

1 exposure, and the next two orders are -- one is the
2 February 2nd, 2009, order on the probation
3 revocation hearing, the first hearing, and then the
4 second order is February 9th, 2009, which is when
5 you reconsidered the probation revocation.

6 JUDGE GOODE: Yes, ma'am.

7 MS. SHULER: Are you familiar with
8 these documents?

9 JUDGE GOODE: I am.

10 MS. SHULER: And they are your orders
11 that you signed?

12 JUDGE GOODE: Yes, ma'am.

13 MS. SHULER: All right. I'd like to
14 offer those as an exhibit.

15 CHAIRMAN McCONNELL: All right. Is
16 there objection? Being none, so ordered.

17 (EXH. 11, Sentencing Sheets and Orders
18 for State vs. Zail Ray Gavin, marked for
19 identification.)

20 MS. SHULER: Judge Goode, are there any
21 general comments you would like to offer to the
22 Commission regarding your philosophy with respect
23 to the State versus Zail Gavin case?

24 JUDGE GOODE: No, ma'am, except I feel
25 I have more latitude in probation than I do in

1 certain other cases and, again, try to cure the
2 problem.

3 MS. SHULER: Thank you.

4 CHAIRMAN McCONNELL: All right. Judge,
5 she's indicating we were going to move to the
6 complainants and then we'll come back.

7 MS. SHULER: Unless anybody has a
8 question.

9 CHAIRMAN McCONNELL: Unless anybody has
10 a question. I'm sorry.

11 All right, sir. You can have a seat
12 and we'll get back to you, sir.

13 JUDGE GOODE: Thank you, sir.

14 MS. SHULER: The first complainant --
15 and this was filed jointly, and I don't know if one
16 wants to designate the other. Do they both want to
17 speak or at -- one at each time? Barry Crocker and
18 Stacy Crocker.

19 CHAIRMAN McCONNELL: Do you both wish
20 to speak or one of you?

21 MR. CROCKER: I will.

22 CHAIRMAN McCONNELL: All right, sir.
23 Mr. Crocker, if you'd raise your right hand. Do
24 you swear to tell the truth, the whole truth, and
25 nothing but the truth, so help you God?

1 MR. CROCKER: I do.

2 CHAIRMAN McCONNELL: Thank you, sir.

3 MS. SHULER: As background, you live in
4 the neighborhood that Mr. Gavin's mother and
5 step-father reside in in Greenwood, and you brought
6 one of the first offenses against Mr. Gavin for
7 Peeping Tom; is that correct?

8 MR. CROCKER: Yes, it is.

9 MS. SHULER: And you have filed an
10 affidavit because you were concerned as a result of
11 Judge Goode's February 2nd, 2009, order
12 releasing -- lifting some of his probation
13 restrictions including GPS monitoring and allowing
14 him to return to the neighborhood where you reside
15 to visit his parents.

16 MR. CROCKER: That's correct.

17 MS. SHULER: Okay. I would like to
18 offer you your affidavit. Is that the affidavit
19 you filed with the Commission?

20 MR. CROCKER: Yes, it is.

21 MS. SHULER: All right. I would like
22 to offer that as an exhibit into the record.

23 CHAIRMAN McCONNELL: All right. Is
24 there an objection? Being none, so ordered.

25 (EXH. 12, Witness Affidavit Form of

1 Barry Judson Crocker and Stacy Aldrich Crocker,
2 marked for identification.)

3 MS. SHULER: Basically you allege that
4 Judge Goode performed his duties impartially in
5 dealing with litigants in this matter. Can you
6 sort of give the Commission a synopsis of what your
7 concerns are -- are with respect to his ruling at
8 the February 2nd, 2009, probation revocation
9 hearing with Mr. Gavin.

10 MR. CROCKER: It is my understanding
11 that there was some probation violation charges in
12 Greenville County against us where he came back to
13 our neighborhood, and the charges was dropped, and
14 probation -- probation was dropped and he was took
15 off of GPS monitor.

16 We -- back last summer he returned to
17 our neighborhood. My wife and I seen him out
18 there, and we went through Greenwood County and
19 also his probation agents in Richland County to
20 have him -- try to keep him from coming out there
21 around our children. I -- my daughter and son was
22 actually the victims back I think seven, eight
23 years ago. They really wasn't comfortable with him
24 being back there.

25 And like when he got out on February

1 2nd, he -- I understand he -- he dropped the
2 charges, reduced the probation down to one year,
3 took him off GPS and actually so he could be back
4 around children as long as he was monitored around
5 children, and that's my biggest concern that he'd
6 be back at his mother's and father's house and I'm
7 in close proximity to their house. I felt my
8 family was threatened by this, and that's one of
9 the reasons we did the affidavits and...

10 MS. SHULER: Mr. Crocker, you -- when I
11 look at the transcript of the record, I did not see
12 that you testified at the hearing on February 2nd.

13 MR. CROCKER: We was not aware of a
14 hearing on February 2nd.

15 MS. SHULER: But you did subsequently
16 testify at the later hearing on February 9th?

17 MR. CROCKER: Yes. That's correct.

18 MS. SHULER: And so at the February 2nd
19 hearing Mr. Gavin was released from electronic
20 monitoring by Judge Goode; is that correct?

21 MR. CROCKER: Yes.

22 MS. SHULER: And then his probation
23 term was reduced by one year from 2011 to 2010?

24 MR. CROCKER: Yes.

25 MS. SHULER: Anything else that you

1 would like to add?

2 MR. CROCKER: No. No, ma'am.

3 CHAIRMAN McCONNELL: All right. Are
4 there any questions?

5 Hearing none, thank you, sir.

6 Call whoever else you have.

7 MS. SHULER: Ms. Crocker.

8 Next -- the next person is Amy Hilley.

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

14 MS. HILLEY: Yes, I do.

15 CHAIRMAN McCONNELL: Thank you, ma'am.
16 Please answer any questions Ms. Shuler has for you.

17 MS. SHULER: Ms. Hilley, you're also a
18 resident of the same neighborhood in Greenwood
19 where the Crockers reside; is that correct?

20 MS. HILLEY: That is correct.

21 MS. SHULER: And you filed a complaint
22 with the Commission expressing concerns about Judge
23 Goode's ruling on the February 2nd probation
24 revocation hearing for Mr. Gavin?

