

1 argument--or to reserve their opening
2 statement until just prior to their case,
3 which they have chosen to do so.

4 So Ms. Timmins, you may present
5 your first witness.

6 MS. TIMMINS: The State calls [REDACTED]
7 [REDACTED]
8 [REDACTED]

9 called as a witness by the State, being
10 first duly sworn by the Court, was
11 examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MS. TIMMINS:

14 Q. Please state your name.

15 A. My name is [REDACTED]

16 Q. And where do you live?

17 A. We live in [REDACTED]

18 Q. This is a really big courtroom, and
19 there's no microphone so I'm really going
20 to have to ask you to speak up.

21 A. Sure.

22 Q. You live in [REDACTED]

23 A. Correct.

24 Q. Where do you work?

25 A. I work at [REDACTED]

1 Q. How long have you been there?

2 A. Seventeen years.

3 Q. What do you do there?

4 A. I'm a nurse in vascular surgery.

5 Q. What's your educational background?

6 A. I have an [REDACTED] from [REDACTED]

7 [REDACTED]

8 Q. And your employment history?

9 A. As in--I've worked from the time I
10 graduated nursing school. I've worked at

11 [REDACTED]

12 Q. How old are you?

13 A. Forty-one.

14 Q. Who do you live with?

15 A. I live with my husband [REDACTED]

16 [REDACTED]; my oldest son, [REDACTED] who is

17 19; [REDACTED] 15; and, [REDACTED]

18 age 13.

19 Q. Now, your oldest is 19. Is he
20 going to school or working?

21 A. He goes to school. He goes to

22 [REDACTED]. He is an [REDACTED]

23 major.

24 Q. And Dxxx, is he in school?

25 A. He is. He's in the tenth grade at

1

2

[REDACTED]

Q. And I said Dxxx. You may have said
Axxxxx. What does he go by?

4

5

6

A. He typically goes by Axxxxx--oh,
I'm sorry--he goes by Dxxx. Axxxxx if,
you know, we have to get his attention.

7

8

9

Q. If he's in trouble?

A. Yeah.

10

Q. Are you nervous?

A. I am very nervous.

11

12

Q. Okay. And your youngest, is she in
school?

13

14

A. She is. She's in the seventh
grade.

15

Q. What is Axxxxx's date of birth?

16

A. Axxxxx's date of birth is [REDACTED].

17

18

Q. How is he doing in school right
now?

19

20

21

22

23

24

25

A. Right now he's doing amazing. He
has really overcome a lot in the last
three, four years, and even before that.
He's playing sports. He plays football.
He wrestles. He's active in the [REDACTED]
[REDACTED]. Grades are fairly good,
especially after transitioning to

1 mainstream schooling.

2 Q. I want to talk to you about Midwest
3 Academy. You made a decision to send Dxxx
4 to Midwest Academy; correct?

5 A. Correct.

6 Q. When did he go there?

7 A. He went there on May 28th of 2014.

8 Q. When was he taken out?

9 A. He was taken out--we took him out
10 on April 15th of 2015, and then we called
11 the school on April 25th of 2015 to inform
12 them that Dxxx would not be returning.

13 Q. Let's start at the beginning a
14 little bit. What was going on at home that
15 you were looking at different places to
16 send Dxxx?

17 A. To be honest, Dxxx has always been
18 our feisty child, our child that would
19 test every boundary that was ever set. It
20 started at a young age. I remember pre-K
21 even him hiding from the teacher in the
22 classroom just to surprise her, scare her.

23 He had a lot of issues with ADHD
24 through the years. It started mostly in
25 the second grade. We started seeing more

1 trouble. Later we found that he had
2 anxiety, depression, and Oppositional
3 Defiant Disorder.

4 School was always a struggle.
5 Elementary school was worse than when he
6 went to third and fourth grade. In third
7 and fourth grade things seemed to level
8 out. But once he hit the junior high
9 level, he became more defiant, especially
10 against authority figures.

11 He would speak out to the teachers.
12 He would cuss. He would slam things,
13 throw things. That's the year he started
14 self-harming.

15 Q. And what do you mean by self-
16 harming?

17 A. It was always superficial at that
18 point. Mostly it was superficial. He
19 would pick at his skin with tacks,
20 staples, anything to hurt the palms of his
21 hands and his feet.

22 He spent some time in ISS at
23 school, In-School Suspension, for talking
24 back to the teacher or just being defiant
25 in general.

1 In sixth grade we went on--he got
2 an IEP that year, an Individual Education
3 Plan, to set boundaries for Dxxx, so when
4 he started getting upset he could go to a
5 safe room, quiet room and regroup himself.

6 That year the teachers were talking
7 about when he was in ISS that he would get
8 these massive bloody noses. I always--I'm
9 like, it's wintertime, it's dry, it's just
10 a bloody nose. It was that year when we
11 figured out he was actually punching
12 himself in the nose and having these
13 geyser of nosebleeds happen.

14 Q. Is this in--he's in the sixth grade
15 right now?

16 A. Yes. He's in the sixth grade at
17 this time. In February--actually it was
18 February 14th, it was my husband and I's
19 wedding anniversary. Dxxx had--actually,
20 it was the night before the incident
21 happened--Dxxx had went to hang out with
22 friends, and he came home. He was quite
23 upset. I was sick on the couch. He goes
24 upstairs. After thirty minutes I don't
25 hear anything, so I go upstairs to check

1 on him. He's not in his bedroom. The
2 bedroom window is open. It's winter, it's
3 cold. I look out the window. He's on the
4 roof of the porch ready to jump. He said
5 this friend had called him a skank and
6 that he was going to kill himself.

7 So we had him admitted to the
8 psychiatric unit at Blessing Hospital at
9 that time. He came home. He was there
10 for about a week. He came home. Things
11 were rocky. He was defiant to my husband
12 and I. He was very disrespectful. He was
13 mostly disrespectful to more women.
14 That's why he had more trouble at school.
15 It was probably because I was too lenient
16 with him. I would say one thing and then
17 turn around the next minute and say, okay,
18 go do it. So he just didn't respect
19 women.

