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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable Letitia H. Verdin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ARIEL ROBINSON,

APPELLANT

APPELLATE CASE NO. 2022-000716

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INDEX

INDEX	i
PRE-TRIAL TRANSCRIPT DATED APRIL 14, 2022.....	1
STATE’S MOTION TO ADMIT PHOTOGRAPHS OF VICTIM’S INJURIES.....	4
STATE’S MOTION TO ADMIT BODY CAM VIDEOS	4
DEFENSE MOTION TO EXCLUDE BODY CAM VIDEO	5
DEFENSE MOTION TO CLOSE THE MEDIA AND PUBLIC ACCESS TO PRELIMINARY HEARINGS	6
COURT’S RULING TO DENY DEFENSE MOTION TO CLOSE MEDIA AND PUBLIC ACCESS TO PRELIMINARY HEARINGS.....	7
TESTIMONY	
KARLEE PATRIKIS (<i>IN-CAMERA</i>)	
Direct Examination by Ms. Holloway	12
Cross-Examination by Mr. Bouton	17
Redirect Examination by Ms. Holloway.....	25
SCOTT MAGAW (<i>IN-CAMERA</i>)	
Direct Examination by Mr. Bouton	27
Cross-Examination by Ms. Holloway.....	34
Redirect Examination by Mr. Bouton.....	42
COURT’S RULING TO ADMIT CERTAIN PHOTOGRAPHS OF VICTIM INJURIES AND AUTOPSY PHOTO	57
TRIAL TRANSCRIPT DATED MAY 9-12, 2022	61
COURT’S RULING TO DENY DEFENSE MOTION TO EXCLUDE DEFENDANT’S STATEMENTS IN BODY CAM FOOTAGE	64
DEFENSE MOTION TO SEQUESTER ALL WITNESSES	67
COURT’S RULING TO SEQUESTER ALL WITNESSES.....	68
DEFENSE MOTION FOR ALL JUVENILE WITNESSES BE REFERRED TO AS THEIR INITIALS OR FIRST NAME ONLY	69

COURT’S RULING TO REFER TO JUVENILE WITNESSES AS FIRST NAME ONLY	69
DEFENSE MOTION FOR ANY FOOTAGE CAPTURED BY MEDIA OUTSIDE THE PRESENCE OF THE JURY NOT BE PUBLISHED UNTIL AFTER TRIAL	69
OPENING STATEMENT BY MS. SUSTAKOVITCH	77
OPENING STATEMENT BY MR. BOUTON	87
TESTIMONY	
KARLEE PATRIKIS	
Direct Examination by Ms. Sustakovitch	91
Cross-Examination by Mr. Bouton	106
JASON WEIBEL	
Direct Examination by Ms. Holloway	109
Cross-Examination by Mr. Bouton	125
OSMINE BEAU GIVENS	
Direct Examination by Ms. Sustakovitch	130
Cross-Examination by Mr. Bouton	144
JEFFREY ALLEN JENNINGS	
Direct Examination by Ms. Sustakovitch	147
Cross-Examination by Mr. Bouton	156
KEN KOEHLER	
Direct Examination by Ms. Holloway	161
Cross-Examination by Mr. Bouton	176
JERRY AUSTIN ROBINSON, II	
Direct Examination by Ms. Sustakovitch	180
Cross-Examination by Mr. Bouton	221
Redirect Examination by Ms. Sustakovitch	247
Recross-Examination by Mr. Bouton	250
JACQUELINE JOYCE GRANGER, M.D.	
Direct Examination by Ms. Sustakovitch	252
Cross-Examination by Mr. Bouton	272
Redirect Examination by Ms. Sustakovitch	272
SCOTT MCGAW	
Direct Examination by Ms. Holloway	276
Cross-Examination by Mr. Bouton	292

MICHAEL EUGENE WARD, M.D.	
Direct Examination by Ms. Sustakovitch	293
Cross-Examination by Mr. Bouton	316
CHRISTINA M. GOBEN, M.D.	
Direct Examination by Ms. Sustakovitch	320
Cross-Examination by Mr. Bouton	329
Redirect Examination by Ms. Sustakovitch.....	331
TESTIMONY	
ARIEL ROBINSON	
Direct Examination by Mr. Bouton	332
Cross-Examination by Ms. Sustakovitch.....	357
Redirect Examination by Mr. Bouton.....	390
CLOSING ARGUMENT BY MS. SUSTAKOVITCH.....	393
CLOSING ARGUMENT BY MR. BOUTON	409
REBUTTAL CLOSING ARGUMENT BY MS. SUSTAKOVITCH.....	416
CHARGE ON THE LAW	417
VERDICT	430
SENTENCING	438
INDICTMENT.....	440
SENTENCE SHEET.....	442
CERTIFICATE OF COUNSEL	444

**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBITS 1-6 FROM PRE-TRIAL HEARING; COURT’S EXHIBITS 1-3
FROM PRETRIAL HEARING; STATE’S EXHIBITS 40 AND 41 FROM TRIAL (911
CALLS); STATE’S EXHIBITS 2-5 FROM TRIAL (PHOTOS); STATE’S EXHIBIT 61
FROM TRIAL (PHOTO); AND STATE’S EXHIBIT 42 FROM TRIAL (PHOTO)**

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	2021-GS-23-06831
COUNTY OF GREENVILLE	)	
	)	
	)	
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
ARIEL ROBINSON,	)	
DEFENDANT.	)	
_____	)	

April 14, 2022
Greenville, South Carolina

B E F O R E:

THE HONORABLE LETITIA H. VERDIN, JUDGE

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Circuit Court Reporter

INDEX

(SW) - Denotes State's Witness
(DW) - Denotes Defense Witness
(IC) - Denotes In Camera

	<u>PAGE</u>
Motions	5, 7
<u>(SW) KARLEE PATRIKIS:</u>	
Direct Examination by Ms. Holloway	12
Cross-Examination by Mr. Bouton	17
Redirect Examination by Ms. Holloway	25
<u>(DW) SCOTT MAGAW:</u>	
Direct Examination by Mr. Bouton	27
Cross-Examination by Ms. Holloway	34
Redirect Examination by Mr. Bouton	42
Motion	48
Certificate of Reporter	60

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>

(State's Exhibits)

1	Photo	59	59
2	Photo	59	59
3	Photo	59	59
4	Photo	59	59
5	Photo	59	59
6	Photo	59	59

(Defendant's Exhibits)

1	Diagram	59	59
2	Diagram	59	59

(Court's Exhibits)

1	Photo	59	
2	Photo	59	
3	Photo	59	

P R O C E E D I N G S

(WHEREUPON, proceedings commenced at 9:23 a.m.)

THE COURT: Mr. Bouton, why don't we go over the motions that we're going to hear today.

MR. BOUTON: Yes, Your Honor.

THE COURT: All right. From the State.

MS. SUSTAKOVITCH: May it please the Court. Your Honor, Christy Sustakovitch for the State. We're here to present two different pretrial motions in the State vs. Ariel Robinson. One is a motion to admit photographs of the victim's injuries. These would be injuries to her body showing extreme bruising on her legs, her back, her abdomen. The State is also seeking to introduce one autopsy photograph that shows internal injuries to the back of V.S.'s legs. In this case the medical examiner is going to explain that that is the reason V.S. died is that she bled out inside her legs.

THE COURT: Okay. All right.

MS. SUSTAKOVITCH: Next, Your Honor, the State is responding to defense counsel's motion to exclude the defendant's statements that were made contemporaneous that day when emergency personnel, firefighters, EMS arrived on the scene. The State is moving to admit those body cams.

Thank you.

THE COURT: All right. Thank you.

1 And, Mr. Bouton, you've got that motion to exclude
2 defendant's statements? That's correct?

3 MR. BOUTON: Yes, Your Honor. I would make a motion
4 to exclude the body cam video that was taken of my client
5 that captured her comments and conduct on two separate
6 dates, July -- January 14th and January 15th that I
7 understand the State is planning to admit.

8 THE COURT: All right. Well, we're still waiting on
9 the indictment and an indictment number from the clerk's
10 office.

11 MS. SUSTAKOVITCH: We have it.

12 THE COURT: Oh, you do. I'm sorry.

13 MS. SUSTAKOVITCH: Yes, ma'am. We just got it.

14 THE COURT: Okay. Very good.

15 Would you let Lucas Marchant know that we're ready?
16 Thank you.

17 (WHEREUPON, a recess is taken at 9:26 a.m.)

18 THE COURT: All right. If we could, I've asked --
19 we're now going to be discussing some photographs of the
20 minor child, and I'd ask the news media here, I'd ask for
21 your cooperation and not zoom in on any of those
22 photographs, please. Thank you.

23 MR. BOUTON: Judge if this is the appropriate time, I
24 would also like to raise another motion that I submitted
25 to the Court earlier in chambers.

1 Your Honor, I plan to file a motion that would close
2 the media and the public access to these preliminary
3 hearings. Your Honor, as you know, I've handed you a
4 brief written motion that I will file shortly. But in
5 support of this request, I would rely on Steinle vs.
6 Lollis, 279 S.C. 375, which refers to the U.S. Supreme
7 Court of Gannett County vs. DePasquale, 443 U.S. 368.

8 And, Your Honor, the reason for me requesting that
9 media be -- media and the public be denied access is due
10 to the fact that I believe that media coverage here today
11 would affect my client's right to have a fair trial. I
12 anticipate there will be significant media coverage about
13 issues that have yet to be ruled on in this case, and also
14 is approximately three weeks until the trial of the case.
15 And I believe that this would have the impact of
16 potentially influencing the jury pool that could be called
17 in this case.

18 As Your Honor is aware, there has been significant
19 media coverage already in this case. And we would simply
20 argue that the only way to protect my client's right to a
21 fair trial is that these pretrial matters are held -- and
22 the fact that these pretrial matters are being held today
23 would be to close the rest of these proceedings and any
24 rulings until after the jury has been selected and sworn
25 in the case.

1 THE COURT: All right. Well, thank you, Mr. Bouton.
2 I did receive your motion. And as we've discussed in
3 chambers, respectfully, I deny your motion. I find that
4 the public interest in open courtroom has been re-affirmed
5 time and time again in South Carolina, and therefore, I
6 find that there are other ways to ensure Ms. Robinson's
7 right to a fair trial other than closing this matter. We
8 have notified more than three times the normal number of
9 jurors, and we can certainly address any exposure to media
10 through some specialized voir dire at trial. All right?

11 MR. BOUTON: Thank you, Your Honor.

12 THE COURT: Thank you.

13 All right. Yes, ma'am.

14 MS. SUSTAKOVITCH: Thank you, Your Honor.

15 Would it be possible to go first to the motion
16 related to the defendant's statements?

17 THE COURT: Certainly.

18 MS. SUSTAKOVITCH: Or would you like to do the
19 photograph motion first?

20 THE COURT: It's up to you.

21 MS. SUSTAKOVITCH: Okay. All right. Excuse me, Your
22 Honor. The State is moving to admit the defendant's
23 statements made on ---

24 THE COURT: Yes, sir?

25 MR. BOUTON: Your Honor, can my client be brought in?

1 THE COURT: Oh, yes, yes.

2 (Pause in proceedings.)

3 THE COURT: Yes, ma'am.

4 MS. SUSTAKOVITCH: Thank you, Your Honor. May it
5 please the Court. The State is moving to introduce
6 multiple body cam videos of this defendant's statements
7 that were recorded on the scene. Your Honor, the State
8 has provided you with redacted copies. And I'm not sure
9 how Your Honor wants to handle this, but we can play them
10 or we can allow the Court to review them in camera.

11 What I would say is that the sequence of events here
12 is that Jerry Austin Robinson called 9-1-1. As a result
13 of that, first responders came to the home. And they ran
14 up the stairs, and they tried to save V.S.
15 's life. At that point this defendant is
16 spontaneously talking to firefighters as they are trying
17 to assist in resuscitating V.S.. V.S. at that point was
18 in cardiac arrest, basically no heartbeat.

19 At that point firefighters are cutting her pants off,
20 and they are just horrified to see the bruising that's on
21 V.S.'s body. You can hear what I would say is an excited
22 utterance on the body cam where one paramedic says, "All
23 this bruising is from the brother?"

24 And then this defendant is calmly leaned into V.S.'s
25 bedroom saying, "That's from her brother. He hits her.

1 He kicks her. He's violent."

2 So at this point -- this is captured on body cam
3 contemporaneous to as the emergency professionals are
4 there and trying to help V.S. .

5 This defendant's statements do not implicate Miranda.
6 She was not in custody. She was not being interrogated.
7 Law enforcement with fire and paramedics came to that
8 house to render aid to this child. And as Your Honor will
9 see when you play the video of the different body cams,
10 you can see this defendant's contemporaneous demeanor,
11 lack of emotion, how she's speaking that is very telling
12 in a moment like this when there will be testimony at
13 trial that one of the firefighters was having to drill
14 into V.S.'s leg bone, her femur, with no medication and
15 the child did not respond because she was essentially gone
16 almost. At this point Ariel Robinson is in the living
17 room with her hands on her hips.

18 So I just -- those questions and the exchanges as
19 they happened in real time need to be seen by the jury.
20 They also need to be able to see Jerry Austin Robinson's
21 reactions, what he was doing or not doing at the time.

22 And so I think the threshold question here is was
23 Miranda implicated. It was not, Judge. This was not a
24 custodial interrogation. She was in her own home, she was
25 free to leave, she didn't have to continue talking.

1 There are two sets of body cams, Judge. The first
2 set is from the day of the incident, which is on
3 January 14, 2021. The State moves to introduce body cam
4 videos from Officer Smith and Officer Patrikis which have
5 been provided to the Court for in-camera review. That
6 would be, as I stated in my motion, capturing literally
7 the event as it's happening and the statements made by
8 this defendant.

9 She does go -- when the lead investigator walks up to
10 her, Judge, he just says, "I overheard what you were
11 saying to paramedics." And out of his mouth he goes,
12 "What, what, what?" That's when this defendant launches
13 into about a ten-minute dissertation of the events and how
14 she is trying to sell this to the police as being an
15 accident on her part for the abdominal injuries, and then
16 she's saying J.E., the victim's brother, caused the other
17 injuries. So, Judge, for those reasons we would ask that
18 the body cam statements be allowed in.

19 Also, we go to January 15th when police come back out
20 to the house to the body cam that was worn by Investigator
21 McGaw. At that point Your Honor can hear it in camera
22 that multiple times this defendant says she didn't feel
23 pressured the day before, and she was trying to be as
24 helpful as possible so they could just get it over with.
25 Investigator McGaw reiterates that she does not have to

1 speak with him. And then she says, quote, she doesn't
2 feel pressured at all. The defendant responds, "We don't
3 feel pressured. We didn't feel pressured yesterday
4 either. Everyone seemed very helpful, and we're just
5 trying to tell everyone what happened."

6 So, Judge, the State would move that those body cam
7 recordings be admissible in Ms. Robinson's trial. If the
8 Court would like any testimony from Officer Patrikis or
9 Detective McGaw, they are present in the courtroom.

10 THE COURT: Thank you.

11 Mr. Bouton?

12 MR. BOUTON: Your Honor, we disagree with the State's
13 position on this matter. I am happy to let you know my
14 argument at this time if you'd like. But I would like to
15 hear from Officer Patrikis and Officer McGaw, so I'm happy
16 to call them first if you'd like me to do it that way.

17 MS. SUSTAKOVITCH: Your Honor, the State's prepared
18 to put them up and ask them voir dire.

19 THE COURT: Okay. All right. Very well.
20 Ms. Sustakovitch?

21 MS. SUSTAKOVITCH: Ms. Holloway is going to handle
22 their questioning.

23 THE COURT: Oh, okay. I'm sorry. Ms. Holloway?

24 MS. HOLLOWAY: Thank you, Your Honor. May it please
25 the Court.

1 THE COURT: Yes.

2 MS. HOLLOWAY: The State calls Officer Patrikis to
3 the stand.

4 THE COURT: Raise your right hand, please.

5 WHEREUPON,

6 KARLEE PATRIKIS

7 After having been duly sworn, testified as follows:

8 THE COURT: Thank you. If you'd have a seat.

9 DIRECT EXAMINATION

10 BY MS. HOLLOWAY:

11 Q Officer Patrikis, where are you employed?

12 A City of Simpsonville.

13 Q In what capacity?

14 A I'm a corporal for the Simpsonville Police
15 Department.

16 Q And how long have you been with the Simpsonville
17 Police Department?

18 A Five and a half years.

19 Q During those five and a half years, can you tell us a
20 little bit about your work history? What positions have
21 you held?

22 A I have worked on patrol, which is a regular road
23 officer, for the whole five and a half years. And as of
24 August 2020 I got promoted to corporal, and so I'm a road
25 supervisor.

1 Q Were you working on January 14 of 2021?

2 A Yes.

3 Q Did you have the occasion to become involved in this
4 case?

5 A Yes.

6 Q Can you please tell us about how you became involved
7 in this case.

8 A On that day I was the first responding officer after
9 being dispatched to the address.

10 Q And what was the address; do you recall?

11 A It was on Sellwood Circle. Sorry.

12 Q Is that in Greenville County?

13 A It is.

14 Q And when you got to Sellwood Circle, what did you
15 observe?

16 A When I arrived on scene, I was met by the fire
17 department who had told me that -- because this call had
18 come out as a drowning, that's what I was told, and they
19 suspected that it wasn't a drowning. And they informed me
20 that they were giving emergency care to a 3-year-old
21 upstairs.

22 Q The 3-year-old that you mentioned, was she still on
23 scene when you arrived?

24 A Yes.

25 Q So when you arrived on scene, what did you do first?

1 A I waited downstairs for a minute. The -- there was a
2 very small hallway, and I had walked up to the bedroom
3 once I could get up there. I did look in the room and saw
4 that there were a ton of firefighters currently working on
5 V.S. , so I went downstairs and waited.

6 Q And did you have the occasion to come in contact with
7 the defendant?

8 A Yes.

9 Q Can you tell us about that?

10 A She had came downstairs and just kind of started
11 talking to me. I asked her who she was. She explained to
12 me that she was V.S. 's mom. And, I mean, we -- at
13 that time I really didn't have any questions. I didn't
14 know what was happening with V.S. upstairs. All I
15 knew that there was a possible drowning.

16 Q What was the defendant's demeanor like at that time
17 when she came down and started talking to you?

18 A She was pretty calm. I mean, she was excited. She
19 just kept talking. But other than that, she was calm.
20 There was no -- I mean, other than that, she -- she seemed
21 okay at that time.

22 Q And after you talked to her that time, what happened
23 next?

24 A I waited for EMS and -- because EMS got on scene, and
25 I waited for EMS and fire to bring V.S. downstairs.

1 There was no room for me to be up there at that time so I
2 had to wait downstairs for them to be able to bring her
3 out of the house because she needed to go to the hospital
4 immediately.

5 Q And did you continue to speak with the defendant
6 after [V.S.] was taken to the hospital?

7 A I did.

8 Q Tell us about that.

9 A I just started questioning Ms. Robinson about basic,
10 you know, who was here, who is [V.S.], and just
11 basically what happened, basic questions I would ask on
12 any scene.

13 Q When you were asking her these questions, was she in
14 custody?

15 A No.

16 Q Was she under arrest?

17 A No.

18 Q Was she detained?

19 A No.

20 Q Was she in handcuffs?

21 A No.

22 Q Where did this questioning take place?

23 A In her home. In the living room, mostly in the
24 kitchen.

25 Q And when you were in the kitchen, where did that

1 questioning take place?

2 A At the kitchen table.

3 Q And how did you get to the kitchen table?

4 A I followed Ms. Robinson in there. She was kind of
5 showing me, because part of the -- what we were talking
6 about was V.S. eating that morning, so she was showing
7 me like the pancakes that were left there that she had for
8 breakfast and whatnot. And then I also needed her to
9 write written statements, so the best place to do that was
10 at the kitchen table.

11 Q Was she free to leave during the time you were asking
12 her these questions?

13 A She never asked to leave, but had she asked, we could
14 have made some arrangements for her to leave.

15 Q While she was answering your questions, was she
16 deprived of any food or water or creature comforts?

17 A No. She actually at one point asked if she could go
18 wash her hands and use the restroom. And though I did
19 have to follow her, she was able to do all those things.

20 Q And why did you have to follow her?

21 A It was an active scene. We didn't know exactly what
22 we were dealing with. And I would do that on any scene
23 that I'm on.

24 Q And you stated that you arrived at Sellwood Circle on
25 January 14th; is that right?

1 A Correct.

2 Q That's the incident date?

3 A Correct.

4 Q How many days later was the defendant actually
5 arrested?

6 A I believe four or five. I'm not exactly sure, but I
7 believe it was four or five days later.

8 MS. HOLLOWAY: Nothing further. Thank you very much.

9 THE WITNESS: You're welcome.

10 THE COURT: Mr. Bouton?

11 MR. BOUTON: Thank you, Your Honor. May it please
12 the Court.

13 THE COURT: Yes.

14 CROSS EXAMINATION

15 BY MR. BOUTON:

16 Q Corporal Patrikis, thank you for being here.

17 Approximately how many law enforcement officers
18 arrived at the scene at my client's house on the day of
19 January 14th?

20 A I was the first one there, and then Officer Smith
21 shortly after. I would say eight to nine; however, not
22 all of them stayed. Some were there for just a very short
23 brief period of time.

24 Q Were those all officers with your department?

25 A Correct.

1 Oh, I'm sorry. I'm sorry. Later on, hours later,
2 Greenville County forensics did show up; however, I was
3 leaving the scene at that time. So how many officers
4 showed up with Greenville County forensics, I do not know.

5 Q Okay. How were you dressed that day?

6 A In my patrol uniform.

7 Q And you carry a gun with your uniform?

8 A Correct.

9 Q Were most of the officers in their patrol uniforms?

10 A We had a few investigators. Both of my captains
11 showed up, so they are in attire just like I have on right
12 now. But they would also have their weapon and badge on
13 them.

14 Q How many other responders appeared? EMS? fire?

15 A I believe two fire trucks showed up. So on each
16 truck there's three to four personnel. And then EMS
17 showed up, and I think there was two or three EMS that had
18 arrived on scene as well.

19 Q Okay. And I think you stated that they were
20 attending to the victim when you arrived.

21 A Correct.

22 Q What was your purpose in arriving at the scene?

23 A I was -- so whenever we get a call, anything like
24 this, I believe fire had asked for police to show up, so
25 we would just get a normal call. If the fire department

1 asked for police presence, then somebody has to show up,
2 and I was the first one there.

3 Q Is that something that the fire department always
4 does?

5 A Depending on the circumstances, yes.

6 Q Okay. How long were you at my client's house on the
7 14th?

8 A I probably didn't leave there until 7:00, 7:30 at
9 night.

10 Q And what time did you arrive?

11 A Around 2:30, I believe.

12 Q So approximately five hours?

13 A Correct.

14 Q And you were wearing a body cam that day.

15 A I was.

16 Q And where is that connected on your person?

17 A If I was wearing my vest, it would be right in the
18 center.

19 Q And you have the ability to cut that on and off at
20 any time; is that correct?

21 A I did. I do.

22 Q And you have the ability to mute it as well.

23 A Correct.

24 Q All right. And during your time at my client's
25 house, you cut your body cam on and off, and you did it

1 several times during the day; is that accurate?

2 A Correct.

3 Q And, in fact, I think I've been provided six
4 different videos from that day, because I believe, and
5 correct me if I'm wrong, the way the technology works,
6 every time you cut your body cam off and start it again,
7 it creates a new video.

8 A Yes. And also how our body cams works is after so
9 long, I believe it's about 20 minutes, our body cams will
10 automatically start another video. So it may appear that
11 we turned it off; however, it's just how the system works.
12 But yes, I did turn my body cam and mute it several times
13 that day.

14 Q Do you know, have you had a chance to review your
15 body cam footage recently?

16 A For -- it was about a month and a half ago when I met
17 with the solicitor's office.

18 Q Do you know how much footage was created from your
19 camera that day?

20 A I'm -- I'm not 100 percent sure. We didn't go
21 through all of my body cam. We were here for several
22 hours and weren't able to finish.

23 Q Did you inform Ms. Robinson that she could terminate
24 the interview and leave at any time?

25 A No.

1 Q And I think you stated earlier that she never asked
2 to leave. I've had an opportunity to review the video,
3 and I'm going to submit the video in entirety to the
4 Court. But I believe numerous times she asked you if she
5 could leave and go to the hospital; is that correct?

6 A Yes. So -- and I definitely know that there was one
7 time for sure.

8 So I know for a fact she had asked me about
9 V.S. 's status, and I believe she did ask to go to the
10 hospital. But that time we told her she couldn't, not for
11 the fact that she was being detained, but, one, it was
12 COVID protocols that they weren't allowing people to go up
13 there at that time; and, two, because it was an active
14 scene. We were waiting for DSS to show up and we were
15 waiting for forensics to get there.

16 Q So you did tell my client she couldn't leave.

17 A Yes.

18 Q Okay. And, again -- I'm sorry. I know you just
19 answered this. But approximately what time did you arrive
20 at the scene?

21 A I believe it was around 2:30.

22 Q And on your body cam video, it appears to have the
23 date and the time at the bottom.

24 A Uh-huh.

25 Q Do you know if that time is accurate on there?

1 A I believe so. I haven't looked at the report and --
2 I haven't looked at my report that I wrote since I wrote
3 it.

4 Q Okay. When I reviewed the video, it looks like the
5 time's in military time. So what time would 1502 be?

6 A So that would be 3:02.

7 Q Okay. It appears that that's the first time when
8 that's captured on video which my client asked to go to
9 the hospital. So that's about 30 minutes after you
10 arrived?

11 A Yes.

12 Q It appears that she asked you, again, at 1514. So
13 that would be another 12 minutes later; is that correct?

14 A Correct.

15 Q It appears that she asks you again at 1542. So that
16 would be approximately another 30 minutes; is that
17 accurate?

18 A I believe so.

19 Q And then later on at 1638, I believe Ariel is in the
20 front yard standing with you and Officer Magaw and there's
21 a discussion that she can't leave because she hasn't met
22 with DSS; is that accurate?

23 A Yes.

24 Q And I think around that time as well there's a
25 discussion that you have with DSS employees who are

1 already there.

2 A Uh-huh.

3 Q Do you remember them arriving?

4 A Yes.

5 Q And I believe at that point you stated to the DSS
6 employee that she has asked multiples times if she can go
7 to the hospital. Do you remember telling that to the
8 DSS?

9 A Yes.

10 Q Okay. But you never let her go. What time did you
11 actually let her go to the hospital?

12 A I -- to be honest with you, I don't remember if she
13 went to the hospital. I left the scene right after DSS
14 was leaving with the two children, the two brothers of
15 V.S. , so I don't know when at that time if she was --
16 if she left or not. Because, like I said, forensics was
17 showing up. However, the investigators were still on
18 scene, so they would be able to give you a more accurate
19 answer.

20 Q So as long as you were on the scene, you never
21 allowed Ms. Robinson to leave?

22 A The -- as the police department, yes, we never
23 allowed her to leave.

24 Q You stated earlier that when you initially got there,
25 V.S. was still being treated, V.S. , the victim. Did

1 you have an opportunity to observe her at that point?

2 A I looked in the bedroom at one point. I couldn't see
3 her very much because there were so many people working on
4 her. And I did see her as she was being carried out.

5 Q Okay. Were you able to observe any bruising on her
6 body?

7 A Yes.

8 Q And that would have been in the first five minutes
9 when you first arrive on scene; is that correct?

10 A I -- I can't give you an accurate answer, but it was
11 fairly close to the time I arrived.

12 Q At that point after you observe the injuries, is it
13 fair to say that you believe your questions of
14 Ms. Robinson would potentially elicit some incriminating
15 responses?

16 A No. I didn't know what the bruising was from at that
17 point.

18 Q And you never actually read Ms. Robinson her
19 constitutional rights pursuant to Miranda; is that
20 correct?

21 A Correct.

22 MR. BOUTON: Thank you, Corporal. I don't have any
23 further questions.

24 THE COURT: Any follow-up?

25 MS. HOLLOWAY: Yes, Your Honor. Thank you.

REDIRECT EXAMINATION

BY MS. HOLLOWAY:

Q Why did you not read the defendant her Miranda rights at that time?

A We had no -- we were not suspected of any crime at that time. She was not in custody. She was not being detained. There was -- I was just asking basic investigating questions.

Q Do you recall at some points during these times that she was giving you these statements that she actually attempted to assist the police department in the investigation?

A I'm sorry. Can you ask that ---

Q Sure. Specifically, I know you've reviewed some of your body cam, but there's a lot. Do you recall her asking, "Do you want her clothes I had with her throw-up all over it"?

A Yes.

Q And do you recall her asking, "You can pull out that popsicle where she ate half of the popsicle"?

A Yes.

Q Do you recall when you were there on scene and DSS arrived when Ms. Robinson came out to the vehicle to discuss the victim's sibling **J.E.** with law enforcement?

A Yes.

1 Q Can you tell us about that without stating his name
2 for the Court, please.

3 A Yes. She was explaining how this particular brother
4 had anger issues and that he was a liar. She gave that
5 up. I didn't question her. She came out to me and just
6 started giving me information about him, that he has anger
7 issues, that he hits her, and that he is a liar and lies
8 all the time.

9 Q And that was not in response to any specific
10 question; is that correct?

11 A No, it wasn't.

12 Q And at that point why was it important for a
13 homeowner to be home while law enforcement is figuring out
14 what happened to V.S. ?

15 A We need somebody there who -- and, again, I don't
16 remember if we got a search warrant that day, but if we
17 did get a search warrant that day, we would have to keep
18 somebody on scene for the search warrant so they know what
19 we're doing. Forensics was coming out, so whatever
20 forensics needs, I don't work with forensics so I don't
21 know what forensics, you know, would need from them, but
22 -- and we were waiting for DSS to show up, which DSS,
23 whatever questions they needed as far as for the --
24 V.S.'s brothers, whatever they would happen to need,
25 we just -- we need somebody there who's a homeowner to be

1 able to help us answer any questions should they arise.

2 Q Were all the statements that the defendant made to
3 you that day voluntary?

4 A Yes.

5 MS. HOLLOWAY: Nothing further. Thank you.

6 THE COURT: Mr. Bouton?

7 MR. BOUTON: No further questions.

8 THE COURT: You can step down.

9 MS. SUSTAKOVITCH: Thank you, Your Honor. That
10 concludes the State's motion to admit these body cam
11 statements.

12 THE COURT: All right. Mr. Bouton?

13 MR. BOUTON: Your Honor, I would like to briefly call
14 Officer Magaw to the stand.

15 THE COURT: Okay. Officer Magaw, is it? Thank you.

16 Place your left hand on the Bible and raise your
17 right hand.

18 WHEREUPON,

19 SCOTT MAGAW

20 After having been duly sworn, testified as follows:

21 THE COURT: Thank you so much.

22 DIRECT EXAMINATION

23 BY MR. BOUTON:

24 Q Officer Magaw -- is it Investigator Magaw?

25 A I'm a sergeant now.

1 Q Sergeant. I apologize.

2 A No. That's okay.

3 Q Thank you for being here.

4 As you're probably aware, the State is requesting to
5 admit some body cam video that came from you on the
6 following day, on January 15th. Did you respond to my
7 client's home on that date?

8 A On the 15th, yes, sir.

9 Q And who did you respond with at that time?

10 A Investigator Donnelly and Agent Ezell with SLED.

11 Q And did you meet with my client that day?

12 A Yes, sir.

13 Q And where did you meet with her?

14 A In the living room.

15 Q All right. And how were you dressed that day?

16 A I would have been dressed probably in a polo and
17 khakis.

18 Q Do you wear a firearm when you're working?

19 A Yes, sir. A badge and a gun.

20 Q Would the other officers have been wearing the same?

21 A Yes.

22 Q What was your purpose for going on the following day
23 to meet with my client?

24 A That day we actually had a search warrant for the
25 home. There were cameras inside the home, and we had

1 gotten a search warrant to go back to the house to recover
2 electronics equipment and cameras that were in the --
3 inside the home. And the conversation started at the
4 front door/living room area.

5 Q And, obviously, you were wearing a body cam video at
6 that time.

7 A Yes, sir, I was.

8 Q And where was that on your body?

9 A That would be clipped to my belt, so about waist
10 high.

11 Q Did you cut that on prior to meeting with my client?

12 A Yes, I did.

13 Q Is there a delay when you cut that on or does it
14 start recording immediately?

15 A A couple of seconds other than when it beeps to turn
16 on, but technically not really a delay, no.

17 Q Have you had a chance to review your body cam video
18 from that day?

19 A I've seen some of it, yes.

20 Q All right. I reviewed it, and my interpretation of
21 it is as soon as you cut it on, my client is speaking.
22 And do you recall that she is telling you immediately when
23 the body cam starts that she was advised by another
24 attorney not to speak? Do you remember that?

25 A Yes. She said she was advised by her adoption

1 attorney that she should probably seek counsel before
2 talking to us.

3 Q And she made the comment -- and it sounds to me like
4 she's crying -- that she had been talking to you; is that
5 correct?

6 A She said that she had talked to us the day before and
7 that she was willing to cooperate and had no problem
8 talking to us, so she was trying to cooperate with law
9 enforcement.

10 Q And what did you say in response to that; do you
11 remember?

12 A I told her that if she wanted to have an attorney
13 present, that would be fine. I don't remember my exact
14 words, but let me know if you -- that's what you want to
15 do, that's fine, and that's perfectly her right to do
16 that.

17 Q Do you remember referencing that the conversations
18 that happened the prior day were just a formality?

19 A If you're talking about trying to find out what
20 happened that day, yes.

21 Q Okay. How long were you with my client on the 15th;
22 do you remember?

23 A I don't know that I can put a time limit on it. It's
24 probably -- with the search warrant, probably at least a
25 couple of hours, if not longer.

1 Q Would you characterize your meeting with my client on
2 the 15th as a formality?

3 A No. I mean, we had a search warrant for the house.
4 We wanted to collect the cameras that we saw in the house.

5 Q So you were looking for evidence.

6 A Of what took place with V.S., yes, sir.

7 Q Okay. When she mentioned that a lawyer had advised
8 her not to talk, did you leave at that point?

9 A No. I asked her -- I told her that would be fine if
10 she wanted to do that, and she said she was willing to
11 cooperate.

12 Q And at that point is it fair to say that you knew
13 that your questions were reasonably likely to produce
14 incriminating responses from her?

15 A Not necessarily. She had said the day before that
16 her -- the other sibling had caused the bruising, so I was
17 just really more curious about that, how that took place.

18 Q So was she not a suspect at that -- the point of the
19 15th?

20 A I think we had no idea who was a suspect at that
21 point. We just knew that V.S. had passed. And we didn't
22 have the cause of death at that time even though the
23 autopsy was complete. So we couldn't say exactly what
24 happened. We didn't have the cause of death. We were
25 still trying to -- kind of curious what was going on.

1 Q In my review of the video, it appears that you and my
2 client, Ms. Robinson, continued to talk for about three
3 and a half minutes, and then at that point, you say -- you
4 bring up Miranda. Do you recall that?

5 A Yeah. She -- she started talking about things that
6 were very specific, so I stopped her, again, and told her
7 that -- because she had already mentioned it. So I
8 actually interrupted her so she wouldn't say anything
9 incriminating and told her that she had the right not to
10 talk to me, that she's not in custody, that she has the
11 right to be silent, and if she wants to talk and she
12 changes her mind, that's okay, too. I pretty much gave
13 her Miranda without actually having the formal card in my
14 hand. But I interrupted her so that she wouldn't, and she
15 just continued to talk.

16 Q All right. So you didn't have a card or a form or
17 anything to go over Miranda with her, did you?

18 A No, I did not.

19 Q All right. And so you didn't actually read her the
20 actual verbatim language from the ---

21 A I didn't read it. But I believe if you listen to my
22 words, it's probably the same thing as what, you know, the
23 card would say, just in more of a paragraph form, a
24 sentence form.

25 Q In my review of the video, when you -- when you stop

1 her, you state, "I'm about a half paragraph late because
2 we've been talking." What did you mean by that?

3 A I'm not really sure what I meant by that. Probably
4 because she started talking about stuff that I felt like I
5 didn't want -- she -- because she was free to go, she
6 wasn't in custody, I wanted to give her the right again.
7 And she started talking so quickly that I literally had to
8 stop her and tell her that if she didn't want to talk, she
9 didn't need to.

10 Q Okay. And I understand and I will agree you kind of
11 spoke generally with her about those rights. But you
12 actually never advised her that she could -- that anything
13 she could say could be used against her in a court of law,
14 did you?

15 A No. Because she wasn't in custody at the time.

16 Q Okay. And, in fact, during that time, I think your
17 partner, maybe Officer Donnelly, called you out and talks
18 with you because he had approached Austin; is that
19 correct?

20 A He had taken -- actually taken Austin to the car to
21 separate -- typical we'll separate the two. He took
22 Austin out to the car and they placed him in the car,
23 which is, I guess, you feel more custodial than being
24 placed in the car. But I wasn't out there when he took --
25 Donnelly, yes, he took Austin out to the car and talked

1 to Austin.

2 Q And he states -- actually, he showed Austin a Miranda
3 form, asked him to sign it but he wouldn't sign it. But
4 Austin did say they talked to a lawyer and he didn't want
5 to talk anymore; is that correct?

6 A Yes. He told Investigator Donnelly that he didn't
7 want to talk because he was out in the car with him.

8 MR. BOUTON: Okay. Thank you, Sergeant. I don't
9 have any further questions.

10 THE WITNESS: Okay.

11 THE COURT: Ms. Holloway?

12 MS. HOLLOWAY: Thank you, Your Honor. May it please
13 the Court.

14 THE COURT: Yes.

15 CROSS EXAMINATION

16 BY MS. HOLLOWAY:

17 Q Sergeant Magaw, where are you employed?

18 A City of Simpsonville Police Department.

19 Q In what capacity?

20 A I'm now the training sergeant over the training
21 division.

22 Q How long have you been with Simpsonville?

23 A I started in Simpsonville in 1997.

24 Q Do you recall a call coming out on January 14th of
25 2021 to [REDACTED] Sellwood Circle?

1 A Yes, I do. At that time I was an investigator. I
2 was out on the road when that call came out.

3 Q And how did that call come out?

4 A What I heard on dispatch, investigators -- other
5 investigators and I were actually at lunch, had just
6 finished lunch and an armed robbery call came out. A
7 couple of the other investigators arrived at the armed
8 robbery scene, and as I was arriving at that scene, I
9 heard on the radio that there was a -- the code for 10-89
10 is a death. I believe it was worded -- a confirmed 10-89
11 on a juvenile is what I heard on the police radio.

12 Q Do you recall if there was any back story to that
13 10-89 call? Did they say what the suspected cause of
14 death was at that time?

15 A No. Not over our radio when I was dispatched. That
16 -- that may have transpired between EMS and fire dispatch,
17 which was the same dispatcher, but on our radio it was
18 just -- we were just told to confirm the 10-89 was a
19 juvenile.

20 Q Are you aware now as the lead investigator in this
21 case that it was originally called out to EMS as a
22 drowning?

23 A I am.

24 Q And I just want to clarify, too. It got a little
25 confusing. You were at [REDACTED] Sellwood Circle two separate

1 times, correct?

2 A Yes, ma'am.

3 Q Once on January 14th; is that right?

4 A Yes, I was.

5 Q And then again on January 15th, correct?

6 A That's right.

7 Q Okay. So let's talk about January 14th specifically
8 first, okay? When you arrived to the defendant's home on
9 January 14th, did you have your own body cam?

10 A I did not.

11 Q And how did you get a body cam or how were your
12 conversations with the defendant captured on body cam?

13 A Officer Smith's body cam, he stood with me so that
14 the body cam would record the conversations.

15 Q So your conversations with her are captured by
16 Officer Smith's body cam; did I get that right?

17 A Yeah, yes. And I believe at one time I actually
18 borrowed it from him and clipped it on so that I would
19 have it, if I recall.

20 Q And why did you not have your own body cam?

21 A We were out to lunch when the call came out, and mine
22 was in the office on the charger. And being an
23 investigator, I just didn't have it with me.

24 Q When you got to the scene, what did you observe?

25 A I observed fire and EMS already on scene, and Officer

1 Patrikis and Officer Smith were already on scene. I
2 arrived within a minute or two after them.

3 I went into the house. And to give a picture of the
4 house, we've been talking about upstairs and downstairs,
5 but it's a split-level. So you can stand in the living
6 room and see people upstairs right there in the hallway.

7 I looked up to the left of the hallway, and I saw a
8 crowd of people, and I could hear fire and EMS there. So
9 I went in, I looked in the room, I saw several fire
10 department personnel working on V.S. And about that
11 time, she was only dressed in a diaper. I could see a lot
12 of bruising on her stomach and her -- even though she was
13 laid on her back, I could still see her thighs. Her inner
14 thighs and legs were all purple. At that time they had
15 put her on a board and they were pretty much getting her
16 out as I was coming there.

17 Q Did you come in contact with the defendant?

18 A I did.

19 Q Can you tell us about that?

20 A At first I heard her talking at the top of the stairs
21 while I was at the bottom of the stairs to some officers.
22 And I didn't really catch everything she said. I heard
23 her talking about trying to do the Heimlich maneuver and
24 pushing on the -- in V.S.'s stomach. And because I
25 couldn't really hear all of it, when she came downstairs,

1 I introduced myself to her and kind of was asking her tell
2 me again what you were saying. I couldn't really hear
3 everything.

4 Q Do you recall saying, "I kind of only caught the tail
5 end of what you were saying. What, what, what"?

6 A Yeah. I was kind of trying to figure out what I was
7 going to ask, and then she just started talking. I didn't
8 really finish my sentence.

9 Q In response to you saying, "What, what, what," what
10 did the defendant do?

11 A She began explaining that V.S. was -- had been
12 drinking a lot of water, five or six cups of water which
13 seemed unusual for her, and that she said V.S. went
14 limp, and she had put her on a stool to try to do like the
15 Heimlich maneuver. Then she said she was pushing on her
16 stomach to try to get the water out. And she said water
17 would come out. Every time she pushed on her stomach,
18 more water would come out.

19 Q These statements by the defendant, were they
20 voluntary?

21 A Yes.

22 Q Was she in custody at this time?

23 A Not at all.

24 Q Were you even aware that a crime had occurred at this
25 time?

1 A Not at all.

2 Q Was she under arrest?

3 A No.

4 Q When was she arrested?

5 A The week after that. This -- I don't remember the
6 date, but it was about a week later.

7 Q When she was making these statements to you, was she
8 detained?

9 A No.

10 Q Was she in handcuffs?

11 A She was not.

12 Q So let's move -- let's move then to when you return
13 on the 15th. At the time that you returned the following
14 day, did you have a body cam on that day?

15 A Yes, I did.

16 Q What was the purpose of you returning that day?

17 A We had a search warrant for the cameras that were in
18 -- inside the home.

19 Q And when you arrived that day, do you recall saying
20 to the defendant that she did not have to talk to you?

21 A Yes, I did.

22 Q And when you did that, do you recall her saying,
23 "We've already been talking"?

24 A Yes.

25 Q Do you recall her saying, "We're trying to be as

1 helpful as we can because we just want it to be over"? Is
2 that right?

3 A Yes. I -- I remember.

4 Q And in response to her saying that, did she continue
5 to make voluntary statements about the occurrences of the
6 previous day?

7 A Yes.

8 Q Do you recall for about how long she spoke for that
9 period of time?

10 A I don't. Prior to us actually getting into the fact
11 that we had the search warrant, maybe 30 minutes. I -- I
12 don't recall.

13 Q But specifically, you did stop her again one time at
14 the beginning of your conversation; is that right?

15 A Right. I did stop her.

16 Q You reiterated that she did not have to speak with
17 you.

18 A I did.

19 Q And you told her she does indeed have a right to have
20 an attorney present.

21 A I did.

22 Q And you told her that even if you start to talk and
23 she changes her mind, that you will stop talking to her,
24 right?

25 A I -- I did.

1 Q You said you did not want her to feel pressured.

2 A I did.

3 Q And she responded, "We don't feel pressured, and we
4 didn't feel pressured yesterday either"; is that right?

5 A That is correct.

6 Q And she said, "Everyone seemed very helpful, and we
7 were just trying to tell everyone what happened"; is that
8 right?

