

1 Ms. Timmins, you may call your next
2 witness.

3 MS. TIMMINS: The State calls

4 [REDACTED]
5 [REDACTED]

6 called as a witness by the State, being
7 first duly sworn by the Court, was
8 examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MS. TIMMINS:

11 Q. Would you please state your name.

12 A. [REDACTED].

13 Q. We're in a big room so we really
14 just have to yell at each other, okay?

15 A. Okay.

16 Q. Would you spell your name for the
17 court reporter, please.

18 A. [REDACTED]
19 is [REDACTED]

20 Q. Ms. [REDACTED], where do you live?

21 A. [REDACTED], right now.

22 Q. Where do you work?

23 A. [REDACTED].

24 Q. How long have you worked there?

25 A. I work there about three year ago,

1 four year right now.

2 Q. And what is your job there?

3 A. Manager of the [REDACTED]

4 [REDACTED]

5 Q. The manager of the [REDACTED]

6 A. Yeah.

7 Q. What is your educational
8 background?

9 A. Two year college.

10 Q. Where did you go to college at?

11 A. [REDACTED]

12 Q. What is your employment history?

13 A. Full time. Been in the [REDACTED]
14 business more than twenty-five years.

15 Q. Who do you live with in [REDACTED]?

16 A. With Bxxxxxx [REDACTED] my son.

17 Q. How old is Bxxxxxx right now?

18 A. Bxxxxxx just turn 16 yesterday.

19 Q. And what's his date of birth?

20 A. Xxxxxxxxx xx, xxxx.

21 Q. Did you take him out for his
22 birthday?

23 A. Yes, we did. We went to the
24 Mexican Restaurant across here. He was
25 craving for Mexican food last night.

1 Q. You stayed here in town last night;
2 is that right?

3 A. Yes.

4 Q. I want to talk to you about Midwest
5 Academy. You chose to send Bxxxxxxx there;
6 is that correct?

7 A. Yes.

8 Q. When did he go there?

9 A. It was Labor Day, 2014.

10 Q. What was going on with Bxxxxxxx that
11 made you start looking for some type of
12 placement for him?

13 A. Well, Bxxxxxxx have ADHD when he's
14 around 4, 4 and a half years old. And
15 when Bxxxxxxx about 10 years old, he
16 diagnosed with bipolar. And so he have a
17 lot of problem at school with his bipolar
18 and his ADHD. So I search online to see
19 where I could send my son to get the
20 better structure, make him better kid. So
21 that's where I found Midwest Academy.

22 Q. Was there also some involvement
23 with the court system prior to Bxxxxxxx
24 going there?

25 A. Yes. Because like I say, he's

1 bipolar, switch him on and off, so he get
2 trouble with school. Even though Bxxxxxx
3 went to a special school there for ADHD,
4 bipolar, Down syndrome, and other stuff,
5 but he still get to go court. So I'm
6 tired of that, and human services say they
7 want to take Bxxxxxx away, this and that.
8 So it's make me mad because I feel like
9 I'm not good parent.

10 MS. SCHAEFER: Objection, Your
11 Honor. This is really non-responsive to
12 Ms. Timmins' question.

13 MS. TIMMINS: She's explaining why
14 she sent Bxxxxxx to Midwest.

15 THE COURT: Overruled. Go ahead.

16 A. So that's how I feel like. So
17 that's why I don't want human services
18 involved. So I research online about the
19 program to help my son. I took my son on
20 my own.

21 Q. So am I right to say-- You said
22 that Bxxxxxx was in a special school?

23 A. Uh-huh (in the affirmative).

24 Q. Is that a yes?

25 A. Yes.

1 Q. What type of school was that?

2 A. It's for the kid that have ADHD,
3 bipolar and Down syndrome.

4 Q. Kids that have problems being in a
5 normal classroom?

6 A. For those special, yes.

7 Q. And it sounds like that there was
8 some assaultive behaviors and things going
9 on that Bxxxxxx got involved in the court
10 system; is that right?

11 A. Yes. At that special school, yes.

12 Q. Was it because of some of Bxxxxxx's
13 behaviors that DHS was saying, you know,
14 we need to get him placed somewhere, we
15 want to get involved?

16 A. That's what they say, yes.

17 Q. So you're looking at Midwest
18 Academy or some type of place for him so
19 you could keep control of Bxxxxxx and
20 custody of him--

21 A. Yes.

22 Q. --and not have DHS involved?

23 A. Yes.

24 Q. How did you find Midwest Academy?

25 A. I went online and we search too

1 many school. And I saw the information
2 about Midwest that matching what Bxxxxxx--
3 for Bxxxxxx.