25 MS. HILLEY: Correct.

1 MS. SHULER: Would you show her her
2 affidavit.

3 Is that the affidavit you filed with
4 the Commission?

5 MS. HILLEY: Yes, ma'am, it is.

6 MS. SHULER: All right. I'd like to
7 offer that as an exhibit into the record.

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

10 (EXH. 13, Witness Affidavit Form of Amy
11 Elizabeth Hilley, marked for identification.)

12 MS. SHULER: Ms. Hilley, you also
13 attached to your affidavit a copy of Mr. Gavin's
14 listing in the South Carolina sex offender's
15 registry; is that correct?

16 MS. HILLEY: That is correct.

17 MS. SHULER: As well as a search of the
18 Fifth Judicial Circuit public records concerning
19 his convictions?

20 MS. HILLEY: That is correct.

21 MS. SHULER: In addition you attached a
22 search of the Laurens County Eighth Judicial
23 Circuit convictions?

24 MS. HILLEY: That is correct.

25 MS. SHULER: And Greenwood County?

1 MS. HILLEY: Yes, ma'am.

2 MS. SHULER: Would you explain to the
3 Commission what concerns you have with Judge
4 Goode's ruling on February 2nd.

5 MS. HILLEY: When we moved out into
6 Harbor Heights, we purchased our property in 2001,
7 and it was after that that we had heard that
8 Mr. Zail Ray Gavin had been sentenced as a Peeping
9 Tom. And so I have two young children, and I had
10 been monitoring Mr. Gavin ever since this has
11 occurred because his parents do have a home out
12 there and it has been my concern.

13 And you can see in my affidavit that
14 not only did Mr. Gavin have a dealing with the
15 Crockers, but behind his parents' home he had
16 another victim. So there's two -- two homes right
17 there in that area that Mr. Gavin has offended
18 basically. So we've been watching this very
19 closely, especially with my two young children.

20 And so any time I hear anything about
21 Mr. Gavin coming up, I watch it closely. When I
22 had heard that he had broken his probation
23 violation last summer, I called our local -- Marion
24 Stroup which is our victims -- victims assistant
25 director here in Greenwood County with the

1 sheriff's office. When I contacted her, she didn't
2 go into detail with me, but she had told me that
3 there was a case in Richland County that Mr. Gavin
4 was coming up against, and she says, "Amy, I really
5 believe that this is going to take care of our
6 problem in Greenwood County."

7 And we thought that the case was going
8 to be heard and he was going to be taken care of.
9 Well, my understanding, it kept getting pushed off
10 and pushed off, but I hadn't heard any more about
11 it. But then when I got the phone call one
12 Wednesday evening, which was right after February
13 2nd, that Mr. Gavin had not only had his -- what --
14 that he had gone up to court for on the 2nd, that
15 they were dismissed and that he had not only been
16 dismissed, but he had had his probation
17 violation -- his probation sentence reduced by one
18 year in addition to coming off of electronic
19 monitoring, that really concerned me.

20 I didn't understand how he could be
21 taken off of electronic monitoring and have a
22 probation sentence reduced by one year when he was
23 violating probation. And so I actually -- I'm not
24 one to judge. So if you'll notice in my affidavit
25 I have a lot of questions that I presented in my

1 affidavit. I'm questioning because I'm not the one
2 to judge. I'm coming before you to review this on
3 our behalf.

4 But I actually tried to call Judge
5 Goode's office and talk to him personally about
6 what had happened, couldn't get him. He wasn't
7 available until the following week, and I said, "Is
8 there anybody I can talk to?" They referred me to
9 Ms. Sirmon who is Richland County's probation and
10 parole. I tried calling her, and that's when I
11 started sending out e-mails inquiring about stuff.
12 "How could this be?"

13 And before the weekend was up, I had a
14 phone call that there was going to be a hearing in
15 Fairfield County on Monday, so I made arrangements
16 to be at that hearing on Monday so I could get up
17 and also speak at that hearing because I just
18 didn't feel that it was just what had happened.

19 MS. SHULER: So you were not at the
20 February 2nd hearing?

21 MS. HILLEY: I was not at the February
22 2nd hearing, but I did talk to Ms. Sirmon. She
23 called me back on Saturday and talked to me and I
24 asked her direct questions, "Did this occur?" I
25 mean, I wanted to find out for myself from the

1 people that were there, and she said it had
2 occurred, and that's why I felt it was important
3 for me to be at that hearing on Fairfield County on
4 Monday to show my concerns.

5 MS. SHULER: At the February 9th
6 hearing did Judge Goode hear your testimony?

7 MS. HILLEY: He did. He did allow me
8 to get up and speak.

9 MS. SHULER: All right. And what was
10 his ruling, do you recall, from that February 9th
11 hearing?

12 MS. HILLEY: From the February 9th he
13 put the one year probation back on. He said that
14 it was not his intent. It -- because I asked him
15 why would he reduce it by one year, and he told me
16 he had not reduced it by one year. However, when
17 it went back to Ms. Sirmon, she confirmed that he
18 had reduced it. He said that was not his intent,
19 and he -- he put the sentencing back on for the one
20 year. In addition, he did put Mr. Gavin back on
21 electronic monitoring.

22 MS. SHULER: Thank you, Ms. Hilley.
23 That's all I have.

24 CHAIRMAN McCONNELL: All right. Any
25 member of the Commission have a question?

1 Thank you, ma'am.

2 MS. HILLEY: May I say something,
3 please?

4 CHAIRMAN McCONNELL: Yes, sir.

5 MS. HILLEY: Thank you. I just want to
6 thank the -- Senator McConnell. I do thank you and
7 Ms. Shuler and the rest of the members of the
8 judicial committee for hearing our concerns.

9 I try to instill in my children to not
10 be afraid to get involved, and, again, I'm not here
11 to judge. I bring my concerns to y'all. I do ask
12 that you read the transcripts from the 2nd. I was
13 not there, but from what I've heard there may be
14 some question into how things were handled and how
15 Ms. Sirmon was handled during that hearing on the
16 2nd.

