opinion.

THE COURT: All right. We will see how the ad libbing goes.

MR. HURLEY: You are good.

THE COURT: Oh, yeah.

Let's bring the jury in.

THE BAILIFF: Yes, sir.

THE COURT: You would like me to do that in the jury deliberation portion of the instructions?

MR. HURLEY: Yes, sir.

THE COURT: I will.

THE BAILIFF: Your Honor, the jury.

(Whereupon, the jury returned to the courtroom.)

MR. TRAY: Thank you, Your Honor.

Good afternoon. I'm going to apologize upfront. I have somewhat of a sore throat. And just as the prosecutor said that she is too old for braces, I'm too old to have my voice crack, but it will probably happen, so just bear with me.

Trials are a search for the truth. That is what a trial is about. And allegation or the indictment at this stage is meaningless. It means

nothing. It is everything in the four corners of this room is the evidence on which you are to determine whether Melvin Morse is guilty or not guilty.

And the State has the burden of proving that the allegations as made are true. It is their burden to proof. And in a criminal case, they have to prove that beyond a reasonable doubt. That is not may be, could be, possibility, more likely than not, or probably. It is beyond a reasonable doubt. And they have to give you the evidence to leave you firmly convinced that Melvin Morse is guilty as charged. Firmly convinced. Have you seen that evidence? Because in order for them to prove what they say is true, not just a story, not just a narrative, it is really based on two sources: Anna and Pauline. So in order to determine if they have proven their case, we need to examine how credible their witnesses are.

Anna does not get -- as the Court indicated, Anna does not get a free pass by function of her being young or being a child. It's something that we need to guard against because we are so used to kids being cute and cuddly and telling the truth all the time. So you have to be extra careful in your scrutiny of Anna's

testimony. If you don't believe me, just ask Ashley.

(Whereupon, a portion of a DVD was played to the Court and jury.)

MR. TRAY: That is a total fabrication. And as a result of that, Ashley was thrown out of the house, arrested, and subject to prosecution. That's what Anna wanted then. And now she wanted Melvin out of the house. We know from her statement to Melody that the only way Anna thinks they can get back in the house is if Melvin goes to jail. That is today. She got exactly what she wanted the last time. And that is total fabrication. What makes it so alarming is how detailed that is, what she was wearing, what she was doing, where Ashley touched, how it made her feel. Totally false.

Just as alarming is five months later she is saying the same thing again. She maintains that total fabrication. After Ashley has been removed from the house and arrested, Anna is interviewed again about that supposed December of 2009 Christmas Eve incident and she tells another CAC interviewer that it happened. She repeats the same lie and it's just as believable.

(Whereupon, a portion of a DVD was played to

the Court and jury.)

MR. TRAY: It's the same lie repeated five months later, five and-a-half months later. That is the State's witness against Melvin Morse. She had the same motive then and she has the same motive now. I mean, that is obviously a serious lie. That is a horrific fabrication to make up about somebody. And that's exactly what she did and she did it effortlessly.

Her ability to premeditate fabrications is documented. We know there was the marker incident where she got pencil or marker on her face. She told the school that -- initially, told the school that it was because she fell asleep and got the markings on her face. And then Melvin cleaned it off roughly. So she goes to school with those red marks. Obviously, that prompts an investigation on the part of the school. The principal comes down or another supervisor comes down and the story changes to: Well, I put on makeup. Why did she change the story? She didn't want to look foolish. I mean, she was seven years old at the time. She had something in her back pocket, a premeditated fabrication in her back pocket.

What is relevant about that is, she's told -- well, here is what is relevant. DFS is called when a child comes to school with redness under their eyes. That is a DFS investigation. So that's documented. She told the prosecutor different accounts about the same incident. The very person that is asking you to find Melvin Morse guilty has gotten different accounts from Anna.