4 Q. What matched? What was on this
5 website that you thought, wow, this looks
6 like a good match?

7 A. For ADHD, bipolar, help him
8 structure, him to be better when he get
9 out high school, help his behavior.

10 Q. All right. So you see this online.
11 What do you do?

12 A. So I call. Contact with a
13 gentleman. I forgot his name. I have it
14 in my phone. And he's contact me and tell
15 me what to do, what the requirement.

16 Q. How to apply?

17 A. Yes.

18 Q. Did you fill out a form?

19 A. Yes. The requirement is tell what
20 is Bxxxxxx history, what he been through
21 other time, if he ever been in trouble,
22 what have he been charge, what he do. So
23 everything is in application. They have
24 to know before they accept Bxxxxxx.

25 Q. And you put all that information

1 in?

2 A. Majority, yes.

3 Q. Was he accepted?

4 A. Yes.

5 Q. How quickly from when you applied
6 to when he was accepted? Do you remember?

7 A. I look at the thing on February
8 2014. But I keep thinking back and forth,
9 should I do it, should I not? And finally
10 I talk to Bxxxxxxx in between those time
11 until Bxxxxxxx went, okay. So the process
12 of paperwork is, like, somewhere, a couple
13 month within a month or two, July or
14 something.

15 Q. Was that a difficult decision for
16 you to make, to send him away?

17 A. Yes. Because he's my son and I
18 want to be with him. I don't want to take
19 him far away from me.

20 Q. But you wanted to get him help?

21 A. Yes. Like I say, I don't want him
22 out of control and be a bad kid.

23 Q. You said you went to MWA, Midwest
24 Academy, Labor Day of 2014; is that right?

25 A. Yes.

1 Q. Who did you meet with that day?

2 A. I meet with Mr. Ben Trane and some
3 other staff that took us tour around the
4 school.

5 Q. Is Mr. Ben Trane in the courtroom?

6 A. Yes.

7 Q. Can you tell us what color shirt he
8 has on?

9 A. He have a grayish tie and a blue
10 shirt and a grayish-black jacket.

11 MS. TIMMINS: If the record would
12 reflect that the witness has identified
13 the Defendant.

14 THE COURT: It may.

15 Q. (By Ms. Timmins) All right. You
16 said that the Defendant had given you a
17 tour of the school; correct?

18 A. Yes.

19 Q. Did you talk to him during that
20 time?

21 A. Yes.

22 Q. Did you have discussions about the
23 types of services that Bxxxxxxx was going
24 to receive?

25 A. Yes. We spent about a couple hour.

1 Q. What were you told by the Defendant
2 as to what the school was going to
3 provide?

4 A. How the school discipline. How the
5 kid follow the school rule here. If they
6 get in trouble they would get locked in
7 the OSS, which is the private room that
8 video monitor, that upper class would sit
9 there and monitor four or five room in
10 there. If the kid act out or shouting
11 with another kid in the area, the door
12 will be shut, but normally the door will
13 be open.

14 Q. You were told that normally the
15 door is left open?

16 A. Yes.

17 Q. Did the Defendant talk to you at
18 all about what kind of therapy or services
19 your son would get?

20 A. About the therapies, I noticed that
21 they don't have a therapy on site, but
22 they would have transportation to take
23 Bxxxxxx to the therapy to see a doctor so
24 he can get his medications.

25 Q. And what about any counseling on

1 site? Did you talk about that at all?

2 A. I don't really remember about the
3 counseling.

4 Q. All right. But you were told that
5 there was a doctor off site that the kids
6 could be transported to see?

7 A. Yes.

8 Q. And when you say "doctor," do you
9 mean a doctor as in, my stomach hurts, or
10 doctor as in a psychiatrist?

11 A. Could prescribe some medication,
12 like a psychiatrist to prescribe
13 medications.

14 Q. And was Bxxxxxx taking some
15 medications before he went there?

16 A. Yes. Before we went down to
17 Midwest Academy, I talk to his local
18 doctor. They gave us two extra month of
19 medication so we can bring down here. So
20 when Bxxxxxx can settle down to find a
21 doctor down here, so he have enough
22 medications.

23 Q. So do you remember what types of
24 medication he had?

25 A. I remember at that time it's

1 Adderall.

2 Q. Is that for ADHD?

3 A. Yes. Adderall for ADHD, some
4 codeine to help him sleep--just 1 percent
5 or 1 milligram or something. I don't
6 really know if it was Vyvanse at this
7 time. It's been quite a while.

