already for their (sic) failure to come back this morning as ordered. And so once -- if you're able to get a hold of your client, please have him turn himself in to the Wayne County Jail.

MR. MCCARTHY: I will do that, Your Honor. And it's just kind of ironic that I'm not making a motion to try and keep him out on bond given the verdict.

THE COURT: Yes.

MR. MCCARTHY: But I understand the circumstances, so as soon as I -- if I do have contact with him I will advise the Court.

THE COURT: Thank you, Mr. McCarthy, you might want to advise your client too, the length of time he stays away from the Court, the Court is going to be taking into consideration at sentencing.

MR. MCCARTHY: Oh, right. And I mean it's a lot

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less bad than it could have been.

THE COURT: Yes. All right. Thank you very much, counselor.

MR. MCCARTHY: Thank you.

(At 3:06 p.m.; proceeding concluded)

- - -

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CERTIFICATE OF COURT REPORTER

COUNTY OF WAYNE)

STATE OF MICHIGAN)

I certify that this transcript, consisting of (19) pages, inclusive, is a complete, true, and correct transcript of the proceedings and testimony taken in the matter of People v Errown Scott and Gwendolyn Alexander, 20-001501-01 & 20-001501-02, Jury Trial/Continuing on Friday, September 23, 2022.

3/22/2023
Date

Athalia A. Cargile, CSMR 6836
Official Court Reporter

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STATE OF MICHIGAN

THIRD CIRCUIT COURT FOR THE COUNTY OF WAYNE

CRIMINAL DIVISION

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

Case No. 20-001501-01-FH
Case No. 20-001501-02-FH

-v-

ERROWN ROBINSON-BURTON SCOTT,
GWENDOLYN JOSEPHINE ALEXANDER,

Defendants.

_____/

JURY TRIAL/VERDICT-SCOTT

BEFORE THE HONORABLE MARIAM BAZZI, CIRCUIT JUDGE,

Detroit, Michigan - Friday, September 23, 2022

APPEARANCES:

For the Plaintiff:
ABIGAIL MCINTYRE, (P71443)
Assistant Wayne County Prosecutor
1441 St. Antoine St.
Detroit, MI 48226
(313)224-5777

For the Defendant:
MICHAEL MCCARTHY, (P30169)
Michael J. McCarthy PC
26001 5 Mile Rd
Redford, MI 48239
(313) 535-1300

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For the Defendant: WILLIAM L. GLENN, (P36794)
Glenn & Glenn, PC
PO Box 4887
Detroit, MI 48204
(313)934-3769

Reported By: Athalia Cargile, CSMR 6836
Official Court Reporter
(313)224-5216

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WITNESSES: PAGE

None.

EXHIBITS: IDENTIFIED RECEIVED

None.

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Detroit, Michigan

Friday, September 23, 2022

Approximately: 9:50 A.M.

- - -

THE COURT: Calling Case No. 20-001501-01. People versus Errown Scott and Case No. 20-001501-02. People versus Gwendolyn Alexander, they are supposed to be here today for a jury trial in progress.

Appearances for the record, please.

MS. MCINTYRE: Good morning, Your Honor, Abigail McIntyre appearing on behalf of the People, P71443.

MR. MCCARTHY: Good morning, Your Honor, Michael McCarthy appearing on behalf of but without Errown Scott, 830169.

MR. GLENN: William Glenn, P36794 on behalf of Mr. Alexander, who is not present.

THE COURT: All right, I'll start with you, Mr. McCarthy, where is your client?

MR. MCCARTHY: That I can not tell you. I know this when I left the courthouse with him yesterday or parted he understood that he was to be here by 9 o'clock this morning. I sent a text to him about 9:15 inquiring where he was. I did not receive a response. I said -- I called him at 9:29, I think it was, and the phone went directly to voicemail. So, I left a detailed message. I

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asked that he call me back. It is about 7 or 8 minutes before 10:00. I have not received a reply to either of my inquiries.

THE COURT: Mr. Glenn, where is your client?

MR. GLENN: Your Honor, the last contact I had with Ms. Alexander was yesterday after court. I've been trying to reach her for the last 45 minutes, without any success.

THE COURT: All right. At this time your clients have been in trial. They've been appearing and so it's not as if they don't know to be here, be here promptly. I believe I asked your clients to actually appear at 8:45 AM, with said, it now 9:52 AM and they both have failed to appear. At this time I am going to issue a capias on both of them and I'm going to set any previously posted bond as forfeited. The new bond is set a remand.

They have, effectively, waived their right to be at their jury trial by purposely failing to appear this morning. And so I want that notated on the record as well. They have not called the Court. I do have my assistant upstairs in my regular courtroom and she hasn't indicated there were any phone calls from either one of your clients.

At least she has not called down to the Court indicating such and we have received any phone calls to

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this courtroom, either, indicating why they are not here. It simply appears to be that they have chosen not to come.

MR. MCCARTHY: Your Honor, and I understand the Court's ruling. The jury will continue to deliberate, correct?

THE COURT: Yes, but if the jury we will -- if the jury reaches a verdict and your client's aren't here we will hear that verdict.

MR. MCCARTHY: Well, I understand that.

THE COURT: Okay.

MR. MCCARTHY: I would just ask in the event that there was a jury question, during the deliberations, that their absence not be made -- nothing said about it only so that it doesn't have a negative effect on the triers-of-fact.

THE COURT: I understand, Mr. McCarthy, if a juror question requires the jury to come out into the courtroom, we will call the case your clients won't be here, but we will proceed without -- I don't see any reason why that has to be indicated.

MR. MCCARTHY: Thank you, Your Honor.

MR. GLENN: Thank you, Your Honor.

THE COURT: All right. One other matter, we need to place on the record in the jury for Mr. Scott. Juror No. 6 called the court and indicated that they were

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in the emergency room with their child and they would not be able to be here this morning. We did have a sidebar discussion about that, we were able to -- well, we randomly selected Juror No. 11. Juror No. 11 indicated that they would be able to come and begin deliberations. I just wanted to make sure there a -- and I believe neither counsel had any objection to that; is that correct?

MS. MCINTYRE: That's correct.

MR. MCCARTHY: Oh no, and I have observed the random selection of Juror No. 11, so I'm perfectly satisfied with that was going to be done according to proper procedure.

THE COURT: All right. I thank you so much.

MS. MCINTYRE: Just one more thing, Your Honor, is that the People and both defense counsel have entered into a stipulation regarding the jury's use of laptops. All laptops have been reviewed and are back with the juries. I do have all the exhibits still at this time, until the Court instructs me to give them.

THE COURT: Well, they haven't -- once they request the exhibits we'll send them in.

Is that correct, Mr. McCarthy?

MR. MCCARTHY: Oh, it is and I signed the stipulation.

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THE COURT: Mr. Glenn?

MR. GLENN: Yes, that is true, the stipulation as well.

THE COURT: Thank you both very good.

(At 9:57 a.m., court in recess)

(At 10:14 a.m., court resumed)

THE COURT: Calling Case No. 20-1501-01. People versus Errown Scott, we are here today for a jury trial in progress.

Appearances for he record, please.

MS. MCINTYRE: Good morning, Your Honor, Abigail McIntyre appearing on behalf of the People, P71143.

MR. MCCARTHY: Good morning, Your Honor. Michael McCarthy, P30041 on behalf of Mr. Scott.

THE COURT: All right. We received a message today that Juror No. 6 was unable to proceed with deliberations at this time, we have Juror No. 11 that is here. I'm going to review one other instruction.

Members of the jury, one of your fellow jurors is unable to continue deliberations with you. Do not consider the reasons for the juror's discontinued service. Alternate Juror No. 11 will now participate. You are now a new jury and must start over with your deliberations.

I do want to thank you all for your timeliness this morning and I want to thank Juror No. 11 for your

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coming down to the court as quickly as you did.

You may all go back into the jury begin deliberations.

DEPUTY: All rise for the jury.

(At 10:14 a.m.; the jury exits the court room)

(At 10:15 a.m.; court in recess)

(At 3:00 p.m; court resumes)

THE COURT: All right. Recalling Case No. 20-001501-01. People versus Errown Scott, the matter is up today for jury trial in progress.

Appearances for the record, please.

MS. MCINTYRE: Good afternoon, Abigail McIntyre appearing on behalf of the People, P71143.

MR. MCCARTHY: Good afternoon, Your Honor. Michael McCarthy, P30169, on behalf of Errown Scott.

THE COURT: All right. Thank you very much. You may be seated.

At 14:54 military time, I received a note we have reached a decision; is that correct?

JUROR NO. 10: Yes.

THE COURT: All right. One moment.

THE CLERK: Madame Foreperson, can you please stand and state your seat number, for the record?

JUROR NO: Seat number ten.

THE CLERK: Thank you.

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In the case of the People to State of Michigan versus Errown Scott. Madame Foreperson, would you please read the verdict form as marked as to Count 1, torture.

JUROR NO. 10: Not guilty.

THE CLERK: Count 2, child abuse, second-degree.

JUROR NO. 10: Guilty.

THE CLERK: Count 3, child abuse, second-degree in the presence of another child.

JUROR NO. 10: Guilty.

THE CLERK: Count 4, child abuse, third-degree, Martez Abdullah.

JUROR NO. 10: Guilty.

THE CLERK: Count 5, child abuse, third-degree, Robin Scott.

JUROR NO. 10: Not guilty.

THE CLERK: Members of the jury panel, can you please stand and raise your right hands?

Listen to your verdict as recorded by the Court. Do you say upon your oath that you find the Defendant, Errown Scott, as to Count 1, torture, not guilty.

