

1 MRS. GADDIE: No.

2 CHAIRMAN McCONNELL: Did you make the  
3 following statement in court? "It was  
4 heartbreaking --" and I'm on page 20.

5 "It was heartbreaking to watch her  
6 suffer so much. She could not hold down formula,  
7 and she vomited frequently, requiring the formula  
8 to be diluted and given in sparing amounts over  
9 time. She had countless IVs started because her  
10 tiny veins were still too fragile and new to hold a  
11 line open for an extended period of time.  
12 Countless needle sticks and tests were run. A  
13 plasma transfusion was necessary to stop the  
14 bleeding in her brain."

15 Did you make those statements?

16 MRS. GADDIE: I did.

17 CHAIRMAN McCONNELL: Did anyone  
18 challenge the accuracy of that statement?

19 MRS. GADDIE: They did not.

20 CHAIRMAN McCONNELL: Did you make the  
21 following statement in court? Quote, She could not  
22 hold down full strength formula for one week after  
23 discharge, and it was another two weeks before she  
24 could hold down solid food without vomiting, end of  
25 quote. I hate to ask you, but that is accurate, is

1 it not?

2 MRS. GADDIE: That is accurate.

3 CHAIRMAN McCONNELL: And were you  
4 challenged on that?

5 MRS. GADDIE: I was not.

6 CHAIRMAN McCONNELL: Was anything put  
7 in the record that disputed that?

8 MRS. GADDIE: No.

9 CHAIRMAN McCONNELL: Let me ask you the  
10 following thing. Did you make the statement, "I  
11 saw an immediate change in her --" I'm on page 21.

12 "I saw an immediate change in her  
13 personality. It's like I have a different child.  
14 Kendra used to be constantly smiling and babbling.  
15 In the months -- in the months that have followed,  
16 she no longer smiles and no longer babbles.  
17 Instead, she has episodes of screaming where she is  
18 inconsolable, and to this day she wakes up in the  
19 middle of the night screaming at the top of her  
20 lungs."

21 Do you recall making those statements?  
22 I hate to ask you this.

23 MRS. GADDIE: I do.

24 CHAIRMAN McCONNELL: Did anybody  
25 challenge that or ask for additional evidence on

1 the accuracy of that that day?

2 MRS. GADDIE: No.

3 CHAIRMAN McCONNELL: Let me read you  
4 one other -- two other things. I'm down on the  
5 page of page 21. And, quote, Kendra requires  
6 therapists and specialists to work with her, and we  
7 have yet to hear the words mommy or daddy. She is  
8 being taught sign language to help her communicate,  
9 and she can sign the words more and food, end of  
10 quote.

11 Do you recall making those statements?

12 MRS. GADDIE: I do.

13 CHAIRMAN McCONNELL: Did anybody  
14 challenge the need for therapists or specialists or  
15 that she had to go to sign language?

16 MRS. GADDIE: No, they did not.

17 CHAIRMAN McCONNELL: And I want to  
18 quote another one. Quote, And I can see the look  
19 of frustration on her face when she attempts to  
20 speak, but all she can muster is a scream, end of  
21 quote.

22 I hate to ask you again, but is that  
23 accurate.

24 MRS. GADDIE: That's accurate.

25 CHAIRMAN McCONNELL: And did anybody in

1 that courtroom challenge that that was not the  
2 condition of that child?

3 MRS. GADDIE: No, they did not.

4 CHAIRMAN McCONNELL: Lastly I believe  
5 in the transcript, did you not turn to the  
6 defendant and have something to say to her?

7 MRS. GADDIE: I did.

8 CHAIRMAN McCONNELL: And wasn't there  
9 some testimony about the child getting slapped  
10 because she was screaming?

11 MRS. GADDIE: Yes, there was.

12 CHAIRMAN McCONNELL: Did anybody  
13 challenge that?

14 MRS. GADDIE: Nobody challenged it, no.

15 CHAIRMAN McCONNELL: And so you gave  
16 all of these statements, your observation having to  
17 stand there and tell -- you're not a lawyer; is  
18 that correct?

19 MRS. GADDIE: That's correct.

20 CHAIRMAN McCONNELL: And you don't have  
21 legal training?

22 MRS. GADDIE: I do not.

23 CHAIRMAN McCONNELL: And you were there  
24 as the mother of that child, and you stated to the  
25 best of your recollection what you had observed

1 with your child?

2 MRS. GADDIE: Yes.

3 CHAIRMAN McCONNELL: And your child  
4 needed therapists, needed people, and appeared to  
5 have all this damage, and did anyone in the  
6 courtroom challenge those statements?

7 MRS. GADDIE: They did not.

8 CHAIRMAN McCONNELL: Thank you.

9 SENATOR FORD: Sir, can I get a  
10 question?

11 CHAIRMAN McCONNELL: Yes.

12 SENATOR FORD: Of course you was  
13 eloquent, but I'm confused. Now, you got a plea  
14 coming in court. The judge agreed with the plea,  
15 the solicitor and the lawyer, and a mother got up  
16 and testified on her behavior of the child. What  
17 would that have to do with the judge? Can you tell  
18 me, because I'm confused on that part.

19 CHAIRMAN McCONNELL: Senator, I'm just  
20 trying to get the record out there. The lady has  
21 been questioned. There's been a lot made about the  
22 fact there was not a medical expert, and I wanted  
23 to make sure that she had made these statements  
24 that indicate that this child needed specialists,  
25 that these damages to this child had occurred over

1 months. And it -- she made that case and no one  
2 challenged it.

3           SENATOR FORD: And, Senator, you're a  
4 hundred percent right. The mother -- the mother is  
5 a caring mother, and I -- and I respect that and I  
6 love that. But the judge -- what should be his  
7 response in that situation when there's -- I -- the  
8 only thing I was trying to find out, if you got a  
9 solicitor and a lawyer agreeing on a -- on a -- on  
10 a plea bargain -- and the way it's usually done is  
11 that they present it to the judge. That's all the  
12 judge have to work with.

13           Now, it seem to me the solicitor job  
14 then would be to convince the judge how serious  
15 this injury was. The mother did a wonderful job  
16 explaining it, and I could -- I could understand  
17 that part. But the part I can't understand is why  
18 wouldn't a solicitor bring a medical profession --  
19 because that's the -- that's the -- that's what  
20 people do now. They bring expert witness in court  
21 to let everybody know how serious whatever charge  
22 it is, you know, is.

23           And the solicitor -- solicitor,  
24 Senator, dropped the ball, and, you know -- I mean,  
25 I hate to say it, but the solicitor simply dropped

1 the ball and all the judge had to work with is what  
2 was presented by the prosecutor and the -- I mean,  
3 by the prosecutor and the lawyer.

4 CHAIRMAN McCONNELL: Senator, the point  
5 I make is I want to make sure that the record is  
6 clear and that she is -- there's nothing I know of  
7 in the law that prohibits her from being able to  
8 testify to what she testified to, and I want to  
9 make sure that was on the record and it was not  
10 challenged.

11 SENATOR FORD: And she did a good job.

12 CHAIRMAN McCONNELL: And you can draw  
13 your conclusions and I will draw my conclusions and  
14 every member of the General Assembly will draw  
15 their conclusions, and that's why -- I'm not  
16 avoiding your question, but I don't think I should  
17 respond to it. I just wanted to make sure that I  
18 understood what she testified to and it was not  
19 challenged.

20 SENATOR FORD: And I want to let her  
21 know too now, I agree with her -- I agree with what  
22 you done a hundred percent, and I agree with her  
23 testimony there was real -- it was a bad trauma  
24 situation for the parents to go through, but I'm  
25 just sorry the solicitor dropped the ball. That's

1 the only part I'm concerned with.

2 CHAIRMAN McCONNELL: Does anybody have  
3 any other questions?

4 Mr. Sellers.

5 MR. SELLERS: Ms. Gaddie, you were  
6 informed, I take it, that the solicitor had made a  
7 motion for a resentencing in this case.

8 MRS. GADDIE: Yes, I am.

9 MR. SELLERS: Okay. Are you planning  
10 to be at the resentencing hearing?

11 MRS. GADDIE: I am. If I also might  
12 too make a clarification on that point.

13 The solicitor's office filed that  
14 motion on December 10th, two days after the  
15 sentencing. I had made and my husband weekly phone  
16 calls to the solicitor's office asking what the  
17 status of that motion was from Judge Goode, and we  
18 spoke both to Jan Knobles who is our victim's  
19 advocate and to Margaret Fent, and she -- they  
20 replied each time that there was no response from  
21 Judge Goode's office. We didn't get a response  
22 until this past Thursday, 3:55 p.m.

23 MR. SELLERS: So you didn't know that  
24 the hearing had been rescheduled until this past  
25 week?



1 MRS. GADDIE: I did not hear that he  
2 had decided to hear our motion to reconsider the  
3 sentence until this past Thursday at 3:55 p.m.  
4 Actually it was -- I know the time because I was in  
5 the Boston airport about to board a flight back to  
6 Columbia, South Carolina.

7 CHAIRMAN McCONNELL: Any other  
8 questions?

9 Thank you.

10 SENATOR KNOTTS: Mr. Chairman.

11 CHAIRMAN McCONNELL: Yes, sir, the  
12 senator from Lexington.

13 SENATOR KNOTTS: You heard Judge Goode  
14 say that he signed the order to reconsider two or  
15 three days after the December 8th hearing?

