State of Oklahoma

vs.

FREDDY MENDEZ
AKA. FREDDIE MENDEZ,

CF-2011-6254

VICTORIA SHANGSULA PHANHTHARATH

DEFENDANTS.

INFORMATION

NOV 15 2011

PATTI[illegible], COURT CLERK
by [illegible]
Deputy

unassigned

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF OKLAHOMA, COMES NOW DAVID W. PRATER THE DULY ELECTED, QUALIFIED AND ACTING DISTRICT ATTORNEY IN AND FOR OKLAHOMA COUNTY, DISTRICT NO. 7, STATE OF OKLAHOMA, AND ON HIS OFFICIAL OATH INFORMS THE DISTRICT COURT THAT

COUNT 1 : ON OR ABOUT THE 30TH DAY OIF OCTOBER, 2011, A.D., THE CRIME OF MURDER IN THE FIRST DEGREE WAS FELONIOUSLY COMMITTED IN OKLAHOMA COUNTY, OKLAHOMA, BY FREDDY MENDEZ AND CONJOINTLY WITH VICTORIA SHANGSULA PHANHTHARATH, WILFULLY OR MALICIOUSLY INJURED, TORTURED, MAIMED, OR USED UNREASONABLE FORCE UPON A CHILD UNDER THE AGE OF EIGHTEEN (18) YEARS, SPECIFICALLY: A.H., THREE (3) YEARS OF AGE, TO-WIT: BY BEATING A.H. ON OR ABOUT THE BODY AND CAUSING HER TO STRIKE HER HEAD ON A HARD SERVICE, INFLICTING MORTAL WOUNDS WHICH CAUSED HER DEATH ON THE 30TH DAY OF OCTOBER, 2011, CONTRARY TO THE PROVISIONS OF SECTION 701.7(C) OF TITLE 21 AND SECTION 7115 OF TITLE 10 OF THE OKLAHOMA STATUTES, AND AGAINST THE PEACE AND DIGNITY OF THE STATE OF OKLAHOMA;

COUNT 2 : ON OR ABOUT THE 30TH DAY OF OCTOBER, 2011, A.D., THE CRIME OF CHILD ABUSE WAS FELONIOUSLY COMMITTED IN OKLAHOMA COUNTY, OKLAHOMA, BY FREDDY MENDEZ, WHO WILFULLY OR MALICIOUSLY INJURED, TORTURED, MAIMED OR USED UNREASONABLE FORCE UPON A CHILD UNDER THE AGE OF EIGHTEEN (18) YEARS OF AGE, TO-WIT: A.H., WHO WAS AT THE TIME THREE (3) YEARS OF AGE, BY GRABBING A.H. BY THE NECK AND THROWING HER ONTO THE COUCH, CONTRARY TO THE PROVISIONS OF SECTION 843 OF TITLE 21 OF THE OKLAHOMA STATUTES, AND AGAINST THE PEACE AND DIGNITY OF THE STATE OF OKLAHOMA;

COUNT 3 : ON OR ABOUT THE 30TH DAY OF OCTOBER, 2011, A.D., THE CRIME OF ENABLING CHILD ABUSE WAS FELONIOUSLY COMMITTED IN OKLAHOMA COUNTY, OKLAHOMA, BY FREDDY MENDEZ, A PERSON RESPONSIBLE FOR THE HEALTH, SAFETY, OR WELFARE OF A.H., WHO WILLFULLY OR MALICIOUSLY CAUSED, PROCURED, OR PERMITTED THE ABUSE OF A CHILD UNDER THE AGE OF SIXTEEN (16) YEARS OF AGE, BY CAUSING, PROCURRING, OR PERMITTING A.H., THREE (3) YEARS OF AGE, TO SUFFER AN ACT OF HARM OR THREATENED HARM TO HER HEALTH OR SAFETY BY VICTORIA SHANGSULA PHANHTHARATH, TO-WIT: BY PERMITTING VICTORIA SHANGSULA PHANHTHARATH TO BEAT A.H. AND FAILING TO PROTECT A.H., CONTRARY TO THE PROVISIONS OF SECTION 843.5 OF TITLE 21 OF THE OKLAHOMA STATUTES, AND AGAINST THE PEACE AND DIGNITY OF THE STATE OF OKLAHOMA;

OUNT 4 : ON OR ABOUT THE 30TH DAY OF OCTOBER, 2011, A.D., THE CRIME OF CHILD ABUSE WAS FELONIOUSLY COMMITTED IN OKLAHOMA COUNTY, OKLAHOMA, BY VICTORIA SHANGSULA PHANHTHARATH, WHO WILFULLY OR MALICIOUSLY INJURED, TORTURED, MAIMED OR USED UNREASONABLE FORCE UPON A CHILD UNDER THE AGE OF EIGHTEEN (18) YEARS OF AGE, TO-WIT: A.H., WHO WAS AT THE TIME THREE (3) YEARS OF AGE, BY STRIKING A.H. AND CAUSING BRUISES, CONTRARY TO THE PROVISIONS OF SECTION 843 OF TITLE 21 OF THE OKLAHOMA STATUTES, AND

CKR

Date and Time: 11/14/2011 15:20

AGAINST THE PEACE AND DIGNITY OF THE STATE OF OKLAHOMA;

5 : ON OR ABOUT THE 30TH DAY OF OCTOBER, 2011, A.D., THE CRIME OF ENABLING CHILD ABUSE WAS FELONIOUSLY COMMITTED IN OKLAHOMA COUNTY, OKLAHOMA, BY VICTORIA SHANGSULA PHANHTHARATH, A PERSON RESPONSIBLE FOR THE HEALTH, SAFETY, OR WELFARE OF A.H., WHO WILLFULLY OR MALICIOUSLY CAUSED, PROCURED, OR PERMITTED THE ABUSE OF A CHILD UNDER THE AGE OF SIXTEEN (16) YEARS OF AGE, BY CAUSING, PROCURRING, OR PERMITTING A.H., THREE (3) YEARS OF AGE, TO SUFFER AN ACT OF HARM OR THREATENED HARM TO HER HEALTH OR SAFETY BY FREDDY MENDEZ, TO-WIT: BY PERMITTING FREDDY MENDEZ TO BEAT A.H. AND FAILING TO PROTECT A.H. FROM SAID ABUSE, CONTRARY TO THE PROVISIONS OF SECTION 843.5 OF TITLE 21 OF THE OKLAHOMA STATUTES, AND AGAINST THE PEACE AND DIGNITY OF THE STATE OF OKLAHOMA;

**DAVID W. PRATER**
DISTRICT ATTORNEY, DISTRICT NO. 7
OKLAHOMA COUNTY, OKLAHOMA

BY _____
ASSISTANT DISTRICT ATTORNEY

**Probable Cause Affidavit**

**Arrested Person** **County:** Oklahoma

**Last Name:** Mendez **First:** Freddy **MI:**

**DOB:** 08/22/1987 [redacted] **Arrest Date:** 10/30/2011

**Case #:** 11-086682 **Related Case #:**

**Offense** (Warrantless arrest for State Felony or misdemeanor charge) O.S.S.21-843.5.A Physical Child Abuse; O.S.S. 21-843.5.B Permitting Physical Child Abuse; O.S.S. 21-701.7.C-Murder in the First Degree of a Child

**Synopsis of arrest to include all elements of the charged crime**: On 10/30/11 I (Det. Foreman #0817) responded to Children's Hospital on a call of a 3-year-old child that was unresponsive and had bruises all over her body. Upon arrival at Children's Hospital I spoke with Dr. J. Stuemky. Dr. Stuemky told me 3-yoa VI-A.H. had a "massive" skull fracture with a small sub-Dural hematoma. VI-A.H. also has severe brain swelling and is not expected to survive her injuries. VI-A.H. also has numerous bruises all over her body.

On 10/30/11 Victoria Phanthtaranth (mother of victim) and Freddy Mendez (step-father of victim) were interviewed at OCPD Headquarters. Both were read their Miranda Rights from a Waiver form. Both agreed voluntarily to speak to us without an attorney present.

Victoria Phanthtaranth admitted she shoved VI-A.H. out of frustration causing the victim to strike her head on a wooden baby bed. She said when this occurred the victim's eyes rolled back in her head and she began choking. Victoria said Freddy had been yelling and screaming at VI-A.H. for not eating. She said Freddy told her to go get a shoe so he could spank VI-A.H. with it. Victoria said she went and got a brown braided leather shoe and Freddy began hitting the victim all over her body with the shoe.

Victoria said Freddy is always hitting the victim. She described seeing Freddy pick the victim up by the neck and "shake her like a rag doll" on several different occasions in the past.

Victoria said today Freddy became even angrier and told her to take care of the victim because he did not want to deal with her. Victoria said she took VI-A.H. into a bed room and was yelling at her telling her to eat. She said she became angry and frustrated so she shoved VI-A.H. and she hit her head.

Freddy Mendez admitted he hit VI-A.H. with a brown leather shoe on this date. He also admitted to me and demonstrated a time a few days ago where he picked the victim up around the neck and slammed her down onto a couch.

Both defendants account for causing bruising and injury to this victim.

On 10/31/11 VI-A.H. succumbed to her injuries, medical personnel at Children's Hospital declared VI-A.H. as deceased.

I swear the above information is true and correct to the best of my knowledge and belief.

**Officer:** Tony Foreman **Commission #:** 0817

**State of Oklahoma** )
) **SS.**
**County of** )

Subscribed and sworn to me this 31 day of Oct, 20 11.

KENDRA BARKER NOTARY #06011323 EXP. 11/21/14 STATE OF OKLAHOMA

My Commission Expires: Kendra Barker
Notary Public

I have reviewed the above information and believe the necessary elements exist for an arrest based on probable cause.

**Supervisor:** Lt. [illegible] **Commission #:** 1137

---

***This court having conducted a probable cause determination for the above named person's arrest without a warrant finds:***

☐ ***Probable cause for the person's arrest existed at the time of the arrest. Arraignment before a Magistrate is ordered***

☐ ***Probable cause for the person's arrest did NOT exist at the time of the arrest. The person is ordered released from custody immediately.***

***Done this*** _____ **day of** _____, **20**____, **at** _____ **m.**

_____
**Judge of the District Court**

# Probable Cause Affidavit

**Arrested Person**

**County:** Oklahoma

**Last Name:** Phanthtaranth **First:** Victoria **MI:**

**DOB:** 06/22/1989 [redacted] **Arrest Date:** 10/30/2011

**Case #:** 11-086682 **Related Case #:**

**Offense** (Warrantless arrest for State Felony or misdemeanor charge) O.S.S.21-843.5.A Physical Child Abuse; O.S.S. 21-843.5.B Permitting Physical Child Abuse O.S.S. 21-701.7.C- Murder in the First Degree of a Child

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Victoria said Freddy is always hitting the victim. She described seeing Freddy pick the victim up by the neck and "shake her like a rag doll" on several different occasions in the past.

Victoria said today Freddy became even angrier and told her to take care of the victim because he did not want to deal with her. Victoria said she took VI-A.H. into a bed room and was yelling at her telling her to eat. She said she became angry and frustrated so she shoved VI-A.H. and she hit her head.

Freddy Mendez admitted he hit VI-A.H. with a brown leather [illegible] admitted to me and demonstrated a time a few days ago where he picked the victim up around the neck and slammed her down onto a couch.

Both defendants account for causing bruising and injury to this victim.

On 10/31/11 VI-A.H. succumbed to her injuries, medical personnel at Children's Hospital declared VI-A.H. as deceased.

I swear the above information is true and correct to the best of my knowledge and belief.

**Officer:** [signature] **Commission #:** 0817

**State of Oklahoma** )
) **SS.**
**County of** )

Subscribed and sworn to me this 31 day of Oct, 20 11.

KENDRA BARKER NOTARY PUBLIC STATE OF OKLAHOMA

My Commission Expires: [illegible]

Kendra Barker
Notary Public

I have reviewed the above information and believe the necessary elements exist for an arrest based on probable cause.

**Supervisor:** Lt. [signature] **Commission #:** 1187

---

**This court having conducted a probable cause determination for the above named person's arrest without a warrant finds:**

☐ **Probable cause for the person's arrest existed at the time of the arrest. Arraignment before a Magistrate is ordered**

☐ **Probable cause for the person's arrest did NOT exist at the time of the arrest. The person is ordered released from custody immediately.**

**Done this**

IN THE DISTRICT COURT OF OKLAHOMA COUNTY

STATE OF OKLAHOMA

FILED IN DISTRICT C
OKLAHOMA COU

FEB - 3 2014

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| THE STATE OF OKLAHOMA, | ) | |
| Plaintiff, | ) | F-2013-1077 |
| vs. | ) | CASE NO. CF-2011-6254 |
| FREDDY MENDEZ, | ) | **VOLUME IV of VIII** |
| Defendant. | ) | |

* * * * * *

TRANSCRIPT OF CONTINUATION OF JURY TRIAL PROCEEDINGS

HAD ON THE **26TH** DAY

OF **SEPTEMBER, 2013,** BEFORE

THE HONORABLE KENNETH C. WATSON

* * * * * *

FILED
IN COURT OF CRIMINAL APP
STATE OF OKLAHOM

FEB 2 4 2014

MICHAEL S. RICHI
CLERK

**Reported by:**

**Tara Nixon, RPR, CRR**
**321 Park Avenue**
**Oklahoma County Courthouse**
**Oklahoma City, Oklahoma**

ORIGINAL

# A P P E A R A N C E S

**ON BEHALF OF THE PLAINTIFF:**

**MR. GAYLAND GIEGER**
**MS. MARCY FASSIO**
Assistant District Attorneys
320 Robert S. Kerr
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Oklahoma City, Oklahoma 73102

**ON BEHALF OF THE DEFENDANT:**

**MR. PERRY HUDSON**
Attorney at Law
Hudson Law Office
1315 N. Shartel Avenue
Oklahoma City, Oklahoma 73103

**ALSO PRESENT - ON BEHALF OF WITNESS VICTORIA PHANTHARATH:**

**MRS. CATHERINE HAMMARSTEN**
Assistant Public Defender
320 Robert S. Kerr
Suite 611
Oklahoma City, Oklahoma 73012

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(Whereupon, the jury entered at 9:16 a.m., and the following transpired in open court.)

**THE COURT:** You may be seated. Good morning!

(Whereupon, the jury collectively responded, "Good morning.")

**THE COURT:** I hope everyone had an outstanding night, and we're ready to start again this morning. State want to call your first witness.

**MR. GIEGER:** Your Honor, thank you. State calls Robin Dominguez.

**THE COURT:** Ms. Dominguez, you want to raise your hand before you sit down?

ROBIN DOMINGUEZ,

was called as a witness on behalf of the State, and having first been duly sworn, testified as follows:

**THE COURT:** Just have a seat and pull that microphone around in front of you.

DIRECT EXAMINATION

BY MR. GIEGER:

**Q.** Please state your name.

**A.** Robin Dominguez.

**Q.** Ms. Dominguez, do you know an individual by the name of Victoria Phanthtaranth?

**A.** Yes, I do.

**Q.** Am I saying her last name the way you say it?

A. Phanthtaranth.

Q. Phanthtaranth is the way you say it?

A. Uh-huh.

Q. I probably won't get that right.

A. It's okay. Nobody does.

Q. How long have you known her?

A. Five years now.

Q. Can you tell the jury just a little bit about your relationship with her, how you met and how that relationship developed, please?

A. I met her about five years ago through my boyfriend at the time. Her boyfriend at the time was friends with my boyfriend and we met through the car scene, became friends and hit it off ever since.

Q. Her boyfriend at the time was Dayland Hawkins; is that right?

A. Correct.

Q. And you said you met through the car scene, tell me what you mean by that?

A. I'm involved in drifting, which is a car, I guess, if you want to call it a sport, so was Dayland Hawkins, he was involved in that, so was my boyfriend at the time and she was involved through him.

Q. Still not exactly sure what that means. What's drifting?

**A.** Drifting is basically where you take your car and you can make it go sideways around a track, you have obstacles.

**Q.** Okay. So car racing?

**A.** Car racing, correct.

**Q.** When you met Victoria and Dayland Hawkins did you guys hit it off, did you become friends, what happened?

**A.** First day I met her we were best friends ever since.

**Q.** You just had a connection with her?

**A.** Yes. Her boyfriend and my husband now went to high school together and they were associates, but since me and Vickie, Vick is what I call her, since we became friends they became friends again and we hung out probably every day.

**Q.** Ma'am?

**A.** Every other day.

**Q.** I'm sorry. I didn't mean to cut you off.

**A.** I just said every day or every other day.

**Q.** You hung out every day, basically. Okay. At some point during that association did you learn how Vickie or Ms. Phanthtaranth was making money, how she was working?

**A.** She was a stripper.

**Q.** How did that come about? Well, first of all, how did you feel about that?

**A.** I don't really like stripping, I think that's a cheap way to make money, and self respect, you lose self respect for yourself.

**Q.** Did that cause problems between the two of you?

**A.** No. I mean, Vick can make her choices, but she didn't want to do stripping either, she didn't like it. She hated it.

**Q.** She had expressed that to you?

**A.** Many times.

**Q.** Why did she do it?

**A.** Dayland made her, he dropped her off in front of there and told her to go strip, and if she didn't there would be consequences when she got home.

**Q.** Is it fair to say that as that relationship continued you developed a dislike toward Dayland Hawkins?

**A.** Correct.

**Q.** At some point you're aware that there were some domestic... and the jury has actually heard some domestic violence incidents and the police were called, VPO's put in place, and you're aware of all that; is that correct?

**A.** Yes, uh-huh.

**Q.** Were you with Vickie and were you supporting her through that process of getting a VPO and separating from

Dayland Hawkins?

**A.** Yes, she stayed with me.

**Q.** That was my next question. How much exactly were you there to support her at that time when she was trying to remove herself from that situation?

**A.** Well, she called me when all of that happened and I helped her. I came and picked her up and the baby and immediately came down to the courthouse and got a restraining order on him from seeing her and the baby, and she stayed with me for about two years after that.

**Q.** So you were with her for that, and getting a VPO involves coming to court two or three times; is that correct?

**A.** Correct.

**Q.** There's applications and hearings and things like that?

**A.** Yes.

**Q.** And so you helped her through that process?

**A.** Correct.

**Q.** You also provided her a place to stay?

**A.** Correct.

**Q.** Other than you, you've already explained to me you were her best friend at the time, did she consider you her best friend as far as you knew?

**A.** More of a sister, yes.

**Q.** Tell me about her family, were they here in Oklahoma were they supportive with her?

**A.** No, it was just me and her.

**Q.** What did you know about the location of her family or where her family was at that time?

**A.** Uhm, she had her biological mother in Tulsa, Oklahoma, and then the rest of her family was in California, her adoptive family and real sisters and brothers.

**Q.** You said a biological family, but she also had an adoptive family as well?

**A.** Correct.

**Q.** And that was because of some issues that she experienced growing up; is that correct?

**A.** Correct.

**Q.** So essentially it was you and her in Oklahoma City, as far as you know?

**A.** Just me and the baby, that's it.

**Q.** Did you know about Dayland's parents; Elizabeth Hawkins?

**A.** Yes.

**Q.** Were they supportive to Victoria at times as well?

**A.** Of her and the baby?

**Q.** Yeah.

**THE COURT:** You --

**MR. GIEGER:** I can do it, Your Honor.

**THE COURT:** Ladies and gentlemen, Ms. Phanthtaranth is represented by counsel, she was represented by counsel throughout these proceedings, she's here with her today. Mrs. Hammarsten will be sitting with her throughout these proceedings, just to protect her rights, make sure her rights are protected and that's why she's here with her.

And if she doesn't know how to answer a question she certainly can defer to her counsel and ask her counsel about the question and whether it's appropriate for her to answer it. You may proceed.

**MR. GIEGER:** Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. GIEGER:

**Q.** Ma'am, would you please state your name?

**A.** Victoria Phanthtaranth.

**Q.** And for the record, I think... Do you need her to spell it? Just spell the last name so everyone will understand why we're having so much of a hard time pronouncing it.

**A.** P-H-A-N-T-H-T-A-R-A-N-T-H.

**Q.** And Phanthtaranth, am I close when I say it that way?

A. Yes.

Q. Ma'am, you know Freddy Mendez, correct?

A. Yes.

Q. Can you identify where he's seated and what he's wearing, please?

A. Uhm, he's sitting at that table across right there wearing a white shirt and a tie.

**MR. GIEGER:** Ask the record reflect identification?

**THE COURT:** Record will so reflect.

Q. (By Mr. Gieger) Ms. Phanthtaranth, the jury at this point has heard a lot about you, all right? I want to kind of go through and let you, in your own words, talk about some of the things they have already heard; is that okay?

A. Okay.

Q. You were initially in a relationship with a gentleman by the name of Dayland Hawkins; is that right?

A. Yes.

Q. And that relationship produced a child by the name of Alexis Hawkins?

A. Yes.

Q. Can you describe to the jury a little bit about that relationship with Mr. Hawkins and how it went and how it ended? Without going into too much detail, but

just generally give me a little bit about the background of your relationship, please?

**A.** Well, he became very abusive, started hitting me, started acting different and if it weren't for a friend of mine that helped me get out of that relationship, because she's the one that helped me, to actually saved me.

**Q.** Is that Robin Dominguez?

**A.** Yes, Robin Dominguez.

**Q.** Did your relationship with Daymond Hawkins start out okay?

**A.** It started out okay.

**Q.** Did you date in high school?

**A.** Yes, we met in high school.

**Q.** Fell in love?

**A.** Yes, I did.

**Q.** But over time, as you've already told this jury, it deteriorated into an abusive relationship?

**A.** It did.

**Q.** At some point, ma'am, during that relationship did you enter into the profession of dancing and stripping?

**A.** I did.

**Q.** Can you tell the jury about how you got involved in that type of profession and lifestyle?

**A.** He asked me to do it.

**Q.** Dayland Hawkins asked you to do it?

**A.** Yes, he did. He said you should just try this out, you can make a lot of money doing it, and I felt uncomfortable doing it but I did it.

**Q.** Did Mr. Hawkins work?

**A.** No, he didn't. I worked double shifts and he just stayed at home and I took care of the bills, paid for the rent.

**Q.** Did you make a lot of money?

**A.** Yes, I did.

**Q.** At some point you said that relationship obviously deteriorated, became abusive. Did the police even get involved?

**A.** Yes, they did. There was a point where they did get involved because an incident happened where I didn't want to have any sexual relationship with him and he got angry at me and he started beating me and locked me inside the house and hid the phone from me, and then I got ahold of Robin and she came to my rescue.

**Q.** Ma'am, during this time period did you also have a relationship with Mr. Hawkins' mother and his father?

**A.** Yes, Elizabeth --

**Q.** What are their names?

**A.** -- Hawkins and Roy Hawkins.

Q. Elizabeth and Roy? Describe the relationship that you had with Elizabeth and Roy during this time period?

A. They were very caring, they were always there. They talked to me and made sure I was doing all right. They were a little concerned of my well-being every now and then concerning that we needed counseling.

Q. Because of the relationship?

A. Yes.

Q. Did they approve of you dancing?

A. Uhm, not really, that wasn't really appropriate, but not really.

Q. How did you refer to them?

A. Uhm, I don't -- I don't know.

Q. What did you call them?

A. Oh, I called them mom and dad.

**MR. HUDSON:** Judge, I'm --

**MR. GIEGER:** I'm sorry. Counsel --

**THE WITNESS:** I didn't hear what he said. I didn't know, that's why I looked over there.

**THE COURT:** And if you have a question ask the person asking the question, and if there's a need to do it then you should ask us first before you --

**THE WITNESS:** Okay. I apologize.

Q. (By Mr. Gieger) Mrs. Hammarsten said what did

you call them; is that right?

A. Yes.

Q. She was interpreting my question for you. What did you call them?

A. I called them mom and dad.

Q. And is that because you had -- I'm going to ask an obvious question, but why did you call them mom and dad?

A. They treated me like family.

Q. Tell me about your family, were they here in Oklahoma at the time, your biological family, or your... I guess you were adopted at some point, were you not?

A. Yes.

Q. Without going into a lot of detail, can you just tell me a little bit about that, please?

A. It was a struggle, you know. I went through a lot with my family, there was a lot of abuse.

Q. Biological family was abusive towards you?

A. Yes.

Q. And you went into the Foster Care System; is that correct?

A. Yes, there was a lot of rape and incidents that happened.

Q. Sexual abuse --

A. Yes.

Q. -- as well? Was this -- were you in the system in California?

A. Yes, I was.

Q. You were placed into the Child Welfare System as a child in California; is that correct?

A. Yes.

Q. And is it fair to say that was not a good experience in any way?

A. No, I'm terrified of the system.

Q. Did abuse and both physical and sexual continue while you were a ward of the state of California?

A. Yes.

Q. And were you placed in many different foster homes and suffered multiple experiences in that regard?

A. Yes, 12 in one year.

Q. 12 foster homes in one year?

A. (Nods head.)

Q. Ma'am, despite that, at some point there was an adoptive placement; you have sisters, your adoptive sisters and brothers, correct?

A. Yes.

Q. Can you identify who those people are for the jury, your adoptive brothers and sisters?

A. Uhm, Tony Hernandez, Rosa Hernandez, Charlie Hernandez, those were the adoptive ones. And my blood

relatives were Johnny Daramikora and Cynthira (spelled phonetically) Sheldon and Felix Hernandez.

**Q.** Lisa?

**A.** Oh, my birth sisters are Lisa Daramikora, Kitty Daramikora.

**Q.** And I appreciate -- so you actually have biological sisters?

**A.** Uh-huh.

**Q.** They were in the system also?

**A.** Yes.

**Q.** But you were able to maintain some contact with them, correct?

**A.** If I was allowed to, yes.

**Q.** Lisa and then your other sister goes by Kitty; is that right?

**A.** Yes, Kitty.

**Q.** So Lisa and Kitty?

**A.** (Nods head.)

**Q.** At a time you guys were separated and you grew up in different places, is that fair enough?

**A.** Yes.

**Q.** When you were in the relationship with Dayland Hawkins and you developed the relationship with Elizabeth Hawkins and Roy, were your family here in town or were they out of town in other states and other places?

A. They were here for a short amount of time then all of a sudden they left.

Q. Where did they go?

A. They moved back to California.

Q. At one point was Kitty in California?

A. Yes.

Q. And was Lisa in Philadelphia?

A. Yes.

Q. And were you essentially here without any blood relatives or without any real relatives that you could rely on and depend on?

A. Everybody left.

Q. Is that about the same time that you began your relationship with Robin Dominguez?

A. Just about the time, yes.

Q. Generally?

A. In 2008.

Q. And that relationship, I think as you've told me, has become very close, became very close?

A. Yes, she's always been there for me.

Q. Ma'am, you told us about an event when the police were called and that relationship came to an end with Dayland Hawkins, were you injured during that?

A. Yes.

Q. And when you were injured who did you reach out

for, for help?

**A.** Robin.

**Q.** And how were you able to do that, did you have a phone?

**A.** No, I didn't have a phone, but I found it and I called her.

**THE COURT:** Ma'am, you're going to have to keep your voice up.

**THE WITNESS:** Sorry.

**Q.** (By Mr. Gieger) You found it and called her, is that what you said?

**A.** Yes, and she came over.

**Q.** Then you guys called the police?

**A.** Yes, we called the police, we did.

**Q.** And you were able to get a Victim Protective Order and that relationship essentially came to an end?

**A.** It did.

**Q.** Despite that relationship ending did you still have some contact with Elizabeth Hawkins and did she still at times watch your child while you were working?

**A.** Yes.

**Q.** I haven't asked this question yet, but while you were working as a dancer did you continue to dance after your relationship with Dayland Hawkins ended?

**A.** Yes, I did.

Q. During that time period who would care for Alexis whenever you were working or doing whatever else, whenever you needed child care assistance?

A. It would be her aunt, it would be Elizabeth Hawkins and Robin.

Q. So you had help from that... the Hawkins family, at least the parents maintained support for you; is that correct?

A. Yes.

Q. Did Dayland Hawkins help out with his daughter at all or did he essentially --

A. Never. He never did. I tried to ask him for help but he never showed up.

Q. Did he have any contact with his daughter after that event happened and you separated physically?

A. I allowed him to but he never showed up.

Q. So basically he walked away?

A. (Nods head.)

Q. But despite that the Hawkins family, Elizabeth and Roy, still tried... they gave you support and help with Alexis long the way?

A. They did.

Q. As well as Robin?

A. Yes.

Q. For a while you lived with Robin, correct?

A. I did.

Q. How did that go?

A. It was wonderful. She taught me how to be a mom. She taught me how to take care of Alexis. She would help me teach her new things, teach her how to walk and talk. We talked about how to just one-minute time out in the corner.

(An off the record discussion was here had.)

Q. (By Mr. Gieger) So she helped you become a better parent?

A. She did.

Q. Did she -- I mean, it sounds just like she had a significant amount of time that she was caring for Alexis as well while you were either working or gone; is that true?

A. Yes.

Q. Did you ever have any concerns about leaving your daughter with Robin at all?

A. Never.

Q. At some point you made the decision to leave Robin's house and move somewhere else; is that right?

A. I did.

Q. Why did you make that decision, how did that happen?

A. I just... I had been there for a while, it was

time for me to get up on my feet and she was helping me get on my feet, to get my own place so I could support my daughter on my own.

**Q.** Had you been able to save some money to do that?

**A.** Yes, Robin helped me save money up.

**Q.** Tell me a little bit about that?

**A.** She helped me save up money so I could get an apartment. At some point we looked for apartments, made sure it was a two-bedroom, in a good neighborhood, good location, make sure it was, like, close to her house and then she could still watch Alexis.

**Q.** Would you give her some of the money you made then or how did she --

**A.** Yes.

**Q.** You said she helped you save money. How would --

**A.** She helped me save money and I buy... pay her to watch Alexis because I know since she was watching her she wasn't working at the time I was also helping with, you know, so she can help pay her own bills.

**Q.** Who else lived in that house at that time with y'all?

**A.** Andy Denniton (spelled phonetically) her husband now.

**Q.** Boyfriend back then?

A. Back then, yeah, it was her fiance back then.

Q. Was it okay with him that you were there, as far as you could tell?

A. It was all right but, you know, it is their own house and, you know, they were a couple so they do want quality time. Alexis was getting a little... crying a little bit here and there and he tried to get up early in the morning to go to work.

Q. Robin made you feel welcome there?

A. Oh, always; all the time.

Q. But did you feel as though you were imposing at times?

A. Just a little bit, you know.

Q. Did you also want to get out on your own and --

A. I did.

Q. And so you were able to do that?

A. I was able to do that.

Q. Do you remember where that apartment was located?

A. Southwest 89th and Western.

Q. And Western? Here in Oklahoma City?

A. Yes, in Oklahoma City.

Q. So you move in, tell me about that?

A. I move in, it was a two-bedroom, two-bathroom, and everything was going fine and I was still working.

Andrea would watch Alexis, the Hawkins would watch Alexis, also other family members, as well as Robin, and then as I was working Red Light Nights --

**THE COURT:** Hold on a second.

**Q.** (By Mr. Gieger) You say you were working Red Light Nights and I think we had stopped.

**A.** Oh, yes. I worked at Red Light Nights still continuing because the money was good and that's when I met Freddy Mendez.

**Q.** Where did you meet?

**A.** I met him at Red Light Nights.

**Q.** How did you meet him?

**A.** I met him through a friend actually.

**Q.** Was he a customer there?

**A.** It was the first time I ever seen him go in there, he came with the person I usually see, a customer that comes in quite often.

**Q.** So he came in as a customer with another customer?

**A.** Yes.

**Q.** And you guys struck up a conversation and --

**A.** We did.

**Q.** Did you make a decision at that point to go out or --

**A.** Yes.

**Q.** -- what happened?

**A.** After that point we started continuing to see each other.

**Q.** And at some point you decided you were going to start having a dating relationship?

**A.** At some point, yes.

**Q.** Did that relationship turn sexual?

**A.** It did.

**Q.** Ma'am, at some point, and this happened after you were in your apartment down at Southwest 89th and Western; is that correct?

**A.** Yes.

**Q.** At some point did he start staying over there and you introduce him to Alexis?

**A.** Yeah, he started staying over, I introduced him to Alexis.

**Q.** Tell me how that... when you introduced him to daughter?

**A.** He was really sweet and charming at first, played with her. He was kind of distant, you know, not sure how to take it, but he started warming up to her and she started warming up to him.

**Q.** At that point did you have any concerns that he was not going to be appropriate with your daughter in any way and not appropriate towards you?

**A.** Not really.

**Q.** How did he treat you?

**A.** He was charming. I'm not gonna lie, he was charming. I thought he was very sweet, I was attracted to him and --

**Q.** Did he have money?

**A.** Yeah, he did.

**Q.** Did that enter into it at all or not?

**A.** Not really, there's more things to it.

**Q.** Did you learn about his family?

**A.** A little bit. He slowly introduced me to his family; to his mom and his brothers and sisters.

**Q.** Tell me a little bit about that. What did you learn about his family and what did he tell you about his family there at the beginning?

**A.** Well, we went to go meet them, they seemed very nice. They were standoffish and, you know, they started, you know, telling him, you know that she has a daughter and you need to consider them as a package together.

**Q.** You think those are legitimate concerns that they would have when their son is starting to date somebody with a daughter?

**A.** Probably, most likely yes.

**Q.** That didn't upset you?

**A.** That didn't upset me. I mean, it's a well open

statement.

**Q.** So they were appropriately concerned when making sure he knew what he was getting into?

**A.** Getting into it, yes.

**Q.** Other than that were there any issues or did it seem to go okay?

**A.** It seemed to go okay. They talk a lot in Spanish and, you know, every now and then I would hear some words and I would go okay.

**Q.** Like what?

**A.** Uhm, it wasn't until later on when I moved in with them they would say things.

**Q.** I'll get there. We're talking about a lot of things, if it's okay I want to try to go through it kind of the way it --

**A.** Okay.

**Q.** -- happened or chronologically, okay?

**A.** Yes.

**Q.** So at the beginning you met the family, everything seemed okay and you felt like this was a good man to start in a relationship with?

**A.** Yes, I did.

**Q.** And that's what happened?

**A.** Yes.

**Q.** During this time period, Ms. Phantharath, were

you still in contact with the Hawkins family in regards, and specifically Elizabeth and/or Roy?

**A.** I was.

**Q.** Did they have an occasion at some point to meet Mr. Mendez?

**A.** There was a point where they came over to pick up Alexis from my apartment and he didn't bother to say hello or get up or introduce himself or nothing, he was very... wasn't amused or anything. He was kind of rude, didn't want to say hi at all.

**Q.** Did that surprise you that he acted that way or did you just kind of blow it off or how did you react to him --

**A.** It was awkward, it was very awkward. I was just like, okay, well, that's weird. You know, he should have said hi at least, but I understand that he didn't want anything to do with them because he doesn't know them, he has no interest in meeting new people.

**Q.** Did you ask him about that or did you have a conversation about, hey, why didn't you be more friendly or did you just let it go?

**A.** I kind of just let it go.

**Q.** At some point as this dating relationship began, do you remember when it was that you began this relationship with Mr. Mendez; can you remember the year

or the month?

**A.** It was, uhm, I think it was the end of 2009, the beginning of 2010.

**Q.** Let me try to give you some dates might help you, okay? There are police reports that show that you separated from Dayland Hawkins in June of 2009, that's when the police came out; June of 2009, okay?

**A.** (Nods head.)

**Q.** Then there was a time period, obviously, you say you moved in with Robin Dominguez and that lasted for a while and then you moved into this apartment on Southwest 89th, correct?

**A.** Right.

**Q.** You have a son Freddy Jr.?

**A.** Josiah.

**Q.** Josiah, when was he born?

**A.** He was born March 5th, 2011.

**Q.** March 5th of 2011?

**A.** Uh-huh.

**Q.** So we got to back up at least nine months, right?

**A.** Yes.

**Q.** How long were you and Mr. Mendez together before you realized you were pregnant with Josiah?

**A.** I do not recall, but it was a while.

Q. Well, it had to be at least nine months before --

A. Yes.

Q. -- March of 2011, right?

A. Right.

Q. So that takes us to June of 2010, if you're following me with the math.

A. Okay.

Q. So it had to be some time after you had time to live with Robin for a while and get your own apartment but before June of 2010, somewhere in that time frame?

A. That's right.

Q. Early 2010, late 2009, something like that; had to be in that time frame, correct?

A. Correct.

Q. When you found out you were pregnant with Josiah and it was Mr. Mendez's child, how did that go; happy about that, sad about that?

A. It was exciting. He was excited to be a father. He was really, really excited. At first he didn't believe it.

Q. How did you feel about it?

A. I was excited. I was excited to have another baby.

Q. At this point had you made some decisions

internally about where you were going to go in your relationship with Mr. Mendez or did this force you to make decisions about long term with Mr. Mendez?

**A.** I was wishy washy about it. I was nervous.

**Q.** Why?

**A.** Because I wasn't sure how things were going to outcome because I already been in one bad relationship and I wasn't with the father no more, and I wasn't sure how he was going to react to it if we continued with this relationship.