Count 2, child abuse, second-degree, guilty.

Court 3, child abuse, second-degree in the presence of another child, guilty.

Count 4, child abuse, third-degree, Martinez

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Abdullah, guilty.

Count 5, child abuse, third-degree, Robin Scott, not guilty.

So say you, madame foreperson, so say you members of the jury panel?

JURORS: Yes. (Unison).

THE CLERK: Thank you.

(At 3:03 p.m., oath by taken by clerk)

THE CLERK: Thank you.

THE COURT: Would either side like the jury polled?

MS. MCINTYRE: No thank you.

MR. MCCARTHY: I would, Your Honor. Thank you.

THE CLERK: Juror in seat one, was that and is that your verdict?

JUROR NO. 1: Yes.

THE CLERK: Juror in seat two, was that, and is that your verdict?

JUROR NO. 2: Yes.

THE CLERK: Juror in seat three, was that and is that your verdict?

JUROR NO. 3: Yes.

THE CLERK: Juror in seat four, was that and is that your verdict?

JUROR NO. 4: Yes.

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THE CLERK: Juror in seat five, was that and is that your verdict?

JUROR NO. 5: Yes.

THE CLERK: Juror in seat 7, was that and is that your verdict?

JUROR NO. 7: Yes.

THE CLERK: Juror in seat eight, was that and is that your verdict?

JUROR NO. 8: Yes.

THE CLERK: Juror in seat ten, was that and is that your verdict?

JUROR NO. 10: Yes.

THE CLERK: Juror in seat eleven, was that and is that your verdict?

JUROR NO. 11: Yes.

THE CLERK: Juror in seat twelve, was that and is that your verdict?

JUROR NO. 12: Yes.

THE CLERK: Juror in seat thirteen, was that and is that your verdict?

JUROR NO. 13: Yes.

THE CLERK: Juror in seat fourteen, was that and is that your verdict?

JUROR NO. 14: Yes.

THE COURT: I thank you very much. I'm going to

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excuse you all into the jury room and I'll be in there, briefly, to speak with you.

DEPUTY: All rise for the jury.

(At 3:04 p.m., the jury exits the court room)

THE COURT: All right. I want to thank you both for your professionalism throughout the course of this proceeding, your timeliness. I do know that this was a long trial. I kept you both here all day, you have matters in other courts. But I do appreciate you making the necessary accommodations for the trial.

Mr. McCarthy, your client is on capias status already and remanded already for their failure to come back this morning as ordered. And so once -- if you're able to get a hold of your client, please have him turn himself in to the Wayne County Jail.

MR. MCCARTHY: I will do that, Your Honor. And it's just kind of ironic that I'm not making a motion to try and keep him out on bond given the verdict.

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MR. MCCARTHY: But I understand the circumstances, so as soon as I -- if I do have contact with him I will advise the Court.

THE COURT: Thank you, Mr. McCarthy, you might want to advise your client too, the length of time he stays away from the Court, the Court is going to be taking

into consideration at sentencing.

MR. MCCARTHY: Oh, right. And I mean it's a lot less bad than it could have been.

THE COURT: Yes. All right. Thank you very much, counselor.

MR. MCCARTHY: Thank you.

(At 3:06 p.m.; proceeding concluded)

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CERTIFICATE OF COURT REPORTER

COUNTY OF WAYNE)

STATE OF MICHIGAN)

I certify that this transcript, consisting of (15) pages, inclusive, is a complete, true, and correct transcript of the proceedings and testimony taken in the matter of People v Errown Scott and Gwendolyn Scott, 20-002566-01 & 20-002566-02, Jury Trial/Verdict-Scott on Friday, September 23, 2022.

3/22/2023
Date

Athalia A. Cargile
Athalia A. Cargile, CSMR 6836
Official Court Reporter

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STATE OF MICHIGAN

IN THE THIRD CIRCUIT COURT FOR THE COUNTY OF WAYNE
CRIMINAL DIVISION

THE PEOPLE OF THE
STATE OF MICHIGAN,

-vs- Case No. 20-01501-2

GWENDOLYN JOSEPHINE ALEXANDER,

Defendants.
_____/

SENTENCE

BEFORE THE HONORABLE MARIAM S. BAZZI
CIRCUIT COURT JUDGE

Tuesday - November 8, 2022

APPEARANCES:

MS. ABIGAIL MC INTYRE (P-71143),
Appearing on behalf of the People.

MR. WILLIAM GLENN (P-36794),
Appearing on behalf of Defendant.

Transcribed by:
Suzanne L. Kinsey, CSMR 4477
Official Court Reporter

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C O N T E N T S

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Sentence

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November 8, 2022

Detroit, Michigan

(Proceedings commencing at 9:27 a.m.)

THE COURT: All right.

Calling case number 20-1501-02, People versus Gwendolyn Alexander.

She is here today for sentencing.

Appearances, for the record, please?

MS. MC INTYRE: Good morning, Your Honor. Abigail Mc Intyre, appearing on behalf of the People, P-71143.

MR. GLENN: William Glenn, P36794, on behalf of Miss Alexander.

THE COURT: Miss Alexander, can you state your name?

DEFENDANT: Gwendolyn Josephine Alexander.

THE COURT: All right.

Uhm, Mr. Glenn, have you had an opportunity to review the pre-sentence report, with your client?

MR. GLENN: Yes, Your Honor.

THE COURT: Is it factually accurate?

Are there any additions, corrections, or deletions?

MR. GLENN: My client tells me that her children’s ages, and names, were not proper.

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THE COURT: All right.

And what page is that?

MR. GLENN: Uh, on page six, with Marquise Abdullah, I believe he should be twelve years old.

THE COURT: All right.

Any other corrections?

MR. GLENN: And Prince Scott should be two years old.

THE COURT: How about Princess Scott?

MR. GLENN: Princess Scott should be three months.

THE COURT: Three months?

Okay.

So, we'll leave it at zero, then.

All right.

Anything, uh, any other corrections?

MR. GLENN: No, Your Honor.

THE COURT: Anything on behalf of the People, before I impose sentence?

MS. MC INTYRE: Uhm, as to the body of the report, nothing for the People, Your Honor.

THE COURT: How about the guidelines?

MS. MC INTYRE: Your Honor, uhm, there are some changes that need to be made to the guidelines.

Uhm, which, there's a couple that we are in

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agreement, and a couple we are not in agreement over?

THE COURT: All right.

Let's start with the ones that you're in agreement with?

MS. MC INTYRE: Uhm, so, in terms of the agreement into, uhm, OV-9. It should be zero.

THE COURT: And any other?

MS. MC INTYRE: Uh, no, I believe that's it.

THE COURT: Would you agree to that?

MR. GLENN: Yes, Your Honor.

THE COURT: All right.

What are in contention?

MS. MC INTYRE: Uhm, OV-15 should -- or OV-5 should be fifteen.

I would, that is, uh, the psychological trauma to the family.

MR. GLENN: Your Honor, I, I would object.

That, that's too subjective.

I mean, we had counselors, and people from the Department of Human Services testify, but I don't think that goes to, uh, the extent that the, uh, the, the guidelines call for here.

I, I don't think that was -- I mean, just as part of the job, they have to talk to the children.

But to say, that's a psychological

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counseling, due to this case right here, I don't think it goes to that, that point.

So, I would object to that.

This was at -- that was just part of their normal investigation of the family.

THE COURT: One moment.

MS. MC INTYRE: May I respond?

THE COURT: Yeah, in one moment.

I'm opening up OV-5.

One second.

MS. MC INTYRE: Yeah.

THE COURT: All right.

Uh, Miss Mc Intyre, you can respond.

MS. MC INTYRE: Your Honor, uhm, as it's stated, the psych, psychological treatment does not have to be done.

However, in this case, you did hear from other family members, during the course of the trial.

You did hear from Robin Scott, and you saw her demeanor, when she was testifying, about the abuse that she witnessed, about -- for her brother.

Uhm, if you remember, from watching her during the testimony, she got really quiet.

She didn't want to talk about it.

She had been psychologically affected, by

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what she witnessed, and saw, which is one of the counts that Miss Alexander has been, uhm, convicted of, is child abuse in the presence of other children.

So, not only is Martez, uh, the victim of this crime, but so are the other children who had to watch the abuse that was perpetrated, upon him.

And I think OV-15 is, is -- or fifteen points for OV-5 is appropriate.

THE COURT: All right.

There was the testimony, and that is correct.

I did have an opportunity, when she was testifying, to observe the demeanor of Miss Robin Scott, while she was testifying.

And when she was testifying, as to the, uh, her brother being -- she did get quieter.

She did get a bit more reserved.

She would smile at other parts of the testimony, when she was identifying her parents, things of that nature.

Uh, and further, I believe the grandmother indicated, uh, the person who has the children, that they're all in counseling, at this time.

And they're all dealing with their own types of behavioral issues.

Uhm, and I think that that is, and frankly, I

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think that is consistent with the abuse that, uh, was testified to, throughout the course of this trial.

So, I am going to score the fifteen points, uh, particularly as it relates to Miss Robin Scott.

All right.

Anything else?

MS. MC INTYRE: Yes.

OV-10, the People's position, should be, uhm, it should be fifteen points, that predatory conduct was involved.

THE COURT: Predatory conduct?

MS. MC INTYRE: Predatory conduct.

She, Miss Alexander specifically went after Martez.

He was the only child that was zip tied, as soon as he turned six.

You even heard her testimony.

As soon as he turned six, and she got him back in her care and custody, the abuse started.

That's, uhm, he became sneaky, according to her, and she went after him.

He was the only child that was zip tied.

He was the only child that was really abused.