16 MRS. GADDIE: I did hear that.

17 SENATOR KNOTTS: And that order would  
18 have been presented by the state requesting the  
19 rehearing?

20 MRS. GADDIE: I -- I don't know the  
21 whole legal procedures. I know that I had -- we  
22 had talked to the solicitor's office many times  
23 asking what the status -- if they had heard whether  
24 Judge Goode was going to hear our motion. I know  
25 that Margaret Fent made inquires to Judge Goode's

1 law clerk about what the status was, and each time  
2 there was no response until this past Thursday at  
3 3:55 p.m.

4 SENATOR KNOTTS: And you were notified  
5 by who?

6 MRS. GADDIE: I was notified by the  
7 victim's advocate Jan Knobles.

8 SENATOR KNOTTS: Jan Knobles.

9 Mr. Chairman, do we have a copy of that  
10 order that was signed by Judge Goode with a date?

11 CHAIRMAN McCONNELL: Staff counsel  
12 informs me we do not, Senator.

13 SENATOR KNOTTS: Do not. Can we get a  
14 copy? Because it goes back -- the reason I'm  
15 asking for a copy, it goes back to somebody dropped  
16 the ball. If he signed it two days or three days  
17 after he heard the case and was going to have a  
18 hearing, then she should have been notified -- and  
19 it goes back to the solicitor's office to notify  
20 her of -- of the agreement to rehear it. Now, the  
21 scheduled time that it would be heard would be set  
22 up by the Court. And of course that's when Judge  
23 Goode would be able to get back into the county.

24 PROFESSOR FREEMAN: Mr. Chairman, can I  
25 ask that the staff get the clerk of court to fax us

1 a copy of the order?

2 CHAIRMAN McCONNELL: Is there any  
3 objection? Being none, thank you, Professor.

4 Ask one other question, and I -- I  
5 regret having to do this, but I want to make sure I  
6 understand all the evidence that was in court that  
7 day. Page 23 of the transcript indicates to me  
8 that there were five photographs that were offered  
9 up and they were shown to defense counsel. I hate  
10 to ask the subject. Could you tell me what those  
11 five photographs show. Describe to me what they  
12 show.

13 MRS. GADDIE: I didn't -- I'm not sure  
14 if I've seen all five. I know I've seen at least  
15 two, and on both of those pictures there was a  
16 definite handprint on the right side of my child's  
17 face.

18 CHAIRMAN McCONNELL: Was the face in  
19 any way swollen or --

20 MRS. GADDIE: At the time when they  
21 took the pictures, the pictures appear to be  
22 bruised. I -- I'm not going to say swollen.

23 CHAIRMAN McCONNELL: Thank you.

24 Are there any further questions?

25 Thank you, ma'am.

1 MRS. GADDIE: Thank you.

2 CHAIRMAN McCONNELL: Ms. Shuler, who is  
3 your next --

4 MS. SHULER: I'd like to call Margaret  
5 Fent.

6 CHAIRMAN McCONNELL: Ms. Fent, are you  
7 in the audience? Good afternoon.

8 MS. FENT: Good afternoon.

9 CHAIRMAN McCONNELL: If you'd be so  
10 kind as to raise your right hand. Do you swear to  
11 tell the truth, the whole truth, and nothing but  
12 the truth, so help you God?

13 MS. FENT: I do.

14 CHAIRMAN McCONNELL: Thank you, ma'am.

15 MS. SHULER: Ms. Fent, you were the  
16 solicitor -- assistant solicitor who handled the  
17 guilty plea in the Talisha Smith case; is that  
18 correct?

19 MS. FENT: That is correct.

20 MS. SHULER: How did you come to  
21 schedule the guilty plea before Judge Goode?

22 MS. FENT: Actually it was already  
23 scheduled. As it had been said, another assistant  
24 solicitor was handling the case. She was sent out  
25 on emergency maternity leave. She works directly

1 with me. And she left me all of her cases that  
2 were scheduled and what days they were scheduled  
3 for. So that one was already -- already scheduled.

4 MS. SHULER: At the guilty plea hearing  
5 and the sentencing, what evidence did you offer in  
6 terms of the seriousness of the victim's injury?

7 MS. FENT: I, as is in transcript,  
8 summarized, as is the regular practice in pleas,  
9 is -- the injuries that were in the medical records  
10 provided by the hospital.

11 MS. SHULER: Did you offer any medical  
12 records as part of the sentencing hearing?

13 MS. FENT: As is the regular, normal  
14 practice in a guilty plea, it was all done by  
15 proffer of testimony -- or proffer of facts by me.

16 MS. SHULER: When did you receive the  
17 order of rehearing from Judge Goode?

18 MS. FENT: I have not received any  
19 order regarding a granting of the hearing.

20 MS. SHULER: How did you learn that  
21 this matter had been rescheduled for rehearing?

22 MS. FENT: The first I heard was just  
23 prior to when we called Michelle Gaddie. It was on  
24 Thursday afternoon, and I was contacted by Judge  
25 Goode's law clerk saying that he wanted to schedule

1 it as quickly as possible.

2 MS. SHULER: When did you file a motion  
3 for rehearing?

4 MS. FENT: Two days after the plea.

5 CHAIRMAN McCONNELL: We're going to  
6 have to take a technical break during your  
7 testimony, but we're going to try to go another ten  
8 minutes or so before we have to do what staff  
9 indicates to me that we'll have to do. So you  
10 want -- have you finished yet?

11 MS. SHULER: That's it.

12 CHAIRMAN McCONNELL: All right. We'll  
13 turn to the Commission and see if there are any  
14 questions.

15 The senator from Charleston.

16 SENATOR FORD: Yeah. Attorney, when  
17 did -- were you aware of the fact that the Gaddies  
18 did not want to have -- where you listen to --  
19 what, cop a plea or something?

20 MS. FENT: I -- other than what is  
21 public record and what is part of this transcript  
22 because it is still a pending case, I do not feel  
23 comfortable talking about any other facts or any  
24 other things that happened other than, like I said,  
25 what is public record and what is part of this

1 transcript.

2 SENATOR FORD: But she made it public  
3 that -- the family made it public that they weren't  
4 interested in no plea bargaining.

5 MS. FENT: Well, she does not have the  
6 same ethical obligations that I do. My ethical  
7 professional rules of conduct prohibit a lawyer as  
8 speaking -- making extra judicial comments about a  
9 pending case. Those obligations do not also  
10 apply -- not apply to the victim's family. So  
11 other than what's public record and what's in the  
12 transcript, I just can't comment on.

13 SENATOR FORD: Ms. Attorney, when a  
14 whole -- whole -- everybody here know now that she  
15 said she didn't want -- the family didn't want to  
16 do a plea, and then y'all wind up doing a plea.

17 MS. FENT: I -- I cannot comment about  
18 other things that were happening in the case until  
19 the case is no longer pending.

20 CHAIRMAN McCONNELL: Go to the  
21 professor for a minute. I think it will clarify.

22 Professor Freeman.

23 PROFESSOR FREEMAN: I just have a quick  
24 question about permanency of the injuries. Has any  
25 medical professional expressed an opinion in this

1 matter concerning the permanencies of the poor  
2 child's injury?

3 MS. FENT: Well, as I -- what I can say  
4 is what was indicated in the transcript is that at  
5 one point Judge Goode asked me about any behavioral  
6 effects this would have on the child, and I did  
7 indicate that the experts said that that is still  
8 to be seen. That is not something that they can  
9 really judge on what's going to happen in the  
10 future, that they will have to wait and see, you  
11 know, how the child develops.

12 SENATOR FORD: One more question.

13 CHAIRMAN McCONNELL: Are you finished?

14 PROFESSOR FREEMAN: No, just a quick  
15 follow-up. We -- we know that the injuries are  
16 serious and all. I'm just trying to understand if  
17 there is any medical finding to this point that  
18 this child is going to be permanently adversely  
19 effected by the -- this incident.

20 MS. FENT: That would be -- I guess  
21 other than it wasn't -- that wasn't relayed in the  
22 transcript. You know, the problems that she's  
23 having up to this point and that -- the fact that  
24 the experts can't say about behavior was -- was  
25 relayed to the Court.



1 PROFESSOR FREEMAN: Thank you.

2 CHAIRMAN McCONNELL: The senator from  
3 Charleston.

4 SENATOR FORD: When the trial started,  
5 why didn't you call an expert witness?

6 MS. FENT: It wasn't a trial. It was a  
7 guilty plea, and it was --

8 SENATOR FORD: So you couldn't -- at  
9 that point you can't call an expert witness?

10 MS. FENT: As is -- the typical  
11 practice in guilty pleas is the evidence is  
12 presented by way of a proffer of the solicitor's  
13 office, and then at one point -- if you see on page  
14 15, line 12, the Court asks of the defendant, "Do  
15 you believe that the facts stated by the solicitor  
16 are materially accurate and correct?" And the  
17 defendant answered, "Yes, sir. Yes, sir."

18 So if there had been any at that point  
19 disagreement with the facts that I presented to the  
20 Court, we would most likely step down. The plea of  
21 guilty, the admission that she committed this act  
22 would stop, and we would either go to a trial or --  
23 and we would have those witnesses ready, or I guess  
24 renegotiate or he would talk to his client about  
25 whether or not he wanted to admit -- she wanted to

1 admit this.

2 SENATOR FORD: How much time did you  
3 spend on this case?

4 MS. FENT: I, in working with Anna  
5 Goode, had been -- Good -- had been aware of this  
6 case --

7 SENATOR FORD: Not aware. How much  
8 time did you spend on the case? Are you a Richland  
9 County solicitor?

10 MS. FENT: Yes.

11 SENATOR FORD: What's y'all caseload  
12 per solicitor?

13 MS. FENT: I have probably around 200  
14 charges -- not defendants, but charges on my  
15 docket.

16 SENATOR FORD: 200 charges, and how  
17 cases? Would that be cases or would you have more  
18 cases than that?

19 MS. FENT: Well, those would be -- they  
20 could be, I don't know, 80 defendants, a hundred  
21 defendants. I don't know how many defendants, but  
22 they're 80 -- approximately 200 charges.