9 A That's right.

10 Q And after she said that, did the defendant continue
11 to speak with you?

12 A She did.

13 Q On January 15th, was she in custody at that time?

14 A No, ma'am, she wasn't.

15 Q Was she under arrest at that time?

16 A She was not.

17 Q Was she detained?

18 A No, she was not.

19 Q Was she in handcuffs?

20 A She was not.

21 Q Was either day, the 14th or the 15th, was she
22 deprived of any food or water or anything like that?

23 A No.

24 Q Were the statements that she made to you on
25 January 15th voluntary?

1 A Yes, they were.

2 MS. HOLLOWAY: Nothing further. Thank you.

3 THE COURT: Mr. Bouton.

4 MR. BOUTON: Just brief follow-up, Your Honor.

5 THE COURT: Sure.

6 REDIRECT EXAMINATION

7 BY MR. BOUTON:

8 Q Sergeant Magaw, I didn't ask you about the 14th. How
9 long were you present at my client's house on the 14th?

10 A Probably about the same, about seven -- till about 7
11 or 8 p.m. From 2:30-ish, 2:30.

12 Q More than five hours?

13 A About, I'll say, five hours.

14 Q How many times did you hear my client ask to leave
15 during that time?

16 A Later that -- later that evening. I didn't hear -- I
17 heard previous testimony it was in the 1500 hour -- or,
18 yeah, around 3:30 or so. I didn't hear that at that time.
19 Later that evening I did hear around the time DSS was
20 coming later in the afternoon.

21 Q And did you tell her or did you instruct somebody
22 else to tell her that she could not leave?

23 A I may have. I really don't recall. But that could
24 have been said because we knew DSS -- we wanted to talk to
25 her -- DSS to talk to her about what was going to happen

1 with the other kids in the home based on the events.

2 MR. BOUTON: Thank you, Sergeant. No further
3 questions.

4 THE COURT: Any other questions, Ms. Holloway?

5 MS. HOLLOWAY: No, ma'am. Thank you.

6 MS. SUSTAKOVITCH: Nothing further.

7 THE COURT: Sir, you can step down.

8 THE WITNESS: Thank you.

9 THE COURT: Thank you.

10 Mr. Bouton, I believe you had requested those
11 witnesses to testify. Yes, sir. Anything else?

12 MR. BOUTON: Your Honor, I don't have any further
13 testimony to request. If it's appropriate at this time, I
14 would just like to make a few brief comments.

15 THE COURT: Please.

16 MR. BOUTON: Your Honor, we're asking that these
17 proposed body cam videos be excluded from the trial of the
18 case. I know the Court is very aware of the law in this
19 case, but as Your Honor knows, the Fifth Amendment of the
20 United States Constitution states no person shall be
21 compelled in any criminal case to be a witness against
22 himself or herself. And the constitutional safeguard
23 protects individuals from overzealous police practices and
24 limits the admissibility of incriminating statements,
25 whether exculpatory or inculpatory, stemming from

1 custodial interrogation of a defendant unless the
2 prosecution demonstrates the use of procedural safeguards
3 effective to secure the privilege against
4 self-incrimination. A statement obtained as a result of
5 custodial interrogation is inadmissible unless the suspect
6 was advised of and voluntarily waived her constitutional
7 rights. And that's from State vs. Barksdale, Your Honor,
8 433 S.C. 324, which is obviously quoting federal law.

9 Your Honor, the purpose of Miranda warnings is to
10 apprise the defendant of their constitutional privilege
11 not to incriminate oneself while in the custody of law
12 enforcement. I think it's uncontradicted here today that
13 my client was not read her Miranda warnings at least until
14 the meeting with Sergeant Magaw on the following day,
15 January 15th, about three or four minutes into the
16 conversation. I would submit to you, Your Honor, that she
17 was not fully advised of her constitutional rights at that
18 time. I concede the fact that Officer Magaw did mention
19 her rights, but he did not specifically advise her of her
20 right to remain silent and that anything she could say
21 could be used against her in a court of law. Certainly,
22 Your Honor, I'm going to ask the Court if you're willing
23 to review the full body cams from these two officers, I
24 think it's important for you to see the entire picture.

25 Obviously, Judge, since Miranda is not -- I think

1 it's conclusive that Miranda was not given to my client.
2 I think the question is was she in a custodial
3 interrogation. And, Your Honor, I would point you to the
4 case of State vs. Medley, 417 S.C. 18. That case quoted
5 State vs. Kennedy, and it says Miranda warnings are
6 required for official interrogations only when a suspect
7 has been taken into custody or otherwise deprived of his
8 or her freedom in an action in any significant way.

9 I would concede that my client was not in official
10 custody, but I do argue that her freedom of action was
11 deprived. Your Honor, I believe that's the central
12 question for the Court is whether or not she was in
13 custody or otherwise deprived of her freedom in any way.

14 And, Your Honor, I would point to State vs. Caulder,
15 287 S.C. 507. And, Your Honor, I'm happy to give you
16 copies of these afterwards. But it states that a person
17 is in custody when a person's freedom has been restricted.
18 And you heard testimony here today that numerous times my
19 client -- and, Your Honor, it's on the body cams, so I ask
20 you to review it yourself, but she asked to leave numerous
21 times. She is present in her house with eight to ten law
22 enforcement officers, numerous other first responders.
23 Everyone is wearing a gun and a badge. She asked to leave
24 numerous times and she is told that she can't.

25 Obviously, the standard is what a reasonable man or

1 woman in the defendant's position would have understood of
2 his or her situation, in other words, would a reasonable
3 person have felt he or she was at liberty to terminate the
4 interrogation and leave.

5 Your Honor, I believe it was an interrogation at this
6 point. Officer Patrikis stated -- testified that she
7 didn't have a reason, didn't know why she was there. If
8 you'll review her body cam, Your Honor, after a short
9 period of time, she goes out on the porch, speaks with
10 another officer. It is very apparent from that
11 conversation that she knows she is there to investigate a
12 crime.

13 So our position would be that Miranda should have
14 been given to my client at that point, and she should have
15 been advised of all of her constitutional rights.

16 Your Honor, Caulder quotes Rhode Island vs. Innis,
17 which is a United States Supreme Court case, 446 U.S. 291.
18 And it states: Miranda safeguards come into play whenever
19 a person in custody is subjected to either express
20 questioning or its functional equivalent. That is to say,
21 the term "interrogation" under Miranda refers not only to
22 express questioning, but also to any words or actions on
23 the part of the police other than those normally attendant
24 to arrest and custody that the police should know are
25 reasonably likely to elicit an incriminating response from

1 the suspect.

2 Your Honor, we contend that she was in custodial
3 interrogation as soon as Officer Patrikis arrives at the
4 scene and was never read her constitutional rights as
5 required by Miranda; therefore, her statements that are
6 captured on the body cam videos by these officers should
7 not be deemed as voluntarily given and should therefore be
8 inadmissible at trial.

9 THE COURT: Thank you so much.

10 MS. SUSTAKOVITCH: Your Honor, very briefly in
11 response. Sometimes perhaps the best evidence is just to
12 hit "play" and watch it. And the State is certainly -- we
13 sent Your Honor some body cam video to look at. We can
14 also send you the complete unredacted ones.

15 But in this case I believe you're going to see --
16 what you will see is that law enforcement, fire, they all
17 got called there by a 9-1-1 call. They were trying to
18 help save V.S.'s life. This defendant was immediately
19 popping in, telling her version of events. It's right
20 there plain as day. She -- when Officer Magaw comes up,
21 she is more than happy to go into -- launch into a
22 ten-minute explanation and immediately start third-party
23 guiltting the 7-year-old brother of this little girl. It's
24 all captured on video, and we would ask that Your Honor
25 review those. We believe that she was not in custody, it

1 was not an interrogation, and for those reasons we ask
2 that the body cams be admissible.

3 THE COURT: All right. Well, I have reviewed the
4 redacted version. Mr. Bouton has requested that I see the
5 unredacted and so has the State, and therefore, I'm going
6 to ask that you provide those unredacted body cam videos
7 to my office and I'll review them. I'll take the matter
8 under advisement until I've had an opportunity to review
9 it in its entirety.

10 MR. BOUTON: Thank you, Your Honor.

11 MS. SUSTAKOVITCH: Yes, ma'am. Thank you.

12 THE COURT: Thank you. Yes, ma'am?

13 MS. SUSTAKOVITCH: May it please the Court. The next
14 matter is the State's motion to admit photographs of the
15 victim in this case, Your Honor. There are -- I'm going
16 to pass up to the Court a copy of certain photographs of
17 the victim's injuries.

18 THE COURT: And defense has seen these?

19 MS. SUSTAKOVITCH: Yes. Defense counsel has been
20 provided a copy of what I've passed up to the Court.

21 Judge, the State is moving to admit -- and I'm going
22 to go through these photographs. We've got one, two,
23 three, four, five, six, seven photographs, Judge. The
24 first six, these are detailing [REDACTED] V.S. [REDACTED] s injuries.

25 As Your Honor can see from the very first one, you

1 see the very dark purple color of her abdomen. You also
2 see the purple bruising going down her legs. You can see
3 the diffuse bruising, which, Judge, the medical examiner
4 is going to testify about that.

5 You see on the third photograph the injuries to
6 V.S. 's back. This photograph is very important based
7 on the defendant's statements that she was trying to
8 administer lifesaving care to the victim. This is just
9 not supported, and the medical examiner is going to say
10 this is not what you would leave if you're trying to do
11 the Heimlich maneuver. You hold the Heimlich maneuver
12 patient this way, and it's never going to leave that kind
13 of bruising on the back of a child, or any person, for
14 that matter.

15 You go forward to the next photograph is V.S. 's
16 face. She is still at the hospital being treated. That
17 is not her in a deceased state. But you can see the
18 bruising to her ear, Your Honor.

19 You go to the next photograph, and this one is
20 significant and important, Judge. If you look at it, you
21 can see pattern bruising. And this would be from what I
22 handed the Court one, two, three, four, the fifth
23 photograph. You can see what her -- just pattern bruising
24 if you see that, Judge. The medical examiner, Dr. Mike
25 Ward, is going to testify about that when he testifies

1 about his autopsy and the fact that you can see just right
2 there plain as day, that was made by an object of some
3 kind. There's going to be testimony that a belt was used
4 by the codefendant -- excuse me -- by this defendant by
5 the codefendant in this case.

6 The next photograph, we have digitized out [REDACTED] V.S. [REDACTED]'s
7 private area because that is just not appropriate. But
8 the relevant and very probative matter here is to see her
9 legs. You can talk about bruising and then you can see
10 bruising. And sometimes the English language cannot
11 articulate what the human eye can see. And the State can
12 try and a medical examiner can try to explain that
13 bruising in words that can get to a jury and help them
14 understand, but without actually looking at it, you just
15 cannot understand it.

16 Finally, the last photo is [REDACTED] V.S. [REDACTED] in the ER. She
17 is still alive at this point. She's on, I believe, 11
18 rounds of epinephrine. She is not going to make it here,
19 but she is still alive.

20 From the last photograph, Judge, and I'm going to put
21 the legal basis for all of these on the record, the last
22 photograph is very, very difficult. It is. It is an
23 internal autopsy photo of [REDACTED] V.S. [REDACTED]'s legs. But the State
24 has very selectively gone through those autopsy
25 photographs and only selected one.

1 And I'll tell you, Judge, you know Dr. Mike Ward.
2 When the State met with him, he immediately, when I sat in
3 his office with Ms. Holloway and Ms. Kicklighter, he
4 scrolled through all the pictures and goes straight to
5 that one. And he goes, "This is why [REDACTED] V.S. [REDACTED] died." And
6 in that one moment, as a prosecutor, it's all very clear.
7 You see her legs, you see the tissue torn from the
8 muscles, you see like -- almost like it's just you see
9 what you see, and it's very difficult. But it -- also, it
10 goes to so many things.

11 Dr. Ward is going to testify she bled out inside her
12 own body in her legs. The degree of force involved is
13 critical. This defendant has third-party guilt a
14 48 pound little boy. The jury has to see the degree of
15 force that was used to kill [REDACTED] V.S. [REDACTED].

16 Judge, to my motion that I filed, there are several
17 legal basis for these photographs to come in. And very
18 briefly, I know Your Honor is going to read this motion,
19 but I wanted to state them for the record. Any one of
20 these legal basis is enough for these photos to come in.

21 The first would be, Judge, these photographs are not
22 intended to inflame the jury. They are, first, to prove
23 an essential element of the crime of homicide by child
24 abuse. The State has to prove that this defendant killed
25 the victim through child abuse that exhibited an extreme

1 indifference to human life. That's a legal term, extreme
2 indifference to human life. And the burden of proof for
3 every single element is beyond a reasonable doubt that the
4 State has to prove that.

5 These photographs -- with a homicide by child abuse
6 case, you have two tracks. First, you have to be able to
7 determine that, in fact, the jury believes that those
8 injuries to that child exhibited an extreme indifference
9 to human life. This is the way I've always thought of
10 them. And then you move to Track 2 which is, okay, who
11 did it? But if you can't get past Track 1, you can't get
12 to Track 2.

13 And I will just say in prosecuting these cases,
14 sometimes the photographs speak more than anybody could
15 speak. I think back to a homicide by child abuse case
16 where it was a skull fracture. Okay. In that one, skull
17 fracture connotes certain things. Until I saw the
18 autopsy photo, I had no appreciation that skull fracture
19 meant from here to here (indicating). So I just relayed
20 that to the Court that it's to prove an element of the
21 offense, and the State has the complete burden of that.

22 Your Honor, next, the State would say that these
23 photographs are admissible under Rule 404(b) of the Rules
24 of Evidence. Specifically, this defendant has partially
25 -- she's given a partial admission here. She has said, "I

1 did this." And Your Honor saw that on the body cams. "I
2 did this." So the "this" is what we see in the abdominal
3 injuries to [REDACTED] V.S.

4 What the medical examiner's going to testify to is
5 that these -- these -- this constellation of injuries in
6 his medical opinion happened at the same time or roughly
7 the same time. There's no -- there's no gap between --
8 based on the coloration and the purple and blackish look
9 to the bruising between what happened here and then all of
10 the injuries to the back of her legs. So this defendant
11 has entered in that part of these are an accident by her
12 in trying to save [REDACTED] V.S.'s life. The State is entitled
13 and clearly must put in evidence that is contrary to that,
14 that shows the jury how unlikely it would be that you
15 would ever create those kind of bruises from doing the
16 Heimlich. And Dr. Ward will talk about that when he
17 testifies at trial.

18 Also, the defendant, as I've mentioned, has
19 introduced third-party guilt with [REDACTED] J.E., the 7-year-old
20 brother of the victim, and that in this case, the jury
21 just has to see the bruising and they have to be able to
22 understand that it is just implausible and, frankly, no
23 7-year-old could do this to their sibling based on the
24 degree of force that was used.

25 For the autopsy photo, I would want to put on the

1 record, Judge, that a leading case here in Greenville is
2 State vs. Martucci. It was tried here in this very
3 courthouse about 20 years ago. In that case, Judge Victor
4 C. Pyle allowed in internal photographs of injuries to the
5 victim's abdomen. And it was critical in that case to
6 show the degree of force and to help the jury understand
7 exactly what happened to that child and for the State also
8 to be able to prove an element of the crime, which was
9 extreme indifference to human life. And those internal
10 autopsy photos were admissible. For those reasons we ask
11 for you to admit these photographs.

12 THE COURT: Thank you.

13 Mr. Bouton?

14 MR. BOUTON: Thank you, Your Honor.

15 Your Honor, the postmortem photographs are
16 prejudicial because they create undue tendencies to
17 suggest a decision on an improper basis, an emotional one.

18 Your Honor, my concern is that these photographs are
19 going to certainly inflame the passions of the jury. It
20 is not necessary for the State to present these injuries
21 this way to prove her case -- their case. They don't go
22 to prove a substantial material fact or the conditions of
23 the victim that can't be shown on other ways.

24 I certainly anticipate that these photos will be
25 introduced through the testimony of Dr. Michael Ward.

1 Your Honor, if I may, I'd like to hand up to you a sketch
2 diagram that Dr. Ward has prepared in this case that has
3 been produced to us from the State. But I'd like for Your
4 Honor to look at these.

5 THE COURT: All right.

6 MR. BOUTON: Your Honor, it would be our contention
7 that this is a very detailed sketch, diagram of the
8 injuries that are found on the victim and that they would
9 be extremely instructive in helping the jury to understand
10 the severity of the injuries and the cause of the death.
11 The graphic photographs are simply not needed to aid his
12 testimony and the understanding of the jury in this case.

13 Your Honor, I submitted to you a brief written
14 memorandum on this, and I'll certainly file that shortly,
15 but the defense would look at State vs. Brazell, 325 S.C.
16 65. There the trial judge did go through numerous photos.
17 He did allow some crime scene photos of the victim to be
18 published to the jury, but he also excluded numerous
19 photos including autopsy photos because he felt that they
20 were unduly prejudicial and inflammatory and would have an
21 impact on the jury.

22 Your Honor, we contend that the probative value of
23 introducing these postmortem photographs into evidence in
24 this case is outweighed by the prejudicial effect that
25 they would have. We're asking that you review the photos.

1 I will concede that they are very graphic, Your Honor.
2 And I think -- I would ask the Court to come to the
3 conclusion that they're not necessary in this case and
4 exclude them from evidence in this trial.

5 MS. SUSTAKOVITCH: Very briefly in reply, Judge. I
6 did want to pass up some case law, and I'm going to pass
7 some to defense counsel, that speaks to various courts
8 allowing these very type of photographs to be admitted
9 into evidence. And, Your Honor, I'm going to also hand
10 you -- this is the unedited version of the internal
11 autopsy photo. The purpose of giving it to Your Honor is
12 to show you that we have made efforts to make that
13 photograph less -- less shocking and less upsetting. When
14 I mentioned that other case where you had the skull
15 fracture, in that case we cropped in the photograph and we
16 were able to admit that photograph into evidence.

17 We do believe case law supports both the injury
18 photos when **V.S.** was alive and also that one internal
19 autopsy photograph.

20 Thank you Judge.

21 THE COURT: Thank you.

22 All right. Well, based upon case law in South
23 Carolina and based upon the necessity to prove certain
24 elements of your case as well as to disprove any possible
25 defenses or any defenses that are raised at the scene if

1 the body cam footage is admitted, I am going to allow the
2 photographs with the exception of one. There is a second
3 photograph, and I'll put it inside this purple folder.
4 These are not marked at this time for identification. But
5 there is one that shows bruising over the body. I believe
6 that one is redundant to another one that is in there.
7 And then I'm going to exclude the photograph that shows
8 her face, because I do find that its probative value
9 outweighs any prejudicial effect. I believe the
10 describing of the bruising to the ear, a description of
11 that would be sufficient.

12 I do find, Mr. Bouton, that these diagrams drawn by
13 Dr. Ward do not fully -- do not fully depict the injuries
14 and the absence of any mistake or certainly the ability of
15 a child to do this type of thing.

16 I'm going to leave the photographs that I have
17 excluded, and I'll ask you to show those to Mr. Bouton,
18 certainly, but I've left those inside this folder and
19 turned the ones that will be admissible longways.

20 So far as the autopsy photo, I find that it is
21 relevant, it's necessary for the State to prove its case,
22 and therefore, I'm going to certainly admit that. All
23 right.

24 MS. SUSTAKOVITCH: Thank you, Your Honor. Nothing
25 further.

1 THE COURT: Thank you.

2 MR. BOUTON: Nothing further, Judge.

3 THE COURT: All right. Thank you very much.

4 I'll be issuing a decision with regard to the body
5 cam. I'll be issuing a decision very shortly. I
6 understand that tomorrow is a holiday, but I anticipate --
7 I anticipate issuing a decision hopefully by early next
8 week.

9 MR. BOUTON: Thank you, Your Honor.

10 THE COURT: Thank you.

11 MS. SUSTAKOVITCH: Yes, ma'am. Thank you.

12 (Pause in proceedings.)

13 MS. SUSTAKOVITCH: Your Honor, can I just go back on
14 the record for one second? The State is going to mark
15 these photographs that Your Honor has ruled are admissible
16 and move to admit them for purposes of this hearing.

17 MR. BOUTON: No objection, Your Honor.

18 THE COURT: All right. Any problem with that?

19 MR. BOUTON: No, ma'am.

20 THE COURT: No objection; therefore, they're admitted
21 for purposes of this hearing.

22 And I've also -- do you want to mark these diagrams?

23 MR. BOUTON: Yes, ma'am. That would be great.

24 THE COURT: All right. We'll mark those for purposes
25 of this hearing as well.

1 MS. SUSTAKOVITCH: Thank you, ma'am.

2 THE COURT: Thank you.

3 (WHEREUPON, State's Exhibit Numbers 1 through 6 and
4 Defendant's Exhibit Numbers 1 and 2 were marked for
5 identification and admitted into evidence; Court's Exhibit
6 Numbers 1 through 3 were marked for identification.)

7 (WHEREUPON, proceedings concluded at 10:52 a.m.)
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1 CERTIFICATE OF REPORTER

2
3 STATE OF SOUTH CAROLINA)

4 COUNTY OF GREENVILLE)

5
6
7 I, CHERYL A. SMITH, Official Court Reporter for the
8 Thirteenth Judicial Circuit of the State of South
9 Carolina, do hereby certify that the foregoing is a true,
10 accurate and complete Transcript of Record of the
11 proceedings had and evidence introduced in the trial of
12 the captioned case, relative to appeal, in the Court of
13 General Sessions for Greenville County, South Carolina, on
14 the 14th day of April, 2022.

15 I do further certify that I am neither of kin,
16 counsel, nor interest to any party hereto.

17
18 July 14, 2022

19
20
21 *Cheryl A. Smith*

22 Cheryl A. Smith, CVR-M

23 Court Reporter
24
25

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE	)	2021-GS-23-06831
	)	
	)	
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
ARIEL S. ROBINSON,	)	
DEFENDANT.	)	
_____	)	

May 9 thru 12, 2022
Greenville, South Carolina

B E F O R E:

THE HONORABLE LETITIA H. VERDIN, JUDGE; and a jury.

A P P E A R A N C E S:

CHRISTINE K. SUSTAKOVITCH, ESQ.
ALEXA A. HOLLOWAY, ESQ.
Assistant Solicitors

WILLIAM I. BOUTON, ESQ.
Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

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P R O C E E D I N G S

(WHEREUPON, State's Exhibit Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, and 64 were marked for identification only.)

THE COURT: This is the State of South Carolina vs. Ariel Robinson, indictment 2021-GS-23-6831.

And we've talked about a couple of just housekeeping details in chambers.

Is there anything that we need to take up before we bring the jury up?

Anything from the State?

MS. SUSTAKOVITCH: Your Honor, the State would just request that you put on the record Your Honor's ruling related to the body cams --

THE COURT: Okay.

MS. SUSTAKOVITCH: -- that was addressed. And, also, the State and Defense have one stipulation. It's related to the chain of custody on some buccal swabs for four pieces of evidence that were collected and tested in this case. And we will be asking the Court to publish that at the appropriate time.

THE COURT: All right. Very well. And we talked

1 about that that might be a good thing to -- to talk about
2 closer in time to -- closer in time to when that testimony
3 would be relevant.

4 Anything from the Defense, at this point, that you
5 need to take up before we bring the jury up?

6 MR. BOUTON: No, Your Honor, not -- not at this
7 point. I mean, if you're planning to address the prior
8 motions, I will renew my objections at the appropriate
9 time.

10 THE COURT: All right. We had a motion hearing in
11 this case. And Ms. Robinson's attorney had objected to
12 some statements and -- that had been made via -- that had
13 been recorded by body cam.

14 I notified the attorneys of this, Ms. Robinson.

15 But I'm going to put on the record, I've reviewed the
16 exhibits and considered the arguments related to Defense's
17 motion to exclude the Defendant's statements. The video
18 marked Exhibit B is the first chronologically and shows
19 the Defendant upstairs making statements to law
20 enforcement. I find these statements are completely
21 voluntary and not the result of any law enforcement
22 questioning or interrogation.

23 Exhibit A which does overlap Exhibit B shows the
24 Defendant being questioned downstairs. At a certain
25 point, it does appear the questions from law enforcement

1 move to some interrogation. However, the Defendant was
2 not in custody. I find when these questions were being
3 asked, she was in her own home and was not given the
4 impression that she was not free to leave. In fact, one
5 of the law enforcement officers said that he was "sure she
6 wanted to get to the hospital soon," implying that she was
7 free to do so.

8 Exhibit C shows further questioning at a different
9 period of time similar to Exhibit B. I find these
10 statements were not made while the Defendant was in
11 custody. Both the Defendant and the law enforcement
12 officer stressed this questioning was completely voluntary
13 with the Defendant herself emphasizing that she was
14 voluntarily trying to help and work with law enforcement.

15 In any event, near the beginning of Exhibit C, the
16 officer reads the Defendant -- or recites to the Defendant
17 her Miranda rights. While this recitation might not be
18 strictly formal, it captured all the necessary elements of
19 the Miranda warning. And for those reasons, I denied
20 Defendant's motion to exclude Defendant's statements in
21 this case.

22 All right. That being said, we've got a couple of
23 logistical issues. First of all, of course, I don't allow
24 any question -- any photography or any names of any
25 potential jurors in the case.

1 Secondly, we are limited in space, if you look
2 around. So we have 40 jurors who are coming up. And that
3 is the maximum we can put in here. So I'm going to have
4 to ask everyone for jury selection to, please, step
5 outside. I'm not trying to exclude anybody from jury
6 selection. We just don't simply have the room.

7 Next -- and -- and, sir, you're welcome to stay here,
8 but just as long as you're just not recording any of the
9 jury selection.

10 And then -- and what we will do is this, we're
11 bringing up 40. The State has five strikes, the Defense
12 has 10. I suggest that if we are able to do so -- if we
13 are able to do so that we have three alternates in this
14 case. Just my concern would be that anyone might be
15 exposed to any media attention given this case during the
16 trial that we have three alternates, if we could. And, of
17 course, on each alternate, one and two.

18 All that being said, we're afraid our first 40 may
19 not get it done. So what we may have to do is bring 40,
20 then we'd have to refresh with more. And I'd have to go
21 back and ask my questions again to the new jurors who
22 would come in. That's kind of where we -- we stand right
23 now.

24 I have not done that before. But I think we're going
25 to have to do it for time and space. And we'll just see

1 how it goes.

2 All right. Do you mind letting Janine know we're
3 ready for our first 40?

4 THE CLERK: Yes.

5 MS. SUSTAKOVITCH: Your Honor, one housekeeping
6 point. I looked at Defense Counsel's requested voir dire.
7 And the only one that I wanted to talk --

8 THE COURT: Oh, it's number six?

9 MS. SUSTAKOVITCH: Yes.

10 THE COURT: Okay. Yeah. That one's -- that one's
11 out.

12 MS. SUSTAKOVITCH: It was five and six.

13 THE COURT: Five and six?

14 MS. SUSTAKOVITCH: Yeah. Yes, ma'am.

15 THE COURT: That I -- I might ask some variation of
16 five. But I'm -- I'm not going to ask six.

17 MS. SUSTAKOVITCH: Thank you.

18 THE COURT: All right. Thank you.

19 All right. Thank you all. I appreciate your
20 understanding.

21 (Pause.)

22 THE COURT: Just so y'all know, the husband and wife
23 did end up on this jury panel. So we'll address that when
24 we get to it.

25 (WHEREUPON, the jury panel entered the courtroom.)

1 tendency when a jury leaves, people stand up. And there's
2 just a tendency to start talking. So I -- since we're in
3 close quarters, I don't want the jury to -- to overhear
4 anything.

5 And, also, we're probably -- no matter what your
6 feelings or views are on this case, you're going to hear
7 some things you disagree with or you agree with. And so I
8 just ask everybody to remain composed in the gallery, if
9 you would, please. I've got no reason to think that you
10 wouldn't. But I don't want the jury to be influenced by
11 anything except the testimony and the evidence presented.

12 All right. Anything we need to bring up before we
13 bring the jury back in from the State?

14 PRE-TRIAL MOTIONS

15 MS. SUSTAKOVITCH: Yes, ma'am. The State needed
16 clarification -- or is asking for clarification on Defense
17 Counsel's request to have sequestration of the witnesses.

18 THE COURT: Oh, yes.

19 MS. SUSTAKOVITCH: The State, certainly, is in
20 agreement that Austin Robinson should be sequestered, any
21 child witnesses we've talked about, a different avenue for
22 that, if that becomes necessary. But the State does not
23 believe that there's a need for sequestration of all the
24 witnesses in this case. And we would just look for
25 direction from the Court.

1 THE COURT: All right. Mr. Bouton.

2 MR. BOUTON: Yes, Your Honor. I would ask that all
3 potential witnesses be sequestered in this case. I do
4 think there's -- I think there are going to be multiple
5 witnesses who are called. A lot of them will be
6 testifying about similar incidents, similar issues. And I
7 think there's a chance that their testimony could be
8 tainted by a previous witness.

9 THE COURT: We'll err on the side of caution on that.
10 I'm going to sequester the witnesses.

11 If you are a potential witness in this case, I'd ask
12 you to leave the courtroom at this time. And, please,
13 don't discuss your testimony with witnesses who have
14 testified or are going to testify.

15 All right. Thank you.

16 MS. SUSTAKOVITCH: Your Honor, the lead officer
17 isn't --

18 THE COURT: Oh, of course, the lead officer can,
19 certainly, remain.

20 (Pause.)

21 THE COURT: Any other matters we need to address?

22 MR. BOUTON: Yes --

23 MS. SUSTAKOVITCH: I just wanted to clarify, that's
24 for Defense witnesses as well; correct?

25 THE COURT: Oh, certainly, yes.

1 MS. SUSTAKOVITCH: Okay. Thank you.

2 MR. BOUTON: Your Honor, I -- I have a couple matters
3 that I'd like to address.

4 THE COURT: Yes, sir.

5 MR. BOUTON: Judge, we would make a motion that any
6 of the juveniles that are referred to in the courtroom in
7 this case be referred to either by their initials, that's
8 what we would prefer, or in the alternative, maybe just
9 their first names just for privacy.

10 THE COURT: All right. And as we discussed in
11 chambers earlier, I feel that might be confusing to only
12 refer to them by their initials. So we'll refer to them
13 only by their first names.

14 MR. BOUTON: Thank you, Your Honor.

15 THE COURT: All right. Thank you.

16 MR. BOUTON: Your Honor, one other issue I'd like
17 to -- to bring up. And you may have already addressed
18 this with the media. I would make a motion that any
19 footage that is shown while the trial is ongoing, any of
20 the footage that occurs in the courtroom that does not
21 occur in the presence of the jury not be published until
22 after the trial is over.

23 Certainly, I -- I would -- if the jury is here, I
24 don't have a concern about them being tainted by news
25 coverage. I understand your -- your admonishment for them

1 with the media coverage. But on the side of caution, I
2 would ask they just do not be allowed to publish anything
3 that occurs outside of the jury's presence.

4 THE COURT: Anything from the State?

5 MS. SUSTAKOVITCH: We leave it in Your Honor's
6 discretion.

7 THE COURT: Here's what I'm going to do, if we -- if
8 we've got to have a sidebar at some point, or if there's
9 something that I need to ask them to turn off their
10 cameras, then we'll just cross that bridge when we get to
11 it.

12 Y'all just alert me if there's something you feel
13 that's particularly necessary for some reason. But at
14 this point, I -- I feel it's fine for them to just
15 continue.

16 MR. BOUTON: Thank you, Your Honor.

17 THE COURT: -- as they go.

18 MR. BOUTON: The last motion I -- motion from me --

19 THE COURT: Sure.

20 MR. BOUTON: -- that I have to put on the record.
21 Your Honor, it is my intent not to illicit testimony that
22 would go towards my client's character under 404(A) -- or
23 405(A). It's not my intention to open the door to her
24 reputation or any -- or what we would consider character
25 evidence. If the State believes that the door has been

1 opened, I would just ask that we be allowed to address
2 that issue, potentially review any evidence in camera
3 before that is published for the jury so that you can make
4 a ruling outside their presence.

5 THE COURT: All right. And I think we had a
6 conversation with regard to that, that anything that would
7 fall under that category that we'd, certainly, have a
8 sidebar discussion about it and, if necessary, an
9 in-camera review of what that evidence would be.

10 All right. Anything else we need to take up?

11 MS. SUSTAKOVITCH: Nothing from the State.

12 MR. BOUTON: No, Your Honor.

13 THE COURT: All right. Then bring the jury on in.

14 (WHEREUPON, the jury came into open court at
15 approximately 2:29 p.m.)

16 OPENING REMARKS

17 THE COURT: Good afternoon, ladies and gentlemen.

18 I hope you enjoyed your lunch.

19 We are now ready to begin the trial of this case.

20 What I'm going to say to you now is intended only to serve
21 as an introduction to the procedures we're going to follow
22 throughout the trial of this case. I'm going to explain
23 the law that is applicable to -- to this case at the end
24 of the case after you've heard all the testimony and
25 evidence, and you've heard the arguments -- closing

1 statements of the attorneys.

2 The Defendant in this case, Ariel Robinson, is
3 charged with an indictment filed with this Court for
4 homicide by child abuse, the elements of which will be
5 explained to you later.

6 The indictment, as I told you earlier, is simply the
7 document by which someone is charged and brought into
8 court. It -- it is not in any sense evidence in any way.

9 The Defendant has pled not guilty to this indictment.
10 And, therefore, the State has the burden of proving each
11 of the elements of the indictment beyond a reasonable
12 doubt. It will be your duty, ladies and gentlemen, to
13 determine whether or not the State has met that burden of
14 proof.

15 You're the sole judge of the facts. You're to
16 determine the facts from the testimony and evidence
17 presented in this case. On the other hand, the same law
18 that makes you the judge of the facts makes me the judge
19 of the law. You must take the law as I give it to you,
20 apply it to the facts as you find them to be. And from
21 that, you'll determine whether or not the State has met
22 its burden of proof in this case.

23 You might have a different idea as to what the law is
24 or what the law ought to be. And if that is the case, you
25 have to disregard that and take the law exactly as I give

1 it to you.

2 Until I advise you to begin your deliberations, as we
3 discussed earlier, you may not discuss this case with
4 anyone, even with your fellow jurors. We anticipate
5 you're going to go home and have this case with you
6 overnight for several nights.

7 Your family is going to naturally ask you if you are
8 on a jury. And you may tell them, under your oath, your
9 juror oath that you are on a jury, but may not tell them
10 the nature of the charge, nor the name of the Defendant in
11 the case, nor anything about the testimony or evidence
12 presented in any way.

13 It is especially important that you do not do any
14 independent research in this matter. It's, also,
15 especially important that you avoid any news accounts of
16 the case, that you avoid social media accounts and
17 comments with regard to this. And that -- you're going to
18 have to be -- under your juror oath, you're just going to
19 have to be very fastidious about that and make sure that
20 you follow my directive in regard to that.

21 Furthermore, you should not watch any TV news. You
22 shouldn't listen to any news on the radio. You should
23 just take an absolute break from the news for the next few
24 days.

25 Once -- once the case is in your hands, you can

1 discuss it with your fellow jurors. And then after you
2 have rendered your verdict in the case, you can discuss it
3 or not discuss it with anyone you like. All right. It's
4 important that you keep an open mind, not make a decision
5 on any fact in the case until you've heard all the
6 testimony and evidence in the case.

7 In just a moment, the Solicitor's going to make what
8 is called an opening statement in which she is going to
9 tell you what she believes the issues in the case to be.
10 That is not evidence. The -- the attorney for the
11 Defendant may make an opening statement as well in which
12 he tells you what he believes the issues to be, but he
13 does not have to do so. He's not required to do so.

14 From time to time, you may hear the attorneys say, we
15 need to approach on a matter of law. I told you earlier
16 that you're the sole judges of the facts. That means I
17 cannot have an opinion on the facts. And I do not have an
18 opinion on the facts. But, sometimes, in ruling on a
19 matter of law, I have to comment on the facts.

20 So as not to say anything in your presence about the
21 facts, if it's something we can take up quickly here at
22 the bench, we will. Otherwise, I'm going to ask you to
23 step to your jury deliberation room while we take that up.
24 But I assure you that if you are in your jury deliberation
25 room waiting, then we will be in here working.

1 Of course, you're going to have to determine the
2 credibility of witnesses. Credibility simply means
3 believability. You determine that the same way you do in
4 your everyday lives. You look at how a person acts on the
5 witness stand, or how the person acts when they're
6 talking. You think about how that matches up with other
7 witnesses in the case. You look at any evidence that's
8 been presented.

9 Furthermore, you think about whether anybody has any
10 bias, prejudice, anything to gain from the outcome. And
11 you can use anything in the record that you believe will
12 help you in determining who, if anyone, is telling the
13 truth in this case.

14 Excuse me.

15 Now, Ms. Little, will you act as Foreperson in this
16 case?

17 JUROR #193, KIMBERLY LITTLE: Sure.

18 THE COURT: All right. Thank you so much.

19 Your verdict -- your verdict is -- must be a
20 unanimous one. That means no one's opinion is more
21 important than another. I just have to pick someone who
22 will lead the discussions in the jury deliberation room,
23 and who will, ultimately, sign and date the verdict form.

24 I'd appreciate it very much if you'd do that.

25 Let me see.

1 Our three alternates. You probably know what an
2 alternate does. But just so I've said it, an alternate
3 will be with us throughout the balance of the trial.
4 If -- if I need to replace a juror or there's an emergency
5 or anything like that, you could just step in as if you'd
6 been one of the 12 jurors all along.

7 And there's, actually, a procedure we go through
8 to -- to determine which of the three of you we would seek
9 first. We'd draw your name from a hat. That's what South
10 Carolina law says.

11 But I hope I don't have to replace anyone. But if I
12 did, then you'd be with us. If we get to deliberations
13 and your services aren't needed, then I'll excuse you at
14 that time.

15 Now, I'm not trying to call anybody out. But I know
16 we have one alternate who has a bit of an injury. If
17 there's anything we can do at any point in time to make
18 you more comfortable, maybe to move you to a chair and get
19 you something to elevate your -- your foot. I don't want
20 to embarrass you in front of everybody. But I want you to
21 know we want you to be -- we want you to be very
22 comfortable as we do everyone -- everyone during this
23 trial.

24 Now, any objection to my initial instructions from
25 the State?

1 MS. SUSTAKOVITCH: None from the State.

2 THE COURT: Any from the Defense?

3 MR. BOUTON: No, Your Honor.

4 THE COURT: All right then. Ladies and gentlemen,
5 we're ready to begin.

6 Ms. Sustakovitch.

7 MS. SUSTAKOVITCH: Thank you, Your Honor.

8 May it please the Court.

9 THE COURT: Yes, ma'am.

10 OPENING STATEMENTS

11 MS. SUSTAKOVITCH: Good afternoon, ladies and
12 gentlemen.

13 On Thursday, January 14th, 2021, V.S.
14 was just a three-year-old little girl. And on that day,
15 V.S. lay on a hospital gurney in cardiac arrest with
16 her lifeless body leaving her. V.S. died that day.
17 She suffered from multiple blunt force trauma injuries to
18 her body. And she ended up bleeding out inside her own
19 body that day.

20 The evidence will show that the person responsible
21 for the injuries to V.S. is this person,
22 Defendant Ariel Robinson.

23 Ladies and gentlemen, my name is Christy
24 Sustakovitch. And I'm a prosecutor for the State. This
25 is Alexa Holloway. She's a prosecutor as well. It's our

1 job to present to you the evidence in this case, to prove
2 to you beyond a reasonable doubt that Ms. Ariel Robinson
3 is guilty of the crime of homicide by child abuse.

4 I want to warn you from the outset of this trial that
5 some of what you're going to hear is going to be hard.
6 Some of what you're going to see is going to be hard. But
7 it is just imperative that you, as the sole finders of
8 fact, know exactly what happened to [REDACTED] V.S. [REDACTED]

9 As Judge Verdin just stated, you're going to hear
10 much more about the law at the end of this case. But I
11 just like to touch on it at the beginning of trials so
12 that you as the finders of fact and you -- as you hear the
13 evidence come in, it can make sense to you.

14 The evidence in this case is that -- the substance of
15 the charge is that Ariel Robinson is charged with causing
16 the death of a child under the age of 11 by child abuse or
17 neglect under circumstances that exhibit an extreme
18 indifference to human life. And you're going to hear more
19 at the end of this case about what extreme indifference to
20 human life means. But, ladies and gentlemen, at the end
21 of this case, you will have no doubt that the injuries
22 that [REDACTED] V.S. [REDACTED] suffered and died from are
23 extreme indifference to that little girl's life.

24 Evidence comes in many forms. It can be physical
25 evidence. It can be forensic evidence. It can be direct

1 evidence, which comes from the witness stand. A lot of
2 the evidence in this case is going to be direct evidence.
3 Judge Verdin will tell you at the end that no evidence is
4 better than the other. You take it all. And you, as the
5 finders of the facts, sift through it and then you
6 determine if the State has met its burden.

7 And, ladies and gentlemen, at the end of this case,
8 the evidence is going to show that there's no credible --
9 credible non-accidental way that [REDACTED] V.S. [REDACTED] ended
10 up with the injuries that she had and died the way she
11 did.

12 Your task is to look at all the evidence and with a
13 clear head, taking the emotion out of it, and a clear
14 heart work through this most difficult of cases.

15 You're going to hear the background of this Defendant
16 and the co-defendant in this case, Ariel Robinson and
17 Austin Robinson. You're going to hear how Ariel Robinson
18 met Austin in high school. They ended up getting married.
19 They have two children. And they moved to different
20 places throughout Greenville County. Fast-forward and
21 you're going to hear how they decided that they wanted to
22 adopt children, mainly Ariel wanted to adopt a daughter
23 because her kids wanted a daughter.

24 So in March of 2020, you'll hear how [REDACTED] V.S. [REDACTED]

25 [REDACTED] was around two, almost three at the time. Her

1 brother, five-year-old [C.E.], and her other brother,
2 seven-year-old [J.E.] came to live in their house.

3 We all know what happened on March 15th or so of 2020
4 when COVID hit. The world shut down. And you'll hear in
5 the evidence of this case how Ariel Robinson and Austin
6 Robinson went from being a family with two kids to five.
7 Five children that they are now in sole custody and care
8 of in a very, very difficult time for a lot of people. We
9 all lived it.

10 You'll hear how this Defendant took primary care of
11 [V.S.] [V.S.]'s name is [V.S.] And she took most
12 of the care over her eating, and her bathroom training,
13 and things like that. You'll hear how this Defendant had
14 an issue with [V.S.] She was three. She -- this Defendant
15 believed that that child was being defiant, that [V.S.]
16 was not listening to her sometimes, that [V.S.] was
17 eating her food too slowly sometimes.

18 So you'll hear how this Defendant would put her on a
19 timer to time her to get her to eat her food because she
20 took longer than her brothers. You will hear about how --
21 on Wednesday, January 13th, the day before [V.S.] died,
22 you'll hear how everything was going well. [V.S.] was fine.
23 The family heads off to go to church.

24 Prior to going to church, you'll hear how this
25 Defendant wanted [V.S.] to eat. It's time to eat. You've

1 got to get your food down. You'll hear how V.S. threw up
2 when she got to church. And you'll hear how that made
3 Ariel angry.

4 You'll hear and you'll see how V.S. was brought
5 into the church that night. And she was cleaned up in the
6 bathroom. And you'll hear from witnesses that saw
7 V.S. at the church that night. And you'll see
8 V.S. being brought out by this Defendant on a
9 surveillance video with no bruising, perfectly fine, not
10 what you're going to see happened to her the very next
11 day.

12 You'll hear -- and these time lines are important,
13 ladies and gentlemen. You'll know that at 8:00 on
14 Wednesday the 13th of January, 2021, V.S.
15 is fine. The only thing that's happened to her is she's
16 thrown up on herself. And the evidence will show it made
17 this Defendant mad. And now, they've come home.

