

FILED
United States Court of Appeals
Tenth Circuit

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UNITED STATES COURT OF APPEALS

Christopher M. Wolpert
Clerk of Court

FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

No. 22-5005

AMANDA LYN WALKER,

Defendant - Appellant.

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

No. 22-5014

CRAIG ALAN MORRISON, a/k/a Craig
Allen Morrison,

Defendant - Appellant.

**Appeals from the United States District Court
for the Northern District of Oklahoma
(D.C. No. 4:20-CR-00196-JFH-2)
(D.C. No. 4:20-CR-00196-JFH-1)**

Katayoun A. Donnelly, Azizpour Donnelly LLC, Denver, Colorado, for Defendant –
Appellant Amanda Lyn Walker.

John C. Arceci, Assistant Federal Public Defender, Office of the Federal Public Defender
(Virginia L. Grady, Federal Public Defender, with him on the briefs), Denver, Colorado,
for Defendant – Appellant Craig Alan Morrison.

Chantelle Dial, Assistant United States Attorney (Clinton J. Johnson, United States Attorney, with her on the briefs), Tulsa, Oklahoma, for Plaintiff – Appellee.

Before **HARTZ**, **McHUGH**, and **CARSON**, Circuit Judges.

McHUGH, Circuit Judge.

Craig Alan Morrison and Amanda Lyn Walker brought Ms. Walker’s three-year-old son, R.T., to the emergency room and told doctors that R.T. had jumped off his bed and hit his head on his scooter. After examining R.T., doctors discovered bruising across most of R.T.’s body, internal bleeding, and severe injuries to R.T.’s internal organs—injuries the doctors determined did not line up with Mr. Morrison’s and Ms. Walker’s story. The doctors contacted the police, who initiated a child abuse investigation, ultimately leading to a grand jury indictment of Mr. Morrison for two counts of child abuse, under the Assimilated Crimes Act, 18 U.S.C. § 13, and Okla. Stat. tit. 21, § 843.5(A) (2019), and of Ms. Walker for two counts of enabling child abuse, under the Assimilated Crimes Act, 18 U.S.C. § 13, and Okla. Stat. tit. 21, § 843.5(B) (2019). Mr. Morrison and Ms. Walker were indicted under the Assimilated Crimes Act because R.T. is an Indian and the offense conduct took place within the boundaries of the Muscogee (Creek) Reservation. They were tried in a joint trial and the jury returned guilty verdicts on all four counts. In separate sentencing proceedings, the district court granted the Government’s motions for upward variances from United States Sentencing Guidelines sentences for both Mr. Morrison and Ms. Walker. The district court sentenced Mr. Morrison to a

300-month term of imprisonment, 195 months greater than the high end of his Guidelines range, and Ms. Walker to 120 months in prison, 63 months over the high end of her Guidelines range.

Mr. Morrison and Ms. Walker filed separate appeals, collectively raising ten challenges to their convictions and sentences. Because Mr. Morrison and Ms. Walker were tried in one trial, and each joins several of the other's arguments on appeal, we address their appeals together. Determining none of their arguments are meritorious, we affirm Mr. Morrison's and Ms. Walker's convictions and sentences.

I. BACKGROUND

A. *Factual Background*¹

In July 2019, Mr. Morrison and Ms. Walker began a romantic relationship. Within a week, Mr. Morrison moved into Ms. Walker's home where Ms. Walker's adult daughter, Katana Partain; Ms. Partain's boyfriend, John Webb; Ms. Partain's minor daughter; Ms. Walker's minor daughter, M.L.; and Ms. Walker's two-year-old son, R.T., were also living. Not long after moving in, Mr. Morrison became involved with raising R.T.—potty training R.T., helping R.T. to transition to sleep in his own bed, and transitioning R.T. from bottles to sippy cups.

¹ All facts are drawn from evidence presented at Mr. Morrison's and Ms. Walker's joint trial. Where there was conflicting testimony, we recite the facts based on the evidence most favorable to the jury's verdict. See *United States v. Espinoza*, 338 F.3d 1140, 1146–47 (10th Cir. 2003).

On one occasion, in August 2019, Mr. Morrison wanted R.T. to eat pizza, but R.T. was resisting. Mr. Morrison shoved the pizza into R.T.'s mouth, causing R.T. to choke and cry. Ms. Partain yelled at Mr. Morrison to stop. Ms. Walker saw Mr. Morrison shoving the pizza into R.T.'s mouth while R.T. was choking and crying, but she went to her room and closed the door. When Ms. Partain checked on Ms. Walker, Ms. Walker explained that she did not want to hear R.T. crying. Ms. Partain, Mr. Webb, and Ms. Partain's minor child moved out of Ms. Walker's home in late September 2019.

Mr. Morrison lost his job in December 2019 and became more involved in R.T.'s care while Ms. Walker was working. Around this time, R.T. came to Ms. Partain's house and she noticed a dark handprint-shaped bruise on R.T.'s face and small bruises on R.T.'s buttocks. Ms. Partain took pictures of the bruises and sent them to Ms. Walker, asking Ms. Walker about R.T.'s injuries. Ms. Walker told Ms. Partain the handprint-shaped bruise on R.T.'s face was the result of Mr. Morrison unintentionally slapping R.T. while Mr. Morrison was having a night terror and the bruising on R.T.'s buttocks was caused by him falling off his bed.

During this same period, Mr. Morrison's cousin, Misty Dawn Hill, regularly spoke with Mr. Morrison. On one occasion, Mr. Morrison told Ms. Hill that he "made [R.T.] a man-sized peanut butter and jelly sandwich, and that [R.T.] wasn't eating it so he sent him to lay down. And he heard the child choking and he immediately ran and got him up." Morrison ROA Vol. III at 210. Mr. Morrison told Ms. Hill that he

was frustrated by R.T.'s frequent crying and "that he would give the child something to cry about." *Id.* at 211.

In February 2020, Mr. Morrison and Ms. Walker brought R.T. to the emergency room, informing the doctors R.T. had hurt himself jumping from his bed and falling onto his scooter. Upon examination, the hospital discovered R.T. had many severe external and internal injuries that could not be explained by R.T. jumping off his bed. The hospital took photographs of R.T.'s injuries and contacted the Tulsa police. Officers came to the hospital, took statements from Mr. Morrison and Ms. Walker, and photographed R.T.'s injuries. Mr. Morrison and Ms. Walker denied having harmed R.T. or having knowledge of any other person harming him. The responding officers referred the case to a child crisis detective, William Hays, to investigate.

The following morning, Dr. Christine Beeson, a pediatric physician completing a child abuse fellowship, examined R.T. Dr. Beeson's examination revealed extensive injuries including blunt force trauma injuries to R.T.'s liver and pancreas, muscle damage, injury to R.T.'s kidneys, severe bruising on R.T.'s buttocks and going down his leg, bruises on the inside and outside of both of his ears, his right and left cheeks and jawlines, his right forearm, his right shoulder, his shoulder blade and upper back, and the back of his ribcage. CT scans revealed that R.T. had a frontal hematoma, a hematoma around his right adrenal gland, and extensive internal bleeding. Dr. Beeson took additional photographs of R.T. when she

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