8 Q. Did you say Vyvanse?

9 A. Yes, Vyvanse.

10 Q. Okay. But you're not for sure if
11 he had that yet or not?

12 A. Yes. He changing his medication
13 these few years so--

14 Q. Sure. But when you went there, he
15 was on medications from his doctor for
16 ADHD; correct?

17 A. Yes, and bipolar.

18 Q. And you took an extra two-month
19 supply so he would have it in school?

20 A. Yes.

21 Q. And then it was your understanding
22 that he would be taken off site to see a
23 psychiatrist and continue having
24 medications prescribed?

25 A. Yes. Because I have e-mail from

1 the nurse and the doctor at the office.

2 Q. E-mail from the nurse and doctor
3 from--

4 A. From Bxxxxxx see down here at
5 Midwest.

6 Q. Okay. And that's what you were
7 told?

8 A. They send me e-mail after Bxxxxxx
9 see them or they need to change the
10 medication. They would tell me.

11 Q. Okay. And was that a nurse that
12 was on the campus?

13 A. Off the campus at the doctor--like
14 I say, I have them in my phone--the doctor
15 that Bxxxxxx go see.

16 Q. All right. So you did see the OSS
17 rooms that day. So you were aware they
18 were there?

19 A. Yes.

20 Q. What was your understanding--was it
21 explained to you that day how you would be
22 informed if Bxxxxxx was in OSS?

23 A. If he sleep there they will put a
24 little 4 or 5-inch mattress--thickness of
25 a mattress in for him sleep at night and

1 then will take it out in the morning. If
2 his meal be fed, they bring it in the room
3 for him. And they didn't told me anything
4 about how he sit or he stand or that he
5 had to raise a hand to have to move
6 around.

7 Q. You weren't told that he had to sit
8 in structure in there?

9 A. No.

10 Q. Did you receive phone calls from
11 the school if Bxxxxxx was put in OSS?

12 A. Majority, yes.

13 Q. Did you say-- What?

14 A. Yes.

15 Q. But what did you--

16 A. Most of the time, yes.

17 Q. Did you get a lot of phone calls
18 about that?

19 A. Eventually, e-mail.

20 Q. So instead of phone calls you
21 started getting e-mails about it?

22 A. Most of it is e-mail.

23 Q. And who is calling and e-mailing
24 you about this?

25 A. I remember Mr. Don is majority, is

1 gentleman that send me e-mail and call.

2 Q. Was that Bxxxxxxx's family rep?

3 A. Yes.

4 Q. And what was your understanding
5 from his calls as to how Bxxxxxxx was doing
6 at school?

7 A. He be in OSS. Before he get out,
8 he have to do structure, and sometime
9 Bxxxxxxx broke structure, and they have to
10 start all over again. And he have to
11 write like 2--what you call it--2 piece of
12 paper.

13 Q. An essay?

14 A. Yes. And then when he in there
15 longer, it have to be 3 or 4 pages before
16 he can get out. And one time I noticed
17 that Bxxxxxxx was in there more than a
18 week.

19 Q. Did you say anything about that?

20 A. I think I did e-mail to Don and ask
21 why, you know, and stuff.

22 Q. What was going on?

23 A. Yes.

24 Q. What types of things were you being
25 informed of as to why he was going into

1 OSS?

2 A. Well, sometime I receive a letter
3 from Bxxxxxx when he could get to write
4 home a letter. He say just was a little
5 thing or Mr. Don say, he's supposed to be
6 in line, to go to different class, or go
7 to here and there, and just run off the
8 line and he get punished for just a little
9 thing, or shout in line, or not follow
10 instructions.

11 Q. Now, there was sometimes, too, that
12 you were told he was being physically
13 aggressive or assaulting someone or things
14 like that; correct?

15 A. Yes. When they try to put him back
16 in line or something. He--Mr. Don told me
17 he would blow up at them.

18 Q. Were you able to visit Bxxxxxx when
19 he was there?

20 A. When Bxxxxxx was here on Labor Day,
21 I have to attend a parenting class for two
22 days.

23 Q. Is that through Midwest Academy?

24 A. Through Midwest Academy for the
25 parent training, how to cope and how to

1 see your son, after three months you
2 haven't seen him. So I did that. It
3 begin the first week of December. After I
4 attend the class we got to meet with my
5 son Bxxxxxxx.

6 Q. Were you not allowed to see him
7 prior to that?

8 A. No. You have to attend their
9 training class first.

10 Q. So you dropped him off in
11 September, and then the first time you saw
12 him again was in December; is that right?