**Q.** The knowledge that Josiah was on his way sort of made you make a decision then?

**A.** In a way, yes.

**Q.** What do you mean "in a way?"

**A.** In a way to make a decision that I need to try to pursue it into something more, maybe really settle down and build a family, and that's all I ever wanted.

**Q.** In that regard did you make a decision about the relationship that you had enjoyed with the Hawkins family and what you needed to do about that?

**A.** I love the Hawkins family, don't get me wrong, I do, but he didn't really approve of them. He didn't see a point of them coming around a lot. Because we're starting a new family he didn't see any one of them coming around, being around. He didn't really want

anything to do with them.

Q. And because of that did you have a conversation with Elizabeth about how her watching Alexis on occasion would come to an end, or tell me a little bit about that?

A. It started getting distant.

Q. This has come up in testimony so I want to ask you about it. Kind of stop right now and talk a little bit about this specifically.

A. Okay.

Q. At some point after the domestic violence incident in June of 2009 with Dayland Hawkins, do you remember a DHS worker coming and talking with you because someone had reported some concerns about what was going on within that family unit and what happened on that day, do you remember that happening?

A. Yes.

Q. Do you remember if the lady who came and talked to you was a white lady or a black lady?

A. She was black.

Q. When she came and talked to you did you express some concerns to her about Alexis whenever Mrs. Hawkins had watched her, do you remember telling them something about it?

A. Yes.

Q. Did you have some concerns and because DHS was

asking about the care of your child that you felt you should tell them about it?

**A.** Yes.

**Q.** Is that why you told them about it --

**A.** Yes, I did.

**Q.** -- is because DHS was asking you questions?

**A.** Yes, I did because it got distant and that's why I kind of backed off with --

**Q.** Do you remember what you told DHS were your concerns about Alexis and going over and spending time with the Hawkins family?

**A.** There was an incident that I brought her back after she spent the night, two nights I believe, and she had a head injury near her eye and she had a couple of bite, like bug bite marks on her, and I was concerned about that.

**Q.** And did you tell DHS about that?

**A.** I did.

**Q.** And following that did you continue to allow Alexis to go over there or tell me a little bit about that?

**A.** I kind of backed up on it because also I was, well, you know, she, they smoke inside their house and there's second --

**Q.** You didn't like that?

**A.** I didn't like that because you could smell it on her clothes. They said they didn't smoke around her, but there's like secondhand and thirdhand smoke I discovered.

**Q.** So for a while you reduced those contacts after that event happened when she came home with a bump on her head and you told DHS about that?

**A.** I did.

**Q.** After a while did you allow Alexis to go back over again even though you had those concerns and time had passed?

**A.** I did.

**Q.** You did allow it to happen?

**A.** Yeah, allowed.

**Q.** So as you're talking to DHS you're telling them about things that have happened in the past but at that point you were still okay with Alexis going over there, even though you've had those concerns earlier?

**A.** Yes, because I understand. You know, I also said my concerns and they are still the grandparents, they still should be able to see her. They took her out to, like, lunch, little luncheons with the grandma.

**Q.** Ma'am, if I told you that report and those conversations based on the records that DHS has were in October of 2009, does that sound about the right time period? It was actually about four months after you had

left Dayland Hawkins DHS got around to getting out there, but does that sound about right, if I told you that?

A. Four months? It sounds about right.

Q. If that's the dates of the reports you're not --

A. It was kind of getting cold, so yes.

Q. You're not in a position to disagree saying it wasn't October? If that's what the reports say you don't take issue with that, is that fair?

A. That sounds fair to me.

Q. In that process you were still at Robin Dominguez's house whenever they came out; is that correct?

A. Yes.

Q. And did you take the DHS worker into that house and let them look around to show them how you cared for Alexis and those things?

A. We sat down and we had a conversation. I introduced her to Alexis, Alexis was playful with her and they looked around the house, and they didn't have any concerns.

Q. Did you let her talk with Alexis?

A. I did.

Q. Was Alexis very verbal at that point?

A. Yes, she was.

Q. She would have been just over two, is that...

No, just a little bit over one, right?

A. Yes, over one; one and a half.

Q. Did the DHS worker express any concerns to you as they looked through your house and saw how you were caring for Alexis and interacted with Alexis, that you were not being appropriate with her or treating her the right way?

A. She approved.

Q. They didn't do anything, right? They left the child there and everything was okay, correct?

A. Yes, everything was okay.

Q. Did you ever hear from that DHS worker again or was that the only time you saw her?

A. That was the only time, after that I didn't hear from her ever.

**MR. GIEGER:** Judge, it's noon. I'm going to jump back into chronology at this point. Do you want to stop at this point?

**THE COURT:** Well, I thought we would go to 12:30 --

**MR. GIEGER:** That's fine.

**THE COURT:** -- but I can break. Are you all ready to break for lunch?

(Whereupon, the jury collectively replied "Keep going.")

MR. GIEGER: That's fine.

THE COURT: Can we go to 12:30?

MR. GIEGER: That's fine.

Q. (By Mr. Gieger) I want to get back. I know we kind of interrupted that story. I want to get back to where you know you're pregnant, you're making a decision I'm going to try to make a life with Mr. Mendez; is that correct?

A. Yes.

Q. And so you have a conversation with Elizabeth in that regard, with Mrs. Hawkins, is that fair? Basically, that I'm going to go try to be with Freddy and I don't need you guys to watch Alexis anymore?

A. Right.

Q. Can you tell me a little bit about that, how did that go?

A. It didn't go so good. We were both upset at the time, and I had a conversation on the phone cause they wanted her to come over more and I kind of just ended it.

Q. They were upset about that?

A. They were really upset, and I understand.

Q. Was there a time that you went over and gathered Alexis and maybe some of her stuff from their house, do you remember that happening?

A. I don't recall.

Q. Did they live out in the country somewhere?

A. They lived out in Noble.

Q. Out in Noble?

A. (Nods head.)

Q. Had you been to that house?

A. Yeah, I used to live right next door to them.

Q. Do you know if Mr. Mendez ever accompanied you out to the house to get Alexis or not?

A. He has.

Q. Do you have any recollection of a time going out there and gathering some of her stuff when Mr. Mendez was in the car?

A. Well, when we went to go pick her up... went to go pick her up and we picked up her playpen and some toys and some stuff of hers cause she was --

Q. That was there at the house and you took those with you?

A. Yes.

Q. Following that, at that point you had sort of made the decision that in order, and I don't want -- if I'm wrong about this... I think you've told me this, but Mr. Mendez wasn't particularly fond of the Hawkins, correct?

A. No.

Q. Didn't have anything to do with what you said,

because he didn't know 'em and didn't want to meet 'em, right?

**A.** He didn't want to meet 'em.

**Q.** So you, at this point you agreed though with the decision that you're going to try to pull back away from them and, for lack of a better term, kind of burn that bridge with them? Because you said they were upset you said this is what I'm going to do, right?

**A.** Yeah, they were very upset and I just, I listened to him.

**Q.** After that you were still living at your apartment on Southwest 89th and Western at that point?

**A.** Yes.

**Q.** Is that a yes?

**A.** (Nods head.)

**Q.** How come you guys didn't continue to stay in that apartment, what motivated you relocating?

**A.** Well, I lost my apartment.

**Q.** How did you lose it?

**A.** I wasn't able to pay the bills.

**Q.** What were you -- why were you unable to pay the bills?

**A.** I started not -- I started slowly backing off work because I was pregnant, I didn't need to work anymore. And I was --

**Q.** You -- Go ahead.

**A.** I apologize.

**Q.** No, I interrupted you. Go ahead.

**A.** Freddy was supposed to be working and he said he was going to help but then he didn't end up bringing the money forth and he said, well, we have to go help watch my parents house so let's just grab a few things and go, then I'll make sure I get the money and come back and pay the bills, but it never happened. I ended up losing my apartment.

**Q.** When you were with Mr. Mendez and before you either started showing or before you became pregnant, were you also doing jobs occasionally for, lack of a better term, a modeling agency for a couple of guys?

**A.** I did.

**Q.** Do you remember their names?

**A.** Jimmie.

**Q.** Jimmie Bond?

**A.** And Roderick. Yes.

**Q.** Tell me a little bit about those modeling jobs; What would you do?

**A.** Uhm, we would go out to the car shows and we'd model in front of the cars, we'd do fashion shows for... to raise money for domestic violence for women in Enid, and we did little projects here and there.

**Q.** So you actually went to a photo, a modeling show that the beneficiary of that show was a domestic violence organization; is that correct?

**A.** It was.

**Q.** How did Mr. Mendez feel about you modeling?

**A.** At first he was all right with it, then he thought it was inappropriate. He didn't think it was appropriate of me to expose my body like that because he thought I was sleeping with somebody or would make assumptions --

**Q.** Did you have conversations like that?

**A.** We'd get into small arguments about it.

**Q.** How did he feel about you stripping?

**A.** Uhm, he wasn't -- he really didn't complain about it too much because at first I was bringing money in. Then after he would go in there every now and then he would see me, say remarks here and there, say that I would be sleeping with somebody and that would cause arguments.

**Q.** Fair to say that caused stress in the relationship?

**A.** It did.

**Q.** Were you sleeping with other people?

**A.** No.

**Q.** Did you tell him that?

**A.** I would tell him that, he wouldn't believe that.

**Q.** That wouldn't be the end of it?

**A.** No, I would never hear the end of it.

**Q.** So I want to be clear; whenever the decision was made that you're going to stop stripping and stop modeling, was it done because you were starting to show because you were pregnant, was it done because Mr. Mendez didn't want you to or was it a combination of those two things?

**A.** It was a combination of things.

**Q.** It was a problem for you, you were starting to show anyway so you couldn't do it so it came to an end?

**A.** Yes.

**Q.** Fair enough?

**A.** Yes.

**Q.** Is that accurate?

**A.** Yes.

**Q.** And when that stopped you were no longer able to pay for the apartment that you had had down on Southwest 89th and Western, correct?

**A.** Correct.

**Q.** And I'm not exactly sure I'm understanding exactly how that came to an end. You said he told you we need to go housesit for my parents?

**A.** Yes, his parents were going out of town and they

wanted us to watch the house.

**Q.** And so you said you gathered up a few things and you said he would come back and take care of it, explain to me what you mean?

**A.** Meaning he would pay the bills like before the due time, because he had a period of time before he had to pay before they completely lock you out.

**Q.** Did you get locked out?

**A.** Yes.

**Q.** Did you leave some stuff behind and lose some stuff that was yours that was in that apartment because you got locked out?

**A.** Everything was lost. I only had about a bag or two of stuff.

**Q.** You only had about a bag or two of stuff that you took with you?

**A.** Yes, my daughter's stuff and my stuff.

**Q.** Tell me about what you lost as a result of being locked out of the apartment?

**A.** We lost birth certificates, Social Security numbers, all, like, a whole... both closets full of toys and clothes.

**Q.** You had some stuff?

**A.** Yeah, everything that... basically, like if you were to walk in there, like someone still lived there,

that you wouldn't notice somebody had left.

Q. Did you have much furniture?

A. Not really. We had beds and TV and TV stand.

Q. But not a lot of stuff?

A. But not a lot of stuff.

Q. You lost a lot of personal items like clothing and toys?

A. And pictures.

Q. And pictures and, of course, the personal identification stuff?

A. Yes.

Q. Birth certificates? Did that upset you?

A. It did.

Q. Did you talk to Mr. Mendez about that or did you guys have any discussions about it?

A. We discussed it and I was upset about it and it just caused arguments.

Q. Like what?

A. About --

Q. Did he say sorry, yeah --

A. No, he never apologized.

Q. So from that point on you started, I guess, residing in the Mendez family home?

A. Yes.

Q. Tell me about that. You went in as you're going

to housesit while they were going on a trip and --

**A.** And then we end up --

**Q.** -- you ended up never leaving?

**A.** Yeah.

**Q.** How were they about that, Mr. and Mrs. Mendez?

**A.** They were welcoming at first, it was a little awkward. There was times that we'd talk and I didn't know how to be around them, like didn't know what to do.

**Q.** Was Mr. Mendez, Freddy Mendez working at that time?

**A.** He started working for his dad.

**Q.** Was that after you moved in and started residing there or was he working for his dad before you lost the apartment?

**A.** He said he was working for his dad before but he wasn't... there was no money showing or anything --

**Q.** You don't know what -- Do you know if he was working or is that just what he told you?

**A.** That's what he told me.

**Q.** After you move into the house do you know if he started going out and working or --

**A.** He started working with his dad.

**Q.** What kind of business is it?

**A.** It's a construction business.

**Q.** Well, how did that go? So at first you said it

was a little awkward, but can you give me an idea of how long you lived there --

**A.** We lived there --

**Q.** -- in months?

**A.** Let's see, we lived almost... we almost lived there for almost a year.

**Q.** So quite a while?

**A.** Yes, it was quite a while.

**Q.** Well, it was awkward at first. Did it stay that way or did it change, did it get better? Tell me about what it was like living there?

**A.** It was... it was -- there was awkward moments. There were times everything would be all right and then he would do something to get into an argument, and his parents know when he gets angry or get into an argument that there's tension, you know. At first they would invite us places with them and then we weren't allowed to go, not exactly we weren't allowed, but we weren't invited all the time.

**Q.** Left out?

**A.** But yeah, I felt left out mostly.

**Q.** Who all was living there?

**A.** At the time was, of course, Rosalba Mendez, Miguel Mendez, Christopher the younger brother.

**Q.** How old is Christopher?

A. Christopher, I think he's... he should be 12 or 13.

Q. 12 now?

A. (Nods head.)

Q. So he would have been about nine back then?

A. He's pretty young. I don't quite know how really... he's really young.

Q. He's a young boy?

A. Young boy.

Q. All right. I'm sorry I interrupted you. You said Rosa and his sister, Maria, correct?

A. Maria Osborne and David Miguel.

Q. And her husband, fiance, what was he; boyfriend?

A. Her husband.

Q. Husband?

A. David Osborne, he's military so he's out --

Q. I'm sorry. I'm asking -- we're not quite on the same page. She was there with her husband?

A. Uh-huh.

Q. Did they have any kids?

A. Yeah, David Miguel.

Q. Two kids? I'm sorry. Now I'm with you. Okay. And then Christopher --

A. No. David Miguel, his name is David. I call him David Miguel. That's what they call him.

Q. Three of them, plus Christopher?

A. There's David Miguel, now there's McKenzie. I apologize. David... there's David, that's her son and then Christopher is Freddy's younger brother.

Q. There's two?

A. Yes.

Q. And that couple, Maria and her husband?

A. Uh-huh.

Q. And then Mr. and Mrs. Mendez?

A. Yes.

Q. And then you and Freddy?

A. Uh-huh, and Alexis.

Q. And Alexis? And come March of 2011 there was also Josiah, right?

A. Yes, Josiah.

Q. Anybody else I'm leaving out?

A. Later on she had a little girl named McKenzie.

Q. Maria had another baby?

A. Uh-huh.

Q. Named McKenzie? So now there's 11 in the house, right?

A. Uh-huh.

Q. Big house?

A. Yes.

Q. A lot of people live there, right?

A. Yes.

Q. Did that cause stress or was that okay or --

A. There was some stress. There was awkward... you know, they would talk in Spanish and make me feel uncomfortable, sometimes the things that they would say.

Q. Yeah, you mentioned that earlier; tell me about that.

A. Well, they would joke and like, I felt like I was being talked to like I was stupid or something like, you know, because they would repeatedly tell me over and over and I'd be like, I know what you're talking about. You don't need to tell me twice.

Q. Can you give me an example, like, what subjects would they tell you over and over again?

A. Like how to clean something. Like, you need to do it this way.

Q. On cleaning the house?

A. Yes, I would clean the house. I would help clean the house, help cook. I would help with their maid.

Q. So they would then tell you -- you didn't clean to their satisfaction they would tell you to do it a different way?

A. (Nods head.)

Q. And that made you feel uncomfortable; is that

right?

**A.** Yes.

**Q.** You said something about Spanish words, tell me, were they saying things to you in Spanish or are they -- Do you speak Spanish?

**A.** Yeah, I know some Spanish.

**Q.** Were they saying things to you in Spanish that you understood that bothered you or what --

**A.** Yeah.

**Q.** -- do you mean by that?

**A.** They said they were joking but I took it offensively. They would call me sucio La Chino La Chino Cochino, meaning dirty Chinese.

**Q.** La Chino means dirty Chinese?

**A.** Yes.

**Q.** Okay. What else?

**A.** And they would call me puldud (spelled phonetically), like, they'd call me, like, donkey or stupid.

**Q.** In Spanish?

**A.** Uh-huh.

**Q.** What are those words?

**A.** Puldad (spelled phonetically).

**Q.** Okay. Which one is that?

**A.** That's the donkey, like you're a donkey.

Q. Okay.

A. Yeah, made me feel --

Q. But you knew what those words meant?

A. (Nods head.)

Q. And so would you say something or would you react whenever they did that?

A. They would just laugh and I was just like, okay.

Q. They would act like they were -- they would act like they were joking?

A. They would act like they were joking, but sometimes, you know, I couldn't tell if they were joking or being serious and I --

Q. But it bothered you?

A. It did bother me and I kind of just let it go, because you don't argue or bite the hand that feeds you or the people that are taking care of you.

Q. Was Mr. Mendez aware that they would call you donkey or --

A. Yeah.

Q. -- dirty Chinese?

A. He would laugh about it, he thought it was funny.

Q. Did you tell him it bothered you?

A. He just blew it off like I didn't know what I was talking about, that I'm taking it too seriously.

**Q.** He would tell you to relax and not get upset about it?

**A.** Yeah, and to --

**Q.** They're just joking?

**A.** He's like, don't worry about it. You don't know what you're talking about.

**Q.** Other than that, were there any other issues, other than what you've described, or other than that was it an okay place for you to live?

**A.** I just managed because it's where -- I mean, I had nowhere else to go.

**Q.** At this point the relationship with the Hawkins has basically come to an end, because as you've said... did you talk to the Hawkins again after you moved into that house, do you recall if you had any conversations?

**A.** I have called them about paperwork for Dayland, about our divorce paperwork because there was multiple times I tried to, you know, get it situated where I had to get his I.D. or get a signature or notarize --

**Q.** So there were some occasions that you would be able to contact them?

**A.** Yes.

**Q.** At that point whenever you were calling did you call Elizabeth or did you call Roy?

**A.** I would call both.

**Q.** At that point were you able to have access to e phone and use it whenever you needed to, like if you eded to call the Hawkins could you do that?

**A.** I would use the phone. I would use their house one.

**Q.** Was that okay with them?

**A.** At first it was.

**Q.** At this point in time was it okay with them?

**A.** It was okay.

**Q.** Did it change?

**A.** It changed because Freddy didn't want me using ıe phone. He says we don't pay the bills, this is my ırents house. You don't need to be calling them, using ıe phone to call. Anybody want, you know, they can't ıst call here, you know, this is not our house. We ɔn't... this is not our phone.

**Q.** So he expressed unhappiness with using the hone, did the Mendez family tell you that you couldn't se the phone, too, or was it just --

**A.** They made it seem awkward. I did get an wkwardness that I couldn't use the phone because Freddy s like don't be sitting on the phone all day using it, loing nothing. They just thought I was on the phone all lay doing nothing.

**Q.** Were they present whenever he would say those

type of things to you?

A. No, he would tell me these things.

Q. So he would tell you those things, you assumed that they knew he was saying those things to you but you don't know if he was... that they knew he was saying those things to you, does that make sense?

A. Right. Yes.

Q. But at this point in time you were still using the phone occasionally, and whether it made him happy or not you used it and you called Elizabeth and/or Roy about issues that you needed; is that right?

A. Right.

Q. Do you remember ever talking to Elizabeth or did she inquire whenever you talked to her about how things were going?

A. She mentioned some things and I kind of just expressed a little how I was feeling.

Q. What did you tell her?

A. That I felt a little unsure about how I was doing things there because the way I was taking care of Alexis I would ask her questions like, well, she's doing fine but, you know, they would say one thing and then tell me another, and I wasn't sure if I was raising her right.

Q. You're going to have to explain that to me.

**A.** For instance, like time out, like if I --

**Q.** Oh, discipline issues?

**A.** Uh-huh.

**Q.** Tell me about that. So they would express to you that you should discipline a different way?

**A.** (Nods head.)

**Q.** How would you discipline?

**A.** A smack on the hand or put her in the corner.

**Q.** Describe that to me; when you smack her on the hand what are you talking about? Show me?

**A.** Like you smack on the hand and go no.

**Q.** You mean like that (Indicating)?

**A.** Yes.

**Q.** Or harder than that?

**A.** Go like this; you smack on the hand, you go no don't do that and they would make fun of me for doing that. You're not doing anything, she's just not going to listen to you, you're not disciplining her.

**Q.** I realize you're handcuffed, okay; can you handcuffed show me as hard as you would hit her by hitting yourself on the hand?

**A.** It was hard. (Indicating).

**Q.** Just like that?

**A.** Uh-huh.

Q. Any harder than that?

A. No.

Q. Would you ever leave a bruise on her doing those types of things?

A. No.

Q. What would they tell you you should do?

A. To spank her, put her in the corner longer; that I was spoiling her.

Q. I've used the phrase and I'm sorry I said "they," who would tell you to do that?

A. Freddy and his family.

Q. Would Freddy... Freddy would tell you to do that and his family also would tell you to do that?

A. Yeah, especially Freddy.

Q. Would they be present whenever Freddy and you were having these disagreements about how to discipline Alexis?

A. They kind of just walked off like they didn't want to be a part of anything.

Q. Trying to get out of your personal business?

A. Yes.

Q. But nevertheless you felt they were more supportive of him in that role than of you in your position?

A. Yeah, they were always supportive of him.

Q. You told that to Ms. Hawkins?

A. Yes.

Q. Did she give you any advice?

A. I don't really recall, because I know it upset her.

Q. Okay. Was she still upset about the situation whenever you talked to her?

A. Yes, she was. And I understand because she does love Alexis, she loves Alexis, they love Alexis very dearly. And I understand they were very upset that they weren't being able to see her.

Q. At this point, okay -- let me put something in context for you, okay?

You remember the night that Mr. Mendez became angry with you on July 4th, in the early morning hours of July 5th, you remember that event, correct?

A. Yes.

Q. This conversation that you just told me about with Alexis (sic) Hawkins and conveying those things to her, did that happen before July 5th or after July 5th?

A. That happened before.

Q. Before July 5th? So right now I'm talking to you about events that happened before that July 5th incident?

A. Uh-huh.

Q. Tell me about how your relationship was going with Robin Dominguez during this time. You talked about Alexis (sic) Hawkins and your relationship, how were you and Robin communicating; how were things after you left your apartment on Southwest 89th and moved into the house, the Mendez family home up in northwest Oklahoma City, south side of Edmond?

A. Things got distant.

Q. Explain that?

A. Because Freddy didn't like her. Freddy didn't like me being around her.

Q. Why not?

A. Because she's very bold, she's very independent. She sees something she'll bluntly say I don't like this. I don't like what's going on. And he didn't like how strong and bold she was about saying when she saw something inappropriate, that she would specifically say I don't like this.

Q. Did you and he have conversations and/or arguments about your relationship with Robin?

A. Yes.

Q. How often?

A. Often, because Robin is my best friend and she's like Alexis' second mom. He didn't --

Q. Did you tell him that?

A. Yes, I would tell him that, and he would get angry, he would raise his voice and get very mad. And he said, "this is my parents house, this is... I'm paying for the bills and I'm taking care of you, and she can't come over here."

Q. Was she still allowed to come over on occasion even though he felt that way?

A. She would make contact -- it was very distanced but eventually she made contact with me.

Q. Okay. Were you -- You had talked a little bit about how he had expressed to you he was unhappy that you would use the phone and call the Hawkins?

A. Anybody in general, actually.

Q. That was my next question. Did he express those similar types of concerns if you used the phone to call Robin or anybody else for that matter?

A. Yes.

Q. So it was consistent not just with the Hawkins it was also with Robin Dominguez? Who else would you try to call that he did not approve of?

A. My mom in California.

Q. Okay. What about your sisters?

A. And my sisters.

Q. Andrea Wallace, did you ever try calling her?

A. Yes, Andrea Wallace.

Q. Another one of your friends?

A. Yeah.

Q. Was there anybody that he was okay with you calling or using the house phone to call or his phone to call?

A. Not really.

Q. Did you ever ask him about that?

A. No. I don't like conflict so I try, I wouldn't try to get him mad or anything. So at this point I'm starting to... I started withdrawing myself from everybody because I didn't want anything to cause any arguments to cause us to fight.

Q. At one point, ma'am, eventually did Robin find where you were at the Mendez home?

A. She did.

Q. You guys were able to make contact?

A. Yes.

Q. And did she on occasion come over and did she have the opportunity to meet the family that lived there in the house?

A. She did, she eventually met them.

Q. There at the house?

A. Uh-huh.

Q. And was she welcome in the home as a guest by the family?

A. Yeah, she was. They were very nice to her. I introduced, they said hi to her and everything, but as usual Freddy was upset about it. He didn't --

Q. He didn't like it?

A. He does not like Robin at all.

Q. At some point do you remember an event where Robin came over and you ended up leaving with Robin?

A. Yes.

Q. Was that before the July 5th incident when the police were called or was that after the July 5th incident when the police were called?

A. This was after the July 5th.

Q. It was after the July 5th incident?

A. It was very short after.

Q. Well, I'm sorry, what did you say right at the end?

A. It was very short after.

Q. Very short after? I thought you said I'm very sure, but I think you said very short.

So shortly after the July incident, the incident with Robin?

A. Yes.

Q. I want to talk about the July 5th incident first.

MR. GIEGER: Stop now?

**THE COURT:** Yes.

**MR. GIEGER:** All right.

**THE COURT:** I've got about 25 after 12:00 so we're going to take our lunch recess. Can we do it in an hour; back by 1:30? Please do not discuss this case, please do not allow anyone to discuss it with you and we will stand in recess until 1:30. Please rise. You are excused.

(Whereupon, the jury exited at 12:22 p.m.)

(A recess was here had.)

**AFTER RECESS**

(Whereupon, the jury entered at 1:54 p.m., and the following transpired in open court.)

**THE COURT:** You want to call your witness?

**MR. GIEGER:** Yes, sir. I'm sorry. I thought they were getting her.

**THE COURT:** Ms. Phanthtaranth, you're still under oath continuing.

VICTORIA PHANTHTARANTH,

was called as a witness on behalf of the State, and having been previously duly sworn, testified as follows:

CONTINUING DIRECT EXAMINATION

BY MR. GIEGER:

Q. Ma'am, when we left off before lunch we were just about to talk about the events that happened on July

4th, 2011; you remember that day?

**A.** Yes.

**Q.** Tell me about what happened that day?

**A.** That day we were having a... they were having a party at the house, at the Mendez house, and everybody was coming over and they were drinking. And later on in the night when everybody is gone home decided to stay out in the pool house with Alexis, and his parents were upstairs and watching in Maria's room, I believe watching movies or something like that.

**Q.** Had it been a good day?

**A.** It's been an all right day.

**Q.** You said some people had come over, some friends of the Mendez family had come over?

**A.** Yeah, their friends and family came over, so it was a get-together.

**Q.** Had you been there essentially all day long enjoying the holidays, July 4th holiday?

**A.** Yes.

**Q.** So at this point you've told me where everybody is, what happens?

**A.** Well, I go downstairs to go get Alexis because Freddy was in the pool house with her and it was getting late.

**Q.** Is the pool house separate from the rest of the

house?

**A.** Yes, it's separate. It's separate from the rest of the house. You could see it across from the balcony of where his parents are at.

**Q.** So the pool is in between the house and the pool house, the pool is in the middle?

**A.** Yes.

**Q.** Is that right? What happens?

**A.** Well, I go in there to get Alexis and Freddy says I'm ruining the fun. I didn't think Alexis should be in there.

**Q.** Why not? Why didn't you think Alexis should be in there?

**A.** Because he's drinking, he's still drinking heavily.

**Q.** What happens next?

**A.** Well, he starts getting angry and we start getting into an argument and we go... we start heading back to the house but then he starts hitting me.

**Q.** Freddy starts hitting you?

**A.** Yes, he starts hitting me.

**Q.** Mr. Mendez starts hitting you?

**A.** He starts hitting me.

**Q.** Ma'am, do you recall what time of day or night it is that this starts happening?

**A.** It's still kind of lit up outside. You could still --

**Q.** So it's in the evening?

**A.** It's in the evening time, the sun is about setting, but you could still see everything around you.

**Q.** What happens?

**A.** Well, he starts... we start getting in the argument and he starts grabbing me and starts punching me in my face and punching me in my eye. And he shoves me into the pool, and I try to get out and he shoves me back in the pool and starts hitting me and dragging me around and I'm screaming and crying at this moment, and he tells me to shut up.

And finally he gets Alexis and we go inside the house because the baby is sleeping.

**Q.** Ma'am, is this the first time Mr. Mendez has put hands on you in a manner like this or has it happened before?

**A.** It's happened before.

**Q.** It had happened before this date?

**A.** (Nods head.)

**THE COURT:** You have to answer.

**THE WITNESS:** Yes.

**Q.** (By Mr. Gieger) At what point in the relationship did it begin to happen? We've talked about

that your relationship started some time during the end of '09 or into the early months of 2010, somewhere in that time period.

How long were you together before the arguments that you've talked about elevated to one of being physical at times?

**A.** There was a point in time when we were still in our apartment that he pushed me and it escalated a little bit and, you know, grabbing, getting in my face.

**Q.** That was the first time?

**A.** And then when we moved into his parents house it got more aggressive.

**Q.** Was that before or after you were... that you knew you were pregnant with Josiah?

**A.** It was after.

**Q.** After?

**A.** It started getting worse.

**Q.** Did you tell anybody about that?

**A.** No.

**Q.** Why not?

**A.** Cause I was already in a domestic abusive relationship and I was embarrassed.

**Q.** Because you were embarrassed?

**A.** Yes, cause I got myself in the same predicament that I worked so hard to get out of.

Q. Had it slowly escalated to the point that it was on July the 4th or had it been less than that and July the 4th was unusual in that it was more violent?

A. It was more on the 4th of July.

Q. That was the worst it had been?

A. It has gotten worse after that, but that --

Q. Up to that point?

A. Up to that point.

Q. So you told us what he did, what happens after that?

A. Well, I go upstairs and we're still arguing and the kids are in the room and we're arguing in the room and he continues to hit me and beat me in the room and then --

Q. What room?

A. In his bedroom, upstairs in the far back. And we're arguing in the closet. At this time I had been shoved all the way up into the closet because I'm screaming and crying loud.

Q. What happens next?

A. He starts punching me and hitting me, telling me to shut up, and then he demands me to go make him a sandwich. And I'm covered... my clothes are wet at this point so he sends me downstairs to go make a sandwich.

Q. The kitchen is downstairs?

A. And it's downstairs and I have to pass by Maria's room. And as I'm walking down the hallway his mom comes out and I'm crying and my face... I put my head down and it's covering up my eye. My eye is already swollen shut from him hitting me so many times. And this is when his mom comes out of the room and she goes, what's wrong, because the light is dim in the hallway. She goes, what's wrong? And she looks, and she pulls my hair out of my face, and she seen my eye and she started screaming, you know, yelling at Freddy, and that's when Maria pulls me into her room.

Q. So Maria had come out into the hallway as well?

A. Uh-huh, because she heard her mom started to yell at Freddy and they get in an argument.

Q. Go ahead.

A. And that's when I went into the room and that's where Alexis was brought into the room with me and that's when Freddy goes outside and, I guess, apparently he has the baby.

Q. Josiah?

A. He has the baby and his dad is trying to get the baby away from Freddy.

Q. Okay. Freddy's dad is trying to get the baby away --

A. Yes, to get the baby, because Freddy is drunk

and he's sitting there with the baby yelling and trying to push his dad away and they're trying to get the baby away from Freddy.

**Q.** At this point, ma'am, you're in Maria's bedroom?

**A.** I'm in Maria's bedroom with Alexis.

**Q.** So you're not seeing this happen?

**A.** You can see it from outside the room and you can hear them arguing in the front of the house.

**Q.** That was my question. You could hear it, could you also see it?

**A.** I went back and I seen it through the window.

**Q.** Through the window in Maria's bedroom?

**A.** No, through Christopher's bedroom because his is in the front of the house.

**Q.** So you're observing it and you're hearing it, what's happening at this point?

**A.** At this point I'm back in Maria's room and I'm hiding in their room away from Freddy, me and Alexis, and they're trying to get the baby, and that's... I stayed up there the whole time.

**Q.** How long do you stay in that room?

**A.** It was a good 15, 20 minutes.

**Q.** When you come out of the room --

**A.** They put me back... they told me to go back to the room and stay in the room, that they were going to

watch Josiah.

Q. Who is they?

A. Maria is going to watch Josiah for the night and I have Alexis, and we stayed in the room and Freddy stayed out in the pool house downstairs.

Q. Did you see Freddy Mendez again that night after --

A. No.

Q. -- you were separated in the hallway?

A. No.

Q. After you looked out in the front yard?

A. Yeah. No.

Q. When you say Freddy stayed in the pool house, were you told Freddy stayed in the pool house?

A. That's what they told me, that he stayed in the pool house, that he's going to be over there and you stay here, just cool off. Let's just calm down. And I stayed in the room all night and the morning and he didn't come in till early in the morning.

Q. When you say "they told" you that, who is they?

A. Maria.

Q. Maria told you that?

A. Yeah, she's the one that informed me.

Q. Ma'am, did you know that Oklahoma City police were called as a result of that altercation that was

going on either between yourself or between Mr. Mendez and his father?

A. Maria said she was going to call, she said that he was going crazy, he was under the influence.

Q. She said she was going to call?

A. Yes.

Q. Do you know if she did call personally?

A. I could hear her.

Q. You could hear her?

A. I could hear her saying, yes, my brother, he's, uhm, intoxicated, he's crazy, and that's all I heard.

Q. You heard her make that telephone call?

A. I heard her making that phone call.

Q. Did you ever personally see a police officer?

A. No, I never saw a police officer.

Q. Did anyone come and ask you if you wanted to talk to the police?

A. No, nobody asked me.

Q. Did anyone in the family tell you to talk to the police or you could talk to the police or it was your choice to talk to the police?

A. No.

Q. Did you ever inquire -- after hearing Maria on the telephone making the 911 call, did you ever say did the police come, did you ever ask those kind of questions

of anyone?

A. No, I was too scared.

Q. That's my next question. Why were you scared to ask them if the police came?

A. Because I didn't know what was going on. I was too scared to do anything. I just stayed in the room.

Q. Following that July 4th into the early morning hours of -- and am I correct in those events took some time to unfold; is that right?

A. Yeah.

Q. You didn't see him again that night?

A. No, I saw him the next morning.

Q. Earlier before lunch you said that it was a very short time between that event and the event when Robin Dominguez came over to the family home and encouraged you to leave; is that correct?

A. Yes.

Q. Can you give me an estimate as to, was it a matter of days, was it a matter of weeks?

A. Weeks.

Q. How many weeks do you think happened before that next event happened?

A. Uhm, two or three.

Q. Following the events on July 4th and 5th were there any discussions or any directives given by the

Mendez family to you and Freddy about that event or was it just --

A. It was kind of blown over.

Q. Just kind of dropped?

A. (Nods head.)

Q. Okay.

A. Yeah.

Q. Tell me about the event then that happened whenever Robin Dominguez came to the house, what had gone on that day?

A. Me and Freddy got into an argument because he spanked Alexis and he's like stop trying to be a good mom, stop trying to do this, stop trying to act like you're doing something right, because I got upset he spanked her and he didn't need to spank her and send her to the corner.

Q. Help me understand that again. So he was upset and saying stop trying to be a good mom. Were you arguing again about the way you were disciplining?

A. No, he got mad at her. It was potty training time and he would get upset over her wetting her pants.

Q. Help me understand why he would be saying stop trying to be a good mom, put that in context?

A. Because I would try to fight him. When you tried -- we'd literally get into fist fights or I'd try

to run away from him, he would grab me by my hair and drag me back.

Q. And that stemmed over the way she was being potty trained or that stemmed over in the way she was being disciplined or something else?

A. Just all of it together, combined.

Q. You've argued about the way Alexis was being parented?

A. Yes. I didn't want him to spank her, I would get mad, and so then that occurred to, escalate into an argument and then it turned into a physical argument.

Q. At some point did somebody get on the phone?

A. I ran for the phone and I tried to call his mom and his mom, Rosalba Mendez, she answered the phone and he hung up the phone; took the phone away from me and hung up.

Q. Were you able to say anything to Mrs. Mendez before he did that?

A. Not really, and she ended up calling Robin and I guess Robin, cause the only way she can get in when she was talking to Rosalba Mendez and that's how she got the pen code to get in the gate and Robin was outside ringing the doorbell and me and Freddy are still arguing.

And she's like -- he got pissed off because... forgive my language. He got angry because she was there.