20 Q. Okay. Let me jump in here.

21 A. Sure.

22 Q. Where are you and your husband at
23 this point, and how are you feeling about,
24 what can we do?

25 A. My husband and I at this time--

1 well, a lot of things happened. Kevin and
2 I were at a loss what to do. In February
3 of 2014, I started researching different
4 facilities, different treatment
5 facilities.

6 We looked at some of the ones that
7 were local to us. There was Heartland
8 over in Missouri, the military academy
9 over in Mexico. We found Midwest online.
10 I didn't even know that they existed being
11 so close to home. I read the reviews.
12 The reviews were great.

13 I talked to Dxxx's special
14 education coordinator. She had actually
15 done an internship with Midwest. I talked
16 to his psychiatrist, Dr. Stiles, at
17 Blessing Physician Services. He was
18 familiar with the facility and thought it
19 would be a good fit for Dxxx.

20 But in February we weren't quite
21 ready to send him there yet. But later in
22 the year when we had our IEP in May of
23 2014, Central decided that they weren't
24 going to take Dxxx back. He was too much,
25 too many behaviors for such a small school

1 and for them.

2 Q. So is it at this point you decided,
3 we need to find something new for Dxxx?

4 A. Yes.

5 Q. Did you--

6 A. And then we took our tour of
7 Midwest right after that.

8 Q. So you went to visit Midwest
9 Academy?

10 A. Yes. On May 22nd of 2014.

11 Q. Who gave you the tour?

12 A. Ben did.

13 Q. When you say "Ben," who do you
14 mean?

15 A. Ben Trane.

16 Q. Is he present in the courtroom?

17 A. He is.

18 Q. Could you point him out, please?

19 A. (The witness pointed to the
20 Defendant.)

21 Q. What color of coat does he have on?

22 A. Gray.

23 MS. TIMMINS: Let the record
24 reflect the witness has identified the
25 Defendant.

1 THE COURT: It may.

2 Q. (By Ms. Timmins) All right. So you
3 and your husband go to the school. Ben
4 Trane gives you a tour. What do you
5 think?

6 A. We go through the school.
7 Everything seemed very normal, what you
8 would expect. There was a cafeteria.
9 There was sleeping quarters, bunkhouse
10 area. There was a gym, an auditorium area
11 where the kids would watch TV. We also saw
12 the OSS room.

13 Q. And what were you explained in
14 regards to the OSS room?

15 A. While we were in the OSS, we were
16 told that that was used as a last ditch
17 effort for children who were not
18 performing. They would earn so many
19 demerits to go in there, or if the child
20 was being uncontrolled in the family.

21 Q. And who was telling you this?

22 A. Ben was explaining that. We also
23 talked to some of the rovers in the room.
24 The rovers were upper level children set
25 to monitor the children that were in the

1 OSS rooms behind the door.

2 Q. So the Defendant tells you that
3 this is a last ditch effort; you can come
4 here if you have too many demerits; or,
5 you come here if you're out of control or
6 harming?

7 A. Correct.

8 Q. Were you concerned about those
9 rooms?

10 A. I was. I remember talking that we
11 didn't think that Dxxx would be the type
12 of child that would be in that room. If
13 he would, it would be maybe twenty-four
14 hours and released. That's what the
15 typical OSS time was, was twenty-four
16 hours, and then they were released.

17 Q. And who told you that?

18 A. I heard that from Ben and then
19 again from Gary Lachapelle. I might have
20 said his name wrong.

21 Q. All right. So you received this
22 tour of the academy. The two of you go
23 home, I assume?

24 A. Yes.

25 Q. What did you decide?

1 A. At that time we drove home, and my
2 husband and I discussed if Midwest would
3 be a good place for my son. And at that
4 time we said no because--and Kevin was,
5 like, it's that OSS room, isn't it? And I
6 said, yes, because Dxxx is so defiant that
7 I could see him spending a lot of time
8 there.

9 But then he had an incident where
10 he went into the neighbor's house, took
11 twenty dollars while they weren't home,
12 tried to tell them that he saw a stranger
13 walking around the house. It was after
14 that-- Kevin and I were scared. We didn't
15 know what was going to happen, if he was
16 going to end up in jail or hurt himself,
17 kill himself.

18 And everything we read about
19 Midwest and heard about from our
20 psychiatrist and from our special
21 education teacher was that they offered
22 family counseling; they offered treatment
23 for children with anxiety and depression
24 and anger issues. So we felt out of all
25 the places that we'd looked at that they

1 would be the best fit for us.

2 Q. So when did Dxxx go there?

3 A. Dxxx went there--we contacted them
4 on May 26th that we would like to go
5 there, and we dropped him off on May 28th
6 of 2014.

7 Q. Now, were you aware that Dxxx was
8 one of the youngest kids that would be
9 there?

10 A. When I contacted Tara Akers, the
11 admission director, she said that they
12 take children that age often, but I did
13 know that he would be one of the youngest
14 ones there.

15 Q. When you enrolled Dxxx, I assume
16 there was a lot of paperwork?

17 A. There was.

18 Q. As part of that paperwork, did you
19 lay out the behavioral issues that Dxxx
20 was having?

21 A. We did.

22 Q. You didn't hide that from them?

23 A. No. And when I contacted Tara
24 Akers back in February of 2014, I'd shared
25 all the information at that time as well

1 with her.

2 Q. You said Tara Akers. Who is that?

3 A. She's the admission director.

4 She's when you would e-mail Midwest about
5 being put into the program, she was the
6 one that e-mailed us back.

7 Q. I assume you also then had to sign
8 over some things allowing the academy to
9 give medical treatment and do those types
10 of things with your child?

11 A. Correct.

12 Q. All right. Tell us about the day
13 that you took Dxxx?

14 A. The day that we went there it was
15 in the evening, so it was after hours. So
16 when we arrived, we used the doorbell. I
17 don't remember who initially met us at the
18 door but Ben did meet us in the conference
19 room. At that time Dxxx was taken away, I
20 believe with some upper levels to have his
21 items checked, the things that he had
22 packed to make sure that there was no--
23 nothing inappropriate in his pack.