17 And just also keep in mind I appreciate
18 that the General Assembly did enact back in January
19 of 1998 the victims bill of rights, and I just ask
20 that y'all keep that in mind, that the victims have
21 rights, and were they adhered to. But thank you.

22 CHAIRMAN McCONNELL: Thank you.

23 Next is?

24 MS. SHULER: Ingrid Carol Lee.

25 CHAIRMAN McCONNELL: If you'd be so

1 kind as 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 MS. LEE: Yes, sir.

5 CHAIRMAN McCONNELL: Thank you. Please
6 answer any questions Ms. Shuler has for you.

7 MS. SHULER: Ms. Lee, you filed an
8 affidavit with the Commission, and I'm going to ask
9 that Laurie bring that to you.

10 Is that your affidavit?

11 MS. LEE: Yes, ma'am, it is.

12 MS. SHULER: I'd like to offer that as
13 an exhibit into the record.

14 CHAIRMAN McCONNELL: All right. Is
15 there objection? Being none, so ordered.

16 (EXH. 14, Witness Affidavit Form of
17 Ingrid Carol Lee, marked for identification.)

18 MS. SHULER: Ms. Lee, you have a
19 daughter . (sic) with Mr. Gavin; is that
20 correct?

21 MS. LEE: Yes, ma'am.

22 MS. SHULER: And you expressed concerns
23 because you've been following all the criminal
24 history, so to speak, or -- or arrests of
25 Mr. Gavin, and your concern is related to Mr. Gavin

1 being released on -- from electronic monitoring at
2 the February 2nd hearing and allowed to visit his
3 parents; is that correct?

4 MS. LEE: Yes, ma'am. That's my main
5 concern.

6 MS. SHULER: All right. What other
7 additional concerns do you have?

8 MS. LEE: Just the handling of this
9 case since I have followed it, since '05 when he
10 was first charged in Lexington County and the way
11 it's been handled since then.

12 MS. SHULER: Can you briefly explain
13 how the handling of this case has concerned -- has
14 resulted in concerns for you.

15 MS. LEE: Yes, ma'am. Bear with me.
16 I'm a little nervous. I'll try to be as brief as
17 possible. There's a lot of information that I have
18 witnessed.

19 In 2005 Mr. Gavin was charged, as you
20 said, with Peeping Tom. Up until that point I
21 really didn't know about his criminal history which
22 is something I have a lot of regrets about. The
23 day he was arrested -- or the day I found out he
24 was arrested I stopped all visitation with Kylee,
25 and he was charged -- it was a while before it went

1 to court.

2 And I believe I have in my affidavit
3 the day that hearing was scheduled in Judge Goode's
4 court -- that was in Lexington County -- I spoke
5 with Mr. Gavin because I was quite certain he was
6 going to prison, and he informed me that he -- his
7 attorney had already met with Judge Goode, that his
8 attorney had had lunch with Judge Goode, and that
9 they had worked everything out and that he would
10 not be going to prison. And I told him that I
11 thought he was crazy.

12 I went to the hearing the next day, and
13 much to my surprise that's pretty much what
14 happened. He got 90 days in the Lexington County
15 jail to be served at his leisure either on the
16 weekends or when his employment permitted it and I
17 think some probation as well. I -- I've turned in
18 supporting documentation of all of this. I think
19 it should be on the documentation.

20 After sentencing him, Judge Goode told
21 Mr. Gavin very explicitly, "If I ever see you in my
22 courtroom again, you will regret it." And I
23 witnessed that. Since then Mr. Gavin has been in
24 Judge Goode's courtroom I honestly don't know how
25 many times. I know -- I know personally of four

1 times. I know there's more than that that I was
2 not present at. He has repeatedly been let off of
3 probation violations. In November of '07 he went
4 before Judge Goode for three counts of indecent
5 exposure, and I believe he had two or three
6 probation violations at that time.

7 Keep in mind this is a man who has
8 numerous sexual offenses in multiple states, sex
9 with a minor in Indiana. He had an indecent
10 exposure charge in Greenwood, South Carolina, in
11 1996, then the charges you heard about from them,
12 in addition to multiple felony drug charges. He
13 has been let off time and time again.

14 He went before the judge in '07 --
15 November of '07 in Richland County for the three
16 counts of indecent exposure. I believe he was
17 sentenced to three years suspended to six months.
18 He served 85 days in jail for three counts of
19 indecent exposure and I believe one count of
20 Peeping Tom, this later report shows, and multiple
21 probation violations.

22 Since being released from prison in --
23 in February of '08 he's had seven probation
24 violations in Richland County. I attended a
25 probation violation hearing in Fairfield County in

1 May of 2008 where he had -- thank you very much --
2 three probation violations. At the time Agent
3 Vandyke of the Richland County probation and parole
4 office was handling that. And I don't think my
5 testimony can let you know how that probation agent
6 was treated that day. She was chastised for
7 bringing Mr. Gavin to court. She was told she was
8 being too hard on Mr. Gavin and that they needed to
9 let up on him, that they were setting him up for
10 failure.

11 So the same outcome, nothing. Three
12 probation violations, all dismissed. Since then
13 he's had four more. The first time it was
14 scheduled was in December in Richland County for
15 the four probation violations. I was in attendance
16 at that hearing with my attorney. We were
17 scheduled I think for 9:00 a.m. This was actually
18 a couple days after the Gaddie plea.

19 We sat there until about 10:30. Judge
20 Goode finally took the bench and heard a few cases,
21 and it -- it was very odd. He seemed very unaware
22 of -- of what was going on and almost confused. He
23 kept having to repeat himself to the -- it was
24 mainly probation violations he was hearing. It was
25 very confusing for everybody there. I mean, you

1 could kind of look around the courtroom and see
2 that everybody was wondering what's going on here,
3 because he seemed so out of it.

4 He heard -- I don't remember, but two
5 or three cases and took a recess. It was less than
6 an hour in the courtroom. Came back in, heard a
7 couple more cases, and then abruptly got up and
8 said he was needed at the Supreme Court and that
9 court was over for the day. No -- that was it. So
10 we sat there from 9:00 until 12:00 something and
11 then that was the outcome.