The other children had pillows and blankets.

He was forced to sleep on the floor.

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There was testimony about how he wasn't --

THE COURT: Was that the testimony at the trial, though?

MS. MC INTYRE: That, Robin actually agreed, and said during the, during the trial, that Martez slept on the floor, while she and her sisters slept on a bed.

THE COURT: One moment.

Let me look at my notes.

I do have a note that she testified that Martez didn't have a pillow and blanket.

All right.

You may, you may continue.

MS. MC INTYRE: I believe she also testified to the fact that Martez wasn't fed, uhm, at the same time, or wasn't given the same amount of food.

He was -- she -- for all intents and purposes, she preyed on Martez.

And I believe that the fifteen, or twenty-five -- fifteen points is, uhm, correctly scored in this matter.

MR. GLENN: Judge, I would, I would object.

I mean, I -- you might have the, the ten point, uh, points in this case, but I don't think this was predatory.

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Where the, where he's a target.

I, I don't believe that the testimony, at this point, shows that Miss Alexander targeted Martez.

So, I, I would object to the fifteen points.

You would -- my client did not target Martez.

THE COURT: Predatory conduct is defined as, pre-offense conduct directed at a victim, or law enforcement Officer, posing as a potential victim, for the primary purpose of victimization.

While I do believe that Martez was singled out, I don't believe the testimony at the trial really flushed out how he was singled out.

Uhm, his testimony, really, the, the more substantial testimony, was the testimony that came out from the examination, uh, preliminary exam.

Uh, and not as much in the trial.

I am going to score, with that in mind, I am gonna score ten points, on OV-10.

So, that will remain at ten points.

MS. MC INTYRE: Okay.

THE COURT: Any other changes?

MS. MC INTYRE: Uhm, OV-13, uh, should be twenty-five.

She was convicted of three or more crimes against a person.

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THE COURT: How about OV-12?

How does that --

MS. MC INTYRE: OV-12 is twenty-five.

THE COURT: One second.

Now, OV-12 indicates, three or more contemporaneous felonious criminal acts involving crimes against a person were committed.

However, uh, the criminal act has not resulted, and will not result in a separate conviction.

So, if you're scoring the acts for which she was convicted of, OV-12 would not be scored.

MS. MC INTYRE: Right.

And I agree.

OV-12 should be zero.

And then OV-13 should be twenty-five.

THE COURT: Any objection, counselor?

MR. GLENN: Uh, well, it really doesn't affect the -- if you're gonna delete twenty-five on OV-12, then it, it doesn't matter for 13.

So, no objections.

THE COURT: All right.

And I do believe that, uh, however, based on the fact that she was convicted of those offenses, OV-12 should be zero.

And OV-13 is the guideline that should, uh,

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indicate the twenty-five points.

Any other corrections?

MS. MC INTYRE: Uhm, Your Honor, the People would argue that OV-14 should be ten.

She did direct, uh, Mr. Scott, to perpetrate some abuse against Martez.

There was testimony, uhm, in her own statement that she would ask him to zip tie Martez, when she was doing things, uhm, and even if you heard Mr. Scott's testimony, he claims she was the ring leader, in all of this, and that it was her idea.

So, the People would argue that it would be ten points.

THE COURT: Response?

MR. GLENN: I would object.

I mean, Your Honor, you, you saw the trial.

I, I don't believe Miss Alexander was the leader or, or, uh, direct Mr. -- the co-defendant in this case, to do something that he wasn't gonna do, anyway.

I don't -- I, I would object to the leadership points being added.

I don't believe the testimony supports that.

THE COURT: I would agree.

I think they were equally culpable.

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I think while one person might have provided directions on one day, it was -- they were both equally culpable, in this, in the allegations.

And so, I mean, I'm gonna keep that scored at zero.

Any other --

MS. MC INTYRE: Nothing from the People, Your Honor.

THE COURT: That would make the total O.V.s --

MS. MC INTYRE: I have one thirty.

THE COURT: I have seventy, eighty O.V.s?

MS. MC INTYRE: Ten, twenty, thirty -- so, one is ten; three is ten; four is ten --

THE COURT: Oh, OV-7, is fifty points.

MS. MC INTYRE: Right.

THE COURT: I forgot OV-7.

So, eighty -- so that would be a hundred and thirty?

MS. MC INTYRE: Which move the range to one seventy-one to two eighty-five.

THE COURT: It stays at a O.V. level six?

MS. MC INTYRE: Yes.

THE COURT: One moment.

And total P.R.V.s is twenty?

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MS. MC INTYRE: Oh, I apologize.

It is one, one thirty-five to two twenty-five.

THE COURT: Okay.

That's what I thought.

So, the O.V. range does not change from how they were scored, with M.D.O.C., correct?

MS. MC INTYRE: That's correct.

THE COURT: All right.

Anything, uh, else, on behalf of the People, before I impose sentence.

MS. MC INTYRE: Uhm, Your Honor, you heard the testimony, uhm, and you're very familiar with this case.

Uhm, this is a mother who tortured her son.

She zip tied him on a regular basis.

You saw the marks.

You saw the medical report.

Uhm, her seven children are in the care of other people.

Uhm, Martez and Robin and Michelle, who watched, and were victims of this abuse, are in the care of Miss Alexander's mother, who is here.

But, am I correct, still does not wish to speak?

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Uh, but she and I have spoken.

And the effect that this had on the children, all of, all of the five children she has in her care and custody, right now, are all in counseling.

Uhm, they're all -- they're all affected by what happened.

And they've, this tore everybody's family apart.

And it's affected Miss Alexander, herself, the grandmother.

I mean, she is raising her grand kids, and is dealing with the emotional aftermath that was caused at the hands of her daughter, who abused and tortured her own child, instead of seeking help, and, uh -- I mean, she victimized this poor child.

I mean, you saw the, you saw the marks.

You heard in testimony.

You, you've read the preliminary exam transcript, where he was saved by the Police, from his own parents.

He was not given food.

He was made to sleep on the floor.

He was zip tied.

He had marks on his arms and his ankles.

His ankles were swollen.

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Uhm, they were tied so tight that it was causing lacerations on, I mean, scarring.

I believe that, you know, torture is a life offense.

And at a minimum, Miss Alexander should face at least twenty-five years, in the Michigan Department of Corrections, at a minimum.

She's had no remorse.

I mean, even during her own interview with the Detroit Police, during this whole thing, she just said, yeah, I did it.

But didn't try to get any help.

And it was just like, oh, what else?

I mean, you know, he was being bad.

He was six.

He was trying to get food.

Well, he's trying to sneak food because you're not feeding him.

And she had to keep control over him, when she lived in a trailer that is definitely smaller than this room.

But she couldn't keep an eye on him, so she was forced to zip tie him, and put him outside.

The acts of this case are horrific.

And she should be sentenced, at a minimum, of

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twenty-five years.

THE COURT: Mr. Glenn?

MR. GLENN: Your Honor, on behalf of Miss Alexander, uh, we have two parents here.

Uh, both parents were found guilty by the juries.

Your Honor, uh, I would ask that, uh, when you look at my client's background, she has no history of violence.

She has no history of mistreatment of children.

She's never had any type of conviction, at all.

And I believe the Court should look at that, when you look at the whole person, that's before the Court today, for sentencing.

Uh, uhm, I would ask the Court to go below the guidelines, and give both parents the same thing.

I would, I would ask that Your Honor sentence Miss Alexander to somewhere around six, six and a half years, just like the co-defendant.

Uh, although she was found guilty of torture, the, the case as a whole, when you look at her, in this case, and her background, I don't think to go, within the guidelines, is justice.

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I think that both parents should be sentenced the same way.

THE COURT: Miss Alexander, anything on your own behalf, before I sentence you?

You have to -- you need to stand up, ma'am.

DEFENDANT: Ma'am, I didn't cause intentional harm to my child, intentionally.

THE COURT: I didn't hear you, I'm sorry.

DEFENDANT: I did not cause intentional harm to my child.

I was simply discipline him in the way that I grew up being disciplined.

He did not get spankings on the regular basis.

Every day.

That is not true.

He was fed.

He didn't receive snacks, due to misbehavin' in school.

He couldn't have sweets.

That's all that way.

He was fed adequate meals, just like everyone else.

And given, I haven't no history, I've never been in trouble, to give me twenty-five years, that is

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my life.

That is my life.

And I don't think that's fair.

I don't think that is fair, Your Honor.

I'm willing to do any, and everything that I can, that will help me, counselin', therapy, none of this was even offered.

I was never given the chance to seek help.

And over the course of the case goin' on, I turned to drugs.

You, you set a sentencing, and released me.

I completed my counseling, the substance abuse.

It was helping.

I was learning.

To lock me away in a facility, is not gonna help.

It's really not.

I am whole heartedly, whole heartedly, sorry for my actions.

And the way I responded.

There is no book that teaches you how to be a parent.

It's not.

My children still love me, as much as I love

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them.

And to tear us apart, until they become my age, and above, is not fair.

It's not, Your Honor.

And I thank you for givin' me the opportunity to speak.

THE COURT: Well, this is a, a difficult case, I think, to even listen to, frankly.

Uhm, we have the testimony of Marcel (sic).

But there's the testimony of -- one moment.

There was the testimony of Gwendolyn Douglas.

And while it was clear that she did not want to be here, she did not want to testify, uh, she had serious concerns about the significant weight loss of Martez.

There was testimony of Renisha Bowden that, uhm, she had indicated that when Martez was living with her mom, I believe, he had a normal weight, and yet, uh, she was very concerned about what was happening to Martez, as well.

There is no hand book, on how to be a parent.