He was like, what is she doing here, and Rosa gave her permission to go ahead and enter the house through the back door that was unlocked.

Q. Robin has told you these things?

A. Yes.

Q. Okay.

A. And she comes into the house and I was... I went in to take a shower because I had been crying and my face is pretty puffy from him grabbing my neck and my face and so I just went into the shower. She goes... she comes into the shower and she goes, I know you've been crying. She goes, we're leaving. And so I get out and we're trying to get ready and she's collecting Alexis' stuff and I'm trying to get ready to leave too and he's like, no, we need to talk. We need to talk. Can you please get out the room so we can talk?

And he's trying to tell me to continue to stay and to not go, that I'm not going anywhere. He grabs me by my throat, pushes me around, and Robin --

Q. Is Robin in the room when that happens?

A. No, she's outside the room and she keeps coming in checking, like, Vick, we need to go, we need to go.

Q. And so if I understand what you just told me, there were times whenever you were in the room alone with Mr. Mendez, Robin was still at the house encouraging you

to leave?

A. Uh-huh, it took about three hours for me to leave.

Q. Then she would go out of the room and that's when the physical part would happen?

A. Yes. He waited till she's not looking or no one is looking and it even occurred all the way until I was downstairs and he shoved me into the bookcase and Robin could physically see the marks he made on my face and my neck where he grabbed me.

Q. Other than what you've already described about, during that about the approximate, you said three hours?

A. Yeah.

Q. Is that a yes? Anything else significant happen during that time period, the three hours, other than what you've already described; it was a lot of arguing back and forth?

A. Yes, he got upset because Robin grabbed Alexis' hand and she was walking and she's (sic) like she's not a baby, don't treat her like a baby, just for the simple fact that she was holding her hand.

Q. And you witnessed that?

A. Yeah.

Q. Why didn't you tell Robin who was out in the hall he began to be physical with you, why didn't you say

Robin come in here and help me, he's beating on me, why is that?

**A.** Because I'm still ashamed and embarrassed about the whole physical and domestic violence that's going on between us, because I just left that and I got myself back into it. Like, I'm really, I'm really... I feel stupid and ashamed for it because I let it happen all over again.

**Q.** You and Robin are best friends?

**A.** Yeah.

**Q.** But you didn't feel comfortable telling her that?

**A.** No, because, you know, I know that she's going to tell me, well, Vick, you know, what I know it's going to get out of hand and I'm ashamed, I'm so ashamed of it. I'm just afraid to tell people what's going on.

**Q.** You get downstairs and you say that he did something that left a mark on you, what? Tell me about --

**A.** He grabbed me by my throat and my face and shoved me against the bookcase down in the office.

**Q.** Is that something that he had done before or is that something that had just occurred on that day that he grabbed you by the throat and the face?

**A.** He does that to get my attention.

Q. He had done that before?

A. If I'm not listening he'll grab me by my throat and my face like this (Indicating) and bring my face to his face and talk to me and start getting angry and talk through his teeth, starts spitting, getting angry, punching himself in the head to show that he's getting angry.

Q. That's something that happened multiple occasions?

A. It's happened before when we'd get into arguments.

Q. And it happened on that --

A. (Nods head.)

Q. When you left who left with you?

A. Alexis left with me. I took Alexis because he wouldn't allow me to take the baby with me and I wasn't going to leave Alexis, so I took Alexis with me; Alexis and Robin.

Q. And where did you go?

A. I went to Robin's house.

Q. How long did you stay at Robin's house?

A. Uhm, not very long, a week I think.

Q. You stayed several days?

A. Yes.

Q. At some point did you go back?

A. I did. I was talking to him and he convinced me to come back, he was going to get counseling, he was going to change. I wanted to believe that.

Q. What did Robin think about you going back or did she have an opinion?

A. Oh, she didn't like it.

Q. Did she tell you that?

A. Yeah, she didn't like it. She didn't think he was going to change.

Q. Ma'am, at this point you were removed from that house, and was Robin offering you a place to stay?

A. I couldn't stay there permanently.

Q. Why not?

A. Well, her husband goes to work often and I already stayed there before and now I have a, you know, my son is going to be crying and --

Q. Was your son there or was your son --

A. No, but if I were to bring him there then he'd be crying and, you know, we've done this before with Alexis and I wouldn't want to -- I felt like I'd be imposing.

Q. And even at this time when you were with Robin at her house for this approximate week you didn't tell her about the abuse that was going on, the physical problems?

A. No.

Q. Why not?

A. I was ashamed of it.

Q. Same reasons?

A. Yes.

Q. You go back to the house?

A. (Nods head.)

Q. What happened?

A. Well, we -- they said that we couldn't stay there any longer cause we needed to find --

Q. Who said that?

A. The Mendez family. They said that we needed --

Q. Why did they say that? What were their reasons for making you leave?

A. I believe --

Q. Hang on. What did they tell you?

A. They said that we needed to get our own place, that they couldn't put up with our stuff, our arguments.

Q. Because of the issues with the police and also with the issue that happened with Robin?

A. Yes.

Q. So what did you do?

A. Freddy finds a place. We start looking for apartments and we end up moving to, I don't recall what the place was called, the apartment that we moved in.

Q. Where was it?

A. All I know is right across from the mall.

Q. Quail Springs Mall?

A. I'm not sure. I'm not even sure what mall it is.

Q. Well, how far away from the Mendez home was it?

A. It would be probably a five, ten-minute drive.

Q. Do you know what streets were close to it, what's the main streets?

A. No, I don't. I'm real bad at streets.

Q. Did you drive at this time?

A. No, I didn't own a car. I don't even have my license.

Q. Once you moved in that apartment how often would you leave it?

A. Not very often.

Q. And when you left it how would you leave it and who would take you?

A. Freddy would take us, he would borrow his dad's truck or his mom's van. He'd come by and or we walked. He was always with me. And if I was there, you know, when he's at work he always stopped by and checked on us, come in see what we're doing, make sure I was cleaning, make sure everything is going right, make sure I wasn't doing anything.

Q. During this time period that you moved in that apartment Mr. Mendez, I think you just told me, he continued to work?

A. Yes.

Q. Yes? Did he work for his father?

A. Yes.

Q. And he would stop by occasionally during the day, is that what you were telling me --

A. Uh-huh.

Q. -- whenever he had the opportunity to? Did you have a phone at that apartment?

A. No.

Q. Did he have a phone?

A. Yeah, he had a cell phone.

Q. When you were there were there occasions that you would go down and have conversations with the people who worked at the apartment complex?

A. Yes, I had to take care. He told me to make sure I take care of getting the apartment sprayed for bugs because my son would crawl around. There was an electrical problem with one of the outlets, there was a leaky faucet. I had to go down there and take care of those things and he'd make sure that when he came; did you go and tell them, did you go and take care of that? And I would do the things he would tell me to do.

Q. Okay. Did you become friendly with the people that worked there or was it just more of a business association?

A. It was more of a business association. I was trying to be friendly with one of the ladies, I don't recall her name.

Q. Okay. On occasion would you use their telephone?

A. I only used it one time.

Q. What did you use it one time for?

A. Well, there was an incident where I had to go down there and tell them something about a faucet, I believe, and when I went down there I just grabbed the kids and put them in the stroller together, and I went over there. And Alexis... when we're on our way to go back I put Alexis down for a walk and she started crying and I didn't understand what... she's been crying. And we were both looking at each other like; what's going on, and she pointed at her knee and we pulled up her pant leg and it was on her knee, she had a small bruise on her knee and she wasn't... she was screaming really, really loud and I didn't understand what was going on and I asked if I could use their phone.

And I called Freddy twice and I left messages and I tried to get ahold of him but he didn't answer. I

said, "If he calls back can you please come get me or tell me something?" And when I went back to the apartment I checked her leg and she was starting, she had like a lump on her leg that was starting to form and when he did come back and I asked him about it he acted like he didn't do nothing wrong.

Q. Did you take her to the doctor?

A. No, but he told me to go tell them that she's, she's going to the doctor, tell them that she's fine.

Q. Tell the apartment people?

A. Tell the apartment people because they were concerned about it. He got very upset that she was crying.

Q. Did you want to take her to the doctor?

A. I did. I said there's something wrong with her leg. He would lay her down and would check her leg, move her leg; see, it's moving, it's fine, it's fine. There's nothing wrong with it. I said there's something wrong with her leg she's crying, and if there's something wrong there's something wrong in her leg.

Q. Let me just ask right now; were there any times you witnessed Mr. Mendez being abusive towards your daughter physically?

A. I seen him spank her, yes.

Q. That happened at the family home?

A. It's happened at our apartment.

Q. And the apartment before and after the Mendez home or just the one after?

A. Just the one after.

Q. Do you think he was being excessive in the way he was spanking her?

A. Yes, and we'd get into arguments about it.

Q. Would he leave marks on her?

A. She would get bruise marks on her butt and her little hands, because when he hit her she'd put her hands back like this (Indicating).

Q. Other than the day she died were there other times that you witnessed him being aggressive that would leave marks behind on her?

A. Not like that.

Q. Not like that?

A. Not like that.

**MR. GIEGER:** Approach, Your Honor?

**THE COURT:** Yes.

Q. (By Mr. Gieger) I'm going to show you State's Exhibit No. 2, 3, 4, 5 and 6. And I want you to flip through those for just a minute. And first of all, I want you just to tell me if you can identify them, okay? Do you -- I'm sorry, do you recognize them?

A. Yes.

Q. Look at all of them. Do you know where these pictures came from?

A. Yeah, I took all these pictures.

Q. In your apartment was there a camera?

A. Yes, there was.

Q. And are you aware that after the events that happened police got that camera, right?

A. Yes.

Q. And these are the photographs that you remember taking that were on that camera?

A. Yeah.

Q. Ma'am, there's a date on all those photographs, do you see the date on them?

A. Yes, I do.

Q. Are those dates accurate with the dates that they were taken on?

A. Yes.

Q. And are they accurate depictions of the way your children appeared on the dates that show on these photographs?

A. Yes.

Q. In other words, do they look like in the photograph what they looked like?

A. (Nods head.)

**MR. GIEGER:** State would offer 2, 3, 4, 5 and 6.

**MR. HUDSON:** No objection, Your Honor.

**THE COURT:** State's 2, 3, 4, 5 and 6 will be admitted without objection.

**Q.** (By Mr. Gieger) Can you see the TV?

**A.** Yeah.

**Q.** Is that yes?

**A.** Yes.

**Q.** And this is State's Exhibit No. 2. Obviously, it's a picture of Alexis and Josiah; is that correct?

**A.** Yeah.

**Q.** The date down here says August 5th of 2011; is this after you moved into the apartment?

**A.** No, we lived there.

**Q.** I'm sorry?

**A.** We lived there, because we took her to the zoo. We lived there.

**Q.** You lived where?

**A.** The Mendez house.

**Q.** It's at the Mendez house?

**A.** Yeah.

**Q.** Is that in the Mendez house?

**A.** Yes, it is; it's in Freddy's room.

**Q.** Ma'am, when I look at it there appears to be a bruise on her arm; is that right?

A. Yes.

Q. Do you know how she got that bruise?

A. Freddy would grab her by her arm and pick her up by one arm. When he'd move her around he would just grab her and just move her this way and that way; she wasn't listening, to hurry her up to go down the stairs or up the stairs.

Q. Did you -- Is that some of the behaviors that you and he would argue about?

A. Yes, I'd argue you can't just grab her like that and yank her around, she's not a rag doll.

Q. Do you know, at least on August 5th, if the Mendez family, did they see those bruises or did they ever comment about those bruises or did you ever hear anyone comment about those bruises?

A. They mentioned it once or twice about something that she had on her face or the ones I've had on my arm.

Q. They would ask about that?

A. Yeah. His dad asked one time about the one on my arm and the one on her arm.

Q. And who did he ask?

A. He asked me --

Q. What did you tell him?

A. -- what happened to my arm.

Q. What did you tell him?

A. Yes.

Q. Do you know how she got that bruise?

A. Freddy would grab her by her arm and pick her up by one arm. When he'd move her around he would just grab her and just move her this way and that way; she wasn't listening, to hurry her up to go down the stairs or up the stairs.

Q. Did you -- Is that some of the behaviors that you and he would argue about?

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A. They mentioned it once or twice about something that she had on her face or the ones I've had on my arm.

Q. They would ask about that?

A. Yeah. His dad asked one time about the one on my arm and the one on her arm.

Q. And who did he ask?

A. He asked me --

Q. What did you tell him?

A. -- what happened to my arm.

Q. What did you tell him?

A. I just kind of just looked down and didn't say nothing.

Q. What about -- who asked about the bruise on Alexis, do you remember a specific family member asking about that?

A. His mom.

Q. Who would she ask, you or Freddy?

A. She asked what happened to her arm.

Q. What did you tell her?

A. And I would say or I would (Shrugs Shoulders)... I would be ashamed to tell her what happened.

Q. You wouldn't tell her?

A. No.

Q. Would she ask Mr. Mendez what happened?

A. She would ask Freddy what happened.

Q. Did you hear her asking that?

A. I've heard her and he would look at me all crazy, like he look at me like don't say nothing.

Q. Would he say anything to his mom about explanations to what happened?

A. I don't remember.

Q. Ma'am, State's Exhibit No. 3 shows to be August the 13th of 2011, is that picture taken in the mall?

A. Yeah, it's in the mall.

Q. Is that the mall you lived close to?

A. Yeah.

Q. It appears on her other arm, but in a similar location on her other arm it appears to be a bruise here (Pointing), do you know how she got that bruise?

A. Same way; he was always grabbing her by her arms.

Q. Another picture, State's No. 4, is that taken on the same day in that same playground area in the mall?

A. Yeah.

Q. It appears to be another angle of the same bruise on her arm; is that right?

A. Right.

Q. On State's Exhibit No. 5, ma'am, this one shows a date of August 20th, 2011, is that date significant?

A. Yes.

Q. Why?

A. Birthday cake.

Q. Is that her birthday?

A. Yeah, she was born August 20th.

Q. Where was this picture taken?

A. In the Mendez home, downstairs at the kitchen table.

Q. Who made the cake for her?

A. I did.

Q. Was that okay with the Mendez family that you

had a birthday party for her?

A. Yeah, we just had a little cake for her and took her to the zoo.

Q. When I look at the picture, ma'am, it's kind of hard to see and I'm going to bring it to you, okay? Do you see anything there (Pointing) or there (Pointing) on your daughter?

A. Yes.

Q. What do you see?

A. She has markings across her face; down the lines.

Q. Are they bruises?

A. No, they're markings.

Q. How did she get them?

A. With a shoe, that chancla.

Q. And who put them there?

A. Freddy.

Q. Tell me about that shoe?

A. It's... it's a sandal, flat braided sandal that he uses to spank her with.

Q. And did he have a word for it?

A. Chancla; it's Spanish for sandal.

Q. Spanish for what?

A. Sandal.

Q. For sandal? Is that something that would... is

the [illegible] use your daughter [illegible] you'd use to hit

A. He would use that, yes, to discipline her. She knew, she even knew what it was. When she heard the word she would get scared.

Q. State's Exhibit No. 6, does that show the same event but another picture taken very close in time to the other one, I'm assuming; is that correct?

A. (Nods head.)

Q. And you can see the marks on her face a little bit clearer in that photograph, can you?

A. (Nods head.)

Q. Did anyone ever comment that day at the birthday party as to how in the world this child has these bruising or markings on her face at her birthday party?

A. No, because it was just the Mendez family and Freddy and myself.

Q. It's after the birthday party on August 20th of 2011 that you guys leave and get your own apartment or were you living in your apartment this time and just had a party at their house?

A. No, we stayed... we were still living there.

Q. Still living there at this point?

A. Yes, because we all got ready in the morning and

that something that routinely would be used to, I'll use the word discipline, is that something you'd use to hit your daughter with?

A. He would use that, yes, to discipline her. She knew, she even knew what it was. When she heard the word she would get scared.

Q. State's Exhibit No. 6, does that show the same event but another picture taken very close in time to the other one, I'm assuming; is that correct?

A. (Nods head.)

Q. And you can see the marks on her face a little bit clearer in that photograph, can you?

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A. No, because it was just the Mendez family and Freddy and myself.

Q. It's after the birthday party on August 20th of 2011 that you guys leave and get your own apartment or were you living in your apartment this time and just had a party at their house?

A. No, we stayed... we were still living there.

Q. Still living there at this point?

A. Yes, because we all got ready in the morning and

then went to the zoo.

Q. And there are pictures at the zoo, too, on that camera?

A. Uh-huh.

Q. You took pictures on that day, too?

A. Went to the zoo.

Q. Ma'am, you told me that after you moved into the apartment Mr. Mendez would on occasion come by to make sure that... to check on you?

A. (Nods head.)

Q. See how things were going at the house; see if you've done, sometimes, what he asked you to do, correct?

A. Yeah.

Q. Tell me about -- You indicated that you needed to clean and things like that, what kind of a house did Mr. Mendez expect in regards to --

A. A clean house; everything organized; his clothes waiting for him in the bathroom so when he gets home he can just jump in the shower and his clothes are already clean right there and I would wash the laundry. His food should be done by the time so he can just come home and eat, sit down, relax.

Q. Did you cook for him?

A. Yes.

Q. Did he ever assist you in cooking meals and

preparing meals, things like that?

A. No.

Q. Was the same true for the children's clothes, they needed to be in their place, clean and organized?

A. Yeah, everything had to be organized.

Q. Is that true throughout the entire house?

A. Throughout the whole house, everything.

Q. Had he communicated to you that those are his expectations or was that something you did voluntarily, or how was --

A. No, that's his expectations. He wanted everything organized.

Q. Did you ever have arguments about that? Did you ever think that he should help you and did he ever communicate that to you or is that just the way it was and you did it?

A. No, we'd have arguments about it. And he says, well, I go to work all day, you need to be doing this. This is what you're supposed to do. This is your job, to take care of the children and to do as I say. You're the maid. You're my slave.

Q. Did he use those words?

A. Yes.

Q. Did you ever tell his mother, did you ever tell his father, did you ever tell Robin that was the way he

was talking to you and treating you?

A. No.

Q. For the same reasons that you told me before?

A. Embarrassed.

Q. I want to stop right there for a minute and back up a little bit. Do you remember at a time taking your daughter to a pediatrician with Mercy named Dr. Lauren Hopkins?

A. Uh-huh.

Q. Tell me about why you took your daughter to see Dr. Hopkins?

A. Well, when she was born she had gastroschisis where her intestines were born on the outside of her body. And I believe that since the fluid was around it, it caused the intestines to harden where the body doesn't absorb all the nutrients that it needs, so her body wouldn't exactly... she continued to eat and eat but her hair started falling out and she would just keep eating and eating until her stomach would expand. So I was worried about that condition that she had and she wasn't getting any bigger like the rest of the children.

Q. Ma'am, the medical records show that these visits to Dr. Hopkins happened in May of 2011 and June of 2011, that would be during the time period after Josiah is born and you're still residing in the Mendez family

home; is that correct?

A. Uh-huh.

Q. When you took her to the doctor did Mr. Mendez accompany you?

A. Yes.

Q. Was he okay with you guys going to the doctor or did he not want to go to the doctor or did he have an opinion?

A. He always had an opinion.

Q. Okay. What was --

A. As soon as the doctor would leave; she's fine, she plays just like the rest of the children. We also had tests run on her that I wanted to continue all the way up until we were supposed to pick up a last test where you study the stool to see what's going on inside the body, but he didn't want to go downtown to go pick up the objects needed so then we can test them further.

Q. And let me make sure I'm clear. So you knew that Dr. Hopkins had arranged for some follow-up testing to be done?

A. Uh-huh.

Q. Did you want that testing to occur?

A. Yes, I did.

Q. And whenever you talked about that with Mr. Mendez, following up and doing that, he's the one who

said I don't want that to happen?

A. Yes, he didn't agree for her to go. He didn't want -- he says she's fine, look, she plays and acts like all the other children. I don't see why you keep pushing this. She's fine. See, she talks and does everything the same as every other kid. She doesn't need to go do that.

Q. Ma'am, I'm going to show you State's Exhibit No. 119, it's a letter, and I just want to ask you, have you ever seen that letter before?

A. No.

Q. There's an address on Northwest 149th Terrace in Edmond, Oklahoma, do you know what that address is?

A. That's his parents address.

Q. If this letter was mailed to that address, as it appears to be, is it your testimony you never saw it?

A. I haven't seen that.

Q. Did you know it was mailed to the house?

A. No.

Q. Did you ever receive any messages from Dr. Hopkins' office asking you to contact them regarding the follow-up tests and to bring Alexis back in?

A. I don't have a phone, Freddy has the phone.

Q. Did anyone ever communicate to you that, hey, your doctor's office called for Alexis, you need to call

them back; did anyone ever tell you that?

A. No.

Q. Do you remember what numbers you left with the doctor whenever you brought Alexis in and did the intake and said, okay, here's our address, here's our phone numbers, what address did you --

A. It should be the Mendez family and Freddy's cell phone number. There should be two numbers on there.

Q. I want to turn your attention, if I can, to the events that happened on October 30th of 2011, okay? You with me?

A. (Nods head.)

Q. At that point, ma'am, you were living in the house, were you not, or rather, excuse me, the apartment that you talked about that's close to the mall that we saw in State's Exhibit No., I think 2 and 3, and 4 maybe; is that correct?

A. Yes.

Q. Let me show you State's Exhibit No. 12. I know you probably haven't seen that picture before, but is that a picture of the apartment that you were living in?

A. Yes.

Q. It's basically a drawing, not a picture, but a drawing of it; is that right?

A. Yes.

Q. Based on your memory about where the front door is and the living room and the kitchen and the bedrooms and the bathrooms, is it an accurate drawing of the way the apartment that you lived in was set up generally where the sofa was found, things like that?

A. Those couches are moved.

Q. The couches are in a position that's different than the way you kept them normally?

A. Yes.

Q. Is that right? Other than that, are the walls of the apartment and the other, basically the physical description and the layout of the apartment, are they accurate?

A. Yes.

**MR. GIEGER:** Offer State's 12.

**MR. HUDSON:** No objection, Your Honor.

**THE COURT:** State's 12 will be admitted without objection.

Q. (By Mr. Gieger) Ma'am, I'm going to turn it, I think, this way, can you see it?

A. (Nods head.)

Q. The front door of the apartment is right here (Pointing)?

A. (Nods head.)

Q. You walk in and right straight ahead is a

hallway

A. To the bathroom.

Q. -- to the master bedroom; is that right?

A. Yeah.

Q. Bathroom; master bathroom, another bathroom on the side from the hall. This (Pointing) the bedroom where the kids slept?

A. Yes.

Q. Turn to your left there's a living room?

A. (Nods head.)

Q. You said the way those couches were drawn -- these are two sofas, right, that are drawn?

A. Yes.

Q. That's not the position they normally were in; is that right?

A. No.

Q. Okay. Then back here is the kitchen and that's the little balcony for a patio back here; is that right?

A. Yes, that's right.

Q. Just while we're talking about it I'm going to show you just a series of photos, just maybe for some general orientation. I want you to flip through State's 7, 8, 9, 10, 11, and 13. Just flip through those real quick and see if they resemble or if they're accurate depictions of the outside and the inside of the

apartment? I'm sorry I'm making it hard for you.

A. Yeah.

Q. Do you recognize them as your apartment?

A. Yes.

MR. GIEGER: Offer 7, 8, 9, 10, 11 and 13.

MR. HUDSON: No objection.

THE COURT: State's 7 through 11 and 13 will be admitted without objection.

MR. GIEGER: Thank you, Your Honor.

Q. (By Mr. Gieger) 7 is the outside of the apartment building, correct?

A. Yes.

Q. Is this your apartment up here?

A. Yes, those two windows to the right.

Q. Kids' bedroom, master bedroom?

A. (Nods head.)

Q. If you're walking into the breezeway, you go up the stairs and your apartment entrance is right there (Pointing)?

A. Is to the right.

Q. And this is a picture of the staircase, correct?

A. Correct.

Q. Let me ask now, you remember at some point telling the police and the doctors that Alexis fell down the stairs; is that right?

A. Yes, I did.

Q. Do you know if Alexis fell down the stairs?

A. That's what Freddy said, he told me.

Q. Did you ever see Alexis fall down the stairs?

A. No, I didn't.

Q. When did he tell you she fell down the stairs?

A. Three days before the incident.

Q. So it would have been October 27th is the day he told you that?

A. (Nods head.)

Q. Why did he tell you that?

A. That's what he said when I came out, when I came up and locked the door behind me.

Q. Did she have marks on her?

A. She had... was holding her head and she was saying ouch and he said... he was laughing about it, she just fell down the stairs. He says but she's all right. Say you're okay. You're okay. And she go I okay.

Q. So other than that incident did she ever show any signs of being seriously injured --

A. She just mentioned her head hurt. She mentioned her head hurt.

Q. Ma'am, if I open the door to your apartment at the top of the stairs, State's Exhibit No. 11, is that what we see going straight down that hallway that was on

the diagram?

A. Yeah.

Q. The master bedroom is back here (Pointing)?

A. (Nods head.)

Q. If you go in this door right there (Pointing) is that where the --

A. Bathroom.

Q. -- bathroom is?

A. Bathroom.

Q. Once you get here (Pointing) and immediately turn into this way is that the living room?

A. That's the living room.

Q. And the children's bedroom would be --

A. It's the first door on the right.

Q. Is that obscured by the front door?

A. (Nods head.)

Q. Stepping on in the apartment now you can see the door where the children's bedroom is; is that right?

A. Right.

Q. And this is... I neglected to show that, that's the outside front door, correct?

A. (Nods head.)

Q. Ma'am, just with that general description, so the jury maybe has a little visualization of where you are, and I asked you a little while ago to tell me a

little bit about what happened on the morning of October the 31st. Tell me about that morning; when you woke up where were you, what time was it?

**A.** I was in bed and Freddy has already gotten up, was moving around before me. And he put the clock in my face showing me the time, saying that he still gets up early and he wanted me... he's like, are you going to get up and make breakfast? And all I remember is looking at the clock, I only saw the 45 part. So I don't recall if it was seven or eight, but all I saw was the 45. I do recall --

**Q.** It was in the morning?

**A.** It was in the morning, a.m.

**Q.** What happened?

**A.** I was still half asleep and I heard him go into the other room and I heard Alexis say cup, can I have my cup, door, my cup, milk.

**Q.** So Alexis was up?

**A.** Yes.

**Q.** What happened?

**A.** And I guess he got her up and as I came out, I came out to make breakfast she was sitting on the couch already with her blanket and her sippy cup, which is in the living room; couch was at a different angle at the time. And she was watching, watching a movie or

something was on she was watching, I believe it was Dora. She has a video of Dora. And I went into the kitchen to cook breakfast and it was biscuits, it was eggs with hot dog and bacon.

Q. Okay.

A. And I made Freddy a plate first and Alexis' was cooling down, and I handed her her plate and she sat at the fireplace which is to the far right of the apartment, because she's not tall enough to sit anywhere else, so she eats by the fireplace in the far corner.

Q. Ma'am, do you recognize 38, 39 and 40?

A. Yes.

Q. Is that your apartment and the food you were making that morning?

A. (Nods head.)

Q. Is that the plate that you made for Mr. Mendez?

A. Yeah, that's his plate.

**MR. GIEGER:** Offer 38, 39 and 40, Your Honor.

**MR. HUDSON:** No objection, Your Honor.

**THE COURT:** 38, 39 and 40 will be admitted without objections.

Q. (By Mr. Gieger) Is that your kitchen?

A. Yes.

Q. Coming closer in there's the stove; is that right?

A. Yes.

Q. Is this the breakfast you were making?

A. Yes.

Q. Is this right here the plate that you made for Mr. Mendez?

A. When he was done I --

Q. Does Mr. Mendez often eat before you?

A. Yes, he always ate before.

Q. Why was that?

A. He was the man of the house, he always got to eat first.

Q. Had you made your plate yet?

A. No.

Q. But you had given some food to Alexis; is that right?

A. Yeah, she got a little bowl of eggs and meat --

Q. I'll show you those pictures here in a little bit. This is a close up, State's 40 is a close up, I guess, of what was on the stove; looks like some bacon over here (Pointing)?

A. Uh-huh.

Q. And then there's biscuits?

A. Right.

Q. You make breakfast, you make his plate, you get Victoria, excuse me, Alexis situated so that she can

start to have her breakfast.

A. Right.

Q. What happens next?

A. She didn't want to eat. She didn't want to eat her food and Freddy was getting madder because she wasn't eating and he kept yelling at her and she --

Q. What would he say?

A. He said... he would just yell at her. He's like "Eat your fucking food." I'm sorry. Eat your food --

Q. I want you to tell me what he said.

A. "Eat your fucking food." He's like... she's not eating her food. You know, he's getting mad. He's like I'm going to get the chancla if you don't eat. You better eat the food now. And he told me to go get the chancla, which is the sandal.

Q. Which is the sandal; is that right?

A. Yes.

Q. Did you go get it?

A. I did.

Q. Did you know what he was going to do with it?

A. Yes.

Q. Why did you go get it when you knew what he was going to go do with it?

A. Because I have to obey him. I always do what he told me to do.

Q. Is that the sandal?

A. Yeah.

Q. State's Exhibit 58?

**MR. HUDSON:** No objection, Your Honor.

**MR. GIEGER:** Offer 58.

**THE COURT:** State's 58 will be admitted without objection.

Q. (By Mr. Gieger) Okay. What happened?

A. She had a green onesie on with a zipper in the front, it had little flowers on the side of it and he unzipped it and he bent her over and pulled down her panties to spank her. He started spanking her, this is when Josiah started crying.

Q. Where is Josiah at?

A. He's in his room in his crib.

Q. Just a minute. 47, 48, 49, 50, 51 through 56 inclusive. 47 through 56 inclusive are those pictures of the bedroom?

A. Yeah, those are the pajamas she had on.

Q. Right?

A. Right.

**MR. GIEGER:** Offer.

**MR. HUDSON:** No objection, Your Honor.

**THE COURT:** State's 47 through 56 will be admitted without objection.

Q. (By Mr. Gieger) This is your daughter and your son's bedroom in that apartment, correct?

A. Yes.

Q. State's 47, you walk in the door and you see that little sleeping area here (Pointing) and then a crib over here (Pointing), correct?

A. Right.

Q. 49, 50, 51, 52, 53, 54, and that's the picture of the chancla?

A. Chancla, yeah.

Q. Am I saying it right, is that how you say it?

A. Chancla.

Q. Ms. Phanthtaranth, when I look at the photographs and specifically I compare State's Exhibit No. 52, this is where Josiah slept, correct?

A. Yes.

Q. State's Exhibit No. 50 it appears that Alexis was sleeping on a mattress on the floor?

A. (Nods head.)

Q. And Josiah had a rather substantial crib set up.

A. (Nods head.)

Q. Why the difference?

A. Freddy bought that for Josiah from his sister and I asked him specifically to buy her a bed that we were looking at Baby's R Us but he never got it for her,

he spent it on other things.

Q. Josiah starts crying and you go to the room and get him, what happens next?

A. Freddy is still spanking Alexis and I go get him and I come back and he's sitting there and he pushed her and he kicked her across the room, all the way to the window and he kicked her and he --

Q. Is he saying anything to her?

A. He's cussing at himself, he's getting pissed off. He's kicking her and he's hitting her in her chest.

Q. What's he saying?

A. He's... "you fucking little bitch" he's sitting there cussing and kicking her and hitting her. And I told him he needs to calm down, why doesn't he go outside.

My son is trying to look cause he could hear Alexis crying and screaming and he's trying to look and I'm covering up his eyes. And he's sitting there kicking her and pushing her around the room and I'm sitting there yelling at him. And he picks her up, after he's hit her in her chest, he's hit her in her chest, kicked her in her stomach, and she's flinging around the room across to the window and he picked her up and he slammed her.

When he picked her up he picked her up by her throat and her face and he slammed her on the ground and

then he's like get this little fucking bitch and go take care of her. Take care of her or else I'm going to kill her. You need to take her to the other room. Take care of her. Take care of your daughter.

And I get Alexis after I put Josiah down on the other side of the room and at this point she still has food in her mouth. She still has food in her mouth and she's holding her head and she's dizzy and she falls back.

**Q.** Is she walking?

**A.** She's stumbling. She's stumbling. She's stumbling, she's fluttering her eyes, she's holding her head and crying and her onesie has almost completely come off and it's on her foot, half way on and half way off where it's only when she walked that it's attached to her foot and it's a pastel green onesie.

**Q.** You take her into her room?

**A.** Yes. And when she falls back food sputters out of her mouth and I went like this (Indicating) and as it's coming out she spit some of it out and Freddy comes in --

**Q.** Ma'am, State's Exhibit No. 56, is that the onesie?

**A.** Yeah, that's it.

**Q.** Is that where it fell off of her?

A. Yes, and that's where she fell at, a little further back.

Q. What happens?

A. Freddy comes in and she's laying there and she's spitting stuff out and he yanks her up by her arm and starts hitting her on the back.

Q. Still?

A. Yes. He came and he yanked her up and starts hitting her in the back cause he seen the food in her mouth. He's like ah, and he started cussing and hitting her in her back and I'm freaking out, don't know what's going on.

Q. Does he realize that she's injured at this point?

A. I think so cause he starts panicking and he's hitting her on her back and starts panicking and yanking her all over the place trying to hit her in the back of her back.

Q. Because of the food?

A. Because of the food and I thought she was choking. He was sitting there hitting her in her back and he's hitting her and hitting her. He goes into the living room.

Q. Is he saying anything?

A. He's saying it's okay, it's okay, it's okay.

And he's sitting there and hitting her on her back and trying to get this food out of her mouth and goes into the living room.

Q. I want to stop you for a little bit. Okay? You described an event a few moments ago before she became dizzy and you say he grabbed her by the neck, he threw her down?

A. He grabbed her by her neck right around --

Q. You're motioning?

A. Yes, a motion. He grabbed her by her neck and picked her up and slung her down.

Q. When she was slung down --

A. She bounced off the floor.

Q. -- was my question; she bounced on the floor?

A. (Nods head.)

Q. What part of her body hit the floor?

A. Her head and her back.

Q. Front or the back of her head?

A. The back of her head.

Q. Back where my hand is?

A. Yes, this part right here (Indicating). When she did that she bounced back like that (Indicating).

Q. You motioned a moment ago when you put your hand to your neck, is that similar to the way he would grab you whenever he was angry?

A. Yes, the similar way he grabbed me by my neck and my face to get control to look in my face when he's yelling at me.

Q. Ma'am, you have seen when I met with you, you have seen the pictures of your daughter's body and the bruises that are all over her body, correct?

A. Yeah.

Q. Is it your testimony that those bruises to her feet and her ankles and her legs and her sides and her arms and her neck and her face and her head came from hitting with the shoe and kicking and flinging?

A. Punching her, yes.

Q. Punching that you've talked about?

A. (Nods head.) And he had shoes on, he was kicking her while he had his shoes on.

Q. He goes back to the living room and you're still in the bedroom?

A. I'm coming out the bedroom.

Q. What happens next?

A. And he lays her on the floor and I try to get this food out of her mouth but at this point she's already defecated on herself --

Q. And I want to --

A. -- like released --

Q. -- talk to you a little bit about that. When

did that happen?

**A.** When he brought her into the living room during that period of time she's relieved herself, like used the bathroom and she soiled... her panties were hanging off. She's a little girl so her panties are really as small as they can go, they're still big on her. So she's gone to the bathroom on herself and I'm trying to give her CPR but trying to get the stuff out of her mouth, because I'm panicking at this moment and I'm asking him to call 911, to call 911, and he goes into the back room and my son is starting to cry and try to crawl up to her.

And I'm trying to give her CPR by trying to get the stuff out and trying to breathe into her mouth, trying to remember, but it's kind of hard to remember how to do it when it's actually really happening, to actually try to give a child CPR.

**Q.** I'm going to hand you a bunch of pictures, okay?

**MR. GIEGER:** I'm sorry, Judge, I'll try to get them in order.

**Q.** (By Mr. Gieger) 16, 17 and 18, 20, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32 and 33, 34 through 35?

**MR. GIEGER:** Judge, 34 and 35.

**Q.** (By Mr. Gieger) Look through, okay? More pictures of your apartment, correct?

**A.** That's the area she was at.

Q. Do those pictures show the events that happened that day that you told us about?

A. Yeah.

**MR. GIEGER:** I'd offer those exhibits, your Honor.

**MR. HUDSON:** No objection, Your Honor.

**THE COURT:** Defendant's 16 through 18, 20 through 35 will be admitted without objections.

Q. (By Mr. Gieger) Ma'am, this is... the photographs are a little clearer than they show up on that, but that's the living room; is that correct?

A. Yeah.

Q. Ma'am, you've testified earlier that the sofa usually wasn't in that position, how was it usually kept?

A. It's like it was angled this way, like an L-shape and this one is this way.

Q. More of an L --

A. The longer one, the longer one is this angle directly straight not angled this way and the other sofa is directed this way and not an angle, so it shouldn't be --

**THE COURT:** Can you all hear on the back?

**THE JURY:** (Shake heads.)

**THE COURT:** Ma'am, pull that microphone to you and you either talk into it... because they're

having a problem hearing you on the very end back there.