18 The evidence will then show the next morning, the
19 boys go to school, all four boys go to school. And so
20 then it's just V.S. and Ariel. I'm going to call
21 Ms. Robinson Ariel, if that's okay. And Austin, that's
22 her husband. So we don't get confused on who's who.

23 But at that point, you'll hear about that morning.
24 And you'll hear how V.S. started eating pancakes. This
25 Defendant will say that V.S. was fine. She was eating her

1 pancakes. And then you will hear the devastating series
2 of events that go from V.S. trying to eat some pancakes to
3 a child beaten to a pulp.

4 You will hear how at 2:13, Austin Robinson calls 911.
5 911 arrives. You'll hear from emergency medical personnel
6 that arrive on the scene. They're told V.S. drank too
7 much water. She's drowning. You've got to help this
8 child.

9 You'll hear -- the evidence in this case will show
10 that they came in. They came to help the child. They get
11 down. And the evidence will be they cut off V.S.'s shirt
12 first. And they see abdominal injuries that make no sense
13 at all to her lower right quadrant, deep purple bruising.

14 The evidence will be that the paramedics and EMS are
15 fighting to save this baby. She is cold. She is in
16 cardiac arrest. She is, essentially, dead. The evidence
17 will be shown to you that as they cut her pants off, even
18 the most experienced law enforcement personnel are just
19 shocked at what they see.

20 And you'll hear how this Defendant, who's in the
21 nursery with V.S., who's on the floor realizes, oh,
22 they've seen her legs now. And she offers up -- first,
23 she offers up that she was doing CPR wrong to explain
24 these injuries. This is on body cam. And then as the
25 pants come off, she says the injuries to V.S.'s legs were

1 caused by [V.S.]'s seven-year-old brother.

2 You'll hear how law enforcement speaks with Ariel
3 Robinson. And she continues to tell this story about
4 failed CPR attempts on her part of pushing water up,
5 pushing water up because [V.S.] drank too much water.
6 And then she continues to double down on the
7 seven-year-old sibling caused the rest of the injuries.

8 You will see the injuries to [V.S.]. You will see
9 the bruising. You'll hear from the lead investigator,
10 Scott Magaw, who spoke with this Defendant on body cam.
11 You'll hear that whole exchange where this Defendant
12 continues to give that version of events.

13 You'll see Austin Robinson in the background just
14 taking it in, listening to what Ariel is saying. You'll
15 see Ariel direct investigators on pieces of evidence to
16 pick up.

17 The evidence in this case will be that detectives go
18 over to the little seven-year-old's school just to be
19 thorough. And they speak with people on that scene about
20 this very farfetched seven-year-old did this defense.
21 They find out that [J.B.] is a good boy. He's a
22 seven-year-old first grader. You'll hear from his
23 teacher.

24 Then you'll hear from Dr. Ward, who's the medical
25 examiner in this case. And Dr. Mike Ward, who's been in

1 Greenville County, I -- maybe 30 years -- I -- at least,
2 25. But Dr. Ward is going to explain to you what these
3 injuries are. He's going to tell you in his expert
4 opinion that he believes these injuries came from one
5 severe beating event.

6 These are not separated in time from failed efforts
7 to do CPR and get water out. The evidence that you will
8 hear from Dr. Ward is that [REDACTED] V.S. [REDACTED] suffered so many blows
9 to her legs that that's why she died. Dr. Ward will tell
10 you how the body tries to get blood back to the heart so
11 that we can survive as human beings. But when all the
12 blood, Dr. Ward will tell you, stays in your legs, your
13 heart stops and you die, as [REDACTED] V.S. [REDACTED] died.

14 You'll -- the case could have ended there, ladies and
15 gentlemen. The Defendants were both arrested, this
16 Defendant and her husband, Austin Robinson. The evidence
17 in this case could have stopped there with Ariel Robinson
18 saying that she caused these injuries, which the medical
19 evidence is not going to say is accurate, and that the
20 seven-year-old caused the other injuries to her legs,
21 which the medical evidence does not support.

22 But then fast-forward as they're both arrested and
23 sitting in jail. Co-defendant, Austin Robinson, you will
24 hear says that he needs to say what he really saw. He
25 decides to give a statement. And he contacts the State

1 through his attorney and wants to make a statement.

2 Austin Robinson was given no deal, no promise, no
3 nothing, basically, fine. This happens in cases. If you
4 want to make a statement, make a statement. Say whatever
5 it is you need to get off your chest. And he did. And
6 you'll hear how Austin Robinson filled in some blanks.
7 And you'll hear how Austin Robinson said it really went
8 down that morning over the pancakes.

9 Austin Robinson will testify and tell you he was
10 outside messing around with a van that was broken down.
11 He'll tell you how the tow truck driver came, got the van
12 around 9:30, 9:45. And the evidence will be the tow truck
13 goes off to Killian's Motors in Mauldin for repairs.

14 You'll hear from Austin Robinson, who says he hears
15 the conflict ratcheting up, ratcheting up. And he hears
16 Ariel arguing with V.S. about the pancakes, and when to
17 eat them, and how fast to eat them. And he knows that
18 it's -- it's getting bad. You'll hear how Austin Robinson
19 walks in the house and sees Ariel holding a belt above
20 V.S. And he says, Ariel, you've gone too far, you've
21 gone too far this time.

22 You'll hear about Ariel Robinson and her husband's
23 actions after that event. The evidence in this case will
24 be they did not call 911. They did not pick up a phone
25 and say, oh, my God, we need help for V.S. We go into an

1 hour and a half of clean-up mode, of wasting time mode.

2 The evidence in this case will be that at 1:00,
3 ladies and gentlemen, Austin Robinson went into a CVS to
4 buy Tylenol to bring down [V.S.]'s bruising. After he
5 gave a statement, law enforcement went and corroborated
6 key portions of his statement.

7 They went out and talked with the tow truck driver.
8 They found out that, yes, the Robinsons van was towed
9 there and arrived at 10:22 in the morning. They found
10 out, also, that at the church the video that I referenced
11 earlier was right there from the night before showing
12 [V.S.] with no injuries to her body. And you will,
13 also, see the video from CVS where Austin Robinson is
14 running around CVS buying Tylenol, instead of calling 911,
15 instead of this Defendant calling 911.

16 Ladies and gentlemen, that's, essentially, what this
17 case is about. You're going to hear how Robinson -- how
18 Austin Robinson has pled guilty several weeks ago for his
19 part in this horrible, horrible case, for not rendering
20 aid, for not getting help for [V.S.], for running off
21 and getting medicine. And he is going to serve, at least,
22 10 years up to 20 years in prison for his part.

23 But we come back to, who inflicted the injuries that
24 killed [V.S.]? And all of the objective evidence in
25 this case points to the one person. And you will hear

1 from her in these body cams explaining all of that.

2 Ladies and gentlemen of the jury, you are the finders
3 of the facts. And you will logically and thoughtfully go
4 through the evidence in this case. And at the end of this
5 case, I will ask you to return a verdict that speaks
6 justice. I will ask you to return a verdict of homicide
7 by child abuse guilty against this Defendant.

8 Thank you.

9 THE COURT: Thank you, Ms. Sustakovitch.

10 Mr. Bouton.

11 MR. BOUTON: Thank you, Your Honor.

12 May it please the Court.

13 THE COURT: Yes, sir.

14 MR. BOUTON: Ladies and gentlemen, I'm sorry. I'm
15 sorry you're here. Because this is -- this is going to be
16 a hard week for everybody involved.

17 I agree with Ms. Sustakovitch, this is a horrible,
18 horrible situation. It's tragic. And any time when a
19 minor child like this dies, it's a terrible situation.

20 But I'm glad you're here because you have to be here
21 for our jury system to work. We need you. And we
22 selected you guys. We picked y'all for what you said and
23 what you didn't say. And you've heard the oath that the
24 Judge has read. And -- and what I'm going to ask you now
25 is to honor that oath and listen to the evidence, use your

1 ears and your eyes and common sense, and judge this case
2 based on what happens here in this courtroom today and
3 this week. I anticipate it -- it likely will last all
4 week.

5 There are going to be a lot of witnesses who are
6 going to testify. Your jury oath is that you swore that
7 you were going to consider the evidence in this case as
8 you hear it, not what's outside this courtroom, not what's
9 in the media, social media. And that's going to be hard
10 to do because in today's world everyone is -- most
11 everyone has a phone in their pocket that's connected to
12 social media, that's connected to the Internet.

13 All of y'all probably have family or friends who are
14 going to ask you about what you're doing today. They may
15 have heard about this case. Some of you may even have a
16 wife at home who knows you're serving on this case.
17 It's -- it's going to be hard.

18 But I ask you to honor your oath and don't talk about
19 the case. Don't watch the news. And don't check social
20 media. Because the Judge is going to make the final
21 ruling on what you can consider and what you can't. And
22 it's important that you -- that you listen, keep an open
23 mind until all the evidence is in. And when she tells you
24 what the law is, you're going to go back to your jury room
25 and then you can start deliberating.

1 But I ask you to keep an open mind. Because lots --
2 like lots of things in life, often there's more than one
3 side of the story. And all I ask is that you consider
4 everything before you start discussing it and deciding
5 whether or not the State has met its burden of proving the
6 case beyond a reasonable doubt. Because that's the only
7 job that you have.

8 And it's going to be hard to just consider, have they
9 met their burden? How are they going to prove -- you
10 heard Ms. Sustakovitch talk about the testimony we're
11 going to hear. It's going to come from the witness stand.
12 And you're going to see pictures. And you're going to
13 hear videos.

14 And there are going to be times when I -- I am likely
15 going to object to certain evidence. And that's because
16 we disagree on what should be admissible. And that's the
17 Judge's decision. She's going to make a -- make a ruling
18 on these. But there are certain things that I'll be
19 up-front with you that I'm worried about. One of them are
20 these pictures that she discussed.

21 Because these pictures of this poor child, who has
22 died, are horrific. And I'm worried that you see those
23 pictures and the first instinct is I've got to hold
24 somebody accountable. And that's not what your job is.

25 Your job is to consider what the evidence is and make

1 a determination if they have proved my client is the one
2 who has committed this crime. So I ask you to keep your
3 mind open and listen to everything until you make that
4 decision.

5 Ariel Robinson's 30 years old. Again, I met you
6 earlier. But my name is Bill Bouton. I'm her lawyer.
7 I've been practicing here in Greenville for about 17 or
8 18 years.

9 Ariel is a former teacher. She's a former middle
10 school teacher. She has a master's degree from Clemson
11 University. She's lived in the upstate her entire life.
12 Her family has lived here. Her family's here in support.
13 She's married. She has two biological children. And you
14 heard the evidence. She -- they were -- they were trying
15 to adopt these three children. And you're going to hear
16 all about that.

17 But Ariel sits there presumed innocent at this point.
18 And that's the way our justice system is set up. And
19 it's -- it's not perfect. But I think it's the best one
20 in the world. She is presumed innocent until and after --
21 only after you've heard everything and I've had a closing
22 argument, and Ms. Sustakovitch has had a closing argument,
23 and the Judge has told you what the law is. And at that
24 point, it's okay for you to discuss it.

25 I appreciate you being here. I think it's fair to

1 say nobody wants to be in this courtroom today about this.
2 We all have other stuff we'd like to do. It's a terrible
3 part of life.

4 But I thank you for your service. And I thank you
5 for having an open mind and considering everything. And I
6 look forward to working with you this week.

7 Thank you.

8 THE COURT: Thank you, Mr. Bouton.

9 Ms. Sustakovitch.

10 MS. SUSTAKOVITCH: Yes, ma'am. The State calls
11 Officer Karlee Patrikis.

12 THE CLERK: Please pause at the end of the bench.

13 Place your left hand on the Bible and raise your
14 right hand.

15 WHEREUPON,

16 KARLEE PATRIKIS,
17 after first having been duly sworn, testified as follows:

18 THE CLERK: Thank you.

19 Please be seated.

20 Please state your full name for the record.

21 THE WITNESS: Karlee Patrikis.

22 DIRECT EXAMINATION

23 BY MS. SUSTAKOVITCH:

24 Q Good afternoon, Officer Patrikis.

25 Where are you employed, ma'am?

1 A The city of Simpsonville.

2 Q And how long have you been employed there?

3 A Since December 6th, 2016.

4 Q What are your job duties and functions with the
5 police department there?

6 A I'm a supervisor on the road patrol.

7 Q All right. And where are you from originally?

8 A Originally, I'm from Port St. Lucie, Florida. But
9 I've lived in South Carolina since I was five.

10 Q All right. And, again, how many years in law
11 enforcement do you have?

12 A So about five and a half.

13 Q And prior to law enforcement, what, if anything, did
14 you do?

15 A I was in the military. I was in the Army Reserves
16 for 11 years with two combat deployments. I medically
17 retired back in October of 2021. I was a hazmat
18 specialist. And I was on the decon crew.

19 And I, also, in the civilian world while I was, also,
20 employed at the city of Simpsonville early on in my
21 career, I spent six years as a pharmacy tech for CVS.

22 Q And what is the decon crew? I'm just curious.

23 A So decon, what we evaluate is if chemicals were
24 deployed while we were overseas, we would go out to
25 wherever that was once they detected what the chemicals

1 were. And we would, basically, clean up and decon
2 anything that was contaminated.

3 Q All right. Officer Patrikis, I want to take you back
4 to January 14th of 2021, a little over a year and four
5 months ago, or so. Did a call happen on that date that's
6 led you to have to be in court today?

7 A Yes.

8 Q And how did you become involved in this case?

9 A At the same time that this call came out, probably
10 about 10 minutes prior to that, an armed robbery came out.
11 I was in the area looking for the armed suspect when a
12 call came out on the radio that an officer needed to be in
13 route to assist the fire department for what was believed
14 to be a confirmed juvenile death.

15 Q All right. And were there any other details about
16 the nature of the call when it went out that you knew of?

17 A So not over the radio that I remember. However, my
18 dispatcher called me, because at the same time we --
19 everybody else was on a different call for an armed
20 robbery suspect. So my dispatcher first -- then called me
21 to let me know that -- that it was believed to be a
22 three-year-old had drowned.

23 Q Okay. So you go to this possible drowning. What
24 location did you go to?

25 A [REDACTED] Sellwood Circle.

1 Q And what -- what county is that in?

2 A That's in Greenville County.

3 Q When you arrived on the scene, what, if anything, did
4 you see?

5 A So I had saw that fire -- the fire department and EMS
6 were already on scene. Nobody was outside at that time.
7 So I had went to the front door and was met by the deputy
8 fire marshal.

9 Q Once you got on scene at [REDACTED] [sic] Sellwood Circle,
10 did you get briefed about what the details were, at least,
11 at that time of what law enforcement was seeing?

12 A So the -- not law enforcement. Law enforcement
13 wasn't there at that time.

14 Q Okay.

15 A So when the deputy fire marshal met me, he told me
16 that there was a three-year-old white female who was in
17 cardiac arrest. And they were currently working on her.
18 And it came in as a drowning. But there was suspicious --
19 other suspicious bruising on her that they were concerned
20 about.

21 Q Okay. And so that I'm clear, the fire department's
22 there. Was EMS there when you got there?

23 A Yes.

24 Q But you're arriving with law enforcement?

25 A I was the first one on scene.

1 Q Got you. All right. So then what happened after you
2 got briefed on things from the fire -- fire marshal? And
3 what did you do then?

4 A I then went into the house. I wasn't sure how long
5 it was going to take for my backup to arrive because that
6 armed robbery was, also, happening, which they arrived
7 very shortly after. But I went inside because I wanted to
8 lay eyes on the little girl before she was taken to the
9 hospital. I didn't know her current state or when they
10 were going to be transporting her. So I did go into the
11 house at that time.

12 Q Officer Patrikis, were you wearing a body camera at
13 that time?

14 A I was.

15 Q And I'm showing you what's marked as State's Exhibit
16 No. 1. Do you recognize that?

17 A Yes.

18 Q What is that?

19 A This is my body camera with -- that I, actually,
20 reviewed this morning.

21 Q Okay. And how do you know that? Do you see any
22 markings or identification that tells you that?

23 A Well, it says, State vs. Robinson Patrikis body-worn
24 camera. And I did sign it saying that I did review this.

25 Q All right. And so are -- is this video part of your

1 body cam from that day? Is that correct?

2 A It is.

3 MS. SUSTAKOVITCH: Your Honor, at this time, the
4 State moves to admit State's Exhibit No. 1.

5 THE COURT: Any objection?

6 MR. BOUTON: Yes, Your Honor. At this time, I'd
7 renew my objection and request that this body worn --
8 body-cam video be excluded from evidence in the case due
9 to violation of Miranda warnings and the fact that,
10 essentially, my client was in custodial interrogation at
11 the time and the statement was not given voluntarily.

12 THE COURT: All right. Well, your objection's noted.
13 It's respectfully overruled. I found previously that --
14 that this was a non-custodial and -- and was -- she was
15 not the subject of interrogation at this point.

16 And -- and so I'll admit State's Exhibit No. 1.

17 MS. SUSTAKOVITCH: Thank you, Your Honor.

18 (WHEREUPON, State's Exhibit No. 1 was admitted into
19 evidence.)

20 BY MS. SUSTAKOVITCH:

21 Q Officer Patrikis, before we play this, just -- when
22 you arrive at a scene like this where there's a report of
23 in this case a child that's in distress, what is your goal
24 at that point?

25 A So at that point for this particular call, I want to

1 lay eyes on the child to see what we have. I, also, you
2 know, want to see who's in the house --

3 Q Yes.

4 A -- at that time. So I try to gather up as much
5 information as who is there as quickly as possible.

6 MS. SUSTAKOVITCH: Your Honor, at this time, the
7 State is going to publish State's Exhibit No. 1.

8 THE COURT: All right.

9 MS. SUSTAKOVITCH: And we may need the lights to come
10 down just a little.

11 THE COURT: And just one moment. The system is
12 booting up. I'm sorry.

13 MS. SUSTAKOVITCH: Oh, okay.

14 You can turn the lights down a little bit.

15 THE BAILIFF: You want them down?

16 MS. SUSTAKOVITCH: Yeah. It will be easier to see, I
17 believe.

18 (WHEREUPON, a portion of State's Exhibit No. 1 was
19 played in open court.)

20 MS. SUSTAKOVITCH: Your Honor, we're going to start
21 it back.

22 Is that as loud as it goes?

23 THE COURT: Can y'all pause that?

24 (Pause.)

25 THE COURT: Is it as loud as it can go on the

1 computer?

2 MS. SUSTAKOVITCH: Yes, ma'am.

3 THE COURT: All right. Let's try it one more time.

4 (WHEREUPON, State's Exhibit No. 1 was played in open
5 court.)

6 MS. SUSTAKOVITCH: Thank you, Officer Patrikis.

7 I need to get this marked.

8 (WHEREUPON, State's Exhibit No. 65 was marked for
9 identification only.)

10 BY MS. SUSTAKOVITCH:

11 Q So, Officer Patrikis, going back, we just heard you
12 talk about on the body cam -- you asked Ms. Robinson if
13 she'd be willing to give you a -- a statement. Is that
14 standard when you go out on scene and you're talking to
15 different witnesses or different people that you want to
16 try to get a written statement from them?

17 A Yes.

18 Q Okay. And where did you take the written statement?

19 A It was in their kitchen.

20 Q All right. And I'm showing you what's marked as
21 State's Exhibit No. 65. Do you recognize that?

22 A Yes.

23 Q And what is that?

24 A This is a copy of the written statement Ms. Robinson
25 wrote.

1 Q And when a person like Ms. Robinson -- or -- or in
2 this case when Ms. Robinson gave you that statement, how
3 did that process go?

4 A So as you can see on my body camera, I had asked if
5 she'd be willing to give a written statement. It's all
6 voluntarily given. She said that she would. I don't
7 believe I sat there while she wrote this completely. I
8 filled out the top portion, which is her basic
9 information.

10 Q Right.

11 A I, also, sign it at the end and date it. I believe
12 another officer stood by while they signed it -- I mean,
13 while they wrote it.

14 Q Right.

15 A But other than that, it's a pretty standard procedure
16 that we do.

17 Q Right. And is this her handwriting that she wrote it
18 in?

19 A It is.

20 MS. SUSTAKOVITCH: Your Honor, at this time, the
21 State moves to admit State's Exhibit No. 65.

22 THE COURT: Any objection?

23 MR. BOUTON: No, Your Honor.

24 THE COURT: All right. It's so admitted.

25 MS. SUSTAKOVITCH: Thank you.

1 (WHEREUPON, State's Exhibit No. 65 was admitted into
2 evidence.)

3 BY MS. SUSTAKOVITCH:

4 Q Officer Patrikis, so after you talk with Ariel
5 Robinson on body cam and then she writes out her -- her
6 statement, then what happens with the children that were
7 coming home from school?

8 A So at that time, we actually -- Ms. Robinson or
9 Mr. Robinson, one of them, had called her parents to get
10 all the children so they -- so none of them -- biological
11 and foster children didn't come to the house. With
12 everything going on, we just didn't want them there at the
13 time since we didn't know what was happening.

14 So I had contacted DSS. And DSS was arriving on
15 scene. They said that they were going to need the foster
16 children to come there due to everything. So we had asked
17 for the foster children to come, which, I believe,
18 Ms. Robinson's dad brought them. Once he dropped off the
19 children, we asked him to leave. And then DSS had arrived
20 right before, I believe, the children got there. And then
21 we spoke to J.E. and C.E.

22 Q Okay. And -- and going backwards just before -- so I
23 don't forget --

24 A Yes, ma'am.

25 Q -- as far as her statement, we just listened to a

1 lengthy body cam?

2 A Yes.

3 Q Is what's reflected on that body cam what is
4 reflected on State's Exhibit No. 65, as far as her -- just
5 the general statement that she gave?

6 A (There was no response.)

7 Q Or you can publish it.

8 MS. SUSTAKOVITCH: Your Honor, permission to publish
9 the statement.

10 THE COURT: Any objection?

11 MR. BOUTON: No, Your Honor.

12 THE COURT: All right. Yes, ma'am.

13 BY MS. SUSTAKOVITCH:

14 Q You can -- you can read it.

15 A Okay. It says, **V.S.** woke up around 10:00 a.m. She
16 ate break around 10:15, 10:30. And afterwards, she began
17 eating a popsicle and complained about being cold. I
18 asked her if she wanted to sit with the heating blanket
19 and watch TV. And she said, Yes. She was eating a bag of
20 gummies and drinking water. And she had about three to
21 five cups of water. I felt her stomach and told her she'd
22 probably had enough because her stomach was full. She
23 said, Yeah, and that her stomach hurt.

24 She started choking on the water, so I started
25 patting her back. That wasn't working, so I started doing

1 the Heimlich maneuver on her. Her body went limp. I -- I
2 laid her on her -- the stool in her room and started
3 pressing her stomach in. Throw up and water started
4 coming out. So I kept pressing.

5 I saw her mouth moving trying to breathe. I kept
6 pressing and water and throw up kept coming out. I did
7 that until Austin called 911. They told us to lay her
8 flat on the floor, tilt her head back, and blow in her
9 mouth, then do compressions. I did that. When I pressed
10 on her chest, nothing came out.

11 I pressed on her stomach again and more water and
12 throw up came out. I would roll her over on her side like
13 911 said, then roll her back over and do it again. Throw
14 up was everywhere. She was still trying to breathe. I
15 repeated that until EMS arrived.

16 Q All right. Thank you.

17 A You're welcome.

18 Q So moving back to J.E. and C.E. arrive at the
19 scene. I believe you testified this Defendant's father
20 brought them to the scene; is that correct?

21 A Yes.

22 Q And when J.E. and C.E. got there, were they
23 allowed to go into the home or not?

24 A No, not at that time.

25 Q And so what was the purpose of DSS arriving?

1 A The purpose of DSS arriving is because all three
2 children were still in foster care. So we needed to let
3 them know what was going on. And then we had decided that
4 the children, due to the circumstances, were going to be
5 taken into emergency protective custody.

6 Q And who arrived to take them into emergency
7 protective custody?

8 A Mia Pressley, which was the DS -- the caseworker for
9 them. I tried calling the caseworker, the Kayla that was
10 mentioned in my body camera. I tried calling her and
11 there was no contact. So then, at that time, I did call
12 her immediate supervisor, which was Mia Pressley. She
13 said that she was arriving on scene -- or be -- she would
14 be coming to the scene. And she, also, called her
15 supervisor, who, also, arrived on the scene.

16 Q And when you say the caseworker Kayla and there was
17 no contact, do you mean she didn't answer --

18 A She didn't answer her phone.

19 Q Okay. So then the boys -- whose car did they get
20 into at the scene?

21 A They got into Mia's.

22 Q And then where did the boys go?

23 A So the boys -- because we weren't letting them in the
24 house at that time because we were, also, waiting for
25 forensics to show up and, I believe, a search warrant was

1 being secured. They had to use the restroom.

2 Prior to that, they asked for snacks. I did go in
3 the house, get them snacks from Ms. Robinson. And then
4 they stated that they needed to use the restroom. Because
5 we weren't allowing them to go in the house -- there was a
6 fire station that was close by. So I told Mia that she
7 could follow me with the boys. And we took them to the
8 fire station to use the restroom.

9 Q Are you familiar with the fire station?

10 A I am.

11 Q How is that?

12 A I mean, they -- we let them use the restroom. And
13 then they wanted to see the fire trucks and talk to the
14 firefighters, so we let them.

15 Q Okay. And is one of the firefighters, actually, your
16 husband?

17 A He is.

18 Q Okay. So when you get to the fire station, are you
19 driving in a separate car?

20 A I am. I was in my patrol car. They followed me in
21 Mia's car.

22 Q And when the boys got to the fire station, what, if
23 anything, happened?

24 A They got out. They went to the restroom -- I'm
25 sorry. I probably didn't answer the last question

1 correctly then. They got out. They used the restroom.
2 And then they wanted to see the fire trucks. So the
3 firefighters let them look at the fire trucks. They were
4 asking the firefighters some questions. And then we went
5 back to the house.

6 Q All right. So moving past the day that **V.S.** died,
7 did you have any further contact with this Defendant,
8 Ariel Robinson?

9 A I did.

10 Q And when was that?

11 A That was January 19th.

12 Q And what was your contact with her?

13 A I went with the investigators to -- to arrest her.

14 Q And apart from that contact, did you have any further
15 contact with this case?

16 A No. Besides transporting her to -- her and
17 Mr. Robinson to GCDC, I did not.

18 Q And were they transported together or in separate
19 vehicles?

20 A Together.

21 MS. SUSTAKOVITCH: Okay. Thank you.

22 Please answer any questions Defense Counsel has.

23 THE WITNESS: Yes, ma'am.

24 THE COURT: Before we start, let's take a 10-minute
25 break.

1 I'll just ask everyone in the gallery to remain
2 seated while the jury leaves.

3 (WHEREUPON, the jury was excused from open court at
4 approximately 3:47 p.m.)

5 THE COURT: All right. We're in recess until 4:00.

6 And you can, certainly, step off the witness stand.

7 You just can't discuss your testimony with anyone.

8 (WHEREUPON, a break was taken.)

9 THE COURT: Are we ready to bring the jury back in?

10 MS. SUSTAKOVITCH: Yes, ma'am.

11 THE COURT: All right. Very well then.

12 (WHEREUPON, the jury came into open court at
13 approximately 4:04 p.m.)

14 THE COURT: If anybody feels at any time like you
15 need to take a break, please, let us know. Also, if you
16 need a cup of coffee, something like that, we're happy to
17 provide that for you, too.

18 All right. Mr. Bouton.

19 MR. BOUTON: Yes, ma'am.

20 Thank you.

21 CROSS-EXAMINATION

22 BY MR. BOUTON:

23 Q Officer Patrikis, you stated that -- when you were
24 responding to my client's residence, you stated that you
25 were told that there was a probable drowning?

1 A Yes.

2 Q Do you recall who told you that?

3 A Yes, our -- my dispatcher, Joshua Hightower.

4 Q Okay. And how were you dressed on -- on that date in
5 the body-cam video?

6 A In my patrol uniform, which would have been my vest,
7 duty belt. And my body camera sits somewhat in the middle
8 of my body armor.

9 Q And you were wearing a firearm?

10 A I was.

11 Q Did you read my client her Miranda warnings prior to
12 getting her statement?

13 A No.

14 Q When you responded, initially, I know you stated that
15 you wanted to get eyes on the victim. Do you recall how
16 many people were in her room when you first arrived?

17 A To be honest with you, I don't. There was -- I know
18 outside, there was two fire engines, I believe. There was
19 EMS. And the deputy fire marshal and the battalion chief
20 was there. So there was -- in that room, I would say
21 there were about eight people in the room. And it was a
22 very -- it was a very small room. Plus, there was
23 furniture. So they were very crowded around her.

24 Q Okay. And I think I saw during your interview with
25 Ariel, she stated, at one point, she wanted to go to the

1 hospital to check on V.S.; is that correct?

2 A Yes. She said that when -- she was talking really
3 fast, so I said, We needed to back it up.

4 And she said, I'm just -- I really want to get to the
5 hospital. So, yes.

6 Q But you didn't let her leave at that time?

7 A No. At that time, we were still -- I was still
8 asking questions.

9 MR. BOUTON: Thank you, Officer Patrikis.

10 No further questions.

11 THE WITNESS: Okay.

12 MS. SUSTAKOVITCH: Nothing further from this witness.

13 THE COURT: All right. Ma'am, you can step down.

14 MS. SUSTAKOVITCH: Your Honor, may this witness be
15 excused?

16 THE COURT: Any objection to this witness being
17 excused?

18 MR. BOUTON: No, ma'am.

19 THE COURT: Thank you for being here.

20 All right. Is the State ready to call the next
21 witness, Ms. Holloway?

22 MS. HOLLOWAY: Yes, Your Honor.

23 May it please the Court.

24 THE COURT: Yes.

25 MS. HOLLOWAY: The State calls Investigator Weibel.

1 THE CLERK: Please pause at the end of the bench.
2 Place your left hand on the Bible and raise your
3 right hand.

4 WHEREUPON,

5 JASON WEIBEL,
6 after first having been duly sworn, testified as follows:

7 THE CLERK: Thank you.

8 Please be seated.

9 Please state your full name for the record.

10 THE WITNESS: Jason Weibel.

11 THE CLERK: Thank you.

12 DIRECT EXAMINATION

13 BY MS. HOLLOWAY:

14 Q Investigator Weibel, where are you employed?

15 A The Simpsonville Police Department.

16 Q How long have you been with the Simpsonville Police
17 Department?

18 A Approximately 14 years.

19 Q When did you start?

20 A March of 2008.

21 Q Before 2008, where were you employed?

22 A Tyger River, the state department of corrections.

23 Q And in your 14 years with the Simpsonville Police
24 Department, what positions have you held?

25 A I started out as a patrol officer, went to senior

1 patrol officer, field training officer. I got promoted to
2 corporal, sergeant. And then in August of 2018, I moved
3 to investigator.

4 Q How long have you been an investigator?

5 A Four years -- coming up on four years.

6 Q What kinds of cases do you handle as an investigator?

7 A Primarily, I investigate violent crimes, sex crimes,
8 and crimes against children.

9 Q Were you on duty on January 14th of 2021?

10 A Yes, ma'am, I was.

11 Q Can you, please, tell us how you got involved in this
12 case?

13 A Right before this call came out, myself and another
14 investigator responded to an armed robbery at one of our
15 local check cashing places on Fairview Road in
16 Simpsonville. We heard the call go out. And once the
17 armed robbery aspect was kind of wrapped up, I responded
18 to [REDACTED] Sellwood Circle.

19 Q About what time did you get to [REDACTED] Sellwood Circle?

20 A I want to say it was roughly 3:00.

21 Q Tell us about what you saw when you arrived on scene.

22 A When I arrived on scene, I observed two of my command
23 staff members who were already out there. I believe
24 Investigator Magaw was speaking with Mr. Robinson. And at
25 that time, I -- I approached my command staff to find out

1 what we needed to still do, or what needed to get done.
2 And that's when I asked if anybody had gone out to the
3 hospital yet to be with [REDACTED] V.S. [REDACTED].

4 So when they said, No, I -- I ended up responding to
5 the hospital.

6 Q So [REDACTED] V.S. [REDACTED] had already been transported to the
7 hospital by the time you got there; is that correct?

8 A Yes, ma'am.

9 Q About how long did you spend on scene before you
10 offered to then go to the hospital?

11 A Maybe three minutes, five minutes, at the most.

12 Q Why is it important for law enforcement to go to the
13 hospital in a situation like this?

14 A So I wasn't -- I didn't know what exactly had
15 transpired. Like I said, I responded, then went up to the
16 hospital. Any time we respond to a case like this, we try
17 to send investigators to the hospital, number one, to --
18 if -- if the victim is able to tell us what happened or we
19 can talk about what happened, and to collect evidence,
20 pictures, what have you. And if it's not -- and in this
21 case, it could turn into a death investigation.

22 Q About what time was it when you got to the hospital?

23 A Probably 3:30.

24 Q And when you arrived at the hospital, what did you
25 see?

1 A When I arrived to the hospital, I went into the -- I
2 was directed to the children's ER area. And it was just,
3 for lack of a better term, chaos. I mean, it was --
4 V.S. was in a room. And it was elbow to elbow people,
5 doctors, nurses doing what they could for life saving
6 measures.

7 Q When you were in V.S.'s room and the officers
8 were -- excuse me, the doctors were trying to save her
9 life, what did you do?

10 A When -- when I arrived and they were trying to save
11 her life, I was meeting with one of the deputy coroners
12 who was there. I mean, V.S. hadn't passed yet. But
13 they sent a deputy coroner there just in case.

14 While talking with her, I was making contact with
15 investigators who were on scene trying to figure out --
16 number one, to ID, identify V.S. because we didn't
17 know who she was yet, or I didn't, and trying to relay
18 information. And that's when I was asked to -- when I
19 could take pictures of V.S. to document the injuries
20 and to try to figure out if there was any sort of
21 instrument used.

22 Q And did you take pictures of V.S.'s injuries as
23 requested?

24 A I did after she was moved to the pediatric intensive
25 care unit, yes.

1 Q After you took the pictures of her injuries, what did
2 you do next?

3 A I took some pictures using my issued work cell phone.
4 And that was to send it to Investigator Magaw, who was one
5 of the investigators on scene, and one of the deputy
6 coroner's. And then I used my issued work camera to do
7 the scale to the pictures to show the extent that -- you
8 know, the -- the length, and the width, and, basically,
9 how big these injuries were.

10 Q Throughout that night, were you given updates about
11 V.S. 's status?

12 A So after -- when I was there, yes. I mean, what I
13 was told is she was -- she was being -- basically, she was
14 on lots of medication. After I took all of my pictures
15 and whatnot and sent it to my -- my co-workers on scene, I
16 was contacted about 9:00 after I had gone home that she
17 had passed away.

18 Q After you were informed that V.S. had passed
19 away, what other involvement did you have in the case?

20 A The next day, the 15th, I ended up going to the
21 autopsy, which, I believe, was 10:00 in the morning.

22 Q Are law enforcement officers routinely present for
23 autopsies?

24 A For most cases, yes. In Simpsonville, we try to send
25 an investigator to every autopsy. And that's -- that's

1 done to further collect evidence, ask questions of the --
2 the medical examiner, and whatnot.

3 Q After [V.S.]'s autopsy was completed, did you have
4 any other involvement in the case that day?

5 A So after the autopsy was completed, I ended up
6 responding to -- we all responded back to the police
7 department. And that was to discuss the case with our
8 command staff and to figure out our next step. And -- and
9 that's when the determination was made to secure a search
10 warrant for the house. I ended up responding to Bethel
11 Elementary School to talk about -- to talk to the school
12 psychologist, and the principal, and vice principal about

13 [J.E.] I assume we're using --

14 Q [J.E.] And was that [V.S.]'s biological brother?

15 A Yes. I didn't know if we were using names or not.

16 Q Thank you.

17 I want to ask you about that search warrant first.
18 Do you recall what it was for, specifically, what you were
19 looking for at the Defendant's address?

20 A I believe it was going to be -- we were looking for
21 cameras and other recording instruments that were in the
22 house, like the indoor cameras.

23 Q And can you tell us about when law enforcement was
24 there for that search warrant? Did you collect the
25 evidence that you intended to find?

1 A So I -- I know when I got there, I ended up
2 documenting the outside and inside using my camera, again,
3 to take pictures of everything, where the cameras were
4 located in the rooms and in the house. And at some point,
5 I believe I ended up collecting some of those cameras.

6 Q And you mentioned you went to Bethel Elementary
7 School to discuss [V.S.] s biological brother, [J.E.] ?

8 A Correct.

9 Q Why did you do that?

10 A So investigators learned that -- were -- we were,
11 initially, told that [J.E.] was the one that inflicted
12 the -- the injury to [V.S.]. So we -- we felt that it
13 was wise to respond to the school to talk to psychologists
14 and -- I guess the people at the school, the -- the
15 teacher -- or excuse me, I'm sorry, the psychologist, the
16 principal, vice principal about any behavioral issues or
17 anything that we felt could lead to that after we were
18 told that [J.E.] was the one who inflicted the harm to
19 [V.S.]

20 Q In law enforcement's eyes, was [J.E.] considered a
21 legitimate lead in this investigation at this point?

22 A No, ma'am.

23 Q Why -- why not?

24 A It was learned that [J.E.] is a very small child.
25 And -- and his size compared to [V.S.] s, I just didn't

1 feel that -- we didn't feel that he was capable of even
2 inflicting the amount of damage -- or injury to [REDACTED] V.S. [REDACTED].

3 Q Fast-forwarding a few days later, what other
4 involvement did you have in the case? Did you return to
5 [REDACTED] Sellwood Circle?

6 A We did. We ended up serving a -- well, for me, it
7 was a secondary search warrant to that residence. And
8 that was for -- I believe it was for belts or instruments,
9 paddles, instruments that could, also, inflict the amount
10 of injury that we observed. Again, I documented the scene
11 by taking pictures of inside, outside, some of the belts
12 that we recovered from the residence.

13 Q You mentioned some photographs that you took of
14 belts. I'm showing you what's been -- I'm sorry --
15 pre-marked as State's Exhibit Nos. 6, 7, 8, and 9. Do you
16 recognize these?

17 A Yes, ma'am, I do. These are pictures that I secured
18 on that second search warrant. I took these pictures.

19 Q Do the photos accurately depict the belts as you
20 observed them at [REDACTED] Sellwood Circle?

21 A Yes. When I -- when I photographed them, yes, ma'am.

22 Q And have they been changed and altered -- or altered
23 in any way?

24 A No, ma'am. I don't believe so.

25 MS. HOLLOWAY: Your Honor, we offer these photos into

1 evidence as State's Exhibit Nos. 6, 7, 8, and 9.

2 THE COURT: Any objection?

3 MR. BOUTON: No, Your Honor.

4 THE COURT: All right. Without objection, they're so
5 admitted.

6 (WHEREUPON, State's Exhibit Nos. 6, 7, 8, and 9 were
7 admitted into evidence.)

8 MS. HOLLOWAY: Permission to publish, Your Honor.

9 THE COURT: Yes.

10 BY MS. HOLLOWAY:

11 Q Investigator Weibel, can you tell the jury just a
12 little bit about the -- the conditions of the home and
13 what you were trying to find when you were looking for
14 these belts?

15 A As far as the condition of the home, this was the
16 second search warrant that we executed. It -- it was a
17 house that was lived in. There were five children in the
18 home, two adults. My best description, it was lived in.
19 It wasn't spotless. But this house was lived in.

20 When we were looking for the belts, we looked
21 everywhere for belts. Everywhere that you could come up
22 with or think there could be a belt, that's where we
23 looked and we photographed.

24 Q Is this another photo of the belts?

25 A Yes, ma'am. That looks like -- to me, it looked like

1 a standard -- when I was called over to photograph it, a
2 standard black belt, same thing. I mean, we photographed
3 as many belts and whatnot as we could, based on the search
4 warrant.

5 I believe that was multiple belts hanging up in that
6 one closet.

7 Q And then what about this one? Where was this
8 located?

9 A That was one that was located on -- they have a -- a
10 chair -- forgive me, just based on that, if it's the
11 living room or not. But it was -- there was stuff that
12 was in -- like, you can see the -- the laundry basket, and
13 whatnot. There was a couple incidents like that where
14 items were in there. But, again, we took anywhere we
15 could find a belt, you know, executing that search
16 warrant, we took pictures of it.

17 Q And what had happened the previous day before this
18 search warrant was executed that prompted law enforcement
19 to go back and look for more belts?

20 A (There was no response.)

21 Q Were you made aware that Jerry Austin Robinson had
22 given a statement?

23 A Yes, ma'am. I -- I apologize. So we were made aware
24 through Mr. Austin's -- or I'm sorry, Mr. Robinson's
25 attorney that he wanted to make a statement with his

1 attorney present. A meeting was set up at the SLED
2 building in Greenville. Myself and another investigator
3 ended up transporting Mr. Robinson from the Greenville
4 County Detention Center to SLED where he was -- where he
5 provided a statement and was interviewed. And this
6 information came from that interview.

7 Q So the search warrant, you said, was executed on
8 February 4th; is that correct?

9 A I -- yes, ma'am.

10 Q Are you aware when Jerry Austin Robinson gave his
11 statement?

12 A I was -- I was present for that. I don't remember if
13 it was the day before that. I apologize. I was present
14 for the interview observing it through television, I
15 guess, closed-circuit TV.

16 Q Based on his statement, did you go to any other
17 locations within the Simpsonville area to corroborate
18 things that he had said?

19 A Yes, ma'am, I did. I ended up responding to the CVS
20 on West Georgia Road, 914 West Georgia Road. Based on his
21 statement, he -- he informed our investigators that he
22 responded there to pick up, essentially, children's
23 Tylenol for [REDACTED] V.S. [REDACTED]. And after learning that, I ended up
24 going to -- I responded out there to speak with the
25 manager out there.

1 And I ended up obtaining a copy of his transaction
2 from the time he got there looking for the Tylenol until
3 the time that he checked out and left. I was able to
4 obtain a copy of that video and handed it over to our lead
5 investigator.

6 Q Which CVS did he go to?

7 A It's the CVS -- the address is 914 West Georgia Road.
8 It's a CVS that's located at the intersection of West
9 Georgia and Neely Ferry.

10 Q Are you --

11 A I --

12 Q I'm sorry.

13 A I'm sorry. I apologize.

14 Q Are you familiar with this location of CVS in -- in
15 how far it would be to drive from the Robinson home to get
16 there?

17 A Yes, ma'am. It's very close, approximately, five
18 minutes.

19 Q Did you have any involvement in the Robinsons social
20 media accounts?

21 A I did. I ended up sending off the preservation
22 letters to Facebook and, I believe, Instagram to preserve
23 the content that was still flowing, the previous content
24 that was on Facebook and Instagram.

25 Q Do you recall the name of Ariel Robinson's Instagram

1 and Facebook account?

2 A I believe it was arifunnycomedy or aricomedyfunny. I
3 have it in my notes that I can review.

4 Q And what does a preservation letter do? What is the
5 purpose of law enforcement filling one of those out?

6 A What it does -- from my understanding about social
7 media is that there's so much content being sent back and
8 forth that it, essentially, purges itself after a while.
9 The preservation letter itself will, actually, let
10 Facebook, Instagram, whatever social media account
11 preserve that which we are looking for to save it, if you
12 will.

13 Q I want to go back to something you mentioned earlier.
14 You said that you took photos of V.S. when she was
15 still in the hospital. About what time did you take those
16 photos?

17 A Honestly, probably 4:30, 5:00 on the 14th.

18 Q Was she alive when you took these photographs?

19 A Medically. What I mean by that is from what I was
20 told, it was, essentially, the life support and
21 medications that were keeping her alive.

22 Q I'm showing you what has been pre-marked as State's
23 Exhibit Nos. 2, 3, 4, and 5. Can you identify these
24 please?

25 A Yes, ma'am, I can. These are pictures that I took

1 while at the hospital.

2 Q Of what?

3 A Of [REDACTED] V.S. [REDACTED] and the extent of her injuries.

4 Q And do they accurately depict [REDACTED] V.S. [REDACTED] as you saw her
5 on January 14th, 2021?

6 A Yes, ma'am, they do.

7 Q Have the photos been changed or altered in any way?

8 A If I'm not mistaken, it appears this last one. But
9 that is more to protect the privacy of [REDACTED] V.S. [REDACTED].