24 We shared what finally brought us
25 to Midwest, and we filled out our

1 application form at that time. We were
2 given a scholarship form at that time.
3 Then Dxxx joined us. We ended up in
4 another room to say our goodbyes. Dxxx
5 gave us his hugs and told us that he loved
6 us, and then we left. We were in and out
7 within thirty minutes.

8 Q. How much contact were you supposed
9 to have with Dxxx once you left him there?

10 A. We would get a call from a family
11 rep weekly to tell us updates for Dxxx.

12 Q. And who was Dxxx's family rep?

13 A. Gary Lachapelle.

14 Q. And I say Lachapelle, but I don't
15 know if I'm right either.

16 A. That sounds more accurate.

17 Q. Okay. So he would call you on a
18 weekly basis?

19 A. Yes. And I knew going in there
20 that the children had to level up to be
21 able to get any type of interaction with
22 parents. I can't remember the specifics.
23 I want to say like Level 3 was when you
24 finally got to see your child, but again I
25 don't recall the exact levels, because

1 Dxxx never made any points. Dxxx lost his
2 points daily, so he never earned that
3 right. We saw him four times in the eleven
4 months that he was there. One of them was
5 a Skype call.

6 Q. A Skype call?

7 A. Correct.

8 Q. Did you receive a lot of phone
9 calls about Dxxx being in OSS?

10 A. Daily. Pretty much daily. Gary
11 would call me to let me know that Dxxx had
12 been placed in OSS for being defiant,
13 causing a ruckus in the classroom, using
14 bad language constantly. He had lots of
15 reasons he went. But it was daily.

16 And then we would get a call from
17 maybe the shift leader each day after that
18 that he was in OSS to tell us what his
19 progress was and the outlook on how soon
20 he would get out.

21 Q. What was your understanding of what
22 was going on in regards to the OSS?

23 A. Can you rephrase that again? I'm
24 sorry.

25 Q. I can. That was a really bad

1 question. What was your understanding of
2 what was supposed to be happening when he
3 was in OSS?

4 A. While in OSS, like I said, they
5 were supposed to be in there for twenty-
6 four hours. They were to sit in structure
7 for nineteen hours. That's where they
8 are--if I remember right, that's where
9 they sit on the concrete floor with their
10 legs straight out and their hands in their
11 lap. They could have their mattress and a
12 blanket that they could keep up to their
13 chest level at night when it was bedtime.
14 The overhead lights would stay on, the
15 fluorescent lights.

16 If he sat in structure for nineteen
17 hours, then he was able to get a chair, to
18 sit in a chair. Then at hour twenty-
19 three, he was to write a 1,000-word essay
20 reflecting on what took him to the OSS
21 room. Then on hour twenty-four, if he
22 complied with all the rules, he would be
23 taken out.

24 However, if you broke structure one
25 time in that nineteen-hour period, your

1 time started over.

2 Q. What types of things were you
3 finding out that Dxxx was doing while he
4 was in OSS?

5 A. Dxxx would be very loud. He would
6 sing. He would punch his nose, make it
7 bleed all over the place. He would write
8 on the walls with his blood.

9 The meals that they had were--two
10 meals was peanut butter and jelly, bananas
11 and raisins. One meal was lunchmeat with
12 bananas, raisins, I believe. He would
13 chew up the food, throw it at the camera
14 so the staff member that was monitoring
15 the cameras couldn't see him.

16 One time they caught Dxxx taking
17 his T-shirt off and wrapping it around,
18 tying it around his neck to try to harm
19 himself. Staff came in, stripped him down
20 completely naked for a few hours. Dxxx of
21 course did not like that.

22 Dxxx would urinate on the walls and
23 then lay on the ground with the door shut
24 and blow on the urine to make it go out
25 into the hallways. And he would be

1 restrained--

2 Q. Did you-- I'm sorry. Go ahead.

3 A. I was just going to say there was
4 times they had to restrain him for being
5 loud or not doing what he was supposed to
6 be doing, screaming, yelling. They would
7 have to restrain him where they would take
8 him down to the ground. And my
9 understanding was it was staff members and
10 rovers at times if they had to, and they
11 would sit on Dxxx--or hold him down to the
12 ground with their bodies.

13 Q. Did you talk at all to--you know,
14 Gary is making these phone calls to you.
15 Did you talk to him at all about any
16 concerns of how much time he was spending
17 in there?

18 A. I did. I told--because Dxxx would
19 spend--my understanding of OSS would be
20 that he would be in twenty-four hours, he
21 would leave. Dxxx was spending several
22 days at a time up to at least a week.
23 There was times one month he was out of
24 the OSS for one day out of the entire
25 month. So he was in OSS for almost

1 twenty-nine days out of the month.

2 He spent over half his time in OSS,
3 in isolation. I talked to Gary about how
4 hard that was to get phone calls about my
5 son not complying and everything we did.
6 I just kept listening to Gary and to the
7 program that this was going to work; it
8 was going to help my child. I trusted
9 them. I believed them. There came a time
10 where I told Gary I couldn't take any more
11 calls. I was a wreck.

12 Q. Did you have Gary start calling
13 your husband?

14 A. I did.

15 Q. Okay. Now, you're still the
16 parent. You could have went there and
17 took Dxxx out if you were upset about him
18 being in that room. Why didn't you?

19 A. I could have. We were trying to do
20 everything we could to help him.
21 Everything that they said, that we were
22 being told by Midwest was this was going
23 to help. Eventually, the OSS didn't help
24 and Gary talked to us about doing special
25 meals.

1 Q. What's a special meal?

2 A. They ask us what kind of food Dxxx
3 likes and what he dislikes. So they
4 would--instead of getting the peanut
5 butter and jelly, I told Gary that Dxxx
6 didn't like tuna and spinach, so he was
7 served--it would be a nutritious meal, but
8 it would be foods that he didn't like.

9 Q. Did you have discussions, or was it
10 presented to you that, you know, kids stay
11 in OSS because of their choices?

12 A. Yes. It was always--I was always
13 told it was Dxxx's choice to stay in OSS
14 because he knew what the expectation was
15 to get out. The expectation was to sit in
16 structure, not talk, and after twenty-four
17 hours, after he wrote his 1,000-word essay,
18 he could get out. So he chose by his
19 behaviors to stay in OSS.