**THE WITNESS:** The sofas --

Q. (By Mr. Gieger) Ms. Phanthtaranth, do you know what a 90-degree angle is?

A. An L-shape.

Q. Like this?

A. An L-shape.

Q. Were they more like that?

A. But they weren't together, they were separate.

Q. More like that?

A. Yes.

Q. So how did they move?

A. Freddy got angry and moved 'em.

Q. In his anger he moved them?

A. Yes, he -- those are heavy couches.

Q. Was he in a rage?

A. Yes, he was in a rage.

Q. State's 17 is another picture that's very... another picture of the sofas, correct?

A. Yeah.

Q. And then that shows the other angle where the fireplace is, right?

A. (Nods head.)

**THE COURT:** Is that Exhibit 18?

MR. GIEGER: I'm sorry, Your Honor, that was 18, yes, sir.

Q. (By Mr. Gieger) 20 shows another view of the fireplace. What's this shiny thing right here (Pointing)?

A. That's soap from the bathroom.

Q. No. Hang on. I'm sorry. That shiny thing on the floor right there (Pointing)?

A. Oh, not that one? Okay. That's a fork.

Q. That's a fork?

A. Fork.

Q. And then No. 22, can you see that better?

A. Yeah, that's the fork right there.

Q. What is that?

A. Her food. That's where she was at.

Q. Is that where she was sitting?

A. That's where she was sitting by the fireplace, where she was going to eat.

Q. Is that what happened to her food whenever the beating started?

A. Yeah, he got mad and yanked her up.

Q. You talked a few moments ago about her defecating, at this point?

A. At that point.

Q. Is she unconscious yet?

A. She's still breathing but it's a wheeze --

Q. And --

A. -- and her eyes are half shut (Indicating) like this and you could still see the flutter of her eyes.

Q. And her clothes had been --

A. Her clothes are off.

Q. Come off?

A. Yes.

Q. And she defecates?

A. And she defecates, cause her panties are so big they fall off.

Q. 25, it's clear when you look at the picture itself, but is this feces?

A. Yes.

Q. 26 is another picture of feces?

A. And food from her mouth.

Q. Did she vomit?

A. (Nods head.) It came out of her mouth.

Q. 27 is another close up of the same substance, correct, as is 28?

A. (Nods head.)

Q. As is 29?

A. (Nods head.)

Q. As is 30? This is the vomit, the lighter color areas?

A. (Nods head.)

Q. And it looks like there may be where someone might have stepped in it and walked on the carpet or something, like a lighter stain on the carpet; is that right?

A. Yeah.

Q. Is that right?

A. (Nods head.)

Q. 33, 34 and then 35, correct?

A. (Nods head.)

Q. What happens now?

A. He's in the back room, I don't know what he's doing and then finally when I ask him did you call 911 he finally calls 911 and makes the call.

Q. How long does it take for him to call or when do you start saying call 911?

A. It took a total of ten minutes until he finally calls.

Q. At what point did it dawn on you that you needed to call 911 for your daughter?

A. After... when she was coming out of the room when he had her, hitting her on the back.

Q. Once those events happened in the children's bedroom?

A. (Nods head.)

Q. Where she began to flutter and lose consciousness?

A. (Nods head.)

Q. And it's your estimation did you tell him at that point to call 911?

A. Yes.

Q. Who had the phone?

A. Freddy. We don't have a house phone.

Q. And is it your testimony that that went on back and forth; call 911, and it took about ten minutes?

A. Took about ten minutes.

Q. Did he respond to you when you said call 911?

A. No, he just... he's running around panicking like --

Q. Explain that to me, what was he doing?

A. Grabbing his head, panicking, running back and forth, frantic, he... he... he wasn't... he was another person.

Q. At any point, ma'am, did he take Alexis from you?

A. No.

Q. During that time period?

A. No, she had been on the floor and I was sitting there trying to figure out how to do CPR while he's running around.

Q. At any point did he put other clothes on her?

A. Yes, before the ambulance came.

Q. Tell me -- so I'm jumping ahead in time then?

A. Yes.

Q. All right. Before he gets on the phone with 911 he puts clothes on her?

A. Yeah.

Q. Or after he's on the phone with 911?

A. After, before the ambulance came. Before the ambulance and after she had -- it was a princess pajama shirt and sparkle jeans with a pink belt.

Q. Whenever he takes her and is apparently putting clothes on her, as you've just testified, where are you?

A. I'm in there and the 911 operator is on the phone.

Q. You're in where?

A. The living room exactly where she's been laying, at that point near where she went to the bathroom and vomited.

Q. State's Exhibit No. 77, do you recognize the clothes that are in that picture?

A. Yeah.

Q. Are those the clothes he put on her?

A. Not the -- I don't see the jeans, but that shirt --

Q. At any point did he put other clothes on her?

A. Yes, before the ambulance came.

Q. Tell me -- so I'm jumping ahead in time then?

A. Yes.

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A. Yeah.

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A. After, before the ambulance came. Before the ambulance and after she had -- it was a princess pajama shirt and sparkle jeans with a pink belt.

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Q. You're in where?

A. The living room exactly where she's been laying, at that point near where she went to the bathroom and vomited.

Q. State's Exhibit No. 77, do you recognize the clothes that are in that picture?

A. Yeah.

Q. Are those the clothes he put on her?

A. Not the -- I don't see the jeans, but that shirt --

Q. The jeans aren't there?

A. She had those panties on that day.

Q. And the panties?

MR. GIEGER: Offer 77.

MR. HUDSON: No objection, Your Honor.

THE COURT: 77 will be admitted without objection.

Q. (By Mr. Gieger) So wasn't wearing these whenever --

A. No, she was wearing the pastel green onesie.

Q. These?

A. And those panties.

Q. Yeah, she was wearing the onesie and these panties?

A. Yeah.

Q. But then he put this shirt and a pair of jeans that aren't in the picture on her?

A. Yeah.

Q. And that's what she was wearing when the ambulance got there?

A. Yes.

Q. Let me ask about this before we stop. Show you State's Exhibits No. 60 through 67 inclusive, are these photographs of the middle bathroom?

A. Yeah.

Q. That's the bathroom in your house there in that apartment, correct?

A. Yeah, it is.

Q. You know the police took all these pictures, right?

A. Yes.

**MR. GIEGER:** Offer 60 through 67.

**MR. HUDSON:** No objection, Your Honor.

**THE COURT:** Will the lawyers approach?

(Whereupon, the following bench conference was here had, out of the hearing of the jury.)

**THE COURT:** How much more do you have?

**MR. GIEGER:** Judge, you know --

**THE COURT:** I can take a break now, because it's 3:00 o'clock and then just come back and we can finish it up.

**MR. GIEGER:** If we can come back, if the doctor is here right after our break --

**THE COURT:** We can keep going, as long as they're fine, I'm fine.

**MR. GIEGER:** I don't think I'm going to finish with her and Cross probably by the day is over. I probably still have about 30 minutes, probably.

**THE COURT:** Why don't we just take a recess for about 15 minutes?

**MR. GIEGER:** It's been a long haul, that's fine. Can I publish these and take a break, since I just introduced them?

**THE COURT:** Yeah.

(Whereupon, the following transpired in open court, in the hearing of the jury.)

**Q.** (By Mr. Gieger) Ma'am, I'm just going to quickly ask you about these photographs that I took and then take a break, okay? This is, 60 is going into your bathroom, right? Looks like it's feces down here, do you know how that got there?

**A.** No.

**Q.** 61, and if I represent to you -- at some point you leave the apartment with your daughter; is that right?

**A.** Yeah, when they came I took her out of the apartment.

**Q.** When the emergency arrived, correct?

**A.** Yeah, they were going the wrong way.

**Q.** Did the emergency crews ever go into your hospital (sic) with you while your... your daughter or did you meet them outside?

**A.** I met 'em outside.

**Q.** Do you know how in 62 the water got in the bathtub?

A. No.

Q. Had you drawn water for your daughter that morning?

A. No.

Q. Before all this happened?

A. No.

Q. 63 it looks like there's feces on here, does it to you? Do you know how it got there?

A. No.

Q. 64 is a close up of the bathtub.

65 is the sink and it looks like there's some item, looks like maybe food or some debris, something is in the sink, correct?

A. Looks like hot dog.

Q. Huh?

A. Looks like hot dog.

Q. 66 is another picture of it. Do you know how that got there?

A. No.

**MR. HUDSON:** May I approach just briefly?

**THE COURT:** Yes.

(Whereupon, the following bench conference was here had, out of the hearing of the jury.)

**MR. HUDSON:** I am assuming you are calling someone to verify that is feces in the bathroom?

**MR. GIEGER:** Uhm, I can call the TI guy. I mean, they don't test poop. It's poop. They didn't do any type of chemical analysis. I'll say substance that looks like feces, if that makes you feel better.

**MR. HUDSON:** If you would.

(Whereupon, the following transpired in open court, in the hearing of the jury.)

**Q.** (By Mr. Gieger) You don't know how this food got there?

**A.** (Shakes head.)

**Q.** Looks like there's something that looks like feces in the toilet as well.

**A.** (Nods head.)

**Q.** Do you know how that got there?

**A.** No.

**Q.** Was there some times, ma'am, whenever Mr. Mendez had Alexis after she had lost consciousness to the degree that you've talked about and he was changing her that you didn't see what he was doing with her?

**A.** No, I seen her in the living room.

**Q.** So you don't know how that happened?

**A.** I don't know how that happened.

**Q.** Ma'am, whenever you left with your daughter as the emergency crews were arriving, what did Mr. Mendez

do?

A. Well, during the phone call he was --

Q. No. No. Listen to my question. After you walked out with your daughter when the emergency crews came, what did he do?

A. I don't know.

Q. Do you know if he stayed in the apartment?

A. I didn't -- he didn't come out after me.

Q. He didn't come out after you?

A. No, I ran out and I left him.

**MR. GIEGER:** Stop there.

**THE COURT:** Ladies and gentlemen, we're going to take about a 15-minute recess, until about, I've got about six or seven after 3:00, till about 25 after. Please do not discuss this case or allow anyone to discuss it with you and we will stand in recess until 3:25. Please rise. You're excused.

(Whereupon, the jury exited at 3:06 p.m.)

(A recess was here had.)

**AFTER RECESS**

(Whereupon, the jury entered at 3:30 and the following transpired in their presence.)

**THE COURT:** Ladies and gentlemen, we're going to kind of switch places a little bit. The State has a medical doctor that has an appointment for tomorrow

and they need to get him on today, so we're going to kind of take him out of order and then after we have concluded with his testimony we'll bring back Ms. Victoria.

**MR. GIEGER:** Phanthtaranth.

**THE COURT:** Phanthtaranth. Please call your next witness.

**MR. GIEGER:** State calls Dr. Morris Gessouroun.

**THE COURT:** And that's by agreement of the parties.

DR. MORRIS GESSOUROUN,

was called out of time as a witness on behalf of the State, and having first been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GIEGER:

**Q.** Please state your name.

**A.** Morris Gessouroun.

**Q.** And, Dr. Gessouroun, how are you employed?

**A.** I work at OU College of Medicine. I'm an Associate Professor in Pediatrics, the Department of Pediatrics and Section Chief for the Pediatric Critical Care Section.

**Q.** Why don't --

**THE COURT:** Can you spell --

ge o uffered the do
lt female becoming frustrated with her and pushing her
that the child lost its balance, fell down on its rear
d like this and hit a solid piece of wood furniture
ch the back of its head like this; do you think that
uld cause the type of injuries that you saw in this
ild?

**A.** No, the force there is insufficient to produce
is kind of severity of injury. There's no way that
at's the case.

**MR. GIEGER:** I think that's all the questions I have, Doctor. Thank you.

**THE COURT:** Cross-examination.

**MR. HUDSON:** No questions, Your Honor. Thank you.

**THE COURT:** May this witness be excused?

**MR. GIEGER:** He may.

**THE COURT:** Thank you, sir. You want to recall Ms. Phanthtaranth?

**MR. GIEGER:** Yes, sir. I'll get her.

**THE COURT:** Ma'am, you're still under oath.

VICTORIA PHANTHTARANTH,

was re-called as a witness on behalf of the State, and having been previously duly sworn, testified as follows:

CONTINUING DIRECT EXAMINATION

BY MR. GIEGER:

Q. Ma'am, prior to the 911 call being made, okay, after all the events you told us about, but prior to the phone call actually being made, during that ten minutes you've told us about; you with me, what I'm talking about?

A. (Nods head.)

Q. Other than saying we need to call 911, were there any other conversations or communications between you and Mr. Mendez involving what happened or what you were going to do next or what should happen?

A. Yes, there was... he was talking about she was... tell them that she was outside, she got beat up. Say she fell down the stairs. Tell them that there was a babysitter. He was just trying to come up with a story.

Q. The babysitter story, tell them that you guys weren't there, there was a babysitter and you just came home and found her like this?

A. Yeah.

Q. Is that what you meant by that?

A. Yeah, the babysitter story, that's what he was talking about, saying that we found her this way when we

got here. He was trying to come up with something, he was saying so many things at the time.

Q. Speak up --

**THE COURT:** I know. We can't. You're going to have to speak up.

Q. (By Mr. Gieger) Speak up so everybody can hear you. What did he say about that?

A. To say that she was beat up when we found her that way, either found her outside like that. And I said who leaves their kid outside? And he said that we found her that way. Say that the babysitter... that we came home and we found her this way.

Q. Was he still in the state of panic as you were indicating earlier?

A. Yes.

Q. So he was saying all these things in anticipation of help coming?

A. Racing back and forth and touching... saying I can't do this.

Q. At some point, ma'am, did the 911 call get made?

A. It did.

Q. And were you in the room and could you hear that conversation as it was going on?

A. Yes.

(Whereupon, Mr. Gieger and Mr. Hudson

**THE COURT:** Can you talk closer into the mic?

**MR. GIEGER:** Your Honor, at this point Counsel and I have entered a stipulation in regards to the chain of custody of the 911 call. Can I read it to the jury?

**THE COURT:** Yes.

**MR. GIEGER:** Ladies and gentlemen, Mr. Hudson and I have agreed to the introduction of the 911 tape, but to do that legally I need to read this agreed-to stipulation, it reads as follows: The State of Oklahoma by Assistant District Attorney Gayland Gieger and the Defendant herein Freddy Mendez, represented by counsel Perry Hudson, agree and hereby stipulate as follows:

**THE COURT:** What number is it?

(An off the record discussion was here had.)

**MR. GIEGER:** I'm sorry, ladies and gentlemen. We agree and stipulate as follows: If Sergeant Joseph Hill with the Oklahoma City Police Department were called to testify in this trial he would testify that he is employed by the Oklahoma City Police Department as custodian of records for the Oklahoma City 911 Dispatch System. He would testify that audio recordings of 911 calls made in the

normal course of business and are maintained as a normal business practice. Part of his duties is --

**THE COURT:** Hold on a second. Hold on. Excuse me, Mr. Gieger. Does somebody have a phone? It's buzzing. Whoever has it, it needs to be turned off. Okay. It's off. I mean, it stopped, so you might check your --

**MR. GIEGER:** Sorry.

**THE COURT:** -- cell phones and see. Okay. Go ahead, I'm sorry.

**MR. GIEGER:** While performing his duties as custodian of records he researched the recording archives and copied via compact disc recording of the 911 calls made on two occasions; on July 5th, 2011 and on October 31st, 2011, regarding the case of The State of Oklahoma vs. Freddy Mendez; said 911 recordings have been marked for identification as State's Exhibit No. 117 in this matter.

State's Exhibit No. 117 has been maintained in the custody of law enforcement officials since it's creation, it has been reviewed and it is a true and accurate recording of the 911 calls made as are described in this stipulation.

**THE COURT:** Ladies and gentlemen, a stipulation

is really just an agreement between the parties which will save us time from having to call that officer and him testify as to the chain of custody where that 911 tape is being called, so this will also -- unless there is an objection, and this is a stipulation, it's going to be given to you as, Exhibit 118? Did you put a sticker on here?

**MR. GIEGER:** You want Court's Exhibit on it, Judge, or State's Exhibit?

**THE COURT:** No, State's Exhibit.

**MR. GIEGER:** On the stipulation itself?

**THE COURT:** That is it, right?

**MR. GIEGER:** Yeah. I'm sorry. The 911 tape I've marked as 117.

**THE COURT:** Just make that A.

**MR. GIEGER:** 117A?

**THE COURT:** Right. And Exhibit 117A will be admitted into evidence as State's Exhibit 117A. And 117 is admitted by agreement per the stipulation?

**MR. HUDSON:** 117 being the 911 calls, Your Honor?

**THE COURT:** 117 being the 911 calls. The stipulation, the actual stipulation is 117A?

**MR. HUDSON:** No objection.

**THE COURT:** Okay.

(Whereupon, Mr. Gieger began play of State's Exhibit 117.)

**THE COURT:** Would you go back and ask her which one this is?

(Whereupon, Mr. Gieger stopped play of State's Exhibit 117.)

**THE COURT:** Would you go back and ask her which one we're listening to first?

**MR. GIEGER:** That's -- Yeah.

Q. (By Mr. Gieger) This is the one that happened on October 30th, 2011, correct, there at your apartment?

A. (Nods head.)

Q. And --

**THE COURT:** You have to answer; you're going to have to answer.

A. Oh, yes.

**MR. GIEGER:** And, Your Honor, I'm not going to play the other one until this witness is off the stand.

**THE COURT:** Oh, okay.

**MR. GIEGER:** She never heard that one.

**THE COURT:** Okay. All right.

Q. (By Mr. Gieger) You've had a chance... I played this for you and you've had a chance to listen to it as well, correct?

A. Yes.

Q. The person we just heard making the 911 call, is that Mr. Mendez?

A. Yeah, Freddy Mendez.

Q. Are you in the room with Mr. Mendez?

A. Yes.

Q. Where are you in the apartment when this call is --

A. I'm by Alexis, on the floor.

Q. In the living room where the sofas are?

A. Yes, behind the sofas.

Q. Behind the sofas?

A. Uh-huh.

Q. On the side?

A. On the floor where you saw the feces and the throw up on the floor, that's where I was located at.

**MR. GIEGER:** Can you guys hear?

**THE JURY:** (Nodded heads.)

(Whereupon, Mr. Gieger resumed play of State's Exhibit 117.)

(Whereupon, Mr. Gieger stopped play of State's Exhibit 117.)

Q. (By Mr. Gieger) Ma'am, did he say we just came back?

A. Yes.

Q. Had you been anywhere that morning?

A. No.

(Whereupon, Mr. Gieger resumed play of State's Exhibit 117.)

(Whereupon, Mr. Gieger stopped play of State's Exhibit 117.)

Q. (By Mr. Gieger) You can hear in the background a baby crying, who was that?

A. That's Josiah.

Q. Where is Josiah?

A. He's on the floor.

Q. And you're on the floor?

A. Yes, he's trying to see what he... he's curious what's going on with his sister. He keeps trying to crawl towards her.

Q. And Alexis is on the floor?

A. Yes.

Q. And you're there dealing with that?

A. Yes.

(Whereupon, Mr. Gieger resumed play of State's Exhibit 117.)

(Whereupon, Mr. Gieger stopped play of State's Exhibit 117.)

Q. (By Mr. Gieger) I just heard someone say tell them to hurry, is that you?

A. Yes.

Q. Anybody else there but the people we've identified at this point?

A. Just Josiah, Freddy, Alexis, myself.

(Whereupon, Mr. Gieger resumed play of State's Exhibit 117.)

(Whereupon, Mr. Gieger stopped play of State's Exhibit 117.)

Q. (By Mr. Gieger) Ms. Phanthtaranth, are you able to hear what the 911 operator is saying, too?

A. Yes.

Q. How is it that you're able to hear what the 911 operator is saying?

A. The phone is on speaker.

Q. It was on speaker?

A. Yes.

Q. As he is giving these instructions on how to give mouth-to-mouth and CPR, are you the one doing that?

A. Yes.

Q. What's Mr. Mendez doing?

A. Pacing around, trying to figure out what to do; like he was panicking.

(Whereupon, Mr. Gieger resumed play of State's Exhibit 117.)

(Whereupon, Mr. Gieger stopped play of State's

Q. (By Mr. Gieger) Ma'am, it sounds like there's music going on, what is that?

A. It's a piano. It's a toy, my son's toy, he's playing with it.

Q. Your son's toy?

A. Yes.

Q. Describe it for me?

A. It's like a plush foam-like piano. It's about this (Indicating) big, it's blue.

**THE COURT:** Can you all hear?

**MR. GIEGER:** They can't hear you.

**THE WITNESS:** Oh. It's a plush, like, soft pillow like piano play toy that they push and it plays notes and it's about this (Indicating) big and it has white keys and black keys on it and red writing.

Q. (By Mr. Gieger) It's a toy for an infant?

A. Yes.

Q. And when you hear it being played in the background where is it?

A. It's in the living room on the floor.

Q. Is it in relation to the fireplace?

A. Yes, there was a basket of toys next to the left side of the fireplace that has all his toys that he can

get and play with.

Q. Is it in the basket or out of the basket?

A. It was in the basket.

Q. It was in the basket?

A. (Nods head.)

Q. So he's made his way over there, he's toddling around, he's hitting that?

A. Yes.

Q. That's the noise we're hearing?

A. He's on the other side of the couch.

Q. You can hear it sounds like Mr. Mendez saying something in the background, did you hear that when we were playing it?

A. Yes, he's saying something.

Q. What is he saying or do you know what he's saying?

A. He's talking to himself, freaking out.

(Whereupon, Mr. Gieger resumed play of State's Exhibit 117.)

(Whereupon, Mr. Gieger stopped play of State's Exhibit 117.)

Q. (By Mr. Gieger) What are you doing right now while, obviously, there's no one talking to the 911 operator. You've told me what Mr. Mendez is doing, what are you doing?

A. I'm trying to figure out how to do the CPR, still trying to give her CPR, trying to do the chest pumps and the breathing.

(Whereupon, Mr. Gieger resumed play of State's Exhibit 117.)

(Whereupon, Mr. Gieger stopped play of State's Exhibit 117.)

Q. (By Mr. Gieger) What's going on right there?

A. He and I started yelling at each other.

**THE COURT:** You're going to have to speak up because they're straining to have to hear you.

**THE WITNESS:** We started yelling at each other.

Q. (By Mr. Gieger) What do you say?

A. I say why are you looking like that and look at her, because her body is just... she's laying there and she's all bruised up, and I said look at her. Look at her.

Q. What did he say?

A. He started freaking out and saying I can't do this, you know, I'm going to take the baby, I'm going to leave and he starts cussing.

Q. He said I'm going to take the baby and leave?

A. (Nods head.)

Q. He starts cussing?

A. Yeah.

(Whereupon, Mr. Gieger resumed play of State's Exhibit 117.)

(Whereupon, Mr. Gieger stopped play of State's Exhibit 117.)

Q. (By Mr. Gieger) I think I just heard him say something about the baby and fuck, did you hear that?

A. Yeah.

Q. Is that what you're talking about?

A. Yeah, that's when we were arguing with each other and he starts panicking.

(Whereupon, Mr. Gieger resumed play of State's Exhibit 117.)

(Whereupon, Mr. Gieger stopped play of State's Exhibit 117.)

Q. (By Mr. Gieger) Ma'am, early in that tape when I asked you Mr. Mendez said to the 911 operator we just got back, do you know what context or why he said those words?

A. That's when he was talking about, saying that we left her with the babysitter.

Q. That was consistent with what he was saying earlier before the call was made about the babysitter?

A. Yes, about the babysitter, that we got back or something happened to her when we came back.

Q. At some point, ma'am, during that call did you

take Alexis outside? After the call ended that you took

A. Freddy told me they were coming, he was in another room.

Q. Can you hear that on the tape or not?

A. No, and this is when he said, they're here, and that's when I just grabbed her and ran down the stairs.

Q. Do you remember if you could hear the sirens of the emergency --

A. I could hear the sirens.

Q. So when he said that, that was consistent with what you could also hear?

A. (Nods head.)

Q. What did you do, you took her and --

A. I just grabbed Alexis and went downstairs, and this is when the officer and the ambulance was going in the opposite direction.

Q. You've got to lean up. They can't hear you.

A. This is when the officer and the ambulance is going in the opposite direction, the fire truck. And I met them about half way.

Q. They were going to the wrong building in the apartment complex?

A. They were going to the wrong building.

Q. You got their attention?

A. Yes.

Q. And they came, what happened?

A. This is when they laid Alexis out on the grass right there and they started doing procedure.

Q. So their treatment of her occurred not inside your apartment --

A. No.

Q. -- but outside?

A. Outside on the grass in front of a different part of the building.

Q. As they were attending to your daughter what did you do?

A. I was right there and Freddy didn't come out, he didn't come out after me.

Q. Do you have any recollection as to how much time went on when you were standing there while they were working on your daughter?

A. It was a period of time. We was up there for a while.

Q. What did you do during that period of time?

A. I was there with Alexis and the police officers when they were asking me what was going on.

Q. And eventually police officers showed up; is that right?

A. Yes, they were there; it was the fire department

and then the police officer right there. And a woman with brown hair, I don't recall her name, but she came and started speaking to me.

**Q.** A woman police officer did?

**A.** Uh-huh.

**Q.** An ambulance arrived as well, EMSA had arrived?

**A.** Yes.

**Q.** At some point, ma'am, did they... whatever they did with Alexis on the ground did they put her on a stretcher and put her in the ambulance?

**A.** Yes, and that's when I was on my way to the ambulance and that's when Freddy appeared.

**Q.** It's at that time you remember seeing Mr. Mendez?

**A.** Yes.

**Q.** Did you have any interaction with Mr. Mendez?

**A.** Yes, he approached me when the door was opened and he grabbed me by my arm and got close to me and said, tell them that she fell down the stairs. You better tell them she fell down the stairs with force. And he made sure, made eye contact with me and everything for me to make sure to say... demanding me to say that, and then put me in the ambulance.

**Q.** Did you ride in the ambulance?

**A.** Yes.

Q. In the front seat of the ambulance?

A. The front seat of the ambulance I did.

Q. Could you see what was going on in the back?

A. No, I looked back twice and they were working on her, that's when her clothes... and they were hooking her up, IV's.

Q. There's a window thing where you can look into the back and see what's going on, is that --

A. I don't recall if there's a window. I just remember I could see --

Q. You could see back there?

A. -- part of her and two men.

Q. When you got to the emergency room what happened?

A. They brought her to a room and they started working on her and I was there with her. And I did that... I haven't seen the baby or anything like that. When Freddy arrived there he was very standoffish and I asked him where the baby was, he said he was with his sister.

Q. When you said "the baby" you're talking about Josiah?

A. Yes, Josiah.

Q. Go ahead.

A. And he stayed in the waiting room, I stayed with

Alexis the whole time. She did her x-rays I was outside the door and back in the room until they would allow me to come back and forth in the room when I was allowed to be there.

Q. Ms. Phanthtaranth, did the doctors and the emergency room ever talk to you and ask you what happened?

A. Yes, they did.

Q. What did you tell them?

A. I told them that she fell down the stairs.

Q. Why did you tell them that?

A. Because I was told to tell them that.

Q. Why didn't you tell them the truth?

A. Because I'm scared. That's all I know, to always listen to exactly what he tells me to do and say, thinking that nobody was going to help me. Because every time I always asked for help nobody's ever helped me. It's happened before. He always told me, like, see, nobody's going to help you.

Q. When you say nobody's ever helped you, you're talking about during your relationship with Mr. Mendez?

A. And before that, it's happened numerous times before.

Q. Throughout your life?

A. Yes.

Q. Are you referring to the things that happened while you were in foster care?

A. Throughout my whole life. My whole life no one's ever helped me with anything. People --

Q. Robin helped you?

A. Yes, Robin is the only person that's ever helped me.

Q. Ms. Hawkins helped you?

A. (Nods head.)

Q. Other than that?

A. (Nods head.)

Q. Is that what you're talking about?

A. Yes.

Q. At some point the police officers who were at the scene, other police officers came to the hospital, correct?

A. Yes.

Q. They took you downtown?

A. Yes, they did.

Q. When you left the hospital with the police officers to come to the police department was your daughter still in the emergency room or had she been transferred to the other part of the hospital?

A. She's still in the emergency room, they had her hooked up on the bed. They never --

Q. Do you remember -- he's not here now, but
tective Foreman who's been sitting here all afternoon,
re you noticed him sitting here?

A. All I know is the baldheaded guy.

Q. The baldheaded guy?

A. Yes.

Q. Was he one of the police officers that talked --

A. Yeah, he had a big belt buckle that day.

Q. And he talked to you at the police department?

A. Yes.

Q. Talk about that in a minute, but before I do
that I want to ask you about a few more pictures in the
apartment, okay?

A. (Nods head.)

Q. Let me show you State's 126 through 129
inclusive. You see those pictures, is that your
apartment on that day?

A. Yes.

**MR. GIEGER:** Offer State's 126 through 129.

**MR. HUDSON:** No objection, Your Honor.

**THE COURT:** State's 126 through 129 will be
admitted without objection.

Q. (By Mr. Gieger) State's 126, Ms. Phanthtaranth,
shows this is the fireplace, correct?

A. Yes.

Q. It's very hard to see, but right there is the
ork and food that we showed another picture of; is that
ight?

A. That's right.

Q. Next to that there appears to be a white laundry
asket, as well as a table with some items on it, right?

A. Right.

Q. Is that toy basket the one that you talked about
here the piano was kept?

A. Yes, that's Josiah's toy bin.

Q. And where Josiah had made his way during the 911
all and started playing the piano that was located in
hat toy basket, correct?

A. That's correct.

Q. And 127 shows that as well. 128 is another
hotograph of it. And then 129 shows more of the table
hat you can see that with it blown up right there,
orrect?

A. That's right.

Q. I also have introduced other pictures that show
the living room altogether, do you remember those
pictures? You've already identified them for me.

A. Right.

Q. Last night I met with you and I asked you to go
through those with me one by one trying to see where the

piano is; is that correct?

A. That's correct.

Q. Where is the piano?

A. I don't know.

Q. Was it there when you picked up Alexis and left with her to go find the --

A. It was on the floor.

Q. It was on the floor?

A. (Nods head.)

Q. You don't know where it is now?

A. No.

Q. Ma'am, there's -- on State's Exhibit No. 129 there is, there are two items right there. Is this the camera that we talked about earlier that the pictures came off of that showed the bruising on your daughter?

A. Yes, that's the camera.

Q. This object right here (Pointing) what is it?

A. That's the bathroom soap.

Q. That's soap?

A. Yes.

Q. What's this (Pointing) item back here?

A. The bathroom towel.

Q. State's Exhibit No. 120, the hallway bathroom?

A. Right.

Q. Is that the same bathroom that the bathtub is in

that we showed pictures of before we took our break?

A. Right.

Q. That had water in it?

A. Right.

**MR. HUDSON:** No objection.

**MR. GIEGER:** Offer 120.

**THE COURT:** State's 120 will be admitted without objection.

Q. (By Mr. Gieger) Ma'am, this is that bathroom. In the corner there's a holder that holds... what is this thing?

A. It's the soap holder.

Q. Is the item State's No. 129 supposed to be in State's Exhibit No. 120 in this space right here (Pointing)?

A. Yeah, it's supposed to be in there, so is the towel.

**THE COURT:** You have to speak up, ma'am.

**THE WITNESS:** Oh, the towel and the soap are supposed to be in the bathroom that's located in the living room now.

Q. (By Mr. Gieger) It's not in this photograph, but is there a towel bar to the right --

A. There's a nail on the wall right there.

Q. And that's where the towel that was in State's

129 is normally found?

A. Right.

Q. Is that where it was, the soap and the towel, were they in the living room whenever you left with Alexis or were they in the bathroom?

A. They were in the bathroom.

Q. Let me show you 59 and 122 through 125 inclusive, you recognize those photographs?

A. Yeah.

Q. Are those photographs of the children's bedroom, other parts we haven't seen yet?

A. Yes.

**THE COURT:** You've already admitted 126 through 129, so you're saying 122 through 129 --

**MR. GIEGER:** I must be off my count, Judge.

**THE COURT:** You're saying 125 through 129?

**MR. GIEGER:** Well, Mr. Hudson said -- I have this one numbered as 59, 122 --

**THE COURT:** Go back again.

**MR. GIEGER:** No. 59, Your Honor.

**THE COURT:** I've got 59.

**MR. GIEGER:** 122 through 125. If I said 129 --

**THE COURT:** Okay. I'm sorry. It was me.

**MR. GIEGER:** If I said 125 (sic) I apologize. State would offer 125.

**THE COURT:** 122 through 129, as well as 59, will be admitted without objection.

**MR. GIEGER:** 125, Your Honor.

**THE COURT:** Right. Okay.

**MR. GIEGER:** I'm sorry.

**THE COURT:** Maybe it's my fault, it's not yours.

**MR. HUDSON:** Just for the record, Your Honor, no objection.

**THE COURT:** I thought I had already asked. I'm sorry.

**Q.** (By Mr. Gieger) Ms. Phanthtaranth, No. 59, let me back it up a little bit. Is this more of Alexis' side of the closet?

**A.** Yes, it is.

**Q.** Is that the way it normally is kept? And I say that because the shoes are all lined up neatly. Is that what you meant whenever everything had to be in its place, in the proper location?

**A.** Yes.

**Q.** 122 shows her side of the closet as the clothes hung in the closet; is that right?

**A.** That's right.

**Q.** And 125 is stepping back showing the entire closet, at least that side of the closet in it's entirety, correct?

A. That's correct.

Q. If you slide that door over you see the other side; is that right?

A. That's right.

Q. 124 shows the other side, as does 123. Ma'am, I notice when I compare the sides the clothes are hung very neatly and in order and there's no empty hangars on --

A. Alexis.

Q. -- Alexis' side, but when I look at 123 it appears that some clothes have been removed and the hangars are sort of skewed as if someone might have pulled them off or something like that, is that accurate?

A. Yeah.

Q. Is that the way you kept that closet on your son's side?

A. No.

Q. Was it in that condition that morning, to the best of your knowledge, whenever you left the apartment carrying Alexis and going down to meet the emergency personnel?

A. It wasn't like that. When you take the clothes off you have to put the hangars at the end of the --

Q. Ma'am, you testified earlier that as you were arguing during the 911 call that one of the things he was saying as he cussed was I'm taking the baby and I'm

A. Right.

Q. Then you left and he stayed in the apartment for some time?

A. Yes.

Q. The clothes and the baby's clothes and I believe it was the baby's piano were there when you left?

A. Right.

Q. And they're not there when those photographs were taken, assumedly, by the police department, whenever they entered your apartment; is that correct?

A. That's correct.

Q. Ma'am, you were transported downtown to the police station?

A. (Nods head.)

Q. You met with the bald guy? If I tell you his name is Tony Foreman will you accept that as being accurate?

A. Okay. Mr. Foreman.

Q. The bald guy is fine with me.

A. Okay.

Q. You lied to him?

A. He was nice, a little intimidating though.

Q. You lied to him, right?

A. He was all right, a little intimidating.

Q. No, I'm sorry. You lied to him, right?

A. Yeah.

Q. What did you tell him happened?

A. I told him that I pushed her.

Q. Tell me about how you told him you pushed her?

A. I didn't really know what to say, I just made it

Q. What did you say?

A. I said I got frustrated with her --

**THE COURT:** You've got to keep your voice up because they're having a difficult time hearing.

**THE WITNESS:** Oh! I said I got frustrated and just pushed her and she hit her head on the bed.

Q. (By Mr. Gieger) On what baby?

A. The baby's crib.

Q. The baby's crib?

A. (Nods head.)

Q. Did you tell him you pushed her down and she fell on her butt and her head hit the crib?

A. Yes.

Q. Is that what you told him?

A. Yeah.

Q. You also told him... well, you talked about her falling down the stairs, right?

A. Right.

Q. And you talked about how her head was hurting for a few days?

A. Right.

Q. And you tried to act like at first it was that that made her sick, right?

A. Right.

Q. He didn't believe you, did he? He kept asking you what happened?

A. He knew it wasn't the truth.

Q. And then you said she just choked on her food, right?

A. Right.

Q. And he didn't stop there either, he kept going, didn't he?

A. Right.

Q. And so then you came up... the third story is you came up with was the pushing, right?

A. Right.

Q. That satisfy him either?

A. No.

Q. He kept going, didn't he?

A. He knew.

Q. At some point did he talk to you about what Mr. Mendez was saying?

A. He mentioned some things like what happened,

he said he blacked out, said that you did this --

**MR. HUDSON:** Judge, could we approach briefly?

**THE COURT:** Yes.

(Whereupon, the following bench conference was here had, out of the hearing of the jury.)

**MR. HUDSON:** I understand what Counsel is trying to do, it's... the issue is that this is the statement that has been, at least up to this point, kept out and I'm just concerned about getting into details of that statement.