13 A. Yes.

14 Q. Did you notice anything different
15 about him?

16 A. I saw a whole bunch of kids coming
17 out from a group, and see this little dude
18 and I cannot recognize him. I go, who's
19 that little tiny kid? And it took me a
20 while because he has his hair cut all off,
21 buzz haircut, and the next thing I know
22 is, that's my son that I did not
23 recognize.

24 Q. He looked like he had lost a lot of
25 weight?

1 A. Yes. He look like he go from 135
2 to 90-something pound.

3 Q. Were you concerned?

4 A. Yes, I did.

5 Q. Did you talk to anybody about that?

6 A. I ask Mr. Ben, and I ask Mr. Don,
7 and Mr. Bill said he check with the nurse
8 and everything. Bxxxxxx, you know,
9 metabolize and his health and everything,
10 they said, meet the guideline, that he
11 don't need to be over for his body and his
12 weight.

13 Q. So the Defendant told you that he
14 was at his healthy guidelines and he was
15 fine?

16 A. Yes.

17 Q. How much time did you get to spend
18 with him in December?

19 A. About two, two and a half hour.

20 Q. When is the next time you saw
21 Bxxxxxx?

22 A. I believe we have another class
23 going on in February.

24 Q. You went to that?

25 A. For the second, yes.

1 Q. So this was another parenting
2 class?

3 A. Yes.

4 Q. How long did you get to see Bxxxxxx
5 then?

6 A. About the same time, about a couple
7 hours.

8 Q. Did you still have some concerns
9 about his weight?

10 A. Well, when I see Bxxxxxx, he don't
11 tell me much anything was going on. But
12 then he looked the same, I mean--

13 Q. The same as he did in December?

14 A. Yeah, just a few months.

15 Q. Did Bxxxxxx--you said he doesn't
16 say much about what's going on. Did he
17 talk about what was happening at the
18 academy?

19 A. Well, when he sent a letter--in the
20 beginning of a letter, he so upset, mad;
21 you don't know how they treat me here; you
22 don't know when they restrain me; I get
23 hurt; I get bleed; I get scar; I get
24 bruise; you don't know what I have to deal
25 with here.

1 And then later by the end of the
2 letter, he calmed down. But he didn't
3 never mention, like, how he get hurt,
4 pain, or what. And at the end of the
5 letter, okay, Mommy, I love you. Tell the
6 family I love them, I miss them.

7 So it's about same. So that's why
8 I never concern. And then when I see him,
9 he just so happy to see me and hug me and
10 just laid in my lap and bring him all the
11 Asian food that he asking for. He just
12 laid in my lap and hugged me. He didn't
13 say much.

14 Q. Is that what he did most of the
15 time the first time when you saw him?

16 A. Yes.

17 Q. He just sat there and let you hug
18 him?

19 A. Yes. And then we sit on sofa, and
20 he put his head on my lap, just act like a
21 baby and laid in my lap.

22 Q. And you had several letters from
23 Bxxxxxxx like that; correct?

24 A. Yes.

25 Q. Did you express any concerns about

1 that to the academy, that you were getting
2 these kinds of letters?

3 A. I did.

4 Q. And what were you told?

5 A. I did majority talk to Mr. Don, his
6 rep. And when I see that he say: fine, if
7 you want me to get kill here and you don't
8 care about me, or I will do this, do that.
9 So I let Mr. Don know what Bxxxxxx wrote
10 in the letter to concern and look out.

11 We just communicate, but don't say
12 much about what they going to do, or they
13 say they going to watch out for him.
14 That's what Mr. Don say.

15 Q. That they'll watch out for him?

16 A. Yes.

17 Q. During your parenting classes at
18 Midwest Academy, were you taught that a
19 lot of times kids will say those kinds of
20 things because they're trying to
21 manipulate their parents?

22 A. Yes. So Mr. Ben and other staff
23 members say, don't listen to your kid
24 because they just here, they're new. They
25 just here about a few month, so of course

1 they cannot deal with the structure here
2 and they want to go home. So that's how
3 they trying you to get them home.

4 So just ignore them. Give them a
5 few more month to see how thing going, so
6 that's why I never concern.

7 Q. And you said that Mr. Ben said that
8 he did a lot of those parenting seminars?

9 A. Yes.

10 Q. How long was your visit in
11 February?

12 A. Just I think the February was
13 either three-day training, and after we
14 finish our training on the third day,
15 that's when we visit him for just couple
16 hour, yes.