20 Q. You said that Dxxx had been
21 diagnosed with ADHD?

22 A. Correct.

23 Q. And also some other issues?

24 A. Anxiety, depression. We had him
25 screened back in fifth grade with a global

1 assessment. They diagnosed him with
2 conduct disorder, which was later taken
3 off by his therapist, Katie Douglas. And
4 then when Dxxx went to Blessing Psych in
5 February 2014, they said he was
6 oppositional defiant, which is what we
7 believed to begin with.

8 Q. I'd like to go to March of 2015.
9 Did you receive a call from the Department
10 of Human Services in Iowa?

11 A. I did. I had gotten a call from
12 Midwest and from DHS in Iowa stating that
13 Dxxx had been taken to the DHS office here
14 in town.

15 Q. Did you talk to the Defendant about
16 what was going on with DHS?

17 A. We did. Dxxx was taken--Dxxx was
18 one of the kids taken there for the amount
19 of time he was spending in OSS. When I
20 talked to Ben about that, he told us that
21 it was a disgruntled employee making
22 allegations and that DHS is always trying
23 to get them for something.

24 Q. Did he talk to you about how Dxxx
25 was, the Defendant?

1 A. Before or after the DHS?

2 Q. Well, during this time when you
3 were discussing this DHS investigation,
4 did he tell that Dxxx was fine, that he
5 was doing okay, or anything like that?

6 A. At that time I believe they pulled
7 Dxxx out of OSS at that time. DHS had to
8 pull him out of the OSS. That's where he
9 was at at the time when they came. I
10 don't recall any specific update on how he
11 was doing.

12 But after he got back, we had
13 gotten a call from Gary that Dxxx was
14 acting out more than normal and was
15 spending more time in OSS. He said this
16 was common after kids come back from DHS,
17 because they think that this is their way
18 to get out of Midwest.

19 Q. Did you believe him?

20 A. At the time I did. I believed that
21 what we were doing was the right thing at
22 the time. I, of course--I didn't like it,
23 but we were in such trouble that we wanted
24 anything for our child. There was nothing
25 we weren't going to do. So we opted to

1 take him back, or let him go back, after
2 DHS had taken him.

3 Q. Now, so you had talked to the
4 Defendant at that time about the DHS
5 investigation, and you chose to let Dxxx
6 go back?

7 A. Yes.

8 Q. Was there something that happened,
9 then, within the next month or two that
10 you said, this is enough?

11 A. Dxxx was--there was a new program
12 that they'd started called the Pride
13 Family. It was for kids who were not--for
14 boys--I should rephrase--for boys that
15 were not leveling up in the program. This
16 was supposed to be a program that they
17 could earn points, level up, get out of
18 the program sooner.

19 So he went to the Pride Family, and
20 he had been in there once before, and then
21 he was dismissed from the program and then
22 brought back in. But in April--on April
23 8th we were contacted by Gary that there
24 was an incident with the boys
25 experimenting with sexual activity.

1 Q. Is that how it was put to you?

2 A. Yes. We asked for more details.

3 My husband and I were not happy they were
4 telling us that Dxxx had performed and
5 received oral sex in the bathrooms, but it
6 was also going on in the bunk room as
7 well.

8 Q. Were you concerned about the
9 supervision at this point?

10 A. We were. We asked, what was being
11 done to stop this from happening? We
12 asked, can they put video cameras in the
13 rooms? Can they put video cameras in the
14 bathrooms? Video cameras in the hallways?
15 Some way to protect my child and other
16 children from this happening to?

17 We were told that those are private
18 areas and that they couldn't do that; that
19 Midwest was doing an internal
20 investigation and we'd be notified when
21 there was a determination made. But then
22 on April 15th--

23 Q. I'm going to stop you there.

24 A. Yes. Go ahead.

25 Q. Were you aware of the age range of

1 the boys in that Pride Family?

2 A. I can't say specifically, but I do
3 believe they were between 13 and 17, Dxxx
4 being the 13 year old because he had just
5 turned 13 on the 9th of March.

6 Q. Did you talk to the Defendant about
7 your concerns?

8 A. I did. Because we did not--we
9 didn't want--nobody wants that to happen
10 to their child or their child to be a
11 participant in something like that,
12 because even at 13 you're not old enough
13 to give consent to do anything. We were
14 concerned. How were they going to keep my
15 child safe while there?

16 Q. And what was the Defendant's
17 response to that?

18 A. That there was nothing much they
19 could do about that.

20 Q. About a week later, did you receive
21 a call from the Department of Human
22 Services here in Iowa?

23 A. We did. On April 15th we had
24 gotten a call from the DHS worker and
25 again from Midwest.

1 Q. I don't need you to repeat
2 everything that was said, but based on the
3 phone call that you received from the
4 Department of Human Services, did you feel
5 that what you were being told from them
6 was different than what you had been told
7 from the Defendant?

8 A. My husband and I actually drove to
9 the DHS office that day and spoke with
10 Dxxx and spoke with the case worker there.
11 We felt that the information we were given
12 was not meshing with what Midwest had told
13 us on how it had happened.

14 I had asked the case worker how
15 this case--how this incident was reported
16 and what could be done to prevent it. She
17 instructed me to talk to Ben about that.

18 Q. So what did you do?

19 A. So after that we took Dxxx home--we
20 didn't take him home. We took him back to
21 Midwest. I remember meeting Gary and Ben
22 on the--in the front driveway. We asked
23 them what we could do. What was the plan
24 to keep this from happening again? How
25 were we going to keep the kids safe?