**THE COURT:** Which statement?

**MR. HUDSON:** Mr. Mendez --

**THE COURT:** Oh, what --

**MR. HUDSON:** I mean, she's talking about what the officer said his --

**MR. GIEGER:** And, Your Honor, normally I wouldn't go anywhere near that, but Counsel, I believe with Ms. Dominguez, and maybe it was in his opening, I'm not sure, said that Detective Foreman came in and lied to her and told her that Mr. Mendez was saying she did it and then she changed her story and then... I apologize, I don't remember if it was in opening or in cross-examination of one of the witnesses but --

**MR. HUDSON:** I said that in opening.

client's statement. But I'm not getting into my told her. I was saying what the officer

**MR. GIEGER:** And that was my question; what did Detective Foreman tell you Mr. Mendez was saying? That was the same question I asked her, so I can move on --

**THE COURT:** Are you --

**MR. HUDSON:** You're right, that's what you asked. Unfortunately, what she's relaying is not --

**MR. GIEGER:** The same thing you said.

**MR. HUDSON:** Well, it's not, it's getting into alleged details of the alleged statement.

**MR. GIEGER:** In fact, if I can lead her, I'll just ask her if Detective Foreman told you that Freddy was saying you did it, and I'll just say that.

**MR. HUDSON:** That will be fine. Thank you.

**THE COURT:** Okay.

(Whereupon, the following transpired in open court, in the hearing of the jury.)

Q. (By Mr. Gieger) Ms. Phanthtaranth, did Detective Foreman at some point during that interview come in and say Mr. Mendez is blaming you for Alexis' injuries? Do

**MR. GIEGER:** In opening.

**MR. HUDSON:** But I'm not getting into my client's statement. I was saying what the officer told her.

**MR. GIEGER:** And that was my question; what did Detective Foreman tell you Mr. Mendez was saying? That was the same question I asked her, so I can move on --

**THE COURT:** Are you --

**MR. HUDSON:** You're right, that's what you asked. Unfortunately, what she's relaying is not --

**MR. GIEGER:** The same thing you said.

**MR. HUDSON:** Well, it's not, it's getting into alleged details of the alleged statement.

**MR. GIEGER:** In fact, if I can lead her, I'll just ask her if Detective Foreman told you that Freddy was saying you did it, and I'll just say that.

**MR. HUDSON:** That will be fine. Thank you.

**THE COURT:** Okay.

(Whereupon, the following transpired in open court, in the hearing of the jury.)

Q. (By Mr. Gieger) Ms. Phanthtaranth, did Detective Foreman at some point during that interview come in and say Mr. Mendez is blaming you for Alexis' injuries? Do

you remember if the detective told you that?

A. I do. He said... he mentioned something along that lines.

Q. And at some point during that interview... that interview went on for quite some time, you talked to him for a long time?

A. I did.

Q. And he would leave the room, come back in the room and continue talking to you, right?

A. He did.

Q. But at that point in it, we're talking a long time into your discussion, you said you wanted to talk to a lawyer type person, right? Is there somebody I can talk to --

A. I did.

Q. -- and he said like a lawyer and you said yes, right?

A. (Nods head.)

**THE COURT:** You have to answer.

Q. (By Mr. Gieger) Is that right?

A. I did.

Q. And he stopped asking you questions?

A. Yes.

Q. They took you to the county jail?

A. Yes, that's when they took me to the Oklahoma

county jail.

Q. Do you know if that --

**THE COURT:** I don't think anybody can hear you.

**THE WITNESS:** Yes, they did.

Q. (By Mr. Gieger) Do you know at that point if your daughter had been... had died or not?

A. No, I didn't.

Q. Over the next few days did you learn that your daughter had died?

A. I did.

Q. How did you learn that?

A. Over a phone call.

Q. And who called you and told you that?

A. I got to talk to Robin, she told me.

Q. And, ma'am, when Robin told you, she told you that, and she also talked to you about some other things, didn't she?

A. Yeah.

Q. Did she talk to you and encourage you to talk to the police again?

A. She told me just make sure I tell the truth.

Q. Tell me what you remember about that phone call?

A. She told me about Alexis and she's like, what happened, I need you to tell the truth. Whatever happened you need to tell them what happened.

Q. Was she emotional?

A. Yes, she was very emotional.

Q. Was she -- you testified earlier today at a time kind of was mothering towards you, kind of directing was she in that type of frame?

A. She's a very good friend of mine. She's like second mom, Alexis' second mom.

Q. Did she basically tell you repeatedly that you to tell them what happened?

A. Yes.

Q. Did she talk to you about the fact that this was very serious?

A. Yes, she said it was very serious, that you lly need to tell them the truth about what happened.

Q. Did she talk to you about that you could be rged with murder and that you might receive a sentence death, did she tell you that?

A. She mentioned it. I wasn't really sure because erything was happening so fast.

Q. You haven't had an opportunity to review that ne call, have you?

A. No.

Q. No one's played it for you?

A. No.

Q. Over the period of that phone call, they last 15

...es, right? When you're in the jail that's how long
...e calls last, or do you even know that?
A. I don't know how long it was.
Q. But they're timed, right, and then they cut off?
A. This was an office phone that they let me use.
Q. Okay. Did she encourage you during that phone
...l to tell the police, to talk to the police again?
A. She just told me to tell them the truth.
Q. Did she tell you that you need to because it is
... serious, because you might face the death penalty you
...ed to put the blame on Mr. Mendez as opposed to
...urself because that would spare you from having the
...eath penalty, did she say anything like that?
A. No.
Q. Did you take it like that?
A. No.
Q. Did that thought enter your mind that I need to
...ke up another story so I'll avoid the death penalty?
A. No.
Q. This lady who's sitting next to you has been
...our lawyer for a long time because of this case,
...rrect?
A. That's correct.
Q. At any point did Mrs. Hammarsten tell you that
...e District Attorney's office was seeking the death

...ity against you?

A. No.

Q. Did she ever say we were seeking the death ...ity against Mr. Mendez?

A. No.

Q. Was that ever a part of anything that entered into the decisions that you made in this case in talking to the police, in talking to your lawyer, in talking through your lawyer to my office or in your testimony today, did that ever enter into it?

A. No.

Q. Why did you change your story and ask to talk to the police again and tell them the events -- the events that you told them the second time, were they consistent with what you've told us here today in the courtroom?

A. Yes.

Q. Why did you make that decision to do that?

A. I took a moment to be away from him and I realized that I'm not around him, he can't get to me, he can't abuse me or tell me what to do anymore. So I had time to realize that I can no longer be hurt by him, that I'm allowed, I can come forward and say it, that I don't have to be so afraid.

Q. Did Robin encourage you to do that?

A. Robin encouraged me to tell the truth, that

was her main thing; no matter what it is, she says you just need to tell the truth.

Q. Do you remember if she told you during that first phone call that you're going to jail you might as well tell the truth or do you not remember anything like that?

A. No, I don't... I was already in jail so I don't recall any of that.

Q. At that time, during the time that you had that conversation with Robin, do you remember how many days you had been in jail when you had that telephone call?

A. I don't.

Q. Was it relatively quickly? I mean, she called and told you the baby had died, Alexis had died, correct?

A. (Nods head.)

Q. Was it within the first few days of you being in there?

A. I believe so.

Q. She talked to you before you talked to Detective Foreman's partner Detective Allen again, correct?

A. Correct.

Q. And if the record show that was four or five days after your first conversation with Detective Foreman it would have been during that first four or five days that you had that telephone call with Robin, does that

make sense?

A. Yeah, there was so much going on.

Q. If I tell you that's what the record show you don't dispute that it had to be within that time frame because you talked to Robin before you talked to the police officers and specifically Detective Allen again for the second time, correct?

A. I talked to Allen the second time, I do recall that.

Q. And those were the two times you talked to the police and you didn't talk to them again, as far as --

A. That's right.

Q. Once you were arrested, right?

A. That's right.

Q. During that phone call, ma'am, had anyone, including Robin, anyone ever talk to you about abusive head trauma, brain injuries in children, the types of things that cause the injuries that Alexis suffered, had you been told anything about those types of things?

A. Not over the phone, no.

Q. Anyone told you what doctors in their experience know can cause those types of injuries and what can't cause those types of injuries, had anyone told you those things?

A. I do recall when I was in the hospital the

mentioned that.

Q. What?

A. That she had a severe head injury and it wasn't being pushed or falling down the stairs.

Q. So you remember the doctor saying something like that --

A. Something along --

Q. -- to you?

A. Yes.

Q. But further than that, did he give you any examples of how the child could have had an injury like that?

A. He mentioned like a car impact I believe.

Q. You remember that? Anything else?

A. I don't remember anything else.

Q. Did he talk to you while he was there or did you hear him talk about what could cause retinal hemorrhages? Did you ever hear anything like that?

A. He said something about shaking, was there a shaking?

Q. He asked about shaking?

A. Yeah.

Q. Ma'am, did you take anything that that doctor said in the ER and then incorporate it in making up a story whenever you talked to Detective Allen?

A. No.

Q. Were you even thinking along those processes?

A. No.

Q. At some point the litigation went on and there
ere hearings and there were things and Mrs. Hammarsten
ot involved in your representation; is that correct?

A. That's correct.

Q. At some point you know she started talking with
e about a way to resolve your case; is that right?

A. That's right.

Q. And eventually a plea bargain, an agreement was
ntered between Mrs. Hammarsten and yourself and the
tate of Oklahoma, with me representing the State of
klahoma; is that right?

A. What do you mean? I don't understand.

Q. You never even talked to me all the way through
ur case, did you?

A. No, I didn't really get to meet you until late.
apologize.

Q. The only --

A. I don't know; late.

Q. Well, that's because that's the way it is.
ay? Did Mrs. Hammarsten tell you she was talking to me
ough or at least the prosecutor?

A. Yeah, she mentioned you.

Q. What was your plea deal, do you know it?

A. 35 years to Life.

Q. You pled guilty to Life. You pled guilty to enabling Child Abuse; is that right?

A. I did.

Q. And then you also pled guilty to enabling the murder of your child?

A. That's what I pleaded guilty to.

Q. You realize there are multiple counts, right?

A. Yes.

Q. Because there were other incidents in addition to just the day that it happened, there were other times that Alexis got injured, and you understand that, right?

A. I understand; that's correct.

Q. And essentially all those sentences are together but you are sentenced, this judge sentenced you to life in prison with the first 35 years of that sentence to serve; is that right?

A. That's right.

Q. How old are you?

A. 24.

Q. Did Mrs. Hammarsten talk to you about the 85 percent rule?

A. Yeah, I'm doing 85 percent day for day.

Q. Tell me what you understand that to mean.

**A.** That I will not be getting any shorter time or any credit, that I'm doing basically 30 years in prison.

**Q.** You can't be released by law until you've done 85 percent of the 35 years that you've been sentenced to?

**A.** That's right.

**Q.** And then it's dependent upon if you can make parole or not if you even get out at that point, you understand that?

**A.** I understand.

**Q.** Our conversations that we had, did they take place before or after you were sentenced and already sent to prison?

**A.** This is late, like late late whenever the --

**Q.** Right. You are --

**A.** And agreed to everything.

**Q.** You are already in Mabel Bassett Correctional Facility, you already pled before you and I ever sat down and had a conversation, right?

**A.** Right.

**Q.** And you know your lawyer is telling me things that you were going to say, correct?

**A.** Correct.

**Q.** Did you... did your lawyer and you come up with this story to try to get a sentence or did you tell your lawyer what happened and she told me?

A. I told my lawyer what happened and she told you.

Q. Ms. Phanthtaranth, I have one more thing to talk to you about and I'm going to be done, all right?

A. Okay.

Q. During the weeks leading up to Alexis being murdered you called your sisters?

A. I did.

Q. Which two did you call?

A. Lisa and Kitty.

Q. Why did you call your sisters?

A. I wanted them to come out.

Q. Why?

A. Cause I wanted them to come visit us and I asked them if they can come take Alexis.

Q. Why were you asking your sisters to come take Alexis?

A. Cause if they were to come out and see what was going on and happening, because my sisters, if somebody close to me, like, can know what's going on they'd be around and see that something is happening more than what is being said, that she would take all of us.

Q. Why didn't you call Robin?

A. I was ashamed and I wasn't allowed to call Robin on Freddy's phone.

Q. How did you call your sisters?

A. On Freddy's phone while they're on speaker while listening.

Q. That was how you were allowed to use the phone?

A. Uh-huh, and I mentioned things real quick when left the room.

Q. Can you ever remember a time when you used one the neighbor's phones at the apartment to call Freddy?

A. I did, they didn't speak English.

Q. What did you call Freddy about on that day, if remember?

A. Because the baby was out of formula and diapers.

Q. So even with -- why couldn't you just go get mula and diapers?

A. I don't have a car. We're out far away from the re and I already tried walking by myself once and I ost got hit by a car twice.

Q. Do you have money?

A. No, I don't have any money. He owns all the ney. He keeps all the money, keeps the phone.

Q. Whenever you would call your sisters and he lowed that to happen, you said it was on speaker, why s it on speaker?

A. So he can listen to what we're talking about to e sure --

Q. Is that the way -- this happened when you were

living in the apartment?

A. Yes.

Q. Once you got to that apartment is that the way you call people is whenever he was on the phone or if -- would let me use the phone to talk to my sisters, if he hardly talked to my sisters.

A. Yes, if I was allowed to use the phone,

Q. Did you tell your sisters that you were hurting Alexis?

A. I did.

Q. Tell me about that?

A. I mentioned that I was hurting her so that they'd be more concerned to come out. I don't know why. I don't know how to lie, so it sounded really stupid. I understand that now.

Q. But you lied to the police?

A. And it didn't make sense then.

Q. Didn't work out very well for you, did it?

A. No.

Q. So you told them to come?

A. (Nods head.)

Q. Were they going to come?

A. They were.

Q. Do you know which one?

A. I don't remember.

**Q.** Do you know one of them bought plane tickets?

**A.** She did, and she was going to come out and he got upset and he said that we weren't leaving. He said you guys are not leaving. He says no; if you do leave it's going to be worse when you come back.

**Q.** He said that to you --

**A.** Specifically.

**Q.** -- in anticipation of your sister coming?

**A.** Uh-huh, and he was real, real angry about it.

**Q.** During this time period that you were living in that apartment did he ever talk to you about the custody of Josiah?

**A.** Yeah, that he would take... that he was going to take Josiah to Mexico, that he was going to leave with the baby.

**Q.** What would he say in regards to being able to obtain custody instead of his mother, what else would he say about it?

**A.** He would say my parents have money. They can... you don't have the money, you don't have any help, nobody's going to help you. I can take the baby easily and my parents can easily buy anything because they have money.

**Q.** Did you believe that?

**A.** I did.

Q. How did you tell your sister not to come?

A. I told her just to not come, that she can't go.

Q. Was he listening on the phone during that?

A. Yeah, he wanted to make sure I told them that they can't come and get her. They can come visit for a little bit but they had to go.

MR. GIEGER: Judge, can I have just one second?

THE COURT: Yes.

Q. (By Mr. Gieger) Ma'am, other than -- I'm sorry. Is there anything else about that conversation you need to tell me about that you called her and tell her not to come? Did you tell her Freddy didn't want you to come?

A. I don't recall. I just remember being really upset and telling her that she couldn't take her. And she was upset about it because that cost her money that she pulled together to come get her.

Q. But clearly you had told her you need to come because I'm losing it and I'm hurting Alexis?

A. I told her that I was just losing it, she needed to come and get her.

Q. You told her you were afraid you were going to hurt Alexis?

A. Yeah.

Q. Did you hurt Alexis?

A. No.

Q. Did you ever hurt Alexis?

A. No.

Q. You told me on the day about how much Mr. Mendez picked her up by her neck and threw her down. You told me he had done that before to you, not throw you down but grab you by the neck to get your attention?

A. Yes.

Q. Had you ever seen him do that before with Alexis before that day?

A. No.

**MR. GIEGER:** Pass the witness.

**THE COURT:** Lawyers approach.

(Whereupon, the following bench conference was here had, out of the hearing of the jury.)

**THE COURT:** Do you want to start? It's five minutes till 5:00.

**MR. HUDSON:** Oh! It would take me significantly longer than five minutes.

**THE COURT:** That's why I say do you want to start, break and come in the morning or start fresh in the morning? What do you want to do?

**MR. HUDSON:** I would prefer just to start fresh in the morning, if it's okay with the Court.

**THE COURT:** That's fine.

(Whereupon, the following transpired in open

court, in the hearing of the jury.)

**THE COURT:** Ladies and gentlemen, that's all we're going to do for today, it's about five minutes till 5:00. Over the night recess please do not discuss this case, please do not allow anyone to discuss it with you, and again, we will reconvene at 9:00 o'clock in the morning.

You need to scan, then come here and assemble upstairs. Please rise. You are excused.

(Whereupon, the jury exited at 4:51 p.m.)

**THE COURT:** You may be seated or you may be excused.

(Whereupon, proceedings adjourned for the day at 4:52 p.m.)

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

| | | |
|---|---|---|
| THE STATE OF OKLAHOMA, Plaintiff, | ) | |
| vs. | ) | CASE NO. CF-2011-6254 |
| FREDDY MENDEZ, Defendant. | ) | **VOLUME IV of VIII** |

**CERTIFICATE**

I, Tara Nixon, Certified Shorthand Reporter, Registered Professional Reporter, Certified Realtime Reporter, and Official Court Reporter for Oklahoma County, do hereby certify that the foregoing transcript in the above-styled case is a true, correct, and complete transcript of proceedings had on the 26th day of September, 2013.

Dated this 31st day of January, 2014.

Tara Nixon, RPR, CRR
State of Oklahoma
Certified Shorthand Reporter
CSR # 1542

(Whereupon, the jury entered at 9:17 a.m., and the following transpired in open court.)

**THE COURT:** You all may be seated. Good morning.

(Whereupon, the jury collectively replied "Good morning.")

**THE COURT:** Happy Friday.

(Whereupon, some replied, "Happy Friday.")

**THE COURT:** I think we're ready to pick up where we left off. Mr. Hudson.

**MR. HUDSON:** Thank you.

**THE COURT:** Cross-examination.

(An off the record discussion was here had.)

VICTORIA PHANTHTARANTH,

was called as a witness on behalf of the State, and having been duly previously sworn, testified as follows:

**MR. HUDSON:** May I proceed, Your Honor?

**THE COURT:** Yes.

CROSS-EXAMINATION

BY MR. HUDSON:

**Q.** Good morning, Ms. Phanthtaranth.

**A.** Hi.

**Q.** You covered a lot of stuff yesterday and I'm going to try to be brief, but I want to go back and the only way I could figure out overnight to try to make

sense of it was to move chronologically, okay? So I want to go back to the very beginning with you.

A. (Nods head.)

Q. Who are your biological parents?

A. My biological parents are Com (spelled phonetically) and Daramikora and Victor Sheldon.

Q. I don't want to go into great detail, but is it accurate that you were abused by your biological father?

A. Yes.

Q. There was some serious physical abuse that you suffered?

A. Yes.

Q. Just one example would be holding your hand over a burning stove?

A. (Nods head.)

Q. At some point your mother removes you and your siblings from that home; is that correct?

A. No, DHS did.

Q. DHS removed you? Okay. What age were you when you were removed from your biological family by DHS?

A. About three years old.

Q. Three years old? Is it at that point that -- Well, do you ever live with your biological mother or father again after DHS removes you at the age of three?

A. Not until I spent some time with her later on in

life.

**Q.** Do you ever talk to your biological father again after DHS removes you from the home?

**A.** I just recently talked to him about last year.

**Q.** So from the age of three until the time you're incarcerated you have no contact with your biological father?

**A.** There was only one time.

**Q.** And from the age of three until when do you have no contact with your biological mother?

**A.** Not until I was about ten or 12.

**Q.** Okay. Is there ever a time again when you and your biological mother live -- did you live with her for a while?

**A.** I went to go visit her.

**Q.** Went to go visit her?

**A.** (Nods head.)

**Q.** Who do you live with after DHS removes you from your biological home?

**A.** That's hard to say. I went through 12 foster homes in one year.

**THE COURT:** Can you all hear?

**THE JURY:** (Nodded heads.)

**MR. HUDSON:** If anyone can't hear just get my attention please.

**Q.** (By Mr. Hudson) At some point are you placed with a permanent foster family?

**A.** Yes.

**Q.** And what's that family's name?

**A.** The Hernandez family.

**Q.** Do they adopt you?

**A.** I believe so, yes.

**Q.** You considered them to be your family as you were growing up?

**A.** Yes.

**Q.** And you were abused while in the Hernandez family home?

**A.** Yes.

**Q.** And that was a chronic and ongoing situation?

**A.** Six years.

**Q.** How old are you when you leave the Hernandez family home?

**A.** 18.

**Q.** Did the Hernandez family know about the abuse that you were suffering while in their home?

**A.** I tried to mention it to them. I didn't tell them until I was about 20 years old.

**Q.** At 18 where are you living?

**A.** I had my own apartment in Norman.

**Q.** Have you had a child at that point?

**A.** I didn't have a child till I was 19.

**Q.** Are you married to Dayland Hawkins at that point?

**A.** When I turned 19, yes.

**Q.** Is Dayland living in that apartment with you in Norman?

**A.** He was.

**Q.** And Dayland is the person we've heard a little bit about who was abusive towards you?

**A.** Yes.

**Q.** A few examples are that he would hit you with a 2x4?

**A.** (Nods head.)

**Q.** Right?

**A.** (Nods head.)

**Q.** You have to answer out loud.

**A.** Yes.

**Q.** Break bottles over your head?

**A.** Yes.

**Q.** Drag you through broken glass?

**A.** Yes.

**Q.** And ultimately assaulted you in a manner that caused you to contact law enforcement and seek a protective order against him?

**A.** Yes.

Q. How old were you when that occurred?

A. I was about 19.

Q. You're friends with Andrea?

A. Andrea Wallace, yes.

Q. Wallace at that time. And you're friends with Robin Dominguez at that time?

A. Yes.

Q. You still have some relationship with the Hawkins family?

A. No.

Q. So you've cut off your relationship with, not just Dayland but the rest of his family; is that correct?

A. Not exactly.

**MR. GIEGER:** Judge, are we talking then or are we talking now? I'm not sure about the question.

**THE WITNESS:** That's what I was about to ask.

**THE COURT:** Yes. Hold on just a minute. Clarification.

**MR. HUDSON:** I'm sorry.

Q. (By Mr. Hudson) Let's start at when you have moved out of the home you shared with Dayland, you made a police report, correct?

A. (Nods head.)

Q. Sorry. You have to answer out loud.

A. Yes.

Q. And you've gotten a protective order, correct?

A. Yes.

Q. That protective order is against or is against Dayland protecting both you and Alexis?

A. Yes.

Q. How old is Alexis?

A. She's barely six months.

Q. You're now living with Robin Dominguez?

A. Not -- at that moment, yes.

Q. Okay. You're friends with Robin Dominguez at that point?

A. Yes.

Q. You're friends with Andrea Wallace at that point?

A. Yes.

Q. Have you cut off contact with Dayland Hawkins' family at that point?

A. Cheryl Lancaster but not the Hawkins, Elizabeth Hawkins.

Q. Let me ask it a different way. Who did you still have contact with from the Hawkins family then?

A. Elizabeth Hawkins and Roy Hawkins and Teresa and some other members.

Q. I'm sorry. Elizabeth Hawkins and who?

A. It's Alexis's aunt; Teresa Hawkins and Jamie.

**Q.** You're not in contact with your biological family; is that correct?

**A.** At this moment, no.

**Q.** You're not really in contact with your adoptive family? I'm talking about at the time you're now in this home with Robin?

**A.** Oh, yes, I did have contact with them.

**Q.** You did? Where were they living?

**A.** California.

**Q.** When had they moved to California?

**A.** Shortly after I was pregnant.

**Q.** So maybe a year and a half before the time period we're talking about?

**A.** I'm not quite sure, but it was shortly after I was pregnant.

**Q.** Okay.

**A.** They left before Alexis was born.

**Q.** Had you seen them since that time?

**A.** Only my dad came back to visit, to actually see Alexis.

**Q.** Who else do you see or have contact with on any regular basis at that point that you move in with Robin Dominguez? Who are your friends, who are your family that you see on at least, let's say, a monthly basis?

**A.** There's not a lot of people.

Q. Have we pretty much listed them?

A. Pretty much.

Q. Robin Dominguez?

A. (Nods head.)

Q. Andrea Wallace?

A. (Nods head.)

Q. And maybe Elizabeth Hawkins?

A. Uh-huh.

Q. That's it, right?

A. And Jamie Hawkins and Teresa.

Q. Two of the Hawkins' daughters?

A. Uh-huh.

Q. Dayland's sisters?

A. Uh-huh.

Q. Now, Mr. Gieger asked you yesterday about a time when you made a report to DHS regarding Elizabeth Hawkins, do you remember that?

A. That's when they came over, when... I don't recall her name, but the DHS worker came.

Q. Sharita Williams, does that sound familiar?

A. Yes.

Q. You remember that she was an African-American woman?

A. Yes.

Q. And she was interviewing you, and I don't want

to get into all the details, but she was interviewing you in regards to some of the issues you and Dayland had had once before, correct?

**A.** Yes.

**Q.** And at some point in that interview you have a conversation with her about Elizabeth Hawkins, do you remember that?

**A.** Yes, I was concerned.

**Q.** Now I want to ask you if you said certain things. Is it true, ma'am, that you reported at that time that -- well, is it true that you're half Laotian and half White?

**A.** Yes.

**Q.** You told Ms. Williams that, correct?

**A.** Yes.

**Q.** And then you told her you do not remember your biological parents at all, at that time; is that correct?

**A.** That I didn't really have contact or really know about the history.

**Q.** So if she reflects that you indicated you did not remember your biological parents at all, that would be inaccurate?

**MR. GIEGER:** Objection. Judge, I don't think that is inaccurate.

**THE COURT:** Well, overruled. Let her answer --

**MR. HUDSON:** Well, let me ask it a different way, if I could?

**THE COURT:** Right, if you would.

**Q.** (By Mr. Hudson) Did you remember your biological parents at that time?

**A.** At that moment, yes, I did.

**Q.** Did you tell Ms. Williams that you did not have any memory of your biological parents at that time?

**A.** As referring as the history, if she wanted to know about the history.

**Q.** Okay. Did you indicate to Ms. Williams that you have tried to have minimal contact with Dayland Hawkins' family since the incident that led to the protective order?

**A.** Yes, it was very minimal.

**Q.** So despite some contact with Elizabeth Hawkins and Dayland Hawkins' sisters you tried to minimize that as very limited?

**A.** Yes, to make it less awkward.

**Q.** Okay. You indicated to her that at first you let Alexis' paternal grandmother, Liz Hawkins, come and pick Alexis up but that in June, this would be in 2009, correct... you do remember this was 2009 when that interview occurred, correct?

**A.** Yes.

**Q.** Okay. But that in June of 2009 that Alexis came back with a black eye, with bug bites and a diaper rash, do you remember telling Ms. Williams that?

**A.** That she had a head injury near her eye and she had bite, these bug bites all over her and that she did have a rash.

**Q.** Okay. And you further indicated that Ms. Hawkins provided no satisfactory explanation for those problems, correct?

**A.** Yes.

**MR. GIEGER:** Objection. Your Honor, may I approach?

**THE COURT:** Yes.

(Whereupon, the following bench conference was here had, out of the hearing of the jury.)

**MR. GIEGER:** The report says that Ms. Hawkins -- oh, I'm sorry -- never called to tell her Alexis had fell on her eye and told her when she brought her home she had no further explanation of the condition of her daughter. And she just felt she -- I apologize. It says never called.

**THE COURT:** Okay.

**MR. GIEGER:** So never mind. Withdrawn.

**THE COURT:** Overruled.

(Whereupon, the following transpired in open

court, in the hearing of the jury.)

**Q.** (By Mr. Hudson) Ma'am, did you further tell Ms. Williams that you felt that Ms. Hawkins did not care well for Alexis?

**A.** I just felt like she should have called and told me that had happened.

**Q.** And all I'm asking is, is it true that you told Ms. Williams that you felt Ms. Hawkins did not care well for your daughter Alexis?

**A.** I don't recall that.

**Q.** Okay. Is it true that you told Ms. Williams that Ms. Hawkins had contacted you and indicated that you should give her custody or you might lose Alexis to DHS?

**A.** Uhm, I don't understand.

**Q.** Well, let me ask you this; did Ms. Hawkins ever contact you and say that you should give her custody of Alexis or you might lose Alexis to DHS custody?

**A.** She did mention she did want custody of Alexis.

**Q.** Okay. And did she tell you this because you might lose custody of Alexis to DHS?

**A.** I don't recall the second half.

**Q.** And you don't know if you would have said those words to Ms. Williams at the time you were interviewed?

**A.** I don't remember.

**Q.** Nonetheless, you had started to try to limit

between Alexis and the Hawkins family as of the
this interview the year prior to meeting
dez, would you agree with me?
Right.
You are living with Robin Dominguez and I guess
are going well for you; is that correct?
Yes.
Let me go back for just a minute, ma'am. Who
the police... when you finally called the police
and Hawkins who called them?
. I did.
. You reported that he had assaulted you and that
eded law enforcement assistance?
. Yes.
. Was he arrested?
. Yes.
. Was he prosecuted?
. Yes.
. And who filed for a Victims Protective Order?
.. I did.
.. Did anyone help you with that process?
.. Robin.
.. Robin did?
.. (Nods head.)
.. Did you get a Victims Protective Order?

contact between Alexis and the Hawkins family as of the time of this interview the year prior to meeting Mr. Mendez, would you agree with me?

**A.** Right.

**Q.** You are living with Robin Dominguez and I guess things are going well for you; is that correct?

**A.** Yes.

**Q.** Let me go back for just a minute, ma'am. Who called the police... when you finally called the police on Dayland Hawkins who called them?

**A.** I did.

**Q.** You reported that he had assaulted you and that you needed law enforcement assistance?

**A.** Yes.

**Q.** Was he arrested?

**A.** Yes.

**Q.** Was he prosecuted?

**A.** Yes.

**Q.** And who filed for a Victims Protective Order?

**A.** I did.

**Q.** Did anyone help you with that process?

**A.** Robin.

**Q.** Robin did?

**A.** (Nods head.)

**Q.** Did you get a Victims Protective Order?

A. I did.

Q. And I think we discussed it, on behalf of urself and your daughter?

A. Yes.

Q. You have described a series of abusive acts on ıe part of Mr. Mendez perpetrated against you and your aughter as we move much further into the future, you gree with me?

A. I agree.

Q. Would you agree with me that leaving aside your lescription of what happened on the day your daughter lied that Mr. Mendez never abused you, according to your lescription, in the same way or with the same viciousness or intensity that Dayland Hawkins did?

A. No, it's not the same.

Q. Dayland was much worse, right?

A. In some parts.

Q. Well, in the parts like hitting you with a 2x4?

A. Yes.

Q. And breaking bottles over your head?

A. Yes.

Q. And breaking your nose?

A. Yes.

Q. And you found the strength and the courage to call law enforcement with Dayland, correct?

**A.** Yes.

**Q.** And to seek a protective order?

**A.** I did.

**Q.** You've moved in with Robin, things are better but you are still in a position where you have to work as a stripper, correct?

**A.** I did.

**Q.** Stripping was not something you had gone to voluntarily, was it?

**A.** It wasn't.

**Q.** Dayland had forced you to become a stripper?

**A.** Yes.

**Q.** You're working at... what's your history as a stripper? Where do you work, how long do you work there?

**A.** I worked on and off at --

**MR. GIEGER:** Relevance.

**THE COURT:** Pardon me?

**MR. GIEGER:** Relevance as to her entire history as working as a stripper.

**MR. HUDSON:** I'll move on.

**THE COURT:** Thank you. Sustained.

**Q.** (By Mr. Hudson) Where are you working at the time you're living with Robin Dominguez?

**A.** I was working at two different clubs.

**Q.** Which two?

A. It was Night Trips and it was Red Lights.

Q. What hours are you working at that time?

A. Late hours or double shifts.

Q. So just, if you could go back to those -- how long did you stay with Robin Dominguez before you got your own apartment?

A. I was there with her for almost a year.

Q. If you could go back to that year tell the jury average week how many hours did you work?

A. I worked every day. Uhm, 12 hours a day sometimes, anywhere from eight to 12 hours a day.

Q. Seven days a week?

A. Yes.

Q. These clubs were open on Sundays?

A. Not -- Wait. No, not on Sundays.

Q. Six days a week?

A. Six days.

Q. At some point you saved up enough money to move into your own apartment, correct?

A. Correct.

Q. Down Southwest 89th Street?

A. Uh-huh.

Q. Is it accurate at this point that you've got essentially two true friends, real friends, friends that you socialize with outside of work?

**A.** Yes.

**Q.** Is that accurate?

**A.** Yes.

**Q.** That's Robin and Andrea, right?

**A.** Yes.

**Q.** Okay. Those are the people you trusted, those are the people you spoke with and socialized when you weren't at your job?

**A.** Yes.

**Q.** Okay. You meet Freddy at some point after you moved into your own apartment, correct?

**A.** Correct.

**Q.** And if it's okay with the Court I'll refer to him as Freddy at this point because I may refer to his father as Mr. Mendez later on. Okay?

**A.** (Nods head.)

**Q.** Where are you working when you meet Freddy?

**A.** Red Light Nights.

**Q.** You've never seen him there before but he comes in with someone that's a regular customer?

**A.** Right.

**Q.** Did you guys go home together that night?

**A.** Yeah.

**Q.** That's the first time you guys slept together, correct?

A. Right.

Q. And you immediately start not only an intimate relationship but a romantic relationship with him?

A. Right.

Q. How long had you lived in your own apartment at the time you met Freddy?

A. Uhm, it's been a few months.

Q. I'm sorry?

A. A few months.

Q. A few months? How long before he moves in with you at your apartment?

A. Well, he kind of moved himself in slowly.

Q. Okay. How long though?

A. Uhm, two months.

Q. Okay. At what point -- you indicated during direct examination yesterday that it's while you and Freddy are still living in your apartment on Southwest 89th that he first started to show signs of violence, right?

A. He would get angry and we'd get into arguments.

Q. I just want to make sure I understood you yesterday. Was he ever violent with you when you two lived in that apartment together on Southwest 89th Street?

A. I didn't think it was really violent, but it

escalated later on.

**Q.** I'm not trying to pick on ya, but I want to know. At the time that you moved into the Mendez home, prior to that had Freddy Mendez ever been violent with you?

**A.** Yes.

**Q.** What had he done?

**A.** Just shoved me, pushed me and just yell at me, get in my face.

**Q.** Now, this is at a time when you're still working double shifts in strip clubs, right?

**A.** Not double shifts, but my shifts lowered.

**Q.** Single shifts?

**A.** Yes.

**Q.** Okay. Nevertheless, how many days a week are you out of that apartment and working at a strip club?

**A.** Probably four.

**Q.** Four? Do you still have contact with Robin Dominguez while you're living in that apartment?

**A.** Somewhat.

**Q.** You still have contact with Andrea Wallace while living in that apartment?

**A.** Yes.

**Q.** Now, at some point, it's my understanding that you leave the apartment to do some housesitting at the

Mendez home?

A. Correct.

Q. And while you're gone you are essentially evicted from your apartment?

A. Right.

Q. That's a situation that you say arose because Freddy was supposed to pay some rent and didn't?

A. Yeah, he mentioned it and it never happened.

Q. Do you remember around that time the Mendez family offering to give you some money for you to pay your rent?

A. They did.

Q. The problem was that they had offered you a thousand dollars but you let yourself get three or $4,000 behind, right?

A. They didn't offer that much but --

Q. That's not your memory?

A. No.

Q. Nonetheless, the Mendez family offered to give you some money to help with your rent?

A. Right.

Q. But for whatever reason an eviction still occurred?

A. Yes.

Q. And you lost all your belongings?

A. I did.

Q. Not just your personal belongings but also Alexis' belongings?

A. Right.

Q. What did you take with you for that housesitting trip?

A. Just -- he made sure that he got all his stuff and I just grabbed a couple of clothes for myself and my daughter.

Q. Okay. So you had two or three days worth of change of clothes?

A. Right.

Q. And Alexis had two or three days worth of change of clothes?

A. She had a few more, yes.

Q. And the Mendez family allowed you to move in with your daughter?

A. Right.

Q. Are you pregnant with Freddy Josiah at this time?

A. I am.

Q. How far along are you?

A. I was probably a month or so.

Q. Do you know you're pregnant?

A. I do.

**Q.** That's been an announcement made to the family, the Mendez family, for example?

**A.** Yes.

**Q.** And it's at this point, if I understand your story correctly, that Freddy's violence towards you starts to become more chronic and more pronounced, more violent?