12 It was rescheduled for February 2nd in
13 Fairfield County. I -- I was in attendance at that
14 hearing as well. Agent Sirmon was there for
15 Richland County probation and parole. She got the
16 same outcome Agent Vandyke did. She was read the
17 riot act. Judge Goode told her that if there was
18 any way possible he would be sanctioning her for
19 her actions. And he went on about that for a
20 while, and at that point said that he was going to
21 reduce Mr. Gavin's parole by one year. He was
22 going to release him from GPS monitoring, that he
23 was allowed go see his parents, and that he could
24 see his children.

25 I would also like to point out during

1 this hearing that Agent Sirmon had an affidavit
2 from a Dr. William Burke who is out of Summerville,
3 South Carolina, who was, from what I understand,
4 the head of the sex offender class or something
5 these sex offenders have to attend. And we were
6 told -- my attorney was told by Agent Sirmon that
7 he had been kicked out of that class, and it's
8 required -- it's a required class. Judge Goode
9 refused to put the affidavit into evidence because
10 Dr. Burke was not in attendance at the probation
11 hearing.

12 I was not unfortunately at the February
13 9th hearing. I was actually at Disney with my
14 daughter. And I didn't hear about it until that
15 Friday or I would have been there.

16 I would like to point out that although
17 Judge Goode decided to go back to court on the 9th,
18 Mr. Gavin received no repercussions. The only
19 thing that was done on the 9th were the same things
20 that were put back into place that he took away on
21 the 2nd. So here is a man who's had seven
22 probation violations since being released from
23 prison a year ago and he's had absolutely no
24 repercussions. Before that he had violations in
25 Richland County and in Lexington County with no

1 repercussions.

2 Maybe that's normal. My understanding
3 of -- of the law, the justice system -- I'm not an
4 attorney. But I do know a little bit that -- I
5 don't think that's the way it's supposed to work.
6 I really believe that in my heart. And I've been
7 waiting three years for this. I've been trying to
8 get somebody to listen to me for three years. So I
9 want to thank the committee for having this
10 hearing, and I really appreciate your time and I --
11 I hope that all these victims that showed up today
12 are heard because it's not about the criminals.
13 It's really not.

14 I don't expect the judge to have
15 courtesy and kindness and an open heart for a sex
16 offender or someone who slaps a six-month-old baby.
17 And that's all I have.

18 CHAIRMAN McCONNELL: All right. Does
19 any member of the Commission have any questions?

20 Thank you so much.

21 Professor, do you have a question?

22 Could you come back, ma'am. I'm sorry.

23 MS. LEE: I'm sorry.

24 CHAIRMAN McCONNELL: The professor has
25 a question.

1 PROFESSOR FREEMAN: Just very -- very
2 quickly, ma'am. You mentioned that -- that
3 Mr. Gavin was bragging about his lawyer having
4 wire -- kind of wired things with the judge, had
5 lunch with the judge. I would like to know
6 everything -- when that was and if -- if you know
7 who that lawyer was.

8 MS. LEE: I know the firm representing
9 him was Moore, Taylor & Thomas in West Columbia. I
10 believe it was a Mr. Taylor. I'm not sure. And
11 that was in -- that was right before he went to
12 court for the 2005 Peeping Tom charge. I
13 believe -- I'm not -- don't hold me to this. I
14 believe that was heard in April of '06.

15 PROFESSOR FREEMAN: This -- this is --
16 happens to be a really serious issue.

17 MS. LEE: Yes, sir, I know.

18 PROFESSOR FREEMAN: So I would like you
19 to -- to put on the record as carefully and as
20 fully as you can what you were told -- I'm not
21 saying it's true or not --

22 MS. LEE: Right.

23 PROFESSOR FREEMAN: -- but what -- what
24 you were told that you earlier alluded to with the
25 Commission.

1 MS. LEE: I spoke with Mr. Gavin the
2 day before he was to go to court. He told me that
3 his attorney was good friends with Judge Kenneth
4 Goode, that they hunted and fished together, and
5 that they had had lunch prior to the day I spoke
6 with him and that they had worked out everything
7 for the hearing the next day. I mean, that -- you
8 know, it was three years ago. That's not a direct
9 quote, but that is exactly the gist of the
10 conversation I had with him.

11 PROFESSOR FREEMAN: Did he say anything
12 about the -- anybody from the state or the
13 probation department or any -- anybody like that
14 being present?

15 MS. LEE: No. No, sir.

16 PROFESSOR FREEMAN: Okay.

17 CHAIRMAN McCONNELL: Any other
18 questions?

19 The senator from Charleston.

20 SENATOR FORD: Is -- is this a
21 telephone conversation?

22 MS. LEE: No, sir. It was
23 face-to-face.

24 SENATOR FORD: Okay. Now, I thought he
25 was under strict orders not to see you or your kid.

1 MS. LEE: My kid was not with me.

2 SENATOR FORD: So that order didn't
3 affect the kid -- I mean, you?

4 MS. LEE: No, not at the time. I'm
5 currently trying to get a restraining ordering, but
6 at the time I did not have one, no.

7 SENATOR FORD: And where was this? A
8 restaurant?

9 MS. LEE: Where did this conversation
10 take place? It took place in West Columbia at his
11 home 12 Holly Court.

12 SENATOR FORD: You went to his home?

13 MS. LEE: Yes.

14 SENATOR FORD: And what were the
15 circumstances?

16 MS. LEE: Of me going there?

17 SENATOR FORD: Yeah.

18 MS. LEE: It probably -- he owed my
19 back child support if I had to guess. That would
20 be the only reason why I would be going to his
21 house I would say.

22 SENATOR FORD: And you -- you went
23 there yourself?

24 MS. LEE: Yes, sir.

25 SENATOR FORD: And this is a dangerous

1 man and you're going to his home?

2 MS. LEE: Well, at the time I didn't
3 know his complete background.

4 SENATOR FORD: What year was this?

5 MS. LEE: 2006 -- 2006. He was charged
6 in '05.

7 SENATOR FORD: But you was talking
8 about 1996 and '7.

9 MS. LEE: I just found that out in the
10 last year, sir. Once he -- when he was convicted
11 in November of '07 for those indecent exposure
12 charges, I actually looked and searched and found
13 all his criminal records. I spoke to the
14 courthouse in Indiana where he was charged. I went
15 to the Greenwood County courthouse. I found out
16 all this on my own within the last year. At the
17 time I had no idea of all the other charges.