1 Could we put video cameras up? Could we
2 do anything? And again, we were told that
3 there wasn't much they could do.

4 When we said that we were going to
5 go ahead and take Dxxx home for his
6 safety, think about what was best for our
7 family and for Dxxx, Ben had asked, what
8 are you going to do when he does this to
9 his sister? Which my husband and I felt
10 that that was a manipulation to try to
11 manipulate our feelings because we--you
12 don't want that to happen to your baby
13 girl either. And just knowing--

14 Q. Did the Defendant want Dxxx to stay
15 there?

16 A. He did.

17 Q. How much were you paying them a
18 month?

19 A. When he went there in May of 2014,
20 we paid them \$30,000.00. We actually
21 qualified for a scholarship.

22 Q. You qualified for a scholarship,
23 but you paid \$30,000.00?

24 A. Yes. On financial need we
25 qualified for financial aid.

1 Q. Do you know about how much Dxxx
2 weighed when he went to Midwest Academy?

3 A. Dxxx was 122--I'm sorry--120 pounds
4 and 62 inches.

5 Q. Did he lose a lot of weight while
6 he was at the academy?

7 A. When we brought him home, he was 90
8 pounds.

9 Q. Did your school district also make
10 payments to the academy for Dxxx to be
11 attending school there?

12 A. They did. They paid \$75.00 a day
13 for the days that he was in class.
14 Midwest had sent an invoice stating that
15 Dxxx was in class for 233 days while he
16 was there, so the school paid \$17,000.00,
17 which was reimbursed back to us.

18 Q. So when Dxxx came home, I assume
19 things were rough with him?

20 A. They were. At first he was a
21 completely differently child. He didn't
22 talk. He didn't do anything. You'd look
23 at him, and it didn't even look like-- I
24 mean, it didn't look like my child.

25 But then with time he warmed up to

1 everybody again. He started talking. He
2 had a terrible time sleeping at night. He
3 was never able to sleep through the night,
4 maybe two hours at a time. We even tried
5 melatonin to see if that would help. It
6 didn't. He would wake up screaming in the
7 middle of the night. He's better at
8 sleeping now, but he still has issues.

9 Q. You have continued to get Dxxx help
10 through other sources; correct?

11 A. Correct.

12 Q. Now at this point he's doing a lot
13 better?

14 A. He is.

15 Q. Would you say he has matured some
16 as well?

17 A. Yes.

18 Q. That age has helped?

19 A. Yes.

20 Q. Do you ever try to talk to Dxxx
21 about Midwest Academy?

22 A. We have. We had tried since the
23 day that he got home to talk to us about
24 what his experience was. His doctor, Dr.
25 Stiles, the psychiatrist, and his primary

1 care doctor, Dr. Minnick, have also tried
2 to talk to him. He won't talk to anyone.

3 We've tried counseling. Dxxx would
4 just sit there in the room and not say a
5 word. Dr. Stiles eventually said, we
6 should not push him to try to talk about
7 it. When he's ready he will talk.

8 Q. In fact, you had brought Dxxx to
9 Burlington about a month or so ago so I
10 could try to meet with him; is that right?

11 A. That is correct.

12 Q. When you brought him there, did he
13 know that he was going to be meeting me in
14 regards to this particular case?

15 A. He did. He was kind of back and
16 forth on whether or not he wanted to
17 participate.

18 Q. Were you surprised when he got in
19 the car to go to Burlington?

20 A. Honestly, I was. I didn't think
21 I'd get him in the car. But he came
22 without any trouble. The ride over he was
23 fine. He was talkative. Everything was
24 good. As soon as we pulled up in front of
25 the office, he just clammed down again.

1 Q. We were there waiting for him;
2 correct?

3 A. Correct.

4 Q. You had explained who I was, and
5 there was a DCI agent there; correct?

6 A. Correct.

7 Q. Would Dxxx ever get out of the car
8 to come talk to us?

9 A. No. We had actually sat in the car
10 already for thirty minutes before because
11 we arrived early. I tried to talk him
12 into coming in for thirty minutes, and he
13 refused.

14 So I eventually came in to meet you
15 and the DCI agent to let you know what was
16 going on. Dxxx at that point-- We were in
17 there, I don't know, maybe ten or fifteen
18 minutes. Dxxx at that point got out of
19 the car--

20 Q. We could see him through the
21 window?

22 A. Yes, yes. There was a big glass
23 window, and we could see right there. He
24 got out of the car and took off walking.
25 So I chased after him. The DCI agent was

1 behind me. Dxxx just walked around the
2 big city block right there saying he was
3 not going to go in. There was no way in
4 heck he was going to talk about this, and
5 there was no way we could make him.

6 Q. He wasn't using the word "heck"
7 though, was he?

8 A. No. He was using quite a bit of
9 profanity.

10 Q. Okay.

11 MS. TIMMINS: May I approach, Your
12 Honor.

13 THE COURT: You may.

14 Q. (By Ms. Timmins) I'm handing you
15 what have been marked as State's Exhibits
16 1, 2, 3, and 4. Do you recognize those
17 photographs?

18 A. Yes.

19 Q. Are those photographs that you had
20 provided me of Dxxx?

21 A. Yes.

22 MS. TIMMINS: At this time I would
23 ask to enter State's Exhibits 1, 2, 3, and
24 4. They've been previously shown to the
25 defense.

1 (State's Exhibit Nos.
2 1, 2, 3, and 4 were
3 offered in evidence.)

4 THE COURT: Ms. Schaefer, do you
5 have any objection to State's 1, 2, 3, or
6 4?

7 MS. SCHAEFER: No, Your Honor.

8 THE COURT: State's 1, 2, 3, and 4,
9 which are photographs, are admitted
10 without objection.

11 (State's Exhibit Nos.
12 1, 2, 3, and 4 were
13 received in
14 evidence.)

15 MS. TIMMINS: Permission to
16 publish, Your Honor.

17 THE COURT: Go ahead.

18 (The exhibits were published by
19 video projector.)

20 Q. (By Ms. Timmins) I have up on the
21 screen State's Exhibit 1. Let the jury
22 know what we're looking at here? Ms.

23

24 A. Pardon me?

25 Q. State's Exhibit 1, can you tell us

1 what we're looking at?