17 Q. Was there a point in time that you
18 were contacted by the Department of Human
19 Services in Iowa?

20 A. That's around--or either between
21 the second or third week of March.

22 Q. And why were they contacting you?

23 A. Tell me that somebody report to
24 juvenile services that my son get
25 mistreated.

1 Q. Prior to DHS making that phone
2 call, had you been notified by the academy
3 that at this point maybe Bxxxxxx wasn't a
4 good fit here?

5 A. Yes. After the parenting class, I
6 went home. And somehow around February--
7 almost the end of February, the middle of
8 February or around there, Mr. Ben call and
9 say he don't think the school is work good
10 for Bxxxxxx, but we try to come up with
11 different program to see if Bxxxxxx will
12 follow instructions, to see if Bxxxxxx
13 will be good at this program, and we go
14 from there.

15 Q. And what do you mean by a different
16 program? A different program within the
17 school, or they were trying to find a
18 completely different place?

19 A. In school, like different step.
20 Like, if Bxxxxxx do this job good, he will
21 get reward, and then he move to the next
22 step. So they trying to help out with
23 that.

24 Q. Did that make you feel a little bit
25 better about maybe how things had been

1 going there?

2 A. Yes.

3 Q. After DHS called you, what did you
4 do?

5 A. Shock, freaking out, and make my
6 plan to come down and visit Bxxxxxx and to
7 see them.

8 Q. Did you do that?

9 A. Prior to come to the school, I stop
10 by seem them first.

11 Q. I'm sorry?

12 A. Before--on the same day that I went
13 down, on March 30th, I went to the DHS to
14 see them before I come to school to visit
15 Bxxxxxx and decide to take him home that
16 same day.

17 Q. So shortly after receiving this
18 phone call, you then came to Iowa and you
19 met with DHS first, and then you went to
20 Midwest Academy; is that right?

21 A. Yes.

22 Q. What did you do when you arrived at
23 Midwest Academy?

24 A. Bring in the Asian food that
25 Bxxxxxx want to eat and come and visit him

1 in the room and sit down and eat and talk
2 to him for a while.

3 Q. Did you decide to bring him home
4 that day?

5 A. After he eating and other stuff, we
6 was sitting there for a while before--I
7 would think before, and then decided to
8 take him home.

9 Q. So did you take him home that day?

10 A. Yes, on the 30th of March, 2015.

11 Q. Did you have any discussions with
12 the Defendant that day?

13 A. No. We did--in March when Ben call
14 and offer to find a different school for
15 Bxxxxxxx to transfer to, he say maybe
16 different school would help Bxxxxxxx, and
17 he will make the transition smooth to
18 transfer Bxxxxxxx to different school.
19 That's the beginning of March.

20 Q. After Bxxxxxxx returned home, how
21 was he?

22 A. It took us like seven, seven and a
23 half hours to get back to [REDACTED]
24 So when I drove Bxxxxxxx in the car, his
25 hand and wrist always turn because he say

1 it's hurting him. His neck, he always pop
2 his neck. He told me his body is tight.
3 He have to move around a lot.

4 Next day I took Bxxxxxx to [REDACTED]
5 within an hour to eat at the restaurant
6 that he really like. Majority, Bxxxxxx is
7 a big eater. But that day we took some
8 sushi and Bxxxxxx barely eat couple piece.

9 And we get ready go home back to
10 Dayton. On the way home, Bxxxxxx say,
11 Mom, you need take me to the emergency. I
12 ask him why. And he say, because I don't
13 feel good. My body is all tied up, and I
14 feel so weak. My leg is numb.

15 And I told Bxxxxxx, I have to go
16 home to get the insurance card. I'm
17 crazy. It should be on a chain at the
18 hospital, but I told him, just hold on,
19 Mommy have to go home to get the insurance
20 card for you to admit to hospital.

21 So I went home and get the
22 insurance card, took Bxxxxxx to the
23 nearest hospital. I told them what
24 happened. Bxxxxxx just coming home. They
25 told me to take Bxxxxxx straight to the

1 Children's Hospital in downtown.

2 Q. So you went to an emergency room
3 close to your home?

4 A. Yes.

5 Q. And when you are there, they ended
6 up sending you to the hospital downtown?

7 A. The [REDACTED] Hospital.

8 Q. The [REDACTED] Hospital?

9 A. Yes. They contact the [REDACTED]
10 Hospital, so when we get there they're
11 waiting for us at the door.

12 Q. So what happened with Bxxxxxx?

13 A. So they keep Bxxxxxx there to test
14 Bxxxxxx out for twenty-four hour to see if
15 he have hurt anywhere else, his
16 nutritions, his mental, everything.