With the allegations of water boarding, another issue with her credibility is that this story has change over time. She was interviewed five or six times. Three things that she mentioned the first time on the eve of trial: Melvin Morse yelling die, die, trash bag suffocation, and feigning death. The first interview on July 12th, nothing. A month later, nothing. A month later, nothing. Eight months later -- I'm sorry, ten months later, nothing. Five months after that, nothing. In Court under oath, no statement about Melvin Morse yelling, die, die, when she is being asked about these alleged water boarding incidents. No mention of trash bag suffocation. No mention of her faking death so that he stops. The first time anyone hears about that is on February 2nd,

one day before trial. It's simply not credible that you would be asked six times what happened and on the seventh time it comes out.

There has been things subtracted. There were earlier allegations about being hit with a wooden spoon, being hit with a broom. Those things were taken away.

Another issue with Anna's credibility, and that is really, credibility is king in the courtroom because that is what you are being asked to make your decision upon, someone's credibility, what is behind an allegation. Her ability for her imagination to turn into reality. A vivid example of, if you recall, Cody is one of Melvin's children from a previous marriage. It's unrefuted that the last time Anna saw Cody she was in the first grade. And three years later, she is telling people, documented, that Cody is outside my window with a trash bag in his hand asking for money. Like that is a real thing that happened. I mean, that is a vivid imagination for someone she hasn't seen in three years.

A similar example of that, there is testimony from Anna that she went to the Riedel house a day in

July, and I am probably butchering her name, but I will call her Ms. Riedel, but she said, I didn't know this girl, I never laid eyes on this girl a day in my life. Anna says the reason I went there is because I knew the family. And she was asked, how did you know them if you never met them. Because I had heard about them. So just hearing about something in her mind, this turns into a base of knowledge. That is a frightening thing. Because you can see how she dead looked both CAC interviewers on those tapes in the eye and told them about this horrific abuse by Ashley in December of 2009 and it was a complete fabrication.

There are other issues with credibility. There is evidence of exaggeration on the part of Anna. When, you will recall, there was a statement when she was seven years old, there was an allegation that Melvin slapped her so hard that she fell out of the chair or fell over the chair or something like that. There was no bruises, no marks. And it's very difficult, it's hard to foresee how someone could be hit so hard that they lift out of the chair, over the chair, and not leave a mark. And that demonstrates an exaggeration. And it's sort of the difference between

washing someone's hair and perceiving that you are being water boarded. And that is a gross exaggeration.

More recent is in July of 2012, the running-away incident the night before. You recall that Anna stated that Melvin slapped her so hard that there was this gray cloud as a result of the slap. There were no marks on her face, there was -- well, I will show you.

THE COURT: Do you need some time to get that? There are lots of things here. Take your time.

MR. TRAY: Sorry about that. State's Exhibit 10. There is no mark on her face where you would expect a mark to be if she was hit so hard that she couldn't see. Again, that's clearly an exaggeration and it's the same level as getting her hair washed and it gets somehow transformed into water boarding. I mean there is simply no way that she was hit that hard. She's smiling, she's playing at the hospital. So it's simply not credible. These are exaggerations.

Now, we don't know why there are these exaggerations. And it's not the purpose of a trial to figure that out. Anna has had a very difficult upbringing. No one in this courtroom can understand

what she went through when she was younger. It's unimaginable the abuse that she suffered. So none of this is like a criticism, but it's a reality that happened and she, for whatever reason, exaggerates and is unable to tell the truth and this is the State's witness.

Outside of just what Anna says, there is other objective evidence to suggest that these allegations of water boarding are not going on. What you haven't seen is Defense Exhibit 31, and you will have this back in the jury room. This is the nursing records from August 31, 2006, to January 31, 2014. There are 70 notations in here. Anna went to the nurse 70 times. And you won't see a single mention of water boarding or the types of torture that were alleged here. Not once. What you will see is things like: At gym, fell on knees; upper gum hurts, everything. And so the argument is, obviously, well, you know, she was afraid to say anything about her father because all of this was going on. That doesn't hold any water. That's a bad term. Bad phrase. I'm sorry. Sorry. I lost my train of thought.

THE COURT: It happens to me all the time.