2 A. So this is fall before Dxxx went to
3 Midwest. This is while he was in sixth
4 grade football.

5 Q. And this was prior to going to
6 Midwest Academy?

7 A. Correct.

8 Q. I now have up State's Exhibit 2. Is
9 this your family?

10 A. This is. This was done in November
11 before Dxxx left for Midwest.

12 Q. And Dxxx is the one on the left
13 with the gray shirt?

14 A. Correct.

15 Q. State's Exhibit 3, what is this
16 photograph of?

17 A. This is the week that Dxxx came
18 home from Midwest.

19 Q. And you said he had lost quite a
20 bit of weight there?

21 A. Yes.

22 Q. And Dxxx has always been a somewhat
23 stocky kid, hasn't he?

24 A. Yes. He has always been very
25 husky and big.

1 Q. And State's Exhibit 4, what is
2 this?

3 A. This was actually just taken this
4 October of Dxxx.

5 MS. TIMMINS: Ms. [REDACTED] I have no
6 further questions. Thank you.

7 THE COURT: Ms. Schaefer, you may
8 cross-examine the witness.

9 MS. SCHAEFER: Thank you, Your
10 Honor.

11 CROSS-EXAMINATION

12 BY MS. SCHAEFER:

13 Q. Good afternoon, Ms. [REDACTED]. You
14 had indicated that for several years Dxxx
15 had had some fairly significant behavioral
16 problems?

17 A. Correct.

18 Q. In fact, he was placed in--I
19 believe you referred to it as ISS in
20 school?

21 A. In-School Suspension.

22 Q. Is that just a room where they
23 place students who are disruptive to other
24 students?

25 A. At Central it is an open office

1 space that's right next to the secretary.

2 Q. But he's there by himself, to the
3 best of your knowledge?

4 A. No. He's right next to the
5 secretary. The secretary is right there,
6 and his desk is right next to hers.

7 Q. Okay. I meant by himself, as in
8 there are no other students?

9 A. No other students, but there are
10 two secretaries and the principal is right
11 there.

12 Q. So it's just a small area in the
13 office?

14 A. It is a room--it's a large room,
15 probably 15 by 15.

16 Q. And in that same room are the
17 secretaries?

18 A. Correct.

19 Q. How often would he go into In-
20 School Suspension?

21 A. He was in there maybe once a week,
22 and he would work on his school work while
23 he was in there.

24 Q. Did he have other consequences for
25 his behavior while he was still at

1 Central?

2 A. As in--I mean, he would go to the
3 ISS. I think he had an Out-of-School
4 Suspension.

5 Q. Do they even have detention
6 anymore?

7 A. Not in the junior high. They don't
8 use it too much. They use it more--mostly
9 in the high school.

10 Q. You indicated that while he had
11 some issues in elementary school, they got
12 progressively worse in junior high?

13 A. Once he hit--in third and fourth
14 grade, he did great. He had great
15 teachers that really worked with him. He
16 did well. Once he hit fifth grade, that's
17 when the majority of the issues happened.

18 Q. Were there any other issues other
19 than his behavior at school that caused
20 you concern?

21 A. At home he was very defiant. He
22 would scream and yell at mostly me. He
23 listened to my husband, his father. His
24 sister was pretty stressed every day about
25 the behaviors that were going on. She

1 actually missed twenty-two days of school
2 because of stress. She was scared that
3 Dxxx was going to hurt her. He would
4 verbally threaten her, but he would never
5 physically hit her.

6 Q. Was he also getting into
7 pornography at this age?

8 A. No.

9 Q. You indicated--

10 A. And I know-- Can I say something?
11 I know that Ben has said that before, but
12 there's nothing on--any evidence that we
13 have ever seen that he ever looked at
14 pornography or was sexually active at that
15 time.

16 Q. You indicated that during this
17 time, you believed part of his lack of
18 respect for you versus your husband was
19 that you were too lenient with him. What
20 does that mean?

21 A. What I mean is, I would tell, of
22 course-- I would tell Dxxx no about
23 something, and then he would just keep at
24 it, keep at it, keep at it, keep at it,
25 keep it at, and wear me down to the point

1 that I'd be, like, all right, watch that
2 TV show or go hang out with your friends.

3 Q. And so he knew that if he pushed
4 the issue long enough, he would get what
5 he wanted?

6 A. Correct.

7 Q. And you said he didn't respect
8 women. Was it women in general or just
9 you?

10 A. Mostly women in general. There
11 were a few teachers at his school that he
12 really looked up to. But anyone who would
13 try to push buttons, he would be more
14 disrespectful to them.

15 Q. What do you mean by pushing
16 buttons?

17 A. Like say things that would
18 purposely upset him or try to-- I'm trying
19 to find the right words. If he felt that
20 they were being disrespectful to him, he
21 would be disrespectful back.

22 Q. What sorts of things did he find
23 disrespectful?

24 A. When they would ask-- Mostly there
25 was one teacher, Mrs. Walters, that he had

1 the most issue with. If he felt that she
2 was--if he would go to her with a problem
3 and then she would downplay it, or if she
4 would just be adversarial with him. Which
5 at 12 years old, you need to listen to
6 your teacher, plain and simple. There is
7 no--your teacher is the boss. They're the
8 ones in charge.

9 Q. So basically he had issues with
10 anybody, specifically, women who would
11 challenge him?

12 A. Anyone with authority, anyone that
13 was authoritative over him.

14 Q. So anytime someone told him what he
15 was going to do, that's when he would
16 react poorly?

17 A. Not always, but a lot of times.

18 Q. And more so with women than men?

19 A. Correct. Some men he did the same
20 thing, because they were--he's very strong
21 headed; he's very bullheaded. And if the
22 other person was the same way and, of
23 course, wouldn't back down because they're
24 the adults, he would have more issues with
25 that.

1 Q. So basically you could get Dxxx to
2 behave so long as you did what Dxxx
3 wanted?

4 A. Not always.

5 Q. And you didn't challenge him?

6 A. My husband challenged him every
7 day. My husband was the authoritative
8 figure. He listened to his dad. There
9 was people he respected, like his coaches,
10 his football coach, his baseball coach.
11 There were teachers that he got along well
12 with that challenged him and told him,
13 hey, this is the way it's going to be, and
14 he was fine.

15 As long as they're, like, not
16 coming at him and very aggressive about
17 it. If it's like, hey, you know, have you
18 looked at it this way? Did you think
19 about trying it this way? Rather than,
20 like, these are my rules and this is what
21 you're going to do and this is how you're
22 going to do it.