10 Q Her private area --

11 A Her private area --

12 Q -- has just been digitized; is that right?

13 A Digitized, yes, ma'am.

14 MS. HOLLOWAY: And, Your Honor, for the record, that
15 is State's Exhibit No. 5 that Investigator Weibel
16 mentioned.

17 THE COURT: All right.

18 MS. HOLLOWAY: Your Honor, at this time, we offer
19 these photos into evidence as State's Exhibit No. 5 --
20 excuse me, State's Exhibit Nos. 2, 3, 4, and 5.

21 THE COURT: All right. Yes, sir.

22 MR. BOUTON: Your Honor, at -- at this time, I'd
23 renew my objection that was previously made. I believe
24 that these photographs are more prejudicial than probative
25 here in this case. And I would ask that they not be

1 submitted to -- to the jury.

2 If Your Honor is inclined to grant that again, I
3 would, at this point, ask that they just be published to
4 the jury alone and not in open court.

5 THE COURT: All right. Well, I do find that they're
6 necessary for the State to prove its case. And, thus, I
7 find that their probative value does outweigh any
8 potential prejudicial effect.

9 And I've instructed the folks who are present from
10 the media not to take any photographs or film these --
11 these photographs in any way.

12 You may publish them.

13 MS. HOLLOWAY: Thank you, Your Honor.

14 (WHEREUPON, State's Exhibit Nos. 2, 3, 4, and 5 were
15 admitted into evidence.)

16 BY MS. HOLLOWAY:

17 Q Investigator Weibel, I'm going to show these photos
18 one by one. And can you, please, state to the jury what
19 you were looking for when you took each of these
20 photographs.

21 A Yes, ma'am. When I took this photograph and all
22 these photographs, we were looking to document, obviously,
23 the extent of the injuries, as well as any sort of
24 patterns, prints, anything that would indicate that an
25 instrument was used. And when I say "instrument," whether

1 it's a weapon or a hand. But, basically, to figure out
2 what caused this injury to this child.

3 But this is -- this is a picture of V.S. that I
4 took kind of over the top, an overall picture showing her
5 legs and her right side.

6 Q I'm showing you State's Exhibit No. 3. Can you
7 explain to us what this view of V.S.'s body shows?

8 A If I'm not mistaken, this view shows V.S.'s back.
9 And I believe that's her left leg that's being supported.
10 So this would be the -- the back area about halfway down
11 the back. And I used a -- a scale to kind of document the
12 size of the injury itself.

13 Q I'm showing you State's Exhibit No. 4. What does
14 this photo depict?

15 A This photo shows V.S.'s right thigh, her right
16 side. You have more of an in-depth picture of her front
17 right abdomen area, as well as her -- her leg, her entire
18 right side, the outer side of her leg. And some of the
19 picture that can be seen is the left inner thigh of
20 V.S.

21 Q State's Exhibit No. 5, what does this one show?

22 A This picture of V.S. shows, again, her -- her
23 right side of her abdomen, and the injury sustained on the
24 underside of her -- her thighs, and the inside of her
25 thighs, her left thigh, and her right thigh, as well as

1 some bruising down by her calves -- her -- I'm sorry, her
2 right calf.

3 MS. HOLLOWAY: Thank you, Investigator Weibel.

4 Nothing further at this time. Please answer any
5 questions the Defense may have.

6 THE WITNESS: Absolutely.

7 CROSS-EXAMINATION

8 BY MR. BOUTON:

9 Q Investigator Weibel, are -- are you the lead
10 investigator for this case?

11 A I'm not, sir.

12 Q And who would that be?

13 A That would be Investigator Magaw.

14 Q And how -- how does it work? Do you kind of take
15 directions from him if it's his case, or do you follow
16 leads on your own?

17 A We -- we kind of work together. The lead
18 investigator is, essentially, the -- the overseer of the
19 whole investigation, if you will.

20 Q And I know you stated earlier that you ran down some
21 video from CVS to determine whether or not, I guess, it
22 corroborated something that Austin had said in his
23 statement?

24 A Yes, sir.

25 Q His meeting?

1 A Yes, sir.

2 Q And that meeting occurred about February 3rd?

3 A If I'm not mistaken, yeah. I -- I -- forgive me.
4 The date that he set up the meeting or the meeting was set
5 up -- I believe so.

6 Q It was a day or two before the search warrant that
7 you conducted on the 4th?

8 A I believe -- I believe so, yes, sir.

9 Q It's my understanding in that statement, Austin
10 states that Ariel went to the grocery store the night
11 before this incident. Did you end up following up with
12 the grocery store to determine whether or not there was
13 any video footage of -- of my client at the grocery store
14 at that time?

15 A I personally did not, sir.

16 Q Do you know if anybody else --

17 A I don't know. As -- as not being the lead
18 investigator, I'm -- like you said, I mean, I'm kind of
19 helping out with the investigation.

20 Q Sure. In the search warrant, how many belts did
21 you -- did you seize from the house?

22 A I -- to be honest with you, I don't know that answer.
23 I took photographs. I didn't count the belts. I
24 didn't -- I wasn't the scribe.

25 Q Okay.

1 A So I -- I don't know. I apologize.

2 Q So you didn't, actually, collect them. You just --

3 A I did not. Yeah, I photographed everything, yes,
4 sir.

5 Q When you -- as part of your investigation, you stated
6 earlier that you responded to Bethel Elementary School.
7 In that investigation, were you able to determine whether
8 or not J.E. [REDACTED] had any previous disciplinary issues at that
9 school?

10 A I believe speaking with the school psychologist, she
11 did talk about there was a -- and I don't remember if it
12 came from his school previously before coming to Bethel.
13 But there was a conversation of some disciplinary stuff
14 there.

15 Q And do you -- do you recall what the issues were with
16 those disciplinary issues?

17 A I -- if I could, sir, I did bring my report. If I
18 may review it to give an accurate answer.

19 Q Sure. I have a copy of it.

20 A Thank you, sir.

21 Q And just to help you out, I'll point you to the right
22 paragraph. It's right there.

23 A I appreciate it.

24 Q I think it's going to start there, if you want to
25 just review that first.

1 A Thank you very much.

2 If you don't mind, would you, please, repeat the
3 question, sir.

4 Q Sure. Were you able to determine why -- in your
5 investigation, were you able to determine if J.E.
6 received prior disciplinaries, and for what reasons?

7 A So a couple of things that we were told -- or that I
8 was told when I had my interview with them. They did talk
9 about while he was enrolled at Ellen Woodside Elementary
10 that he -- while he was in kindergarten, J.E. was
11 involved -- he had an issue with hitting -- or I'm sorry,
12 biting, pinching, and spitting on another student.

13 And there were two other incidents while he was in
14 the first grade involving him punching a child in the
15 stomach, and running in the hall. And the other -- the
16 third one that was talked about was striking or hitting a
17 classmate.

18 Q Thank you.

19 Were -- the belts that you photographed, were any of
20 them out of place did it appear?

21 A I'm sorry. I don't understand what you're asking. I
22 apologize.

23 Q The belts that you photographed, did any of them seem
24 like they were not in a proper place in the house?

25 A I think one of the pictures that was shown, there was

1 one that was on the -- the chair next to the laundry
2 basket. If I'm not mistaken, that's the only one that
3 kind of jumped out at me.

4 Q I think the other ones looked like they were hanging
5 in the closet?

6 A Yes, sir.

7 Q Last -- last issue. The photos that you were taking,
8 do you have the ability to -- to determine from, like, a
9 time stamp or anything exactly when you took those photos?

10 A For the -- for any of them or for --

11 Q The ones that were shown earlier.

12 A Like, a time stamp on the photo itself, I -- I don't
13 up here right now. If I'm not mistaken, the only thing I
14 can think of is -- no. I mean, I -- I don't. Because we
15 use a -- a work camera that does not print the date and
16 time.

17 Q Okay.

18 A And the other -- the cell phone -- I don't have that
19 cell phone -- we don't have that cell phone anymore.

20 MR. BOUTON: Thank you, Investigator.

21 No further questions.

22 THE COURT: All right. Any other questions for this
23 witness?

24 MS. HOLLOWAY: Briefly, Your Honor.

25 THE COURT: Sure.

1 him being excused.

2 THE COURT: All right. Thank you so much for being
3 here.

4 MS. SUSTAKOVITCH: The State calls Beau Givens.
5 Your Honor, may this witness be excused?

6 THE COURT: Yes, yes. And Mr. Bouton's already
7 consented.

8 MS. SUSTAKOVITCH: Thank you.

9 THE CLERK: Please pause at the end of the bench.
10 Place your left hand on the Bible and raise your
11 right hand.

12 WHEREUPON,

13 OSMINE BEAU GIVENS,
14 after first having been duly sworn, testified as follows:

15 THE CLERK: Please be seated.

16 Please state your full name for the record.

17 THE WITNESS: Osmine Beau Givens.

18 THE CLERK: Thank you.

19 DIRECT EXAMINATION

20 BY MS. SUSTAKOVITCH:

21 Q Good morning.

22 A Hey. How are you doing?

23 Q Is it -- what do you go by?

24 A I go by Beau.

25 Q Okay. And, Mr. Givens, what is your job?

1 A I'm a -- right now, an engineer at the Simpsonville
2 Fire Department.

3 Q All right. Is it okay if I call you Firefighter
4 Givens?

5 A Absolutely.

6 Q And how long have you been employed as a firefighter
7 for the Simpsonville Fire Department?

8 A I'm in my eighth year.

9 Q Can you tell us, were you working on January 14th,
10 2021?

11 A Yes, ma'am.

12 Q And did you receive a call that's led you to have to
13 come to court today and testify?

14 A Yes, I did.

15 Q What time did you receive that call that day, sir?

16 A Around 2:13, 2:14 that afternoon.

17 Q And what was the nature of the call that you
18 received?

19 A Initially, it came in as a drowning. That's what we
20 got it as.

21 Q And where did you respond?

22 A [REDACTED] [sic] Sellwood Circle.

23 Q Who all responded from the fire department?

24 A From the fire department, myself, Jeff Jennings,
25 Austin Owens, Joe Templeton, Robert Stone, Eric Clayton,

1 Marty Phillips.

2 Q Okay. So you had a pretty large response from the
3 fire department?

4 A Oh, yes, ma'am. Yes, ma'am.

5 Q And when you arrived on scene, was the fire
6 department the first emergency personnel to arrive?

7 A Yes, ma'am.

8 Q Tell the -- take the jury through when you guys got
9 there. What did you see?

10 A Okay. When we were en route -- we get to the
11 address. The -- the numbers were a little different. I
12 was driving. I drove -- was looking for the house number
13 to get there. And I almost drove by the house when we saw
14 a man -- a gentleman standing on the porch. And he kind
15 of waved. So we stopped. And that's when we jumped out
16 of the car and went to the house.

17 Q What was the address that you went to?

18 A [REDACTED] Sellwood Circle.

19 Q So at this point, do you know that you're responding
20 to a -- a pediatric possible drowning?

21 A Yes, ma'am. Yes.

22 Q All right. So you get to the house and then what
23 happens?

24 A We get to the house. I jump out of the truck. I run
25 towards -- I run towards the house. I go in the front

1 door. And I'm met by a gentleman standing there. And I
2 asked, Where are they? And he just points up the stairs.
3 And I run upstairs to assess the situation.

4 Q Are you aware of who that gentleman is now?

5 A I am now.

6 Q And who is the gentleman?

7 A Austin Robinson.

8 Q All right. So you go up -- Austin Robinson is in the
9 living room, points you upstairs. You run up the stairs.
10 What happens next?

11 A I run upstairs. It was the first -- as you go up to
12 the top of the stairs, it was the first room on the left.
13 When I entered the room, I saw Jeff Jennings doing chest
14 compressions on a little girl. Her feet were pointed
15 towards the door. Her head was pointed towards the corner
16 of the room. In the corner of the room, a lady was
17 sitting in a chair.

18 Q Okay. And when you said Jeff Jennings, again, he's
19 with the Simpsonville Fire Department?

20 A Yes, ma'am.

21 Q All right. I'm just going to put this up for you.
22 This has previously been admitted into evidence. Do you
23 recognize this picture?

24 A Yes, ma'am.

25 Q And you can stand up, at any point, if you need to.

1 A Oh, okay. I was looking right there.

2 Q Yeah. You can stand up and talk through this, if you
3 want.

4 A Okay.

5 Q Go ahead.

6 A Yeah. Her feet were laying this way.

7 Q I'm going to put this down here, if that helps
8 better.

9 A Okay. Right. She was laying this way. And a lady
10 was sitting right here. Her head was here. Her feet were
11 pointed that way. And Jennings was on this side of her
12 doing -- Firefighter Jennings was on this side doing chest
13 compressions.

14 Q All right. And so the chest compressions are being
15 done by Firefighter Jennings?

16 A Yes, ma'am.

17 Q At that point, the Defendant -- do -- do you
18 recognize the woman that was sitting in the glider?

19 A Yes, ma'am.

20 Q And do you see her in this courtroom right now?

21 A Yes, ma'am.

22 Q Who is she?

23 A She's sitting at the defense table.

24 MS. SUSTAKOVITCH: All right. Your Honor, let the
25 record reflect that Firefighter Givens has pointed out the

1 Defendant.

2 THE COURT: It so reflects.

3 BY MS. SUSTAKOVITCH:

4 Q So then what, if anything, does this Defendant say to
5 you when you and Jeffrey Jennings are in the room trying
6 to save V.S. ?

7 A At first, she didn't say anything. She was -- didn't
8 say much. She was kind of calm. We started doing --
9 started doing chest compressions. And she said that she
10 kept asking for water, drinking a lot of water out of a
11 sippy cup that was on a table behind me -- that was on a
12 table behind me or a shelf behind me. I'm not sure if it
13 was a table or shelf, but it was behind me. She pointed
14 to it. She said she was drinking water, just kept
15 drinking water, and then went limp.

16 Q Okay. And when she made these statements, were you
17 asking her questions or did she just offer this up to you
18 as you guys were trying to do compressions on V.S. ?

19 A Yes. I -- we never asked anything at that point. We
20 just -- when I got there, Jennings was doing CPR. And I
21 said, Jennings, I'll take over. And then I started
22 doing -- I started doing compressions.

23 Q You just testified that her demeanor seemed calm.
24 Can you elaborate on that a little bit?

25 A I've been on lots of calls like this. And me being a

1 father as well, most parents are in a panic state. I've
2 been met in the yard with --

3 MR. BOUTON: Your Honor, I would object. He's
4 offering an opinion here. And he's not an expert.

5 THE COURT: Overruled. I'm going to allow him to
6 testify based on his experience.

7 MS. SUSTAKOVITCH: Yes, ma'am.

8 BY MS. SUSTAKOVITCH:

9 Q Go ahead.

10 A Okay. And just being met with a child in their arms
11 saying, you know, take -- take them, or whatever, try
12 to -- try to help them. And that's not the demeanor that
13 was there that day.

14 Q All right. So while you're doing -- and let me pull
15 up this picture. You said the Defendant just started
16 talking about this sippy cup. I'm showing you what's
17 marked as State's Exhibit No. 34 that's been entered into
18 evidence. Do you recognize that, Firefighter Givens?

19 A Yes, ma'am. It's the cup right there on the right
20 corner of the shelf thing, changing table, it looks like.

21 Q And so take me again through what she said. You guys
22 are doing chest compressions and she says what?

23 A She said she was just asking for a lot of water, just
24 kept drinking water out of the cup. She drank a bunch of
25 water. And then she started choking and went limp.

1 Q Can you tell the jury what [V.S.]'s condition was
2 when you got in that room with her that day?

3 A When I started chest compressions -- when I got down
4 there to start CPR, she was wet and cold to the touch.
5 Her body was really cold.

6 Q Did [V.S.] have any heart beat?

7 A No, ma'am.

8 Q Okay. So was she in cardiac arrest?

9 A Yes, ma'am.

10 Q So at this point, you're doing chest compressions and
11 trying to save [V.S.]. Did Firefighter Jennings --
12 excuse me -- well, you, Givens, or Jennings take off her
13 clothes?

14 A Well, when we -- we started doing chest compressions.
15 Everybody else started coming in with all our equipment,
16 our medical bag, our monitor, all that stuff. And in any
17 cardiac arrest, you're going to put on AED pads. It's the
18 defibrillator pads. If there's a shockable rhythm, it'll
19 shock them and it'll -- it'll alert you of that.

20 So to put them on, you have to put them on bare skin.
21 So we cut her shirt off and -- to put on pads, the AED
22 pads. And then that's when we noticed bruising on the --
23 the lower abdomen.

24 Q So when you say she's in cardiac arrest, from a
25 firefighter's perspective, does that mean that she is,

1 essentially, dead at this point?

2 A Yes, ma'am.

3 Q Your goal is what with these pads?

4 A To -- if there's a shockable rhythm in the -- the
5 heart, anything like that, if -- if the heart can be
6 shocked back into a normal -- a normal rhythm, it will
7 advise you to shock. And it never advised us to shock.

8 Q So when V.S.'s shirt is cut off, what, if anything,
9 do you see?

10 A I noted some -- some bruising on the lower abdomen.

11 Q And when you noticed that bruising on the abdomen,
12 did this Defendant notice that bruising on the abdomen?

13 A Yes, ma'am.

14 Q And what, if anything, did she say at that point?

15 A She -- at that point, she just said, That's from
16 where I was doing CPR on -- while I was on the phone with
17 911. And I must have been doing it wrong.

18 Q All right. And so you did not ask her that, she just
19 offered that up?

20 A Yes, ma'am.

21 Q All right. So take me through -- you're looking at
22 these injuries to V.S. . And I'm just going to briefly
23 put it up.

24 A Okay.

25 Q This has been marked as State's Exhibit -- and

1 entered as State's Exhibit No. 2. Firefighter Givens,
2 initially, you're seeing this on V.S. ; is that
3 correct?

4 A Yes, ma'am. Because she's still wearing her pants at
5 this point.

6 Q And in your training and experience, have you ever
7 seen bruising from CPR, at this point, on somebody's
8 abdomen?

9 A No, ma'am.

10 Q All right. So you are -- is this giving you cause
11 for concern at this point?

12 A At that point, I -- you know, I -- I'm thinking this
13 is -- this is strange. But I'm still concentrating on
14 trying to save this little girl.

15 Q What about V.S.'s pants, were those taken off?

16 A They were. A few moments later, they were taken off
17 after EMS arrived. When -- especially with a child that
18 small and even a lot of adults, the fastest way to get
19 fluids and meds to a patient is to do an IO. And that's
20 just you're -- you're drilling into the bone. They
21 usually do it in the shoulder or the shin.

22 And so it just pushes meds and fluid really fast.
23 That's the fastest way you can get meds to somebody. So
24 we had to cut her pants off to do the IO. Because her
25 feet were facing, like I said, towards the door. And

1 that's where EMS came in and said it was the quickest and
2 the closest option to do the IO.

3 Q And to understand an IO properly, is this,
4 essentially, drilling into the bone?

5 A It's a -- yes, ma'am. It's a small drill. And it
6 drills a port into -- all the way to the bone marrow.

7 Q Was there any reaction from V.S. any -- did it
8 appear she was feeling that --

9 A No, ma'am.

10 Q Okay. Very briefly, I'm going to show you what's
11 marked as State's Exhibit No. 4. And when the pants were
12 taken off of V.S. does this fairly and adequately --
13 accurately reflect the bruising you saw on her legs?

14 A Yes, ma'am.

15 Q All right. So at that point, you're seeing all this
16 bruising on her legs. What, if anything, does the
17 Defendant say at this point?

18 A She said that -- she said, Those are -- those bruises
19 are from her seven-year-old brother. He hits her. He has
20 anger issues. And he is going to see -- seeing a
21 therapist about it.

22 Q Okay. When she makes this statement, what, if
23 anything, are you thinking as a firefighter when you're
24 seeing those bruises?

25 A I'm thinking that's not -- I don't -- that's not --

1 to me, that -- that didn't cause these bruises.

2 Q And I'm sorry. What do you mean by that?

3 A I just -- that -- it -- it looked way too bad. I
4 mean, that was -- I don't think -- I was just -- when she
5 said that, I was -- that's what -- when I got concerned
6 was, this is bad.

7 Q Yeah. So at this point, [REDACTED] V.S. is nonresponsive?

8 A Yes, ma'am.

9 Q You don't -- are you getting a heart beat back?

10 A No, ma'am.

11 Q And the IO line is established?

12 A Yes, ma'am.

13 Q And give me an idea of what her nursery looks like,
14 what you're seeing. Can you help the jury see what you
15 were seeing right then?

16 A At that -- at that point, when the IO was started,
17 there were so many people in the room. It was -- it
18 was -- it was very cluttered. Once I started
19 compressions, I really never stopped. I stayed by her
20 side the whole time.

21 We had -- like I said, I named all the people from
22 Simpsonville that were there. And then an EMS crew was
23 there. There were, at this point, I think police officers
24 in the hallway. There was just a lot of people. It was
25 very cluttered in the room. There was not a whole lot of

1 room to work, or do anything.

2 Q So you just testified you stayed and continued doing
3 compressions on V.S. ?

4 A Yes, ma'am.

5 Q Did you assist in loading her up in the ambulance?

6 A Yes, ma'am. We -- we -- we got a pediatric board.
7 It's like a back board. We rolled her on it and picked
8 her up with everything still hooked up. We're trying to
9 carry her down the stairs while continuing to do CPR
10 coming down the stairs, and then out the front door. And
11 then we loaded her on to the stretcher, into the
12 ambulance. And there was a -- they ran code to the
13 hospital.

14 Q Firefighter Givens, did you have any contact with
15 V.S.'s brothers, J.E. and C.E. at any point on
16 the stay?

17 A Yes, ma'am.

18 Q How did you come in contact with the -- with her
19 brothers?

20 A We had gotten -- after the call, we loaded everything
21 back up in the truck. And I drove the fire truck back to
22 the -- back to the station. We all pulled back in. When
23 we got there, our chief came over. And we had a
24 debriefing because this was the worst call. It's -- it's
25 one you -- you won't forget. You don't want ever -- you

1 want to forget it, but you can't. So they talk -- we --
2 we talked about it just to -- because it's stuff we see.

3 And then at that point, officer -- or Corporal
4 Patrikis pulls up at the station, too, where I -- where I
5 work. And as she pulls up, another SUV pulls in and
6 parks. And a lady gets out. And I'm assuming that it was
7 a lady from DSS. And she had the two little boys with
8 her, J.E. being one of them.

9 And they came inside because they had to -- they had
10 to use the bathroom. And that was a place that they could
11 come and, you know, we have a bathroom there that they can
12 use. And it's close to their house.

13 And then when I looked at the little boys, J.E.
14 being the bigger one and how small he was, to myself, I
15 thought -- I said, you know, I don't care if you gave that
16 kid a ball bat, he's can't -- he's not going to be able to
17 do this much damage to that little girl.

18 Q So when you saw J.E. and C.E. after they used the
19 bathroom, did they do anything else at the fire station?

20 A Oh, yeah. We -- we let them come climb in the fire
21 truck and look at the fire truck. And we -- and we do it
22 with kids that come around. They can touch the truck and
23 get in. And we had a little station tour, and that kind
24 of thing. And then -- and then they left.

25 Q All right. After that interaction, did that conclude

1 your time with them?

2 A Yes, ma'am.

3 Q And your involvement in this case?

4 A Yes, ma'am.

5 MS. SUSTAKOVITCH: Thank you.

6 Please answer any questions Defense Counsel has.

7 THE WITNESS: Yes, ma'am.

8 THE COURT: Mr. Bouton.

9 CROSS-EXAMINATION

10 BY MR. BOUTON:

11 Q Good morning, Firefighter Givens.

12 A Good morning.

13 Q I think I counted you -- you had about seven other
14 firefighters arrive with you?

15 A Yeah. Roughly, yes, sir.

16 Q Was it two trucks?

17 A Yes. It was my engine and the rescue truck.

18 Q And I think you stated when you arrive in the room,
19 Firefighter Jennings was already there?

20 A Yes, sir. He -- he had walked in right before I did.

21 Q Was he in a different truck?

22 A He was in a different truck.

23 Q Okay. So he -- he arrived there first?

24 A Yes, sir.

25 Q And do you know how long he was there before you

1 arrived?

2 A Oh, we got -- we got there at the same time. But
3 when -- as I stated at the beginning, when we got there,
4 as I was looking for the number, I almost went past the
5 house. I stopped. So they pulled in behind. So he was
6 able to walk in. It was 30, 45 seconds, at the most, that
7 he was there before...

8 Q All right. And I note -- I noted you stated, at some
9 point, everyone started coming in with their equipment.
10 Are you referring to EMS and law enforcement --

11 A No. When -- when -- when I'm referring to that, it
12 was the guys -- the other two guys on my truck, Austin
13 Owens and Robert Stone. They grabbed our medical
14 equipment. I went straight in to see -- to -- to get CPR
15 started. I always try to do that. They grabbed the
16 medical bags, the airway box, our monitor, and our OT
17 caddy, and a suction unit. So there's a lot of stuff to
18 carry in. So it really takes two people to get it all.
19 So they brought it all in.

20 Q Okay. How long before EMS arrived?

21 A I would say -- after I started CPR, they got there
22 rather quickly. And I'm -- on this kind of call, 30
23 seconds seems like five minutes, I mean, it -- it really
24 does. But it -- I would say seven to 10 minutes after I
25 started CPR, EMS arrived.

1 Q All right. Is it EMS who performed the IO?

2 A Yes, sir. We're -- we're not trained to do the IO.
3 That's a paramedic skill only.

4 Q Okay. And so it's safe to say that when the IO was
5 performed, EMS was in the room --

6 A Yes, sir.

7 Q -- with you?

8 A Yes, sir.

9 Q How many members of EMS were --

10 A I think it was just two on their truck.

11 Q All right. And so they -- they -- they removed her
12 pants or cut off her pants to perform that IO?

13 A Yes, sir.

14 Q Okay. And at this point, when this is going on, we
15 saw some body cam video earlier -- or yesterday.

16 A Okay.

17 Q And I know you weren't in -- in the courtroom.

18 Ms. Robinson is observed at the very beginning outside in
19 the hall. And you hear someone say -- ask her, Where did
20 this bruising come from?

21 A Okay.

22 Q Did -- was that you?

23 A No, sir.

24 Q Do you recall if that was another -- a firefighter or
25 if that was EMS --

1 A It was EMS.

2 Q One second.

3 A Okay.

4 MR. BOUTON: I don't have any further questions.

5 Thank you.

6 THE COURT: Anything else?

7 MS. SUSTAKOVITCH: Nothing from the State.

8 THE COURT: Sir, you can step down.

9 THE WITNESS: Thank you.

10 THE COURT: Thank you.

11 MS. SUSTAKOVITCH: The State calls Firefighter

12 Jeffrey Jennings.

13 THE CLERK: Sir, please pause at the end of the
14 bench.

15 MR. JEFFREY JENNINGS: Ma'am?

16 THE CLERK: Pause at the end of the bench.

17 Place your left hand on the Bible and raise your
18 right hand.

19 WHEREUPON,

20 JEFFREY ALLEN JENNINGS,

21 after first having been duly sworn, testified as follows:

22 THE CLERK: Please be seated.

23 Please state your full name for the record.

24 THE WITNESS: Jeffrey Allen Jennings.

25 THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. SUSTAKOVITCH:

Q Good morning, Mr. Jennings.

May I call you Firefighter Givens -- excuse me, Jennings?

A Yes, ma'am.

Q Your name's wrong. Sorry.

Where are you employed, sir?

A Simpsonville Fire Department.

Q How long have you been employed there?

A Six years.

Q And what is your position there?

A I'm a lieutenant.

Q You're a lieutenant. Lieutenant, what are the average calls that you have to go out on as a lieutenant with the Simpsonville Fire Department?

A We do a range of calls, medical calls, fire alarms, car wrecks, some special -- some special calls. Mainly, our call volume is medical, though.

Q And, Lieutenant Jennings, in your work as a firefighter, do you have occasion to go to pediatric calls for help and assistance?

A We do, yes, ma'am.

Q I want to take you back to January 14th, 2021. Did you receive a call for service on that day related to this

1 case?

2 A Yes, ma'am.

3 Q And where did the call come from?

4 A Meaning?

5 Q Where was the location that you were responding to?

6 A Sellwood Circle.

7 Q What did -- what was the nature of the call that went
8 out, Lieutenant Jennings?

9 A So we were dispatched for a drowning. We went en
10 route. And then halfway there, it was upgraded to cardiac
11 arrest.

12 Q And when you arrived on scene, what, if anything, did
13 you see?

14 A Once on scene, we noticed a man flagging us down.
15 And as we made our way out of the truck into the house,
16 we -- you know, the gentleman was standing at the door as
17 we walked in. And we made our way to where the victim
18 patient was.

19 Q What time was the call that came out that you
20 responded to?

21 A It was four something, I believe.

22 Q Or I think it's been previously testified around
23 2:13.

24 A Yes, maybe something like that.

25 Q Okay.

1 A I'm not specific on what it was.

2 Q Okay. You're not sure?

3 A Yeah.

4 Q All right. So when you get on scene, what do you do?

5 A So at the time -- at the time of the call, I'm,
6 actually, the engineer on the rescue truck. I'm not a
7 lieutenant. I was previously promoted to that. So I'm
8 driving the -- the truck in. I get out of the truck and
9 made my way to the front door where we were -- we were
10 told to go by the flag -- the guy flagging us in.

11 And so I go in the front door. Mr. Robinson just
12 pointed upstairs. He didn't say anything. So I made my
13 way up. First door on the left was the patient laying on
14 the floor lifeless at this point. I get over there, check
15 the pulse. And I noticed that, you know, cardiac arrest
16 is in progress.

17 I noticed Ms. -- Ms. Robinson giving CPR. And I took
18 over compressions. And at that point, you know, I started
19 life saving measures.

20 Q Okay. And let's go back just a little bit. You come
21 in the door. You see this Defendant as you come in the
22 door, you said, doing CPR?

23 A As I came in the bedroom door, yes. She was half
24 kneeled and half sitting in the chair doing compressions.

25 Q Okay. I'm going to go a little further into that.

1 I'm going to show you the report just to clarify this time
2 of arrival.

3 A Okay.

4 Q All right. I know you answer a lot of calls. If you
5 could review the report and just look again at the time
6 that you were dispatched.

7 A Yep.

8 Q What time is it?

9 A 2:13.

10 Q Okay. So you come in the door and you see this
11 Defendant, I believe, you said by the chair?

12 A Yes, ma'am.

13 Q And she was doing -- you said CPR. Can you describe
14 to the jury -- I'm going to show you real quick -- we
15 have -- there you go. You can turn around and look at
16 that, Lieutenant.

17 A Okay.

18 Q Where did you see this Defendant?

19 A She was in the chair halfway in the floor.

20 Q All right. And where was V.S. ?

21 A V.S. was facing diagonal to the entrance of the
22 door, feet towards the door.

23 Q And when you say that this Defendant was halfway in
24 the chair -- you can stand up -- can you describe that for
25 us?

1 A Yes. So kind of -- you know, kind of like this,
2 kneeling kind of like this, but in the chair giving
3 compressions.

4 Q And can you demonstrate how she was giving
5 compressions?

6 A Just -- just kind of kneeled down just giving
7 compressions on the patient's stomach.

8 Q All right. And was [REDACTED] V.S. [REDACTED] wearing her clothes at
9 this point?

10 A At this point, she was, yes, ma'am.

11 Q All right. So, Lieutenant Jennings, did the
12 Defendant make any statements, at this point, when you
13 walked in and found her doing these compressions on
14 [REDACTED] V.S. [REDACTED]?

15 A She -- she had mentioned something about a sippy cup.
16 At the time, I'm just, you know, trying to get the patient
17 taken care of.

18 Q Okay.

19 A So, you know, I -- I hear things coming from her.
20 Something about the sippy cup. And she was trying to, you
21 know, give her water. She wanted water. That's really,
22 at that point, all that I had heard.

23 Q Is it your focus, at this point, to just try to save
24 [REDACTED] V.S. [REDACTED]'s life?

25 A That's all that I'm concerned with.

1 Q And are you -- do you take over chest compressions at
2 this point?

3 A I do, yes, ma'am.

4 Q Take the jury through that, please.

5 A So I just take over the chest compressions. I check
6 for a pulse first. No pulse. Then I start chest
7 compressions. And I'm just going through those chest
8 compressions as trained. 30 chest compressions. And then
9 we would stop for two breaths.

10 Fighter Givens, at that point, came in before that
11 cycle was over. So I -- I didn't have to go into those
12 breaths. But I'm just on the floor beside her on my knees
13 giving those chest compressions.

14 Q Lieutenant Jennings, we've just heard from
15 Firefighter Givens. Who was first in the door? Was it
16 you or was it Firefighter Givens?

17 A It was me.

18 Q So you make your way to V.S. . You start the
19 compressions. Then he comes in; correct?

20 A Yes, ma'am.

21 Q All right. Can you tell the jury what her -- what
22 V.S. 's condition was when you made initial contact
23 with her?

24 A She was very cold, soaking wet, hair was wet, clothes
25 were wet. She was in cardiac arrest with no pulse when I

1 got there. So she was, essentially, dead.

2 Q Okay. So do her clothes end up coming off?

3 A Yeah. So after chest compressions are started once
4 our AED machine gets -- gets into the room, at that point,
5 we will -- we cut her shirt off and apply the AED pads.

6 Q Okay. I'm going to show you -- first, let me ask you
7 about your CPR certification. Are you CPR certified?

8 A I am, yes, ma'am.

9 Q How long have you been CPR certified?

10 A 12 years.

11 Q Do you train in classes related to CPR?

12 A Yes, we do. We have to recertify every two years.

13 Q And have you had occasion in your capacity as a first
14 responder to render aid where a layperson may have started
15 CPR, but then you have to come in as the professional?

16 A In most cases, that is the case. Someone else has
17 already started compressions. Our dispatch does a really
18 good job of getting whoever calls 911 to start those
19 compressions. So most of the time, that is the case.

20 Q And you testified you've been a firefighter six
21 years; is that correct?

22 A Six years at Simpsonville. And then I was four years
23 somewhere else. So I -- since 2012, I've been a
24 firefighter.

25 Q A total of 10 years?

1 A Total of 10.

2 Q And in the situations where you've come in, which is
3 most common, you just testified, and have to take over
4 from a layperson, you are experienced in how to make that
5 transfer; correct?

6 A Yes, ma'am.

7 Q I'm showing you what's marked -- or what's been
8 entered, actually, as State's Exhibit No. 2. And just for
9 a moment we're going to talk. In your time of rendering
10 aid in these situations, have you ever seen bruising on an
11 abdomen from somebody doing CPR like that?

12 A No, ma'am, not once.

13 Q And -- all right. Tell me a little bit more about
14 that. When you say, no, "not once," have you had occasion
15 to respond to pediatric cases where there's a -- a child
16 that needs CPR?

17 A Yes, ma'am, I have.

18 Q Have you ever seen bruising like that?

19 A No, ma'am.

20 Q Have you had occasion to respond to, say, older
21 people where they need CPR?

22 A Yes.

23 Q And have you ever seen bruising on old people like
24 that?

25 A No, ma'am.

1 Q Tell me about what the LUCAS machine is.

2 A So the LUCAS machine is a device that you strap to a
3 patient. And it's pretty much a device that does the
4 chest compressions for you.

5 Q And with the LUCAS machine, does this machine
6 sometimes break ribs while it's doing the compressions --

7 A It can, yes, ma'am.

8 Q And even -- with a LUCAS machine, how long will that
9 machine sometimes be used on somebody when CPR is being
10 done by the machine?

11 A It just depends on when the machine gets there. I
12 mean, it could be used the entire time that someone's
13 doing CPR until that -- you know, until the CPR is called
14 or we get a -- a pulse back.

15 Q And in situations where ribs may be broken by this
16 LUCAS machine, have you ever seen bruising like you saw on
17 V.S. ?

18 A No, ma'am.

19 MS. SUSTAKOVITCH: Please answer any questions
20 Defense Counsel has.

21 THE COURT: Mr. Bouton.

22 CROSS-EXAMINATION

23 BY MR. BOUTON:

24 Q Good morning, Lieutenant Jennings.

25 A Good morning.

1 Q When -- when you were in -- in the room, did you stay
2 in the room the entire time with the victim until she was
3 transported out of the -- out of the house?

4 A I did not, no.

5 Q When did you leave that room?

6 A It was after three or four compressions. So we do
7 what we call pit crew CPR. So, you know, I start the CPR.
8 And then once we get other staff available, after a round
9 or two, we bring someone in fresh. And then that person
10 will go to the back of the line.

11 And in this case, there was a lot of people in the
12 room, 10 or so people. So we, at that point, you know, to
13 clear up some space and if we needed -- we needed stuff
14 off the truck, we refreshed our oxygen cylinders, you
15 know, we would go do that. And that's what I did. I went
16 and got some other things off the truck and then came back.

17 Q So you needed to clear the room to allow other people
18 to have --

19 A To -- other people --

20 Q -- access?

21 A Yes, other people to have access.

22 Q Had you left the room when EMS arrived?

23 A Yes.

24 MR. BOUTON: I don't have any further questions.

25 Thank you.

1 THE COURT: Anything else, Ms. Sustakovitch?

2 MS. SUSTAKOVITCH: No, ma'am.

3 Thank you.

4 THE COURT: Sir, you can step down.

5 MR. BOUTON: Your Honor, I don't have any objection
6 to Mr. -- Lieutenant Jennings being excused either.

7 THE COURT: All right. Is the State asking for him
8 to be released?

9 MS. SUSTAKOVITCH: Yes, ma'am.

10 Thank you.

11 THE COURT: Thank you for being here, sir.

12 Ms. Holloway.

13 MS. HOLLOWAY: Yes, Your Honor. The State calls Ken
14 Koehler to the stand.

15 (Pause.)

16 MS. HOLLOWAY: Your Honor, I apologize. The witness
17 is in the restroom.

18 THE COURT: All right. I'll tell you what, maybe
19 it's a good chance for us to take a break. How about
20 that?

21 And I'd ask everyone in the gallery to remain seated
22 while the jury leaves.

23 Thank you.

24 (WHEREUPON, the jury was excused from open court at
25 approximately 10:37 a.m.)

1 THE COURT: We'll be in recess until 10 till.

2 (WHEREUPON, a break was taken.)

3 THE COURT: I'm sorry for the delay. The jury had
4 asked to take notes. And so we were getting them -- well,
5 the wonderful bailiffs were getting them pads and pens.

6 All right. Are we ready to bring the jury back in?

7 MS. SUSTAKOVITCH: Yes, ma'am.

8 MR. BOUTON: Yes, ma'am.

9 THE COURT: All right.

10 (WHEREUPON, the jury came into open court at
11 approximately 10:59 a.m.)

12 THE COURT: All right. Ladies and gentlemen, it's my
13 understanding that some of you asked to take notes. And
14 that is, certainly, fine. I just need to give you a
15 little bit of instruction with regard to that.

16 First of all, just bear in mind that some people take
17 notes and that's how they listen. And it helps as a -- as
18 a guide to do that. And some people don't. And that
19 doesn't mean that what the person wrote down on their
20 notes has any more weight than what somebody's memory
21 does. But it's just different ways that people listen
22 and -- and absorb information. So I say that to you
23 first.

24 Second, we will take those notes up from you in the
25 evening. I am not going to look at them, nor is anyone

1 involved going to look at them. We just simply will take
2 custody of those notes this evening when you leave.

3 And then I'll just say, finally, if you are a person
4 that taking notes is distracting to you, then just don't
5 take notes. The most important thing for you to do is
6 to -- is to listen to the witnesses, and observe the
7 witnesses, and -- and draw your conclusions. But,
8 certainly, notes are very helpful as well to many people.

9 All right. Thank you.

10 All right. Is the State ready to call your next
11 witness?

12 MS. HOLLOWAY: Yes, Your Honor.

13 May it please the Court.

14 THE COURT: Yes.

15 MS. HOLLOWAY: The State calls Ken Koehler.

16 THE CLERK: Please pause at the end of the bench.

17 Place your left hand on the Bible and raise your
18 right hand.

19 WHEREUPON,

20 KEN KOEHLER,

21 after first having been duly sworn, testified as follows:

22 THE CLERK: Thank you.

23 Please be seated.

24 Please state your full name for the record.

25 THE WITNESS: Ken Koehler.

1 THE CLERK: Thank you.

2 DIRECT EXAMINATION

3 BY MS. HOLLOWAY:

4 Q Mr. Koehler, where are you employed?

5 A I am employed with Greenville County EMS.

6 Q What's your position with EMS?

7 A I'm a paramedic there. I'm, also, a field training
8 specialist.

9 Q How long have you worked there?

10 A Four years.

11 Q What does a field training specialist do?

12 A What we help do is training new employees and people
13 that come in. So they'll come on the ambulance with me.
14 And I'll get them up to speed with everything. It's
15 usually about a six-month process for a new employee.

16 Q Can you speak up, Mr. Koehler? I'm sorry. I had
17 trouble hearing that last -- that last part of your answer
18 there.

19 So you're responsible for training new EMS
20 paramedics?

21 A Correct.

22 Q Okay. And tell us about your duties as a paramedic.
23 What's a day in the life like?

24 A We get dispatched on 911 calls. We'll go, obviously,
25 make patient contact. We'll do an assessment. We'll come

1 up with an appropriate treatment plan, and then transport
2 them to the appropriate facility or the facility of their
3 choice.

4 Q In your years with EMS, about how many calls would
5 you estimate you've gone out on?

6 A Over the four years, it's in excess of 2,000.

7 Q And does that 2,000 include pediatric calls as well?

8 A Yes, it does.

9 Q Were you working on January 14th of 2021?

10 A Yes, I was.

11 Q And tell us a little bit about the different training
12 that you've received to be a paramedic and, also, a field
13 training specialist.

14 A For a paramedic, it's a -- I have a two-year
15 associate's degree in paramedic science. And then we have
16 to sit and take exams for the national registry.

17 Q How often do you have to take those exams or become
18 recertified?

19 A We're -- we're due up every three years. We have to
20 be recertified. We, also, do continuing education units.
21 So monthly, we do training.

22 Q And you said you were working on January 14th of
23 2021. Who were you working with that day?

24 A My partner was Ron Veal.

25 Q How did you become involved in this case?

1 A We were the closest truck to the incident. And so we
2 were dispatched for that call.

3 Q How did this call come to you? What did you know
4 about it before you got to the location?

5 A What happens is we get dispatched. And in the front
6 of our ambulance, we have a MCT computer. And what it
7 does is it gives us what we call our -- our call notes.
8 So we'll see -- it gives as much information as 911
9 received from the caller. So, sometimes, we'll get a lot
10 of information. Sometimes, it will be minimal.

11 This one just came out as a pediatric cardiac arrest.
12 It didn't have an age, or anything. And it didn't say,
13 you know, really that much information.

14 Q So you know, though, that you're walking into a
15 situation with a pediatric -- pediatric cardiac arrest?

16 A Correct.

17 Q And what time did you get to the incident location?

18 A I believe it was approximately 2:27 p.m.

19 Q You said that the call came out as a -- a cardiac
20 arrest?

21 A Pediatric cardiac arrest.

22 Q Pediatric cardiac arrest, what does that mean?

23 A A pediatric cardiac arrest -- it didn't give an age.
24 So it could be anywhere from, you know, a newborn up
25 through 17 years old, actually. So we didn't have an age

1 on this one. But cardiac arrest, basically, their heart
2 has stopped. They're not breathing. They're not
3 responsive at all. It's an adolescence, yeah, you know,
4 death.

5 Q So if their heart has stopped, they're not breathing,
6 and they're not responsive, would you say that a person in
7 cardiac arrest is dead?

8 A Yes. Without, like, immediate -- and I mean
9 immediate intervention, they -- they would be technically
10 dead.

11 Q So you get to the scene at 2:27. And describe for us
12 the scene when you get there.

13 A We walked up. We got the equipment we needed from
14 our truck, walked across. The police were outside. We
15 walked into the house. I asked where were we going of
16 the -- of the foster mom. And she said, Upstairs to the
17 left.