18 SENATOR FORD: And so -- so -- so when
19 you went to his house in 2006, did you have anybody
20 with you?

21 MS. LEE: I think a friend was in the
22 car. She didn't go in with me.

23 SENATOR FORD: So no witnesses on the
24 conversation?

25 MS. LEE: No, sir, there are no

1 witnesses.

2 CHAIRMAN McCONNELL: Any other -- the
3 senator from Lexington.

4 SENATOR KNOTTS: You say he owed you
5 back child support?

6 MS. LEE: Yes, sir.

7 SENATOR KNOTTS: Okay. So you're his
8 ex -- ex-spouse?

9 MS. LEE: I had a brief relationship in
10 2002 with him.

11 SENATOR KNOTTS: You wasn't married to
12 him?

13 MS. LEE: No, sir.

14 CHAIRMAN McCONNELL: Are there any
15 other questions?

16 Thank you, ma'am.

17 MS. LEE: Thank you.

18 CHAIRMAN McCONNELL: Ms. Fent is back,
19 so what we'll do is stop, go back to her and finish
20 up with this matter.

21 If you would come forward, please,
22 ma'am. I remind you you're still under oath.

23 Ms. Shuler.

24 MS. SHULER: Ms. Fent, thank you for
25 returning.

1 You testified earlier that you
2 submitted a motion to reconsider sentence in the
3 Talisha Smith case to Judge Goode on December
4 10th --

5 MS. FENT: Yes.

6 MS. SHULER: -- is that correct?

7 Did you -- what method did you use to
8 submit it? Did you approach him in person in the
9 courtroom?

10 MS. FENT: I went into the courtroom.
11 I wanted -- I needed to serve him with a copy of
12 it, and I didn't want to do it back in chambers or
13 anything, so I figured I'd go down while he was on
14 the bench in between pleas or whatever was
15 happening in court. I approached -- I asked to
16 approach the bench. So that's where -- where it
17 happened.

18 MS. SHULER: Was there any oral
19 agreement at that time -- did Judge Goode order
20 that he would grant your motion --

21 MS. FENT: No.

22 MS. SHULER: -- to reconsider sentence?

23 MS. FENT: No. Basically I -- I
24 approached the bench. The judge saw that I was
25 coming and kind of smiled at me and went actually

1 to fist bump me, for lack of a better description,
2 and I kind of awkwardly, you know, leaned over
3 because clearly this case has been in the news.
4 The evening before it hit the papers.

5 And he said -- I don't know if he
6 called me Margaret or Ms. Fent. I don't know if he
7 knows my first name. But said, "She only slapped
8 her," and I was very uncomfortable. I said, "Well,
9 actually I'm here. I just needed to serve you with
10 a copy -- I filed a motion to reconsider," and I
11 think my hands were even like this (indicating)
12 because I was just -- I was uncomfortable that he'd
13 made the comment, and I said, "I just wanted to --
14 to serve you with a copy of the motion."

15 And he said, "If I grant it, are you
16 going to call the media?" And I -- again, I
17 just -- you know, I said, "I just wanted to give
18 you a copy of it, Judge," and then turned around
19 and walked away. There was no indication that it
20 was going to be granted or was granted or anything.

21 MS. SHULER: Before you approached
22 Judge Goode, did you fax a copy of this motion to
23 reconsider sentence to Jerry Finney?

24 MS. FENT: I don't know if I -- I mean,
25 it was all done basically simultaneously. I had

1 typed it up, made copies, went down to the clerk's
2 office, had them all file stamped, left the
3 original one there. So I don't know if I, you
4 know, went into the courtroom first and then went
5 back up to my office to fax Mr. Finney a copy, but
6 it was all done, you know, simultaneously.

7 MS. SHULER: Thank you.

8 CHAIRMAN McCONNELL: Are there any
9 questions?

10 The senator from Charleston, Senator
11 Ford.

12 SENATOR FORD: Yeah, Ms. Fent, you say
13 you're not sure how the judge -- Finney -- how did
14 you make Attorney Finney aware of the order, right?

15 MS. FENT: I said I faxed it to him.

16 SENATOR FORD: Oh, you did?

17 MS. FENT: Not the order. There's not
18 an order. My motion --

19 SENATOR FORD: Yeah, you said you faxed
20 it to him?

21 MS. FENT: Yes.

22 SENATOR FORD: And you had to -- you
23 knew that right away? You had to think about
24 whether you faxed it or not?

25 MS. FENT: No, I knew I faxed it. I'm

1 saying I don't know if I faxed it to him prior to
2 going to give the judge a copy or after I gave the
3 judge a copy. My office is up on the fourth floor.
4 The clerk's office is on the second floor. I don't
5 remember which courtroom Judge Goode was in that
6 week, so --

7 SENATOR FORD: You have a lot of cases,
8 right, so you can't remember all the details?

9 MS. FENT: I remember this very
10 vividly.

11 SENATOR FORD: No, because you said you
12 don't know when did you fax it to him, before or
13 after Judge Goode received it.

14 MS. FENT: Yeah. It would be -- it's
15 time stamped as to when I filed it with the clerk's
16 office. I think it says 12:17 or 12:00 -- so
17 sometime around noon and I'm sure --

18 SENATOR FORD: But you know you faxed
19 it to him?

20 MS. FENT: Absolutely. Mr. Finney
21 testified that I faxed it to him.

22 SENATOR FORD: No, I believe you faxed
23 it to him. I'm just talking about when.

24 MS. FENT: Yeah. The exact time it
25 would be on his fax receipt --

1 SENATOR FORD: Because you have too
2 many cases, right?

3 MS. FENT: I have 200 charges. I have
4 less defendants, but --

5 SENATOR FORD: Judge Goode being --
6 yeah, I know. I know. Judge -- Judge Goode being
7 a rotating -- not rotating judge. What y'all call
8 him?