23 Q. And that's what he did not react
24 well to?

25 A. Correct.

1 Q. Now, were you advised during your
2 tour that physical education was something
3 that was strongly stressed at MWA?

4 A. Yes.

5 Q. As well as balanced diet?

6 A. Correct.

7 Q. And you described Dxxx as a husky
8 kid?

9 A. Correct.

10 Q. How physically active was he before
11 he went to Midwest Academy?

12 A. He played football every fall. He
13 played baseball. He played wrestling. He
14 was physical.

15 Q. What was his diet like?

16 A. Where? At home or at Midwest?

17 Q. At home.

18 A. We would always have a protein, a
19 meat. We would have a potato maybe. We
20 would have vegetables. If we go to
21 Grandma's, Grandma spoils him a little,
22 let him have soda, sugary things, chips,
23 things like that.

24 Q. Did he snack a lot?

25 A. Not at home because we don't buy

1 snacks.

2 Q. And you indicated that you did see
3 the OSS rooms when you went on your tour
4 with Mr. Trane?

5 A. We did.

6 Q. And you indicated that you were
7 already concerned about those rooms and
8 the amount of time that Dxxx was likely to
9 spend in them?

10 A. Correct.

11 Q. Even with those concerns, you went
12 ahead and placed him in Midwest Academy?

13 A. We did because we trusted Ben and
14 Midwest, what their website had said, that
15 this type of therapy does work for the
16 kids, that it turns their behaviors
17 around, that Dxxx was going to get therapy
18 while he was there; that we were going to
19 get family counseling; he was going to get
20 an education through the Keokuk High
21 School here--or not the high school, but
22 the school district. We believed them and
23 we trusted them.

24 Q. But you also had two separate
25 occasions where you had contact with DHS

1 and, according to you, had reasons to
2 mistrust but you continued to place him
3 back in Midwest Academy?

4 A. The first time when Dxxx went there
5 because of OSS, we still believed
6 everything that we were being told. We
7 still believed that this was going to be
8 something that helped him, not make him
9 worse.

10 We were scared that he was going to
11 end up in jail if he continued in the way
12 that he was going or that he would kill
13 himself. So to me at that point that was
14 something that I felt that if they said it
15 worked, they were the experts. I'm just a
16 mom. We obviously--I deal with one child
17 that had this problem. They deal with
18 hundreds of kids that had this problem.

19 Q. And you were notified each time
20 Dxxx was placed in OSS?

21 A. Correct.

22 Q. Were you also notified what he had
23 been doing to get him placed in OSS?

24 A. Correct.

25 Q. For the times where he was spending

1 more than twenty-four hours, were you
2 notified as to why he was in there for
3 longer than twenty-four hours?

4 A. Yes. Like he would break
5 structure, or he would blurt out, or he
6 was trying to talk to the rover or
7 throwing food at the cameras.

8 Q. And some of the behavior you
9 described was pretty extreme; correct?
10 Punching yourself in the nose to bleed?
11 Throwing food at the cameras?

12 A. Yes. And when he punched himself
13 in the nose and would do that several
14 times, in August of that--2014, I
15 suggested to Gary that we take him to the
16 ENT, Dr. Marchiando, to have his nose
17 cauterized.

18 Q. And did you do that?

19 A. I wasn't able to. Midwest took him
20 and I was unable to go to that appointment
21 because Dxxx didn't earn the level to see
22 me.

23 Q. And as far as you know, did that
24 help take care of the nosebleeds?

25 A. It did.

1 Q. But did his behavior still continue
2 to be extreme while he was in OSS?

3 A. Correct. My son had severe
4 anxiety, and his psychiatrist believed
5 that a lot of the behaviors that he was
6 having was because of being in the room
7 and having anxiety. Dxxx just wanted out
8 of the room.

9 Q. But you don't know what exactly
10 went on in that room, do you?

11 A. I don't.

12 Q. You were not--

13 A. Dxxx will not speak about anything
14 that happened there, even the OSS room,
15 other than what I've been told from Gary.

16 Q. And you have no reason to doubt
17 what Gary said to you?

18 A. No.

19 Q. Did you have a pretty good working
20 relationship with Gary?

21 A. I did. I trusted him more than I
22 trusted anyone else at Midwest.

23 Q. And were you made aware that if
24 Dxxx would just behave and not do these
25 extreme things that he would get out of

1 OSS and hopefully level up?

2 A. I was told that he chose to sit
3 there by not complying to their rules.

4 Q. And while they seem extreme, is
5 there anything particularly physically
6 difficult about just sitting still?

7 A. For nineteen hours?

8 Q. Who told you it was nineteen hours?

9 A. That's what we were told from Ben
10 and Gary, that that was how it was set up.

11 Q. Were you told that they could move
12 around if they asked permission?

13 A. I don't recall that. I do know
14 that once an hour, they could talk to the
15 rover outside the room. Every two hours
16 they could go for a bathroom break.

17 Q. So they did have the opportunity to
18 get out of that structure?

19 A. When they went to the bathroom, I
20 would assume.

21 Q. So they didn't have to actually sit
22 and not move for a solid nineteen hours?

23 A. They would sit for two hours.

24 Q. That's not particularly physically
25 difficult, is it?

1 A. I wouldn't think it's difficult,
2 but I don't have ADHS, anxiety, or
3 depression.

4 Q. And did he have his medications
5 while at MWA?

6 A. Yes, he did.

7 Q. And as far as you know, he was
8 receiving those medications, wasn't he?

9 A. As far as I know.

10 Q. And of the twenty-four hours that
11 they would have to stay in OSS, didn't
12 they spend a significant portion of that
13 supposedly sleeping?

14 A. Well, they had lights-out. I don't
15 know what time the bedtime was. I'm
16 guessing maybe 10 o'clock, because I think
17 that was the time structured into the
18 program. So from 10:00 and then up at
19 6:00 or 7:00--I would say 6:00, I think it
20 was, when they took showers.