Being a parent is really hard.

It is difficult.

And I appreciate it, and I understand that.

But not feeding your children; being angry

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because they were sneaking food.

I mean, kids eat when they're hungry.

I had an opportunity to observe Martez.

There was nothing in his physical appearance that lead me to believe he over ate.

He, the pictures of Martez were troubling, at how thin he was.

The injuries to Martez were quite, uh, substantial.

And frankly, I did hear the testimony of -- the testimony throughout the trial, really lead the Court to a, uh, inference that, even the particulars of the statements that were made, you had moved on from Martez, frankly.

You had children with Mr. Scott.

Those were the children you were focusing on.

Miss -- Martez was not Mr. Scott's child.

And while I did not scored fifteen points for the predatory conduct, because I don't believe it was fully flushed out, throughout the course of the trial, I do believe that Martez was singled out.

And frankly, I believe he was singled out because he wasn't Mr. Scott's child.

It is clear that he is going -- uh, that he suffered significantly, while under your care.

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The fact that your father, I believe the testimony is, you father had to come and, come to the location, uh, to, to get Martez, once it -- once, once it was made aware where you were staying.

And, and again, Mr. Martez testified, at the preliminary exam, that he was saved.

The Police saved him from his parents.

That’s not a normal thing a child says, about a parent, that is treating them.

Uh, a child that old, a six year old child.

I can understand where older children may be more manipulative, as they get older.

A six year old child, that is not the reaction you would expect.

Or, voluntarily stating, on a number of occasions, at the preliminary exam, that he was eating now.

Those are pieces of information that lead this Court to believe that you were fully aware of what was happening to Martez.

And you chose to -- you -- well, not only did you turn a blind eye to when it was being done by Mr. Scott, you had moved on from Martez.

You had other children.

And I do believe you singled him out, for

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despair of treatment.

And I believe, ultimately, that's what the jury found, too.

They did not find you guilty, as it related to Ms. Robin Scott.

They found you guilty as it related to Martez.

And I do want to speak, briefly, about -- I, I, I can't imagine what, your family having to take care of your children, I think they are, your children are lucky that your family is there, to take care of them.

To provide them with a, a place to live, a stable residence.

I've read your, I've read the history.

I understand it wasn't easy, Miss Alexander.

I've read what you've indicated.

And I, and I am taking that into consideration.

Uh, but, your family has stepped in, to take care of the kids.

And these kids are going to need significant counseling, continued counseling, and continued treatment.

And they're lucky that they have -- they

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weren't separated, and put in separated homes.

But they were families, I think they, they're not all in the same home, but they're still within groups, together.

Is that correct?

MS. MC INTYRE: Five and, five and two.

THE COURT: Five and two.

That's what I thought.

And even if Martez is acting out, it is what, it is, frankly, to be expected.

All the children acting out, is to be expected.

Their life has been turned upside down, and inside out.

And I, uh, you know, I can understand, being a grandmother, you don't want to be the disciplinarian.

You want to be the person that, you know, can hug, and kiss your grand kids, and see them, and then send them back home, when they're done.

And I, and I appreciate how difficult your job is.

But I, I ask that you stay strong, because these kids really need you in their lives.

And they need you to help them pull through this.

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And this is a life long journey that they are going to have.

With that said, while I find the behavior that was exhibited by Miss Alexander, toward Martez, atrocious, and she has no previous criminal history, I don't believe going above the guidelines is appropriate.

I don't believe going below the guidelines, or even at the bottom of the guidelines, is appropriate, either, however.

It is -- I am going to sentence Miss Alexander, as to the count of torture, to a period in the Michigan Department of Corrections, of seventeen years at a minimum, with a maximum of thirty years.

That will be served concurrently to count two, child abuse in the second degree.

Now, one moment, we did not score the guidelines on the child abuse in the second degree.

Those would be on the "C" grid.

MS. MC INTYRE: Forty-three to eighty-six.

THE COURT: Forty-three to eighty-six?

MS. MC INTYRE: Yes.

It's a "C", and 6.

THE COURT: Oh, I was looking at the wrong grid.

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It would be a C-6 grid.

Do you agree to those guidelines, of forty-three to eighty-six?

MR. GLENN: Yes, Your Honor.

THE COURT: All right.

It is the sentence of this Court that you're to serve a minimum of six and a half years, with a maximum of ten years, in the Michigan Department of Corrections.

That would be served concurrently, uh, to the torture offense.

And for child abuse in the second degree, in the presence of another child, again, six and a half to ten years, in the Michigan Department of Corrections, concurrent to your other two sentences.

And for count four, child abuse in the third degree, I will sentence you to a period of ninety-six days in the Wayne County Jail, with credit for ninety-six days served.

You will receive ninety-six days credit on all of the remaining counts, as well.

Ma'am, you are entitled to file an application -- I'm sorry.

You are entitled to file -- uh, let me restate that.

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Ma'am, you are entitled to appeal your judgment and sentence in this matter.

If you cannot financially afford an attorney, an attorney will be appointed to you, for that appeal.

And the request for a lawyer must be made within forty-two days after sentencing.

Does your client acknowledge receipt of her appellate rights?

MR. GLENN: Yes, Your Honor.

THE COURT: Oh, one moment.

I still have costs and fees.

Ma'am, you must not have verbal, written, electronic, or physical contact with Martez Abdullah, either directly, or through another person.

You must not be within five hundred feet of the residence, school, or place of employment.

You may pay two hundred and seventy-two dollars State costs; you must pay crime victims assessment in the amount of a hundred and thirty dollars.

The Court having considered the defendant's ability to pay, as outlined P.S.I.R., orders court costs in the amount of one thousand three hundred dollars.

These costs represents a sum associated with

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the prosecution of defendant in this matter, including salaries and benefits, related staff, good and services, for the operation and maintenance of this courthouse.

And you must pay four hundred dollars in attorney fees.

The inability to pay the court costs and attorney fees shall not serve as a barrier to parole.

All right.

Thank you.

MS. MC INTYRE: Thank you.

(Proceedings concluded for the day at 9:58 a.m.)

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CERTIFICATION OF COURT REPORTER

STATE OF MICHIGAN)
) ss.
COUNTY OF WAYNE)

I, SUZANNE L. KINSEY, Official Court Reporter in and for the Third Circuit Court for the County of Wayne, State of Michigan, do hereby certify that the foregoing pages 1 through 29, inclusive, comprises a full, true and correct rendition, to the best of my ability, of the proceedings and testimony recorded by the Court, in the matter of the People of the State of Michigan versus Gwendolyn Josephine Alexander, Case No. 20-01501(2), on November 8, 2022 (Sentence).

Suzanne L. Kinsey
Suzanne L. Kinsey, CSMR 4477
Official Court Reporter

Dated: October 26, 2023

Detroit, Michigan

The authenticity of the foregoing transcript is null and void unless affixed with an ***original*** signature of the Court Reporter in blue ink.

If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.

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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GWENDOLYN JOSEPHINE ALEXANDER,

Defendant-Appellant.

FOR PUBLICATION
November 20, 2024
9:29 AM

No. 364063
Wayne Circuit Court
LC No. 20-001501-02-FC

Before: K. F. KELLY, P.J., and CAVANAGH and RIORDAN, JJ.

K. F. KELLY, P.J.

Defendant appeals by right her jury-trial convictions for one count of torture, one count of second-degree child abuse, one count of second-degree child abuse in the presence of another child, and one count of third-degree child abuse. Defendant was sentenced to 17 to 30 years' imprisonment for the torture conviction, 6½ to 10 years' imprisonment for the second-degree child abuse conviction, 6½ to 10 years' imprisonment for the second-degree child abuse in the presence of another child conviction, and 96 days in jail for the third-degree child abuse conviction.

Defendant raises numerous issues on appeal concerning her convictions, chiefly that the trial court committed plain error when it permitted the prosecution's expert to testify regarding the "medical torture" diagnosis. Because the contested terminology did not have the potential to conflate the expert's medical diagnosis with any legal conclusion concerning defendant's legal responsibility, we affirm defendant's convictions. However, as a result of errors of law made by the trial court concerning the scoring of offense variable ("OV") 5 and OV 7, we vacate defendant's sentences and remand to the trial court for resentencing in accordance with this opinion.

I. BASIC FACTS AND PROCEDURAL HISTORY

Defendant and codefendant Errown Robinson-Burton Scott were in a domestic relationship for approximately five years at the time of the lower court proceedings. Defendant, Scott, and

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defendant's minor children, MLA, RRS, and MMS,[1] resided in a mobile home parked on property owned by Scott's mother in Detroit, Michigan. Defendant and Scott were charged as a result of allegations following a welfare check that the two physically disciplined MLA and RRS and, in the presence of his siblings, defendant and Scott repeatedly bound MLA's wrists and ankles using zip ties in order to control the minor child's alleged misbehavior.

In January 2020, Ranisha Bowden, the godmother of MLA, was concerned about MLA's well-being and contacted child protective services ("CPS") and law enforcement requesting a welfare check. The authorities arrived at the property and, after observing the condition of the mobile home and signs of abuse and neglect of the minor children, the children were subsequently escorted to the local children's hospital. At the hospital, the children underwent medical examinations, during which the supervising physician, Dr. Shazia Maqbool, noted there were linear scars around MLA's wrists and ankles, in addition to swelling and tenderness around both of MLA's ankles. Following an investigation, defendant and Scott were arrested and criminally charged with child abuse and torture. In March 2020, a second physician, Dr. Dena Nazer, examined the minor children, and she diagnosed MLA and RRA with "medical torture" as a result of her belief that the two were exposed to at least two distinct incidents of physical assault and at least two psychological maltreatments. Dr. Nazer further noted the ligature markings on MLA's extremities remained visible six weeks after the incident.