18 Q Where was the foster mom when she told you to go
19 upstairs to the left?

20 A She was standing in, I guess, what would be the
21 living room. So just immediately inside the door.

22 Q And did you go upstairs to the left?

23 A Yes, we did.

24 Q And when you did that, what did you see?

25 A When we went in, **V.S.** was laying supine on the floor

1 with fire department performing CPR and beginning to
2 establish an airway.

3 Q What does supine mean?

4 A Supine is laying on your back.

5 Q And how was the fire department trying to establish
6 an airway?

7 A When we establish an airway, we use what's called an
8 i-gel. But they were, also, doing what's called
9 ventilations with the -- it was called an EVM. So the
10 level of oxygen hooked up to it has a large bag on it.
11 And we can do -- what you do is you're, actually, trying
12 to breathe for the -- for the person.

13 Q So is it like a form of CPR?

14 A It's part of the CPR protocol. CPR itself is the
15 actual pushing on the chest to kind of simplify it.

16 Q Can you describe V.S.'s condition for us when you saw
17 her? Was she responsive at all?

18 A No.

19 Q What about -- did you have the -- the occasion to
20 touch her? How did she feel?

21 A Yeah. She was -- she was definitely cyanotic and
22 cool to the touch.

23 Q What does cyanotic mean?

24 A You know, blue, bluish around the lips. Her overall
25 color was -- it -- it showed that there was a lack of

1 circulation.

2 Q What was she wearing when you saw her?

3 A When we came in, she did not have a shirt on, which
4 is normal for when you do CPR. You strip the shirt. And
5 she had on a -- like, leggings.

6 Q So when you saw her with no shirt on, were you able
7 to make any observations about the condition of her body?

8 A Yeah. I immediately -- I came over to the right side
9 and set myself up. And I immediately saw bruising --
10 extensive bruising, like real purplish bruising on the
11 right -- the side of the right abdomen.

12 Q I'm going to show you what's already been entered
13 into evidence as State's Exhibit No. 2. You mentioned
14 bruising to **V.S.**'s abdomen?

15 A Correct.

16 Q At this time, she still had her pants on, is that
17 what you said?

18 A Correct.

19 Q So is this a photo of her abdomen as you observed it
20 when you walked into her bedroom?

21 A Yes, it is.

22 Q And can you point out to us the bruising that you
23 saw? Does -- does this accurately depict the -- the
24 colorization of her bruising?

25 A Yes, yeah. When I walked in, I could see -- you

1 know, once -- or once I kneeled down, I saw all -- all of
2 this.

3 Q So when you get in there, fire is trying to do CPR.
4 And then you take over care; is that right?

5 A Yeah. Then we become the highest medical care on the
6 scene. So what we do then is I -- I get the patient
7 hooked up to our monitor, which, you know, can do
8 defibrillation, can do everything, check the heart rate,
9 and everything.

10 While I'm doing that, my partner is tasked -- he'll
11 be establishing an IV access. And then we'll, also,
12 help -- in this case, we had to assist fire. They didn't
13 have the proper size i-gel. So we assisted them with the
14 i-gel to, you know, establish the airway completely.

15 Q What about for her heart, did you give her any
16 medications for her heart?

17 A Not -- not at this point yet. What we do is once we
18 get her on a monitor, I call for a rhythm check. And what
19 we do is stop CPR momentarily. And I look at the rhythm
20 that's coming across the monitor.

21 Q And when you did the rhythm check, what did it show
22 about the condition of V.S.'s heart?

23 A It showed what's called asystole. And I guess
24 it's -- it's, basically, a flat line. And it shows that
25 there's no activity, no electrical, no muscular activity

1 going on.

2 Q So she has no heart activity whatsoever?

3 A No.

4 Q And you said that your partner, Ron, started to
5 establish IV access?

6 A That's correct.

7 Q How did he do that?

8 A What we do for cardiac arrest is we do what's called
9 an IO, so -- and we go through the leg. So we strip off
10 the pants. And so he stripped off the pants to establish
11 the IO in the right tibia.

12 Q What does IO stand for?

13 A IO stand for intraosseous, which means into the bone.
14 And, basically, what we do is below the knee, you'll feel
15 the big bump on -- the bump on the leg bone. If you go
16 about an inch below that, we drill into that spot. And it
17 goes into the -- the center of the bone, which has an
18 incredible capillary bed there. So it's a good spot to,
19 you know, administer medications, and things.

20 Q Was **V.S.** given any pain medication before --

21 A No. We don't -- not for cardiac arrest because
22 they're unresponsive.

23 Q What kinds of medicine was **V.S.** given at that point?
24 Any?

25 A At that point with asystole, we start with

1 epinephrine, cardiac epinephrine.

2 Q And what is epinephrine?

3 A Epinephrine is, basically, a -- you know, a
4 manufactured adrenaline. And it's purpose is to cause
5 constriction, constrict the vessel -- the blood vessels,
6 which will then help to profuse the organs and,
7 specifically, like, the heart and the brain. And if we
8 can perfuse the heart, we stand a chance of getting it to
9 come back to start beating, and things.

10 Q So can you dumb that down a little bit for me?
11 What -- when you are perfusing the heart, what are you
12 trying to accomplish --

13 A You're increasing the blood flow is what you're
14 trying to do.

15 Q And when you increase the blood flow, what -- what
16 are you trying to have happen?

17 A If you can increase blood flow, especially to the
18 heart muscle, you can bring more oxygen to the heart
19 muscle so that it can start to function properly.

20 Q So you can, actually, restart the heart with
21 epinephrine?

22 A Along with CPR -- with good CPR. It's -- it's one of
23 the parts that can.

24 Q You stated before that V.S. 's pants were cut off
25 in order to drill into her knee for the IO line; is that

1 right?

2 A That's correct.

3 Q When her pants were cut off, what did you see?

4 A There was extensive bruising all over her legs.

5 Q While you were working on [V.S.], where were her --
6 you mentioned foster parents?

7 A Uh-huh. I was aware of one other individual, like, a
8 male in the -- in the -- in the house. I think when I
9 came up to the stairs, I think to the right there was
10 somebody, but I didn't really take that much notice. But
11 the foster mom, she did come into the room, like, probably
12 shortly after I got her on the monitor.

13 Q And did you ever get an explanation from her about
14 how [V.S.] ended up in this state?

15 A Yeah. That's part of what I do. When I come in, I
16 need to really get a good assessment going on. I need to
17 know what happened and possibly why it happened, and
18 things like that. So I did -- I asked, you know, What
19 happened here?

20 Q And what did she say?

21 A She stated that they had been playing and [V.S.] wanted
22 water. So she had a drink of water and then just went
23 unresponsive. It was kind of that simple of an
24 explanation to me.

25 Q What did you think about that explanation that --

1 that V.S. drank too much water?

2 A It -- it -- it didn't seem proper to me. And, you
3 know, so I questioned if she had any medical conditions,
4 or even as -- as much as being maybe special needs,
5 something that would explain why she choked just drinking
6 water. And they didn't even have any kind of medical
7 background that they could give.

8 Q But, at that point, what is your goal being on scene
9 in V.S.'s room that day?

10 A Yeah. My goal is just -- V.S. is my focus. That's
11 it.

12 Q You mentioned that when V.S.'s pants were cut off,
13 you saw the bruising to her legs?

14 A Correct.

15 Q I just want to show you what's been entered as
16 State's Exhibit No. 4. Is this an accurate reflection of
17 the bruising that you saw to V.S.'s legs?

18 A Yes, it is.

19 Q Is it the same color that you saw when you were in
20 her room that day?

21 A Yes, absolutely.

22 Q I, also, want to show you a portion of what's
23 previously been entered into evidence as State's Exhibit
24 No. 1.

25 MS. HOLLOWAY: Your Honor, permission to play just a

1 very short clip of the --

2 THE COURT: Certainly.

3 MS. HOLLOWAY: -- body cam.

4 THE COURT: Oh, and I'm sorry.

5 (WHEREUPON, a portion of State's Exhibit No. 1 was
6 played in open court.)

7 BY MS. HOLLOWAY:

8 Q Do you recognize just the short clip of that video?

9 A I do.

10 Q Do you recognize the voices on the video?

11 A I do.

12 Q Specifically, who is it that asks, All this is from
13 the brother?

14 A That would be myself.

15 Q So explain to us what's going through your head when
16 you ask, All this is from the brother?

17 A I -- the extent of the bruising and everything, I --
18 I, honestly, thought it would have been an older brother
19 like late teens kind of age. Because just -- just the
20 extent of the bruising. It didn't even occur to me --
21 yeah, I -- I just assumed maybe it was a late teenager, or
22 something.

23 Q So you thought that bruising had to have been caused
24 by an adult?

25 A Yeah, basically, yes.

1 Q Did you question her any further on that?

2 A No, no. Again, my focus -- my focus is to try to
3 save that -- that child.

4 Q When the Defendant blamed that extensive bruising on
5 the brother, how did her demeanor seem?

6 A Very calm and, you know, just speaking as if we're
7 just having a regular conversation.

8 Q So after she gives that explanation, what did you do
9 next to treat V.S.?

10 A Basically, next what we're going to do is move her
11 and get her into the ambulance. So my partner, Ron,
12 brought a pediatric backboard up, which is just a stiff,
13 you know, plastic board to put the -- put V.S. on. We put
14 her on that. And then we brought her down the stairs, got
15 her out onto our stretcher, and into our ambulance.

16 Q As you were taking her out on the stretcher and
17 putting her in the ambulance, are you continuing CPR?

18 A Yeah. Once we -- once we get her onto the stretcher,
19 we do -- we continue CPR efforts.

20 Q What hospital was she taken to?

21 A We transported her to Greenville Memorial for their
22 pediatric unit.

23 Q And during the transport to Greenville Memorial,
24 where were you?

25 A I was in the back with my partner, Ron Veal, and,

1 also, our supervisor.

2 Q Is it common to have all three of you in the back
3 when you're transporting a patient?

4 A Not for your average patient. For a patient like
5 this, it would not be uncommon to bring all these people
6 on board.

7 Q What do you mean by that, a patient like what?

8 A Somebody in cardiac arrest.

9 Q Who was driving the ambulance?

10 A We usually get fire. So we had fire drive us in.

11 Q And did you continue to give V.S. medication as
12 you're transporting her?

13 A Yes. We continued giving epinephrine. That is the
14 only medication. Because she was always in what's called
15 asystole.

16 Q And just to -- just to clarify, you said epinephrine
17 restarts your heart; right?

18 A It can -- yeah. It's one of the -- it's one of the
19 pieces that can help do that, correct.

20 Q And asystole means no heart activity?

21 A No heart activity.

22 Q How many doses of epinephrine did V.S. receive?

23 A I administered a total of six doses.

24 Q Is it common to give a person that you're treating
25 six doses?

1 A It's -- it's near the high end.

2 Q And through the six rounds of epinephrine, did V.S.'s
3 heart beat ever return?

4 A No.

5 Q Did she ever begin to breathe unassisted after you
6 continued CPR?

7 A No.

8 Q At any point during your transport of V.S., did you
9 have hope that she would make it?

10 A I -- I was not overly optimistic.

11 Q What happened when you arrived at the hospital?

12 A We -- as soon as we got to the hospital, we
13 transported her down to the pediatric. I called the
14 trauma bay so the -- in the pediatric part of the
15 hospital.

16 Q And did you turn over care, at that point, to the
17 hospital?

18 A Yes. We -- because we radio -- we call in as we're
19 en route to the hospital to let the hospital know we're
20 coming and what we have so they can prepare. And when we
21 go into that -- again, I refer to it as the trauma bay.
22 It's, also, called a recess [phonetic]. But when we go in
23 there, there's a team of doctors and nurses waiting for
24 us.

25 Q And did they -- those doctors and nurses then take

1 over care of V.S.?

2 A Yeah. What we do is we go in and we transfer care to
3 them. I give a hand -- what's called a hand-off report
4 and tell them exactly, you know, what we have, what's
5 going on, medications that have been administered, and
6 everything.

7 MS. HOLLOWAY: Thank you.

8 Nothing further at this time, Your Honor.

9 THE COURT: Mr. Bouton.

10 CROSS-EXAMINATION

11 BY MR. BOUTON:

12 Q Good morning Mr. Koehler.

13 A Good morning, sir.

14 Q You stated that when you arrived, firefighters were
15 already en route?

16 A Correct.

17 Q Do you -- do you recall how many firefighters were in
18 the room?

19 A I believe there were -- I want to say three.

20 Q And they were attending to V.S.?

21 A Correct. One was up at the head doing ventilations
22 and establishing an airway. The other one was doing CPR.
23 And there was another one standing. What they will do is
24 swap -- switch out during CPR.

25 Q Okay. And at this point, V.S. is on her back on the

1 floor?

2 A That's correct, sir.

3 Q Okay. And so you and your partner joined in the --
4 the efforts to revive her?

5 A Correct.

6 Q All right. And I've -- I've looked at your report.
7 And it appears to me that you initiated or implemented the
8 IO about seven minutes after you first arrived. Does that
9 sound accurate to you?

10 A Yeah, yes.

11 MR. BOUTON: All right. Thank you, Mr. Koehler.

12 I don't have any further questions.

13 THE COURT: Ms. Holloway, anything else?

14 MS. HOLLOWAY: Nothing further, Your Honor.

15 THE COURT: Sir, you can step down.

16 MS. SUSTAKOVITCH: Your Honor, may this witness be
17 excused?

18 THE COURT: Any objection?

19 MR. BOUTON: No, ma'am.

20 THE COURT: Thank you, sir, for being here.

21 MS. SUSTAKOVITCH: The State calls Investigator Jim
22 Perry.

23 THE CLERK: Please pause at the end of the bench.

24 Please place your left hand on the Bible and raise
25 your right hand.

1 WHEREUPON,

2 JAMES PHILLIP PERRY,
3 after first having been duly sworn, testified as follows:

4 THE CLERK: Thank you.

5 Please be seated.

6 Please state your full name for the record.

7 THE WITNESS: James Phillip Perry.

8 DIRECT EXAMINATION

9 BY MS. SUSTAKOVITCH:

10 Q Good morning.

11 A Good morning.

12 Q How are you, Investigator Perry?

13 A Very well.

14 Q Where do you work, sir?

15 A I work with the Greenville County Sheriff's Office.

16 Q And what is your job there?

17 A I'm an investigator with the computer crimes
18 investigative unit.

19 Q And what is the computer crimes investigative unit?
20 What -- what do you do?

21 A Well, we, actually, have several hats. We -- we're
22 with the ICAC, which is the Internet Crimes Against
23 Children Task Force, online predators, child pornography,
24 this type of thing. But we, also, do the computer
25 forensics for the other units within the sheriff's office,

1 But if we have any sleeping or inattention in the
2 afternoon, Ms. Fryer is -- is going to help me out and --
3 and keep everybody on task this afternoon. Y'all have
4 been really fantastic. And I'm not speaking to anybody in
5 particular. But y'all have been really fantastic. And I
6 thank you so much for that.

7 All right. Are we ready to proceed?

8 MS. SUSTAKOVITCH: Yes, ma'am.

9 THE COURT: Okay. Thank you.

10 MS. SUSTAKOVITCH: Thank you.

11 May it please the Court.

12 The State calls Austin Robinson.

13 THE CLERK: Please pause at the end of the bench.

14 Place your left hand on the Bible and raise your
15 right hand.

16 WHEREUPON,

17 JERRY AUSTIN ROBINSON, II,
18 after first having been duly sworn, testified as follows:

19 THE CLERK: Thank you.

20 Please be seated.

21 Please state your full name for the record.

22 THE WITNESS: Jerry Austin Robinson, II.

23 THE CLERK: Thank you.

24 MS. SUSTAKOVITCH: Your Honor, may we briefly
25 approach?

1 THE COURT: Certainly.

2 (WHEREUPON, a bench conference was held.)

3 MS. SUSTAKOVITCH: Thank you, Judge.

4 THE COURT: Thank you.

5 MS. SUSTAKOVITCH: Yes, ma'am.

6 DIRECT EXAMINATION

7 BY MS. SUSTAKOVITCH:

8 Q Good afternoon, Mr. Robinson.

9 A Good afternoon.

10 Q What do you go by, sir?

11 A Austin.

12 Q And how old are you?

13 A 35.

14 Q Where are you from, Austin -- may I call you Austin?

15 A Yes.

16 Q Okay. Where are you from?

17 A Greenville, South Carolina.

18 Q Have you lived here your whole life?

19 A Yes.

20 Q And how do you -- or do you know this Defendant?

21 A Yes.

22 Q How do you know her?

23 A We're married.

24 Q What's her name?

25 A Ariel Robinson.

1 Q Austin, I'm going to call her "Ariel," and you
2 "Austin." Is that okay?

3 A Yes.

4 Q Is it hard to be in court right now?

5 A It is.

6 Q Okay. Do you have -- when -- when did you get
7 married to Ariel Robinson?

8 A In 2010, October 27th.

9 Q And tell the jury, when did you meet Ariel Robinson?

10 A I met her at a church event. I can't remember the
11 exact year, but she was at Jocassee [phonetic] Park.

12 Q And she was --

13 A She was at Jocassee Park.

14 Q How old was Ariel at the time you met her?

15 A Like, 14.

16 Q Okay.

17 A I mean, I don't recall really.

18 Q Okay. And when did you and Ariel start dating?

19 A I was 21. And she was, like, 17, 16, something like
20 that.

21 Q Okay. So you met her at 14. And then you started
22 dating when she was 16, and you were around 21; is that
23 correct?

24 A Yes. 20, 21, something like that.

25 Q And you're 35 now?

1 A 35, yes, ma'am.

2 Q So you've known Ms. Robinson a long time?

3 A Yes, ma'am.

4 Q When you got married in 2010, do [sic] you have
5 children?

6 A In 2010, did we have children?

7 Q Uh-huh.

8 A She was pregnant at the time, and we had one boy.

9 Q Okay. What are -- what are the boys names?

10 A K.R. and A.R.

11 Q How old is K.R.?

12 A K.R. is 14.

13 Q How old is A.R.?

14 A A.R. is -- he's 11. Sorry.

15 Q A.R.'s 11?

16 A Yes.

17 Q We're going to talk more about your family life. But
18 I just -- I want to talk to the jury about how you got
19 here today. You pled guilty --

20 A Yes, ma'am.

21 Q -- to a charge related to this case; correct?

22 A Yes, ma'am.

23 Q And you were charged on January 19th, 2021, with
24 homicide by child abuse?

25 A Yes, ma'am.

1 Q With Ariel Robinson; correct?

2 A Yes, ma'am.

3 Q What did you plead to, sir?

4 A I pleaded to aiding and abetting.

5 Q And you pled to that a couple weeks ago; correct?

6 A Yes, ma'am.

7 Q Are you aware that you will be sentenced by this
8 Court at a later date?

9 A Yes, ma'am.

10 Q And you understand that what you pled to carries a
11 mandatory 10 years to 20 years in prison; correct?

12 A Yes, ma'am.

13 Q And you're aware that homicide by child abuse, under
14 the original charge, carries 20 to life; correct?

15 A Yes, ma'am.

16 Q I want to talk about your home and prior to when you
17 were arrested and all this happened with -- with V.S. .
18 Take me back in time to 2020. Okay. How did the foster
19 children end up in your home, Austin?

20 A We had been wanting to adopt. We had started going
21 through private adoption, but that kind of fell through.
22 And so we started looking through just regular DSS
23 adoptions. And it went from there.

24 Q Okay. Now, I did want to follow-up before we go all
25 the way into this. You just testified that you pled

1 guilty. And you were arrested on January 19th, 2021.

2 Where did you go after you were arrested?

3 A I went to the shoe.

4 Q What's the shoe?

5 A The shoe is kind of like solitary confinement to a
6 certain extent. It's just you, four walls, a little metal
7 bed, a -- a brown blanket with -- that's barely washed,
8 and a toilet, and soap.

9 Q And was Ariel Robinson, also, there?

10 A Yes.

11 Q In different rooms?

12 A A different -- different part, yes.

13 Q Okay. And, Austin, we're going to talk more about
14 this. But back when police came to your house on
15 January 14th, 2021, you did not tell everything you knew
16 about this case; correct?

17 A Yes, ma'am.

18 Q In fact, you left a lot out; correct?

19 A Yes, ma'am.

20 Q After you were arrested and you're sitting in the
21 shoe, help the jury understand how you gave a statement.
22 What happened to have you give a statement?

23 A Being in the shoe, like I said, you're just there.
24 Every time you're out, you get one -- I think you get one
25 outing a week, or something like that. You get your

1 shower every other day. And it's, basically, just like
2 you're in the room. You go out of the room in handcuffs.
3 You go to the shower in handcuffs, go out of the shower
4 back in handcuffs, and so on and so forth.

5 But it's just -- all you've got to do is look at --
6 if you're not able to read anything, all you're doing is
7 looking at four walls, and thinking, and writing. When I
8 first got in there, it was just me and the four walls,
9 just thinking the whole time.

10 Q I'm going to play for you part of -- a State's
11 Exhibit that's already been entered into evidence. This
12 is Officer Patrikis' body cam. And you weren't present in
13 court, but you're going to recognize some people on this.
14 I'm going to ask you some questions.

15 (WHEREUPON, a portion of State's Exhibit No. 1 was
16 played in open court.)

17 MS. SUSTAKOVITCH: Can you rewind it just a little
18 bit?

19 (WHEREUPON, a portion of State's Exhibit No. 1
20 continued to be played in open court.)

21 MS. SUSTAKOVITCH: Lindsey, will you pause?

22 BY MS. SUSTAKOVITCH:

23 Q All right. Austin, can you see yourself in the back
24 of the screen? Like, you're in the kitchen right over
25 here. Do you see it back --

1 A Barely, yes, ma'am.

2 Q Okay. And Ariel's in the living room and she's
3 talking to police; right?

4 A Yes, ma'am.

5 MS. SUSTAKOVITCH: Will you go ahead?

6 (WHEREUPON, a portion of State's Exhibit No. 1
7 continued to be played in open court.)

8 MS. SUSTAKOVITCH: All right. Will you pause?

9 BY MS. SUSTAKOVITCH:

10 Q Austin, at the scene that day, your wife, Ariel, was
11 very clear about blaming V.S. 's seven-year-old brother
12 for all the injuries to her legs. Are you aware of that?

13 A Yes, ma'am.

14 Q Austin, that day when police are at your house, right
15 here all these people, why are you not saying that that is
16 a lie?

17 A I was just scared, fear. I guess I was trying to
18 protect both sides, you know. I -- I hadn't never been in
19 anything -- we had never been in anything of this nature,
20 that kind of caliber, so to speak. But, at that point in
21 time, I was just scared.

22 Q Austin, I'm showing you what's been previously
23 entered into evidence as State's Exhibit Nos, 59, 57, 55,
24 and 53. Can you look at these?

25 A Yeah.

1 Q What are they?

2 A The family.

3 Q And, Austin, as you're standing in that kitchen --

4 MS. SUSTAKOVITCH: Your Honor, could you turn that
5 one off?

6 THE COURT: I'm sorry.

7 MS. SUSTAKOVITCH: That's okay. I'm going to switch
8 to the Prisma.

9 THE COURT: I'm sorry.

10 MS. SUSTAKOVITCH: No, no. That's okay.

11 BY MS. SUSTAKOVITCH:

12 Q Austin, as you're standing in the kitchen, she's
13 blaming J.E. for the injuries to V.S. Why didn't
14 you stop that?

15 A I was -- I was just scared. I was trying to protect
16 her.

17 Q And, Austin, can you look at the picture I just put
18 up?

19 A Yes, ma'am.

20 Q Is there any truth with these injuries that happened
21 to V.S. that J.E. caused those?

22 A No, ma'am.

23 Q Did J.E. ever beat V.S. and cause all the
24 extreme bruising on her legs?

25 A No, ma'am.

1 Q And just to be clear, did J.E. do that to V.S. ?

2 A No.

3 Q Or that to V.S. ?

4 A No, ma'am.

5 Q So I want to go back in time a little bit about when
6 you and Ariel decided to adopt the kids. Whose idea was
7 it?

8 A She brought it to me first about it. We had been
9 talking about it for a while. But the initial brought --
10 the initial summary of it all, you know, she brought it to
11 me about wanting to adopt.

12 Q And at this time, you have -- correct me if I'm
13 wrong -- A.R. , who's, like, eight or so and K.R. , who's
14 maybe 11 or 12?

15 A Yes, ma'am.

16 Q Did you ever consider becoming a father to five kids
17 that that might be challenging?

18 A There were moments that I thought that. We discussed
19 that, but we -- during the discussions and prayer, we just
20 tried to go with it. We wanted to go through with it.

21 Q All right. So when did the children move into your
22 home?

23 A I'm not -- I can't remember the exact date. But it
24 was probably, like, two weeks after -- after she returned
25 from Worst Cooks.

1 Q After she returned from what?

2 A Worst Cooks.

3 Q And what did Ariel do on Worst Cooks?

4 A She, basically, you know, won the show. She was --
5 she was one of the main people on there. I don't remember
6 how many people, like, was on the show at all. But she,
7 basically, learned how to cook from two top chefs in the
8 country and, eventually, went on to win the whole
9 competition.

10 Q And to win it, you have to be the worst cook?

11 A Yes.

12 Q Was Ariel -- at this point, what was she trying to do
13 professionally?

14 A Comedy.

15 Q Comedy. And was she active of social media?

16 A Yes.

17 Q What about podcasts? Did you have a podcast?

18 A Yes.

19 Q And was that podcast with her?

20 A Yes.

21 Q Was she actively on Facebook and all those
22 different -- Snapchat, Instagram, those different
23 platforms?

24 A Just Facebook and Instagram.

25 Q But you're familiar with her Facebook and her

1 Instagram?

2 A Yes, ma'am.

3 Q So the kids move in. And tell me about life once
4 they moved in. You have [V.S.], and you have [V.S.]'s
5 brothers. Who disciplined [V.S.]?

6 A She did.

7 Q And with [J.E.] and [C.E.], who disciplined them?

8 A We both would. I -- there were times where I would
9 have spanked, you know, [C.E.] or [J.E.]. There's times
10 she would have spanked [C.E.] or [J.E.]. But it -- it was
11 me and her both.

12 Q So [V.S.], when she came, she was two?

13 A Yes.

14 Q And then do you recall her birthday?

15 A I don't recall.

16 Q But she turned three shortly after she moved in;
17 right?

18 A Yes.

19 Q Was -- we know how three-year-olds can be. Was
20 [V.S.] into a lot of stuff?

21 A Yeah. Yeah, she was.

22 Q How did -- how did you and [V.S.] get along?

23 A We got along great. She never really gave me no
24 issues or nothing with anything. I was more of a -- a
25 teddy bear than anything to her.

1 Q Did -- go ahead.

2 A Yeah. Our relationship was -- it was a good
3 relationship. It was a great relationship.

4 Q Did Ariel -- when it came to discipline, were there
5 certain triggers that bothered Ariel when it came to V.S.
6 and listening?

7 A It would be the -- just if she wasn't listening, or
8 just -- if she was taking too long eating her food was the
9 main thing.

10 Q What about any bathroom issues?

11 A If she took too long in the bathroom, or something
12 like that. Yeah, that would be an issue, too.

13 Q All right.

14 A If she sat too long.

15 Q I want to take them bit by bit. When it comes to the
16 eating situation, tell me about that as far as what
17 would -- what would be a problem for Ariel related to V.S.
18 eating?

19 A Just if she -- if she took too long, it would be a
20 problem. It was a lot of stuff. I guess V.S. didn't
21 really -- she -- her -- she wanted to eat certain things.
22 Like, she would eat good with maybe chicken nuggets, or
23 some cereal, or sometimes pizza. It just depends on what
24 -- I guess what appealed to her.

25 But at the same time, if she didn't eat fast enough

1 or -- she might have got sat down before the boys. And
2 the boys was done before she was. It would be -- she --
3 she would be sitting there for a long time.

4 Q And if V.S. didn't eat fast enough, what would
5 happen?

6 A She would get put on a timer.

7 Q Okay. Are we talking about an egg timer? Clock?
8 What kind of timer are we talking about?

9 A Just a -- a timer on the -- on the phone.

10 Q Whose phone?

11 A On Ariel's phone.

12 Q So -- and who put her on that timer?

13 A Ariel put her on the timer.

14 Q So Ariel puts V.S. on the timer to eat within a
15 certain amount of time?

16 A She would put her on the timer first to -- I guess to
17 see how long it would be. And if she didn't finish in
18 that time, it was like a warning. And then she would set
19 another timer.

20 Q And if the timer went off and she didn't eat, what
21 would Ariel do?

22 MR. BOUTON: Objection, Your Honor. She's -- she's
23 leading this witness.

24 THE COURT: I'll ask you to rephrase.

25 MS. SUSTAKOVITCH: Okay.

1 BY MS. SUSTAKOVITCH:

2 Q If the timer went off, what would happen?

3 A She would either get time out or a spanking.

4 Q By who?

5 A By Ariel.

6 Q With what?

7 A It could be a hand, or it could be a belt, or a -- a
8 paddle.

9 Q Can you describe the belt? Was this one particular
10 belt or different belts?

11 A It could have been any belt, just different belts.
12 It just depends.

13 Q What about this paddle?

14 A It was just a -- a little makeshift paddle, a little
15 wooden paddle that would get used if she didn't have the
16 belt or her hand.

17 Q Could you ever hear that when she didn't eat her
18 food, that paddle going off?

19 A Yes.

20 Q Why didn't you stop that?

21 A It was times that I wanted to or -- and it was times
22 that I was right there at it and I didn't -- I guess I
23 didn't think it was that bad to intervene at the time.

24 Q Would V.S. eat for you?

25 A Yes.

1 Q No problems at the table?

2 A Huh-uh.

3 Q Would you ever do anything to help V.S. at the table
4 with eating?

5 A Sometimes, I would, like, take a piece of her food
6 just to help her eat faster. If it was -- if I saw it
7 going down that path, sometimes, I would take just like a
8 piece of food or -- just to try to help her out, and
9 stuff.

10 Q Were C.E. and J.E. on a timer?

11 A Not like that. It was few, far, and between. They,
12 for the most part, ate. They ate with the boys. They
13 wanted to get out there where K.R. was going.

14 Q And with K.R. and A.R. were they on a timer?

15 A No -- well, let me think. No --

16 Q If -- I'm sorry. Go ahead.

17 A No. They wasn't on a timer.

18 Q If K.R. got in trouble, what type of punishment
19 would he get?

20 A Take his phone, or take his electronics, stuff like
21 that.

22 Q Who would discipline K.R.?

23 A We both would.

24 Q If A.R. got in trouble, what kind of discipline would
25 he get?

1 A Same thing as [K.R.], like cell phone, or tablet, or
2 just wouldn't let him do anything --

3 Q Who would discipline [A.R.]?

4 A It was both of us.

5 Q And when it came to [C.E.] and [J.E.], you've just
6 testified you would paddle -- spank them sometimes?

7 A Yes, ma'am.

8 Q Did you ever use a paddle on them?

9 A No. No, ma'am.

10 Q Okay. Very briefly on the bathroom. Who was in
11 charge of [V.S.]'s potty training?

12 A That was -- Ariel would be with her in the bathroom.

13 Q And you testified that she would be in the bathroom
14 for how long?

15 A [V.S.] would be in there sometimes 10, 15 minutes
16 sometimes. It just depends. She would just be sitting
17 there.

18 Q All right. So is it fair to say that Ariel took
19 charge of these mundane, eating, going to the potty kind
20 of situations?

21 A Yes.

22 Q I want to fast-forward, Austin, to the 13th of
23 January, the night before [V.S.] was killed. I want to
24 take you back in time. That's a Wednesday. Do you recall
25 that day?

1 A Yes.

2 Q And on that day, were the kids all -- was V.S.
3 healthy on that day?

4 A Yes.

5 Q Was A.R. healthy?

6 A Yes.

7 Q K.R. ?

8 A Yes.

9 Q J.E. and C.E. ?

10 A Yes, ma'am.

11 Q Nobody is sick?

12 A No.

13 Q So on that day, do you normally do anything on
14 Wednesdays as a part of your regular routine?

15 A We go to church on Wednesday after -- or evening.

16 Q And where do you go to church, sir?

17 A We was going to LRC, Life Restoration Center.

18 Q Where is Life Restoration Center?

19 A It is off [inaudible] -- it was on that second road.

20 Q And how long have you gone to church there?

21 A For as long as I've been married to Ariel, been
22 dating Ariel. So about 14, something like that.

23 Q Okay. And what goes on at the church on Sun -- on
24 Wednesday nights?

25 A Wednesday night is Bible study. And the teenagers

1 would have their class. And the kids would have their
2 class.

3 Q Okay. And I want to touch on one last thing with the
4 dynamic between Ariel and V.S. Did Ariel think that
5 V.S. did not listen to her, or was -- what was the
6 dynamic with them?

7 A The dynamic with them was they -- she -- she had
8 issues with V.S. not listening or -- and just not, you
9 know, I guess abiding by the rules, being defiant, or
10 anything like that. That would be the main thing. And
11 if -- she would expect her to be, you know, done in the
12 bathroom at a certain time, or finish her food at a
13 certain time. She didn't think she should be sitting as
14 long as she was there. Because there would be times where
15 the boys would be done and she would probably be sitting
16 there for, like, an extra 10 minutes, or so.

17 Q You used the word "defiant." She thought V.S. was
18 being defiant?

19 A Yeah.

20 Q Did this come up often in their interactions with
21 eating, and things like that?

22 A I don't -- how often? What do you mean? Like --

23 Q Well, let me rephrase. So you just testified that
24 Ariel thought V.S. was being defiant sometimes, let's just
25 say that.

- 1 A All right.
- 2 Q On this date, you guys were going to church. Did the
3 boys eat before you left?
- 4 A Yes.
- 5 Q What was V.S. doing before you left?
- 6 A She was taking a nap.
- 7 Q All right. Did V.S. wake up to go to church?
- 8 A Yes.
- 9 Q And did V.S. eat?
- 10 A She ate on the way.
- 11 Q Tell me about that.
- 12 A She had some -- I believe it was a juice packet,
13 like, an apple sauce juice packet and some chips, I
14 believe, like a snack.
- 15 Q And on the ride there, did V.S. get all her food
16 down?
- 17 A No.
- 18 Q So what happened when you got to the church?
- 19 A When we got to the church, we had turned around and
20 there was vomit on the seats, and on her clothes, and
21 stuff like that.
- 22 Q What, if any, reaction did Ariel have to V.S.
23 vomiting on herself?
- 24 A Just asking her why she threw up and why she didn't
25 get it done before we got there. And she was -- she was

1 upset with her.

2 Q She was upset with [REDACTED] V.S. [REDACTED]?

3 A Yes, ma'am.

4 Q When you get to the church, do the other boys go
5 inside?

6 A Yes.

7 Q What happens with [REDACTED] V.S. [REDACTED]?

8 A We went to -- we went to -- or, no, I think she went
9 inside to try to clean her up. And then we went back
10 outside. And we went to Walmart to try to find some
11 clothes. We went to Walmart. And we didn't have our
12 debit card, so we couldn't get it. So we had to borrow
13 clothes from her sister.

14 Q Where did you get the clothes from?

15 A From her sister.

16 Q At -- at what location? Did you meet her somewhere
17 or --

18 A Back at the church.

19 Q Back at the church?

20 A Yeah.

21 Q All right. So the boys have gone inside. Do you
22 come into the church with [REDACTED] V.S. [REDACTED]?

23 A Yes.

24 Q And does Ariel come with you?

25 A Yes.

1 Q Where does [V.S.] get cleaned up in the church?

2 A The bathroom.

3 Q Do you go in the bathroom?

4 A No.

5 Q Who goes in the bathroom with [V.S.]?

6 A Just Ariel.

7 Q Does she clean up the vomit?

8 A On her, yes. And she changed her clothes.

9 Q Okay. After they get cleaned up, where do Ariel and
10 [V.S.] go?

11 A Back outside, I believe.

12 Q Back outside to where?

13 A To the van.

14 Q Do you know what happened outside at the van?

15 A No. No, ma'am.

16 Q All right. So then they come back inside?

17 A Yes.

18 Q And where -- what -- what do you do then?

19 A We were just inside the church, inside service.

20 Q And does [V.S.] sit with you in church?

21 A Yes.

22 Q Was [V.S.] okay at this point?

23 A Yes.

24 Q When you came home that night -- the whole family
25 came home?

1 A Yes.

2 Q In the van?

3 A Yes. Yes, ma'am.

4 Q When you got home that night, what did you do?

5 A I started trying to fix dinner. I put a pizza in the
6 oven, or something like that.

7 Q What was Ariel doing?

8 A She had ran to Walmart because the kids needed
9 lunches for the next day.

10 Q Okay. Did you have any contact with V.S. at that
11 point?

12 A I -- I gave her a bath after she ate. And that was,
13 basically, it.

14 Q Did you notice any bruising on her when you were
15 giving her a bath?

16 A There was a -- a light bruise on the lower -- lower
17 back.

18 Q Okay. But you didn't know where that bruise came
19 from on her back?

20 A No.

21 Q I'm going to show you what's been entered as State's
22 Exhibit No. 3. Did you see this bruise -- oops. Sorry.
23 I'm sorry. I can't get it to focus. I'm going to bring
24 it to you. I don't know why that's not -- but this was
25 not -- did you see this on her back?

1 A No. It was lighter than that.

2 THE COURT: Ms. Sustakovitch, I think there's an auto
3 focus button on that camera.

4 MS. SUSTAKOVITCH: Okay.

5 THE COURT: You may want to turn that on.

6 MS. SUSTAKOVITCH: Yes, ma'am.

7 Thank you. Ah, thank you.

8 BY MS. SUSTAKOVITCH:

9 Q All right. So, Austin, just to be clear, you said
10 you gave her a bath. You saw a light bruise on her back.
11 But it was not this; correct?

12 A No.

13 Q And when you gave her a bath, did you see anything
14 like this?

15 A No.

16 Q Okay. And [V.S.] did not have any of this?

17 A No, ma'am.

18 Q So you give her a bath. And then what happens?

19 A She goes to bed.

20 Q And what about the boys?

21 A They're already in the bed. They already brushed
22 their teeth, and washed their face, and got in the bed
23 already.

24 Q Where did [K.R.] and [A.R.] sleep?

25 A Downstairs.

1 Q And where did J.E. and C.E. sleep?

2 A They slept in the room closest to the towel closet
3 upstairs.

4 Q When V.S. would get in trouble, where would her
5 spankings happen?

6 A In her room.

7 Q In which room?

8 A Her room.

9 Q Did they happen in other parts of the house as well?

10 A Sometimes, it might have been in the kitchen. But
11 the majority was in the room.

12 Q Could you hear from outside the door?

13 A Yes.

14 Q So you go to bed that night. Did you hear anything
15 over the course of the night?

16 A No.

17 Q Any loud noises? Anybody screaming? Anything that
18 night?

19 A No.

20 Q So fast-forward to the next morning. Where do the
21 boys go?

22 A School.

23 Q Where do C.E. and J.E. go to school?

24 A Bethel Elementary.

25 Q Where do A.R. and K.R. go to school?

1 A [A.R.] went to Bethel Elementary. And [K.R.] went to
2 Hillcrest Middle.

3 Q And left at home is who?

4 A It was [V.S.] and her mom, Ariel.

5 Q And, also, you were home as well; correct?

6 A Oh, you're talking about after they went to school?

7 Q Yes, yes. I'm sorry.

8 A Yeah.

9 Q After the boys went to school, who was back at the
10 home?

11 A Me, Ariel, and [V.S.].

12 Q So I want you to take us bit by bit through that
13 morning. What were you doing when the boys were off at
14 school and it was just you, and Ariel, and [V.S.]?

15 A I had went outside because I knew the -- I was trying
16 to get the van towed. Because the van had been down for a
17 couple of months now. So we got that towed.

18 And I was outside, basically, just waiting on him to
19 come and tow, the towing guy. And I was outside just
20 doing little stuff in the yard. I was killing time.

21 Q About what time was this?

22 A I don't recall.

23 Q Okay.

24 A I don't recall.

25 Q Was -- did the tow truck driver come?

1 A Yes.

2 Q And did he toe your van away?

3 A Yes.

4 Q Do you know where it went to?

5 A It was a shop -- a little shop in Mauldin off Mauldin
6 Road. The name of it -- I'm not -- I don't remember the
7 name.

8 Q That's fine. So then you're outside. What are you
9 doing outside now?

10 A Just fiddling around. Like I said, I was trying
11 to -- there was stuff in the yard. There was a dresser
12 that I was trying to break down, and some stuff in the
13 back that I was -- I was pulling to the front. And, also,
14 the side door was busted. I was trying to fix the side
15 door -- doorknob.

16 Q Before you went outside, was V.S. okay?

17 A Yes.

18 Q While you're outside, do you hear anything happening
19 inside your home that gives you concern?

20 A Just a little fussing back and forth.

21 Q Okay. And very specifically, what is this little
22 fussing we're hearing?

23 A Just that she, you know, needed to eat her food
24 before she gets put on the timer.

25 Q And who's fussing at who?

1 A Ariel is fussing at V.S.

2 Q Describe to the jury what you hear next.

3 A Just a little bit -- just a little crying, some
4 crying. And then I hear -- then I don't hear the crying.
5 It was, like, a -- a few minutes of crying and a few
6 minutes of not crying.

7 Q Is Ariel talking loud, at this point, that you can
8 hear her outside?

9 A Yes.

10 Q And you said something about the timer. Tell me
11 about that.

12 A The timer, it was -- like I said, it was on the -- on
13 the phone, on the Apple phone. So it gets set for, like,
14 five minutes here, three minutes here. It just depends on
15 what it was.

16 Q Austin, can you describe to the jury what you hear as
17 you're out in the yard with Ariel and V.S.?

18 A Just fussing.

19 Q Okay. Do you hear any -- what do you do at this
20 point? Do you go back in? Do you stay outside? What do
21 you do?

22 A Well, when I went inside after that, everything was
23 fine.

24 Q Everything is fine. So then what do you do?

25 A I went back outside to finish what I was doing.

1 Q Okay. And what are you doing outside?

2 A I went around back to go to the side door of the
3 house so I could start fixing the doorknob.

4 Q Okay. So you're around the side of the house now.
5 Can you hear Ariel talking more with V.S. about this
6 eating situation?

7 A On the back far side of the house?

8 Q Yes.

9 A You could barely make out stuff on the back -- on the
10 far side of the house. Because there's a window in the
11 back of the yard and you could hear right there.

12 Q Okay. And when you get to that back -- back window,
13 what are you hearing right there?

14 A Just more fussing and V.S. crying.

15 Q And when V.S.'s crying, what is Ariel saying to her
16 as she's crying?

17 A I don't recall.

18 Q Can you hear whether or not V.S. is being hit with
19 anything at this point?

20 A I mean, I couldn't hear what she was getting hit
21 with. But I knew she was getting hit just from the --
22 from the crying of it all, from her crying.

23 Q Okay. So tell me what you do next. You hear V.S.
24 crying and being hit. What do you do?

25 A I went around the back and went inside the door. And

1 at that point, it had stopped.

2 Q Okay. Then what happens next?

3 A I started doing the -- trying to mess with the
4 laundry, and putting the boys clothes up, and stuff like
5 that.

6 Q So you don't -- at this point, it's not -- it hasn't
7 gotten to the point that you think you need to get in
8 there?

9 A No, ma'am.

10 Q So you go downstairs and you do the laundry?

11 A Yes, ma'am.

12 Q How long do you think this takes?

13 A Probably like 30 minutes or so, 20, 25 minutes.

14 Q Can you hear what's happening upstairs with V.S. and
15 Ariel at this point?

16 A (There was no response.)

17 Q I'm not trying to trip you up. Did -- was anything
18 in your ears, at this point, while you're doing laundry?

19 A Yeah. I had my -- my boosters in listening to a
20 podcast.

21 Q Okay. So you finish the laundry. You have these ear
22 pieces in?

23 A Yes, ma'am.

24 Q Then when -- what do you do after that?

25 A I go to try to put the boys clothes up. And they had

1 a big cabin [phonetic] that she built -- her dad built.