17 Q. Did they say he was malnourished?

18 A. Yes, they did.

19 Q. Did he have to have IV fluids and
20 some nutrients pumped into him?

21 A. Yes, he did.

22 Q. And so you got to go home about a
23 day later from the hospital; correct?

24 A. Yes.

25 Q. Was there a period of time that it

1 took Bxxxxxxx to get back to what you
2 considered his normal eating?

3 A. A few month later.

4 Q. After Bxxxxxxx came home, did he
5 continue to have problems?

6 A. Yes. After Bxxxxxxx come home, we
7 try to get him enrolled back to school.
8 It took a while. He have to go through
9 all the processing and the doctor and
10 everything.

11 Q. But was he continuing to have--
12 maybe I should say, was he having some
13 emotional problems that you hadn't seen
14 before?

15 A. Yes. When I shout at him or yell
16 at him and say thing to him, and he was
17 really emotion and cry and lay there and
18 shout and yell: you don't know what I
19 have been through at Midwest; how they
20 treated me. That's when he open up and
21 tell you what's going on.

22 Q. So you didn't know everything until
23 a little bit later on after he had come
24 home?

25 A. Yes. After he come home and he's

1 upset and mad and he speak out.

2 Q. You said he cried a lot?

3 A. Yes.

4 Q. And that was maybe different than
5 before; is that right?

6 A. Yes.

7 Q. Did he talk about locked doors or
8 show different behavior with different
9 types of rooms?

10 A. After he went home, yes.

11 Q. Can you tell us about that?

12 MS. SCHAEFER: Objection, Your
13 Honor. Calls for hearsay.

14 THE COURT: Overruled. Go ahead.

15 A. That he have to sit. He cannot be
16 stand up. His leg have to be straight,
17 flat out; his hand have to be on his lap.

18 Q. I'm sorry. I'm going to stop you
19 there. I didn't mean for you to tell me
20 what he said about the OSS rooms.

21 What I was asking is, when he came
22 home, did you observe some different
23 behaviors from him in regards to how he
24 reacted to things or when he was upset,
25 would he say things about locked doors,

1 things like that?

2 A. He just more upset and more easily
3 crying and upset.

4 Q. Did you get him some counseling?

5 A. The school that he went to, yes.

6 Q. And he struggled for a while; is
7 that right?

8 A. Yes.

9 Q. Is he at a place now where he is
10 doing a lot better?

11 A. Yes. The school have counseling
12 for him, and I also have outside
13 counseling for Bxxxxxx every other week.

14 Q. And he still goes to a special
15 school?

16 A. Yes, the same school.

17 MS. TIMMINS: That's all the
18 questions I have.

19 THE COURT: Ladies and gentlemen of
20 the jury, we are into the noon hour again.
21 I appreciate your patience. Why don't we
22 take our noon recess at this time. Please
23 return to the jury room at 1:10 p.m.
24 Please remember the admonitions I
25 previously gave you.

1 (A recess was taken at 12:08 p.m.)

2 (In open court, in the presence of
3 the jury, the Court, the Defendant, and
4 the counsel at 1:19 p.m.)

5 THE COURT: Everyone please be
6 seated. The jury has returned at this
7 time. The witness is on the stand.

8 Ms. Schaefer, you may cross-examine
9 the witness.

10 CROSS-EXAMINATION

11 BY MS. SCHAEFER:

12 Q. Good afternoon, Ms. 

13 A. Hi.

14 Q. I just wanted to clarify a few
15 things. I know when you were talking to
16 Ms. Timmins this morning before lunch,
17 there was discussion about before Bxxxxxx
18 went to Midwest Academy?

19 A. Yes.

20 Q. And you kept referring to the
21 court, and I think Ms. Timmins kept
22 talking about DHS. Was Bxxxxxx involved
23 with juvenile court services?

24 A. Yes.

25 Q. And that would have been for being

1 charged with, my understanding is, some
2 assaultive behavior?

3 A. Yes, an act-up, yes.

4 Q. Involving some school staff or
5 something?

6 A. Yeah. When he don't listen to the
7 staff and he just blow up with his bipolar
8 at school.

9 Q. And didn't that include he threw a
10 water bottle or something at a bus driver?

11 A. Yes.

12 Q. Some various things?

13 A. Yes.

14 Q. But it wasn't DHS, it was juvenile
15 court services?

16 A. Yes.

17 Q. Okay. And it was in discussions
18 with them that you became concerned if you
19 didn't find a place for Bxxxxxx, they were
20 going to?