Following a five-day jury trial, during which Dr. Maqbool and Dr. Nazer served as the prosecution's expert witnesses, defendant was convicted of one count of torture, MCL 750.85, one count of second-degree child abuse, MCL 750.136b(3), one count of second-degree child abuse in the presence of another child, MCL 750.136d(1)(b), and one count of third-degree child abuse, MCL 750.136b(5).[2] Defendant was sentenced as noted earlier, and this appeal followed.

II. SUFFICIENCY OF THE EVIDENCE

Defendant argues that her conviction should be overturned because there was insufficient evidence to convict her of torture. We disagree.

A. STANDARDS OF REVIEW

This Court reviews de novo a challenge to the sufficiency of the evidence. *People v Byczek*, 337 Mich App 173, 182; 976 NW2d 7 (2021). In evaluating a defendant's claim concerning the sufficiency of the evidence, we review the evidence in a light most favorable to the prosecution to discern whether any trier of fact could find the essential elements of the crime were proven beyond a reasonable doubt. *People v Robinson*, 475 Mich 1, 5; 715 NW2d 44 (2006). "Circumstantial evidence and reasonable inferences arising therefrom may constitute proof of the elements of the crime." *People v Head*, 323 Mich App 526, 532; 917 NW2d 752 (2018). When reviewing a

[1] Defendant and Scott are the parents of RRS and MMS; MLA is the only child with a different father.

[2] Defendant was acquitted of one count of third-degree child abuse concerning one of her minor children, RRS.

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sufficiency claim on appeal, we "must defer to the fact-finder by drawing all reasonable inferences and resolving credibility conflicts in support of the jury verdict." *People v Schumacher*, 276 Mich App 165, 167; 740 NW2d 534 (2007).

B. ANALYSIS

Torture is defined under MCL 750.85, which states, in pertinent part:

> (1) A person who, with the intent to cause cruel or extreme physical or mental pain and suffering, inflicts great bodily injury or severe mental pain or suffering upon another person within his or her custody or physical control commits torture and is guilty of a felony punishable by imprisonment for life or any term of years.
>
> (2) As used in this section:
>
> (a) "Cruel" means brutal, inhuman, sadistic, or that which torments.
>
> (b) "Custody or physical control" means the forcible restriction of a person's movement or forcible confinement of the person so as to interfere with that person's liberty, without that person's consent or without lawful authority.
>
> (c) "Great bodily injury" means either of the following:
>
> (*i*) Serious impairment of a body function as that term is defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.
>
> (*ii*) One or more of the following conditions: internal injury, poisoning, serious burns or scalding, severe cuts, or multiple puncture wounds.
>
> * * *
>
> (3) Proof that a victim suffered pain is not an element of the crime under this section. [*People v Schaw*, 288 Mich App 231, 233-234; 791 NW2d 743 (2010), quoting MCL 750.85.]

Accordingly, to convict defendant of torture, the prosecution was required to demonstrate beyond a reasonable doubt that (1) defendant intended to cause cruel or extreme physical or mental pain and suffering, (2) defendant inflicted great bodily injury, and (3) the complainant was within defendant's custody and control. MCL 750.85; *Schaw*, 288 Mich App at 233-234. Defendant only contests the sufficiency of the evidence as to the first two elements.

Defendant argues that the prosecution failed to establish the requisite intent element, as (1) defendant explained that she opted to bind MLA with zip ties because of MLA's concerning behavior, which required constant supervision, and (2) defendant's conduct arose out of her inability to provide proper care for MLA as she was also responsible for her other minor children.

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While defendant's alleged acts of restraining MLA may hardly be classified as accidental or inadvertent, torture is a specific-intent crime requiring a finding that a defendant acted to cause cruel or extreme physical or mental pain and suffering to a person under restraint or confinement by the defendant. See MCL 750.85. "[B]ecause it can be difficult to prove a defendant's state of mind on issues such as knowledge and intent, minimal circumstantial evidence will suffice to establish the defendant's state of mind, which can be inferred from all the evidence presented." *People v Kanaan*, 278 Mich App 594, 622; 751 NW2d 57 (2008). A defendant's intent may be inferred "from his words or from the act, means, or the manner employed to commit the offense." *People v Hawkins*, 245 Mich App 439, 458; 628 NW2d 105 (2001).

While defendant attempts to justify her behavior of binding MLA with zip ties as a means of controlling the minor child's conduct, her own statements and the severity of the cut marks on MLA's wrists and ankles indicate otherwise. See *Brown v Brown*, 332 Mich App 1, 10; 955 NW2d 515 (2020) ("It has long been established that a parent may not administer excessive physical discipline, or physical discipline that actually harms a child, no matter what the parent might subjectively believe."); see also *People v Green*, 155 Mich 524, 533; 119 NW 1087 (1909) ("[I]t is the unquestionable right of parents and those *in loco parentis* to administer such reasonable and timely punishment as may be necessary to correct growing faults in young children; but this right can never be used as a cloak for the exercise of malevolence or the exhibition of unbridled passion on the part of a parent."). The hospital photographs admitted at trial depict notable, dark ligature markings on MLA's extremities, such that defendant could not possibly have been unaware that she was inflicting pain on MLA when using them. Defendant additionally recognized that MLA continually struggled against being restrained, as defendant attributed the markings on MLA's wrists to the restraint being "too tight," and MLA attempting to "shimmy out of it" or "tightening it up as he's pulling to trying to weasel his way out of it." Moreover, the act of binding MLA, in conjunction with his repeated exposure to physical discipline with a belt and ruler, his inability to use the bathroom and the discovery of bottles filled with urine in the family's mobile home, MLA's withdrawal from school, MLA's sleeping on the floor of the mobile home, and MLA's "thin" appearance, were all further indicative of defendant's intent. Defendant additionally neglected to seek alternate means to address MLA's alleged misbehavior and opted to restrain, or allow Scott to restrain, her six-year-old child with plastic zip ties. In light of these circumstances, the jury could conclude beyond a reasonable doubt that defendant intended to cause MLA cruel or extreme physical or mental pain and suffering by repeatedly binding his extremities with zip ties.

Defendant also argues that there was insufficient evidence that defendant inflicted great bodily injury against MLA. The term "great bodily injury" is defined, in part, as the "[s]erious impairment of a body function as that term is defined in section 58c of the Michigan Vehicle Code, 1949 PA 300, MCL 257.58c." MCL 750.85(2)(c)(*i*). Under MCL 257.58c, "[s]erious impairment of a body function" includes a "[s]erious visible disfigurement." MCL 257.58c(e). In the instant matter, a reasonable trier of fact could have readily concluded that MLA suffered a serious visible disfigurement. The prosecution presented photographs depicting scarring and hyperpigmentation around MLA's ankles and wrists, which both expert physicians characterized as ligature marks. While defendant suggests that Dr. Nazer testified that the ligature markings on MLA's extremities were "healing," or less prominent, we have previously held that an injury under MCL 257.58c need not be permanent or long lasting to qualify as a "serious impairment of a body function." *People v Thomas*, 263 Mich App 70, 76; 687 NW2d 598 (2004) ("We first note that an injury need

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not be long-lasting to be considered a 'serious impairment.' "). Furthermore, the evidentiary record indicates that Dr. Nazer indicated that the initial wounds, which led to the subsequent scars on MLA's wrists and ankles, had healed enough to result in a scar, not that the scars were no longer visible or prominent. Dr. Nazer testified: "The significant findings on [MLA's] exam were scars that are almost circumferential, meaning that they go around both of his wrists and go both around both of his ankles as well." Dr. Nazer further differentiated between a wound and scar, noting:

> So a wound to me is a cut. Now, when we examined [MLA], he had the scars on his wrists. The scars were described as being hyperpigmented, which means that they had a darker color compared to the rest of his skin.
>
> So it's hard to—it's hard to say whether this had started off as abrasions or a cut in the skin or they had started off as bruises. It's really hard because at this point because it had healed.

Defendant additionally advances that while MLA's injuries may qualify as a visible disfigurement, the marks could not be defined as "serious" because such scarring did not lead to death or severe health consequences, or require further treatment. However, the child's disfigurement was visible and serious, as indicated by its physical characteristics and the fact the disfigurement remained visible six weeks after the subject incident. See *id*. at 77 ("We conclude that this lesser impairment, itself within the statutory list, suffered for a much greater time than required for a more serious injury within the list, is properly considered as falling within the 'serious impairment' category."). Furthermore, when Dr. Nazer was questioned regarding the severity of MLA's injuries, she "consider[ed] them severe" but "healed," and she "would still have considered them severe because of the nature of the wounds." Thus, viewed in a light most favorable to the prosecution, the evidence was sufficient to enable a rational trier of fact to conclude beyond a reasonable doubt that MLA suffered a "serious impairment of body function" within the meaning of the criminal statute.

III. EXPERT WITNESS TESTIMONY

Next, defendant argues that the trial court plainly erred when it permitted the prosecution's expert witness to testify regarding the diagnosis of "medical torture." Defendant further argues that the court erred when it allowed the prosecution's expert witness to testify regarding facts that were never admitted into evidence in violation of MRE 703.[3] We disagree.