2 So I was trying to put the clothes up.

3 Q Okay. Then tell me, with V.S. and Ariel, are they
4 still going back and forth about eating?

5 A Yes.

6 Q And it -- how -- can you describe to the jury, is it
7 the same sound or is it getting louder? What is -- what
8 are you hearing?

9 A It was getting louder.

10 Q And when you say it's "getting louder," can you
11 describe that to the jury?

12 A It was more of a, you know, you need to eat, you
13 know, you need to quit playing with this food. The timer
14 is going to go off.

15 Q Do you hear whether V.S.'s being hit at this point?

16 A Yes, ma'am.

17 Q Do you have any idea what she's being hit with?

18 A No, ma'am.

19 Q All right. So this has now gone on for about how
20 long, just guesstimating?

21 A About an hour.

22 Q About an hour. And you still didn't think it was
23 time to come inside and do something?

24 A I never -- I didn't think it would be to the -- to
25 what it -- it was.

1 Q Okay. So at what point do you come in and see what's
2 going on?

3 A I go upstairs from the -- from putting up the clothes
4 and I see it.

5 Q When you say, "I see it," what is it?

6 A I see the -- the bruising on V.S.

7 Q When you come in, what, specifically, do you see?
8 Where is Ariel?

9 A She's in the chair over V.S.

10 Q What is she doing?

11 A Just telling her, you know, you're not going to be
12 defiant. You don't get to say when you're done,
13 basically, saying you don't get to say when you're done
14 eating. She was standing over her.

15 Q What, if anything, is she holding?

16 A It was a belt. But I'm not sure who's or what kind
17 it was. But I know it was a belt.

18 Q And you said Ariel's standing over her in the chair.
19 She's holding a belt. And you said you saw bruising?

20 A Yes, ma'am.

21 Q Okay. So is this the bruising you saw, sir?

22 A It wasn't as defined, but it was -- yes, ma'am.

23 Q This bruising, sir?

24 A It wasn't as dark at the time, but, yes, ma'am.

25 Q What, if anything -- when Ariel's standing there

1 holding that belt, what do you say to her?

2 A I said, You've gone too far this time. And it should
3 have never went that far. And from there, we tried to
4 give her a bath and put her in some Epson salt.

5 Q Now, I want to stop. You're in the kitchen. Ariel's
6 standing over her with a belt. And you see that. Why
7 didn't you call 911 right then?

8 A I was scared. I was scared for -- I mean, it's --
9 it's easy -- it's hard to say it now, but what's going on.
10 But I was scared for this moment, you know, us being in
11 trouble and her being in trouble. The kids getting taken
12 away. I was terrified.

13 Q V.S.'s bruised and she's -- was she standing?
14 Sitting? Laying? What was she doing? As Ariel's over
15 her with that belt, what did you see?

16 A She was sitting on the chair with -- hunched back in
17 the chair, so to speak.

18 Q What does V.S. do then?

19 A She gets up and tries to walk up the steps and falls.
20 And then she gets up again and makes it up the rest of the
21 way.

22 Q She falls halfway up the stairs?

23 A Yes, ma'am.

24 Q Is V.S. saying anything?

25 A Not to my knowledge, no, ma'am.

1 Q What is Ariel saying, if anything?

2 A Well, she saw how upset I was. And she had said
3 that, You got your dad all upset, and stuff. And she went
4 and put her in the tub from there.

5 Q And you said she saw how upset you were. What --
6 how did -- what were you doing?

7 A Crying, balling my eyes out. Balling my eyes out.

8 Q Why?

9 A Just from seeing, you know, the -- the bruising that
10 was starting and her falling. And I had a -- at the time,
11 I had a -- a feeling -- like a feeling that it just wasn't
12 going to go right away, so to speak.

13 Q So who puts her in the Epson salt bath?

14 A Ariel puts her in the bath.

15 Q And what, if anything, is V.S. saying when she's in
16 the Epson salt bath?

17 A I don't recall her saying anything.

18 Q What's Ariel saying when she's in the Epson salt
19 bath?

20 A I don't recall.

21 Q Okay. Do you recognize this?

22 A Yes, ma'am.

23 Q Austin, what is that?

24 A That is the main bathroom.

25 Q Is this where V.S. was put?

1 A Where she was -- excuse me?

2 Q This is where she had her Epsom salt bath?

3 A Yes, ma'am.

4 Q Okay. So at this point, she's in the Epsom salt
5 bath. Then what happens with V.S.?

6 A She, I believe, has to use the bathroom after that, I
7 think.

8 Q Okay.

9 A And she uses the bathroom. And then they go into the
10 room -- to her bedroom.

11 Q Okay. Is this the Epsom salt that was put in the
12 bathtub?

13 A Yes.

14 Q Okay. I'm going into V.S.'s room now. Is this her
15 little nursery?

16 A Yes.

17 Q I want you to take me through this, Austin. What's
18 down here?

19 A That is a heating blanket.

20 Q Did this heating blanket get used, at some point, on
21 V.S.?

22 A Yes, ma'am.

23 Q Explain to the jury about that.

24 A She just wrapped her up in it. She was cold and --
25 or she said she was cold. So that heating blanket was

1 used to just wrap her up in and warm her up.

2 Q She said she was cold. Okay. So then what happens
3 with V.S.?

4 A I was asked to go to CVS to get Tylenol.

5 Q Okay.

6 A And when I come back from there --

7 Q Can I pause one second?

8 A Yes, ma'am.

9 Q Are you aware of the time you went on over to CVS and
10 got Tylenol?

11 A I want to say it was around 1:00 or 2:00 maybe. I'm
12 not sure. Sorry.

13 Q That's fine. So you go in and you're asked to get
14 Tylenol?

15 A Yes, ma'am.

16 Q What's that for?

17 A I'm -- I'm -- I'm guessing it was just for the
18 bruising or the pain.

19 Q Are you still not thinking it's time to call 911?

20 A No, ma'am. I guess for the fact that she was still
21 coherent, and everything.

22 Q When you get back, who gives V.S. the Tylenol?

23 A She gave V.S. the Tylenol.

24 Q Then when V.S. is in that blanket, does she have
25 clothes on or no?

1 A No.

2 Q Does she have a diaper on or no?

3 A No.

4 Q What happens when she's wrapped up in that -- that
5 heating blanket?

6 A She had an accident on the floor. She pooped on the
7 floor.

8 Q Okay. Go ahead.

9 A And we cleaned it up. And then she was laid on
10 the -- the mattress for a little bit. And I rubbed some
11 stuff on her that I had found. And then she got picked --
12 Ariel picked her back up and sat back down with her and
13 wrapped her up in a blanket again.

14 Q So she poops on the floor. She's naked in the
15 blanket. Ariel picks her back up. What does Ariel do
16 with her then?

17 A Just -- she asked -- V.S. asked for some water. She
18 said she was thirsty. So I went and got her water for
19 her. She probably had, like, four or five cups of water,
20 I believe.

21 Q You got the water?

22 A Yes, ma'am.

23 Q Did V.S. drink the water?

24 A Yes, ma'am.

25 Q Then what happened?

1 A She asked for a -- a popsicle. And she only ate half
2 of that and then some gummies. And she ate, like, half of
3 that.

4 Q Then what happens before you call 911?

5 A (There was no response.)

6 Q What are you seeing at this point?

7 A She's saying that she felt like she had to throw up.
8 A little bit started coming out. So I got the trash can
9 and put it up on her. And then she started swaying a
10 little bit.

11 Q Started what?

12 A Swaying a little bit.

13 Q Swaying?

14 A Yes, ma'am. And then she went limp from there.

15 Q She went limp from there?

16 A (There was no verbal response.)

17 Q What's the last thing you recall **V.S.** saying to you?

18 A She was laying on the bed before she got picked back
19 up and she told me she loved me.

20 And I said, I love you, too. I said, I promise this
21 won't happen again.

22 She said, Okay.

23 And I said, I love you.

24 She said, I love you, too.

25 She had a cute way of saying I love you, too. And

1 that was the last thing she said to me.

2 Q Austin, she's limp now. What's Ariel doing?

3 A Trying to do the Heimlich on her and -- because we
4 thought that she was choking on the water.

5 Q You thought she was choking on the water?

6 A Yes, ma'am.

7 Q Then consider the fact that she had been beaten with
8 a belt and was bruised. So what is Ariel doing?

9 A Just trying to do the Heimlich on her, trying to get
10 the water up. When we saw it wasn't coming up, she tried
11 to do CPR on her.

12 Q What was V.S. doing when she was doing, you say, the
13 CPR?

14 A She wasn't moving. But it looked like she was trying
15 to breathe. You could see the -- like, it was almost like
16 she was trying to gasp for air, you know. And the water
17 was still coming out of her. It was just like she was
18 trying to catch her -- catch her breath.

19 Q Was there any vomit coming out?

20 A It was more clear stuff than anything.

21 Q Did you end up calling 911?

22 A Yes, ma'am.

23 Q What did you tell 911?

24 A That she was choked on water.

25 Q Why didn't you tell 911, I just saw my daughter get

1 beaten with a belt?

2 A At the time -- at the time of all this, that's what I
3 first thought was, okay, she's choking on water. Because
4 just for -- just for that particular moment of what was
5 going on, I thought she was just choking on water. So
6 that's what I, initially, said -- first said.

7 Q So then firefighters come. Do you recall the fire
8 fighters?

9 A Yes, ma'am.

10 Q Do you recall EMS coming?

11 A Yes, ma'am.

12 Q Do you recall all the police officers coming?

13 A Yes, ma'am.

14 Q And, Austin, we've talked about this. But that day,
15 we just saw you on body cam when Ariel is blaming

16 V.S. 's seven-year-old brother, you don't shut that
17 down.

18 A No, ma'am.

19 Q I want to fast-forward. You're arrested on the 19th,
20 2021; correct?

21 A Yes, ma'am.

22 Q So you're sitting in the shoe back where we started.
23 You decided to give a statement in this case; correct?

24 A Yes, ma'am.

25 Q I want to know, first of all, whose idea was it to

1 give that statement?

2 A It was -- Ariel said a statement. And I followed
3 what she said.

4 Q No. I'm going -- fast-forward, you're in jail. I
5 know on scene that Ariel was saying that J.E. did this.
6 But once you're arrested, you ended up talking to police
7 after the fact in February; correct?

8 A Yes, ma'am.

9 Q All right. So what was it that made you say I need
10 to come clean and say what really happened?

11 A It was, like I said earlier, sitting in the shoe, it
12 just makes you think. You have nothing else to do. And I
13 just wanted to say my peace about stuff and try to get
14 some kind of leniency, so to speak, I guess is how you
15 would say it.

16 Q Do you understand -- did you have any offers, or
17 promises, or anything from the State when you gave that
18 statement?

19 A No, ma'am.

20 Q Did you give that statement understanding that it was
21 going to have possibly no impact on this case?

22 A Yes, ma'am.

23 Q And you gave that statement?

24 A Yes, ma'am.

25 Q Mr. Robinson, there's a lot of things that could have

1 been done differently. But **V.S.**, do you feel like you let
2 her down?

3 A Yeah, I do.

4 Q Do you feel like you were the dad that she deserved?

5 A I -- I feel like I'm the dad she deserved, but I feel
6 like as a dad that I failed her, too. Like I said,

7 there's not a day that don't go by where I don't think
8 about her or see her. It feels like...

9 Q Do you feel like you protected her like you should
10 have?

11 A No, ma'am.

12 MS. SUSTAKOVITCH: Please answer any questions
13 Defense Counsel has.

14 THE COURT: Mr. Bouton.

15 MR. BOUTON: Your Honor, I have a matter of law. Can
16 we take a five-minute break?

17 THE COURT: Sure.

18 Ladies and gentlemen, I'll ask you to step to your
19 jury deliberation room for just a moment. Please don't
20 discuss the case.

21 (WHEREUPON, the jury was excused from open court at
22 approximately 2:32 p.m.)

23 MR. BOUTON: May we approach, Your Honor?

24 THE COURT: Sure.

25 (WHEREUPON, a bench conference was held.)

1 THE COURT: Let's be in recess for 10 minutes.

2 Sir, you can get up, but you can't discuss your
3 testimony with anyone. It's as if you're on the witness
4 stand. Okay.

5 THE WITNESS: Yes, ma'am.

6 THE COURT: Thank you.

7 (WHEREUPON, a break was taken.)

8 THE COURT: Are we ready to bring the jury back in?

9 MR. BOUTON: Yes, ma'am.

10 THE COURT: All right.

11 (WHEREUPON, the jury came into open court at
12 approximately 2:51 p.m.)

13 THE COURT: Mr. Bouton.

14 MR. BOUTON: Thank you.

15 CROSS-EXAMINATION

16 BY MR. BOUTON:

17 Q Good afternoon, Mr. Robinson.

18 A How you doing?

19 Q I know you -- you testified a little bit earlier
20 about when you and Ariel started dating. At that point, I
21 guess, was she in high school still?

22 A Yes.

23 Q All right. And you were -- you were out of high
24 school; is that fair?

25 A Right.

1 Q And is it fair to say pretty much immediately in
2 y'all's relationship, you started lying to Ariel about
3 things?

4 A Yes.

5 Q Okay. One of these is you never told her you didn't
6 graduate from high school; is that correct?

7 A Yes.

8 Q And, in fact, you never told her that. Somebody else
9 had to tell her; is that correct?

10 A Right.

11 Q In fact, you didn't tell a lot of friends and family
12 that you didn't graduate from high school; is that fair?

13 A Yes.

14 Q I want to talk to you a little bit about some stuff
15 that we've seen on the body-cam videos that have already
16 been put out. But in these --

17 THE COURT: Mr. Bouton, I think some folks are having
18 trouble hearing you. Can you take that microphone --

19 MR. BOUTON: Yes, ma'am.

20 THE COURT: -- and turn it your way just a little
21 bit?

22 MR. BOUTON: Is that better?

23 THE COURTROOM DEPUTY: Here you go.

24 MR. BOUTON: Sorry. Is that better?

25 THE COURT: Yes.

1 BY MR. BOUTON:

2 Q Some of these body-cam videos and the pictures that
3 have been introduced into evidence, there's pictures of
4 your house where you and Ariel and the family lived?

5 A Right.

6 Q And you can see in a lot of these pictures there are
7 cameras throughout the house. Who -- who was in charge of
8 installing and setting up those cameras?

9 A I installed them. They were cameras from [inaudible].

10 Q All right. And would you say you were the one who
11 had kind of the -- were you the most tech savvy in the
12 family?

13 A Yeah, for the most part.

14 Q And the cameras that you set up, some of them, I
15 think the testimony has been, didn't work?

16 A Right.

17 Q But some of them did?

18 A Right.

19 Q And you had an app that you put on your phone that
20 allowed you to -- to watch live feeds; is that correct?

21 A Right.

22 Q And so you had these -- these cameras set up in
23 different areas of the house in all of the children's
24 rooms?

25 A Yes.

1 Q And you could watch live on your cell phone if you
2 were somewhere else or in another part of the house; is
3 that accurate?

4 A Yes. When they worked, yes.

5 Q Okay. And you had the ability to save video clips
6 and pictures from those -- those cameras; right?

7 A Yes.

8 Q Did you ever happen to save any videos or pictures
9 of -- of Ariel spanking any of the children?

10 A Yes. There was one or two, possibly two, but I know
11 one for sure that was on there that I was going to talk to
12 her about, show it to her and, you know, all that.

13 Q Okay. Did you -- did you turn those over to the
14 police?

15 A No.

16 Q All right. And why not?

17 A They're -- they were deleted. The app was clear.

18 Q When did you delete and clear the app?

19 A I didn't delete the app.

20 Q Well, then how did it get deleted and cleared?

21 A Ariel might have deleted them or they -- but I didn't
22 delete nothing on the app.

23 Q But it was on your phone. You have the ability to
24 save videos to your phone; is that correct?

25 A Uh-huh.

1 Q And you didn't do that?

2 A It wasn't just on my phone, it was on her phone, too.

3 Q Well, sure. But you could save the video to your
4 phone and you would have to delete that; isn't that
5 correct?

6 A We both could delete it.

7 Q Did she have access to your phone?

8 A She had access to her phone.

9 Q So you're saying that if she deleted the app on her
10 phone, it would delete the app on your phone?

11 A It would delete the contents of what's in the app off
12 my phone, yes.

13 Q All right. So you didn't have the ability to take a
14 screen shot or anything to save it, actually, physically
15 to your phone?

16 A It was just a little thing you could record. It
17 would save it to the -- to the phone or within the app, I
18 should say, itself. And, like I said, we both were on the
19 same app. Whether it's my phone or her phone, it's on the
20 same app. So if it's deleted off one phone, it would get
21 deleted off the other phone, too.

22 Q In -- in meeting with law enforcement, at one point,
23 don't you -- didn't you tell them that you were recording
24 this so that this wouldn't come back on you?

25 A No. I said I was recording it so it could -- I could

1 show it to her.

2 Q Okay. Why did you tell law enforcement that the
3 cameras didn't record only to later tell them that they
4 did and that you had recorded a video of Ariel spanking
5 one the children?

6 A I was still trying to protect her. And in that
7 particular time frame, the only cameras that worked were
8 the one in V.S.'s room, probably the one downstairs in the
9 boys room, and the one barely worked in the -- in C.E.
10 and J.E.'s room.

11 Q So if I understand you correctly, you recorded one or
12 two videos only for the purpose of confronting Ariel about
13 it, not for helping you to avoid the repercussions for
14 this?

15 A This was before any of this even took place.

16 Q Okay. Well, then why did you tell law enforcement
17 you couldn't -- didn't have the ability to record?

18 A I don't recall saying that.

19 Q Okay. Let's talk about the day of January 13th when
20 y'all go to church, the day before V.S. passed away. You
21 said, I believe, that Ariel took V.S. to the car after she
22 had changed her in the bathroom. And that when she came
23 back that they both looked fine; is that accurate?

24 A Yes, sir.

25 Q You, also, I believe, said that Ariel didn't seem too

1 mad. Is that --

2 A Yes, sir.

3 Q You said that afterwards -- after church in the car
4 ride home, everyone seemed normal and fine; is that
5 correct?

6 A Yes, sir.

7 Q I think you even said that **V.S.** looked fine after she
8 came back into church and sat with you guys; is that
9 correct?

10 A (There was no verbal response.)

11 Q When you got home, you said that Ariel left and went
12 to Walmart?

13 A Yes.

14 Q How far is Walmart away from your house?

15 A From the house, only like five minutes or less.

16 Q Did she go just to Walmart or any other store?

17 A I believe just to Walmart.

18 Q Was it common for her to go to two different stores
19 on one trip?

20 A Sometimes, yes, sir.

21 Q And why would she do that?

22 A Just if she -- if one store didn't have something,
23 she'd go to the other store to see if they have it.

24 Q Do you know today if she went to the other store as
25 well that night?

1 A No, sir.

2 Q You don't know?

3 A I'm not sure, no, sir.

4 Q You stated that while Ariel was gone, you,
5 essentially, were handling all the children. And you said
6 you cooked them a pizza. I guess they all ate dinner.

7 You gave V.S. a bath at some point?

8 A Right.

9 Q You put all the other children to bed?

10 A Right.

11 Q How long did all that take?

12 A Maybe about an hour, hour and a half, something like
13 that.

14 Q All right. And you said that -- stated today when
15 you were giving V.S. a bath that you observed a light
16 bruise on her back. When you met with law enforcement on
17 February 3rd, you didn't say anything about it being a
18 light bruise, did you?

19 A I don't recall.

20 Q Okay. Do you remember asking V.S. about the bruise
21 at that time?

22 A Yes.

23 Q And what did V.S. tell you?

24 A She said she fell.

25 Q When Ariel got home that night, all the children were

1 asleep. Did you talk to Ariel about the bruising?

2 A No, sir.

3 Q And you, actually, put V.S. to bed and closed her
4 door. And she was asleep by the time Ariel got home; is
5 that right?

6 A Right. Yes, sir.

7 Q On the morning of the 14th, the next day, when did
8 you wake up?

9 A It was early, because we were getting the boys --
10 getting the boys together for -- for school. It was
11 early. It had to be, like, 6:00, 7:00, 6:30, something
12 like that. I'm not sure about the time exactly.

13 Q All right. And Ariel was asleep at that time?

14 A Yes.

15 Q And who took the boys to school that day?

16 A I took the boys to school that day, I believe.

17 THE COURT: Mr. Robinson, could I ask you, please, to
18 just scoot up just -- there you go. I think that's fine.

19 THE WITNESS: I'm sorry.

20 THE COURT: No. That's fine.

21 BY MR. BOUTON:

22 Q You think you took the boys?

23 A Yes, sir.

24 Q Now, the day when Officer Patrikis came and sat down
25 at the kitchen table after V.S. had been taken to the

1 hospital, you sat and gave a written statement. Do you
2 remember telling officers in that statement that you --
3 that Ariel took the children -- the boys to school that
4 day?

5 A No, sir.

6 Q You don't remember that?

7 A No, sir.

8 Q I'm going to show you this. Would you mind just
9 taking a look at that for a second?

10 A Yes, sir.

11 Q Do you recognize that document?

12 A Yes, sir.

13 Q And what is that document?

14 A That is the statement.

15 Q All right. And is that the handwritten statement
16 that you made to police on the day of January 14th?

17 A Yes, sir.

18 Q And what do you say in regards to who took the boys
19 to school that morning?

20 A That she took both the boys -- both -- she took the
21 boys to school.

22 Q All right. So is that the truth or is what you're
23 telling today the truth?

24 A I don't recall. I -- I thought I took them, but she
25 might have took them. I don't recall.

1 Q Okay. Thank you.

2 You stated that morning that you were listening to a
3 podcast in your ear phones. What kind of ear phones did
4 you have?

5 A They were [inaudible].

6 Q Are they the kind that stick in your ears or the
7 kind ---.

8 A Stick in your ear.

9 Q What podcast were you listening to?

10 A It had to be a wrestling podcast. That's what I
11 would, typically, listen to in the morning.

12 Q And my understanding is through your testimony while
13 you're listening to that, you hear -- you hear **V.S.** cry at
14 various times; right?

15 A Yes.

16 Q And I think this was asked by Ms. Sustakovitch, but
17 why didn't you intervene the first time?

18 A I didn't think it was to that nature yet or I
19 wasn't -- I didn't think it was that serious.

20 Q You said in your interview with SLED that you
21 couldn't protect her. But is it fair to say that if she
22 was crying early on that you could have intervened at any
23 point?

24 A Yes.

25 Q You're -- you're bigger than Ariel, aren't you?

1 A Yes.

2 Q After V.S. went limp, did Ariel tell you to call 911?

3 A It was an immediate reaction just to call 911.

4 Q Sure. But did she tell you to call 911?

5 A No.

6 Q It was your decision?

7 A If she's sitting there numb, yeah, call 911.

8 Q Have you ever spanked the kids before?

9 A C.E. and J.E. got little poppings, but nothing
10 serious.

11 Q You never used a belt on the kids?

12 A No.

13 Q How about the older kids?

14 A No.

15 Q You never left -- left a mark with a belt?

16 A No.

17 Q In your interview with SLED, you were asked, have you
18 ever spanked? At first, you said, No. Do you remember
19 that?

20 A Yes.

21 Q And why did you say "no" when you were voluntarily
22 meeting with law enforcement?

23 A I was still afraid. I didn't want to say.

24 Q So you -- you weren't a hundred percent honest during
25 this entire meeting with them, were you?

1 A To my knowledge, yes, sir.

2 Q Okay. And so you admit that when you first met with
3 them, you said, I do not pick them up, do not discipline
4 them, I would not spank them in any kind of way. Do
5 you -- do you admit you said that to law enforcement when
6 you first met with them --

7 A Yes.

8 Q -- on the 3rd?

9 And then you're asked a direct question. Excuse me.
10 Did you spank the kids?

11 You said, No.

12 And they said, Never?

13 And you said, I spanked.

14 Did you ever spank the kids again?

15 And you said, I spanked C.E. one time, maybe twice.

16 Is that -- do you remember saying that?

17 A Yes.

18 Q But today, you said J.E. also; right?

19 A Yes.

20 Q Okay. You didn't tell them you spanked J.E.
21 before?

22 A Right.

23 Q So you would discipline all the children, except for
24 V.S.; is that accurate?

25 A Yes.

1 Q I want to ask you a little bit more about your
2 relationship with -- with Ariel. Do you believe Ariel's
3 ever lied to you or kept secrets from you in your
4 marriage?

5 A No.

6 Q Do you consider yourself to be a trustworthy person
7 in y'all's relationship?

8 A Throughout the whole thing?

9 Q Yeah.

10 A No.

11 Q How was your marriage?

12 A We had our ups and downs, so to speak.

13 Q Sure. Were you honest in your marriage?

14 A Not the whole time.

15 Q Did you keep secrets from your wife?

16 A Sometimes, yes, sir.

17 Q Did you, actually, steal money, items from the family
18 at times?

19 A I wouldn't say steal, no, sir.

20 Q Okay. Did you, actually, go pawn certain items from
21 the family to get money?

22 A Yes.

23 Q All right. You pawned Ariel's iPad at one point?

24 A I don't remember -- I don't think I pawned her iPad.

25 Q Did you pawn Ariel's speaker and microphone system at

1 one point?

2 A Yes.

3 Q Did you pawn the kids Xbox at one point?

4 A No.

5 Q Okay. You've told a lot of lies to Ariel over the
6 years, haven't you?

7 A Yes.

8 Q How many times in the 14 years that you've been with
9 her would you say you've lied or kept secrets from her?

10 A I can't recall.

11 Q But it started at the beginning of y'all's
12 relationship; is that fair?

13 A Yes.

14 Q You lied about graduating from college?

15 A High school.

16 Q High school. I'm sorry. And you, also, lied about
17 your GED; is that fair?

18 A Yes.

19 Q And, in fact, Ariel had encouraged you to -- to get
20 your GED; is that right?

21 A Yes.

22 Q And then there was a point in time when you took the
23 test and then her, and her family, and friends all gave a
24 party for you. And you never let on that you never,
25 actually, passed and got your GED, did you?

1 A Right.

2 Q Is that true?

3 A Yes.

4 Q In fact, you haven't gotten your GE -- GED as we sit
5 here today, have you?

6 A No.

7 Q Have you ever lied about being fired from a job
8 before?

9 A Yes.

10 Q How many times?

11 A A couple.

12 Q Did you cover it up with Ariel and pretend like you
13 were still working?

14 A Yes.

15 Q Did you, actually, sometimes drive to where your old
16 job was and sit in the parking lot so that she would see
17 where you were on locations on her phone?

18 A Yeah.

19 Q Is that a "yes"?

20 A Yes.

21 Q What other extents would you keep Ariel from finding
22 out about these things? What would you do?

23 A That's really it that I can remember.

24 Q How long did that charade last?

25 A It could be months, it could be weeks.

1 Q Why'd you get fired from that job?

2 A One of them was -- well, depending on which job
3 you're talking about. If we're talking about the more
4 recent one, it was -- they had -- they was wanting to
5 bring people back inside because we had been working from
6 home for a while. And they wanted to bring us back
7 inside.

8 Q Have you ever lied on a job application before?

9 A Yes.

10 Q So would you say in y'all's relationship, you were
11 more of a secret keeper and a liar than Ariel?

12 A Yeah.

13 Q Could Ariel tell when you were lying?

14 A Yeah. Sometimes, yeah.

15 Q How could she tell?

16 A She said she would -- just would see it.

17 Q When you met with investigators, you told V.S. [sic]
18 that she was clumsy; is that correct?

19 A Yes.

20 Q And when you met with the DSS investigators after the
21 incident and after you met with the police, you told them
22 that V.S. -- V.S. bruises very easily; is that
23 correct?

24 A Yes.

25 Q And you said that you could touch her and leave a

1 bruise --

2 A Yeah.

3 Q -- is that correct?

4 Why did you change your clothes from the time that
5 you went to CVS to purchase the medicine on the 14th to
6 when -- after the police arrived?

7 A Why did I change my clothes?

8 Q Yeah.

9 A I don't recall changing my clothes.

10 Q Okay. What were you wearing when you went to CVS?
11 Do you recall?

12 A No, sir.

13 Q Do you remember what color of shirt it was?

14 A No, sir.

15 Q Okay. Do you remember what color of shirt you were
16 wearing when law enforcement arrived?

17 A No, sir.

18 Q And you admit today that as you sit here, in your
19 initial statement to police, you didn't tell them about
20 all this stuff that you're claiming here today; right?

21 A Right.

22 Q And you said that you didn't tell the police the
23 truth in the beginning due to fear; is that accurate?

24 A Yes.

25 Q What -- what -- fear of what?

1 A I didn't want nothing -- basically, like I said, why
2 we're sitting here now. I didn't want nothing to happen
3 to her, or me, or the kids.

4 Q So it wasn't that you were afraid of Ariel. It's
5 just you didn't want to get in trouble?

6 A Right.

7 Q About less than a month before V.S. passed away, you
8 and Ariel got into a major fight. Do you remember that?

9 A Yes.

10 Q Why -- why did y'all get into that fight?

11 A The Cytel [phonetic] job was one of them, just not
12 being honest with her about some things.

13 Q And I'm sorry. I didn't hear the first part. What
14 did -- what did you say?

15 A The Cytel job and just not being honest with her
16 about certain things.

17 Q Okay. You had lied to her about paying some bills;
18 right?

19 A Right, yeah.

20 Q You had -- you had told her that you were -- and this
21 may have been when you weren't working. But you told her
22 that you were paying the cell phone bills, and things like
23 that?

24 A Yeah.

25 Q And then, actually, the cell phones got cut off?

1 A Right.

2 Q And she found out about it?

3 A Right.

4 Q And is it fair to say she was angry?

5 A Yes.

6 Q Because she had discussed your dishonesty with her

7 numerous, numerous times?

8 A Yeah.

9 Q And, at that point, what did Ariel do?

10 A She left the house.

11 Q She left. And where did she go?

12 A To her parents.

13 Q Did she take the kids with her?

14 A No.

15 Q Okay. And she left and she, actually, stayed and

16 slept over at her parents house and left. She was

17 planning to leave you, wasn't she?

18 A Uh-huh.

19 Q And she left the kids with you?

20 A Yeah.

21 Q If you were having concerns about Ariel disciplining
22 the children, why didn't you take that opportunity to save
23 them?

24 A I didn't want to lose them.

25 Q In fact, you -- you begged her to come back?

1 A Yeah.

2 Q Numerous text messages about, come back, I can stop
3 lying. Do you remember?

4 A Yes.

5 Q She was tired of it, wasn't she?

6 A Uh-huh.

7 Q She was tired of you being dishonest with her?

8 A Yeah.

9 Q Do you remember telling her that you can't be
10 accountable when you need to be accountable for her?

11 A Yes.

12 Q And is that accurate?

13 A Yes.

14 Q You said you never hold yourself accountable for
15 anything, didn't you?

16 A I don't recall saying that.

17 Q Okay. You don't recall saying you never hold
18 yourself accountable for anything?

19 A No.

20 Q I'm going to show you what's been marked as State's
21 Exhibit -- Defendant's Exhibit No. 1.

22 A Okay.

23 Q And I want you to just look at this and tell me if
24 you recognize that. And you can flip through the first
25 couple of pages so you can familiarize yourself with that.

1 A All right.

2 Q Do you recognize what -- what's in that book?

3 A Yes.

4 Q And what's in there?

5 A It's text messages between me and her.

6 Q All right. And that's the text messages that were

7 recovered from your phone. And can you tell from looking

8 at that that the two texts are in different colors? What

9 color are your comments?

10 A Green.

11 Q And would Ariel's all be in blue?

12 A Yes.

13 Q All right. You can take a second and look. But do
14 those look like they're fair and accurate representations
15 of the text messages that you guys had with each other?

16 A Yes.

17 Q All right. And I want you to turn to Page 410.

18 Okay. And the top text message, that's from you. Can you
19 -- let me ask you, it says from and it has a number. Is
20 that your phone number?

21 A Yes.

22 Q And beside it, it says, Austin Robinson owner. Do
23 you see that?

24 A Yes.

25 Q And it's to -- and it looks like it's, actually, to

1 an e-mail address. What's the e-mail address?

2 A That's her e-mail.

3 Q All right. And what's -- at the bottom, what's the
4 date of this text message?

5 A 12/16/2020.

6 Q All right. So this is less than a month until **V.S.**
7 passed away; is that right?

8 A Right.

9 Q All right. Would you just read -- what -- what does
10 that top text message say?

11 A It says, And me not taking it serious. I want to
12 take that serious. I want to take everything serious.
13 The problem is I never hold myself accountable for my
14 actions. I never hold myself accountable for anything.

15 Q Does that refresh your memory?

16 A Yes.

17 MR. BOUTON: Your Honor, at this time, I would ask to
18 move just Page 410 into evidence at this time.

19 THE COURT: Is there any objection?

20 MS. SUSTAKOVITCH: Your Honor, the State has no
21 objection to all of these texts coming in. I do think
22 under the rule of completeness, I don't want the jury to
23 feel that there's something taken out of context. So we
24 have no problem with that at all.

25 THE COURT: All right. I'll admit it, although I

1 don't know that they're admissible under 608. But all
2 right.

3 MR. BOUTON: Thank you.

4 One second, Your Honor.

5 THE COURT: Sure.

6 (Pause.)

7 BY MR. BOUTON:

8 Q I asked you earlier, Mr. Robinson, about whether or
9 not you were worried about this -- this crime coming back
10 on you. Do you recall that?

11 A Yes.

12 Q Okay. What did you say?

13 A No, I think.

14 Q In your meeting with SLED and law enforcement, they
15 discussed with you about the videos that I had asked you
16 about earlier, about deleting the videos from your app,
17 and things like that. And I'm going to ask you if you'll
18 look at this transcript from that meeting. And you can
19 read your response at the bottom there.

20 A I said, Why? It's like messing with evidence.

21 Q Okay. And keep -- keep going.

22 A It says, Oh, no. She was upset. She was asking why
23 I was recording. I said I was recording because I didn't
24 want -- if something were to happen, I didn't want nothing
25 to come back on me and you, try to say I'm whipping her

1 and spanking her. There's a video of you doing all this,
2 you know. That's evidence right here, clear in the face.

3 Q All right. So that's different than what you told me
4 earlier; is that correct?

5 A Yes.

6 Q Yeah. You told me that you didn't record videos
7 because you were worried about it coming back on you.
8 But, in fact, that's what you told law enforcement on
9 February 3rd; is that right?

10 A Yes.

11 Q Okay. And you had the ability to save those -- any
12 videos of evidence of this; isn't that correct?

13 A Can you repeat the question?

14 Q You had the ability, and the understanding, the
15 technology, the savvy to be able to record anything and
16 keep it, if you wanted to; isn't that fair?

17 A Yes.

18 Q On January 19th, you were charged with the same crime
19 that Ariel was charged with?

20 A Right.

21 Q Is that right?

22 A Yes.

23 Q When did you learn about what the autopsy results
24 were?

25 A I don't recall.

1 Q And you stated you were in the shoe, essentially,
2 isolation, solitary confinement. And then you met with
3 law enforcement on February 3rd, so approximately two
4 weeks later?

5 A Uh-huh.

6 Q Is that right?

7 A I'm not sure.

8 Q When did you hire your lawyer?

9 A I'm not sure of that either.

10 Q Was it before you met with SLED?

11 A Yes.

12 Q Mr. Robinson, you've pled guilty to having
13 involvement in **V.S.**'s death; is that correct?

14 A Yes.

15 Q The charge you pled to has a much less significant
16 penalty than the original charge that you were charged
17 with; right?

18 A Right.

19 Q And you have not been sentenced; is that correct?

20 A That's correct.

21 Q But isn't it true that you're hoping for a nice
22 recommendation from the Solicitor for your testimony here
23 today?

24 A I would say that I'm -- I wouldn't say I'm hoping for
25 a recommendation. I would say that whatever happens is

1 what I deserve.

2 Q Okay. But you have a lot riding on this, don't you?

3 A Like?

4 Q The difference between 10 and 20 years.

5 A Yeah.

6 Q You're hoping that the Solicitor will ask the Judge
7 to sentence you to 10 years; isn't that fair?

8 A I don't know.

9 MR. BOUTON: No further questions, Your Honor.

10 THE COURT: All right. Any redirect?

11 MS. SUSTAKOVITCH: Yes, ma'am. Briefly.

12 REDIRECT EXAMINATION

13 BY MS. SUSTAKOVITCH:

14 Q Mr. Robinson, a few points to clarify.

15 A Yes, ma'am.

16 Q Oh, goodness. Sorry. Going back to when you
17 testified you heard fussing or you heard Ariel getting on
18 to **V.S.** about not eating her food. Do you know what food
19 was the food that **V.S.** was trying to eat that morning?

20 A I believe it was pancakes.

21 Q And you testified that **V.S.** pooped on the floor when
22 she was naked and she was wrapped up in the heated
23 blanket. Who put the clothes on **V.S.** before EMS and first
24 responders arrived?

25 A Ariel did.

1 Q She put on a top and pants before first responders
2 got there?

3 A Yes, ma'am.

4 Q Why'd she do that?

5 A To cover up the bruising.

6 Q So Defense Counsel asked you some questions about
7 yourself. And I want to talk a little bit more about
8 that, asking about things that you lied about.

9 A Okay.

10 Q And you lied about not graduating high school. Were
11 you ashamed of that?

12 A Yes.

13 Q You lied about not getting your GED. Were you
14 ashamed of that?

15 A Yes.

16 Q In fact, it sounds like they had a party for you and
17 you didn't say anything at the party?

18 A Right.

19 Q You were ashamed of that?

20 A Yeah.

21 Q Now, Ariel, she was kind of a big deal. She
22 graduated college; correct?

23 A Yes.

24 Q She had -- what was her other degree in? Do you
25 know?

1 A She had a master's degree.

2 Q Did you feel inferior to Aerial? Like, not
3 graduating high school, not having a GED. She's a big
4 deal.

5 A Yes, sometimes I would.

6 Q Okay. And going back to your marriage. And
7 Mr. Bouton asked you about all these texts. You -- you
8 lied. Let's go back in time just a tiny bit. It's fall
9 of 2020; correct?

10 A Yes.

11 Q COVID's hit; right?

12 A Yes.

13 Q And was your house in foreclosure at the time?

14 A Yes.

15 Q You've got five kids at home?

16 A Yes.

17 Q Correct?

18 A Correct.

19 Q Did you lie about losing your job?

20 A Yes.

21 Q Were you ashamed of that?

22 A Yes.

23 Q So isn't it a fact that you pretended like you were
24 still going to get a job and go back to your job. But you
25 couldn't tell Ariel the truth, that you didn't have that

1 job for the family?

2 A Yes.

3 Q Because you didn't want to be loser to her, or what?

4 A To her or her family.

5 Q But you were ashamed that you couldn't provide for
6 those five children?

7 A Yes, ma'am.

8 Q And, Mr. Robinson, I'm just going to ask you point
9 blank, you stated you were worried about whether this
10 would come on you. Did you ever hurt **V.S.**?

11 A No.

12 Q Did you inflict any of the bruising that we see in
13 those pictures on **V.S.**?

14 A No.

15 Q And do you wish that you would have done something
16 better that day and called 911 sooner?

17 A Yes.

18 MS. SUSTAKOVITCH: No further questions.

19 THE COURT: Mr. Bouton.

20 RECROSS-EXAMINATION

21 BY MR. BOUTON:

22 Q Mr. Robinson, why did your house go into foreclosure?

23 A We were behind on -- on payments.

24 Q Who was making the payments?

25 A I was.

1 Q Did you tell Ariel that you couldn't make the
2 payments?

3 A No. Not right away, no.

4 Q Did you tell her that the house -- that you were late
5 and that the house was going into foreclosure?

6 A Not right away, no.

7 Q How did she find out?

8 A The letter came in the mail.

9 MR. BOUTON: Okay. Thank you.

10 No further questions.

11 THE COURT: Anything else?

12 MS. SUSTAKOVITCH: No, ma'am.

13 Thank you.

14 THE COURT: Sir, you can step down.

15 Yes, ma'am. Ms. Holloway.

16 MS. HOLLOWAY: Thank you, Your Honor.

17 The State calls Mia Pressley to the stand.

18 THE COURT: While Ms. Pressley's coming in, if
19 anybody wants to -- I'm going to stand up and stretch a
20 little bit. I don't know about y'all.

21 (Pause.)

22 THE COURT: All right. We'll go back on the record
23 now.

24 THE CLERK: Please place your left hand on the Bible
25 and raise your right hand.

1 THE COURT: Ma'am, you can step down.

2 Thank you.

3 MS. SUSTAKOVITCH: Your Honor, may this witness be
4 excused?

5 THE COURT: Any objection?

6 MR. BOUTON: No, ma'am.

7 THE COURT: Thank you for being here.

8 MS. SUSTAKOVITCH: The State calls Dr. Jacqueline
9 Granger.

10 THE CLERK: Ma'am, if you'll just pause at the end
11 right here.

12 Place your left hand on the Bible and raise your
13 right hand.

14 WHEREUPON,

15 JACQUELINE JOYCE GRANGER, M.D.,
16 after first having been duly sworn, testified as follows:

17 THE CLERK: Thank you.

18 Please be seated.

19 Please state your full name for the record.

20 THE WITNESS: Jacqueline Joyce Granger.

21 DIRECT EXAMINATION

22 BY MS. SUSTAKOVITCH:

23 Q And, Dr. Granger, could you slide maybe the
24 microphone a little closer to you?

25 A Closer, okay.

1 Q Or you can come closer.

2 A Okay.

3 Q Thank you.

4 Where are you employed, Dr. Granger?

5 A I work at Greenville Memorial Hospital for Prisma
6 Health.

7 Q Yes, ma'am. And how long have you worked there?

8 A I've worked at Greenville Memorial Emergency
9 Department for the past 12 years come August.

10 Q Okay. Are you a little nervous having to be in here?

11 A A little bit.

12 Q Okay. Dr. Granger, I just want to tell the jury a
13 little about your background. First of all, what type of
14 doctor are you?

15 A I'm a pediatric emergency medicine physician.

16 Q And you, normally, don't have to come to court that
17 often; right?

18 A No.

19 Q Where did you receive your undergraduate degree?

20 A I received my undergraduate degree in -- at the
21 University of South Carolina in biology.

22 Q And how long have you been practicing medicine?

23 A I have been an attending physician for 12 years. If
24 you count residency, that's another seven years.

25 Q Okay. And where did you attend medical school?

1 A The University of South Carolina in Columbia.

2 Q All right. When did you graduate from medical
3 school?

4 A I graduated from medical school in 2004.

5 Q All right. And are you board certified?

6 A I am. I am board certified in pediatrics and
7 pediatric emergency medicine.

8 Q And are you a member of any special organizations?

9 A The American Board of Pediatrics.

10 Q And you just talked about your specialty. How many
11 years have you spent as a pediatric emergency room
12 physician?

13 A I've been an attending physician for 12 years.

14 Q And can you tell the jury a little bit about what
15 it's like to be an emergency pediatric physician, what
16 your life -- a day in the life is like for you?

17 A We do shift work, so we're there for anywhere from
18 eight to 12 hours. And we take care of children from the
19 age of birth to 18 for any illness and injury that they
20 present.

21 Q All right. And you're at Prisma?

22 A I am.

23 Q Here in Greenville?

24 A Yes, ma'am.

25 Q How long -- again, you've been at Prisma for 12

1 years?

2 A Yes, ma'am.

3 MS. SUSTAKOVITCH: And, Your Honor, at this time, the
4 State moves to admit Dr. Granger as an expert in pediatric
5 emergency medicine.

6 THE COURT: Any objection or further voir dire?

7 MR. BOUTON: No, Your Honor.

8 THE COURT: All right. Ladies and gentlemen of the
9 jury, the rules of evidence ordinarily don't permit a
10 witness to testify to opinions or conclusions. An
11 exception to that rule exists for witnesses we call expert
12 witnesses, a witness who by education and experience --
13 excuse me, I'm sorry -- has become an expert in some area
14 such as a science or profession can be deemed an expert
15 witness and can give their opinion to relevant material
16 matter. And they can, also, state the reasons for that
17 opinion.

18 This witness is qualified to give her opinion in the
19 area of pediatric emergency medicine. You may use that
20 opinion any way that you see fit.