**A.** Yes.

**Q.** It's happening more often?

**A.** Right.

**Q.** And this is going on in the Mendez family home?

**A.** Right.

**Q.** And it's going on while the Mendez family is home, right?

**A.** Right.

**Q.** And he's -- well, what's he doing to you?

**A.** He would grab me, choke me, try to smother me. Every time I tried to run he'd yank me back by my hair.

**Q.** By the hair?

**A.** (Nods head.)

**Q.** Or other parts of the body?

**A.** Right. Rip my clothes.

**Q.** How would he yank you back, what would he do?

**A.** I try to run and my hair is long so he'd grab me by my hair and yank me back; grab me by my throat; push

me against the wall; kick me; shove me into the closet.

Q. Okay. Would he leave bruises?

A. Yes.

Q. Would he actually pull hair out?

A. Yes.

Q. How often was this occurring?

A. Almost every day.

Q. How long had you been in the Mendez family home before this started to be a daily occurrence?

A. It wasn't long.

Q. Now, I think you mentioned on direct examination that Freddy was working for his dad's construction company?

A. Right.

Q. Working long hours, right?

A. Right.

Q. Freddy's dad works for himself in his construction business, right?

A. Right.

Q. Freddy's mom works for the construction company?

A. Yes.

Q. There was a sister who lived there, she --

A. Maria.

Q. I'm sorry?

A. Maria.

**Q.** Maria. She was employed by the construction company?

**A.** Right.

**Q.** Were there any adults living in the home who weren't employed when you... when this daily beating started to occur?

**A.** There was a maid.

**Q.** Okay. Who's Amanda?

**A.** Uhm, I don't remember her name.

**Q.** What's her relation to the Mendez family?

**THE COURT:** Mr. Hudson, Mr. Hudson, she said a maid, I think.

**MR. HUDSON:** And I'm sorry.

**THE COURT:** An M-A-I-D, maid?

**THE WITNESS:** Yeah, a maid.

**Q.** (By Mr. Hudson) So there was a maid there?

**A.** Ruth. Her name was Ruth.

**Q.** I apologize. I thought you said Amanda.

**A.** No. No.

**Q.** Sincerely I have some hearing loss so every once in a while I just don't make out what you're saying.

Was the maid employed there during that entire period of time?

**A.** Yes, she was there for a short time and then she went back to, I think she's from Guatemala.

Q. Okay. So for some period of time while these daily beatings are occurring there's a maid who's employed in the home, not outside the home?

A. Yeah, she's inside the home downstairs.

Q. But she's only there for a short while and then after that every adult in the home is employed outside the home, correct?

A. Right.

Q. You understand what I mean by that? They're working outside the home, right?

A. Right.

Q. There aren't any stay-at-home moms or stay-at-home dads, you're the only person staying there during the day?

A. Right.

Q. Okay. And the Mendez home, does it have telephones?

A. They do, they have a house phone.

Q. Do they have one phone in the house or they have multiple phones?

A. They have multiple phones.

Q. Do you know how many?

A. There's one in there. Hold on. There's one in their bedroom, there's one downstairs in the kitchen, there's one in, it used to be Christopher's biggest room,

there's probably four phones, I believe.

**Q.** Where's the nearest phone located in relation to the bedroom that you and Freddy were sharing in the home?

**A.** It was the main phone which was in Christopher's room.

**Q.** How far away?

**A.** It's, uhm, I don't know. Just down the hallway. I don't know how to --

**Q.** Is it accessible to you? I mean, you can walk in and pick up that phone and dial a number if you want to?

**A.** I can't just walk into somebody's room and pick up the phone.

**Q.** Let me ask it a different way, is Christopher's room locked?

**A.** Uhm, he did start locking it after a period of time.

**Q.** Was there a phone in the house that is accessible to you, you can actually reach with your hand and pick up?

**A.** Downstairs.

**Q.** You can pick that up and you can dial the number?

**A.** Yes, if I was allowed to use the phone.

**Q.** Is there -- Are there any computers in that

home?

**A.** Uhm, yes, there is.

**Q.** And did they have internet access?

**A.** I don't know the password or anything like that.

**Q.** So you had no ability to access, for example, e-mail while you lived during that period of time in the Mendez home?

**A.** Not unless they allowed me on the computer.

**Q.** Did they ever allow you on the computer?

**A.** A few times to try to get job applications.

**Q.** Was there a fax machine?

**A.** Yeah, there was.

**Q.** You know how to use a fax machine?

**A.** If showed properly, yes.

**Q.** Was there pen and paper in that home?

**A.** Yes.

**Q.** You know how to mail a letter?

**A.** I do.

**Q.** You are home alone or at least the only adult home for eight, nine, ten, 11, 12 hours a day on average, how long?

**A.** Not very long because they come in and out.

**Q.** Well, on an average day how much time would you have in that home without some other adult being there?

**A.** Probably two, three hours.

Q. Okay. At any point during that period of time do you inform anyone of the abuse that Freddy is subjecting you to?

A. No.

Q. He's leaving signs, according to you, correct?

A. (Nods head.)

Q. Correct? You have to answer out loud.

A. Yes.

Q. And the Mendez family would be able to observe these signs, correct?

A. Right.

Q. Is Freddy abusing Alexis at the point when you've moved into the Mendez home?

A. That's when he started spanking her.

Q. Started spanking her?

A. (Nods head.)

Q. Is that abusive, is the spanking abusive?

A. It progressed into more aggressive spanking and that's what we would get into arguments about.

Q. When it was more aggressive spanking, when it got to the point where you were concerned enough to confront him, which you did confront him, right?

A. I did.

Q. In fact, yesterday you told us you would have ist fights with him, right?

**A.** Yes.

**Q.** You're no shrinking violet, you would literally hit him with your fist, right?

**A.** I'd try to.

**Q.** You didn't try to, you did is what you told us, right?

**A.** (Nods head.)

**Q.** And you would confront him, you would say enough is enough, you've done enough, I don't want anymore of it, right?

**A.** (Nods head.)

**Q.** When it got to that point --

**THE COURT:** You're going to have to answer.

**THE WITNESS:** Oh, yes.

**MR. HUDSON:** Sorry, Your Honor.

**Q.** (By Mr. Hudson) When it got to that point what was he doing? Describe for me the spankings that had got to the point of being a concern to you?

**A.** He would grab her by her arm and started spanking her on her butt or use the shoe and start spanking her on her butt, and we would get into arguments about that and I would yell at him and we would get into a fist fight, pushing and shoving each other, and then it turned out I wouldn't win.

**Q.** And that was going on in the Mendez home?

**A.** (Nods head.)

**Q.** Correct?

**THE COURT:** Yes?

**THE WITNESS:** Correct.

**Q.** (By Mr. Hudson) While the Mendezes are home, correct?

**A.** Correct.

**Q.** Because the truth is when Freddy was home there were other family members home, because they were all working the same schedules, right?

**A.** Right.

**Q.** And you two didn't own a car, you and Freddy didn't own a car, right?

**A.** No.

**Q.** In fact, Freddy never owned a car during any of the period of time you knew him, correct?

**A.** He did. He had a truck, but it wasn't exactly his but he had it for a short period of time until he had to give it to, I think he sold it to a brother or it belonged to somebody else.

**Q.** So I'm sorry, I misspoke. There was some short period of time he had a vehicle?

**A.** Yes.

**Q.** When was that?

**A.** In the beginning of our relationship in '09.

**Q.** That's maybe how he would get to your apartment n Southwest 89th?

**A.** Uh-huh.

**Q.** By the time you moved to the Mendez family home hat vehicle was gone?

**A.** It was there, it was no longer... he had no longer ownership over it.

**Q.** In fact, he had the ownership over no vehicles at the point you move into the Mendez family and moving forward?

**A.** Right.

**Q.** And you had ownership of no vehicle?

**A.** I didn't have a vehicle.

**Q.** So Freddy would have to ride with family members to work, correct?

**A.** Right.

**Q.** And he would ride home with family members from work?

**A.** Right.

**Q.** And essentially from the time you moved into the Mendez family home, unless that entire brood of Mendezes that you described last night all left at the same time you and Freddy weren't there by yourselves, right?

**A.** There were some days we were by ourselves.

**Q.** But that would be unusual or rare?

**A.** No, they would go out and go to the movies and we'd stay there or they'd go out to eat and it was just me and him or they'd run errands during the day.

**Q.** But he didn't hesitate to abuse you even when the rest of his family was home?

**A.** No, that didn't stop him.

**Q.** And he didn't hesitate to spank, for example, Alexis inappropriately when the rest of the family was home?

**A.** Yeah, he didn't hesitate.

**Q.** Or grab her by the arm, things like that, right?

**A.** Right.

**Q.** We saw some pictures yesterday where you say he grabbed her by the arm. Now, those pictures, I think, are taken after you've moved out of the Mendez home into the apartment or not?

**A.** Right.

**Q.** But he was doing those same types of things when you were living with the Mendezes?

**A.** Yes.

**Q.** Now one of those pictures reflects where you say he hit her in the face with a shoe, you remember that picture?

**A.** On her birthday.

**Q.** Her birthday picture? Was he doing that type of

thing while you were living in the Mendez home?

A. That was the Mendez home, that occurred in his room.

Q. Okay. And these are all things that were occurring while the Mendezes were home and present?

A. Right.

Q. And they're leaving marks as we've seen on the pictures?

A. Right.

Q. But you don't tell anybody about what's going on?

A. No.

Q. What was your relationship like with the Mendez parents; Mr. and Mrs. Mendez?

A. It was awkward.

Q. In what way?

A. A way of, like, I tried to be, you know, you don't bite the hand that feeds you, you know, tried to help out, would help clean up the house, help wash the windows, after the maid left I would do some of the chores, help cook dinner.

Q. Was the maid there when you first moved in?

A. She was.

Q. She was? So she left some time after you guys -- she was there and then left some time after you

guys moved in?

**A.** Right.

**Q.** And you started to take on some of her responsibilities?

**A.** Yeah.

**Q.** Were you close to Mr. and Mrs. Mendez?

**A.** I wouldn't say we were close, I just felt I was there, just there.

**Q.** Did you feel like you could trust them and you could go to them with your concerns about Freddy's treatment of you and Alexis?

**A.** I tried to reason with them, like, for instance, I would talk to them and be like, well, why, why does he get so angry; because they know that he gets angry, they've seen him, they've gotten into arguments with each other as well, too.

**Q.** So let me just make sure I'm clear. When I asked you earlier about whether or not you would tell anybody about his behavior you said no, did that... did you actually tell the Mendezes about Freddy's behavior?

**A.** Not about the physical, but the verbal.

**Q.** Did you tell anybody else about the verbal?

**A.** No.

**Q.** So I just want to understand, you weren't particularly comfortable with the Mendez family, right?

A. Right.

Q. You felt like you were being treated a little it like a maid there in the home?

A. At a point I did.

Q. You were scared and ashamed to talk with Robin Dominguez about Freddy's abuse?

A. Right.

Q. You were scared and ashamed to talk to Andrea Wallace about Freddy's abuse?

A. Right.

Q. Right? People that you trusted, right?

A. Right.

Q. People who tried to help you in the past, right?

A. Right.

Q. But you talked to the Mendez family about their own son's abuse of you?

A. The verbal abuse.

Q. So you could overcome your shame and fear when it came to his family who you didn't feel comfortable with and who treated you like a maid, but you couldn't overcome that with the people that you had known and trusted in the past?

A. Because I no longer spoke to Robin on a daily or Andrea on a daily and these were the people I was around every day.

**Q.** I understand, but you still spoke with Robin though, correct?

**A.** I barely, barely got to talk to her.

**Q.** Well, she came over to the Mendez home several times, right?

**A.** She was invited by... to a shower by Rosalba Mendez.

**Q.** Okay. And, in fact, she came over to the Mendez home when you were the only one there on multiple occasions, right?

**A.** There was a few times in the beginning.

**Q.** Had you lost faith in Robin as a friend?

**A.** No.

**Q.** I mean, the fact you weren't talking to her as often didn't ruin your trust in her, right?

**A.** No, I didn't. I was afraid.

**Q.** You were afraid to tell Robin, right?

**A.** (Nods head.)

**Q.** Even though you trusted her?

**MR. GIEGER:** Asked and answered, Your Honor.

**THE COURT:** It has been asked and answered. Sustained.

**MR. HUDSON:** May I approach, Your Honor?

**THE COURT:** Yes.

**Q.** (By Mr. Hudson) Ms. Phanthtaranth, I'm going to

show you something, I'd like to ask you if you recognize it, if you'll tell me if it's your handwriting on the inside, please?

**A.** It is.

**Q.** You do recognize it?

**A.** I do.

**Q.** That is your handwriting?

**A.** It is.

**Q.** It's a letter that... a Mother's Day card that you gave to Rosalba Mendez, correct?

**A.** That's correct.

**MR. HUDSON:** Your Honor, I'd move to admit State's Exhibit 7.

**THE COURT:** Defendant's Exhibit?

**MR. HUDSON:** Pardon me, Your Honor. Defendant's Exhibit 7.

**THE COURT:** Okay.

**MR. GIEGER:** I have no objection.

**THE COURT:** Defendant's Exhibit 7 will be admitted without objection.

**MR. HUDSON:** May I approach again, Your Honor?

**THE COURT:** Yes.

**Q.** (By Mr. Hudson) Ma'am, when is Mother's Day, just approximately?

**A.** I really don't... I don't know. I just was told

was Mother's Day.

Q. Would you disagree with me that it comes in May of every year?

A. It -- yes, it does.

Q. This would have been a Mother's Day card that you would have given Rosalba Mendez in May of 2011?

A. Right.

Q. Just a couple of months before you've moved out of the Mendez home, correct?

A. Right.

Q. Would you please read that card to the jury?

A. It says thank you for all the love and the kindness you have given to us. We love you with all our hearts. Happy Mother's Day, love Vickie, Freddy Jr. and Alexis and Freddy.

Q. And that's written by you, correct?

A. That's correct.

Q. Does that describe the relationship you had with Rosalba?

A. No, it doesn't.

Q. You didn't know you were going to end up in court one day, right?

A. Right.

Q. You wrote that card?

A. I did.

Q. And you gave it to Rosalba on Mother's Day?

A. I did.

Q. Did you buy this card?

A. No, I made it.

Q. You took the time to make it personally?

A. I did. I do little arts and crafts.

Q. You also gave a Mother's Day card to Freddy's sister Maria?

A. I did.

Q. Similar card?

A. It's similar.

Q. Same kind of language inside?

A. Yes.

Q. That would have been May of 2011, correct?

A. That's right.

Q. Now, when you were at the Mendez family home I know we asked about this earlier, but you still have contact with Andrea Wallace, correct?

A. Somewhat, yes.

Q. You're able to contact her by telephone?

A. Yes.

Q. And you still see her face to face?

A. Yes.

Q. In fact, she babysits for you and Freddy on occasion?

**A.** She did.

**Q.** You still have contact with Robin Dominguez?

**A.** Less.

**Q.** Less contact but you still have contact?

**A.** Yes.

**Q.** I mean, you'll acknowledge that at one point you ad daily contact with Robin Dominguez?

**A.** In the beginning, yes.

**Q.** You still see Robin face to face?

**A.** Barely.

**Q.** On occasion?

**A.** Uh-huh.

**Q.** Sometimes without anyone else around?

**MR. GIEGER:** Your Honor, these have been asked and answered.

**THE COURT:** I mean -- are we -- Are you going on a different direction?

**MR. HUDSON:** I'll just move on, Your Honor.

**THE COURT:** Thank you. Sustained.

**Q.** (By Mr. Hudson) Do you still have contact with Robin, not face to face, but by telephone?

**A.** I did.

**Q.** There were family gatherings at the Mendez home?

**A.** There was.

**Q.** Where not only members of the Mendez family but

other people, other friends or friends of yours, for example, would be invited?

A. Just on... one time, the baby shower.

Q. So if Robin had remembered multiple occasions like that you would disagree with that?

A. I don't really recall.

Q. Do you recall that on those occasions it would really just be you and Robin off by yourselves?

A. There has been times me and her off by ourselves.

Q. There's a fight that occurs between you and Freddy Mendez around the July 4th holiday, correct?

A. Correct.

Q. Ma'am, do you remember telling law enforcement that the last time that Freddy Mendez was ever physically violent with you was that episode?

A. I didn't talk to the law that day.

Q. No, I mean later on when you're interviewed by law enforcement, did you tell them that was the last time he was physically violent with you?

A. I didn't say that.

Q. Nonetheless, when that occurs you and Freddy are asked to move out of the home?

A. Right.

Q. Prior to your moving is there some episode where

bin comes over to the house?

A. There was.

Q. I wanted to ask you about that, you remember ıen that occurred?

A. It was shortly after.

Q. After the July 4th incident?

A. (Nods head.)

Q. Okay. Robin actually enters the home?

A. (Nods head.)

Q. At some point, right?

A. She did.

Q. And you're in the shower?

A. Right.

Q. And she gets you out of the shower?

A. Right.

Q. Right? And she tells you pack your bags we're leaving, right?

A. Right.

Q. And you did that?

A. It took a long process, but eventually I left.

Q. And it's your indication that during that process that Freddy was being physically violent towards you?

A. He was.

Q. And Robin was there to witness it?

**A.** Not all of it, but she saw the markings.

**Q.** Did she see any of the violence that he ɜrpetrated against you in the home that day, inside the ɔme?

**A.** No, she just saw the markings or she could hear s talking. She kept coming back in and out of the room nd he wanted time alone.

**Q.** And what ultimately ends up happening is that you take Alexis and you leave the home, correct?

**A.** Yes.

**Q.** Are you certain you took Alexis?

**A.** I did take Alexis, I wasn't going to leave her there.

**Q.** You didn't leave Alexis there with Freddy and take Freddy Josiah?

**A.** No. Josiah stayed with Freddy. He wasn't going to let me take my son.

**Q.** How long are you out of the home?

**A.** Probably a week.

**Q.** Okay. At this point you've been told by the Mendez family that you have to leave?

**A.** When I came back. I came back and they told us that we have to go.

**Q.** I'm sorry. I thought I understood... tell me if I'm, wrong. I thought I understood that you were told

you had to go after the July 4th incident?

**A.** That we had to move.

**Q.** Right. You hadn't moved out yet, but you had already been told that you had to leave the Mendez family home, right?

**A.** That's what Freddy said, yes.

**Q.** Because, I think you described it yesterday, they didn't want basically the drama?

**A.** To watch the arguments and everything that we were doing.

**Q.** That happens prior to you leaving the home with Robin, correct; because that happens immediately after this July 4th incident, right?

**A.** Yeah, that's when we moved out and got to that apartment.

**Q.** Well, I want to make sure I've got the chronology right. There's an episode on July 4th?

**A.** There's an episode.

**Q.** Police are called?

**A.** Yes.

**Q.** You never talked to the police but the police are called out there?

**A.** Yeah.

**Q.** Right?

**A.** Right.

**Q.** And then right after that the Mendez family says you're not welcome to stay anymore there's too much drama?

**A.** Yes, and then we found an apartment.

**Q.** But prior to finding the apartment but after you've been told by the Mendez family you've got to leave there's an incident where Robin is at the home?

**A.** There was.

**Q.** And you leave the Mendez home, correct?

**A.** Yes, I did.

**Q.** Okay. The concerns that you had with Freddy's behavior were limited to his treatment of yourself and Alexis, correct?

**A.** Correct.

**Q.** You don't indicate that he ever mistreated Freddy Josiah?

**A.** No, he didn't.

**Q.** And his family never mistreated Freddy Josiah?

**A.** No, they didn't.

**Q.** And at this point you have removed yourself and Alexis from the Mendez home and from the abuse you described and left Freddy Josiah who you believe to be safe behind?

**MR. GIEGER:** Form of the question.

**THE WITNESS:** He wasn't going to let me take --

**THE COURT:** Pardon me?

**MR. GIEGER:** Objection is form of the question.

**THE COURT:** Overruled. Go ahead. Go ahead.

**MR. GIEGER:** Can I approach, Judge?

**THE COURT:** No. Go ahead.

**Q.** (By Mr. Hudson) Is it true, Ma'am, that at the point that you've left with Robin Dominguez you've left the Mendez family home, you've taken Alexis with you, correct?

**A.** Correct.

**Q.** So you and Alexis are now removed from the location of the abuse you suffered, right?

**A.** Right.

**Q.** You're removed from the person who perpetrates that abuse on you, correct?

**A.** Right.

**Q.** And you're removed from the family who allows the perpetration of that abuse --

**A.** Right.

**Q.** -- the Mendez family? And the only person who is left behind is your son, who by your own account is perfectly safe where he's at, right?

**A.** I didn't think he would hurt him, he wasn't going to let me take him.

**Q.** Pardon me?

**A.** I said I didn't think he was going to hurt him and he didn't allow me to take him. He wouldn't let me take the baby, I tried.

**Q.** I understand. But I'm saying at that moment, now you're out of your bad situation, you've removed your daughter from your bad situation and the only person who is left behind is safe in that situation, correct?

**A.** At the moment.

**Q.** And you're staying with Robin Dominguez, right?

**A.** Yes.

**Q.** The person who helped you file a police report and get a protective order in the past?

**A.** In the past, yes.

**Q.** And you know that if you go back you and Freddy have to move out on your own, right?

**A.** Right.

**Q.** Because you've been told by the Mendez family you can't stay any longer, right?

**A.** Right.

**Q.** But you take your daughter back to Freddy Mendez?

**A.** I couldn't stay at Robin's and he talked me into coming back and I didn't want to leave my son there.

**Q.** You are aware of legal process that protects you in these situations, correct?

**MR. GIEGER:** Object to the question, Your Honor.

(Whereupon, the following bench conference was here had, out of the hearing of the jury.)

**THE COURT:** I think your point is being made. I mean, it's been made over and over and over again.

**MR. HUDSON:** Okay. I'll move on. I'll move on.

**THE COURT:** Okay. Sustained.

(Whereupon, the following transpired in open court, in the hearing of the jury.)

**Q.** (By Mr. Hudson) Ma'am, once you move back into the Mendez family home how long are you there before you and Freddy leave to get your own apartment?

**A.** Not very long.

**Q.** Can you estimate for me how long?

**A.** Probably a week or two.

**Q.** Do you remember when it was that you actually moved into that apartment? What was the name of the apartment complex?

**A.** I don't even know what the apartment complex was. I think Stratford, Stratford.

**Q.** Well, let's call it the Stratford Apartments so we know what we're talking about.

**A.** Okay.

**Q.** Do you remember when you moved into the Stratford Apartments?

**A.** It was after August.

**Q.** After August of 2011?

**A.** Right.

**Q.** So you move in September 2011?

**A.** Yes.

**Q.** Correct? Now, is it at this point -- I guess you described there's already daily abuse of you in the Mendez home, right?

**A.** (Nods head.)

**Q.** Is there daily abuse of Alexis while in the Mendez home?

**A.** Not on a daily but we would get into arguments over it.

**Q.** Does the abuse get worse when you're in the apartment together?

**A.** Yes.

**Q.** In what way?

**A.** (No response.)

**THE COURT:** Do you understand the question?

**THE WITNESS:** Oh, I didn't --

**Q.** (By Mr. Hudson) I'm sorry. In what way did the abuse get worse once you moved into the apartment?

**A.** Since there's nobody around and we're away from the family's home he can do a lot more.

**Q.** What was he doing?

A. Strangling me, ripping my clothes off when I tried to run, and I wasn't allowed to run outside naked or else I'd be called a whore.

Q. How often was that occurring?

A. It started off small and it started escalating.

Q. Well, I'm just trying to give some context to the jury of what you say occurred in the two weeks before Alexis' death, so going back from October 30th to October 16th what was the situation like in that home?

A. It was scary.

Q. Okay. What was he doing?

A. He'd get angry if I didn't do something a certain way, if food wasn't ready when he got home or the laundry wasn't done or things weren't put up. He got angry that if I didn't organize everything that he wanted or have it the way that he wanted then he would slap me around, drag me by my hair, beat me, he even did it in front of his little cousin that witnessed it.

Q. Did you give the police that information?

A. I told them that the little girl was there.

Q. So that she can be called in to testify, she's a witness to what occurred, right?

A. She seen it.

Q. Just like the Mendez family has seen it, right?

A. They seen some.

Q. When he was, for example, when he slapped you hen he got mad, is he slapping you like that Indicating)?

A. No, he's slapping me, grabbing me by my throat, pulling my hair, trying to bring me closer to his face, spitting, punching himself in the head.

Q. He's abusing you, right?

A. Yes.

Q. He's leaving marks?

A. Yes.

Q. This abuse is so bad it's completely overcome your will to defend either yourself or your daughter, right?

A. I'm scared. I don't know what else to do.

Q. And you live in an apartment complex, right?

A. Right.

Q. How is the setup of that apartment complex, where is your apartment?

A. We live in a square building and there's four in one and we're upstairs in the right-hand side.

Q. You've got someone below you?

A. Yes.

Q. That's actually the young man whose phone you borrowed one time?

A. They're some... they're Mexicans that come and

A. I don't think... they don't speak very much English.

Q. Well, let me ask you about that; you went down and asked if you could borrow his phone?

A. And it took a long time because he didn't understand what I was asking.

Q. I understand. But he allowed you to borrow his phone?

A. Eventually.

Q. In fact, he even provided you privacy to make the phone call, right?

A. He was standing there to make sure I didn't run off with his phone or anything. He was there.

Q. But you two didn't speak the same language, right?

A. He spoke Spanish and I could only understand a few words that he said.

Q. So I guess what I'm asking is, you have a phone available to you at that moment, correct?

A. (Nods head.)

Q. Freddy is not there?

A. Right.

Q. Right? The person who can hear the conversation can't speak English, right?

A. Not very much.

Q. You can call anybody in the world that you want

call at that moment, right?

A. Well, at that moment the baby needed food and diapers and I have no way of getting it.

Q. I understand, but listen to my question. You can call anybody in the world that you want to call at that moment, right?

A. Right.

Q. You can have whatever conversation you want to have and there's no threat of it being repeated to Freddy, right?

A. I never thought of it that way.

Q. But is it right?

A. Yeah.

Q. You didn't think of -- you didn't think that you might be able to call somebody at that moment other than Freddy?

A. No, I didn't think of anybody else.

Q. And you had access to, for example, a phone in the apartment complex office, right?

A. I used it one time.

Q. You used it one time when the apartment personnel expressed some concern because Alexis was limping?

A. Yeah, that day I called him to see if he could take her to the hospital.

Q. Right. Except the problem is the apartment personnel believed that you faked calling somebody, did you know that?

A. No.

MR. GIEGER: Your Honor --

THE COURT: Come up.

MR. GIEGER: -- hearsay.

THE COURT: Approach.

(Whereupon, the following bench conference was here had, out of the hearing of the jury.)

THE COURT: I haven't heard any testimony as to that effect.

MR. HUDSON: Okay.

THE COURT: Sustained.

MR. HUDSON: I'll move past that.

THE COURT: Okay. Thank you.

(Whereupon, the following transpired in open court, in the hearing of the jury.)

Q. (By Mr. Hudson) Ma'am, did you actually call Freddy that day?

A. I did, twice.

Q. Did you call Robin to see if she could come pick you up and take you and Alexis to the hospital?

A. No, I didn't.

Q. Did you call Andrea to see if she could come

ck you up?

**MR. GIEGER:** Your Honor, these have been asked and answered. She said she called Mr. Dominguez and no one else.

**MR. HUDSON:** Mr. Mendez?

**MR. GIEGER:** I'm sorry. Mr. Mendez and no one else.

**THE COURT:** Sustained.

**Q.** (By Mr. Hudson) Did you know Robin's telephone number at that time?

**A.** No, I'm very bad at remembering numbers.

**Q.** Had you called Robin to let her know you were moving to that apartment?

**A.** I told her I was moving but she didn't know where I was located at.

**Q.** How did you call her when you told her that you were moving?

**A.** There was a period, there was a time that she didn't even know Freddy's number and I was at Maria Osborne's house helping her move and what I did was I called her number and I left Freddy's number on there so then she can try calling to see where I'm at.

**Q.** How did you know how to call her, how did you know the number to call?

**A.** I had it written down and I snuck it with me.

**Q.** So you had a list of phone numbers?

**A.** That I left at his parents house.

**Q.** Oh, you did?

**A.** I did.

**MR. HUDSON:** May I have just a moment, Your Honor?

**THE COURT:** Mr. Hudson, it's 10:15, can we take a break?

**MR. HUDSON:** Sure.

**THE COURT:** Ladies and gentlemen, it's 10:15, we're going to break for our morning break, we're going to break until 10:30.

Please do not discuss this case or allow anyone to discuss it with you and we will stand in recess until 10:30. Please rise. You are excused.

(Whereupon, the jury exited at 10:12 a.m.)

(A recess was here had.)

**AFTER RECESS**

(Whereupon, the jury entered at 10:30 a.m., and the following transpired in open court.)

**THE COURT:** You may be seated. You're still under oath.

**THE WITNESS:** Yes.

VICTORIA PHANTHARANTH,

was called as a witness on behalf of the State, and

having been previously duly sworn, testified as follows:

**THE COURT:** Mr. Hudson.

**MR. HUDSON:** Thank you, Your Honor.

CONTINUING CROSS-EXAMINATION

BY MR. HUDSON:

**Q.** Ma'am, I'm very close to moving on to when you and Freddy were living alone in the apartment, not the first time but near the end, but I do have one or two questions for you still about times prior to that.

When you were living in the Mendez home and the Mendez family, including Freddy would be gone working, was Alexis home with you?

**A.** Yes.

**Q.** And was Freddy Josiah home with you?

**A.** Yes.

**Q.** That includes during those periods of time when you were the only adult there in the home, correct?

**A.** Yes.

**Q.** You indicated to Mr. Gieger that Freddy would sometimes become so upset with himself that he would punch himself?

**A.** Yes.

**Q.** Describe that for me?

**A.** Like he would grit his teeth together, start cussing through his teeth and start hitting himself in

the head and hitting the wall.

**Q.** Hit himself hard?

**A.** Yes, he would hit himself hard.

**Q.** Hard enough to leave marks?

**A.** Uhm, I wouldn't say leave marks, but he would hit himself.

**Q.** He hit the wall hard enough to leave marks on his hands?

**A.** Yes.

**Q.** Did you ever hit him hard enough to leave marks?

**A.** No.

**Q.** Did you ever scratch him, bite him, anything like that to leave marks?

**A.** No.

**Q.** So anyone who was observing during this time could have seen marks on Alexis, correct?

**A.** (Nods head.)

**Q.** Answer out loud.

**A.** Yes.

**Q.** Could have seen marks on you?

**A.** Yes.

**Q.** And could have seen at least marks on Freddy's hands?

**A.** Yes.

**MR. HUDSON:** May I approach, Your Honor?

**THE COURT:** Yes.

**Q.** (By Mr. Hudson) Ma'am, I just want to show you some pictures you identified yesterday, State's Exhibit 1, you remember that photograph?

**A.** Yeah.

**Q.** That's Alexis?

**A.** Yeah, she went swimming that day.

**Q.** I'm sorry?

**A.** She went swimming.

**Q.** Went swimming at the Mendez home?

**A.** Yes.

**Q.** Was this the Mendez home we see in the background?

**A.** That's the pool house.

**Q.** Pool house? Looks like this was taken in July of 2011, correct?

**A.** Correct.

**Q.** July 31st?

**A.** It's around that time.

**Q.** This would be during the period of time when she's being abused by Freddy, correct?

**A.** Being spanked, yes.

**Q.** Has it gotten to the point where he's hitting her in the face with a shoe by this time?

**A.** It's happened before.

**Q.** Prior to July 31st of 2011?

**A.** It happened in August.

**Q.** Happened in August?

**A.** (Nods head.)

**Q.** So the first time that type of abuse occurred was August of 2011, correct?

**A.** (Nods head.)

**Q.** Answer out loud, please?

**A.** Yes.

**Q.** Has he started grabbing her by the arms and leave marks by that time?

**A.** Yes.

**Q.** We see an example, according to you, in this picture, correct, see what looks like maybe some bruising on her arms?

**A.** (Nods head.)

**Q.** Right?

**A.** Right.

**Q.** And that's August 5th of 2011, correct?

**A.** Right.

**Q.** Okay. Has she started to shy away from Freddy or show signs of being scared of him at this point?

**A.** Oh, she knows when he's angry, she'll get... she'll show it. She'll shy away from him.

**MR. HUDSON:** May I approach, Your Honor?

**THE COURT:** Yes.

**Q.** (By Mr. Hudson) Ma'am, I'm going to ask you to take a look at a series of photographs and just tell me if you recognize the photographs and who's in them?

**A.** It's Freddy, Josiah.

**Q.** I'm sorry. You don't have to describe it for me yet. Just look at each one and make sure that you recognize the photographs and you recognize the people in them?

**THE COURT:** You're starting with 8?

**MR. HUDSON:** Yes, Your Honor.

**THE COURT:** How many do you have?

**MR. HUDSON:** I'm sorry, sir, I don't know. I'll have to count them.

**Q.** (By Mr. Hudson) Do you recognize those?

**A.** I do.

**Q.** In each of those photographs is it a picture of either you and Mr. Mendez and your children or perhaps your children by themselves or Mr. Mendez with one of the children?

**A.** Yeah.

**Q.** If I can have them back, please? Sorry. Have you had a chance to see all of them?

**A.** (No response.)

**Q.** Have you seen them all, ma'am?

**A.** Yeah.

**Q.** Okay. Thank you. Ma'am, I'm going to hand you what I've marked as Defendant's Exhibit 8, can you tell me who's in that photograph?

**A.** Alexis and Freddy.

**Q.** Can you tell me the date it appears that photograph was taken?

**A.** 8/09/2011.

**Q.** August 9th of 2011?

**A.** (Nods head.)

**THE COURT:** You want to give it to him first and see if it's admitted?

**MR. GIEGER:** Have you admitted all of them?

**MR. HUDSON:** Move to admit Defendant's Exhibit 8, Your Honor.

**THE COURT:** Is that going to be the only one?

**MR. HUDSON:** No, sir.

**THE COURT:** You want to just show all of them to him?

**MR. HUDSON:** Sure. Sorry. I haven't marked the exhibit numbers yet, but I will.

**MR. GIEGER:** No objection.

**MR. HUDSON:** Your Honor, if I could --

**THE COURT:** You want to do them all at one time and then --

**MR. HUDSON:** I'm not certain which order I want to show them to the jury in. I was going to mark them as I went.

**THE COURT:** However you want to handle it, that's fine.

**MR. HUDSON:** Thank you.

**Q.** (By Mr. Hudson) So ma'am, you've --

**THE COURT:** Are we moving for admission?

**MR. HUDSON:** Yes, admission of what would ultimately be Defendant's Exhibit 8... I'm sorry, I don't know if I left that in here. Eight --

**THE COURT:** Let's just do them one at a time so that way you can work on them. Defendant's 8 will be admitted without objection.

**MR. HUDSON:** Thank you, Your Honor. Sorry for complicating this.

**THE COURT:** That's okay.

**Q.** (By Mr. Hudson) Ma'am, the photograph we saw here you recognize was taken August 5th of 2011, right?

**A.** That picture right there?

**Q.** The picture up here.

**A.** Yeah.

**Q.** And these bruises are bruises that you indicated Freddy left on Alexis, right?

**A.** Right.

**Q.** Who is in this picture again?

**A.** That's Alexis and Freddy.

**Q.** That's Alexis and Freddy, right?

**A.** Right.

**Q.** Alexis is smiling and playing a game with Freddy?

**A.** Right.

**Q.** Right? Looks happy?

**A.** Yes.

**Q.** Looks comfortable?

**A.** Yes.

**Q.** She's not scared, is she?

**A.** Not at that moment.

**Q.** This is taken August 9th of 2011?

**A.** Right.

**MR. HUDSON:** Judge, I'm missing State's Exhibit -- if I can have just a moment, Your Honor?

**THE COURT:** Uh-huh.

**Q.** (By Mr. Hudson) Ma'am, you recognize who's in that picture?

**A.** Freddy and Alexis.

**Q.** Freddy and Alexis?

**MR. HUDSON:** Move to admit Defendant's Exhibit 9, Your Honor.

**THE COURT:** Defendant's 9 is admitted without

objection.

**MR. GIEGER:** I'm sorry, Your Honor. No objection.

**Q.** (By Mr. Hudson) I don't think I can go any wider, ma'am, but this would be just one day after the last picture we saw, Defendant's Exhibit 8, correct?

**A.** Uh-huh.

**THE COURT:** Yes?

**THE WITNESS:** Yes.

**Q.** (By Mr. Hudson) That's Alexis with her arms around Freddy?

**A.** Yeah, he put her arms around his neck.

**Q.** Oh, he forced that pose?

**A.** Yeah, for her to pose for the picture.

**Q.** Does she look happy to you?

**A.** That's not how she usually smiles, but she looks all right in that picture.

**Q.** Okay. Does he look happy to you?

**A.** Yeah, he smiles like that all the time.

**Q.** Then we saw a picture taken August 13th of 2011, you remember that one?

**A.** Yeah, we were at the mall.

**Q.** And there's a bruise up here on her shoulder, right?

**A.** Right, on her arm.

Q. And Freddy caused that bruise, correct?

A. When he grabs her.

Q. He grabs her up here on the shoulder and he auses a perfectly circular bruise right there on her houlder when he grabs her?