21 A. It's not concerning to them. It's
22 they keep--there was this juvenile
23 services guy keep saying, like, if he not
24 going to change, if he not going to do
25 better, Bxxxxxx, we have to take you away

1 from home. And I'm sick and tired of
2 listen to the juvenile services guy keep
3 saying that thing to me.

4 Q. And were you taking that to mean
5 that he would place Bxxxxxx in detention
6 or something like that? Or did you not
7 know?

8 A. No not--detention is different. He
9 say, like, other home services, you know.

10 Q. Taking him out of your home?

11 A. Yes.

12 Q. And you were concerned that
13 Bxxxxxx's behavior was reflecting badly on
14 you not doing what a parent should be
15 doing?

16 A. When the guy say that, yeah.

17 Q. Okay. So you found Midwest Academy
18 online. Did you have discussions with the
19 juvenile court officer about Bxxxxxx's
20 placement there?

21 A. I mentioned it to them.

22 Q. And they thought that might help?

23 A. They think I do what I need to do.

24 Q. And so over the course of a few
25 months you make the decision to place him

1 in Midwest Academy?

2 A. Yes. After I have talked to
3 Bxxxxxxx.

4 Q. And he went on Labor Day of 2014?

5 A. Yes.

6 Q. And you indicated that Mr. Trane
7 discussed the discipline system and the
8 OSS system and the system of consequences
9 for negative behavior and the level
10 system, et cetera?

11 A. Yes.

12 Q. Did he explain that using the terms
13 "cognitive behavioral therapy"?

14 A. I'm sorry, what was the question
15 again?

16 Q. Did he ever use the words with you,
17 "cognitive behavioral therapy"?

18 A. No.

19 Q. But you understood it that when
20 rules were violated, there would be
21 consequences?

22 A. Yes.

23 Q. And you understood if the rules
24 violated were either numerous enough or
25 significant enough, he would be placed in

1 this Out-of-School Suspension?

2 A. When you mentioned about Out-of-
3 School Suspension, you mean put him in
4 OSS?

5 Q. Yes.

6 A. Yes.

7 Q. And it's your understanding that he
8 continued to see a psychiatrist off site?

9 A. Yes.

10 Q. And you, in fact, received e-mails
11 indicating that that was happening?

12 A. Yes.

13 Q. And you had steady contact with Mr.
14 Don, Bxxxxxx's family rep?

15 A. Yes.

16 Q. Did you ever have contact with an
17 individual named Mike Davis?

18 A. Yes and Mr. Eric also.

19 Q. And who did you know Mike Davis to
20 be?

21 A. I think he's one of the Mr. Don
22 upper.

23 Q. Higher above Mr. Don?

24 A. Yes.

25 Q. Did you know him to be Bxxxxxx's

1 counselor?

2 A. I don't really remember.

3 Q. When Mr. Davis would contact you,
4 do you know what it was regarding?

5 A. All about Bxxxxxx counselor? I
6 barely deal with him.

7 Q. But he had contacted you at least
8 once about Bxxxxxx?

9 A. At least once or twice, yes.

10 Q. And again, why would he be
11 contacting you?

12 A. Well, because when Bxxxxxx
13 beginning the school and just tell me how
14 he's doing because he just started, and
15 then just feedback.

16 Q. How tall was Bxxxxxx when he
17 entered the facility?

18 A. He around about 4'7" or around
19 4'8", around there.

20 Q. So he wasn't even 5 foot tall yet?

21 A. No, not yet.

22 Q. And you said he weighed about 135
23 pounds at that time?

24 A. 130 or 135, yes.

25 Q. Did Mr. Trane get in touch with you

1 in mid to late November about Bxxxxxxx's
2 difficulties adjusting to the program?

3 A. Yes, in the beginning.

4 Q. Now, he had been there a couple of
5 months at that point; correct?

6 A. Yes.

7 Q. And did Mr. Trane indicate to you
8 at that time that there were some problems
9 and that Midwest Academy may not be
10 working for Bxxxxxxx?

11 A. No. Then they wouldn't have tell
12 me to go attend the parenting class in
13 December.

14 Q. Did Mr. Trane indicate to you that
15 there needed to maybe be a Plan B?

16 A. Some--

17 Q. Just in case things didn't improve?

18 A. Yes.

19 Q. And then you visited Bxxxxxxx in
20 December?

21 A. Yes.

22 Q. After completing the parenting
23 class?

24 A. Yes.

25 Q. And did Mr. Trane have a

1 conversation again with you in February
2 that Bxxxxxxx--it just wasn't working?