21 Thank you.

22 MS. SUSTAKOVITCH: Thank you, Your Honor.

23 BY MS. SUSTAKOVITCH:

24 Q Dr. Granger, were you working on January 14th, 2021?

25 A Yes, ma'am.

1 Q And did you treat [REDACTED] V.S. [REDACTED]?

2 A I did.

3 Q Prior to [REDACTED] V.S. [REDACTED] arriving at the pediatric ER, were
4 you given an idea of what was happening with [REDACTED] -- with
5 [REDACTED] V.S. [REDACTED] that day?

6 A We were called with a report by EMS. And the report
7 had stated -- we received a report that said it was a
8 three-year-old in cardiac arrest secondary to some sort of
9 choking episode with water.

10 Q Okay. And can you, please, explain to the jury what
11 condition [REDACTED] V.S. [REDACTED] came to you when she arrived in your
12 care that day?

13 A Sure. She came in unresponsive in cardiac arrest by
14 EMS on the stretcher with active CPR in progress. When
15 she arrived, we got her immediately into our critical --
16 critical care room. And immediately we noticed that there
17 was extensive bruising that wasn't consistent with the
18 report which we had received.

19 Q Okay. And, Dr. Granger, if you could slide up just a
20 little bit.

21 A Sorry.

22 Q That's okay.

23 What time did she arrive at the ER, Dr. Granger?

24 A She arrived at 15:02, I believe, 3:02.

25 Q Dr. Granger, at first glance, what was your initial

1 impression when you saw [REDACTED] V.S. [REDACTED]?

2 A The general consensus was astonishment. The extent
3 of bruising and trauma that was obvious when she rolled
4 through the door.

5 Q All right. Dr. Granger, I'm showing you what's
6 marked as State's Exhibit No. 61. Do you recognize this
7 photograph, Dr. Granger?

8 A Yes, ma'am.

9 Q How do you recognize that?

10 A It is an image that was taken while she was in our
11 emergency room.

12 Q And does this image fairly and accurately depict what
13 you saw, the bruising on [REDACTED] V.S. [REDACTED] that day?

14 A Yes.

15 MS. SUSTAKOVITCH: Your Honor, the State moves to
16 admit State's Exhibit No. 61.

17 THE COURT: Any objection?

18 MR. BOUTON: Yes, Your Honor. I renew my previously
19 made objection regarding the photos of --

20 THE COURT: All right. Your objection is, certainly,
21 noted and overruled. I'll admit the -- I'll admit State's
22 Exhibit --

23 You said 61?

24 MS. SUSTAKOVITCH: Yes, ma'am, 61.

25 THE COURT: All right.

1 (WHEREUPON, State's Exhibit No. 61 was admitted into
2 evidence.)

3 BY MS. SUSTAKOVITCH:

4 Q Dr. Granger, can you tell the jury what we're looking
5 at here?

6 A We are looking at [REDACTED] V.S. [REDACTED]'s legs, underneath her
7 legs. Standing at the foot of the bed, two nurses -- or
8 one nurse was holding up her legs just so we could get an
9 image of the underside of her legs.

10 Q And have you formed a -- an opinion to a reasonable
11 degree of medical certainty about whether [REDACTED] V.S. [REDACTED]
12 [REDACTED]'s injuries were accidental or inflicted?

13 A Inflicted.

14 Q I want to take us back to you and the other ER
15 doctors and staff that was present -- or were present
16 trying to save [REDACTED] V.S. [REDACTED]'s life. Tell us what you did
17 immediately upon taking care of [REDACTED] V.S. [REDACTED] that day.

18 A When she first came to us, like I said, she was
19 unresponsive with CPR in progress because she did not have
20 a pulse. We continued CPR and took out what's called a
21 super glide airway and reintubated her with a tube through
22 her vocal cords so we could have a definitive airway. We
23 continued to give her medications based on standard
24 pediatric events life support.

25 Q Can you explain to the jury about an IO line and what

1 that is?

2 A So when she arrived with us, she had an intraosseous
3 needle IV line -- intraosseous needle that goes -- it's a
4 needle that goes into your bone, so, generally, into the
5 leg in a pediatric patient. Because they were unable to
6 establish appropriate and timely IV access when they found
7 her arrested. And so the intraosseous needle is placed
8 into her tibia so we could administer medications. We
9 continued to use this.

10 Q And at 3:02 when [REDACTED] V.S. [REDACTED] arrived at the
11 pediatric ER, was she -- did she have any electrical
12 activity in her heart at that point?

13 A It's my understanding that in the field when they got
14 to her, she was in true asystole, which is flat line.
15 When she got to us, we did have a brief period of PEA,
16 which is pulseless electric activity, which is clinically
17 the same as asystole and flat lined, though intermittently
18 the computer did pick up some electrical activity. It
19 wasn't enough to beat her heart.

20 Q And was [REDACTED] V.S. [REDACTED] given epinephrine?

21 A She was.

22 Q Are you aware of how much epinephrine [REDACTED] V.S. [REDACTED] was
23 given in the field?

24 A She was given seven rounds of epinephrine.

25 Q Is that a lot?

1 A That is a lot, yes.

2 Q And what is epinephrine?

3 A Epinephrine is -- people talk about it being
4 adrenaline. It's a medication that we give to try to
5 restart the heart. It acts on certain receptors in the
6 muscles and the blood vessels to increase the blood
7 pressure and try to increase blood flow to the heart to
8 restart the heart when the heart is not beating.

9 Q And you just mentioned asystole. What does that
10 mean?

11 A Asystole is the heart's not beating.

12 Q In your attempts to get V.S.'s heart back pumping,
13 what did you do?

14 A We continued chest compressions, so mainly trying to
15 beat the heart from beating outside of the chest. And we
16 gave her four more rounds of epinephrine. Like I
17 mentioned earlier, we replaced a super glide airway with a
18 definitive airway by intubating her through her vocal
19 cords so we could breathe directly into her lungs. We
20 gave her four more rounds of epinephrine.

21 Q What does the acronym ROSC mean?

22 A Right. So we, initially, did get back with the code
23 ROSC, which stands for return of spontaneous circulation.
24 Basically, it just means that we got her heart beating
25 again.

1 Q Okay. At that point, how critical was V.S. ?

2 A Extremely critical. Even though we got the heart
3 beat back, it was not a very adequate heart beat. We were
4 having a hard time keeping her blood pressure up. And she
5 was still very, very critical.

6 Q And did you believe that she would make it at this
7 point --

8 A We did not. There was not a lot of belief that she
9 was going to make it long-term with the amount of time
10 that she'd been down without a heart beat and
11 unresponsive. The amount of medications that we had to
12 give her just to start her heart back. And the lack of
13 any indication that she had any brain activity while she
14 was in the ER.

15 Q And to talk about down time, just to make sure we're
16 clear on that, what does that mean?

17 A When we talk about down time, we mean how long she's
18 completely unresponsive without her heart beating. So,
19 essentially, what people would consider dead, that she
20 wasn't, at that point, clinically dead because we hadn't
21 pronounced her. But her heart wasn't beating. She wasn't
22 breathing, presumed no oxygenation to her brain at that
23 point.

24 Q And -- oh, I'm sorry, Doctor.

25 A Go ahead.

1 Q Is down time determined from when emergency medical
2 personnel get on the scene to the time [V.S.] got to the
3 hospital?

4 A We can only be certain about the time that EMS
5 arrived.

6 Q Yes.

7 A We were informed that she'd been down for
8 approximately 40 minutes before we -- she got to us. And
9 that was from EMS arrival at the house. We have no way of
10 knowing how long she was down before EMS arrived.

11 Q Okay. Dr. Granger, from your physical observation of
12 [V.S.], what, if anything -- and you just touched on
13 it -- did you notice about her body.

14 A I think the most obvious thing that everyone noticed
15 in the room was the extent of the bruising on her body.
16 That was significantly greater than what most of us had
17 ever seen before.

18 Q Dr. Granger, I'm showing you what's been admitted as
19 State's Exhibit No. 2. Does this picture fairly and
20 accurately represent what you saw in trying to care for
21 [V.S.] that day?

22 A Yes.

23 Q And I'm showing you State's Exhibit No. 4 --

24 A Yes.

25 Q -- does that fairly and accurately...

1 State's Exhibit No. 5 --

2 A Yes.

3 Q -- you'll note her private area has been digitized.
4 But does that fairly and accurately represent the injuries
5 to her legs?

6 A It does.

7 Q And then does this -- State's Exhibit No. 3 represent
8 the injuries to her back?

9 A Yes.

10 Q Dr. Granger, can you explain when V.S. was in
11 there, what it was like inside the pediatric ER when you
12 guys were working on V.S. and trying to save her?

13 A At that point, it was -- we got the call. I can't
14 remember how many minutes we had ahead of time. But we,
15 basically, rounded up everyone working in the pediatric ER
16 that day. It was all hands on deck. It was myself,
17 another attending that was helping in the room, multiple
18 nurses, residents, and respiratory therapy. And everyone
19 was -- had their own special role.

20 I was working head of the bed and intubation and
21 running the code, so calling out the medications.
22 Dr. Maloney was doing ultrasounds of her heart and belly.
23 And the residents were performing procedures that we
24 needed completed.

25 Q Dr. Granger, have you reviewed V.S.'s labs and

1 medicals from that day?

2 A Yes.

3 Q And we're going to go through those bit by bit. But
4 just very briefly, was there any reason to use pads or
5 anything to try to restart her heart there in the ER, for
6 the lay person to understand?

7 A Right. There was not. So we'd only -- in the child
8 who's in -- whose heart isn't beating so in asystole or
9 PDA, it's considered a non-shockable rhythm. So we don't
10 shock people's heart that's not beating because it doesn't
11 start their heart back. And all it does is cause more
12 damage to the heart tissue.

13 Q What was [REDACTED] V.S. 's temperature at the time you were
14 treating her?

15 A 90 degrees is where it started.

16 Q 90 degrees. Dr. Granger, let's go to [REDACTED] V.S. 's PH
17 levels. Can you tell me what her PH level was and what,
18 if anything, that indicated to you?

19 A It was less than 6.79, which means it was lower than
20 our machine could read, which means she was extremely
21 acidotic. The normal PH of the human blood is 7.4. And
22 it's usually kept in a very narrow margin. Anything below
23 seven is significantly critical -- critically ill. And if
24 it stays below seven for an extended period of time, it
25 would not be compatible.

1 Q And you mentioned the term acidotic, what does that
2 mean?

3 A So the lower your PH is, the more acidotic you are.
4 It's an indicator of how severely sick you are. So the
5 more acidotic you are, the sicker you are.

6 Q And the longer you're down, do you become more
7 acidotic?

8 A Yes.

9 Q I want to move on to V.S.'s CO2 levels, her
10 oxygen levels. Can you explain why the CO2 levels are
11 important to be able to live and survive as a human being?

12 A Sure. So CO2 is the byproduct of breathing. So we
13 breathe in oxygen and breathe out carbon dioxide. And so
14 hers -- on the blood gas, her carbon -- the blood gas was
15 greater than a hundred, which is indicative that she was
16 not blowing off CO2 adequately, which, for all intense
17 purposes, is poison to the body and starts dislodging
18 oxygen. The more CO2 that rises in your blood and you're
19 breathing it off will displace oxygen to the tissues.

20 Q And with what her CO2 level was, is that compatible
21 with life?

22 A No.

23 Q Can you tell the jury about V.S.'s pupils?

24 A Her pupils were fixed and dilated by the time she got
25 to us, which is -- without medication, which she had not

1 had medication that would affect that is an indication of
2 no brain active -- no brain activity.

3 Q An indication of brain injury?

4 A Yes.

5 Q What, if anything, was happening with [REDACTED] V.S. [REDACTED]'s
6 abdomen, at this point, when you're trying to treat her?

7 A Her abdomen we noticed in the emergency department
8 was distended, which means kind of swollen and bigger than
9 normal. At that time, we weren't a hundred percent sure
10 why, but -- of course, it could have been from internal
11 injury. But, initially, we weren't a hundred percent
12 sure.

13 Q Dr. Granger, it's a little hard to see here. But
14 we've talked about [REDACTED] V.S. [REDACTED]'s injuries. And I'm just
15 going to show you briefly State's Exhibit No. 2.

16 A Yes.

17 Q What, if anything, is significant to you when you're
18 looking at [REDACTED] V.S. [REDACTED]'s injuries there? Do you see anything
19 that stands out about --

20 A So --

21 Q -- the pattern?

22 A Right. So the pattern, when we look at -- we're
23 talking about pathognomonic or signs of a -- physical
24 abuse, you look for patterns in bruising. And we had
25 noticed immediately that she had linear patterns. And I

1 think it was on another image that she had almost a loop
2 pattern that appears -- usually, there's an object that is
3 used to hit the child with.

4 Q Dr. Granger, you can stand, if you don't mind, and
5 show us there on that picture.

6 A Yeah. So here. But she definitely had linear
7 patterns with some of the bruising on her legs at the
8 time. I don't think it's on this picture. She had one
9 area that was a loop pattern as well.

10 Q And so is this indicating to you that that type of
11 pattern would not be made with a hand, but an object?

12 A Generally, yes. It appears to be made with an
13 object.

14 Q When -- when someone is bleeding -- when somebody
15 suffers blunt force trauma -- let me turn this off --
16 blunt force trauma blows to their body, what -- what is
17 happening inside their body? With the blows that V.S.
18 had, what is happening inside her?

19 A So they're bleeding into the soft tissues. The
20 ruptured capillaries, which are the small blood vessels
21 underneath the skin, will get ruptured and bleed into the
22 tissues. It appears on hers that there would have been
23 deep tissue bleeding with this deep, and this dark, and
24 convalescing or coming together as the bruising was -- but
25 it's bleeding and swelling into the soft tissues.

1 Q And, Dr. Granger, can you give a medical opinion
2 when looking at those injuries, whether these injuries to
3 [REDACTED] V.S. [REDACTED] would have been painful or non-painful?

4 A They would have been excruciatingly painful.

5 Q Given the history that this Defendant claimed that
6 the injuries to [REDACTED] V.S. [REDACTED]'s legs were inflicted by
7 [REDACTED] V.S. [REDACTED]'s seven-year-old brother, in your medical expert
8 opinion, do you believe the injuries that you saw could
9 have been caused by a seven-year-old child?

10 A No.

11 Q And can you tell me why?

12 A The sheer force it would have taken to cause that
13 kind of injury would have been difficult, if not
14 impossible, for a seven-year-old to perform. And it
15 wasn't just one hit. This was multiple hits, multiple
16 areas of bruising. And I don't believe a seven-year-old,
17 of his size especially, would have been able to hold down
18 a three-year-old long enough to cause that extent of
19 injury.

20 Q And, Dr. Granger, let's take a quick look at State's
21 Exhibit -- State's Exhibit No. 2. Dr. Granger, have you
22 had occasion to treat patients who have had CPR prior to
23 being in your care?

24 A Yes.

25 Q Have you had occasion to treat pediatric patients who

1 have had CPR prior to coming in your care?

2 A Yes.

3 Q Have you ever seen this type of abdominal bruising
4 when you have a patient where there's a history of CPR
5 being performed prior to getting to you?

6 A No.

7 Q Have you ever seen this type of abdominal bruising
8 where there's a history of trying to do the Heimlich?

9 A No.

10 Q Dr. Granger, I want to look at a few more levels from
11 her toxicology report. What does lipase mean?

12 A Lipase is an enzyme from the pancreas.

13 Q Okay. And what, if anything, was going on with
14 V.S.'s lipase?

15 A I don't remember, specifically, about the lipase. I
16 do know the amylase, which is, also, an enzyme from the
17 pancreas, was elevated.

18 Q Okay. And, Dr. Granger, what about V.S.'s
19 platelets at the time you were caring for her? What, if
20 anything, do platelets tell you?

21 A Her platelets were normal, if I recall correctly.
22 And we look at that as a sign of a bleeding disorder. And
23 hers were normal.

24 Q And so because her platelets were normal, did you
25 have any concern that she had any type of bleeding

1 disorder, or anything like that?

2 A Not from her platelets.

3 Q Dr. Granger, to sum up your time in patient care with
4 V.S. what do these labs tell you about the condition
5 that she was in prior to coming to the hospital at 3:04?

6 A The --

7 Q Whether she was going to make it or not?

8 A The labs were indicative of that she probably would
9 not make it. It was a poor prognosis for long-term
10 survival.

11 Q Okay. And did the condition that you found V.S.
12 in when you first were treating her at 3:04 p.m. appear to
13 be that of a child that had gotten choked on water about
14 an hour before --

15 A No.

16 Q -- and suddenly went limp for no reason?

17 A No.

18 Q Dr. Granger, in your years as a pediatric ER
19 physician, have you had occasion to treat children who've
20 suffered bruising before?

21 A Yes.

22 Q And did the bruising on V.S.'s body look like
23 anything that you've treated before?

24 A Not to that extent. It was by far more severe than
25 any bruising I...

1 MS. SUSTAKOVITCH: I beg the Court's indulgence.

2 THE COURT: Certainly.

3 BY MS. SUSTAKOVITCH:

4 Q Dr. Granger, you just -- you testified earlier
5 that when these blows were being inflicted -- well, first
6 let me ask you this. Does it appear to be one blow or
7 multiple blows?

8 A Multiple.

9 Q And you testified that it would be very painful?

10 A Yes.

11 Q And at the time in which [REDACTED] V.S. [REDACTED] suffered these
12 blunt force trauma blows, after that point, would she be
13 acting normal?

14 A No. She would have been in excruciating pain, and
15 then slowly would have become altered and then
16 unconscious.

17 Q Okay. Did you end up passing off care for [REDACTED] V.S. [REDACTED]
18 to another medical professional?

19 A Yes.

20 Q And who did you pass off care to?

21 A Dr. Goben in the pediatric intensive care unit.

22 Q All right. And was [REDACTED] V.S. [REDACTED] pronounced deceased at
23 some point in the hospital?

24 A She was. She was pronounced deceased in the
25 intensive care unit later that night at 8:49 p.m.

1 MS. SUSTAKOVITCH: Okay. Please answer any questions
2 Defense Counsel has.

3 THE COURT: Mr. Bouton.

4 CROSS-EXAMINATION

5 BY MR. BOUTON:

6 Q Dr. Granger, did you observe any bruising on her body
7 that appeared to be older -- significantly more older than
8 the bruising you discussed today?

9 A I did not.

10 MR. BOUTON: Thank you.

11 I don't have any further questions.

12 MS. SUSTAKOVITCH: Just very briefly in redirect.

13 THE COURT: Sure.

14 REDIRECT EXAMINATION

15 BY MS. SUSTAKOVITCH:

16 Q Dr. Granger, in looking at [REDACTED] V.S. [REDACTED]'s injuries, do
17 these all appear to be acute injuries that you're looking
18 at?

19 A Yes.

20 Q And did the coloration of her bruises indicate to you
21 whether this happened around the same time?

22 A They were all the same color. So we assumed they all
23 happened around the same time.

24 MS. SUSTAKOVITCH: Okay. Thank you.

25 Nothing further.

1 THE COURT: Mr. Bouton?

2 MR. BOUTON: No, ma'am.

3 THE COURT: Thank you, Doctor.

4 You can step down.

5 MS. SUSTAKOVITCH: May this witness be excused?

6 THE COURT: Any objection?

7 MR. BOUTON: No, ma'am.

8 THE COURT: Thank you for being here.

9 MS. SUSTAKOVITCH: Thank you.

10 Your Honor, our next witness is in a wheel chair. Do
11 we need to make any accommodations for that?

12 THE COURT: Certainly, we can. If the witness wants
13 to maybe be here at the front of the witness stand, we'll
14 move the -- we can move the microphone over.

15 MS. SUSTAKOVITCH: Yes, ma'am.

16 MS. HOLLOWAY: I think she's coming up now, Your
17 Honor.

18 THE COURT: Okay. Very well.

19 Once again, if anybody wants to stand up or anything
20 like that, I want you to feel free to do so.

21 MS. SUSTAKOVITCH: Your Honor, we have two brief
22 witnesses and then we're done.

23 THE COURT: All right.

24 MS. SUSTAKOVITCH: Yes, ma'am. For today.

25 THE COURT: For today, yes.

1 WEDNESDAY, MAY 11, 2022

2 THE COURT: Good morning.

3 A couple of things for the record. I don't think I
4 was clear -- but I've been clear about this. Of course,
5 we've done everything we could and want the -- the privacy
6 of these children to be upheld as much as possible in
7 every way.

8 I want to be very clear. If there are any
9 photographs to be shown through news media or anything
10 like that that have the childrens faces, other than the
11 victim's face, those -- those should be -- those faces
12 should be digitized before that's published through the
13 media.

14 All right. Next matter up is -- oh, I know. We had
15 an in-chambers conference about this. There is going to
16 be testimony and evidence presented today of an incredibly
17 graphic nature. And that is going to come up fairly
18 quickly.

19 I say that because if there is anyone in this
20 courtroom who feels that they cannot handle that and sit
21 here, for lack of a better word, stoically while this jury
22 considers this testimony and evidence, then I encourage
23 you to leave now. And I say that because I might have --
24 in all candor, if this were someone -- a loved one of
25 mine, I might have a very difficult time keeping my

1 emotions in check with regard to it.

2 But I need for everyone in the gallery to understand
3 what I expect with regard to remaining in the courtroom
4 through this testimony and evidence. Just to put a finer
5 point on it, it will be autopsy material from the medical
6 examiner.

7 All right. That being said, we've got another issue
8 to take up, but we'll do that later with regard to text
9 messages. We can just cross that bridge.

10 Anything else from our in-chambers conference that we
11 need to deal with?

12 MS. SUSTAKOVITCH: No, ma'am.

13 THE COURT: All right.

14 MR. BOUTON: No, Your Honor.

15 THE COURT: All right. Thank you.

16 We're ready to bring the jury back in.

17 (WHEREUPON, the jury came into open court at
18 approximately 9:49 a.m.)

19 THE COURT: Good morning, ladies and gentlemen.

20 I am so sorry to have kept you waiting this morning.
21 I will tell you that the attorneys and I have been
22 confirming on some matters. They, on both sides, have
23 been working to streamline this case.

24 Just to sort of give you a little bit of a road map,
25 we believe that this case will very likely be in your

1 DIRECT EXAMINATION

2 BY MS. HOLLOWAY:

3 Q Sergeant Magaw, where are you employed?

4 A The City of Simpsonville Police Department.

5 Q What's your current position with the Simpsonville
6 Police Department?

7 A I'm currently the training sergeant and accreditation
8 manager.

9 Q How long have you been in law enforcement?

10 A 27 years.

11 Q In those 27 years, what other positions have you
12 held?

13 A I started as a patrol officer and moved to field
14 training officer, sergeant on patrol. I've been in
15 traffic enforcement, accident reconstruction, and
16 investigations. And after investigations, I moved to my
17 current position as sergeant over training.

18 Q Would you mind moving a little closer to the mic?

19 THE COURT: Just a little bit.

20 BY MS. HOLLOWAY:

21 Q Thank you.

22 Were you working on January 14th of 2021?

23 A Yes, I was.

24 Q And what was your position on that day?

25 A I was an investigator with the police department.

1 Q Can you tell us how you became involved in this case?

2 A Yes. On the day this -- this incident occurred, I
3 happened to be in my patrol vehicle. We had a -- an armed
4 robbery that occurred just prior to this call coming out.
5 Two other investigators had arrived on scene at the armed
6 robbery a little bit ahead of myself. And as I was,
7 actually, arriving to the -- to the incident location for
8 the armed robbery, I was still in my vehicle. And I heard
9 the radio dispatch give law enforcement a call for
10 possibly a deceased juvenile at [REDACTED] Sellwood Circle.

11 Q How long did it take you to respond to [REDACTED] Sellwood
12 Circle?

13 A Yeah. At that time, I just left. Because other
14 investigators were already on scene at the armed robbery.
15 So I just went straight to that call. Probably four or
16 five minutes.

17 Q What did you see when you got to the -- to the call?

18 A So when I arrived, there was -- fire department
19 personnel were on scene. Officer Patrikis was already on
20 scene. And I was met outside in the yard by -- by
21 officers and by fire department personnel.

22 Q Did you see V.S.?

23 A I did.

24 Q Tell us about that.

25 A Okay. After I was -- arrived on scene and was

1 briefed in the front yard briefly on what was going on, I
2 entered the home. As soon as I went in, the stairway to
3 the left, you can see up in the stairway. And I could
4 hear the commotion. I could hear people.

5 So I went to that location. And I really was kind of
6 stuck in the hallway. There were so many people in the
7 room where **V.S.** was. But I could kind of see through
8 people. And I saw them working on her. She was on the
9 floor at that time.

10 Q When you saw her on the floor, what was she wearing?

11 A Just a diaper. It appeared to be a diaper.

12 Q And when you looked at her in the diaper, what did
13 you see?

14 A Well, it was hard to see as I was -- really, as that
15 was happening. They were about to remove her. They were
16 getting her on the board to bring her out. So I kind of
17 stepped back.

18 And as they were bringing her out and I could see as
19 they passed by me that -- I could see bruising on her --
20 the right side of her abdomen. And it looked a little bit
21 swollen, too. It was kind of raised up a little bit. And
22 then I could, also, see purple from the legs down. She
23 was on her back at that time when they took her out on the
24 stretcher.

25 Q Who was in the home when you arrived? Not -- not law

1 enforcement, but as far as who -- which members of V.S.'s
2 family was -- was present in the home?

3 A Okay. The -- the foster parents, both husband and
4 wife, Austin Robinson and Ariel Robinson, were present.

5 Q Were there any other children in the home?

6 A There were no other children in the home.

7 Q Okay. What was Ariel Robinson's demeanor like? And
8 what was Austin Robinson's demeanor like?

9 A Well, as -- when I first got there, they were
10 talking. Ariel was talking to the fire department. And
11 she was talking very fast. She -- she seemed just quick
12 talking, talking a lot about what happened.

13 And Austin's demeanor was calm. He was calm and
14 quiet. He -- he really wasn't saying a whole lot.

15 Q We've seen State's Exhibit No. 1, which is the body
16 cam captured by Officer Patrikis. Is that you on the body
17 cam speaking to the Defendant?

18 A That is me.

19 Q Was she under arrest at that time when you spoke with
20 her?

21 A No.

22 Q Was she being detained?

23 A No.

24 Q What's the difference between when somebody is
25 arrested and when somebody is detained?

1 A Well, obviously, an arrest -- when you're arrested,
2 you're in handcuffs. You're in custody. Your -- your
3 movements are restricted. Being detained, depending on
4 the circumstances, you may be restricted a little, but
5 you're not under arrest. You're not -- you still have
6 some freedom of movement in that kind of situation.

7 Q Was she ever in handcuffs?

8 A No.

9 Q So the incident happens on January 14th, when was
10 she, actually, arrested?

11 A On the 19th.

12 Q So at this point, on January 14th, what was the
13 purpose of you speaking with her?

14 A Well, any time we get a call, obviously, the first
15 thing we have to do is just kind of what happened?
16 What's -- what's going on? Every call we go on, that's
17 the question we ask. How can we help you? What's going
18 on today? What's happening?

19 So that was the purpose, we're just to kind of figure
20 out -- I didn't know if we had a medical call. And I
21 later found out -- they said that she was drinking water.
22 So I really didn't know the nature of the call, but that
23 there was a child in medical distress.

24 Q Do you recall what Ariel said happened that day?

25 A Yes. She explained to us that -- that **V.S.** had --

1 was very thirsty. And that she had drank several cups of
2 water. And that it appeared that she -- her stomach was
3 hurting. She said that -- obviously, when I saw the
4 bruising, I said, Well, how does that relate to the
5 bruises that I saw? And Ariel told us that she did the
6 bruising right then and there prior to 911 being called to
7 try to do the Heimlich and was pushing on her stomach.

8 And that -- so I asked, What about the legs? How did
9 they get so purple? And at the time, I didn't see the
10 depth of it, but you can see from the photos that she was
11 laying on her back. But I could see purple all the way
12 down. I said, How did that happen?

13 And she said that [V.S.]'s older brother, who is seven,
14 had anger issues. And over the last -- the course of the
15 last couple of weeks, he had been getting where he was
16 more violent with [V.S.]. This was the middle of January.
17 She said since about Christmas time, Christmas break, he'd
18 been getting more violent with her.

19 Q And when Ariel was giving this story about the
20 brother, where was Austin?

21 A Austin was in the room with us kind of off to the
22 side, just quiet. He could hear what was being said. But
23 he was just standing there.

24 Q Did you end up having a conversation with Austin,
25 also?

1 A I did.

2 Q And did he tell you similar information to what Ariel
3 had said?

4 A Yes. He, basically, told us the same information
5 that Ariel said.

6 Q That day on scene, did Austin ever tell you that he
7 saw Ariel hitting V.S. with a belt?

8 A He did not.

9 Q When was the first time you ever heard from Austin
10 that he witnessed Ariel beating V.S. with a belt?

11 A After we had made the arrest, a short time later,
12 maybe a couple of weeks later, we had -- actually, I don't
13 know the meeting date. But we had -- I had been contacted
14 by -- by Austin's attorney and told that he wanted --
15 Austin wanted to make a statement.

16 Q We're going to talk more about that statement in a
17 minute. But, first, what was the temperature in the
18 Defendant's home?

19 A It was very warm in the home. I know we were -- it
20 was January. We were -- I mean, we were all sweating. It
21 was very warm in the house.

22 Q Did you get a search warrant the day of the incident?

23 A We did. We got a search warrant that day. We didn't
24 know if we -- if we had a criminal act yet. We were just
25 investigate -- trying to figure out what happened as a

1 medical call. The search warrant that day was primarily
2 for -- I wanted -- when we go on a scene -- for example,
3 when we do accident reconstruction, we document, we
4 photograph, we paint the road, that kind of thing. We --
5 we want to document the scene. It was not necessarily a
6 criminal investigation at that time. We want to document.

7 So to do that in someone's home I thought that a
8 search warrant would be really necessary in someone else's
9 home to be photographing, and that kind of thing. And
10 that's what -- that was the purpose of that -- that search
11 warrant.

12 Q And you mentioned before that there were other
13 children living in the home; correct?

14 A I was told there was other children living in the
15 home.

16 Q So, at that point, what were -- what decisions were
17 made regarding the other children living in the home?

18 A Well, the other children were at school at the time
19 and were -- and were about to be picked up. We talked
20 about -- because we didn't know the nature of what was
21 going on, whether it was just a medical call because of
22 the -- the bruising and unsure of really what we had, we
23 felt it would be best if -- especially the children that
24 were -- the foster children that were still in DSS
25 custody -- we contacted DSS and advised them, of course,

1 what was going on. And the decision was made, too, that
2 those children would be taken from the home for -- for
3 safety until we knew more what was going on.

4 Q Were Austin and Ariel's biological children, [K.R.]
5 and [A.R.] also, removed from the home?

6 A Yes, they were.

7 Q Were all four boys sent to interviews in an age
8 appropriate setting after this incident?

9 A The boys did take -- have interviews. The foster --
10 the two foster boys were taken to the Julie Valentine
11 Center, which is the children's advocacy center in
12 Greenville, where they have trained -- people that are
13 trained to interview children for -- for any kind of
14 incident like this.

15 Q Were they able to give you any information about what
16 happened to [V.S.] the day she was killed?

17 A They weren't. They -- they didn't -- at that time,
18 they had no idea what had happened. They weren't home.
19 They were at school.

20 Q Turning your attention to January 15th, was an
21 autopsy conducted on [V.S.]?

22 A Yes, there was.

23 Q And were you present for the autopsy?

24 A I was present for that.

25 Q Why is it important for law enforcement to be present

1 for autopsies?

2 A Really, it's twofold. It's important for the medical
3 examiner -- if the medical examiner were to have a
4 question, not so much in this case, but if he were to have
5 a question about the scene of the crime or anything that
6 we saw that may aid him in his -- in his work. And
7 then -- and then, of course, in the -- reciprocate that is
8 if he has any information that could help us with our
9 investigation.

10 Q And on that same day, January 15th, did you have the
11 occasion to return to [REDACTED] Sellwood Circle?

12 A I did.

13 Q Why was that?

14 A We -- after -- after [REDACTED] V.S. had passed that evening, we
15 now have -- it -- it transitioned from a medical call to a
16 death investigation. So, at that time, we did go back to
17 the house because -- to try to -- there were cameras in
18 the home.

19 So we went back to the house with a search warrant
20 now that we have an actual death investigation to collect
21 more evidence than we did originally the first day.

22 Q Did you have a chance to speak with the Defendant
23 that day as well?

24 A I did.

25 Q Did she give you the same story that the bruising on

1 the abdomen was from the -- the failed Heimlich and the
2 brother caused the injuries to her legs?

3 A Yes.

4 Q When you went to execute that search warrant, what
5 were you looking for?

6 A At that -- mostly, what we were looking for that day
7 was the cameras and any electronical -- electronic devices
8 that could record, like, SD cards, flash drives, that kind
9 of thing, the phones, anything that could record. We were
10 told the original day, Thursday on the 14th, that those
11 cameras did not record. Both Ariel and Austin told us
12 they only live feed so they could keep an eye on the
13 children, that they did not record. And, of course, the
14 first day was just a documentation of the scene.

15 But what happened -- of course, after the death,
16 it -- it raised to a death investigation now. So we went
17 for the cameras, anything that would hold digital data
18 like a phone or a flash drive. And, also, when the kids
19 were interviewed, they did mention that sometimes they
20 would get corporal -- there would corporal punishment --

21 MR. BOUTON: Objection, Your Honor.

22 THE COURT: Sustained.

23 THE WITNESS: Okay.

24 BY MS. HOLLOWAY:

25 Q Going back to the cameras that you were mentioning,

1 are you aware of anything of evidentiary value that was
2 ever collected from those cameras?

3 A No. There was nothing on any of the cameras.

4 Q Defense Counsel yesterday mentioned the Jawa app. I
5 believe you were here in the courtroom. Did anything of
6 evidentiary value ever come up with this app?

7 A No. Jerry offered -- excuse me, Austin offered to --
8 to try to open the app for us and after -- when we met
9 with him. And he said that it had gotten deleted. The
10 account, actually, got deleted the day of the incident.

11 Q As you're at [REDACTED] Sellwood Circle on January 15th,
12 you're executing the search warrant for the cameras, what
13 was the Defendant doing?

14 A Well, right before we left, we were pretty much
15 wrapped up with collecting the cameras and the things
16 we -- we took from the home. We were about to leave. And
17 she sat down at the computer. And I just asked her, you
18 know, common place, I just -- What are you working on?
19 And she told me she was working on -- she had just -- she
20 was posting her next comedy skit or routine that she --
21 that she does online.

22 Q Did you end up receiving information from the coroner
23 about [REDACTED] V.S.?

24 A I did. On the 19th, I was contacted by the coroner's
25 office that the medical examiner had made his final

1 report.

2 Q What were the findings of his report?

3 A The findings of his report, as told to me, were that
4 the cause of death was multiple blunt force trauma. And
5 the manner of death was homicide.

6 Q What did you do when you learned that information?

7 A With that information, we drafted search warrants
8 that were -- or I'm sorry, arrest warrants.

9 Q Who were those arrest warrants for?

10 A Both Ariel and Austin Robinson.

11 Q Did you end up arresting them on those warrants?

12 A We did that same day.

13 Q Did you ever have the opportunity to speak with
14 Austin again about this incident after his arrest?

15 A Yes. As I said that -- later, we were -- I was
16 contacted by his attorney and told that Austin wanted to
17 give a statement.

18 Q So you did not initiate any contact with him?

19 A No.

20 Q Who was present when Austin gave that statement?

21 A Agent Ezell with SLED. And his attorney was present
22 with him at that time.

23 Q Would you say that that statement was voluntary?

24 A Yes. Even then -- even though they contacted us, we
25 did read him and document that we gave him his Miranda

1 warnings, that he did not have to speak to us. And that
2 was recorded. And so even with his -- his attorney, he
3 still wanted to talk to us.

4 Q Were there any promises made to Austin Robinson in
5 exchange for his statement?

6 A No. There's nothing I could promise him. I don't
7 have that authority.

8 Q Any kind of deals, or anything like that?

9 A No. I don't have the authority to do that.

10 Q Did you have any idea, at that point, what he was
11 going to say?

12 A We had no idea what he was going to tell us.

13 Q And you were in the courtroom during Austin's
14 testimony; correct?

15 A Yes, ma'am.

16 Q Is what he said in his statement, does that fairly --
17 fairly and accurately echo what his testimony was in the
18 courtroom?

19 A Yes.

20 Q As a result of Austin's statement, were you able to
21 look for further bits of evidence to help you in your
22 investigation?

23 A Yes. Now that we had a -- he spoke to us and told us
24 about the incident that took place. We had more
25 information then. He described going to CVS to buy the

1 Tylenol. So we -- investigators went to the CVS he told
2 us about to obtain video from the CVS to confirm that what
3 he was telling us was true. We, also, had -- he explained
4 in -- in more detail -- he was able to describe the belt
5 that was used, specifically. So -- and he, also, told us
6 they had gone to the church the night before, about that.

7 Q So what did you do for -- to collect evidence at the
8 church?

9 A So we went -- a search warrant was signed. SLED,
10 actually, assisted us with the search warrant because the
11 church was not in the city limits of Simpsonville. So not
12 having jurisdiction there to, actually, do the warrant,
13 SLED assisted us. We got a warrant for the church to
14 obtain surveillance video of the church. And I mentioned
15 the CVS video. And we, also, got a search warrant to go
16 back to the home again now that we had a specific -- a
17 specific description about a belt that was used.

18 Q How high would you say, at this point, the chances
19 were that you would find any of those belts?

20 A Well, I wasn't real hopeful because so much time had
21 passed. In fact, when we went back to the home to look
22 for a specific belt, friends and family had been in the
23 home at that point. And they were moving. And there were
24 boxes in the home. So a lot of the stuff that was in the
25 home originally was now not even in the -- in the home.

1 Q So would it be fair to say you didn't expect to find
2 belts with a whole lot of evidentiary value at that point?

3 A It would be, yes.

4 Q So fast-forwarding then to November, December of
5 2021, what evidence were you trying to collect at that
6 time?

7 A At that time, because some belts were collected and
8 DNA was being processed, which is a long process, I was
9 advised by the DNA lab that they needed what's called a --
10 base line samples. So I collected DNA samples, what's
11 called buccal swabs from every member of the family.

12 Q How do you collect a buccal swab?

13 A It's, basically, a sterile Q-tip. It -- it rubs
14 inside the cheek. And then it goes into a secure -- a
15 little vial and you close it. And it's really -- it's
16 just saliva on a Q-tip.

17 Q So you said everyone in the family, would that
18 include Austin, Ariel, their two sons, [K.R.] and [A.R.],
19 and then the three foster children, [C.E.], [J.E.], and
20 [V.S.]?

21 A Yes. And with [V.S.], to get her sample, I contacted
22 the coroner's office. Because they -- they handled the
23 processing of the autopsy. So I was given a -- her sample
24 from them. And the others were all cheek swabs.

25 Q What did you do with those swabs after you collected

1 them?

2 A They were placed into the Simpsonville property and
3 evidence. And a lab -- and a request was done to send
4 them to the lab so the lab would have those as they needed
5 them.

6 MS. HOLLOWAY: Nothing further at this time. Please
7 answer any questions the Defense may have.

8 THE COURT: Mr. Bouton.

9 MR. BOUTON: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. BOUTON:

12 Q Good morning, Investigator Magaw.

13 A Good morning, sir.

14 Q When you got the arrest warrants for Austin and
15 Ariel, you got -- you charged Austin with the same charge
16 that you charged Ariel with; is that correct?

17 A Yes.

18 Q And when you arrived on the 14th, the day that --
19 that **V.S.** passed away, I believe you stated that there
20 were a lot of people already there, fire, EMS by the time
21 you arrived; is that correct?

22 A Yes, sir.

23 Q I think you stated that there were a lot of people in
24 the room. But you could hear the commotion. And I -- I
25 had written down that you said, I was stuck in the hallway

1 Place your left hand on the Bible and raise your
2 right hand.

3 WHEREUPON,

4 MICHAEL EUGENE WARD, M.D.,
5 after first having been duly sworn, testified as follows:

6 THE CLERK: Thank you.

7 You may have a seat.

8 Please state your full name for the record.

9 THE WITNESS: Michael Eugene Ward.

10 DIRECT EXAMINATION

11 BY MS. SUSTAKOVITCH:

12 Q Good morning, Dr. Ward.

13 What do you do, sir?

14 A I'm sorry.

15 Q What do you do for a living?

16 A I'm a forensic pathologist, which means I'm a
17 physician licensed in the State of South Carolina. And I
18 work for the office of the medical examiner performing
19 autopsies to determine cause and manner of death.

20 Q And how long have you been employed there?

21 A 27 years.

22 Q Dr. Ward, in those 27 years, how many -- just a rough
23 estimate. How many autopsies have you had occasion to do?

24 A Well over 7,000.

25 Q And during those years and those 7,000 autopsies, how

1 often have you had occasion to have children that you've
2 had to do autopsies on?

3 A I suspect well over a hundred.

4 Q Dr. Ward, what -- what is your title there?

5 A I'm the chief medical examiner for Greenville County.

6 Q Okay. Can you give the jury a little idea of your
7 educational background, Dr. Ward?

8 A Yes. I have a Bachelor's Degree in Biology from the
9 University of Alabama. I received my Master's Degree in
10 Forensic Science from the University of Alabama in
11 Birmingham.

12 My medical degree is from the University of South
13 Alabama, which is in Mobile. I did a four-year anatomic
14 pathology residency at the Medical University of South
15 Carolina in Charleston. I had a one-year fellowship in
16 forensic pathology at the University of New Mexico in
17 Albuquerque. And I'm board certified by the American
18 Board of Pathology in both anatomic and forensic
19 pathology.

20 Q And can you explain a little bit more about what
21 forensic pathology is to the jury?

22 A So pathology is the study of disease and disease
23 processes and how they affect man. Forensic pathology
24 takes that one step further not only dealing with disease,
25 but trauma, injuries, how people -- how and why people die

1 and then the presentation of that information in the court
2 of law.

3 Q And, Dr. Ward, what is the American Board of
4 Pathology?

5 A The American Board of Pathology is the governing body
6 for pathologists in the United States. They license a
7 variety of different subspecialties of pathology, forensic
8 pathology being one of those.

9 Q And, Dr. Ward, are you certified by the American
10 Board of Pathology?

11 A Yes, I am in anatomic and forensic pathology.

12 Q And are you, in fact, a diplomat with the American
13 Board of Pathology?

14 A Yes, I am.

15 Q And what does that mean to be a diplomat with the
16 American Board of Pathology?

17 A To have met the training requirement of a --
18 successfully completed a fellowship, to sit for and pass a
19 licensing examination.

20 Q And, Dr. Ward, in your duties as a forensic
21 pathologist in Greenville County, can you explain how
22 autopsies are performed in these 7,000 that you've done?

23 A So the autopsies in Greenville County are done at the
24 request of and by the Greenville County Coroner's Office.
25 The coroner's office and the medical examiner's office can

1 both request or order an autopsy to be performed. The
2 external -- the scene investigations are, generally,
3 handled by the coroner's office. At the time of autopsy,
4 we do an external examination taking photographs,
5 documenting any injuries or processes on the outside of
6 the body, then doing an internal examination to, one, see
7 if there are any continuation of those injuries that may
8 have been present inside the body. And then to look for
9 any natural disease that may be present.

10 Q And, Dr. Ward, have you been qualified in a court of
11 law as an expert witness in the area of forensic
12 pathology?

13 A Yes, I have.

14 Q And in which courts have you been qualified?

15 A In the state courts of New Mexico, North Carolina,
16 South Carolina, as well as in federal -- federal court.

17 Q And how many times, Dr. Ward, have you been
18 qualified?

19 A Well over a hundred times.

20 Q Have you testified in the area of forensic pathology
21 and been qualified as an expert all those times?

22 A Yes, I have.

23 MS. SUSTAKOVITCH: Your Honor, at this time, the
24 State moves to admit Dr. Ward as an expert in the area of
25 forensic pathology.