23 SENATOR FORD: So you have sufficient  
24 time on this case you feel?

25 MS. FENT: Absolutely.

1 SENATOR FORD: But --

2 MS. FENT: It was a guilty plea. It  
3 was an admission. It was a guilty plea.

4 SENATOR FORD: Okay. When Ms. Good had  
5 the case, was it a guilty plea?

6 MS. FENT: Speaking generally of -- of  
7 cases, every case starts out -- so not talking  
8 about this one specifically, but every single case  
9 starts out with the prospect that the case is going  
10 to trial. So every case is worked up as if we are  
11 going to have to try this case.

12 SENATOR FORD: Okay. So when the case  
13 was sent over to you, was it a guilty plea?

14 MS. FENT: Yes.

15 SENATOR FORD: I mean -- I'm able to  
16 say -- you've got me confused because the family  
17 was -- I mean, they have made it clear to us today  
18 that they wasn't interested in no guilty plea.

19 MS. FENT: Again, that's getting into  
20 the facts of the pending case that I just can't --  
21 I can't comment on.

22 CHAIRMAN McCONNELL: Mr. Harrell.

23 MR. HARRELL: At the resentencing  
24 hearing are you planning to do something different?  
25 Are you going to change something that you did

1 to -- to have the judge come out with a different  
2 outcome?

3 MS. FENT: I don't think it's  
4 appropriate for me to speak of -- of that since it  
5 is a pending case.

6 MR. HARRELL: Right. Right. But  
7 you're not satisfied with the outcome as it was, so  
8 you want a resentencing hearing.

9 MS. FENT: We filed a motion for  
10 reconsideration.

11 MR. HARRELL: So at this -- at this  
12 next hearing are you going to present something  
13 more than -- than is already in the transcript?

14 MS. FENT: As I said, I can't -- I  
15 can't speak to that. My ethical rules prohibit me  
16 from commenting on a pending case other than what  
17 is public record or what is in this transcript.

18 MR. HARRELL: Okay. All right. Thank  
19 you.

20 CHAIRMAN McCONNELL: The senator from  
21 Lexington and then --

22 SENATOR KNOTTS: Thank you, Ms. Fent.  
23 I read your transcript. Is it your responsibility  
24 to inform the judge of the defendant's prior  
25 convictions or is it the defense attorney's to

1 describe the -- his client's previous convictions  
2 and with you --

3 MS. FENT: Generally it's the  
4 prosecutor's responsibility to tell the judge, but  
5 if I was to misspeak, the defense attorney would  
6 have an ethical obligation to correct that  
7 misstatement.

8 SENATOR KNOTTS: Okay.

9 CHAIRMAN McCONNELL: All right.

10 SENATOR KNOTTS: Did you ask for the  
11 police officer to -- to testify?

12 MS. FENT: Since it's actually not in  
13 the transcript, I would not want to -- to respond  
14 to that question.

15 SENATOR KNOTTS: Is this an accurate  
16 transcript of the trial -- of the guilt -- of the  
17 guilty plea in this case?

18 MS. FENT: It is.

19 SENATOR KNOTTS: Well, if I told you  
20 that you did not ask for the police officer to  
21 testify, would you say --

22 MS. FENT: That --

23 SENATOR KNOTTS: -- it is -- being in  
24 this transcript that it is correct?

25 MS. FENT: I would tell you that I did

1 indicate that Investigator Richard --

2 SENATOR KNOTTS: He was there.

3 MS. FENT: -- Richard Carter was  
4 standing next to me, and it is my general practice  
5 that -- after I present my factual basis for the  
6 plea, it is my general practice to turn to that  
7 investigator and ask them do they want to add  
8 anything to what I've already stated.

9 SENATOR KNOTTS: And --

10 MS. FENT: And if that investigator  
11 says they do want to speak, I would tell the Court  
12 that the investigator also wanted to address the  
13 Court.

14 SENATOR KNOTTS: And --

15 MS. FENT: My general practice is to  
16 make sure when they're standing next to me that I  
17 give them an opportunity just as I do with victims.

18 SENATOR KNOTTS: And you do realize  
19 it's your responsibility to present the state's  
20 case to the judge and the defense attorney's  
21 responsibility to state his client's position and  
22 that the judge does not have the authority to call  
23 in people that you don't present? Is that not  
24 right? The judge is not involved in presenting the  
25 case?

1 MS. FENT: I have had occasions where a  
2 judge may have asked some questions and perhaps  
3 would say, "Let's continue the case to -- you know,  
4 I would like more information on this or would like  
5 to --"

6 SENATOR KNOTTS: But it's your duty to  
7 present your case, right?

8 MS. FENT: Absolutely.

9 SENATOR KNOTTS: It's not the judge's  
10 duty to present your case?

11 MS. FENT: Absolutely.

12 SENATOR KNOTTS: And what you present  
13 to the judge, the judge has to take in  
14 consideration in making his decision in a fair --  
15 fair manner?

16 MS. FENT: Yes.

17 SENATOR KNOTTS: All right. How long  
18 did you actually have the case and how -- that was  
19 handed to you because of a maternity leave on  
20 another solicitor?

21 MS. FENT: Well, I don't feel  
22 comfortable answering questions that don't have to  
23 do with -- with public record or what's actually in  
24 the transcript.

25 SENATOR KNOTTS: Well, let --

1                   CHAIRMAN McCONNELL: Senator, I hate to  
2 interrupt, but we've got a technical problem.  
3 We've got to take a break.

4                   SENATOR KNOTTS: Okay.

5                   CHAIRMAN McCONNELL: I have to stop --

6                   SENATOR KNOTTS: I'd like to ask --

7                   CHAIRMAN McCONNELL: Yes, sir. We'll  
8 come right back. But at this without objection  
9 we're going to recede for the moment.

10                  MS. SHULER: Five minutes.

11                  CHAIRMAN McCONNELL: We need about five  
12 minutes to make adjustments.

13                  (A recess transpired.)

14                  CHAIRMAN McCONNELL: We're going to go  
15 back on -- we're going to go back on the record at  
16 this point to resume, and, Senator -- Ms. Fent,  
17 hold on one second.

18                  We're back on record. Ms. Fent, I  
19 believe the senator -- I'll get the senator to  
20 repeat the question, or do you recall it?

21                  Senator, would you repeat question. I  
22 think I interrupted you.

23                  We're back with Senator Knotts on the  
24 record.

25                  SENATOR KNOTTS: Thank you.



1 I'd like to know the two charges that  
2 were in -- that she originally was charged with.

3 MS. FENT: Infliction of great bodily  
4 injury upon a child, and then the second one was  
5 infliction of great bodily injury upon a child with  
6 a proximity charge. The proximity basically --

7 CHAIRMAN McCONNELL: Your mic is not  
8 working apparently. Wonderful electronics in this  
9 building. That's not for the record.

10 Go ahead.

11 MS. FENT: It's an enhancement so you  
12 can add additional time on, that the offense  
13 occurred within so many yards of a school or a day  
14 care. So it was the same exact charge, but with  
15 this enhancement.

16 SENATOR KNOTTS: Okay. And you had the  
17 police officer there to testify if the police  
18 officer -- if -- if you wanted him to, right?

19 MS. FENT: If -- or if he wanted to.  
20 If there was anything additional that, you know, I  
21 left out or that he felt needed to be, you know,  
22 added to my factual recitation, he could -- he  
23 could either inform me to say it or he himself  
24 could speak.

25 SENATOR KNOTTS: And you had met with

1 the mother and the father of the child --

2 MS. FENT: Yes.

3 SENATOR KNOTTS: -- prior to that?

4 MS. FENT: Yes.

5 SENATOR KNOTTS: And you were aware of  
6 basically what the mother was going to present to  
7 the Court?

8 MS. FENT: Yes. She had given me her  
9 impact statement and I had read that.

10 SENATOR KNOTTS: Okay. Did you not  
11 feel obligated by reading that impact statement  
12 prior to coming into the courtroom that there was  
13 things in her statement that you may -- would be  
14 able to verify to the judge to give a more  
15 seriousness -- impact of her statement to the  
16 judge?

17 MS. FENT: There was no indication that  
18 the truth of what she was saying was at question.  
19 This -- the defendant was pleading guilty to  
20 inflicting --

21 SENATOR KNOTTS: I understand that.

22 MS. FENT: -- great bodily injury upon  
23 a child, and this mother who lives with the child  
24 day in and day out and can speak more eloquently  
25 than I could as to seeing those effects was going

1 to state to the judge those effects.

2 SENATOR KNOTTS: I understand that,  
3 and -- and -- but as the state prosecuting  
4 attorney, don't you feel an obligation to back up  
5 your -- your victim by at least giving the judge  
6 some backup testimony that what the victim is  
7 saying is -- has some validity and the seriousness  
8 of this case?

9 MS. FENT: The truth of what she was  
10 saying was never challenged.

11 SENATOR KNOTTS: I'm not talking about  
12 being challenged. At that point in time nothing  
13 had been said by the defendant. But don't you feel  
14 as a prosecutor that everything that you can back  
15 up to give to the judge would benefit the judge in  
16 making a -- a different decision than what he made?

17 MS. FENT: How I proceeded on this case  
18 is exactly how I proceed on every other plea and is  
19 the general practice of solicitors across this --  
20 across the country and across the state in how the  
21 facts are presented at a guilty plea.