[3] "To preserve an evidentiary issue for review, a party opposing the admission of evidence must object at trial and specify the same ground for objection that it asserts on appeal." *People v Thorpe*, 504 Mich 230, 252; 934 NW2d 693 (2019). Defendant did not object to the testimony of the prosecution's expert witness, Dr. Nazer, on the basis that her use of the diagnostic term "medical torture" invaded the province of the jury. Accordingly, this issue is not preserved on appeal. See *id*. However, defendant did object to Dr. Nazer's testimony on the grounds that her use of hearsay statements and inadmissible facts amounted to a violation of MRE 703; therefore, this issue is preserved for appellate review. See *Thorpe*, 504 Mich at 252.

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A. STANDARDS OF REVIEW

"A trial court's decision to admit or exclude evidence is reviewed for an abuse of discretion[,]" and such decisions "will not be disturbed unless that decision falls outside the range of principled outcomes." *Thorpe*, 504 Mich at 251-252 (quotation marks and citation omitted). A trial court necessarily abuses its discretion when it premises its decision on an error of law. *People v McFarlane*, 325 Mich App 507, 517; 926 NW2d 339 (2018). However, "[a] decision on a close evidentiary question ordinarily cannot be an abuse of discretion." *Thorpe*, 504 Mich at 252. "This Court reviews de novo whether the trial court properly interpreted and applied the rules of evidence." *McFarlane*, 325 Mich App at 517. "This Court also reviews de novo constitutional questions . . . such as whether the trial court improperly allowed a witness to invade the province of the jury." *Id*.

"However, when issues are unpreserved, this Court must review the unpreserved claim for plain error affecting defendant's substantial rights." *People v Serges*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 355554); slip op at 5 (quotation marks and citation omitted).

> To establish entitlement to relief under plain-error review, the defendant must establish that an error occurred, that the error was plain, i.e., clear or obvious, and that the plain error affected substantial rights. An error affects substantial rights when it impacts the outcome of the lower-court proceedings. Reversal is warranted only when the error resulted in the conviction of an actually innocent defendant or seriously affected the fairness, integrity, or public reputation of judicial proceedings independently of the defendant's innocence. [*People v Burkett*, 337 Mich App 631, 635; 976 NW2d 864 (2021) (quotation marks and citations omitted).]

B. ANALYSIS

A trial court may allow testimony of a "witness qualified as an expert by knowledge, skill, experience, training, or education" if the court ascertains that the "scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue . . . ." MRE 702. During a trial proceeding, an expert may advance an opinion if his or her testimony is "based on sufficient facts or data," if the testimony "is the product of reliable principles and methods," and if the witness "has applied the principles and methods reliably to the facts of the case." *Id*. "The trial court must also ensure that the expert's testimony is relevant." *McFarlane*, 325 Mich App at 518. And "[e]ven when an expert's testimony is relevant, it remains subject to the limits imposed by MRE 403." *Id*.

In *McFarlane*, we examined whether medical expert testimony invaded the province of the jury by citing accepted medical terminology that may be misconstrued by laypersons as imparting emotionally-charged or legally conclusory connotations. *Id*. at 517-527. We determined that the trial court plainly erred when it permitted the prosecution's expert witness, a child abuse pediatrician, to use the diagnostic terms "abusive head trauma" and "definite pediatric child abuse," in her trial testimony, considering the defendant was charged with first-degree child abuse. *Id*. at 523-527.

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Ultimately, the contested diagnoses implicated a level of willfulness and culpability that was solely within the purview of the jury to determine, as the prosecution's expert witness expressly connected said diagnoses to the defendant's state of mind. The Court noted:

> [The expert witness] repeatedly told the jury that [the complainant's] injuries were "caused by definite pediatric physical abuse," and she stated that "we know that abusive head trauma" causes these injuries because people confess to hospital staff and investigators or other family members after inflicting the injuries. She also agreed that [the complainant] had suffered previous abuse even though she was only nine weeks old. She further told the prosecutor that she was correct when the prosecutor noted that [the expert witness] looked at the totality of the circumstances before concluding that this case involved "child abuse." [*Id*. at 524.]

We clarified that "a physician may properly offer an opinion that, when the medical evidence is considered along with the child's history, the child's injuries were inflicted rather than caused by accident or disease because a jury is unlikely to be able to assess the medical evidence." *Id*. at 522. However, the *McFarlane* expert witness exceeded those bounds by providing an opinion that essentially implicated the defendant's intent in perpetrating the alleged acts of abuse. *Id*. at 523.

This is not the case here. The contested terminology in this case did not have the potential to conflate Dr. Nazer's medical diagnosis with a legal conclusion concerning defendant's legal responsibility. Again, to convict defendant of torture, the prosecution was required to demonstrate beyond a reasonable doubt that (1) defendant intended to cause cruel or extreme physical or mental pain and suffering, (2) defendant inflicted great bodily injury, and (3) the complainant was within defendant's custody and control. MCL 750.85; *Schaw*, 288 Mich App at 233-234. During her trial testimony, Dr. Nazer, an expert in general pediatrics and child abuse pediatrics, shared that she made a medical, not legal, diagnosis of "medical torture" after having the opportunity to review the minor child's medical records, conduct a physical examination, and interview MLA. See *People v Ackley*, 336 Mich App 586, 595; 970 NW2d 917 (2021) ("[W]here it is possible to draw a medical diagnosis based on a physical examination, as opposed to a complainant's self-reporting, an expert is fully permitted to testify that, in their opinion, a particular injury was not accidentally self-inflicted."). Dr. Nazer explained:

> So medical torture is a clinical diagnosis. It's a medical diagnosis that we give children who have been exposed to at least two different physical assaults, so two physical assaults at two different times.
>
> And it's not just the physical assaults. To qualify for the diagnosis of medical torture, it has to be accompanied by at least two psychological maltreatments or two forms of psychological abuse. So, for example, isolation, deprivation, intimidation. If we have two of those and then two physical assaults or one prolonged physical assault, then we can reach the diagnosis of medical torture.
>
> So it's beyond the examination or beyond the evaluation of just physical abuse. This is a child who is diagnosed with physical abuse and it's psychological maltreatment as well.

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Dr. Nazer noted that medical torture was "not a very common diagnosis, it's only reserved for severe cases of severe psychological maltreatment. It's not something that we make very often and we have to be able to obtain information from other sources regarding the treatment at home." See *id*. Dr. Nazer further asserted that "[t]he injuries on [MLA's] wrists and on his ankles, they're consistent with ligature marks and they're consistent with his history of being tied with zip ties."

Also, unlike in *McFarlane*, in this case Dr. Nazer did not suggest that defendant acted knowingly or intentionally when she testified that the children were diagnosed with medical torture or addressed any element of the crime charged. As described above, the term "medical torture" is a medical diagnosis reserved for only severe cases in which the victim is subjected to at least two instances of physical harm and two instances of psychological harm, but does not suggest any amount of intentionality. Furthermore, while the prosecution noted in its closing argument that Dr. Nazer had characterized the symptoms as having been caused by abuse, the prosecution did not advance that the jury should rely on Dr. Nazer's testimony in its determination of whether defendant possessed the requisite intent to establish torture. Rather, the prosecution contended that defendant's own statement to law enforcement, the severity of MLA's injuries, the testimonies of various nonexpert witnesses, and defendant's subsequent actions tended to establish defendant's guilt. See *McFarlane*, 325 Mich App at 526 (opining any prejudice arising out of the expert witness's improper characterization of the acts was lessened, in part, by the prosecution informing the jury, in its closing argument, not to rely on the expert witness's opinion in deciding whether the defendant had the requisite intent to establish first-degree child abuse); *People v Murray*, 234 Mich App 46, 60; 593 NW2d 46 (1999) (reasoning that the expert witness did not invade the province of the jury because, in part, "the prosecutor argued only the facts of th[e] particular case during her closing arguments."). Similarly, the dangers of an expert witness invading the province of the jury are not present in circumstances in which, "in expressing his ideas and opinion on the matter, the witness refers to legal standards properly explained by the trial court or examining attorney." *People v Robinson*, 417 Mich 231, 234; 331 NW2d 226 (1983).

But even if we agreed with defendant that the admission of the testimony was an abuse of discretion, under plain error review, the trial court's error in admitting the testimony does not entitle defendant to relief unless she can establish that the error affected the outcome of the lower court proceedings. See *McFarlane*, 325 Mich App at 525. "Our review for prejudice does not consider what outcome might have ensued if the prosecution's experts had not opined that [the complainant] suffered nonaccidental injuries, but rather what might have ensued if the prosecution's experts had phrased their opinions using less emotionally and legally suggestive terminology." *Ackley*, 336 Mich App at 595. While Dr. Nazer opined that MLA's injuries indicated that the minor child was exposed to at least two distinct physical assaults and at least two psychological maltreatments, warranting a diagnosis of "medical torture," she detailed her diagnosis was a consequence of her review of the medical records admitted in evidence, which included photographs of the ligature marks on MLA's extremities and an x-ray of the minor child's ankles. See *Robinson*, 417 Mich at 234.

Thus, even without the employment of terminology "medical torture," Dr. Nazer could have properly testified about the extent of MLA's injuries, the nonaccidental nature of the minor child's injuries, his repeated exposure to physical assault and psychological harm, and the nature of MLA's statements during his examination. Additionally, Dr. Maqbool testified that the overall presentation of MLA's injuries was indicative of child abuse due to the nature of the linear scars

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around MLA's wrists and ankles, in addition to swelling and tenderness around both of MLA's ankles. Most pertinently, defendant herself acknowledged that there were numerous occasions during which MLA was physically disciplined with a ruler or belt, and MLA was bound, by either defendant or Scott, to address MLA's alleged misbehavior. See *Ackley*, 336 Mich App at 596 ("In other words, for the most part, the substance of the experts' testimonies would have been conveyed to the jury in any event, and thus, the other nonscientific evidence would still have been considered in that context.").