9 MS. SHULER: At large.

10 SENATOR FORD: At large judge. He got
11 how many cases?

12 MS. FENT: I couldn't answer that
13 question.

14 SENATOR FORD: Probably ten times more
15 than what you got?

16 MS. FENT: I couldn't answer that
17 question.

18 SENATOR FORD: Okay, but a few
19 minutes -- but when you was here earlier, you had
20 no information -- you couldn't answer because you
21 said this was a pending case, but then when you
22 came back, I mean, you're telling us all kind of
23 stuff that seem to me is strictly confidential
24 since you're talking about a pending case.

25 MS. FENT: The ethical rules allow me

1 to respond to -- when there are misstatements made
2 by other parties. Once those statements are made,
3 I am allowed under the ethical rules to respond to
4 those.

5 SENATOR FORD: You were giving us more
6 than that at a minute ago. You give us more than
7 that a few minutes ago when she was questioning you
8 about this incident.

9 MS. FENT: I heard both the law clerk
10 testify and Judge Goode testify as to the facts of
11 this discussion at the bench. I am responding to
12 that -- to that encounter.

13 SENATOR FORD: What about the comment
14 that you said Judge Goode told you what? When he
15 was playing with you and you --

16 MS. FENT: First when he went -- after
17 he fist bumped me, he said, "She only slapped her."

18 SENATOR FORD: And that's your word
19 against his word, right?

20 MS. FENT: (Nods head.)

21 SENATOR FORD: But that's not too much
22 information for us?

23 MS. FENT: I'm telling you the facts of
24 my -- of my encounter with the judge.

25 SENATOR FORD: But, Attorney, you said

1 that earlier you cannot answer a question. Now
2 you're telling us something that is real damaging
3 to the judge.

4 MS. FENT: When I initially testified,
5 the law clerk had not testified to this
6 encounter --

7 SENATOR FORD: But nobody mentioned
8 this incident about he (sic) only slapped her.

9 MS. FENT: Right. I just testified to
10 that.

11 SENATOR FORD: But it wasn't on the
12 record, so why you had to bring that up if you
13 didn't have that information before?

14 MS. FENT: I'm responding to the
15 testimony of the law clerk and the judge.

16 SENATOR FORD: She's bringing new
17 information now that she -- she couldn't bring
18 before.

19 PROFESSOR FREEMAN: She's allowed to
20 respond if something is under oath. She's under
21 oath.

22 SENATOR FORD: But that's not my point.
23 That's not my point. My point is this. Earlier
24 she couldn't answer no question because she said
25 it's a pending case, and now she's telling us -- I

1 know she's under oath. That's common sense. But
2 she's also bringing new information that is
3 damaging.

4 PROFESSOR FREEMAN: We brought -- we
5 brought her back.

6 SENATOR FORD: But not to bring new
7 information.

8 PROFESSOR FREEMAN: Well --

9 SENATOR FORD: I mean, she's going to
10 tell --

11 PROFESSOR FREEMAN: There's no other
12 reason to bring her back.

13 SENATOR FORD: No, no, no. Professor,
14 I disagree. The reason we brought her -- the
15 reason we brought her back is to respond to
16 those -- some of those charges. That's why we
17 brought her back.

18 PROFESSOR FREEMAN: That's what she's
19 doing.

20 SENATOR FORD: No. No, she's not. She
21 brought additional information.

22 Well, let me ask you a question. Can
23 you find in the record where -- where anybody said
24 that the judge said that "I only slap --" I mean,
25 he only -- "she only slapped her"? Is that any

1 place in the record? Isn't that new information?

2 Is that new information?

3 MS. FENT: I think the law clerk did
4 testify that there was a discussion, and I am
5 clarifying and responding as to what that
6 discussion was between myself and the judge.

7 SENATOR FORD: Okay. Your discussion
8 with the judge, the law clerk -- the law clerk
9 heard that, that he said that?

10 MS. FENT: If he was listening to what
11 was said, that is what was said.

12 SENATOR FORD: Where was -- where was
13 the law clerk?

14 MS. FENT: He was sitting to the left
15 of Judge Goode. I remember him -- he had a laptop
16 there, and I remember him kind of turning back to
17 his -- to his laptop, to his computer and kind of,
18 you know --

19 SENATOR FORD: So basically --

20 MS. FENT: -- both looking at us and
21 also, you know, typing whatever it was he was -- he
22 was doing on the laptop.

23 SENATOR FORD: So based on all that,
24 the law clerk is going to testify and say that he
25 did hear the judge say that?

1 MS. FENT: I don't know what the law
2 clerk would testify to, but this is what was said
3 to me.

4 SENATOR FORD: It's just interesting
5 that right now you have so much free information
6 and before you didn't have any.

7 CHAIRMAN McCONNELL: Let me -- so we
8 can clarify for the record, is -- your
9 understanding of the ethics is that on a pending
10 matter that if a comment is made, you're allowed to
11 clarify if it's made about you or in contradiction
12 with what you know --

13 MS. FENT: Correct.

14 CHAIRMAN McCONNELL: -- is that
15 correct?

16 MS. FENT: Outside the -- I can speak
17 on what's basically public -- public knowledge, you
18 know, the date of arrest, the time of arrest.
19 There's a list of things that are in the ethical
20 rules that I can comment on, but I can also respond
21 to misstatements or to clarify.

22 CHAIRMAN McCONNELL: All right. I just
23 want to get the record clear. And -- and earlier
24 until those comments were made, you did not feel
25 that under the ethics you could comment?

1 MS. FENT: Correct.

2 CHAIRMAN McCONNELL: Now that those
3 comments have been made, you feel you're simply
4 responding to those comments even if they contain
5 information you previously could not have given?

6 MS. FENT: Correct. If -- if when I
7 was up here you had asked me about my
8 communications, I would have not talked to you
9 about them, but it was after I testified. The law
10 clerk came up here and testified and Judge Goode
11 indicated that he told me that I said, "Will you
12 hear my motion?" and that he responded, "Yes, of
13 course I will," and that conversation did not take
14 place.

15 CHAIRMAN McCONNELL: Does anybody have
16 any other questions?

17 The senator from Lexington.

18 SENATOR KNOTTS: How long have you been
19 a solicitor?

20 MS. FENT: I've been a prosecutor for
21 17 years.

22 SENATOR KNOTTS: 17 years.

23 MS. FENT: Yes.

24 SENATOR KNOTTS: All in the Fifth
25 Circuit?

1 MS. FENT: No, sir. I started out in
2 San Antonio, Texas, at the Bexar County district
3 attorney's office. I worked there for
4 approximately eight years. I then came to the
5 National Advocacy Center where I taught prosecutors
6 how to try cases for approximately five years, and
7 then I took the bar exam here in South Carolina, my
8 second bar exam. Then I've been with the Richland
9 County solicitor's office since January of 2005.
10 So I've been a prosecutor my whole -- my whole
11 career.