21 Q. So sitting in structure for
22 nineteen hours, a good portion of that was
23 going to be actually sleeping?

24 A. There were some hours there, maybe
25 six or seven hours there.

1 Q. Well, from 10:00 to 6:00 would be
2 eight hours?

3 A. I couldn't do the quick math. And
4 with fluorescent lights on them entirely--
5 the entire time.

6 Q. And was part of the reason for the
7 fluorescent lights to make sure that the
8 staff who would be observing the students
9 in OSS could see them?

10 A. I would assume that's the reason.

11 Q. Because the kids who--specifically
12 with Dxxx, his behaviors being so extreme,
13 it was important that staff be able to see
14 him twenty-four hours a day, isn't it?

15 A. Yes. Because he did--again, he did
16 try to strangle himself with his T-shirt.

17 Q. At some point were you made aware
18 by Gary that Dxxx actually requested to
19 sleep in OSS because he slept better
20 there?

21 A. Sometimes, because it was quiet and
22 there was not any other students around
23 him when he would sleep.

24 Q. And your understanding about OSS
25 was it was one student per room?

1 A. In the room, correct. He would
2 also be sent there for sick--I think they
3 called it sick bed. If he was sick or if
4 there was a time that he threw up, I think
5 he went to OSS to sleep because he was
6 sick.

7 Q. And again, all the information you
8 have really about what occurred in OSS
9 came from Gary Lachapelle?

10 A. Correct.

11 Q. Dxxx's family rep from Midwest
12 Academy?

13 A. Correct. Or from whoever was shift
14 leader that evening.

15 Q. Pardon me?

16 A. Or whoever was shift leader for the
17 evening.

18 Q. So if Gary wasn't working, it would
19 be--

20 A. It would be somebody else.

21 Q. --the shift leader who contacted
22 you?

23 A. Yes.

24 Q. But you were always contacted?

25 A. Correct.

1 Q. And since he has been back, his
2 behavior has improved?

3 A. He is awesome. His behaviors--he
4 does get an occasional--he actually had a
5 detention this weekend because he dropped
6 the F-bomb. But other than that--oh, and
7 he forgot his PE clothes two days in a
8 row. But we're not having the crazy
9 behaviors.

10 But I want to say after he went to
11 Midwest, he went to a behavioral school
12 but then over to an alternative school.
13 And I actually--they worked with him on
14 his anger, his defiance, healthy ways to
15 get out.

16 He actually, while he was at
17 Midwest, he had to repeat the seventh
18 grade when he came back to Quincy school,
19 because he was in so much OSS he wasn't
20 getting the class time that he needed for
21 seventh grade. So when he came back to
22 Quincy, he actually had to repeat the
23 seventh grade.

24 When he went over to ABC, it was
25 the second semester of seventh grade. He

1 did all of eighth grade. And while he was
2 doing his eighth grade year, he was able
3 to get his ninth grade credits and catch
4 back up with his graduating class.

5 Q. One last question. Wasn't a
6 significant percentage of the reason he
7 was in OSS for fighting or aggressive
8 behavior with other students?

9 A. He would have with other--they
10 would-- Yes. I think he fought with other
11 students. I think verbal--I think his
12 mouth is what got him in trouble more than
13 anything.

14 MS. SCHAEFER: I don't have any
15 other questions.

16 THE COURT: Ms. Timmins?

17 REDIRECT-EXAMINATION

18 BY MS. TIMMINS:

19 Q. I just want to be clear on this.
20 When you brought Dxxx home, he had to
21 repeat the seventh grade; correct?

22 A. Correct.

23 Q. And after you brought Dxxx home,
24 you had got him--you had enrolled him in a
25 different type of school?

1 A. With the Quincy Public School it
2 was the behavioral classroom. It's their
3 special education classroom for behaviors.

4 Q. Is that the ABC that you were
5 talking about?

6 A. No. That was actually--the first
7 step was the behavioral classroom at
8 Quincy Public School. His mouth is still
9 getting him in trouble at school, so
10 that's when we had another IEP meeting in
11 December, and we had him switched over to
12 the ABC Academy, which is Quincy Public
13 School's alternative school for kids with
14 IEP's, which Dxxx had had an IEP since he
15 was in sixth grade.

16 Q. So he came back from Midwest
17 Academy, had to repeat the seventh grade,
18 was put in the behavior class in the
19 school; that still isn't working. He then
20 was placed in the out-of-school behavior
21 class; correct?

22 A. Correct, ABC.

23 Q. ABC. That's where you started
24 seeing some improvements?

25 A. Well, I cannot sing their praises

1 more than anyone. While he was there,
2 yes, he-- Was he mouthy? Was he
3 disrespectful? Did he get into a fight
4 with other students? Yes. But the way
5 that they approached it, the way that he
6 would have a room to go cool down into.
7 He had a mentor, Mr. Bringham, who was
8 amazing. He taught Dxxx how to channel
9 those feelings, how to take a minute to
10 breath, which is something we'd all been
11 trying to do since he was in fifth grade
12 and couldn't do.

13 His teacher, Laurie Kelly, is the
14 one that actually told me that Dxxx was
15 too smart to be in that school and that we
16 needed to get him back mainstreamed. She
17 felt that he was doing well enough.

18 Laurie Miles, the director, she
19 worked with Dxxx. They developed a
20 rapport. Sarah, his counselor there, is
21 the only person that he has ever talked to
22 about anything.

23 Q. And he's back in mainstream school
24 now?

25 A. He is. He is back in our home

1 district.

2 MS. TIMMINS: That's all the
3 questions I have. Thank you.

4 THE COURT: Ms. Schaefer?

5 MS. SCHAEFER: I have nothing
6 further.

7 THE COURT: You may step down.
8 Would counsel approach.

9 (A side-bar conference was held off
10 the record.)

11 THE COURT: Ladies and gentlemen,
12 as I told you at the outset, we'll try and
13 get you out of here at 4:30 to 5:00 every
14 day. There may be a few minor variations,
15 but we're at a quarter to 5:00, so we'll
16 adjourn for the day.

17 Please return to the jury room at
18 5:00 a.m.--

19 (Laughter)

20 THE COURT: No. Don't do that. At
21 9:00 a.m. tomorrow morning. Please
22 remember the admonition I've previously
23 given you. It's especially critical right
24 now, especially with news reports and that
25 at the start of the evidence. It makes it