Moreover, Dr. Nazer expressed that she believed both MLA and RRS suffered from medical torture, and she advanced similar testimony regarding the two minor children. However, the jury acquitted defendant of the third-degree child abuse charge related to her alleged acts toward RRS, and the jury acquitted Scott as to the torture charge arising out of his alleged conduct toward MLA. If the jury had, as defendant contends, thoughtlessly determined that a diagnosis of medical torture alone was sufficient to find a person guilty of an offense, then the jury would have convicted the parties accordingly. However, the evidence presented regarding defendant's conduct and the nature and extent of MLA's injuries, compared to RRS, appeared to weigh in the jury's determination as to what of defendant's alleged acts warranted a conviction. Moreover, the trial court stated it would "instruct the jury that you are not to consider [the aforementioned testimony] as evidence that that actually did happen. You may only consider it as to why this doctor reached her conclusions which would be appropriate." See *People v Zitka*, 335 Mich App 324, 348; 966 NW2d 786 (2020) ("Jurors are presumed to follow their instructions, and jury instructions are presumed to cure most errors.") (quotation marks and citation omitted). Thus, even if the trial court plainly erred by allowing Dr. Nazer to use the label "medical torture," it is unlikely that the error affected the outcome of the trial considering the evidence presented. Therefore, the error does not warrant relief.

Defendant also argues that the court erred when it permitted Dr. Nazer to testify regarding facts that were never admitted into evidence, in violation of MRE 703. At the time of defendant's trial, MRE 703 stated:

> The facts or data in the particular case upon which an expert bases an opinion or inference shall be in evidence. This rule does not restrict the discretion of the court to receive expert opinion testimony subject to the condition that the factual bases of the opinion be admitted in evidence thereafter.

"This rule permits an expert's opinion only if that opinion is based exclusively on evidence that has been introduced into evidence in some way other than through the expert's hearsay testimony." *People v Fackelman*, 489 Mich 515, 534; 802 NW2d 552 (2011) (quotation marks and citation omitted). Thus, a party must establish that facts or data used to form the expert's opinion are admissible at trial. *People v Yost*, 278 Mich App 341, 363; 749 NW2d 753 (2008).

> It necessarily follows that an expert witness may not base his or her testimony on facts that are not in evidence. An expert witness need not rule out all competing and alternative theories, but he or she must have a sound evidentiary basis for his or her conclusions. An expert witness's opinion is objectionable if it is based on assumptions that do not accord with the established facts. When an expert's opinion is based on assumptions that are contrary to the facts in evidence, it is

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> technically irrelevant to the actual issues at trial. [*People v Unger*, 278 Mich App 210, 248; 749 NW2d 272 (2008) (citations omitted).]

At trial, Dr. Nazer testified that her education, training, and experience provided her with knowledge concerning "how to evaluate children, how to perform medical exams, how to identify injuries, how to diagnose, how to teach, how to conduct research all related to child abuse and neglect." Dr. Nazer further testified that prior to performing her evaluations of MLA, she examined the minor child's medical records, which included a number of photographs of MLA's injuries and the results of MLA's x-ray report, in addition to information provided by the forensic interviewer. Dr. Nazer also interviewed defendant, Scott, and the minor children before she conducted the physical examination of MLA. After completing her assessment of MLA, Dr. Nazer "gave him the diagnosis of medical torture," which entailed psychological maltreatment and physical abuse. Dr. Nazer expressed that her "medical torture" diagnosis was "based on information that I received from the forensic interview as well as information that I received during obtaining the medical history from Ms. Bowden, and also information from [MLA] himself." Dr. Nazer shared that her findings were provided in her Children's Advocacy Center ("CAC") report, and a redacted version of the CAC report was admitted during trial. The trial court further admitted the certified medical records of MLA, RRS, and MMS during trial.

The facts and data underlying Dr. Nazer's testimony were fundamentally presented in testimony, documents, and photographs admitted during the five-day jury trial. The redacted CAC report detailed that MLA previously disclosed during his emergency room visitation on January 22, 2020, that he was physically assaulted by Scott on numerous occasions and that he was bound to a bed or chair. Furthermore, the CAC report stated that MLA was not adequately fed by defendant, and there was period of time for which MLA did not attend school, which Bowden, MLA's godmother, testified about. Dr. Nazer additionally provided in the CAC report that MLA informed her that the injuries on his wrists and ankles were the result of being bound with zip ties. MLA also reported to Dr. Nazer that (1) he was barred from interacting with certain family members; (2) he was subject to physical discipline by defendant and Scott; and (3) he was deprived of food, and he was required to sleep on the floor of the mobile home. Furthermore, the admitted hospital photographs captured the various injuries to MLA's wrists and injuries, in addition to a bruise on his face.

We recognize that the portion detailing the forensic interviewer's statements was redacted. However, the portion of the CAC report dedicated to summarizing the forensic interview did not contain any novel facts when compared to the nonredacted portion of the CAC report, in addition to the admitted certified medical records of the minor children. Furthermore, while defendant argues that Dr. Nazer relied on statements by declarants who were neither shown to be "unavailable" nor subject to prior to cross-examination, thereby violating defendant's confrontation rights, Dr. Maqbool, MLA, RRS, and Bowden testified at trial.

To the extent that Dr. Nazer relied on hearsay to formulate a diagnosis, and no hearsay exception applied, an expert is allowed to recount and rely on hearsay if it was used as a basis to form an opinion. See *People v Lonsby*, 268 Mich App 375, 382-383; 707 NW2d 610 (2005), citing MRE 703 ("It is well-settled that an expert witness may rely on hearsay evidence when the witness formulates an opinion"). Dr. Nazer was permitted to advance testimony concerning the alleged abuse of MLA as her opinion was made on the basis of admitted evidence detailing physical

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findings and MLA's medical history, in addition to the minor child's statements. MRE 702; see also *Thorpe*, 504 Mich at 255 (noting, an examining physician, if qualified by experience and training relative to treatment of the complainant, can opine with respect to the cause of the complainant's injuries "when the opinion is based on physical findings *and* the complainant's medical history"). Accordingly, it was not error for the trial court to allow Dr. Nazer to testify.

IV. EFFECTIVE ASSISTANCE OF COUNSEL

Alternatively, defendant argues that she was deprived of the effective assistance of counsel when her trial counsel failed to object to the testimony of the prosecution's expert witness. We disagree.

A. STANDARDS OF REVIEW

"Generally, whether a defendant had the effective assistance of counsel is a mixed question of fact and constitutional law." *People v Heft*, 299 Mich App 69, 80; 829 NW2d 266 (2012) (quotation marks and citation omitted). "This Court reviews findings of fact for clear error and questions of law de novo." *Id*. "Clear error exists when the reviewing court is left with the definite and firm conviction that a mistake has been made." *People v Chaney*, 327 Mich App 586, 587 n 1; 935 NW2d 66 (2019) (quotation marks and citation omitted).

Defendant failed to move for a new trial or request an evidentiary hearing in the trial court, *Heft*, 299 Mich App at 80, or file with this Court a motion for remand to the trial court for a *Ginther*[4] hearing. See *People v Abcumby-Blair*, 335 Mich App 210, 227; 966 NW2d 437 (2020). Therefore, our review of defendant's claim of ineffective assistance is limited to mistakes apparent from the record. *People v Lane*, 308 Mich App 38, 68; 862 NW2d 446 (2014).

B. ANALYSIS

The United States Constitution and Michigan Constitution guarantee a criminal defendant the right to effective assistance of counsel. US Const, Am VI; Const 1963, art 1, § 20. For a defendant to succeed on such a claim, the defendant must establish "(1) counsel's performance fell below an objective standard of reasonableness and (2) but for counsel's deficient performance, there is a reasonable probability that the outcome would have been different." *People v Trakhtenberg*, 493 Mich 38, 51; 826 NW2d 136 (2012). "In examining whether defense counsel's performance fell below an objective standard of reasonableness, a defendant must overcome the strong presumption that counsel's performance was born from a sound trial strategy." *Id*. at 52.

"The inquiry into whether counsel's performance was reasonable is an objective one and requires the reviewing court to determine whether, in light of all the circumstances, the identified acts or omissions were outside the wide range of professionally competent assistance." *People v Vaughn*, 491 Mich 642, 670; 821 NW2d 288 (2012) (quotation marks and citation omitted). "This standard requires a reviewing court to affirmatively entertain the range of possible reasons . . . counsel may have had for proceeding as they did." *Id*. (quotation marks and citation omitted).

[4] *People v Ginther*, 390 Mich 436; 212 NW2d 922 (1973).

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This Court will not substitute its own judgment for that of counsel or use the benefit of hindsight in assessing the defense counsel's competence. *Unger*, 278 Mich App at 242-243). "The [e]ffective assistance of counsel is presumed, and the defendant bears a heavy burden of proving otherwise." *People v Muniz*, 343 Mich App 437, 448; 997 NW2d 325 (2022) (quotation marks and citation omitted).

In his closing argument, defense counsel questioned the validity of Dr. Nazer's testimony, noting that while Dr. Nazer advanced that she saw notable ligature marks on MLA's extremities six weeks after the subject incident, there were no photographs presented to confirm the prominence of the injuries at that point in time. Defense counsel further argued that Dr. Nazer's testimony was flawed, as she failed to schedule a subsequent appointment with MLA, and she neglected to contact the previous physician who examined MLA in the emergency room. Moreover, while defense counsel did not expressly object to Dr. Nazer's use of the term "medical torture," defense counsel repeatedly challenged Dr. Nazer's iteration of hearsay statements during her testimony. Defense counsel argued that Dr Nazer was advancing medical conclusions made on the basis of evidence that was not admitted at trial: "She's talking about duct tape, she's talking about the child being left outside tied up at night. There's been no evidence presented on this record that I heard to support what she's talking about." Defense counsel further stated during his cross-examination of Dr. Nazer, "So now you have medical records and you're coming to what you call a very, very specific and serious conclusions [sic] about medical torture, wouldn't it be important for you to talk to the physician who examined [MLA] back in January?"