22 SENATOR KNOTTS: Well, I've read your  
23 testimony before the judge, and I've read the  
24 victim -- the victim's statement before the judge,  
25 and, I mean -- and I -- I understand what's going

1 on, but it just seems to me the family has been  
2 made a victim twice. And the state -- it seems to  
3 me that she gave a better -- a better prosecutorial  
4 statement than you did, and you were the one that  
5 was supposed to be in charge of presenting the  
6 case.

7                   And it just seems to -- with the way  
8 you say "I can't talk about this, I can't talk  
9 about that," victims in this state shouldn't have  
10 to go through that, and it just seems like that  
11 it -- I've seen solicitors stand there and whenever  
12 they're really interested in getting a tough  
13 sentence, they go at it all -- all -- all fours.

14                   To stand before a judge and nolle pros  
15 one of the two cases that -- obviously it happened  
16 in a day care center, so there was nothing --  
17 nothing that really bad with that case, and a judge  
18 sitting here with the prosecutor drop -- nolle  
19 prosing one case and -- and not really pushing as  
20 hard as the victim on the other causes concern to  
21 the judicial system.

22                   This victim should have never had to go  
23 through that, and whether -- we're not here to cast  
24 blame. We're just here to find the facts of where  
25 the ball was dropped so that we can help in the

1 future ensure that, you know, prosecutors in this  
2 state needs to -- to present all the case and not  
3 just -- it's not the victim's advocate that just  
4 defends the victim. It's the prosecutor too  
5 because they are your witnesses and they're the  
6 people that -- reason you're in the courtroom.

7           And it just seems to me that this lady  
8 had to go through a lot of testimony today she  
9 shouldn't have had to go through. Had you  
10 presented the case that she presented, I have no  
11 doubt in my mind you standing there presenting that  
12 case that she presented, the lady would be in jail  
13 today. I have no doubt about it.

14           And I don't know how long you've had --  
15 had the case, but it -- were you ever -- more  
16 interested in getting a guilty plea and getting it  
17 off the books or -- as to why you nolle prossed the  
18 other case? Could you tell me why -- why you would  
19 nolle pros a case that has no problem with it?

20           MS. FENT: Number one, I'm concerned  
21 with justice. I take --

22           SENATOR KNOTTS: I am too.

23           MS. FENT: I take an oath to see that  
24 justice is done. Not to move cases, not to seek  
25 convictions, but to see that justice is done. In

1 this case justice was a conviction. And as in this  
2 case, as you heard Judge Goode say, he knew me to  
3 be asking for a substantial sentence, and he knew  
4 me -- that to mean that I was asking for a jail  
5 sentence.

6           There is no case that I could speak  
7 more eloquently than the victims who suffer the  
8 injuries that they do in the cases that I deal  
9 with. So she did speak more eloquently than I did.  
10 My job was to present the facts of the case, and  
11 her job in -- being given an opportunity to give  
12 the victim impact statement is to tell the judge  
13 how this crime impacted her and impacted her  
14 daughter, and that's exactly what -- what she did.  
15 So she -- she did speak more eloquently than I did.  
16 But we were standing in front of -- of the Court  
17 asking for, as the -- as the judge said, a  
18 substantial sentence, and he understood that to be  
19 jail time.

20           As to the nolle proying of the charge,  
21 as you've heard, that would be the difference  
22 between a 20 year sentence and a 30 year sentence,  
23 and we're not standing here arguing that 30 years  
24 should have been given instead of 20 years.  
25 Clearly the issue is -- is a reconsideration of a

1 probation sentence up to the range of 20 years.

2 SENATOR KNOTTS: And you do understand  
3 there's many a people that have been before the  
4 judges in this state with multiple plea -- pleas to  
5 multiple cases.

6 MS. FENT: Sure. Most of the cases are  
7 disposed of by plea in our state.

8 SENATOR KNOTTS: And there are multiple  
9 cases sometimes, like two or three counts or  
10 something.

11 MS. FENT: Correct.

12 SENATOR KNOTTS: I don't understand why  
13 this wouldn't have been a guilty plea to two counts  
14 which would have heightened the indication that it  
15 was a -- a real serious -- that this happened in a  
16 day care center -- center and it was a serious --  
17 and that the prosecutor was pushing for jail time.  
18 Did you ever ask for jail time or did you just say  
19 a substantial sentence?

20 MS. FENT: As you heard judge -- the  
21 judge say, that I was asking for a substantial  
22 sentence and he knew that to mean a jail sentence.  
23 What you also cannot read from this transcript, a  
24 cold transcript, is the tone of my voice as I  
25 detailed every injury that this child suffered.

1 That's -- clearly in a cold transcript the facts of  
2 the injuries are there, but my tone in -- in  
3 telling the Court of these injuries and the tone in  
4 my response to the defense attorney's request for  
5 probation is not -- doesn't show on this  
6 transcript.

7 But as I said, you know, Judge Goode  
8 indicated that he knew I was asking for substantial  
9 time and that was a jail sentence.

10 SENATOR KNOTTS: Have you ever heard a  
11 solicitor say, "I adamantly oppose probation in  
12 this case and would recommend a jail sentence"?

13 MS. FENT: I have heard that.

14 SENATOR KNOTTS: Why didn't you do that  
15 in this case?

16 MS. FENT: It was clear in my  
17 recitation of the facts and it was clear in my  
18 argument that is what we were asking for. It is  
19 clear also in the victim impact statement that she  
20 was asking for a maximum sentence.

21 SENATOR KNOTTS: Don't you think it  
22 would have been a lot more clearer if you'd have  
23 just simply said, "Judge, I oppose probation in  
24 this case and recommend a jail sentence"? And  
25 that's done in cases all the time by solicitors



1 throughout this state when they adamantly oppose  
2 probation.

3 MS. FENT: And the sentence is up to  
4 the judge. Regardless of what the solicitor asks  
5 for, that ultimate decision is -- is the judge's.  
6 Even if we come in and ask -- ask for probation or  
7 recommend or negotiate probation, a judge can say,  
8 "Solicitor, that is inappropriate in this case. I  
9 am not going along with your recommendation of  
10 probation. I am not going along with your  
11 negotiation of probation. The facts are  
12 inappropriate to that."

13 So regardless of what we stand up and  
14 say, the facts are presented to a judge and -- and  
15 that judge makes the -- the appropriate decision.

16 SENATOR KNOTTS: And I understand that,  
17 and I hated to have to ask the victims a question  
18 that I had to ask them or -- but I wanted to make  
19 sure that we knew the full facts of the case to  
20 find out where the ball was dropped, and if the  
21 judge had a clear -- a clear photograph of what  
22 actually the fierceness of this was and what the  
23 solicitor's intention was, what the solicitors  
24 wanted -- I mean, he doesn't have a crystal ball,  
25 and if you're the prosecutor and you don't tell him

1 what you want or what you oppose, he -- he don't  
2 have to give you what you want, but at least "I  
3 oppose probation in this case. The state opposes  
4 probation in this case, Your Honor."

5 CHAIRMAN McCONNELL: Is there any other  
6 questions?

7 Representative Clemmons.

8 REPRESENTATIVE CLEMMONS: Thank you,  
9 Mr. Chairman.

10 First of all, Ms. Fent, as an assistant  
11 solicitor, thank you for your service to the state  
12 of South Carolina. I have just one or two  
13 questions for you, and they go to your motion for  
14 reconsideration of the sentence that was handed  
15 down by Judge Goode.

16 If I recall correctly, did you testify  
17 that you submitted your motion two days following  
18 the trial -- the hearing? Excuse me.

19 MS. FENT: Correct.

20 REPRESENTATIVE CLEMMONS: And was that  
21 the first time you've ever made such a motion in  
22 court?

23 MS. FENT: Yes.

24 REPRESENTATIVE CLEMMONS: What -- what  
25 led to that -- to the uniqueness of that one-time

1 motion?

2 MS. FENT: I guess -- again, because I  
3 struggle with my -- with my ethical obligations and  
4 not -- and not discussing the facts, and if we have  
5 a rehearing, all of the reasons for it would be  
6 placed on the record at that time. So all I can  
7 say right now is that we are clearly asking him to  
8 reconsider that sentence of probation.

9 REPRESENTATIVE CLEMMONS: I understand  
10 and respect your obligations.

11 The -- have you ever received the order  
12 that was mentioned by Judge Goode regarding his  
13 decision to reconsider or to have a hearing to  
14 reconsider the motion -- or reconsider the  
15 sentence?

16 MS. FENT: No, I have not.

17 REPRESENTATIVE CLEMMONS: You've never  
18 seen that order in writing?

19 MS. FENT: Never.

20 REPRESENTATIVE CLEMMONS: Would there  
21 normally be an order in writing for such a decision  
22 by the Court?

23 MS. FENT: Well, in that I've stated  
24 this is the first time I've filed a motion for  
25 reconsideration, I don't think I can answer the

1 question in terms of normal. I can say that my  
2 motion was a single page. There was not an order  
3 attached, and nor did I put a place at the bottom  
4 of my motion for the judge to sign either granting  
5 or denying my request for rehearing.

6 So I know that there wasn't an order as  
7 a part of my motion. It was strictly just a  
8 single-page motion requesting rehearing.

9 REPRESENTATIVE CLEMMONS: Do you have  
10 the -- excuse me.

11 Ms. Shuler, do we have a copy of that  
12 motion in the record?

13 MS. SHULER: No, sir, we do not.

14 REPRESENTATIVE CLEMMONS: Ms. Fent, do  
15 you have a copy of that motion with you today?

16 MS. FENT: The motion for  
17 reconsideration?

18 REPRESENTATIVE CLEMMONS: The motion  
19 for reconsideration.

20 MS. FENT: I do not. I do not.

21 REPRESENTATIVE CLEMMONS: Could you --  
22 could you make arrangements to have a copy of that  
23 sent to us for inclusion in the record?