3 A. Yes.

4 Q. And did he advise you at that time
5 it might be a good idea to start thinking
6 about a different place for him to go?

7 A. Yes.

8 Q. Was it your understanding that Mr.
9 Trane was going to look at other
10 facilities who might be able to better
11 deal with Bxxxxxxx's issues?

12 A. Yes.

13 Q. Did you consult with anyone about a
14 different place?

15 A. No.

16 Q. Did you seek anyone out who might
17 be able to recommend a different place?

18 A. No.

19 Q. Do you know a Mark Brady?

20 A. He's the one who started referring
21 me to Midwest.

22 Q. Did you consult with him after you
23 spoke to Mr. Trane in February about
24 finding someplace different for Bxxxxxxx?

25 A. I don't think I told him that. But

1 as far as I remember, after Ben Trane
2 called me in February, I call Mark Brady
3 and ask him a question: Why are you
4 referring me to Midwest, and now Midwest
5 told me it's not work for my son? And
6 they ask to remove Bxxxxxx from there to
7 different facility. But I didn't ask Mr.
8 Mark Brady.

9 Q. Okay. So you did speak to Mr.
10 Brady, but you didn't specifically ask him
11 about a different facility?

12 A. No.

13 Q. And do you work full time, Ms.

14 

15 A. Yes.

16 Q. Is Bxxxxxx home alone, then, when
17 you're at work and he's not at school?

18 A. I have an older kid, too. He's 24.
19 So at that time we talk about two or three
20 years ago, my kid is 21 and plus my fiancé
21 come home after 4:30.

22 Q. And so your boyfriend will stay to
23 keep an eye on Bxxxxxx?

24 A. Until I get home about 7:30. He
25 stay there until about 9:30 and he went

1 home.

2 MS. SCHAEFER: I don't have any
3 more questions.

4 THE COURT: Ms. Timmins?

5 MS. TIMMINS: May I approach.

6 THE COURT: You may.

7 REDIRECT EXAMINATION

8 BY MS. TIMMINS:

9 Q. I'm handing you what has been
10 marked as State's Exhibits 5, 6, 7, and 8.
11 Do you recognize those photographs?

12 A. Yes.

13 Q. Are those pictures of Bxxxxxx?

14 A. Yes.

15 MS. TIMMINS: Request to enter
16 State's Exhibits 5, 6, 7, and 8.

17 (State's Exhibit Nos.
18 5, 6, 7 and 8 were
19 offered in evidence.)

20 THE COURT: Does the defense have
21 any objection to 5, 6, 7, and 8 for the
22 State?

23 MS. SCHAEFER: Are those the same
24 photos you showed me yesterday?

25 MS. TIMMINS: They are.

1 MS. SCHAEFER: No objection, Your
2 Honor.

3 THE COURT: State's 5, 6, 7, and 8
4 are admitted without objection.

5 (State's Exhibit Nos.
6 5, 6, 7, and 8 were
7 received in
8 evidence.)

9 MS. TIMMINS: Permission to
10 publish.

11 THE COURT: Go ahead.

12 Q. (By Ms. Timmins) We're looking at
13 State's Exhibit 5 on the screen. When was
14 that picture taken?

15 A. That's around summertime, around
16 June, July.

17 Q. Of 2014?

18 A. 2014, yes.

19 Q. So this was before Bxxxxxx went to
20 Midwest Academy; correct?

21 A. Yes.

22 Q. I now have up State's Exhibit 6.

23 A. This is when we visit Midwest
24 Academy and we took a picture before I'm
25 leaving the school and going home on Labor

1 Day 2014.

2 Q. So this was when you dropped him
3 off?

4 A. Yes.

5 Q. And then State's Exhibit 7?

6 A. That's December 7th when I attend
7 the parenting class and visit Bxxxxxx
8 after he been here three, four months.

9 Q. And State's Exhibit 8?

10 A. That's when Bxxxxxx come home.

11 Q. And that was shortly after he came
12 home?

13 A. Yes, a few days after Bxxxxxx home
14 on March 30th, when Bxxxxxx come home, of
15 2015.

16 MS. TIMMINS: I don't have any
17 further questions. Thank you.

18 THE COURT: Ms. Schaefer?

19 MS. SCHAEFER: I don't have any
20 further questions.

21 THE COURT: You may step down.
22 Thank you.

23 The State may call its next
24 witness.

25 MS. TIMMINS: The State calls