Considering defense counsel's argument, and his various objections to Dr. Nazer's testimony, defense counsel may reasonably have abstained from objecting to Dr. Nazer's diagnosis of medical torture and her references to abuse, as defense counsel may argue that her diagnosis was based on incomplete information and may not want to draw further juror attention to the phrase. See *McFarlane*, 325 Mich App at 527-528 ("Given defense counsel's argument, he might reasonably have refrained from objecting to Brown's diagnosis of abusive head trauma and her references to abuse because her claim that she could diagnose child abuse furthered his argument that she was partial and not worthy of credibility"). As there was a plausible and legitimate strategic purpose for defense counsel's choice not to object regarding the use of term, "medical torture," we cannot conclude that the failure to object fell below an objective standard of reasonableness under prevailing professional norms. See *People v Serges*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 355554); slip op at 16 (concluding defense counsel was not ineffective for failing to object to the police detective's testimony as the record reflected that defense counsel effectively cross-examined the police detective, and defense counsel effectively challenged his testimony regarding facts pertinent to the underlying charge). Furthermore, to the extent defense counsel was ineffective, as previously explained, it is unlikely that Dr. Nazer's use of the label "medical torture" affected the outcome of the trial. Accordingly, even if defense counsel should have objected, his failure to do so does not constitute ineffective assistance warranting a new trial. See *Trakhtenberg*, 493 Mich at 51.

V. SENTENCING

Defendant argues that the trial court erred in assessing OV 5 and OV 7, resulting in the imposition of a sentence beyond the correctly scored sentencing guidelines range. We agree.

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A. STANDARDS OF REVIEW

Generally, "[u]nder the sentencing guidelines, a trial court's factual determinations are reviewed for clear error and must be supported by a preponderance of the evidence." *People v Abbott*, 330 Mich App 648, 654; 950 NW2d 478 (2019). Clear error exists when this Court is "left with a definite and firm conviction that a mistake was made." *Id.* "Whether the facts, as found, are adequate to satisfy the scoring conditions prescribed by statute, i.e., the application of the facts to the law, is a question of statutory interpretation, which an appellate court reviews de novo." *Id.* (quotation marks and citation omitted). However, because defendant neglected to preserve the sentencing matters for appellate review,[5] this Court may review the unpreserved scoring issues for plain error affecting substantial rights. *People v Chelmicki*, 305 Mich App 58, 69; 850 NW2d 612 (2014) (quotation marks and citation omitted).

B. ANALYSIS

"Offense variables must be scored giving consideration to the sentencing offense alone, unless otherwise provided in the particular variable." *People v McGraw*, 484 Mich 120, 133; 771 NW2d 655 (2009). "This Court has previously defined 'sentencing offense' in the context of OVs as the crime of which the defendant has been convicted and for which he or she is being sentenced." *People v Carter*, 503 Mich 221, 227; 931 NW2d 566 (2019) (quotation marks and citation omitted).

Defendant argues that the trial court erred by assessing 15 points for OV 5. "OV 5 is scored when a homicide or homicide-related crime causes psychological injury to a member of a victim's family." *People v Calloway*, 500 Mich 180, 184; 895 NW2d 165 (2017). MCL 777.22, which governs the scoring of offense variables, provides: "Score offense variables 5 and 6 for homicide, attempted homicide, conspiracy or solicitation to commit a homicide, or assault with intent to commit murder." An assessment of 15 points for OV 5 is appropriate if "[s]erious psychological injury requiring professional treatment occurred to a victim's family." MCL 777.35(1)(a). OV 5 may be scored at 15 points or zero points. MCL 777.35. In the instant matter, defendant was not convicted of any of the offenses subject to an assessment of points for OV 5. Thus, the trial court plainly erred when it assessed 15 points to OV 5, and it should have assessed zero points for OV 5.

Defendant further argues that the trial court erred assessing by 50 points for OV 7 because there was no evidence that MLA suffered injuries in excess of what was necessary to constitute the torture offense. We agree.

MCL 777.37(1) states, in pertinent part:

[5] Defendant's challenge to the scoring of OV 5 on appeal is based on grounds different than those asserted at sentencing, and defendant did not contest the scoring of OV 7 at sentencing, in a motion for resentencing, or in a motion to remand in this Court. Accordingly, these issues are not preserved. See *People v Hershey*, 303 Mich App 330, 347; 844 NW2d 127 (2013).

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> (1) Offense variable 7 is aggravated physical abuse. Score offense variable 7 by determining which of the following apply and by assigning the number of points attributable to the 1 that has the highest number of points:
>
> (a) A victim was treated with sadism, torture, excessive brutality, or similarly egregious conduct designed to substantially increase the fear and anxiety a victim suffered during the offense ..... 50 points
>
> (b) No victim was treated with sadism, torture, excessive brutality, or similarly egregious conduct designed to substantially increase the fear and anxiety a victim suffered during the offense ..... 0 points

"A trial court can properly assess 50 points under OV 7 if it finds that a defendant's conduct falls under one of the four categories of conduct listed in subsection (1)(a)." *People v Hardy*, 494 Mich 430, 439-440; 835 NW2d 340 (2013), superseded by statute on other grounds as stated by *People v Rodriguez*, 327 Mich App 573, 579 n 3 (2019). "OV 7 is designed to respond to particularly heinous instances in which the criminal acted to increase [a victim's] fear by a substantial or considerable amount." *People v Rosa*, 322 Mich App 726, 743; 913 NW2d 392 (2018) (quotation marks and citation omitted). "Although all crimes against a person involve the infliction of a certain amount of fear and anxiety," the trial court "may consider conduct inherent in a crime" when scoring OV 7. *Id*. (quotation marks and citation omitted). In determining the proper assessment of points for OV 7, "we must consider whether the defendant engaged in conduct beyond the minimum required to commit the offense and, if so, whether the conduct was intended to make a victim's fear or anxiety greater by a considerable amount." *People v Rodriguez*, 327 Mich App 573, 579; 935 NW2d 51 (2019) (quotation marks and citation omitted).

In the instant matter, defendant was convicted of torture which requires proof beyond a reasonable doubt that (1) defendant intended to cause cruel or extreme physical or mental pain and suffering, (2) defendant inflicted great bodily injury, and (3) the complainant was within defendant's custody and control. MCL 750.85; *Schaw*, 288 Mich App at 233-234. The evidentiary record does not demonstrate that defendant engaged in conduct—beyond the minimum necessary to commit the offense—to warrant an assessment of 50 points. Defendant's act of binding, or allowing Scott to bind, MLA with zip ties on numerous occasions patently troubling behavior; however, there was no testimony presented that defendant committed any additional acts during the binding incidents that would constitute further torture, sadism, excessive brutality, or similarly egregious conduct, such as yelling or taunting MLA, physically discipling the minor child while he was restrained, or otherwise causing injuries beyond the "great bodily injury" that served as the basis of the torture conviction. See *McFarlane*, 325 Mich App at 534 ("The severity of the injuries supported a finding that [the complainant] was treated with brutality in excess of that which necessarily accompanies the commission of first-degree child abuse," warranting an assessment of 50 points for OV 7); see also *Rosa*, 322 Mich App at 744 (opining OV 7 was properly assessed 50 points considering the defendant, who was convicted of assault with the intent to commit murder, attempted to strangle the complainant three times, intended to sexually abuse the complainant, and threatened the complainant's child over the course of the assault). Furthermore, the trial court did not explain how or why an assessment of 50 points for OV 7 was appropriate during the sentencing hearing.

Defendant's total for all offense variables was 130 points, or Level VI of the A-class sentencing grid. See MCL 777.62. Because OVs 5 and 7 were incorrectly assessed, defendant's total OV score would decrease from 130 points to 65 points, as OV 7 may be scored at either 50 points or zero points, and OV 5 may be scored at either 15 points or zero points. The change in the total assignments of points for the offense variables would shift the OV level from VI to IV, altering defendant's sentencing guidelines range, entitling her to resentencing. See *People v Francisco*, 474 Mich 82, 92; 711 NW2d 44 (2006) ("Because defendant's sentence here is based upon an inaccurate calculation of the guidelines range and is, therefore, inconsistent with the law, defendant is entitled to be resentenced").

We affirm defendant's convictions, but we vacate defendant's sentences and remand the matter to the trial court for resentencing consistent with this opinion. We do not retain jurisdiction.

/s/ Kirsten Frank Kelly
/s/ Mark J. Cavanagh
/s/ Michael J. Riordan

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June 13, 2025

168009

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 168009
COA: 364063
Wayne CC: 20-001501-FC

GWENDOLYN JOSEPHINE ALEXANDER,
Defendant-Appellant.

_____/

On order of the Court, the application for leave to appeal the November 20, 2024 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on the application. MCR 7.305(I)(1). The parties shall file supplemental briefs in accordance with MCR 7.312(E), addressing whether the prosecution's medical expert invaded the province of the jury by using the phrase "medical torture" to label her diagnosis of the child complainant.

The Prosecuting Attorneys Association of Michigan and the Criminal Defense Attorneys of Michigan are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issue presented in this case who are not exempt from the motion requirement under MCR 7.312(H) may move the Court for permission to file briefs amicus curiae.