24 MS. FENT: Certainly.

25 REPRESENTATIVE CLEMMONS: Upon receipt,

1 Mr. Chairman, I'd request that that document be  
2 included in -- in the record.

3 CHAIRMAN McCONNELL: Is there any  
4 objection to that document being included? There  
5 being none, so ordered.

6 REPRESENTATIVE CLEMMONS: Thank you.

7 Now, again, Ms. Fent, when were you  
8 notified and what were the circumstances of your  
9 notification of Judge Goode's decision to  
10 reconsider his sentence?

11 MS. FENT: It was Thursday afternoon.  
12 I received a phone call from his law clerk  
13 indicating that they wanted to set this for hearing  
14 as soon as possible.

15 REPRESENTATIVE CLEMMONS: Was that  
16 Thursday, February the 12th?

17 MS. FENT: Just last week, yeah.

18 REPRESENTATIVE CLEMMONS: Can you --  
19 can you better pinpoint the -- the time frame that  
20 you received that call on the 12th?

21 MS. FENT: I heard Michelle Gaddie's  
22 testimony, and the best that I can say, it would be  
23 very near that time because the first phone call I  
24 made was to the victim advocate, to Jan Knobles,  
25 and said, you know, "Try to notify the victims as

1 soon as possible to find out if they're available  
2 and in town for this hearing."

3 And I know that Jan as soon as she  
4 spoke with the Gaddies called me back. So it would  
5 have been close in time to whenever Michelle Gaddie  
6 testified that she got notification from our  
7 office.

8 REPRESENTATIVE CLEMMONS: So from the  
9 time you received notice from Judge Goode's  
10 office -- was that from Judge Goode directly?

11 MS. FENT: No, from his law clerk.

12 REPRESENTATIVE CLEMMONS: From his law  
13 clerk?

14 MS. FENT: Uh-huh.

15 THE CLERK: From Judge Goode's law  
16 clerk to the time that your staff contacted the  
17 victim, how much time transpired?

18 MS. FENT: 15 minutes, at the most. It  
19 was just me calling Jan Knobles, Jan calling the --  
20 the victims.

21 REPRESENTATIVE CLEMMONS: Thank you so  
22 much.

23 MS. FENT: Okay.

24 CHAIRMAN McCONNELL: Let me ask you  
25 just a couple of questions very quickly.

1                   In the transcript, in light of the  
2 questions asked of you, after Ms. Gaddie went  
3 through all of the circumstances -- I'm on page 22.  
4 She says -- and I quote -- "Kendra and our family  
5 now have amounts to a lifetime of difficulties of  
6 struggles ahead." And then on down in the  
7 transcript over to the next page she says, "I  
8 humbly ask the court to allow a clear message to be  
9 sent: that crimes against our children in this  
10 society will no longer be condoned or tolerated."  
11 And I'm quoting again. "I ask that the maximum  
12 sentence allowed by current law be instituted."

13                   Did you hear her make that plea in  
14 court?

15                   MS. FENT: Yes.

16                   CHAIRMAN McCONNELL: Do you know of any  
17 way you could have said it better?

18                   MS. FENT: No.

19                   CHAIRMAN McCONNELL: The crime here was  
20 16-3-95. It says, "It is unlawful to inflict great  
21 bodily injury upon a child. A person who violates  
22 this subsection is guilty of a felony and, upon  
23 conviction, must be imprisoned not more than 20  
24 years."

25                   Then down in section C -- and my

1 question comes from this and I'll read it back to  
2 you. "For purposes of this section, 'great bodily  
3 injury' means bodily injury which creates a  
4 substantial risk of death or which causes serious  
5 or permanent disfigurement, or protracted loss or  
6 impairment of the function of any bodily member or  
7 organ."

8 To your recollection did anyone in that  
9 courtroom contest that this child had not suffered  
10 some form of what this legal description in this  
11 law is that day?

12 MS. FENT: The facts were not  
13 contested.

14 CHAIRMAN McCONNELL: Thank you.

15 Any further questioning?

16 Thank you, ma'am.

17 Next witness.

18 MS. SHULER: Mr. Jerry Finney.

19 CHAIRMAN McCONNELL: Mr. Finney, are  
20 you in the audience?

21 MR. FINNEY: I am.

22 CHAIRMAN McCONNELL: All right, sir.  
23 Back behind the pole there.

24 MR. FINNEY: Yes, sir.

25 CHAIRMAN McCONNELL: If you'd be so



1 kind to raise your right hand. Do you swear to  
2 tell the truth, the whole truth, and nothing but  
3 the truth, so help you God?

4 MR. FINNEY: I do.

5 CHAIRMAN McCONNELL: Thank you, sir.

6 MS. SHULER: Mr. Finney, would you  
7 describe your role in the Talisha Smith matter.

8 MR. FINNEY: I am a criminal defense  
9 lawyer here in Columbia -- thank you -- and I was  
10 retained to represent her on charges brought I  
11 believe stemming back to March of 2008.

12 MS. SHULER: If you would, show  
13 Mr. Finney his affidavit.

14 MR. FINNEY: Thank you.

15 MS. SHULER: Do you recognize your  
16 affidavit?

17 MR. FINNEY: I do.

18 MS. SHULER: I'd like to offer  
19 Mr. Finney's affidavit be made a part of the record  
20 as an exhibit.

21 CHAIRMAN McCONNELL: Is there any  
22 objection? Being none, so ordered.

23 (EXH. 5, Affidavit of Jerry Leo Finney,  
24 marked for identification.)

25 MS. SHULER: Mr. Finney, could you

1 briefly describe the sentencing hearing that day.  
2 Were there negotiated pleas -- a negotiated plea  
3 for Ms. Smith?

4 MR. FINNEY: The -- it was a negotiated  
5 plea with respect to the fact that one of the  
6 charges, which has already been discussed on the  
7 record -- I believe it's -- I will refer to it as a  
8 proximity charge -- was nolle prossed by the  
9 solicitor in exchange for the plea to the great  
10 bodily harm charge.

11 MS. SHULER: Was there any medical  
12 evidence presented?

13 MR. FINNEY: None whatsoever.

14 MS. SHULER: And what arguments did you  
15 make in terms of sentencing for your client?

16 MR. FINNEY: I believe everyone has the  
17 record. I have obtained a copy of the record, and  
18 I asked for mercy for my client. I certainly --  
19 this is a guilty plea, and I was retained by my  
20 client in March. She was not charged with both  
21 crimes together. She was originally charged in  
22 March with one crime. Then she was released on  
23 bond, and sometime later, I think approximately a  
24 month or two later, she was arrested again on the  
25 second charge.

1 I was retained on both of those  
2 charges. Sometime in the summer of 2008, I  
3 submitted what's called a Rule 5 and Brady motion  
4 to the solicitor which is a document to receive the  
5 evidence in the case. I received the evidence in  
6 the case sometime late summer, early fall,  
7 discussed the evidence with my client, and then  
8 scheduled -- and advised my client accordingly and  
9 immediately scheduled it for a guilty plea, never  
10 indicating that we wanted a trial. It was always a  
11 guilty plea.

12 MS. SHULER: At the guilty plea -- and  
13 you've reviewed the transcript as well -- you heard  
14 Judge Goode make comments about the war and the  
15 military. Did you perceive those comments to be  
16 offensive to the Gaddies?

17 MR. FINNEY: No, I did not.

18 MS. SHULER: Let me ask you about the  
19 motion for rehearing. Did you receive a copy of  
20 the solicitor's motion for rehearing?

21 MR. FINNEY: I did.

22 MS. SHULER: And when did you receive  
23 that?

24 MR. FINNEY: In fact, I was looking  
25 through my files, and it appears that I received

1 this on December the 10th. It is signed on  
2 December the 10th by Margaret Fent, the solicitor,  
3 and a copy was faxed to my office on the same day,  
4 December 10th, 2008. And I have that with me.

5 MS. SHULER: I'd like to ask that we  
6 make a copy of that and make it -- mark it as an  
7 exhibit for the record.

8 CHAIRMAN McCONNELL: Is there any  
9 objection? There being none, so ordered.

10 MR. FINNEY: May I have a copy. Thank  
11 you.

12 MS. SHULER: Was that order -- was that  
13 motion signed in any way in handwriting by Judge  
14 Goode granting that motion?

15 MR. FINNEY: No, it was not.

16 MS. SHULER: When did you learn that  
17 Judge Goode wanted to have a rehearing in this  
18 matter?

19 MR. FINNEY: Last Thursday.

20 MS. SHULER: All right. Approximately  
21 what time did you learn?

22 MR. FINNEY: It would have been around  
23 the same time that Ms. Gaddie testified she was  
24 informed of it. The specific time, I do not know.

25 MS. SHULER: Perhaps in the afternoon.

1 MR. FINNEY: In the afternoon.

2 (EXH. 6, Motion to Reconsider Sentence  
3 for State vs. Talisha Lavette Smith, marked for  
4 identification.)

5 CHAIRMAN McCONNELL: All right. Any  
6 questions?

7 The senator from Charleston.

8 SENATOR FORD: Attorney, explain to me  
9 when -- when you request -- request a rehearing,  
10 how much time usually lapse before that happen? Or  
11 can you say this one was grant -- I mean, asked for  
12 December 13th?

13 MR. FINNEY: Well, it was -- it was  
14 written -- it was filed on December the 10th.

15 SENATOR FORD: December 10th?

16 MR. FINNEY: Yes, sir.

17 SENATOR FORD: When was that trial?

18 MR. FINNEY: The guilty plea was  
19 December the 8th.

20 SENATOR FORD: Okay. Two days later.  
21 Now, we got a major shortage of judges in South  
22 Carolina, and a judge got to clear his calender for  
23 stuff like this. So you're talking about two  
24 months. Would that be about right or what?