A. When he grabs her he just yanks her up anywhere n her arm.

Q. That's what caused that bruise?

A. (Nods head.)

Q. You remember that specifically, right?

**MR. GIEGER:** Asked and answered.

**THE WITNESS:** When he picks her up like --

**THE COURT:** It has been. It has been answered.

**THE WITNESS:** It always bruises because he squeeze.

**THE COURT:** Ma'am. Sustained.

Q. (By Mr. Hudson) Ma'am, is this Alexis?

A. Yeah.

Q. That's Alexis again, right?

A. Right.

Q. It's just a few days after --

**THE COURT:** What number is that?

**MR. HUDSON:** I'm sorry, Your Honor. I move to admit Defendant's Exhibit 10.

**MR. GIEGER:** No objection.

**THE COURT:** Defendant's 10 will be admitted without objection.

**Q.** (By Mr. Hudson) That's just a few days after the picture where she had been bruised again, correct?

**A.** Right.

**Q.** Where did she get that bandanna from?

**A.** That's Freddy's.

**Q.** Freddy's bandanna?

**A.** Yeah, he uses it for work.

**Q.** What about all those clothes that we -- remember e picture be saw yesterday of Alexis' closet with all e clothes hanging up neatly?

**A.** Uh-huh.

**Q.** You were made to hang them up in a certain way, member?

**A.** Yeah, they had to be all hung up so they don't inkle.

**Q.** And she had a closet full of clothes, right?

**A.** Uh-huh.

**Q.** She had probably 12, 15 pairs of shoes on the loor?

**A.** Right.

**Q.** And you left your apartment without any of that tuff when you got evicted, right?

**A.** Right.

**THE COURT:** Defendant's 10 will be admitted without objection.

**Q.** (By Mr. Hudson) That's just a few days after the mall picture where she had been bruised again, correct?

**A.** Right.

**Q.** Where did she get that bandanna from?

**A.** That's Freddy's.

**Q.** Freddy's bandanna?

**A.** Yeah, he uses it for work.

**Q.** What about all those clothes that we -- remember the picture be saw yesterday of Alexis' closet with all the clothes hanging up neatly?

**A.** Uh-huh.

**Q.** You were made to hang them up in a certain way, remember?

**A.** Yeah, they had to be all hung up so they don't wrinkle.

**Q.** And she had a closet full of clothes, right?

**A.** Uh-huh.

**Q.** She had probably 12, 15 pairs of shoes on the floor?

**A.** Right.

**Q.** And you left your apartment without any of that stuff when you got evicted, right?

**A.** Right.

Q. You hadn't worked since then, right?

A. Right.

Q. Freddy worked?

A. Yes.

Q. So all the clothes we see and the shoes we see and the bandanna she's wearing, that's all stuff that Freddy's provided her?

A. My sister sent a box.

Q. Oh, your sister sent a box?

A. Uh-huh, they bought clothes for Alexis and we went to go exchange them in her size.

Q. Oh, you did?

A. Uh-huh.

Q. So Freddy didn't buy any of that stuff?

A. He bought some things.

Q. What all did they send in that box?

A. They bought her several pairs of shoes, uhm, several outfits, as well for Freddy Josiah, t-shirts, spandex, that shirt she has on right there.

Q. Okay. So that stuff is all provided by your family?

A. Right.

Q. And then we see August 20th, right?

A. Right.

Q. Alexis' birthday?

**A.** Yep.

**Q.** Right?

**A.** Her third birthday.

**Q.** Right. And hard to tell, but your claim is there's a mark on her face, correct?

**A.** There is.

**Q.** And that is left by Freddy hitting her in the face with a shoe?

**A.** Yes, she was hit in the face with the shoe.

**Q.** You recognize the people in that picture?

**A.** I do.

**Q.** Recognize the people in that picture?

**A.** I do.

**Q.** Recognize the people in that picture?

**A.** Yes, I do.

**MR. HUDSON:** Judge, move to admit Defendant's Exhibits 11, 12 and 13.

**MR. GIEGER:** No objection, Your Honor.

**THE COURT:** Defendants 11, 12 and 13 will be admitted without objection.

**Q.** (By Mr. Hudson) This is the same day of the birthday party, ma'am?

**A.** It is.

**Q.** Who's that a picture of?

**A.** That is Alexis, Josiah and Freddy.

Q. Does Freddy have a tattoo on his arm at this point?

A. He has a lot of tattoos.

Q. Do you know if there's a tattoo running down the front of his right forearm at this point?

A. Yeah, his whatever arm.

Q. What's that?

A. His whatever arm.

Q. At this point do you know if there's a tattoo on his arm right here?

A. Right.

Q. Right there? You think it's already on there?

A. I believe so.

Q. Let me show you this, let you look a little closer. You see a tattoo on his right forearm in that picture?

A. Well, that's been there, that one right there (Pointing) that's a small one.

Q. Let me ask you this; do you see a large tattoo that says Alexis running down his right forearm in this picture?

A. I don't see it in that picture.

Q. Does he have a large tattoo that says Alexis running down his right forearm?

A. He eventually got one, yes.

**Q.** Got a tattoo because he wanted to honor Alexis, right?

**A.** No, he wanted to fill his arm up with tattoos.

**Q.** Okay. And so what he chose to do was just put Alexis' name down his arm?

**A.** Uh-huh.

**Q.** And he did that some time after August 20th of 2011, right?

**A.** I really don't recall when he got it, but he did get it.

**Q.** But he had it on the day that Alexis died, right?

**A.** He did.

**Q.** And he different have it on August 20th of 2011, did he?

**A.** I don't recall what day he got it.

**Q.** I understand, but you can look at this picture and see whether it's on his arm or not, right?

**A.** I can't really see on that picture.

**MR. GIEGER:** Objection. It's been asked and answered.

**THE COURT:** It's been asked and answered.

**MR. HUDSON:** Well, Judge if she can give me an answer other than I don't --

**THE COURT:** Was it on there on August 20th, if

you know?

**THE WITNESS:** I don't recall.

**Q.** (By Mr. Hudson) Does this picture accurately reflect August 20th of 2011 as you remember it?

**A.** Yes.

**Q.** Does the picture reflect a tattoo that says Alexis on his right forearm?

**A.** I don't see Alexis' name on there.

**Q.** So he doesn't have the tattoo that says Alexis on August 20th of 2011?

**A.** Well, I'd assume it's more over.

**Q.** Is this another picture from that same day?

**A.** It is.

**Q.** This is Alexis and who?

**A.** David Miguel.

**Q.** David Miguel, one of Freddy's nephews?

**A.** Uh-huh.

**Q.** Okay. Where are you guys at?

**A.** We're at the zoo.

**Q.** That's a zoo trip that Freddy went to?

**A.** It's her birthday.

**Q.** Freddy's family went on that trip?

**A.** Yes.

**Q.** And Defendant's Exhibit 12, just another picture of she and David Miguel?

**A.** Yeah.

**Q.** Do you recognize this photograph, ma'am?

**A.** I do.

**MR. HUDSON:** Your Honor, move to admit Defendant's Exhibit 14.

**MR. GIEGER:** No objection, Your Honor.

**THE COURT:** Defendant's 14 will be admitted without objection.

**Q.** (By Mr. Hudson) Who is in that photograph, ma'am?

**A.** It's Alexis, Josiah, myself and Freddy.

**Q.** This would have been during that period of time when Freddy is abusing you on a daily basis, correct?

**A.** Yes.

**Q.** He's pulling your hair out, he's grabbing you by the throat?

**MR. GIEGER:** It's asked and answered, Your Honor.

**THE COURT:** It has been. Sustained.

**Q.** (By Mr. Hudson) Where is that photograph taken, ma'am?

**A.** In front of his parents house.

**Q.** I guess this will be my final one, ma'am, do you recognize this one?

**A.** I do.

**MR. HUDSON:** Move to admit Defendant's Exhibit 15, Your Honor.

**THE COURT:** Mr. Gieger?

**MR. GIEGER:** I'm sorry, Your Honor.

**THE COURT:** Defendant's 15?

**MR. GIEGER:** I apologize. No objection.

**THE COURT:** Defendant's 15 will be admitted without objection.

**MR. HUDSON:** Thank you, Your Honor.

**Q.** (By Mr. Hudson) Ma'am, what's this a picture of?

**A.** It is myself, Alexis, Josiah and Freddy.

**Q.** Do you remember when that was taken?

**A.** Hmm, I think it was a holiday.

**Q.** Maybe Easter?

**A.** Okay. It was Easter.

**Q.** That sound correct to you?

**A.** That sounds right.

**Q.** That's a pretty dress you're wearing, where did you get it?

**A.** I got it from Burlington.

**Q.** That's something that you had to replace because of the clothes you lost, right?

**A.** Uh-huh.

**Q.** Do you remember, is this Easter of 2010?

**A.** It was.

**Q.** And that's at the Mendez house again?

**A.** It is.

**MR. GIEGER:** Your Honor, I'm not trying to be argumentative, but I think Counsel misspoke. I think he meant to say 2011, because Josiah wasn't born until March of --

**MR. HUDSON:** You're right.

**Q.** (By Mr. Hudson) That would be Easter of 2011, correct?

**A.** Oh, yeah, he was right. He was born in 2011, yes, that's right --

**Q.** Again, would this be during that period of daily abuse?

**A.** Yes, we actually got in an argument that day and Alexis isn't happy in that picture.

**Q.** Okay.

**MR. HUDSON:** May I have just a moment to get this organized, Your Honor?

**THE COURT:** Yes.

**MR. HUDSON:** Your Honor, I will tell the Court that I have three photographs that I've not moved to introduce where I may have included them in my original count of Defendant's Exhibits. So the last exhibit I moved to introduce so far is Defendant's Exhibit 15.

THE COURT: Right.

Q. (By Mr. Hudson) Ma'am, do you recognize this photograph?

A. I do.

Q. You do?

A. Yeah.

Q. And this would be a similar photograph from the same event?

A. Yes.

Q. These have been previously admitted as Defendant's 1 and 2. What do you recognize this event as, ma'am?

A. It's a birthday party.

Q. Birthday party for one of the Mendez family children?

A. Uh-huh.

Q. A cousin or, I guess, a niece or nephew of Freddy?

A. Yeah, they have a big family. It's one of the family members.

Q. Okay. That's an event that Freddy took Alexis to?

A. We all went. We went with his family, they invited us to go with.

Q. Do you remember that this occurred less than two

eeks before Alexis' death?

**A.** I don't remember when it occurred.

**Q.** Does October 18th of 2011 sound fair to you?

**A.** I honestly don't recall, I really --

**Q.** You do recall when you guys were living in the apartment by yourselves when this birthday occurred, correct?

**A.** I really don't recall, I just remember going to the party.

**Q.** Okay. And that's just another picture from that same party, right?

**A.** Right.

**Q.** Do you recognize these photographs, ma'am?

**A.** I do.

**Q.** These are taken the day before Alexis dies?

**THE COURT:** And this is what?

**MR. HUDSON:** Sorry. Previously admitted as Defendant's Exhibit 3, Your Honor.

**Q.** (By Mr. Hudson) Is that correct?

**A.** Yeah, that's right.

**Q.** Freddy had taken Alexis to work with him the day that you guys got the fairy outfit, right?

**A.** I'm trying to remember. I believe so, because I had Josiah.

**Q.** And then when he got home from work that day he

look her to Party Galaxy, right?

**A.** Yeah, I'm the one that found that outfit.

**Q.** You guys bought her that Halloween outfit?

**A.** (Nods head.)

**Q.** That was just a day or two before her death?

**A.** Yes.

**Q.** These are just other pictures of her in the same outfit, right?

**A.** Right.

**Q.** Although she had gotten that outfit maybe two or three days before her death, these pictures are taken the day before, correct?

**A.** Right.

**Q.** Another picture?

**THE COURT:** Which is?

**Q.** (By Mr. Hudson) I'm sorry. The second one I showed was Defendant's Exhibit 4 and what I'm now reflecting --

**THE COURT:** Are they both Defendant's Exhibits?

**MR. HUDSON:** Yes, they have been previously admitted, Your Honor.

**Q.** (By Mr. Hudson) Same day?

**A.** Yeah.

**Q.** Let me talk to you for just a minute about the day of that outfit, let's talk about that week. That

would be during the time that you said that Freddy's abuse has gotten particularly bad, right?

A. Right.

Q. Is he still abusing you on a daily basis?

A. When he gets home he gets angry, yes.

Q. How often is he abusing Alexis at that point?

A. Well, he started putting her to bed at night.

Q. Sorry?

A. He started putting her to bed at night instead of allowing me to do it so he has more control.

Q. Is he abusing her?

A. (Nods head.)

Q. On a nightly basis?

A. Yes.

Q. Is he abusing each of you violently enough that he's leaving marks?

A. On myself, yes, not Josiah.

Q. He doesn't abuse Josiah is what you say, right?

A. Right.

Q. Does he leave marks on Alexis?

A. Yes, on her arm and her leg and her hand.

Q. This is during the time where he tells you you're nothing but a maid, you're his slave, right?

A. That's right.

Q. You don't eat until he eats because he's the man

of the house?

A. Yeah, he has to eat first.

Q. What are Freddy's work hours during that time?

A. He'd work in the morning around... his aunt would pick him up really really early in the morning and he'd work from 6:00, 7:45'ish, and he'd come home after dark.

Q. He's gone basically before sun up and doesn't get home until after sundown?

A. Yeah, but he would occasionally stop in. He'd borrow his dad's... from the work site he'd drive over, drop off things and leave, just show up randomly.

Q. So to get to work in the morning he'd have to be picked up because he didn't have a car?

A. Yes, and his dad would lend him the truck.

Q. And to get home from work in the evening he'd have to be dropped off?

A. Unless his dad let him borrow the truck.

Q. How often did that occur?

A. He borrowed the truck quite often.

Q. So whether he had a truck available to drive to and from work or not you're indicating that he could come home during the day?

A. Yes.

Q. And would check on you?

A. Yes.

Q. And how often would he do that?

A. He's done it often, quite often.

Q. Okay. Do you know, for example, the week of Alexis' death, do you know where he was working?

A. The construction company, the Mendez --

Q. Do you know the job site where that was located?

A. Are you talking about the business or you're talking about the house, the actual houses?

Q. Yeah, the actual house or project that he was working on, do you know where that was?

A. Only when he mentioned it.

Q. Did he mention it was in Chickasha?

A. He's mentioned several places.

Q. The week of Alexis' death do you know if he was working in Chickasha, Oklahoma?

A. I don't recall.

Q. Do you know if he worked there each day except for one being the one day that he took Alexis with him?

A. I really don't recall.

Q. You don't suspect that his dad let him take the truck to run home from Chickasha to check on you during the day, do you?

A. I don't recall.

Q. So you don't recall him -- let me ask it this

ay; do you recall him coming home to check on you on the last week of Alexis' life?

A. He did.

Q. He did? When was that?

A. That was the day of the Halloween costume, the 27th.

Q. That was the day he picked Alexis up and took her to work with him, right?

A. Okay. So then he did take her to work.

Q. That was the only day that week that he came home?

A. No, he came in earlier in the week, I think it was on a Monday.

Q. Okay. I've asked you about having access to neighbors' phones while there in the apartment, that's accurate, right?

A. That one time downstairs.

Q. I've asked you about having access to the apartment manager's phone?

A. That one time I used to call Freddy.

Q. How was it, ma'am, that you were contacting, for example, your sisters during that time period?

A. We didn't have a house phone. We... Freddy had a phone that my sisters called and I was allowed to use it with him present.

Q. And as we focus in on that last week of Alexis' fe, you have called your sisters, two sisters, right?

A. I have two sisters, yes.

Q. And you've called both of them?

A. I've called them, yes.

Q. One is named Kitty?

A. And Lisa.

Q. And one is named Lisa?

A. Uh-huh.

Q. And you told Kitty that you've hurt Alexis?

A. I told her that.

Q. Right?

A. I did.

Q. And you told Kitty that you're concerned for Alexis' safety?

A. Yes, I did.

Q. And you told her that that concern stems from the fact that you're about to lose it?

A. I did tell them that.

Q. And that's what you said; you were about to lose it, that's what you told them, right?

A. I mentioned that.

Q. And you called Lisa, right?

A. Yes.

Q. And you told Lisa that you had hurt Alexis?

A. They were both in the same area.

Q. Well, did you call them individually?

A. No.

Q. You didn't?

A. No.

Q. Who did you call?

A. I don't remember which sister I called, but I remember calling one of them and telling them.

Q. Did you ultimately end up passing that information on to both of your sisters?

A. They always talk to each other, they're best friends.

Q. Oh, okay. So they may have ended up passing the information onto each other; is that right?

A. That's right.

Q. What did they do as a result of you telling them that you had hurt Alexis?

A. I wanted them to come and get her.

Q. Okay. And that's why you called?

A. Yes.

Q. And my understanding of your story is that Mr. Mendez allowed you to call him but hovered over you to listen to you?

A. Yes, and at that moment we had company over and they were in and out of the room.

Q. Oh, you were telling this story about hurting exis to your sisters while you had company over?

A. They were in the opposite room. He was drinking th cousins that came over and they were in the front ving room and he come back and he was getting upset ecause I was taking too long on the phone.

Q. Okay. I didn't understand that yesterday. So e's not hovering over you while you're talking to them?

A. He's coming in and out of the room.

Q. He's coming in and out, and you've got company here?

A. Yes.

Q. Does he know what you're going to tell them?

A. I told him what I said.

Q. And your plan is to tell your sisters or your sister that you have hurt Alexis in the very recent past and that you're concerned you're going to hurt her much worse in the very near future so that she'll come out and get Alexis from you?

A. Yes.

Q. And Freddy allows you to do that?

A. He got really angry and upset that I said that, and said she wasn't going nowhere.

Q. Okay. I guess I'm trying to understand, he didn't know that you were going to call them in advance?

A. No.

Q. He didn't give you permission to call them?

A. No, he had the phone, he allowed me to call them ut he didn't know what I was going to say to them.

Q. Okay. And then when he found out -- I guess hey made arrangements?

A. They did.

Q. To come pick Alexis up, right?

A. They were going to come out and visit because he said they can come visit but you guys are not going nowhere, you guys can't go nowhere. If you guys... if you leave it's going to be much worse.

Q. Now the plan was never for you to go anywhere, it was for Alexis to go?

A. It was for Alexis.

Q. They only bought one plane ticket, right, for Alexis?

A. Uh-huh.

Q. But then you called and you canceled that trip?

A. I did.

Q. The trip that Alexis was going to leave, right?

A. No. Yeah.

Q. You did, right?

A. Yeah, my sister was coming, he didn't want her to go so he says you better tell them right now that

he's not going nowhere. She's not going nowhere.

Q. So I just want to make sure I understand. Freddy is abusive towards Alexis on a daily basis, right?

A. (Nods head.)

Q. Out loud please?

A. That's right.

Q. He treats her differently because she's not his biological child?

A. That's right.

**MR. GIEGER:** Judge, we've gone through this dozens of times.

**THE COURT:** We have.

**MR. HUDSON:** I'm --

**THE COURT:** But I'm going to allow some latitude.

**MR. HUDSON:** Thank you.

**THE COURT:** But we have beat this horse.

**MR. HUDSON:** Okay. I'm going to beat it just a little bit more, Your Honor.

**THE COURT:** All right.

Q. (By Mr. Hudson) You have accomplished for him sending Alexis away, right?

A. At that moment.

Q. And what he does is he steps in and stops that?

A. Yeah, cause I'm about to get beat up, that's

y.

Q. Why is it that you told your sisters that you ere the one who had hurt Alexis?

A. Because they would be very concerned, my sisters ould acknowledge that and actually come out.

Q. Well, they wouldn't do that if Freddy hurt lexis?

A. But I didn't want to say it because he was right here.

Q. But he didn't hear what you said, that's what you said a minute ago. You had to go tell him what you said.

A. Because he came in and he was observing what I was talking about.

Q. I want to get this story straight.

A. Uh-huh.

Q. Was he hovering over you and making sure you said only what he wanted you to say?

A. He would come in and out of the room.

Q. Because you said he didn't want you to say what you said, right?

A. He got upset when I said that.

Q. Okay. Because he wasn't in control of what you were saying, right?

A. He was going to be.

Q. If you reported to him as you did what you said, right?

A. Uh-huh.

Q. So you could have told your sisters the truth as you present it, which is that Freddy was abusing Alexis, right?

A. I was scared.

Q. Well, but, so what you do instead is you tell them a different story that you know will make him mad and you report it to him?

A. Either way I'm still going to get hurt.

Q. And you decide that the better approach is to say well, let me take the blame for abusing my daughter to my family?

A. Well, he always blames me for everything. I always believe what he says.

Q. Okay. After that trip is canceled what does your family do?

A. Uhm, they tried calling and calling and calling. They were upset.

Q. Who did they ultimately call?

A. I believe they called DHS.

Q. Do you believe or do you know?

A. I believe.

Q. Do you believe that they made a report to DHS?

A. I believe so.

Q. Do you believe that that report was that our sister Victoria has hurt her child Alexis?

A. I don't exactly recall what they said, but I believe that they did because they mentioned it.

Q. And they mentioned that they were concerned that you were going to further hurt Alexis?

A. I just know that they called.

Q. And they made a report and it was about you in regards to Alexis?

A. Right.

Q. And this was, you know how long before Alexis died?

A. This was just a few days.

Q. Just a few days? And it had just been a few days before that, that you said I'm about to lose it, right?

A. Right.

Q. And that I've hurt Alexis, right?

A. Right.

Q. And then Alexis is horribly injured, right?

A. Right.

Q. You described what Freddy did, according to you?

A. I did.

Q. Did Alexis scream during this episode?

A. She did.

Q. Did you scream during this episode?

A. Yes, I did.

Q. Did you scream during the prior abusive episodes here at the apartment complex?

A. I have.

Q. Had Alexis screamed during prior abusive episodes?

A. She has.

Q. And you live in an apartment above some other people?

A. We do.

Q. Just across a breezeway from some more people?

A. There's nobody that lives across from us.

Q. There's some people who live downstairs?

A. Below, both below us.

Q. Both below? One of the things you told the officer, I think, is when you get stressed out that you go sit out on your balcony of that apartment, right?

A. I would.

Q. One of the people you talked to was a police officer who walked his dog by your house, right?

A. Walked their dog?

Q. Did you not tell the officer that?

A. I don't recall.

Q. And Alexis is rushed to the hospital and you ride with her?

A. I did.

Q. Right? You ride in the ambulance?

A. I did.

Q. And Freddy rides with his parents?

A. I believe so, yes.

Q. Are you aware of whether or not they left and followed the ambulance as soon as it left?

A. At this moment I don't know what's going on, I'm just in the ambulance with Alexis.

Q. And ultimately you go down to the police department that day and you're interviewed by Detective Foreman?

A. Right.

Q. Now, do you know at the point that that interview begins that Alexis really has no chance to survive?

A. He mentioned that.

Q. Do you remember at the beginning of that interview one of the first things you did is you asked Detective Foreman how Freddy was doing?

A. I believe so, yes.

Q. And Detective Foreman, he wanted to ask you some questions about Freddy, right?

A. That's right.

Q. Because he wanted to know what the adults in that home were doing, right?

A. Right.

Q. Do you remember when he asked you about Freddy what you said to him was that he comes home and he plays with both of them, he says hi to the baby, he hugs Alexis, we all have family time?

A. (Nods head.)

Q. Remember telling Detective Foreman that?

A. Somewhere along that lines, yes.

Q. Now, that's after, I guess, Detective Foreman has told you that Alexis is not going to survive this beating; is that right?

A. I remember that.

Q. You don't remember?

A. I said I remember that.

Q. I'm sorry?

A. I remember that.

Q. You remember that? You had been to the hospital, you've seen how badly she's hurt?

A. (Nods head.)

Q. Yes?

A. Yes.

Q. You talked to Dr. Stuemky, remember the doctor

there?

A. Yes.

Q. Told him that she fell down the stairs, right?

A. That's what he told me to tell them, yes.

Q. And then you've now been transported to the police department, right?

A. Right.

Q. And Detective Foreman has given you some idea of how bad the injuries are, right?

A. Right.

Q. And when he asks you about the person you say perpetrated these injuries your answer is he comes home, he plays with the kids, gives them a hug, and we have family time?

A. Right.

Q. He asks you a little bit about your isolation there, you tell him I go to the office all the time. I talk to the people at the apartment complex all the time?

A. I didn't say all the time. I just go to the office to handle what I'm supposed to do.

Q. Maybe I misspoke. What I've written down in quotes is you're constantly going to the office, is that the language that you used?

A. To go take care of business; like I said, the pesticides, the faucet, the things that need to be done

around the apartment.

Q. He asks you about those real pronounced bruises on your daughter's chin or neck and you said she had those for a few days, right?

A. Right.

Q. Told him she got those falling down the stairs?

A. Right.

Q. And that's the story you say Freddy told you to tell, right?

A. Freddy told me to tell that she fell down the stairs.

Q. And, in fact, one of the things you do is you actually act out at some points for either Detective Foreman or Detective Allen what Freddy did in that moment, you remember that?

A. No.

Q. You remember describing that he held your arm tightly and he walked you to the EMSA ambulance?

A. Oh, yes, that.

Q. And then you even enunciated she fell down the stairs, you understand; that's what he did to you, right?

A. Yes.

Q. That's what you told them he did, right?

A. He did.

Q. That happened right when he got on the EMSA

ambulance with you, right before --

A. Right before I went into the EMSA he opened up the door and before I got into the EMSA he told me forcibly, looked in my face and said that.

Q. Right. You remember the problem is you told that same story to the female officer, remember the female officer you spoke about with Mr. Gieger?

A. The brown hair? I don't know what her name is.

Q. Well, do you remember there was a female officer?

A. There was.

Q. Do you remember telling her during that time that Freddy is upstairs in the apartment and you're downstairs, emergency personnel is working on your daughter?

A. Yeah, he stayed upstairs.

Q. Do you remember telling her she had fallen down the stairs?

A. Yes.

Q. Do you remember telling... there were three firemen?

A. There was three.

Q. You told all three of them she fell down the stairs, right?

A. (Nods head.)

Q. Right?

A. Right.

Q. Now, that's at a time period before Freddy has ever talked to you before you're getting on the EMSA ambulance?

A. He still told me.

Q. Oh, he did?

A. Beforehand, before I went downstairs when he was telling me what to say. Say she fell down the stairs, say that she got beat up, say the babysitter did it and just got back, this is when he's rambling on what to say.

Q. Why didn't you tell the police officers that? Why did you tell them that when he said that is when he... and you acted it out? As I'm getting on the ambulance he's holding my arm; she fell down the stairs, you understand?

**MR. GIEGER:** Your Honor?

Q. (By Mr. Hudson) That's when you told them it happened, right?

**MR. GIEGER:** She did tell them that --

**THE WITNESS:** And I --

**MR. GIEGER:** -- so it's the form of the question.

**THE COURT:** Hold on. Hold on. Hold on.

**MR. GIEGER:** She can't answer.

**THE COURT:** Hold on. Come up.

(Whereupon, the following bench conference was here had, out of the hearing of the jury.)

**THE COURT:** I'm trying to figure out at what point -- I'm kind of confused on -- tell me.

**MR. HUDSON:** Then I'm not being very effective, but what she's testified to is that as she's getting on --

**THE COURT:** I know what she testified to. Are you saying that --

**MR. HUDSON:** Prior to that she's telling that story.

**THE COURT:** At the police station?

**MR. HUDSON:** No, to the emergency personnel that are there at the scene.

**THE COURT:** And you're saying it couldn't have happened because Freddy was upstairs, is that what you're saying?

**MR. GIEGER:** I don't think she told emergency personnel he grabbed my arm and said that forcibly. I think what she said was that she fell down the stairs.

**THE COURT:** Right.

**MR. GIEGER:** I think the information about Mr. Mendez grabbing her and telling her to say that

same at the second interview, after she had been in jail for four days.

**THE COURT:** And that's where I'm confused. I know the story has been that the baby fell down the steps for everybody that was there, but I'm trying to figure out if you're talking about he told her to tell that story downstairs, before she got on it, or upstairs. I just don't know where you're going with this.

**MR. GIEGER:** She testified he told her upstairs and downstairs.

**THE COURT:** I think she did.

**MR. HUDSON:** Right. All I'm trying to point out is what she told police is that that came from him grabbing her right when she got on the ambulance.

**THE COURT:** Oh, I don't think that that's -- I thought she said it was upstairs before she took the baby out and then the story about the babysitter before she took the baby outside to meet the EMSA people, but maybe you should clarify --

**MR. HUDSON:** Okay.

**THE COURT:** -- when it was he told her and then go into the other part.

**MR. HUDSON:** Okay.

**THE COURT:** Sustained as to that part.

(Whereupon, the following transpired in open court, in the hearing of the jury.)

Q. (By Mr. Hudson) Ma'am, I'm not doing a good job of being clear with my questions so I want to try to do that. Were you asked -- did you tell law enforcement that your child had fallen down the stairs?

A. I did.

Q. Did you give them some details about that alleged event?

A. Of what Freddy told me, yes.

Q. Did you explain that some of the bruising that she had had been there prior because she had fallen down the stairs?

A. I did.

Q. Were you eventually confronted by Detective Foreman and/or Detective Allen with the idea that that story didn't match the physical signs that they were seeing on your daughter?

A. That's right.

Q. Did you acknowledge to them that you had made that story up?

A. I did.

Q. Okay.

A. Later on with Detective Allen.

Q. Detective Allen? Did you tell Detective Allen

that you made that story up because Freddy provided that story to you?

A. He did.

Q. Just as you were getting on the EMSA ambulance to leave for the hospital?

A. He told me beforehand and as I was getting on into the ambulance.

Q. Okay. Did you tell Detective Allen that?

A. I did.

Q. You did?

A. (Nods head.)

Q. So when did he tell you beforehand that that had occurred?

A. When he was trying to come up with a story of what happened saying that the babysitter did it, she got beat up.

Q. So as he's walking around holding his face?

A. When he's panicking.

Q. Hitting himself?

A. Hitting himself.

Q. Rambling on about all these potential explanations, he says in one of those explanations she fell down the stairs?

A. She fell down the stairs, she got beat up. He's just rambling on all these things at once.

Q. Okay. You told Detective Allen that, from the time that Alexis exhibited her obvious injuries, when she had fallen over and hit the bed?

A. That's what I said the first time.

Q. Till the time you called 911, that that was just a matter of a couple of minutes, do you remember that?

A. Ten minutes.

Q. Do you remember telling him that it was just a couple of minutes?

A. Everything happened so fast.

Q. All right.

A. Ten minutes can... a long period. Ten minutes can seem like a short amount of time.

Q. And it's during that period of time that this story was formulated?

**MR. GIEGER:** Objection to the form of the question.

**THE COURT:** Sustained.

**THE WITNESS:** I don't understand.

Q. (By Mr. Hudson) It's during that period of time when Freddy said she fell down the stairs?

A. That's what Freddy told me to say.

Q. And then I guess you chose that explanation versus others because he grabbed you as you were getting [illegible] --

A. And he specified it.

Q. Right, except you already specified that to the emergency personnel at the scene, right?

A. I don't understand.

Q. Well, do you remember before you got on the ambulance and before Freddy came down from the apartment that you told the female officer that Alexis had fallen down the stairs?

A. Right.

Q. Correct?

A. That's right.

Q. And you told the fire personnel there that Alexis had fallen down the stairs?

A. Because that's what Freddy said.

Q. And I guess we just got lucky that of all those potential --

**THE COURT:** Sustained. Sustained as to -- Sustained.

Q. (By Mr. Hudson) Okay. So of all those potential explanations he provided you just happened to use the one that then he came out later and said you better use this one?

A. Yeah.

Q. I mean, really it's a good thing you didn't go with the babysitter or got beat up in the yard, right?

**MR. GIEGER:** Form of the question.

**THE COURT:** Sustained.

**MR. GIEGER:** You know what, Judge, I'll withdraw that question. She can answer that. I mean, I'll withdraw my objection.

**THE COURT:** You can do a Redirect.

**MR. GIEGER:** Thank you, Judge.

**Q.** (By Mr. Hudson) Ma'am, do you tell Detective Foreman that when Alexis's head injury occurs she's in the bedroom with you by yourself?

**A.** Yes.

**Q.** In fact, you tell 'em Freddy is back taking care of Freddy Josiah?

**A.** Josiah is in the front living room.

**Q.** I'm sorry. Freddy is in another room taking care of Freddy Josiah?

**A.** That's what I said, yes.

**Q.** Detective Foreman describes for you, for example, the bilateral hemorrhaging, do you remember that? Remember how he describes how she had to be shaken?

**A.** Okay. Yeah.

**Q.** You do remember that?

**A.** Okay. I recall.

**Q.** And then he tells you, describe some of the

bruising that she's got, do you remember that?

A. I'm trying to think. Like him... when we're in the office and he was talking to me?

Q. Right. When you're being interviewed?

A. Is it this one right here? I'm sorry.

Q. Yeah, this gentleman right here at the table.

A. Okay. I believe so.

Q. And then he tells you that you need to tell him -- well, first of all, he confronts you and says you're not being honest about what happened?

A. That's right.

Q. And then he says you need to tell him the truth about what happened, right?

A. Right.

Q. He's repeatedly asked you to tell the truth?

A. Yes, he did.

Q. And he tells you that he's sure things are tough in your home, right?

A. Right.

Q. You guys are broke?

A. Right.

Q. You've got no car?

A. Right.

Q. You've got only one phone and you don't have access to it?

A. Right.

Q. He says he knows how Latino culture is male dominant, you remember that?

A. I do remember that.

Q. He suggest that maybe Freddy forces sex on you and things of that nature as a result of his culture?

A. I remember that.

Q. And he tells you that Freddy is in another room giving a statement where he is blaming everything on you, you remember that?

A. I -- I don't recall that.

Q. You don't recall that?

A. I'm trying to remember. There was just so much going on at the time.

Q. Nonetheless, as it progresses you still indicate to Detective Foreman that the significant head injury in this case occurs when you are in the room alone with Alexis?

A. That's what I told him.

Q. And you stuck with that story, right?

A. I didn't know what else to say.

Q. I'm sorry, you -- During that first interview you don't waiver from the story that you caused Alexis's head injury?

A. Right.

Q. You don't waiver from the fact that Freddy is not even in the room when that head injury occurs, correct?

A. That's what I told him.

Q. And again, at that point you know that Alexis is probably going to die?

A. He mentioned that it's less likely.

Q. Less likely?

A. For her to survive.

Q. For her to survive? Do you remember near the very end of that interview that you told Detective Foreman that Freddy had recently encouraged you to take Alexis and go visit family out of state if that's what you wanted to do?

A. I don't recall.

Q. You don't recall that?

A. No.

Q. Nonetheless, near the very end of the interview Detective Foreman again describes the injuries, again talks about the prognosis for Alexis and demand you tell him the truth, and you ask for an attorney, correct?

A. Yes.

Q. He ends the interview?

A. Yes.

Q. You're taken to the Oklahoma County jail?

A. Yes.

Q. At what point do you meet Mrs. Hammarsten?

A. I think it was a few days after.

Q. Had you met her prior to interviewing with Detective Allen?

A. No, I didn't meet her then.

Q. Okay. Do you know if it was six days later when you met with Detective Allen?

A. I don't know how long it was, I really don't remember.

Q. You asked to come back and talk to law enforcement, right?

A. I did.

Q. And when you come back and talk to law enforcement you now say I lied the first time?

A. I did.

Q. And you describe essentially what you've described for this jury as being what occurred that morning?

A. I did.

Q. And you basically say that you failed to protect your daughter but Freddy Mendez is the one that injured your daughter?

A. I admitted that.

Q. And you've described a series of events that

could be a series of events that are consistent with the injuries that she suffered, right?

A. It is.

Q. And you remember at the end of that interview Detective Allen asking you about what would be a fair punishment for you, do you remember that conversation?

A. I remember what he asked me, but don't recall what I said.

Q. You don't remember what you said? You have any recollection of saying that, well, death wouldn't be fair?

A. No, he asked me what would be fair for Freddy.

Q. Right. No, he did. You said only God knows, right?

A. Uh-huh.

Q. You remember that? Then he asked you what would be fair for you, do you remember that?

A. Okay. I do recall he said that, but I don't remember the answer.

Q. I definitely don't think death, that's in my heart, honestly I don't deserve death. Do you remember that answer?

A. No, I don't remember.

Q. You don't remember that answer? Had you talked to your friend Robin just before you went over there?

**A.** That's when she told me that Alexis passed on.

**Q.** Ma'am, because of your fear and because of your shame your testimony is that no one other than you really knew the real Freddy Mendez, right?

**A.** Right.

**Q.** You didn't tell Robin about what he was doing?

**A.** I didn't.

**Q.** You didn't tell Andrea about what he was doing?

**A.** I didn't.

**Q.** Didn't tell your family about what he was doing?

**A.** I didn't.

**Q.** You didn't make any police reports or anything of that sort, right?

**A.** Right.

**Q.** So, unfortunately, we're put in the position of, to know who's telling the truth, we have to rely on your veracity, right?