12 SENATOR KNOTTS: Okay. Do they --
13 where you come from in Texas do they have the same
14 type of procedures that you see here in South
15 Carolina as it goes to preparing orders and
16 requesting orders and judges -- do judges make the
17 order -- or prepare the order or does the assistant
18 solicitor?

19 MS. FENT: Generally the judge does.
20 The -- judges there don't have law clerks. There's
21 a central office that basically does all the
22 paperwork and everything and assists each of the
23 judges, and so out of that office there's a support
24 staff.

25 SENATOR KNOTTS: Is it the procedure

1 here that whenever you ask for a motion that the
2 motion is granted or are orders prepared by the
3 solicitor?

4 MS. FENT: Not all the time.

5 SENATOR KNOTTS: Not all the time, but
6 sometimes?

7 MS. FENT: Yeah, sometimes, and
8 sometimes the judge's law clerk will prepare the
9 orders, and sometimes we prepare them and attach
10 them to the motion. It's just different practices.

11 SENATOR KNOTTS: And you serve them on
12 all parties? Once it's granted, you serve it or --
13 well, once it's asked for, you serve it --

14 MS. FENT: Absolutely.

15 SENATOR KNOTTS: -- like you did in
16 this case?

17 MS. FENT: Once I am told that -- I
18 guess in this specific -- if a rehearing is going
19 to be granted -- because a judge doesn't have to
20 grant a rehearing. It's not an automatic thing.
21 They could just, you know, issue an order and deny
22 it by written order. They could issue an order and
23 grant it. They could I guess just sit on it and
24 not respond at all potentially to the motion.

25 SENATOR KNOTTS: Sometimes verbal --

1 grant it verbally?

2 MS. FENT: Well, in this case that's
3 what happened is I was called and told that the
4 judge was going to schedule it.

5 SENATOR KNOTTS: Okay. Let me ask you
6 this. After the sentencing of -- of the defendant,
7 you brought to the attention in -- of the Court
8 that you wanted her -- in addition to the ten years
9 suspended on five years probation, that you wanted
10 her listed on the DSS child abuse list?

11 MS. FENT: Yes. And I think I also at
12 the very beginning when the judge asked, you know,
13 what is the charge -- or I indicated to the
14 judge -- I basically announced the case. This is
15 the defendant standing before you. This is the
16 attorney. This is what they're charged with.

17 SENATOR KNOTTS: This was at the very
18 end after the sentence of the Court, and the record
19 shows that you said -- after everybody said, "Yes
20 Your Honor," and they were fixing to go, you said,
21 "Judge, you -- we want on the list for the DSS
22 child abuse list."

23 MS. FENT: Right. What I was going to
24 get at is that it was -- it's an automatic finding
25 if you're convicted of this offense. It's under

1 statute, so I just wanted to make sure that that
2 finding --

3 SENATOR KNOTTS: Right.

4 MS. FENT: -- that's basically what my
5 statement was, "And, Your Honor," you know, to make
6 sure that the --

7 SENATOR KNOTTS: Right.

8 MS. FENT: -- finding was put on the
9 order.

10 SENATOR KNOTTS: You wanted it clear
11 that she was going to be put on that list so that
12 she couldn't take care of children anymore which is
13 appropriate.

14 MS. FENT: Absolutely.

15 SENATOR KNOTTS: That's right. All
16 right. You said two days later you went to the
17 judge with the order and it had been on the news
18 the night before.

19 MS. FENT: It was actually on the news
20 the night of the plea.

21 SENATOR KNOTTS: Night of the plea.

22 MS. FENT: Right, that night. The --
23 the media were there at the plea. Immediately
24 after leaving the courtroom, they were interviewing
25 the victims' parents. So it was on the news that

1 night.

2 SENATOR KNOTTS: Okay. If you had
3 disagreed with the -- or didn't feel comfortable
4 with the sentence that the judge handed down, would
5 it not be normal that you would say, "Judge, I
6 would like ask for you to -- I'm going to form --
7 file a motion or ask you to reconsider this case,"
8 or --

9 MS. FENT: No.

10 SENATOR KNOTTS: -- what point in time
11 did you decide that you wanted to have the case
12 rehear -- reheard?

13 MS. FENT: Well, the next day was
14 immediately when we --

15 SENATOR KNOTTS: After it got on the
16 news?

17 MS. FENT: This plea -- I think it
18 ended, you know, close to around five o'clock.
19 Everyone disbursed. Immediately the next morning,
20 you know, we began discussing what do we need to do
21 as an office. This is --

22 SENATOR KNOTTS: Had it been on the
23 news yet?

24 MS. FENT: Yeah, the night before it
25 had been on the news.

1 SENATOR KNOTTS: So it already hit the
2 news. The publicity was out there, and at that
3 point in time y'all in the office decided that
4 y'all wanted to sit down and decide what you were
5 going to do. Was it solely because the sentence
6 wasn't appropriate or was it because the news was
7 going to be running it?

8 MS. FENT: We have filed a motion for
9 reconsideration because we believe that --

10 SENATOR KNOTTS: But at that time you
11 had not?

12 MS. FENT: We filed the motion for
13 reconsideration because we believe the probationary
14 sentence not to be the appropriate one.

15 SENATOR KNOTTS: Okay. I agree with
16 you on that. But you filed that motion after it
17 got on the news and y'all sat down in the office
18 and discussed what you were going to do about it?

19 MS. FENT: By virtue of -- yeah, just
20 how everything happened, the filing of the motion
21 was after it had been on the news.

22 SENATOR KNOTTS: Okay.

23 MS. FENT: The filing of the motion was
24 after he sentenced her to probation.

25 SENATOR KNOTTS: Right. Okay. After

1 the -- after the sentencing, did the family in any
2 way show the displeasure to you, which they should
3 have, for the sentence?