25 MR. FINNEY: Yes, sir, I -- I think

1 that as a lawyer I've had motions that I filed  
2 myself and motions that I have responded to that  
3 have taken a lot longer than two months.

4 SENATOR FORD: As a victim I've been --  
5 I mean, not as a victim? As a what? I've been  
6 waiting a long time for cases too where I wanted to  
7 hear my voice. But two months is not that long,  
8 right?

9 MR. FINNEY: No.

10 CHAIRMAN McCONNELL: Any other  
11 questions?

12 Representative Mack.

13 REPRESENTATIVE MACK: Thank you,  
14 Mr. Chairman.

15 In listening to these -- I listened to  
16 you saying that you went and you asked for mercy,  
17 so as -- you went in recognizing at least in your  
18 mind representing your client the guilt there. I  
19 wanted to ask you, in your legal career have you  
20 ever asked for mercy for a client that you  
21 recognized in your mind as being guilty of the  
22 crime and seeing a sentencing such as this, a  
23 similar --

24 MR. FINNEY: I look upon it is as a  
25 piece of property. I was taught in law school by

1 my property professor that -- know that every piece  
2 of property is unique. As a criminal defense  
3 lawyer every case is unique, and no two cases are  
4 identical. And there is certainly no case in my  
5 experience that I can compare this case to.

6 I can only tell you that when I was  
7 retained by my client, I did my job in requesting  
8 the evidence from the solicitor's office. Once I  
9 obtained the evidence from the solicitor's  
10 office -- and there's been a lot of discussion with  
11 respect to medical records. To give the Committee  
12 just an idea of some of the medical records that  
13 were provided to me in discovery and the size and  
14 the volume of them in this case (indicating).

15 And after being able to review these  
16 documents and all other documents that the  
17 solicitor sent to me with my client -- my clients  
18 rely on me for my advice, and my advice in this  
19 case was to plead guilty. She agreed with my  
20 advice, and, again, we never once indicated that we  
21 wanted a trial or to delay the matter. I believe  
22 she was originally arrested in March, and she pled  
23 guilty in December.

24 I don't come to the legislature often.  
25 This is very unusual for me to come to the House

1 and the Senate and appear before the committee, but  
2 I go to the courthouse often. And people who don't  
3 go to the courthouse might think that's a long  
4 period of time. That's not a long period of time.  
5 That's a very short period of time for a case to  
6 be -- to start and end, early December.

7 We indicate -- I indicated it was a  
8 plea. They set it for a plea and she pled December  
9 the 8th.

10 CHAIRMAN McCONNELL: Any other  
11 questions?

12 Thank you so much.

13 MR. FINNEY: Thank you.

14 CHAIRMAN McCONNELL: Next. The  
15 staff --

16 MS. SHULER: Paul Newell.

17 CHAIRMAN McCONNELL: Mr. Newell, if  
18 you'd come forward. Raise your right hand, please,  
19 sir. Do you swear to tell the truth, the whole  
20 truth, and nothing but the truth, so help you God?

21 MR. NEWELL: I do.

22 CHAIRMAN McCONNELL: Thank you, sir.  
23 Please answer the questions Ms. Shuler has for you.

24 MS. SHULER: Mr. Newell, who are you  
25 employed with?



1                   MR. NEWELL: South Carolina Judicial  
2 Department.

3                   MS. SHULER: All right. And do you  
4 clerk for a specific judge?

5                   MR. NEWELL: Judge Kenneth Goode.

6                   MS. SHULER: All right. How long have  
7 you been clerking for Judge Goode?

8                   MR. NEWELL: Since about mid August.

9                   MS. SHULER: All right. Are you  
10 familiar with the State versus Talisha Smith case?

11                   MR. NEWELL: I am.

12                   MS. SHULER: All right. Were you  
13 present when Ms. Fent brought a motion for  
14 reconsideration to Judge Goode?

15                   MR. NEWELL: To my recollection we were  
16 on the bench preparing for court I guess two days  
17 later. A document was presented by Assistant  
18 Solicitor Fent regarding a reconsideration hearing,  
19 upon which the judge and Ms. Fent went into some  
20 discussion. I went back to my clerical work, and  
21 then after that, it was my understanding that that  
22 motion was granted and that we would have the  
23 hearing next time we were in Richland County.

24                   MS. SHULER: Did you ever see an order  
25 or prepare an order for the judge's signature?

1 MR. NEWELL: I did not.

2 MS. SHULER: Have you ever seen an  
3 order granting Ms. Fent's request for a hearing in  
4 this matter?

5 MR. NEWELL: I have not.

6 CHAIRMAN McCONNELL: All right. Any  
7 questions?

8 Representative Clemmons.

9 REPRESENTATIVE CLEMMONS: Thank you.

10 With regard to that -- the decision  
11 to -- of Judge Goode to reconsider his sentencing,  
12 when did you first learn of that decision on Judge  
13 Goode's part?

14 MR. NEWELL: I -- it was my  
15 understanding that it was decided on that day upon  
16 presentation.

17 REPRESENTATIVE CLEMMONS: When Ms. Fent  
18 was present in the courtroom?

19 MR. NEWELL: Yes.

20 REPRESENTATIVE CLEMMONS: Were -- were  
21 you surprised to hear today that Ms. Fent had no  
22 recollection of it being --

23 MR. NEWELL: I actually was.

24 REPRESENTATIVE CLEMMONS: -- approved  
25 at that time?

1           We heard testimony today from Ms. Fent  
2           that she received a phone call from you on February  
3           the 12th regarding that motion --

4           MR. NEWELL:   That's correct.

5           REPRESENTATIVE CLEMMONS:  -- is that  
6           correct?

7           What precipitated that phone call?

8           MR. NEWELL:   Judge Goode asked me to  
9           make that phone call.

10          REPRESENTATIVE CLEMMONS:  Okay.  And  
11          had he asked you previous -- previously to that day  
12          to make arrangements for a hearing on that motion?

13          MR. NEWELL:   No.  Like I said, it was  
14          my understanding that our next term in Richland  
15          County it would be scheduled.

16          REPRESENTATIVE CLEMMONS:  And where did  
17          you receive that understanding from?

18          MR. NEWELL:   From just the normal  
19          process of how I've learned that things work as --  
20          as being a clerk for four months.

21          REPRESENTATIVE CLEMMONS:  So did  
22          anybody talk to you about that?

23          MR. NEWELL:   No, they did not.

24          REPRESENTATIVE CLEMMONS:  You were just  
25          expecting that to happen?

1           MR. NEWELL: Well, when things are  
2 scheduled, they're scheduled through the  
3 solicitor's office.

4           REPRESENTATIVE CLEMMONS: Okay. So you  
5 were expecting Ms. Fent to schedule that; is that  
6 correct?

7           MR. NEWELL: That's my understanding.

8           REPRESENTATIVE CLEMMONS: Okay. Thank  
9 you very much. That's all I have.

10          CHAIRMAN McCONNELL: Yes, sir. Any  
11 other questions?

12          The senator from Charleston.

13          SENATOR FORD: The solicitor keep the  
14 docket, correct?

15          MR. NEWELL: That's correct.

16          SENATOR FORD: So what would be wrong  
17 with the judge saying that the next available --  
18 next available date, right?

19          MR. NEWELL: Correct.

20          SENATOR FORD: Because when y'all come  
21 to Richland, that don't mean you going to grab it  
22 right away?

23          MR. NEWELL: Correct.

24          SENATOR FORD: Okay. So how long -- in  
25 these situations how long are -- you know, lawyers

1 have to wait for their clients to come back for a  
2 retrial?

3 MR. NEWELL: I've only been with the  
4 judge since August. I've never dealt with a  
5 situation like this.

6 CHAIRMAN McCONNELL: Any other  
7 questions?

8 MR. SELLERS: I've got one.

9 CHAIRMAN McCONNELL: Mr. Sellers.

10 MR. SELLERS: How did you -- how did  
11 you conclude -- what made you conclude the judge  
12 had granted the solicitor's motion?

13 MR. NEWELL: Just from the conversation  
14 and the language that I came to an assumption and  
15 understood that it was granted.

16 MR. SELLERS: So it was nothing that  
17 you were told; you just assumed that.

18 MR. NEWELL: I honestly was not paying  
19 that close attention due to my clerical work that I  
20 was doing.

21 MR. SELLERS: So you just assumed it  
22 was granted?

23 MR. NEWELL: It was my understanding  
24 that it was granted.

25 MR. SELLERS: And that's what I'm

1 trying to understand. How did you come to that  
2 understanding? Who told you? What conversation  
3 did you have? Who told you that the motion had  
4 been granted?

5 MR. NEWELL: Well, the judge -- the  
6 judge told me it had been granted.

7 MR. SELLERS: When?

8 MR. NEWELL: As I recall, that day on  
9 the bench.

10 MR. SELLERS: That day being a few days  
11 after the original hearing on the -- on the -- the  
12 guilty plea?

13 MR. NEWELL: Yes.

14 MR. SELLERS: And did he ask you to  
15 draw an order?

16 MR. NEWELL: No, he did not.

17 CHAIRMAN McCONNELL: Any other  
18 questions?

19 Professor.

20 PROFESSOR FREEMAN: Is it customary to  
21 draw an order granting a motion like that?

22 MR. NEWELL: Not -- not for all  
23 motions, no. And like I said, this is the first  
24 time I had dealt with a motion for reconsideration  
25 in something like this.