**A.** I understand.

**MR. HUDSON:** May I approach, Your Honor?

**THE COURT:** Yes.

**MR. GIEGER:** I got no problem with these. That's fine. Let 'em in.

**THE COURT:** Are you marking it?

**MR. HUDSON:** I will, Your Honor. I just want to make sure she recognizes them.

Q. (By Mr. Hudson) Do you recognize those, ma'am?

A. Yes.

Q. Those are letters written in your handwriting, rrect?

A. Yes.

MR. GIEGER: May I see them one more time?

MR. HUDSON: If you'll hand those to Mr. Gieger, please?

THE WITNESS: (Complies.)

MR. GIEGER: Oh, yeah. That's fine. I have no objection to that, if he's offering.

MR. HUDSON: Your Honor, move to admit Defendant's Exhibit 16 and 17.

THE COURT: Defendant's 16 and 17 will be admitted without objection.

MR. HUDSON: Thank you, Your Honor.

Q. (By Mr. Hudson) Ma'am, these are letters that you wrote to Freddy Mendez, correct?

A. That's right.

Q. Going to hand you Defendant's Exhibit 16. Could you read that for the jury?

A. It says, "I'm proud of you for stepping up and being a man, proud of you for keeping a job and going every day. I love you for taking care of us, your family, and spending all your time with the kids. I love

at you... you're so involved with your son and still
ve Alexis some attention and time to teach her new
nings. Thank you, Freddy, for all you're doing for us;
iving us a place to have and working hard to support
our growing family. Thank you for buying me flowers,
hey really made me smile, things like that make me
really happy and make me fall in love with you even more
every day."

Uhm, "I wait for you to come home just so we can spend time together. I really do mean it when I tell you I love you every day more than you'll ever know. Always and forever. Vickie."

**Q.** When did you write that?

**A.** I don't recall.

**Q.** It was after Freddy Josiah was born, correct?

**A.** Yes, because it's says it about my son.

**Q.** Okay. "I love you for taking care of us, your family, and spending all your time with the kids" you wrote that, correct?

**A.** I did.

**Q.** "I love that you're so involved with your son and still give Alexis attention and time to teach her new things" you wrote that, correct?

**A.** I did write it all.

**MR. GIEGER:** Your Honor, she wrote it, it's in

evidence, she's read it.

**THE COURT:** And that's sustained. I think she's already read it to the jury.

**Q.** (By Mr. Hudson) Freddy Josiah was born when you lived in the Mendez home?

**A.** Yes.

**Q.** This is during the period of time you say Freddy is abusing you on a daily basis?

**A.** This is in the beginning.

**Q.** So this is before he started abusing you on a daily basis?

**A.** On -- before it got worse.

**Q.** How long had you lived in the Mendez home when Freddy Josiah was born?

**A.** For almost a year. We almost lived there for a year.

**Q.** How long before Freddy -- when was Freddy Josiah born during that period?

**A.** He was -- he was still very little, he wasn't really crawling yet.

**Q.** You had -- In fact, Freddy Josiah was less than seven months old at the time that Alexis died?

**A.** Right.

**Q.** Right? And you had lived in a separate apartment for a couple of months at that point, right?

**A.** Right.

**Q.** So when you moved out of the Mendez home Freddy Josiah couldn't have been more than a couple months old?

**A.** Right, that's when he started crawling.

**Q.** So you wrote this near the end of your time in the Mendez home, right?

**A.** It should be in the beginning because I would write letters.

**Q.** Right, except Freddy Josiah is born?

**A.** Uh-huh, so it would be when he's in the early ages of between two months, three months.

**Q.** And I guess that's prior, you're now saying that's prior to when Freddy started to abuse you?

**A.** Worse.

**Q.** And I guess that would be prior to when he started to abuse Alexis?

**A.** Before everything started escalating.

**THE COURT:** You want to bring that back?

**MR. HUDSON:** I'm sorry. Judge, I've confused myself.

**THE COURT:** I don't know what you did with the other one. I thought you left it up here.

**MR. HUDSON:** I did. No, I didn't.

**Q.** (By Mr. Hudson) Defendant's Exhibit 17, will you read that one to the jury?

**A.** "I want to know the things you hate, fears, trauma, love, dreams. Reasons why I love you. I love it when you come home and kiss me. I love the way you make me smile and doing all the little... your little wave dance to be funny, the way you joke, play with me, when we sleep how perfect it feels to sleep next to you or your random kiss or invite me into the shower or the way you look in my eyes when you're serious, the way you take care of us, always go to work and spend time with the kids. And you're a great dad.

I love it when you talk about getting Alexis tatted on you and take the time to teach her things. I love the sense of humor, your cockiness turns me on. I like the way... I like the way we get freaky with each other, like, like you watch porn or do it in the kitchen or want to be open with... I want to be open with you. I want to tell you all my past stories and my bad life experiences. I love you so much."

**Q.** That's after Freddy Josiah is born?

**A.** Yes.

**Q.** That's after you guys are living in the new apartment, right?

**A.** Yes.

**Q.** Because you guys weren't watching porn and having sex in the kitchen at the Mendez home?

A. Right.

Q. Right. So this is during the time where Freddy Mendez is the monster that you've described to this jury that abuses you daily, abuses your daughter nearly daily you've written this letter?

A. I have.

Q. And again, it's your veracity about the type of person we have to rely on?

**MR. GIEGER:** It's been asked and answered.

**THE COURT:** It has been asked and answered. Sustained. Mr. Hudson, you want to put that up here so you won't lose it?

**MR. HUDSON:** Yes. I'm sorry, Your Honor.

**THE COURT:** It's okay.

**MR. HUDSON:** May I have just a moment, Your Honor?

**THE COURT:** Yes.

(Whereupon, Mr. Hudson conferred with client.)

**MR. HUDSON:** Thank you, ma'am. That's all I have, Your Honor.

**THE COURT:** Redirect.

**MR. GIEGER:** Thank you, Your Honor.

REDIRECT EXAMINATION

BY MR. GIEGER:

Q. Ms. Phanthtaranth, Mr. Hudson asked you a lot of

things and I've got several questions I'd like to ask you about. He started out early on asking you about the abuse that you suffered growing up, you remember him going into that?

**A.** (Nods head.) Yes.

**Q.** Answer out loud. He talked about physical abuse, he talked about sexual abuse and then later in his cross examinations he showed pictures of Alexis with Freddy Mendez and interacting with Freddy Mendez, right?

**A.** That's right.

**Q.** Ma'am, from your life experiences can you help a jury understand how a child could be mistreated, and in your case abused even more than Alexis was abused, up until the day she died, would you agree?

**A.** I would agree.

**Q.** And still have feelings of love and desire for that abuser, to love them back and treat them the right way? Can you explain that to a jury, after living it, please?

**A.** It gets confusing. I don't understand. I never was really loved as a child so I would look for it. But the abuse I would go through there's a weird relationship meaning no matter what, this is still a person even though they still do these things to you. After all the beatings and everything maybe it's my fault, I did

something wrong, maybe I'm not doing something right or maybe I need to work out some way so they can actually change. I always look to try to change people. I have an issue with that.

Q. So when you see photographs like he showed you, does it surprise you that there are times like, for example --

A. I understand. I've been there.

Q. Let me just -- like, for example, in Defendant's Exhibit No. 8, does this surprise you that even though... and let me clarify before I ask that question. These time periods you were still living in the Mendez home as Counsel pointed out?

A. That's right.

Q. The abuse was not as bad then as it was later?

A. Yeah.

Q. Does it surprise you that your daughter interacted with Mr. Mendez like this during those times?

A. No, it's the only male figure she knows and, of course, even when it hurts we still smile, we put on a mask.

Q. Did she love Mr. Mendez as best you could tell?

A. If he told her to... tell her to say it she would say it.

Q. Do you think she did?

A. I don't think so. She was scared of him.

Q. Did you love him?

A. At a point I thought I did.

Q. Well, then, in that regard let's talk about these letters. Okay? One of them was written before you moved into the apartment, one of them was written after you have moved into the apartment?

A. That's right.

Q. I notice they're written on the back of Edmond Family Counseling, Inc, where did those papers come from?

A. I don't have any paper so I got those out of the drawer.

Q. Out of what drawer?

A. Freddy's drawer.

Q. Freddy's drawer in the -- I mean -- I'm not following. Like, is it one was written in the Mendez home and one --

A. He always has paperwork in his drawers.

**MR. HUDSON:** Your Honor, unless there's some indication that that has relevance I'm going to object.

**MR. GIEGER:** He put them into evidence.

**THE COURT:** Overruled.

**MR. HUDSON:** I mean, if they have some evidence that Mr. Mendez has --

**THE COURT:** Well, I haven't heard anything yet, other than that they were written on the back of something.

**MR. GIEGER:** It's Defendant's exhibits, I'm just asking where the paper came from.

**Q.** (By Mr. Gieger) The paper came from Mr. Mendez's possession?

**A.** Uh-huh.

**Q.** Do you know why he had counseling paperwork in his --

**A.** Well, he promised to get counseling when I came back.

**Q.** Okay. In fact, that's what you told Mr. Hudson. You left Robin Dominguez home and moved back to Freddy Mendez because he promised you things were going to change?

**A.** Things were going to change. I believed him.

**Q.** Do these tie into those promises somehow?

**A.** He was supposed to get counseling but he slept in and decided not to go to the meeting.

**Q.** Nevertheless, Mr. Hudson did a job of, he pointed out that even though Mr. Mendez was being abusive to you, not as much during one and a lot during the other one and abusive to your daughter, not as much during one but a lot during the other, you still wrote these

letters, can you explain to me why you would do that?

**A.** That's a way of reaching out to somebody when somebody is hurting you, to try to tell them maybe, you know, see how much I care, see how much I love you. You know, even though you're hurting me, I'm still trying to be there for you.

**Q.** Is that what you were trying to do?

**A.** I was trying to reach out to him. That's the only way I know.

**Q.** And then you tried to reach out to your sisters when this didn't work?

**A.** That's right.

**Q.** You didn't say anything bad in these letters about Mr. Mendez, did you?

**A.** No, I didn't.

**Q.** You didn't say I hate whenever you hit me but I love it whenever you're nice to me, you didn't say that?

**A.** Of course you're going to love it when somebody is nice to you, they don't want to hear the bad things, the faults about themselves because it will cause them to get angry. I don't want to do anything to make him mad, I don't --

**Q.** Mr. Mendez ever write love letters to you?

**A.** Only one time, when I left he wrote a letter.

**Q.** Is that the time period we're talking about,

with Robin?

**A.** When I left with Robin he snuck a letter into Robin's or the baby's diaper bag.

**Q.** One of the things I asked you about or rather I didn't ask you about, we put this into evidence yesterday but I didn't ask you about it; Exhibit No. 24, in regards to you writing things, what is that, what am I looking at?

**A.** It's happy thoughts.

**Q.** Okay. Is this above the mantel above the fireplace where Alexis was eating her last meal?

**A.** It is.

**Q.** And what -- Do you remember what it says on there or do you need to look at it to see what it says?

**A.** I just put positive thinking. You know, when you get angry you're supposed to do trigger thoughts where, you know, when we get angry that you see something positive to redirect your attitude, and I was trying to encourage him to redirect his attitude when he get angry, but it's out there in the open where he can see it and read it.

**Q.** Was this another one of your attempts to reach out to Mr. Mendez? Even at the time of the abuse it was your attempt to do that? Can you make out any of those for me and tell me what they say or do you remember what

they say?

**A.** Uhm, I don't know. I don't know what they really say.

**Q.** Okay. Mr. Hudson asked you about this homemade Mother's Day card, and it is homemade when you look at it, isn't it?

**A.** Uh-huh.

**Q.** You glued it together? That's your writing in there.

**A.** It is.

**Q.** Did he sign it or did you sign it?

**A.** He signed it.

**Q.** So you did all the work and put it altogether and he signed the card? Did he give his mom a Mother's Day card that day, that year, if you remember, or did you just use this one?

**A.** We just used that one, because she let us live in their house. It was an appreciation.

**Q.** And you made cards to other people, too?

**A.** Yes, his sister.

**Q.** As a way of reaching out to them and helping to develop that bond? Ma'am, did you want to be a part of that family?

**A.** I did.

**Q.** On a certain level were you impressed by that

family?

A. In the beginning I was.

Q. Were you drawn to them?

A. I was.

Q. What were the things that drew you to them?

A. How they would gather up together and hang out and have family events, it reminded me of my family.

Q. Did you miss that in your life?

A. I do.

Q. Did you want that in your life?

A. I do.

Q. Counsel asked about a dress that you were wearing. Did they help you financially?

A. They did.

Q. He asked about clothes and I understood you to say some of the clothes that Alexis and Josiah had your family sent, they bought clothes for the kids too, right?

A. Yeah.

Q. And you talked about how Mr. Mendez had money to buy the bed for Josiah?

A. Uh-huh.

Q. And you told us about that yesterday, but certainly they had money, right? They live in a gigantic house it looks like; is that right?

A. That's right.

**Q.** Big pool house also?

**A.** That's right.

**Q.** Swimming pool in the middle?

**A.** (Nods head.)

**Q.** Things that people... Let me rephrase; things that you desire?

**A.** They looked like a happy family.

**Q.** Were they?

**A.** No.

**Q.** You offer -- I'm sorry. Not yet. Ma'am, Counsel asked a lot of questions about as the abuse began to escalate in the Mendez home, and he asked about their work schedules and he went through many, many questions about who was home whenever Freddy was home so that he didn't say it, but the insinuation was there were always people around whenever the not-as-serious abuse, but the abuse was happening; you with me?

**A.** Yes.

**Q.** He also asked you did you ever talk to them about it, you remember him asking you that question?

**A.** Right.

**Q.** And you said at one point or at least, I don't know, on some occasion or occasions you would talk to Mr. and Mrs. Mendez, Freddy's parents, about his anger and how he would get so mad verbally but not

**A.** And I would ask them --

**Q.** -- did they know he had anger problems?

**A.** Yes, they did.

**Q.** Did they know that there were times when there was much drama?

**A.** Yes, violent.

**MR. GIEGER:** Your Honor, at this point I'd like to play State's Exhibit No. 117, one of the phone calls that we haven't played yet, the 911 call that was made on July 5th --

**MR. HUDSON:** May we approach, Your Honor?

**THE COURT:** Yes.

**MR. GIEGER:** And 11 subject to our previous stipulation?

(Whereupon, the following bench conference was here had, out of the hearing of the jury.)

**MR. HUDSON:** Judge, I renew my previous objection to this.

**THE COURT:** This is one you stipulated to, right?

**MR. GIEGER:** Yeah.

**MR. HUDSON:** No, I stipulated to the testimony about --

**THE COURT:** You stipulated to --

**MR. GIEGER:** You stipulated to the introduction of the 911 call, Perry.

**THE COURT:** I admitted this without objection, both of them, and I specifically asked why were there two on there and --

**MR. HUDSON:** You did.

**THE COURT:** -- you said two. And there was no objection to either one of them.

**MR. HUDSON:** You're right. I made a mistake.

**MR. GIEGER:** That's okay.

**MR. HUDSON:** I should have objected to this one because it is in line with my previous objection.

**THE COURT:** But you did a stipulation as to the testimony of --

**MR. GIEGER:** Judge, I think he's trying... you're trying to renew your res gestae objection?

**MR. HUDSON:** I stipulated to --

**THE COURT:** I understand res gestae.

**MR. HUDSON:** The foundational testimony on chain of custody I stipulated to, then Mr. Gieger moved to introduce the 911 calls and I did not object and I should have objected as to this one.

**THE COURT:** But it goes to -- you asked the question did she ever tell the Mendez family about what was going on and they didn't do anything or why

didn't you do it, and I'm assuming that this call is from one of the Mendezes that were aware of it. I'll let you make your record.

**MR. HUDSON:** Okay. I don't think it's appropriate res gestae, it's inappropriate other crimes evidence. Additionally, it gets into things that concern about mental health issues for my client which are very prejudicial, not in any way, shape or form probative and it shouldn't come in.

**THE COURT:** Well, I think it was kind of opened up when you asked the question, but I'm going to overrule your objection, give you exceptions.

(Whereupon, the following transpired in open court, in the hearing of the jury.)

**Q.** (By Mr. Gieger) I want you to listen to the other 911 call on State's Exhibit No. 117, and I'm going to ask you a question.

**THE COURT:** Do you all mind going till 12:30 for lunch? And then we'll break for lunch, I'll give you an hour and a half if you want or an hour. It is Friday.

**PROSPECTIVE JURORS:** (Laughter.)

(Whereupon, Mr. Gieger played State's Exhibit 117 for the jury.)

**Q.** (By Mr. Gieger) Ma'am, that Maria Osborne is

Freddy's sister, correct?

**A.** His older sister.

**Q.** She's the lady who put you in her room --

**A.** That's right.

**Q.** -- after it became evident that Mr. Mendez was hitting you, correct?

**A.** Right.

**Q.** Your eye was injured, wasn't it?

**A.** Yes.

**Q.** He's out of control and he's fighting with his dad and you looked out the window and you saw it, she's describing it, isn't she?

**A.** She is.

**Q.** Is there any way that Maria Osborne, Mr. Mendez's father didn't know Freddy Mendez had an anger problem?

**A.** No, they knew.

**Q.** But on that night, even though Maria said come into my bedroom and you were watching it from her window --

**A.** Yes, Christopher's room.

**Q.** -- you ever heard that call before, ma'am?

**A.** It was Christopher's room.

**Q.** Christopher's room. I'm sorry. You ever heard that call before?

A. No.

Q. You didn't know it existed, did ya?

A. No.

Q. Yeah. They didn't tell the police or at least the 911 call, no one told the police he's already beat up his baby's mother and now he's beating up my father, they didn't say that, did they?

A. They didn't say that.

Q. Did you feel like, ma'am, as the abuse escalated in that house they would not help you?

A. I didn't think they would help me.

Q. I'm going to try to clear up a couple of little things, okay?

(An off the record discussion was here had.)

**THE COURT:** Mr. Hudson, you want to come up and look?

**MR. GIEGER:** He has them, Judge, but there's -- I'll show him.

**MR. HUDSON:** No objection, Your Honor.

Q. (By Mr. Gieger) First of all, ma'am, I'm going to show you State's Exhibit No. 130, this is the copy of the lease, it's awfully hard to see. It's a copy of the lease for your apartment, can you see that? And are your eyes good enough to make out the date that the lease was executed?

**A.** August 30th.

**Q.** Yeah. Okay. Does that look like the lease? You went to that apartment and you got a lease, right?

**A.** Right.

**MR. GIEGER:** Judge, I'd offer State's 130.

**THE COURT:** Without objection?

**MR. HUDSON:** No objection.

**THE COURT:** State's 130 will be admitted without objection.

**Q.** (By Mr. Gieger) Apartment lease contract, can you see that?

**A.** Yeah, at the top.

**Q.** Says August 30th, 2011, I just put this in to show the dates. There's been some kind of guesswork about when you actually moved into the apartment. Obviously, the lease was executed on August 30th; is that right?

**A.** Right.

**Q.** Based on what this shows? And shows down here Alexis Mendez, Freddy J. Mendez were the occupants; not exactly sure about all that, but that was the lease and you don't object... I mean, you --

**A.** That is the lease.

**Q.** -- had a lease for that apartment, correct?

**A.** Yes.

**Q.** Ma'am, Counsel put in some family photographs. You had family photographs of everybody, right?

**A.** I did.

**Q.** You had photographs of you and Mr. Mendez together?

**A.** Right.

**Q.** You had photographs of yourself and Alexis?

**A.** Yes, I decorated the house.

**Q.** And there were photographs of other family members, too, around the house, were there not?

**A.** There was.

**Q.** And some of these were hanging on the wall, some of those were other places. Are these those family photographs that were in your... and the locations of them, showing where they were on the wall --

**A.** I know where they're at.

**Q.** -- and the close ups of them, right?

**A.** Right.

**Q.** And again, they're State's 131 --

**MR. GIEGER:** I'm sorry, Judge. I'd offer 14, 15, 19, 131 and 132.

**THE COURT:** Those will be admitted without objection?

**MR. HUDSON:** Yes, sir.

**Q.** (By Mr. Gieger) For example, State's 14 shows

pictures on the wall, right?

A. That's right.

Q. That's in the apartment?

A. Yes.

Q. 15 shows the same things, 19 shows the same thing, just where the photographs are and the bookshelf or the wall, a close up of those. For example, here's a happy picture of you and Alexis; is that right?

A. No, that's not, that's not Alexis.

Q. Oh, who is that?

A. That's Riley, Nicole and that's Erica Hammer.

Q. Okay. Here's some other pictures, and I apologize. Just family pictures; that's you and Mr. Mendez, is it not?

A. Right.

Q. And then there's a family photo I think we've already seen.

A. Right.

Q. But it was also in a frame and on the wall?

A. And that's Alexis and Josiah.

Q. And the point of that simply is this; there were happy times, were there not?

A. There always is.

Q. And there were really bad times, weren't there?

A. Yes.

**Q.** And you can't tell by looking at a picture what's going on, can you?

**A.** No.

(Whereupon, Counsel conferred with cocounsel.)

**MR. GIEGER:** I'm sorry, Judge. Give me just one second?

**THE COURT:** That's okay.

**Q.** (By Mr. Gieger) Ma'am, earlier when Mr. Hudson was asking you some questions he asked you about a tattoo that partially may be visible. Defendant's Exhibit No. 9 shows his right arm and shows a tattoo on it, right?

**A.** David Miguel.

**Q.** And what is David Miguel?

**A.** That's his nephew; little boy that Alexis is holding hands with.

**Q.** And I think he was showing you, maybe No. 11 where you can see his arm as well. Let me just ask this; at some point did Mr. Mendez get Alexis' name tattooed on his arm?

**A.** He did.

**Q.** When he asked you that question initially about whether or not there was a tattoo there with Alexis' name, I think you smiled and said, yeah, his whatever arm, you remember saying that?

**A.** Yeah.

Q. What did you mean whenever he began talking about the tattoo and it triggered something in your mind to make you smile and you said, yeah, his whatever arm? Tell me why that reaction?

A. He said that he was just going to put whatever around it, he could just throw whatever kind of tattoos he wants, as long as his arm is sleeved up.

Q. Did he call it his whatever arm?

A. Yeah.

Q. Did he call other tattoos other things, like -- and Counsel, I think, pointed out there may be here on his chest there's two really big tattoos across his chest in the Defendant's Exhibit No. 11, right?

A. Says Freddy Josiah.

Q. And it says Freddy Josiah across his whole chest here?

A. It does.

Q. In your letter you say I'm excited it makes me happy or something to that effect whenever you talk about getting Alexis' name tat... an Alexis tattoo; is that right?

A. That he's considering it, yes.

Q. Did you know he was going to put it on his whatever arm?

A. No, he just mentioned he was going to get it, he

didn't know where, and then he's just like, well, this arm is just for whatever. You know, as long as I can fill it up I just want it to be all blasted up, meaning he wanted a whole bunch of tattoos.

**Q.** I think I have two things and I think I'm going to be done, okay? I know you've been going a really long time, but I think this is it.

Counsel asked a series of questions, several of them about you telling both the initial responders at the scene, and by that I mean firemen and EMSA.

**A.** That's right.

**Q.** And police, as well as hospital personnel, as well as the police at the police station about the fall down the stairs, remember that?

**A.** I remember that.

**Q.** And he said, as you were going back and forth trying to answer those questions you talked about the different scenarios that Mr. Mendez said we should do this or we should do that or we should do this; remember that?

**A.** He said to say those things.

**Q.** Right. Fell down the stairs; we just got home; found her beat up outside, or babysitter did it, right?

**A.** Right.

**Q.** Remember those? Then he said this all boils

down to your veracity, right?

A. I don't... I don't understand.

Q. Which means it all boils down to whether they believe you or they believe something else as far as whether Mr. Mendez did it or whether you did it, right? Remember him asking you that a couple of times; this whole thing boils down to whether they believe you?

A. That's right.

Q. And then he said it's a good thing that you picked the falling down the stairs one because now that fits the story, that's about you telling the police this and you changing your story, remember that?

A. I don't recall that.

Q. Remember that question?

A. I don't recall that part.

Q. Well, the point of all that is this; it would have been better for you if you would have picked the babysitter story because that matches what he says on the 911 call, doesn't it, we just got home?

A. Oh, yeah, I heard him say that.

Q. Then he wouldn't be asking you those questions because then your story would have been consistent at the beginning, right?

A. Right.

Q. All right. Last thing I have is this; Counsel

again, ma'am... and maybe two things.

Counsel again, in trying to indicate that you did not go to the Mendez family for help whenever Alexis was being victimized or for that matter when you were being victimized, remember those questions he asked you about that?

**A.** Right.

**Q.** How they were home but you never told anybody and he asked you many times about never telling anyone, right?

**A.** Right.

**Q.** Ma'am, the injuries that are shown in State's Exhibits No. 2 and No. 3 and No. 4, and then on her birthday, No. 5 and No. 6, are those the kinds of injuries she would sustain there at the house?

**A.** Yes.

**Q.** At the Mendez family home?

**A.** Yes.

**Q.** But the injuries that are shown on State's Exhibit No. 91, State's Exhibits No. 94, 95, and you've seen the pictures, right, the neck injuries? She never got those until they said you guys can't stay here because of your domestic violence, go somewhere else, and then that's what happened, right?

**A.** That's right.

Q. And, ma'am, Counsel asked you a series of questions all throughout his cross-examination about when you first moved into the Mendez home how many phones were in the house, remember that?

A. Yeah.

Q. And how you said four and he said nothing ever prevented you while the family was gone from walking to the phone and picking up the phone and calling someone, remember him asking you those questions?

A. Yes.

Q. Then he asked you questions about whenever you were with Robin and you had Alexis but you didn't have Josiah, correct?

A. Right.

Q. But even at that point, even though you had Alexis now safe and he wasn't abusing Josiah, you didn't tell Robin and you could have, right?

A. I could have.

Q. And then he talked about phone accessibility in the apartment complex while he was gone, with the downstairs neighbors or the apartment managers and all that, right?

A. Right.

Q. And he said you could have told somebody but you idn't, right?

A. I didn't.

Q. Ma'am, you're in prison for 35 years because you didn't do that, aren't you?

A. I understand that, yes.

Q. You didn't tell Robin and that's why you're in prison, right?

A. That's right.

Q. And you didn't tell the police and that's why you're in prison?

A. I understand that.

Q. And you could have?

A. I could have.

**MR. GIEGER:** Pass the witness.

RECROSS-EXAMINATION

BY MR. HUDSON:

Q. Ma'am, that plea deal that you entered, do you remember what you were charged with?

A. I'm sorry. What was it?

Q. Ma'am, when you were charged in this case do you remember you were charged with actually beating your daughter to death, right?

**MR. GIEGER:** Your Honor, she was charged in the alternative --

Q. (By Mr. Hudson) Were you charged --

**MR. GIEGER:** -- just like Mr. Mendez.

**THE COURT:** I think the Information speaks for itself. We've already read the Information. She was charged as a codefendant in the same things, as I understand it.

**MR. HUDSON:** Right, and that's what I'm trying to get at. This idea that she's paying for her sins.

**Q.** (By Mr. Hudson) You decided, through your attorney, that you would alleviate the burden on the State in this case and plead guilty to murder, but only if you got to adopt your version of events --

**MR. GIEGER:** Objection, Your Honor. Form of the question.

**THE WITNESS:** I don't understand.

**THE COURT:** I'm going to sustain that.

**Q.** (By Mr. Hudson) Mr. Gieger has indicated that because you've got a history of abuse you have some special knowledge in that area, remember that question when he first got up here?

**A.** Yes.

**Q.** Right? You can explain away the letters that you wrote and the photographs that we see because you've got a history of abuse and you understand those things?

**MR. GIEGER:** Just the form of the question, Your Honor. She didn't explain away anything.

Q. (By Mr. Hudson) You could explain those things?

A. I could explain, yes.

Q. I apologize for saying explain away. Your history of abuse certainly will educate you on the fact that abuse is reciprocal, correct?

**MR. GIEGER:** Objection, Your Honor, facts not in evidence.

**THE WITNESS:** I don't understand.

**THE COURT:** Well, if she knows. If she knows. Overruled; if she knows the answer.

Q. (By Mr. Hudson) If you know things like why you would write those letters and why we would see those photographs because you're a victim of abuse --

A. I am.

Q. -- do you know whether or not abuse is generally reciprocal?

A. What do you mean sickle (sic).

Q. In other words, the abused becomes the abuser on a consistent basis?

A. I didn't know that.

Q. You didn't -- that wasn't a part of the... of what you learned as a result of abuse?

A. No.

**MR. GIEGER:** Your Honor, she was a victim.

**THE WITNESS:** No.

**MR. GIEGER:** She wasn't an abuser.

**THE COURT:** And I think she's already testified she didn't know that. Is that your answer?

**THE WITNESS:** That's what I said; I don't know.

**Q.** (By Mr. Hudson) And so I am to understand and the jury is to understand, ma'am, that those letters were written as a way of reaching out?

**A.** Yes.

**Q.** And the second letter was written while you're living in the apartment just before Alexis dies, right?

**A.** Some period of time, yes.

**Q.** Because you only lived there for?

**A.** Short amount of time.

**Q.** Less than two months before she died, right?

**A.** (Nods head.)

**Q.** And as part of your reaching out you talk about the way that Freddy Mendez takes care of you and the children, right?

**A.** You give them positive feedback so that they feel like they are doing something.

**Q.** And how he always spends time with the children, right?

**A.** Right.

**Q.** And how he's a great dad to the children, right?

**A.** Right.

Q. And I am to understand that you did this because he was an abuser?

A. Because I wanted to reach out to him. If you give them positive feedback then the person will think they need to actually start acting out the things that are written.

Q. I understand. Did that work when you wrote this first letter to him?

A. No.

Q. You had written that one well before, right?

A. Yes.

Q. That's the one where you talked about taking care of us, your family, and spending all your time with the kids, right?

A. Right.

Q. So involved with your son, you still give Alexis attention, time to teach her new things. Thank you, Freddy, for all you're doing for us, remember that?

A. Right.

Q. That was a letter written because he was an abuser of you?

A. No, that was a way of reaching out.

Q. Because he was an abuser?

A. Yes.

Q. Okay. And then you decided that after you wrote

that, that's when he went from just an everyday average abuser to the monster that you've described for this jury, right?

**A.** Yes.

**Q.** And your response was, well, let me write another one where I'll thank him for being a wonderful father?

**A.** If you write it out... it's easier to write than speak because he won't listen when you speak, but maybe when he calm down to a level where he's himself he will read it and acknowledge that he needs to change.

**Q.** And you did that, you said, because you had nothing else that you could do? I think you said it's the only way I know, I didn't want to make him mad?

**A.** I don't want to make him mad.

**Q.** Right. But what you would do is you'd (Indicating) fist fight him, right?

**A.** Yes, I have.

**Q.** Right? And you knew a way that you could do something, because you got a VPO against an abuser, right?

**MR. GIEGER:** Asked and answered.

**THE COURT:** It has been.

**MR. HUDSON:** This is Recross.

**THE COURT:** I'm going to allow a little latitude

but, I mean, we've gone --

**MR. HUDSON:** With all due respect, Judge, I'm --

**THE COURT:** Okay. Okay. Just go right ahead.

**Q.** (By Mr. Hudson) You knew something else you could do, right?

**A.** I don't know what else to do.

**Q.** You didn't know you could get a VPO?

**A.** I was scared.

**Q.** I understand. You were scared of Dayland Hawkins, right?

**A.** (Nods head.)

**Q.** Right?

**A.** Yes.

**Q.** Okay. You got a VPO, right?

**A.** I did, with help.

**Q.** Okay. And you called the police, right?

**A.** With help.

**Q.** But in this case all you knew to do was write love letters to Freddy Mendez?

**A.** I wasn't going to write a hate letter or else it would be worse.

**Q.** I understand. Hate letters, I guess, would have upset him more than when you punched him in the face?

**A.** As in --

**MR. GIEGER:** Argumentative, Your Honor.

**THE COURT:** It is argumentative.

**THE WITNESS:** -- when he would fight me --

**THE COURT:** Ma'am?

**THE WITNESS:** -- and I would hit back?

**THE COURT:** Ma'am? It is argumentative. Sustained.

**Q.** (By Mr. Hudson) We heard a 911 call, correct?

**A.** Yes.

**Q.** That 911 call came about because Freddy Mendez got drunk on July 4th, right?

**A.** He did.

**Q.** And he mistreated you?

**A.** He did.

**Q.** And his family intervened?

**A.** They did.

**Q.** They knew at that moment that he had mistreated you, correct?

**A.** They knew.

**Q.** And they intervened?

**A.** They did.

**Q.** If fact, his dad went out and physically confronted him, correct?

**A.** That's correct.

**Q.** And his sister called 911?

**A.** They did.

Q. Okay. And that was before you had left the home and gone back to live with Robin?

A. Yes.

Q. But your testimony is you knew they wouldn't help you as the abuse escalated; is that correct?

A. I knew they wouldn't help me.

Q. The fact that Freddy Mendez in the last days of Alexis' life tattooed Alexis on his arm, that didn't mean anything because that was his whatever arm, right?

A. It was a free tattoo, he didn't pay for it.

Q. I mean, it was a free tattoo where he could have put anyone's name but he chose Alexis, right?

A. Right.

Q. But it didn't matter because it was his whatever arm?

A. It didn't matter.

Q. Do you know where he's got his little brother's name tattooed?

A. On his upper shoulder.

Q. On the same arm, right?

A. Uhm, I'm not sure if it's on the same arm.

Q. Do you know where he's got his nephew David Miguel tattooed?

A. On his forearm, on the outside.

Q. Right next to where Alexis is, right? In fact,

that's the tattoo we can see when you were trying to figure out if Alexis was on there or not?

**A.** Right.

**Q.** On his whatever arm, right?

**A.** Right.

**Q.** We can't tell by looking at a picture of what's going on, correct?

**A.** We can't.

**Q.** Ma'am, have you ever heard that a picture is worth a thousand words?

**A.** I have heard that.

**Q.** That's a happy little girl in that picture playing with a guy she thought of as her daddy, right?

**A.** Yeah, she's excited in that picture.

**THE COURT:** That's?

**MR. HUDSON:** Defendant's Exhibit 8, Your Honor.

**Q.** (By Mr. Hudson) That's another thousand words right there, ma'am, right?

**A.** She's not too happy in that picture.

**THE COURT:** You want to identify it too?

**Q.** (By Mr. Hudson) Defendant's Exhibit 9. She's hugging Freddy around his neck, right?

**A.** Yeah, he forced her to do that. She's easily moveable to pose exactly how she wants.

**Q.** I see. I guess the day before, that one was on

August 10th. On August 9th, just before you snapped that picture, he had forced her lips into a grin and put her --

**MR. GIEGER:** Your Honor, that's not what she said. She said she's happy in that picture.

**THE COURT:** Ask the question instead of making a statement.

**Q.** (By Mr. Hudson) So this picture she's been forced into that --

**MR. GIEGER:** That's been asked and answered.

**THE COURT:** Overruled.

**THE WITNESS:** That's right.

**Q.** (By Mr. Hudson) Where are the happy pictures of you and Alexis?

**A.** There are some where Josiah is in the pictures. There's plenty of other pictures that you guys don't have.

**Q.** Where were they kept?

**A.** On the camera phone, there are some that my friends have, my family members have. The beforehands I used to always send to them before all this.

**MR. HUDSON:** That's all I have, Your Honor. Thank you, ma'am.

**THE COURT:** May this witness be excused?

**MR. GIEGER:** Yes.

August 10th. On August 9th, just before you snapped that picture, he had forced her lips into a grin and put her --

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**Q.** Where were they kept?

**A.** On the camera phone, there are some that my friends have, my family members have. The beforehands I used to always send to them before all this.

**MR. HUDSON:** That's all I have, Your Honor. Thank you, ma'am.

**THE COURT:** May this witness be excused?

**MR. GIEGER:** Yes.

**THE COURT:** Thank you, ma'am. You may step down.

Ladies and gentlemen, it's about 25 after 12:00. We're going to break for our lunch recess until 1:30. Please do not discuss this case or allow anyone to discuss it with you, and we will stand in recess until 1:30. Please rise. You may be excused.

(Whereupon, the jury exited at 12:20 p.m.)

(A recess was here had.)

**AFTER RECESS**

(Whereupon, the jury entered at 2:09 p.m., and the following transpired in open court.)

**THE COURT:** You may be seated. State, call your next witness.

**MR. GIEGER:** Your Honor, State calls Rosalba Mendez.

**THE COURT:** Raise your hand.

ROSALBA MENDEZ,

was called as a witness on behalf of the State, and having first been duly sworn, testified as follows:

**THE COURT:** Just have a seat and pull that microphone around in front of you. You may have to keep your voice up. You're very soft spoken.

**THE WITNESS:** Yes. Sorry.