4 MS. FENT: Oh, immediately.

5 SENATOR KNOTTS: Immediately?

6 MS. FENT: Immediately.

7 SENATOR KNOTTS: Did you tell the
8 family at that time that "I will ask for a
9 rehearing," --

10 MS. FENT: At that time --

11 SENATOR KNOTTS: -- or did you wait
12 until the next morning?

13 MS. FENT: At that time it was a matter
14 of really emotionally calming down Mrs. Gaddie
15 because she was in such shock. We had deputies
16 coming out into the hallway to find out why she
17 was -- you know, the noise was emanating --

18 SENATOR KNOTTS: And she had a right --

19 MS. FENT: -- from the hallway.

20 SENATOR KNOTTS: She had a right to
21 be --

22 MS. FENT: Absolutely. Absolutely.
23 So, you know, it was after -- I mean, you are going
24 to have discussions about what vehicle do we have
25 now at our -- that we can go forward on, what our

1 are options, what can we do. It was after a
2 discussion and a thorough thought that we filed
3 that motion.

4 SENATOR KNOTTS: The first thing that
5 would come to my mind when I had a situation like
6 that, the first thing I'd do if I was a
7 prosecutor -- and I've seen solicitors in this --
8 in that office, Dick Harpootlian, Joe McCulloch,
9 numerous solicitors who was in that thing.
10 Whenever they had a sentence that they didn't agree
11 with and -- and the victim was not happy with it
12 and he wasn't happy -- he or she wasn't happy with
13 it, they immediately told the victim, "Well, we
14 will see about having a rehearing on this or a
15 resentencing on this. We will file a motion," and
16 explain to them what the -- what could or
17 couldn't -- couldn't happen, and --

18 MS. FENT: I understand your --

19 SENATOR KNOTTS: -- it just concerns me
20 that we waited until after -- only after -- after
21 she -- she was upset, had a right to be upset, and
22 only after it got on the news did the solicitor's
23 office turn around and sit there and say, "Well,
24 we'll file a motion today."

25 MS. FENT: It was definitely by virtue

1 of -- or after she was upset because that is
2 immediately -- the minute probation came out of his
3 mouth -- ten years suspended to five years
4 probation, she was immediately upset. There was no
5 pause in her, you know, displeasure of that.

6 I understand your -- I understand your
7 criticism of our waiting to announce that we were
8 going to file the motion to reconsider, but we
9 actually had until the end of the week -- until
10 Friday to file that motion. We had one day of
11 discussion, calling the victims, telling them what
12 we were going to do. The next day I typed up the
13 motion. I filed that motion.

14 The -- the appropriateness of the
15 sentence has nothing to do with how quickly we made
16 the decision. Either probation is -- is an
17 appropriate sentence or it's not.

18 SENATOR KNOTTS: That's right.

19 MS. FENT: How timely filed, you know,
20 the motion is doesn't change that.

21 SENATOR KNOTTS: And the final
22 question. Whenever you asked for a motion to
23 reconsider the sentence, that -- and it's granted
24 and you have the hearing, that hearing consists of
25 one of three things that can happen. They can

1 either -- the judge can take into consideration the
2 entire sentence. Basically he can increase the
3 sentence. He can hold it as -- as he ordered it as
4 the same sentence, or he can lower the sentence.

5 So that is a resentencing, right? He's
6 got to verify what he's going to do, whether he's
7 going to uphold the sentence he gave, increase it
8 to a different sentence, or lower it. That's a
9 resentencing, right?

10 MS. FENT: I don't know if necessarily
11 I would agree to that. I --

12 SENATOR KNOTTS: Well, tell me what it
13 is then.

14 MS. FENT: Well, his -- his -- the
15 sentencing sheet is signed, and it's -- and she has
16 been serving probation on this case. I guess if
17 there is no change in the decision of what the
18 sentence would be, it is just --

19 SENATOR KNOTTS: He upholds the
20 sentence.

21 MS. FENT: -- I am -- right, upholds
22 the sentence.

23 SENATOR KNOTTS: He upholds his
24 sentence. And if he change -- if he wishes to
25 change it, he vacates that sentence and either

1 put -- and puts another sentence on there whether
2 it be increasing the penalties or the penalties --
3 and it's a totally different sentence then, right?

4 MS. FENT: Yeah, then --

5 SENATOR KNOTTS: Vacates the present
6 sentence.

7 MS. FENT: Then I guess there would
8 have to be a new sentencing sheet --

9 SENATOR KNOTTS: Right. And that's
10 what happens?

11 MS. FENT: -- possibly filled out or
12 amended.

13 SENATOR KNOTTS: Okay. Thank you.

14 CHAIRMAN McCONNELL: Representative
15 Clemmons.

16 REPRESENTATIVE CLEMMONS: Thank you,
17 Mr. Chairman.

18 Ms. Fent, thank you for coming back.
19 It would be an understatement to say that I'm --
20 I'm a little disappointed. I'm -- I am just
21 absolutely upset at this moment because there has
22 been perjury here today. We have heard totally
23 opposing testimony between yourself and the judge,
24 and I think it appropriate that you to be back here
25 to respond to that opposing testimony. I'd like to

1 hear the judge's position after having heard you
2 today.

3 The -- the actual testimony from the
4 judge was that he had agreed with you to not rehear
5 or hold a motion, but to resentence in this matter.
6 And -- and your response to that is what, Ms. Fent?

7 MS. FENT: Well, what I heard him say
8 was that I had approached the bench, that he had
9 handed him the motion, that I asked him, "Will you
10 hear it?" And he responded, "Yes, of course." And
11 those two statements back and forth did not -- that
12 was not our conversation.

13 REPRESENTATIVE CLEMMONS: Ms. Fent --

14 MS. FENT: Our conversation was as I
15 stated.

16 REPRESENTATIVE CLEMMONS: He later went
17 on to testify in response to a question posed by
18 Mr. Sellers that not only had he agreed to rehear
19 the matter, but he had agreed to resentence the
20 defendant in the matter. So -- and your response
21 to that is?

22 MS. FENT: I did not hear those words.
23 What I heard was the, you know, initial statement,
24 "She only slapped her," and then I said, "Well, I'm
25 actually here on that case, Judge." I said, "I'm