1 CHAIRMAN McCONNELL: Any other  
2 questions?

3 The senator from Lexington.

4 SENATOR KNOTTS: So what you're  
5 saying -- thank you, Mr. Chairman.

6 So what you're saying is that the  
7 solicitor came back with a piece of paper asking  
8 for a reconsideration?

9 MR. NEWELL: It was regarding the  
10 reconsideration --

11 SENATOR KNOTTS: Regarding the  
12 reconsideration.

13 MR. NEWELL: -- from what I understand.

14 SENATOR KNOTTS: And she and the judge  
15 had a discussion?

16 MR. NEWELL: Yes.

17 SENATOR KNOTTS: And when the  
18 discussion was over, there was an understanding  
19 there would be a reconsideration, and it's up to  
20 the solicitor's office to set it --

21 MR. NEWELL: That's correct.

22 SENATOR KNOTTS: -- when you got back  
23 in court --

24 MR. NEWELL: That's correct.

25 SENATOR KNOTTS: -- when you got back

1 in the circuit?

2 MR. NEWELL: That's correct.

3 SENATOR KNOTTS: And is there any  
4 procedures set in place to -- to schedule a  
5 rehearing? I mean, any time frames or any time you  
6 have to give for notification or --

7 MR. NEWELL: Well, when we had -- we  
8 made the call to have the reconsideration bumped  
9 up, we contacted Judge Childs' office because she  
10 was the chief administrative judge in Richland  
11 County, and then her law clerk in turn contacted  
12 court administration, and then I contacted  
13 Mr. Finney and Ms. Fent regarding scheduling, I  
14 guess a special time for reconsideration because  
15 that was a chambers week.

16 SENATOR KNOTTS: So if they would have  
17 had time another week or two in the court -- in the  
18 circuit, do you feel that they would have went on  
19 and had a reconsideration at that time or was the  
20 reconsideration not heard because of the fact that  
21 he was out of circuit?

22 MR. NEWELL: It -- it was my  
23 understanding that it was to come in front of us  
24 our next term of court in Richland County.

25 CHAIRMAN McCONNELL: Representative



1 Delleney -- or Clemmons, excuse me.

2 REPRESENTATIVE CLEMMONS: Thank you,  
3 Mr. Chairman.

4 Sir, I'm a little confused. I asked  
5 you a few minutes ago when the first time was that  
6 Judge Goode asked you or told you that he had  
7 decided to schedule a hearing in this matter. And  
8 your response to me, if I recall correctly, was the  
9 first time you heard that was the day that you made  
10 the phone calls.

11 MR. NEWELL: Right.

12 REPRESENTATIVE CLEMMONS: Okay. And  
13 then I heard a response to Mr. Sellers' question  
14 that the judge had told you at some time prior to  
15 that that he had made that decision.

16 MR. NEWELL: But that was for us to  
17 schedule. I did not think it was our  
18 responsibility to schedule once it was made there  
19 in Richland County.

20 REPRESENTATIVE CLEMMONS: Okay. I want  
21 to be absolutely clear because this is very  
22 important --

23 MR. NEWELL: Uh-huh.

24 REPRESENTATIVE CLEMMONS: -- that this  
25 point is a very important point. At what time did

1 Judge Goode -- or when did Judge Goode tell you so  
2 that you clearly understood that he had made a  
3 decision to hold a hearing to grant Ms. Fent's  
4 motion to reconsider the sentence?

5 MR. NEWELL: Could you -- could you  
6 repeat that question.

7 REPRESENTATIVE CLEMMONS: I'll try.  
8 When was the first time that Judge Goode told you  
9 that he had decided to reconsider his order -- his  
10 sentencing order and convene a hearing upon  
11 Ms. Fent's motion?

12 MR. NEWELL: That day. The day --

13 REPRESENTATIVE CLEMMONS: And --

14 MR. NEWELL: The 10th.

15 REPRESENTATIVE CLEMMONS: The 10th of  
16 December?

17 MR. NEWELL: Uh-huh.

18 REPRESENTATIVE CLEMMONS: Thank you  
19 very much.

20 CHAIRMAN McCONNELL: Any other  
21 questions?

22 Thank you, sir.

23 COURT REPORTER: Mr. Newell, could you  
24 spell your last name, please.

25 MR. NEWELL: N-E-W-E-L-L.

1                   CHAIRMAN McCONNELL: Judge Goode, at  
2 this point staff informs me that's all of the  
3 witnesses that they have. So I'd be happy to hear  
4 from you on anything in this part before we go to  
5 the next part.

6                   JUDGE GOODE: Yes, sir. First and a  
7 matter that seems to be fresh on everyone's mind is  
8 the order. I have a clear recollection of Ms. Fent  
9 approaching the bench. I was on the bench. I was  
10 not in chambers. And there was no business going  
11 on. And when I say that, it could have been two  
12 minutes between pleas, but -- in other words, she  
13 wasn't interrupting anyone or anything of that  
14 nature.

15                   But she approached the bench asking  
16 permission, if I remember correctly, respectfully  
17 that "This is a motion to reconsider in the  
18 Smith/Gaddie case," and she reached over the bar of  
19 the bench and put it directly in front of me and  
20 asked, "Will you hear it?" I said sure. I've  
21 never refused a request to reconsider a sentence,  
22 and I haven't.

23                   And I initially thought that I had  
24 signed a document, thought it had an order attached  
25 to it, and reflection, I'm not sure if I signed it

1 or not. Excuse me. But there is absolutely no  
2 question that she came up and personally put it on  
3 my desk in front of me, told me what it was. "Will  
4 you do it?" And my response was, "Sure." I don't  
5 know if I said I always do, but that is my policy.

6 I think if you -- if there were some  
7 way to check the records, you will find that I have  
8 never refused a request to reconsider a sentence if  
9 someone that feels it was unjust. And as I  
10 indicated earlier, I've read the transcript now,  
11 and I certainly feel this is an appropriate case  
12 for review of the sentence.

13 The -- one other thing that I would  
14 like to comment on is -- and this is small, but  
15 it's -- whenever I have a really difficult case I  
16 do put my head in my hands. I've been known to go  
17 backwards in the chair because these to me are  
18 difficult decisions. They're life altering for  
19 everyone who is in front of me, and I don't take  
20 them lightly. I don't render rulings in situations  
21 without thinking.

22 I may well have put my hand in my face.  
23 I may have turned in the chair. I don't have a  
24 recollection of any of that, but that is consistent  
25 with my mannerisms when I'm making a consideration

1 and, as the sergeant indicated, trying to fix it  
2 because I always attempt to fix things. I think  
3 to -- within my discretion that I can, that's part  
4 of my job, and -- and this was one that no fix came  
5 to mind.

6 But there's no question of -- to date  
7 when I was presented with the motion to reconsider,  
8 no question at all in my mind that I immediately  
9 responded in the affirmative that I would and that  
10 in a large county such as Richland, four or five  
11 months is -- good or bad, it's just not unusual for  
12 hearings to get up the docket.

13 And my -- when this was scheduled, my  
14 immediate reaction was to schedule a hearing, and  
15 then, as I explained earlier, I reconsidered that  
16 because we have -- or might have to some the  
17 appearance of impropriety. And the integrity of  
18 the Court and the process is extraordinarily  
19 important to me, and I'm humbled to be part of it.

20 CHAIRMAN McCONNELL: I think we've got  
21 a couple members -- the senator from Charleston.

22 SENATOR FORD: Judge, a few years ago  
23 I -- a gentlemen of the judiciary appointed a task  
24 force on crime in South Carolina, and one of the  
25 things we discovered was that we got something like

1 105,000 pending cases. Now, you're a circuit court  
2 judge -- I mean, a -- not a circuit court -- you're  
3 a -- no, not circuit. You're at large. At large.

4 JUDGE GOODE: At large.

5 SENATOR FORD: How many circuits do you  
6 visit per year?

7 JUDGE GOODE: This year is different  
8 because of the budget situation that the entire  
9 country finds itself in.

10 SENATOR FORD: But even before that we  
11 had a major shortage of judges, right?

12 JUDGE GOODE: Yes, sir. I'll -- I  
13 would say I would typically go from six to ten  
14 counties -- different counties during the year.  
15 Sometimes I'll go to the same county several times.  
16 Richland is close to my home county of Fairfield,  
17 and I'm sent here, Lexington, and other counties  
18 that are in close proximity on a pretty regular  
19 basis.

20 But I spent a good bit of time in  
21 Beaufort at one time and Spartanburg and I think  
22 it -- Mark Tally, who does a wonderful job of  
23 assigning the judges, he's got like a -- I think a  
24 huge map of the state, and he has to try to juggle  
25 the judges around the state and has them travel as

1 little as possible but not remain in one space.

2 SENATOR FORD: I saw you hadn't gone to  
3 Charleston. Anyway --

4 MR. NEWELL: Oh, I've been to  
5 Charleston.

6 SENATOR FORD: Now, Judge, just because  
7 you coming to Richland County four months later,  
8 does it necessarily mean that you could try a case  
9 of your choice four months later, or the cases are  
10 set -- isn't the cases set by the solicitor's  
11 office?

12 JUDGE GOODE: They are, but typically I  
13 would be able to a couple weeks before say that I  
14 have a civil matter that I want to hear --

15 SENATOR FORD: This is a civil matter.

16 JUDGE GOODE: Sir?

17 SENATOR FORD: This is a civil matter?

18 JUDGE GOODE: If it becomes a motion, I  
19 think it would -- no, it would -- it would still be  
20 in General Sessions. But that I have a matter that  
21 I want to hear that will probably take sometime and  
22 could they schedule that matter for me and I would  
23 tell them what it was.

24 SENATOR FORD: Okay. So you was in --  
25 you was in Richland County in December, and the

1 next time you would be in Richland County would be  
2 when?

3 JUDGE GOODE: I think it's April.

4 SENATOR FORD: April, and this is when  
5 you will -- this case would be coming up?

6 JUDGE GOODE: Yes, sir.

7 SENATOR FORD: Okay.

8 CHAIRMAN McCONNELL: All right. Any  
9 other questions of the judge?

10 The senator from Lexington.

11 JUDGE GOODE: But before I -- if I  
12 could.

13 CHAIRMAN McCONNELL: Yes, sir. Go  
14 ahead.

15 JUDGE GOODE: I'm not sure of the April  
16 date. I've got folks that keep up with my calendar  
17 more than I do, and I just go where they point me,  
18 and so -- but it was sometime in the future.

19 CHAIRMAN McCONNELL: The senator from  
20 Lexington.

21 SENATOR KNOTTS: Thank you,  
22 Mr. Chairman.

23 Judge, in a -- in cases whenever you  
24 have a plea, they're lined up one right after the  
25 other for the court term, right?



1 JUDGE GOODE: Typically.

2 SENATOR KNOTTS: Typically. You don't  
3 have any information about those pleas or any way  
4 to go and sit down and study the case and you have  
5 to -- do you not have to rely on the evidence  
6 that's presented by the state and the defense, you  
7 know --

8 JUDGE GOODE: Yes.

9 SENATOR KNOTTS: -- in making your  
10 decision?

11 JUDGE GOODE: Yes, sir.

12 SENATOR KNOTTS: You don't have the  
13 ability to call witnesses, do you?

14 JUDGE GOODE: No, sir.

15 SENATOR KNOTTS: Okay.

16 JUDGE GOODE: I can question witnesses,  
17 but I can't call them --

18 SENATOR KNOTTS: You can question  
19 witnesses that have been put before you, but you  
20 cannot call witnesses, right?

21 JUDGE GOODE: That's my understanding,  
22 yes, sir.

23 SENATOR KNOTTS: In this particular  
24 case, it appears to me that the victim did an  
25 eloquent job of stating her position in the case.

1 In fact, a better job than the solicitor's office  
2 did. That's my opinion. But do you feel that  
3 there could have been more information provided to  
4 you by the prosecutor that may would have been  
5 pertinent to the case to help aid a better informed  
6 decision being made?

7 JUDGE GOODE: Well, especially after  
8 seeing the file of Mr. Finney, I would have to  
9 answer yes to that.

10 SENATOR KNOTTS: I know that you have a  
11 big caseload. Was there ever any reason given why  
12 the -- the second charge was nolle prossed or was  
13 it brought up before you? Or do you recall?

14 JUDGE GOODE: If there was a reason, I  
15 do not recall.

16 SENATOR KNOTTS: But it certainly would  
17 have looked a whole lot stronger if there had been  
18 two cases there before you and knowing that it  
19 happened in a day care center?

20 JUDGE GOODE: Yes, sir.

21 SENATOR KNOTTS: And that the solicitor  
22 had not -- nolle prossed one case, did that give  
23 you any indication of -- of a plea negotiation or  
24 possible plea negotiation? Or do you even care  
25 about why it had come before you or just the fact

1 that they get there?

2 JUDGE GOODE: I -- I care, but I  
3 consider the charges that are presented to me, and  
4 sometimes, you know -- and I don't know about this  
5 particular case -- they indicate that a particular  
6 charge has been dropped, and I don't remember if  
7 that is the case in this --

8 SENATOR KNOTTS: You just don't recall  
9 that?

10 JUDGE GOODE: No, sir.

11 CHAIRMAN McCONNELL: Any other  
12 questions?

13 Representative Mack.

14 REPRESENTATIVE MACK: Thank you,  
15 Mr. Chairman.

16 Judge Goode, one of the things -- the  
17 key thing about this process today is to allow you  
18 an opportunity to give your point of view. Bottom  
19 line it for us. What is it that you really want --  
20 and the final decision is going to be made by the  
21 legislature. What do you really want to  
22 communicate to us today about this decision?

23 JUDGE GOODE: With more information, I  
24 could make a more informed decision, and I think as  
25 with most decisions, the more information you have

1 to base that decision on, the better. I recognized  
2 two days later that this would be a good case to  
3 reconsider and agreed to do that and letting  
4 Mr. Finney have that order. It doesn't appear that  
5 anybody else has done that.

6 But we don't -- we judges don't keep  
7 those type orders. The court -- the clerk of court  
8 typically keeps those.

9 REPRESENTATIVE MACK: What information  
10 do you feel is lacking -- a lot was made of the  
11 medical records. Would you say -- would you say --  
12 the medical records and some other things, but what  
13 are some of the things you would say in your mind?

14 JUDGE GOODE: I think primarily the  
15 medical records. Whoever made the observation that  
16 Ms. Gaddie made an eloquent presentation, they were  
17 absolutely correct. She did. And I didn't have  
18 the meds -- the documentation from the medical  
19 providers to properly evaluate her assessment of  
20 the situation. I could do that better with that  
21 information. And I would. I can't tell you how I  
22 will sentence, but it would -- this I think is a  
23 case it would make sense.

24 SENATOR FORD: One quick question.

25 CHAIRMAN McCONNELL: I've got

1 Representative Clemmons next.

2 Representative Clemmons.

3 REPRESENTATIVE CLEMMONS: Thank you,  
4 Mr. Chairman.

5 Judge Goode, how many times has your  
6 sentence -- a sentencing order of yours been the  
7 result of a -- or resulted in a motion for  
8 reconsideration?

9 JUDGE GOODE: To the best of my  
10 recollection, Mr. -- Mr. Representative, I don't  
11 think there has ever been a formal motion of  
12 reconsideration on one of my sentences. I would  
13 add to that, however, that there have been  
14 occasions after sentences where the attorney for  
15 the state and the defendant and I have sat down in  
16 my office and have had an informal reconsideration  
17 discussion, but I do not recall ever having a  
18 formal motion to reconsider filed in one of my  
19 cases.

20 REPRESENTATIVE CLEMMONS: So -- so when  
21 you spoke a few moments ago and said that you had  
22 always granted such motions that had been presented  
23 to you, you in fact had never had one until this  
24 case?

25 JUDGE GOODE: It would -- a matter of

1 semantics. As I indicated, they would often end up  
2 in chambers with the discussion between the  
3 parties. Prior to that --

4 REPRESENTATIVE CLEMMONS: That would be  
5 by agreement I suppose between --

6 JUDGE GOODE: Oh, absolutely.

7 REPRESENTATIVE CLEMMONS: -- between  
8 the solicitor and the defense counsel to approach  
9 you because they were in agreement that an issue  
10 needed to be addressed --

11 JUDGE GOODE: And --

12 REPRESENTATIVE CLEMMONS: -- is that  
13 correct?

14 JUDGE GOODE: Yes, sir.

15 REPRESENTATIVE CLEMMONS: But that's  
16 totally different from the type of situation that  
17 you have before you in this case, is it not, where  
18 you have a -- where you have the solicitor -- the  
19 assistant solicitor requesting without the aid and  
20 consent of the defense attorney for  
21 reconsideration?

22 JUDGE GOODE: That -- that would be  
23 different, yes.

24 REPRESENTATIVE CLEMMONS: Okay. I just  
25 want to make sure we're talking about apples and

1 oranges, Judge Goode -- that we're talking about  
2 apples and apples and not apples and oranges.

3 Let's go back for a moment to the day  
4 that your judge -- your law clerk testified that he  
5 was instructed by you to make the phone call to the  
6 assistant solicitor and to the defense attorney to  
7 notify them of your decision to reconsider the  
8 outstanding motion. That -- that was testified to  
9 be February the 12th. Do you recall that day?

10 JUDGE GOODE: Yes.

11 REPRESENTATIVE CLEMMONS: What led to  
12 your -- your request to the law clerk in that  
13 regard?

14 JUDGE GOODE: My initial thought was to  
15 have this matter resolved before today's hearing,  
16 but upon reflection, as I indicated before, I  
17 thought that there would be the appearance of  
18 impropriety on my part, that I was trying to have  
19 an influence on the screening, and I didn't want  
20 even that appearance. There's no one at this time  
21 incarcerated which might would have sped me up, but  
22 that -- I don't think even that would have.

23 REPRESENTATIVE CLEMMONS: So there  
24 wasn't any -- any event on that day of February  
25 12th that -- that led to your decision on that day

1 to instruct your law clerk to make those phone  
2 calls?

3 JUDGE GOODE: No, sir, except to  
4 hopefully make y'all's job easier or give you more  
5 information to work with.

6 REPRESENTATIVE CLEMMONS: We appreciate  
7 that.

8 I -- I believe that we have a -- an  
9 e-mail from Jane Shuler to you, Judge.

10 And I'd ask staff to hand a copy of  
11 that to the judge, if you would.

12 Judge, this is a -- I'd ask you to take  
13 a look at this e-mail and tell me if you recognize  
14 the e-mail.

15 JUDGE GOODE: I recognize the form that  
16 is being used, and we have exchanged recently so  
17 many e-mails that I can't say that I have a -- an  
18 independent recollection of this.

19 REPRESENTATIVE CLEMMONS: This e-mail  
20 is dated February 12th, 2009, is it not?

21 JUDGE GOODE: Yes, sir.

22 REPRESENTATIVE CLEMMONS: Showing  
23 having been sent at 10:59 from Ms. Jane Shuler, who  
24 is counselor to this commission, to yourself,  
25 Judge. Is that your correct e-mail address?