1 THE COURT: Any objection or further voir dire?

2 MR. BOUTON: No, ma'am.

3 THE COURT: Ladies and gentlemen of the jury, I
4 explained an expert witness to you yesterday. That an
5 expert witness is qualified in some area to give their
6 opinion, and conclusions, and the reasons for that opinion
7 and conclusions.

8 This witness will be qualified to give his opinion in
9 the field of forensic pathology. And, of course, once
10 again, you may use that opinion any way you see fit.

11 Thank you.

12 BY MS. SUSTAKOVITCH:

13 Q Dr. Ward, were you serving then as a forensic
14 pathologist or -- and the chief medical examiner for
15 Greenville County on January 15th --

16 A Yes, I was.

17 Q -- 2021?

18 A Yes, ma'am.

19 Q And did you perform an autopsy on a little girl named
20 [REDACTED] V.S. [REDACTED]?

21 A I did.

22 Q How did you identify [REDACTED] V.S. [REDACTED] on that date?

23 A Well, she was identified by Deputy Coroner Shelton
24 England, who was present at the time of autopsy, as well
25 as by an identification band that was present.

1 Q And will you tell the jury how her body presented to
2 you on that day? She was brought in by the corner then?

3 A Yes, ma'am. So she was presented to us -- I'm not
4 really sure how to answer that question. So it was
5 obvious that she had some external. She was --

6 Q Dr. Ward, I'm going to show you --

7 A -- about 38 inches in length and weighed 40 pounds.

8 Q Yes. On your initial examination of [V.S.], what
9 became apparent immediately when you began examining her?

10 A There were, obviously, numerous -- virtually
11 innumerable bruises present about [V.S.] on her stomach,
12 on her back, and extending down to her lower legs.

13 Q Dr. Ward, I'm going to show you a photograph that's
14 previously been entered into evidence as State's Exhibit
15 No. 2. Does that accurately -- does this look similar to
16 what you saw with [V.S.] with the bruising?

17 A Yes, it does.

18 Q Okay. And, Dr. Ward, you have your case file up
19 there with you; correct?

20 A I do.

21 Q And you have some other photographs that you took at
22 the autopsy; correct?

23 A That's correct.

24 Q All right. We're going to go look at this
25 photograph. So, Dr. Ward, when you're looking at

1 V.S. what is the purpose of this autopsy? What are
2 you trying to determine, meaning the cause and manner of
3 death? What does that mean?

4 A First of all, we're documenting any injuries that
5 may -- may be present, determining cause and manner of
6 death. So the cause of death is what disease process or
7 what injury process resulted in V.S. dying that day.

8 The manner of death has to deal with how those --
9 how that process came about. Was it a natural process, or
10 was it something that someone did to her? And in this
11 case, we felt these were non-accidental injuries or -- so
12 that they were inflicted by another individual.

13 Q Dr. Ward, let's talk about V.S.'s abdomen first.
14 Can you talk to the jury a little bit about what you're
15 seeing on her abdomen right there?

16 A Do you have a pointer?

17 Q You can stand up, Dr. Ward --

18 A Oh, that would be great.

19 Q -- and just -- actually, just point on the
20 photograph.

21 THE COURT: And I will tell you, Dr. Ward, since
22 we've got this new technology in the courtroom, my pointer
23 does not show up.

24 THE WITNESS: Oh, okay.

25 THE COURT: I'm very sorry.

1 THE WITNESS: That's fine. I don't mind standing up
2 at all.

3 BY MS. SUSTAKOVITCH:

4 Q Yes, sir.

5 A So this is a photograph of the front portion of
6 V.S. She has the multiple medical apparatuses that
7 were used to -- in an attempt to resuscitate her.
8 However, these are the areas of relatively normal skin.
9 And these are all areas of bruising to her abdomen, to her
10 right hip and thigh region, and then to the left thigh
11 region.

12 Q Dr. Ward, we're going to come back to this
13 photograph. But, now, we're going to go to State's
14 Exhibit No. 4. Can you explain to the jury what you're
15 seeing here?

16 A Yes, ma'am. This is a photograph, basically, from
17 the right side of V.S. , again, showing the -- the
18 bruising to the abdomen with some areas of not only
19 bruising, but scratching or abrasion of the skin seen in
20 this area here, here, and here. And then this is
21 V.S. 's right side and then the back of her right thigh
22 with just this confluent of bruises that are running
23 together. They're -- they've -- they're overlapping each
24 other. So they're becoming confluent or almost solid.

25 Q Dr. Ward, do you have a medical opinion about what

1 caused that bruising to her leg?

2 A Yes, I do.

3 Q Can you offer that to the jury?

4 A So this is from blunt force injuries. This is from
5 multiple blows to the skin and the tissue of her right --
6 of the back side of her right leg.

7 Q Dr. Ward, I'm showing you what's been previously
8 entered as State's Exhibit No. 5. And we're seeing both
9 of [REDACTED] V.S. [REDACTED]'s legs here. Can you talk the jury through --
10 are you seeing additional blunt force trauma injuries to
11 [REDACTED] V.S. [REDACTED]?

12 A Yes, ma'am. We talked about the bruising to the
13 abdomen. Here, this -- the bruising of the outside of the
14 right thigh is now seen to be on the back and on the inner
15 aspect of the right thigh, as well as on the front and
16 back portion of the left thigh as well.

17 Q And, Dr. Ward, do -- these injuries to both legs, do
18 they appear to be additional blows to [REDACTED] V.S. [REDACTED]?

19 A Yes. These are separate and distinct from this side
20 to this side.

21 Q Dr. Ward, I'm going to move on to this photograph of
22 [REDACTED] V.S. [REDACTED]'s back. Talk to me about her back.

23 A So it's a photograph of [REDACTED] V.S. [REDACTED]'s back with the head
24 oriented to the right of the screen, her lower extremities
25 to the left. So this area of discolorization here that

1 overline the buttocks is livor mortis. This is where
2 blood settles to gravity. So I don't -- this was not an
3 injury. This, however, is areas of bruising -- excuse me.
4 This was an area of bruising to the midportion of the
5 lower back. Again, showing bruising, abrasion, or
6 scratching of the skin here, a separate bruise here, here,
7 and here. And as they start to fill in or become merging
8 together from -- as the blood seeps into the tissues.

9 Q Dr. Ward, I've got a water up there, if you need one.

10 A Thank you.

11 Q Yes. So I want to focus on in this case looking at
12 the back. There's an allegation -- there's an allegation
13 by the Defendant that she caused injuries to V.S.'s
14 abdomen by doing CPR wrong, Dr. Ward.

15 A Yes, ma'am.

16 Q Do you have a medical opinion about the likelihood of
17 that being true, that somebody could cause these injuries
18 to this child's abdomen doing CPR wrong?

19 A I do have an opinion. My opinion is that these are
20 not consistent with incorrect hand placement during CPR.

21 Q Okay. And tell me a little bit more about if
22 somebody was just pressing on the stomach trying to get
23 water out, would that cause, do you think, these injuries
24 to her stomach, Dr. Ward, and then these injuries to the
25 back?

1 A No, they would not.

2 Q Tell me a little bit more about that.

3 A So pressing on the stomach, which we frequently do --
4 we mash on our, you know, skin all the time. And when we
5 see individuals that have CPR all the time, which is
6 forceful compression of the chest -- V.S. had
7 prolonged CPR, which would be forceful compressions of her
8 chest. She does not have this type of bruising to her
9 chest.

10 These injuries are distinct areas of blows to the
11 skin of the abdomen and separate blows to the skin of the
12 back. Compressing on the front of V.S., certainly,
13 would not cause bruising to the back of V.S. It
14 just -- first of all, if I lay flat, this part of my back
15 is off the ground. The hollow of my back does not come in
16 contact with -- with the ground.

17 And, secondly, compressing the front is not going to
18 cause bruising of the back. This is trauma to the skin so
19 that it disrupts blood vessels allowing hemorrhage or
20 bleeding into the soft tissues of the skin. So that does
21 not happen from compressing one side and the other side
22 being down on the ground.

23 Q And, Dr. Ward, you, also, did an internal examination
24 of V.S.'s organs; correct?

25 A That's correct.

1 Q So looking at her abdomen, isn't it true that if --
2 if you had pushed hard enough to make bruising, what --
3 what would have happened to her liver and her other
4 organs?

5 A So there are intervening -- what we call visceral
6 organs or organs within the abdomen, the liver, the
7 spleen, the stomach, multiple loops of intestine that are
8 present between the front surface and the back surface.
9 Even if I thought it were possible to mash on the front
10 stomach and cause bruising to the back, then there would,
11 certainly, be an injury to the underlying organs that
12 would have to be compressed in order to get your back to
13 hit the ground that hard.

14 Q Dr. Ward, it is, again, your testimony you do not
15 believe these injuries are from pressing on her stomach?

16 A That is correct. I do not believe they are.

17 Q All right. Dr. Ward, I wanted to move forward with
18 the Heimlich maneuver. The Defendant in this case has
19 said that she might have tried to do the Heimlich maneuver
20 on [REDACTED] V.S. when she was choking on water. First, does
21 this child present to be someone who was choking on water
22 and that was the primary complaint?

23 A I'm sorry. I don't understand --

24 Q Does [REDACTED] V.S. appear to be -- with what you saw, does
25 [REDACTED] V.S. appear to be a child that was choking on water

1 and that's what caused these injuries?

2 A So these, certainly, are not injuries that you would
3 expect to see from any type of choking incident. Is it
4 conceivable that there was some sort of choking incident?
5 It's possible. But these -- these separate blows to --
6 multiple blows here, here, here, and to the backside, as
7 well as to the back are in no way associated with any type
8 of resuscitated efforts for children.

9 Q And, Dr. Ward, as far as the Heimlich maneuver, if
10 the Defendant is saying that she was trying to perform
11 that, what would your expert opinion be about that and
12 whether that could be true with these pictures?

13 A Well, first of all, I don't think the Heimlich
14 maneuver is going to cause any type of injury to the skin
15 whatsoever.

16 Secondly, the Heimlich maneuver, the hand placement
17 is here so that the diaphragm is forced upward forcing air
18 out of the lungs to blow out whatever obstructing object
19 is -- is present at the opening of the trachea. So if
20 there was an injury, it would be here.

21 And, secondly, the individuals that I have seen the
22 Heimlich maneuver performed on successfully do not have
23 bruising on their skin.

24 Q And, Dr. Ward, in your training, have you ever seen
25 people that you've done autopsies on that have had CPR

1 have that kind of bruising on them?

2 A I have not.

3 Q I want to move on to her back, Dr. Ward, and focus on
4 that a little bit more. Could you tell the jury a little
5 bit about the injuries that you see to her back? Is there
6 one injury or does it appear to be multiple blows to the
7 back?

8 A There are multiple separate areas of bruising with
9 abrasion to the back. Here's a scratch of the skin with
10 the bruising associated with that, a separate area of
11 bruising with abrasion. And then this is a distinct area
12 of bruising here.

13 So there are, at least, three separate blows. I
14 think probably more. This is probably one here as well.
15 But, at least, three distinct areas of bruising.

16 Q When you say "bruising," do you mean blows to the
17 back?

18 A Blows to the back with hemorrhage into the -- or
19 bleeding into the skin.

20 Q Dr. Ward, I want to go back to State's Exhibit No. 2,
21 which is -- I'm sorry. First, what does the term pattern
22 bruising mean, Dr. Ward?

23 A A -- a pattern injury is one that -- that leaves a
24 mark or an injury pattern that while you may not be able
25 to distinguish what that pattern is, it's -- it's

1 something that's not naturally found in nature. So when
2 we are injured, it can oftentimes be the shape of the
3 object with which we are injured is transferred to the
4 skin.

5 And in this case, V.S. has different injury
6 patterns present on the skin, which help us to understand
7 or, at least, come to grips with the fact that she's being
8 hit with a -- at least, some of these times hit with a
9 non-anatomical object. Not all of these blows are with
10 the hand, some of them are with a foreign object.

11 Q And, Dr. Ward, can you show the jury where you see
12 pattern bruising on State's Exhibit No. 2?

13 A So State's Exhibit No. 2 shows this area of
14 hemorrhage within the skin or this bruising. And then you
15 see a pattern here, these right angles. So our hands or
16 our fists don't have right angles to them. So this is,
17 obviously, a -- an injury pattern, something striking the
18 skin that has right angles to it.

19 Q And, Dr. Ward, would -- different objects that could
20 possibly cause that, would one be a belt or a belt buckle?

21 A So, yes, it could be. And the reason I think about a
22 belt is that she has other pattern injuries of elongate
23 parallel lines that make you think about the body of the
24 belt. This would make me think of the belt buckle that --
25 with the right angles.

1 So here's the elongated portion of the -- the leather
2 portion of the belt, if you will, and then the belt
3 buckle. And then there's another pattern injury that I'm
4 sure we will be able to show that has a U-shape pattern,
5 which would be, like, the tongue of the belt buckle --
6 tongue of the belt.

7 Q And, Dr. Ward, where is that pattern bruising? Is
8 that on her back or on her --

9 A It's right here.

10 Q Oh, I see. Underneath the -- that's a life saving
11 measure that's on her there?

12 A Yes. That's a little sticky thing that's holding --
13 holding the catheter in place.

14 Q And just to be clear, Dr. Ward, these photographs
15 have previously been admitted. They were taken at the
16 hospital by law enforcement when she was brought in?

17 A That is correct.

18 Q And -- yes. Okay. I wanted to move on next to her
19 legs. And I believe you've covered a lot of that,
20 Dr. Ward. But going back to [REDACTED] V.S. [REDACTED]'s legs, can you talk
21 about the amount of force that was used to inflict this
22 kind of injury on this child?

23 A So the force that's being used here is enough to not
24 only cause a bruise into the skin, but to disrupt
25 virtually all of the superficial blood vessels of the

1 skin. So that not only is there bruising, but there's
2 bleeding into the subcutaneous tissues or the -- I'm
3 sorry, the fat beneath the skin, as well as into the
4 underlying muscle tearing the -- there are planes -- there
5 are tissue planes as we go from superficial to deep in
6 our legs.

7 So there's skin. There's fatty tissue. Then there's
8 a separate plane where this tissue attaches, if you will,
9 to the underlying muscle. These bruises or these blows
10 are with enough force to cause the upper layer to be
11 separated from the lower layer and blood to collect in
12 this area.

13 So this isn't what we think of as a traditional
14 bruise of the skin. This is a severe deep injury that's
15 tearing tissue from tissue and allowing blood to collect
16 within the tissues underneath the skin.

17 Q And, Dr. Ward, do you believe that this darkening
18 here is from one blow or multiple blows?

19 A I believe it's from multiple blows.

20 Q Dr. Ward, I'm going to show you -- this is State's
21 Exhibit No. 42. Dr. Ward, do you recognize that?

22 A Yes, ma'am, I do.

23 Q And what is that, Dr. Ward?

24 A It's a photograph of the back of the legs of V.S.
25 during the autopsy process where the skin has been encised

1 or opened up to -- to visualize the underlying fatty
2 tissues and that -- that area of disruption of the plane
3 that I was talking about between one layer and the other
4 and the accumulation of that blood in that area.

5 Q And, Dr. Ward, this is, actually, a photograph you
6 took during autopsy?

7 A Yes.

8 Q And is it a fair and accurate representation of the
9 photograph you personally took during autopsy?

10 A It is.

11 MS. SUSTAKOVITCH: Your Honor, at this time, the
12 State moves to admit State's Exhibit No. 42.

13 THE COURT: Any objection?

14 MR. BOUTON: Yes, Your Honor, I object. I feel that
15 this photo has the potential to inflame the passions of
16 the jury. And it's more prejudicial than probative in
17 this case.

18 THE COURT: I, certainly, understand your objection.
19 It's overruled.

20 And this -- and you said State's Exhibit No. 40 --
21 what number is that?

22 MS. SUSTAKOVITCH: State's Exhibit No. 42, Your Honor.

23 THE COURT: State's Exhibit No. 42 is admitted.

24 (WHEREUPON, State's Exhibit No. 42 was admitted into
25 evidence.)

1 BY MS. SUSTAKOVITCH:

2 Q Dr. Ward, this is a photograph that you took. Do you
3 take internal photographs of injuries when you do
4 autopsies, Dr. Ward?

5 A Sometimes, yes.

6 Q Okay. So can you explain to the jury what they are
7 seeing in State's Exhibit No. 42?

8 A The external surface of the skin -- I'm sorry. This
9 is the lower portion of the legs. So the feet are down
10 this way, the buttocks is up this way. So this is from
11 the back. So these are the back of the thighs. This is
12 roughly the area of the back of the knee and extending
13 down onto the upper portion of the calf.

14 This is skin. This is relatively normal looking
15 subcutaneous tissue. So this yellow stuff is the fat that
16 we all have beneath our skin. So this is the color that
17 it should be. This is a little bit of underlying muscle,
18 this pink part here. So these are relatively normal
19 tissues.

20 Here, we get into the area of injury where this dark
21 area is blood that has bled into the fatty tissue of
22 the -- of the skin. So here, the skins subcutaneous
23 tissue is about a quarter of an inch. And here it's much
24 more like an inch and a half to two inches. Because it's
25 become thickened with the blood that has hemorrhaged or

1 bled into the skin.

2 Here is that area where I was talking about, what we
3 call an avulsion pocket where the -- this tissue has been
4 torn away from the underlying tissue and blood has been
5 allowed to collect here. So that when we open this up,
6 not only did we have blood within the tissue, but we had
7 blood that ran out of that pocket. And so it's here.

8 And so all of this dark area, this is hemorrhaged
9 within the skin within the underlying superficial portion
10 of the musculature and then within that avulsion pocket.
11 And, again, it's present on the right and left side.

12 Q Dr. Ward, can you give the jury -- so what they are
13 seeing internally is what the back of these legs have in
14 them; right?

15 A That's correct.

16 Q And, Dr. Ward, can you venture a guess on how much
17 force is used to do that kind of damage to V.S. 's
18 legs?

19 A Well, force is -- is hard to describe. But this
20 is -- these are very forceful strong blows that can
21 disrupt the tissue underneath. The classic description of
22 an avulsion pocket is someone who's been hit by a car. So
23 the back of their legs, it, basically, emulsifies or
24 liquifies the fat and tears that tissue plane.

25 So this, certainly, isn't the force of a car, but I'm

1 just saying it is a very strong force that would --
2 multiple blows -- very -- multiple strong blows that would
3 disrupt that tissue plane allowing blood to enter into
4 those phases.

5 Q And, Dr. Ward, do you have an opinion when you look
6 at the constellation of injuries to [REDACTED] V.S. [REDACTED], to her back,
7 to her legs -- and I'm just not going to put these back
8 up. But to all of what we just saw, do you have an expert
9 opinion about the timing of these injuries, meaning did
10 they happen around the same time?

11 A So looking at these injuries of both grossly, which
12 would mean by our naked eye, and microscopically, they all
13 appear to be the same age. The colorization within the
14 skin is the same. There's no indication that any of them
15 are healing. So I would say that they all occurred within
16 the same reasonable time period of -- of minutes to hours.

17 Q Dr. Ward, can you tell the jury -- explain to them
18 how [REDACTED] V.S. [REDACTED], actually, died with -- with what you just
19 explained with her legs? What was the actual -- you --
20 you just testified that the cause of death was multiple
21 blunt force trauma. But how did she, actually, die?

22 A [REDACTED] V.S. [REDACTED] bled to death into the tissues of her
23 abdomen and lower extremities, or to her legs.

24 Q Okay. And, Dr. Ward, can you help the jury
25 understand a little bit more, when you have that -- when

1 you're bleeding out in your legs, can you explain to the
2 jury why you die from that?

3 A So we need a certain blood volume to maintain our
4 blood pressure and to maintain our circulation. So if
5 certain parts of our body absolutely require a constant
6 flow of oxygen -- one of those is the brain. And the body
7 is often willing to sacrifice some area and shunt blood
8 from that area to the brain. It has to have blood. It
9 has to have a continuous supply.

10 If we lose enough blood, then our -- basically, our
11 pump, our heart, eventually, doesn't have anything else to
12 pump. There's not enough volume there to maintain blood
13 flow. There's not enough volume for it to pump it up to
14 the brain. And, eventually, we die as a result of that.

15 Q Dr. Ward, in your expert opinion, are these injuries,
16 this constellation of injuries consistent with what a
17 seven-year-old child could do?

18 A No.

19 Q And the reasons for that?

20 A So we've shown the injuries to V.S.. They're
21 very concentrated. They're concentrated on the abdomen,
22 concentrated on the back, and on the back of the lower
23 legs. What we don't see is -- are any what I would call
24 defensive-type injuries where I've got my hands and my
25 arms back here to keep you from hitting me again, which

1 means, in -- in my opinion, someone is controlling her
2 hands to keep them -- to keep her from putting them back
3 there while the blows are being administered.

4 So the two things that make me think that this is not
5 a seven-year-old is, one, a seven-year-old I don't think
6 has the strength or coordination to control [REDACTED] V.S. [REDACTED] s
7 arms, keep her in place while these blows are being
8 delivered in a concentrated region.

9 And, two, at least, my seven-year-old would not have
10 had the reasoning to have all of the blows in one area.
11 If a child gets angry and starts wailing away at
12 something, you know, they're -- they're just thrashing
13 away. All of these blows are in concentrated areas,
14 stomach, lower extremities with multiple blows, as well as
15 back, no defensive-type injuries, which, in my opinion,
16 means her hands are being held out of the way. I just
17 don't see a seven-year-old doing that.

18 Q Dr. Ward, would this -- would the injuries that
19 [REDACTED] V.S. [REDACTED] suffered have been painful?

20 A Absolutely.

21 Q And, Dr. Ward, were you able to come to a conclusion
22 as to the cause of [REDACTED] V.S. [REDACTED]'s death?

23 A [REDACTED] V.S. [REDACTED] died as a result of multiple blunt
24 force injuries.

25 Q And were you able -- were you able to come to a

1 conclusion as to the manner of death?

2 A Yes, I was.

3 Q What is that?

4 A The manner of death is homicide.

5 MS. SUSTAKOVITCH: Please answer any questions
6 Defense Counsel has.

7 THE COURT: Mr. Bouton.

8 MR. BOUTON: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. BOUTON:

11 Q Good morning, Dr. Ward.

12 A Good morning.

13 Q Thank you -- thank you for your assistance in this
14 case.

15 You did -- you did a report as part of your
16 investigation in this matter; is that correct?

17 A Yes, sir.

18 Q I had a couple questions for you about some other
19 things that were listed in your report. You stated, in
20 your opinion, that there was early acute bronchopneumonia.
21 What is that?

22 A Bronchopneumonia occurs when we lose control of our
23 airway. Oftentimes, because our brain has -- we -- we've
24 had some altered mental status or for whatever reason, we
25 can't control our gag reflex and secretions from our mouth

1 or, sometimes, gastric contents, which may come up then
2 go back down the airway. When that happens, the
3 inflammatory response sets up. And there's an early
4 pneumonia process or inflammatory response around these
5 areas indicating that this foreign material is there and
6 the body is trying to clean it up, so pneumonia.

7 Q So, essentially, if -- potentially some liquid that
8 got into her lungs?

9 A Yes.

10 Q Okay. And do you know when that could have occurred?

11 A I don't. It's, certainly, before -- that's not a
12 good statement. It would have occurred before she was
13 intubated by EMS. Because that, generally, allows them to
14 control her airway.

15 So any time prior to her intubation, if she's
16 unresponsive, she's not controlling her airway and oral
17 secretions can get down the airway at that time. She had
18 a prolonged resuscitated period of about four hours, which
19 would allow the body to recognize these bacteria that were
20 there and start to initiate an inflammatory response.

21 Q Thank you.

22 In your medical experience and expertise, do some
23 individuals bruise easier than others?

24 A Some bruise easier. Some are easier to see the
25 bruises on.

1 Q Okay. Can you -- can you explain to me, it appears
2 that whenever I get a bruise, it's usually from something
3 that occurred the day before or -- or prior. Is that --
4 in your medical experience, is that something that is
5 common?

6 A I think it's very common in my experience that if the
7 trauma causing the bruise is significant enough, the
8 bruise is there almost immediately. Casual bruises that
9 we get during life, we may not notice until the next day.
10 But we very often see fatal injuries -- almost immediately
11 fatal injuries that have associated bruising.

12 Q Okay. Can you state with medical certainty when
13 these bruises, actually, occurred?

14 A I cannot give you a time. I can say that the
15 appearance of the bruise both grossly and microscopically
16 is within a few hours of her death.

17 Q Okay. One second, Doctor.

18 And you stated earlier that you didn't observe, in
19 your opinion, what would be -- what would be, I guess,
20 considered an older bruise or a bruise that had begun to
21 heal; is that accurate?

22 A That's correct.

23 Q And you stated that, in your opinion, I believe you
24 said that the bruises all appeared to have probably
25 occurred within minutes or hours of -- of each other?

1 A That is correct.

2 MR. BOUTON: All right. Thank you, Dr. Ward.

3 No further questions.

4 THE COURT: Any -- any further questions for
5 Dr. Ward?

6 MS. SUSTAKOVITCH: No, ma'am.

7 THE COURT: Thank you, Doctor.

8 You can step down.

9 THE WITNESS: Thank you, ma'am.

10 MS. SUSTAKOVITCH: And I believe a juror might need a
11 break.

12 THE COURT: All right. I think it would be a good
13 time for a break. I'd ask you to step to your jury
14 deliberation room.

15 (WHEREUPON, the jury was excused from open court at
16 approximately 10:52 a.m.)

17 THE COURT: All right. And just to make sure that
18 I've covered every base possible. First of all, let me
19 just say to the gallery, I know that was difficult for
20 everyone. And I appreciate everyones demeanor throughout
21 that.

22 Also, I wanted to say, although we have talked about
23 the photos of [REDACTED] V.S. [REDACTED] at the hospital, I don't know that
24 I, specifically, addressed the photograph of the autopsy.
25 And that is not to be released as well. So okay.

1 THE COURT: All right. Sir, you can step down.

2 THE WITNESS: Thank you.

3 THE COURT: Thank you.

4 MS. SUSTAKOVITCH: Your Honor, may this witness be
5 excused?

6 THE COURT: Any objection?

7 MR. BOUTON: No, ma'am.

8 THE COURT: Thank you, sir, for being here.

9 MS. SUSTAKOVITCH: The State calls Dr. Christy Goben.

10 THE CLERK: Ma'am, if you would just stop right here,
11 please.

12 Place your left hand on the Bible and raise your
13 right hand.

14 WHEREUPON,

15 CHRISTINA M. GOBEN, M.D.,
16 after first having been duly sworn, testified as follows:

17 THE CLERK: Thank you.

18 Please be seated.

19 Please state your full name for the record.

20 THE WITNESS: Christina M. Goben.

21 DIRECT EXAMINATION

22 BY MS. SUSTAKOVITCH:

23 Q Good afternoon, Dr. Goben.

24 Where are you employed, ma'am?

25 A At Prisma Health Upstate.

1 Q And what is your position there?

2 A I'm a pediatric intensive care doctor.

3 Q Can you tell the jury a little bit about what a
4 pediatric intensive care doctor does?

5 A I have gone through many years of training to take
6 care of the critically ill children of the upstate,

7 anywhere from children who are just released from the
8 NICU, which are just one or two days old up to 21 years
9 old.

10 Q And tell the jury a little bit about your -- your
11 education.

12 A I went to the University of South Carolina for
13 undergrad. I went to the University of South Carolina
14 School of Medicine for my medical school. And then I did
15 residency at Greenville Memorial. I did a military stint.
16 And then I did a fellowship for three years for pediatric
17 ICU.

18 Q How long was your military stint?

19 A For three years. I was a general pediatrician.

20 Q Okay. And then have you been a member of any boards
21 related to your specialty?

22 A I am a member of the American Academy of Pediatrics.
23 And I am board certified as an ICU physician.

24 Q And how many years have you been practicing pediatric
25 critical care?

1 A I have been in critical care since 2012, so almost
2 11 years.

3 Q And in all those years, were you here at Prisma
4 Health?

5 A I was at Prisma Health since August of 2015.

6 MS. SUSTAKOVITCH: All right. Your Honor, at this
7 time, the State moves to admit Dr. Goben as an expert in
8 pediatric critical care.

9 THE COURT: Any objection or further voir dire?

10 MR. BOUTON: Yes, Your Honor.

11 May we approach?

12 THE COURT: Certainly.

13 (WHEREUPON, a bench conference was held.)

14 THE COURT: Ladies and gentlemen, we've -- we've
15 discussed on several occasions an expert witness. This
16 witness will be qualified to give her opinion in the err
17 of -- area of pediatric critical care and the reasons for
18 that opinion. You may use her opinion, certainly, however
19 you see fit.

20 MS. SUSTAKOVITCH: Thank you, Your Honor.

21 BY MS. SUSTAKOVITCH:

22 Q Dr. Goben, when did you -- did you come in contact
23 with the victim in this case, V.S. [REDACTED]?

24 A Yes, when she arrived to my unit.

25 Q And taking you back, do you recall the date that she

1 arrived to your unit?

2 A Can I see the notes?

3 Q Yes. I'm showing you --

4 A I'm sorry.

5 Q That's okay. Dr. Goben, I'm showing you a copy of
6 your report.

7 A I saw her on January 14th, 2021.

8 Q All right. And you can look at that report if you
9 need to refresh your recollection. Had you been -- had
10 you been advised about V.S. coming in prior to your
11 interactions with her?

12 A Yes. We always receive a phone call from the
13 admitting physician in order to come to the ICU. And the
14 admitting ER physician called me to accept this patient
15 into the unit.

16 Q And who was the admitting ER physician?

17 A It was Dr. Granger.

18 Q And did you and Dr. Granger discuss V.S. and her
19 condition?

20 A Yes. She always gives me a brief synopsis of what
21 has been done for the patient and the current status of
22 the patient before they come up to the ICU.

23 Q Had you been advised of her -- obviously, her grave
24 condition at the point that she arrived at the hospital?

25 A Yes. She told me that she had already received 11

1 rounds of epi before she got to -- spontaneous
2 circulation. She told me that she was intubated. And
3 that she barely had a pulse before she was able to come up
4 to the ICU.

5 Q And just to help the jury understand the process,
6 when [V.S.] came into the hospital, where did she go
7 first?

8 A She went into the pediatric ER first.

9 Q Is that where she saw Dr. Granger?

10 A Yes.

11 Q And then she came in contact with you?

12 A Yes.

13 Q Can you tell the jury a little bit more about the --
14 what the pediatric intensive care unit does?

15 A So as the ICU, we take care of anybody -- any child
16 that is not well enough to go to the general pediatric
17 floor. That includes any child who is critically ill or
18 any child that is still alive needing any type of extra
19 support, as far as a ventilator, blood pressure raising
20 medicine, anything that may be a neurosurgical, sick well
21 aid, anything like that.

22 Q You just testified that [V.S.] had had 11 rounds of
23 epinephrine. Can you tell the jury why she would have had
24 that?

25 A In order to -- she came in in cardiac arrest, meaning

1 that her heart was not pumping blood at all when she first
2 was found. In order to try to restart the heart, you're
3 given epinephrine -- or epi for short -- through your IV.

4 She had an IV established. And she was given
5 epinephrine every three to five minutes in order to try to
6 restart her heart. She was down for approximately
7 45 minutes before her heart was, eventually, restarted.

8 Q And to talk about down time, what does that mean in
9 medical terms?

10 A You hope that while you are not -- while your heart's
11 not pumping blood out to the parts of your body, you hope
12 that CPR is in progress or somebody is pumping on your
13 chest in order to circulate blood through your body, to
14 your brain, to your vital organs, especially your heart.
15 But we're not always as good as your body is at pumping
16 blood.

17 So even though we're doing that process and giving
18 epinephrine, you can't guarantee that the brain, and the
19 heart, and other parts of your body will recover from
20 prolonged oxygen deprivation.

21 Q And when you talk about the term down time, does that
22 mean from the time someone starts CPR to when the patient
23 presents at the hospital?

24 A Yes. So from the time EMS arrived until the time
25 that her heart was restarted and she had a blood pressure

1 on her own, and a pulse on her own. It was 45 minutes.

2 Q When [V.S.] was transferred from Dr. Granger's care
3 to you, what condition was she in at that point?

4 A The sickest of the sick. She barely had a pulse.
5 Her blood pressure was about 80s over 40s to 50s. And her
6 temperature of her body was extremely low.

7 Q And do you recall her temperature?

8 A It was -- I wrote on here 87-something degrees.

9 Q Dr. Goben, was [V.S.] placed on a ventilator?

10 A Yes. She was on a ventilator that was doing all the
11 work for her.

12 Q And can you explain to the jury what a GC score is?

13 A A Glasgow Coma score or GCS is what you can do in
14 response to pain, verbal stimuli, and eye opening. And
15 her GCS was three.

16 Q Okay. And what does that mean to have a GCS of
17 three?

18 A It means that she was not doing anything. She could
19 not respond to pain. She could not move. She could not
20 talk. And she never opened her eyes.

21 Q What GCS score does a dead person have?

22 A Three.

23 Q Three. Was there any cranial nerve activity in
24 [V.S.]'s face?

25 A No. She had no -- when patients come to the unit, in

1 order to kind of assess how sick they are, we quickly do
2 what a healthy individual could do. And she had no cough,
3 no gag, no response to pain. She had minimal -- maybe one
4 or two breaths over the ventilator.

5 Q Did you observe the bruising on [REDACTED] V.S. 's body?

6 A Yes.

7 Q Dr. Goben, we've had other medical personnel --
8 Dr. Granger testify about that and Dr. Ward. The jury has
9 seen these pictures lots of times. So I'm just going to
10 show them to you. I'm going to show you State's Exhibit
11 Nos. 2, 3, 4, and 5. Okay.

12 Dr. Goben, do those pictures accurately -- accurately
13 reflect what you saw as far as bruising on [REDACTED] V.S.
14 [REDACTED] that day?

15 A Yes.

16 Q And apart from what we're looking at with the
17 abdominal injuries and the leg injuries, did you see
18 anything on [REDACTED] V.S. 's face?

19 A She had bruising on her ear that I think I documented
20 in my eye exam.

21 Q Okay. As far as that bruising, what, if anything,
22 did -- what is your medical opinion about whether that is
23 accidental or not accidental?

24 A This is not accidental.

25 Q Can you describe to the jury your medical opinion

1 about what you're looking at there?

2 A This is extensive dependent bruising on a child's
3 body that was inflicted repetitively by blunt force
4 trauma, which is the worst I've seen.

5 Q Does -- did [REDACTED] V.S. [REDACTED] have any response to pain when
6 you were treating her?

7 A No.

8 Q And what about the condition of [REDACTED] V.S. [REDACTED]'s kidneys?

9 A They -- she had a creatinine bump, which is a marker
10 of your kidney function already at presentation, which was
11 elevated to .8, which means she had already signs of
12 anoxic injury to her kidneys.

13 Q Dr. Goben, looking at those photographs, do you have
14 a -- a medical opinion about whether a seven-year-old
15 child could have inflicted those?

16 A No -- yes, I have an opinion. No, a seven-year-old
17 did not do this at all.

18 Q And what do you base that opinion on?

19 A The amount of force that it requires to make this
20 type of bruising and this type of dependent bruising on a
21 child.

22 Q Dr. Goben, after [REDACTED] V.S. [REDACTED] suffered the blunt force trauma
23 blows that you've testified to, I want to ask you about
24 what she would have presented like, what she would have
25 been like. After [REDACTED] V.S. [REDACTED] suffered that beating, how would

1 she be acting?

2 A She wouldn't be moving. She was lying there.

3 Q Was she -- was she eating normally?

4 A No.

5 Q And would she be able to drink normally like we -- we
6 know?

7 A No.

8 MS. SUSTAKOVITCH: Okay. Please answer any questions
9 Defense Counsel has.

10 THE COURT: Mr. Bouton.

11 CROSS-EXAMINATION

12 BY MR. BOUTON:

13 Q Good afternoon, Dr. Goben.

14 I just want to ask you a few questions. Was -- the
15 day that **V.S.** died, was that the only day you've ever
16 treated this child?

17 A Yes.

18 Q Okay.

19 A That I recall.

20 Q Sure. Did you have a chance to review any of her
21 prior medical records in -- in your treatment of her?

22 A When you say that I -- there may have been a time
23 that she -- I don't remember.

24 Q Okay. I have some prior medical records. And I was
25 going to ask you just a few questions in -- in general for

1 your expertise so you could help maybe explain some things
2 to me. I noticed in some of her prior records that she
3 had a family history of anemia from her mother. Can
4 you -- can you tell me what anemia is?

5 A Anemia just means that your hemoglobin may be low.

6 Q And what is that -- what -- why is that a concern?

7 A Sometimes, kiddos are anemic. Typically, not -- they
8 have to have like an alpha thalassemia or some other type
9 of crazy anemia to be anemic from a mother's history. The
10 most type of -- common type of anemia in a kiddo is iron
11 deficiency anemia, which is just from drinking milk, too
12 much milk.

13 Q Okay. What -- what is neonatal -- and I can -- I'm
14 happy to hand you these if you need to review them. But
15 neonatal hyperbilirubinemia? Did I say that right?

16 A Yeah. It's very common in newborn, jaundice.

17 Q Okay. And what is -- what is that condition? Can
18 you tell us in layman's terms what -- what that is?

19 A When you're a baby and you start drinking breast milk
20 or formula, in those first few days almost every single
21 baby gets jaundice or yellow. I guarantee you 90 percent
22 of us in this room had it. And as kiddos drink -- babies
23 drink for the first four days of life, it improves.

24 Q Okay. There's, also, evidence that this child was
25 exposed to THC in utero. Does that cause concern for you

1 as a physician?

2 A Be more specific.

3 Q Can it be harmful?

4 A Long-term, probably not.

5 Q Is it something that would potentially have caused
6 health concerns for a child at three?

7 A No.

8 MR. BOUTON: Okay. One second.

9 (Pause.)

10 MR. BOUTON: Thank you, Dr. Goben.

11 I don't have any further questions.

12 THE COURT: All right. Any other questions for this
13 witness?

14 MS. SUSTAKOVITCH: Just two follow-ups.

15 REDIRECT EXAMINATION

16 BY MS. SUSTAKOVITCH:

17 Q Dr. Goben, did iron deficiency, anemia cause the
18 injuries that you're looking at?

19 A Absolutely not.

20 Q And did any exposure to THC when she was a baby have
21 anything to do with the injuries you saw?

22 A Absolutely not.

23 MS. SUSTAKOVITCH: Thank you.

24 Nothing further.

25 THE COURT: Anything else?

1 THE CLERK: Thank you.

2 DIRECT EXAMINATION

3 BY MR. BOUTON:

4 Q Ariel, I'm going to stand over here so the -- so the
5 jury can see you. Okay. If you can't hear me, please,
6 just let me know. All right. I'll try to speak up since

7 I don't have a microphone.

8 Ariel, will you just tell the jury a little bit about
9 yourself? Where did you grow up?

10 A I grew up in Greenville County, Simpsonville to be
11 more specific, Simpsonville.

12 Q Have you lived in the upstate your entire life?

13 A Yes, the whole time.

14 Q Who did you grow up with? Who -- how big was your
15 family?

16 A Not very big. My mom, my dad. And I have an older
17 sister who's three years and 11 months older than me.

18 Q Where'd you go to school when you grew up? Where did
19 you go to high school?

20 A I went to Hillcrest High. And then college, I went
21 to Lander University. And then I went to Clemson
22 University.

23 Q When did you and Austin first meet and start -- or
24 when did you first meet Austin?

25 A I first met Austin when I was 12. It was at a church

1 event. He and some of his friends came. So I was 12 when
2 we first met.

3 Q When did y'all first start dating?

4 A We didn't start dating until I was 16.

5 Q How -- how much older is Austin than you?

6 A About four and a half years, four or five years.

7 Q When did you guys get married?

8 A We got married in October of 2010.

9 Q And how many children do you all have together?

10 A We have two sons together.

11 Q We've -- we've heard testimony. What -- what are
12 their names?

13 A Our oldest son is K.R. He's 14. And then we have
14 A.R. He's 11.

15 Q We've heard testimony already about -- about you guys
16 fostering to adopt the three children. Why did y'all want
17 to adopt?

18 A We really wanted to adopt. I -- I had C-sections
19 with the first two boys. And it was just a health risk to
20 have any more kids. But I really wanted a little girl.
21 And so then we just talked about adopting as -- as an
22 option, instead of having another child.

23 Q Whose idea was it to -- to adopt?

24 A It was my idea to adopt.

25 Q Did you have to convince Austin to -- to agree to

1 that?

2 A I definitely had to do some convincing on that
3 when -- especially when he found out it was three kids and
4 not one little girl anymore.

5 Q How did that happen? Did y'all, initially, want
6 three extra kids?

7 A I always say the more, the merrier. He just wanted
8 one, one more girl. But it happened because when they
9 told us -- DSS told us about [V.S.], they told us, well,
10 we have a little girl in your age range, but she has two
11 brothers that need to be adopted as well. And so I said,
12 Okay.

13 And so I told Austin. And he was like, We agreed to
14 one more child, not three more children. But after a
15 little bit of convincing, he got on board.

16 Q Who -- who would you say was more involved in the
17 adoption process?

18 A What do you mean?

19 Q Were you more involved in dealing with DSS and the
20 adoption process, or was Austin?

21 A Yes. I was definitely more involved. I was more
22 invested in the process. So I set up all the appointments
23 with DSS, all the training classes, all the e-mails, all
24 the paperwork. I just kind of told him, Sign here.

25 Q What did it mean to you to have [V.S.] in the house?

1 A What do you mean to have her in the house, like --

2 Q Well, how did it make you feel to have a little girl
3 in the house?

4 A It made me feel really good. It made me feel a lot
5 more girly, because V.S. ...

6 Q What kind of child was -- was V.S.?

7 A I'm sorry. V.S. was perfect. She was a perfect
8 child. She didn't have a lot of behavioral issues, real
9 easy to get along with.

10 Q Did you spoil your kids or show favoritism?

11 A Yeah, especially with V.S. It was easy because she
12 was the baby girl. I was the baby in the family. So I
13 always play favorites with the baby anyways. It was real
14 easy because she was a girl -- the only girl, so yeah.

15 Q Let me ask you this, there's been some testimony
16 about cameras in your house. Why did you guys have
17 cameras in your house?

18 A We got the cameras because her older brother, J.E.,
19 had a little bit of anger issues. And so, sometimes, he
20 would hit her. I would ask him about it because she would
21 tell me, you know, J.E. hit me. And so I said, Well,
22 let's get cameras.

23 Because during the time -- it was during the
24 pandemic. Everything had shut down. Austin was still
25 going out to work. I was at the house by myself with all

1 the kids. And so it was just like another set of eyes and
2 ears. And so I can be washing dishes and we had cameras.
3 Q All right. You've heard the testimony. You've been
4 here today. Let's -- let's go through the dates in
5 question. Okay. Let's start -- let's start with
6 Wednesday. And that would have been January 13th, the day
7 before V.S. died. Talk to us about -- let's start with
8 getting ready to go to church.

9 Who -- who helped the kids get ready? Who gave V.S.
10 a bath before you went to church?
11 A V.S. didn't, actually, get a bath before we went to
12 church. It was kind of just everybody was helping
13 everybody. I laid V.S.'s clothes out. She was very, very
14 smart. She could get herself dressed. So I would just
15 lay her clothes and her shoes out. She could get herself
16 dressed.

17 The boys were getting ready. They were finishing up
18 homework, getting themselves together. They took baths
19 before church just because they had been at school. And I
20 said, Wash the school germs off.

21 So they -- they took baths before church. They had
22 ate a snack before church. I was -- I was getting all
23 their snack -- snack bags together. They ended up eating
24 theirs before we got in the car. Austin was helping with
25 the kids. Everybody was dragging their feet.

1 Q All right. Were y'all -- were y'all running late?

2 A We were running late, yeah. We were running about
3 15 minutes late.

4 Q All right. And y'all all loaded up in -- in the van
5 that we saw pictures of; is that fair?

6 A Yeah.

7 Q And you drove to church. How -- how long does it
8 take to get to church?

9 A It's about a 25 to 30-minute drive.

10 Q And what happened? Let's start with what happened
11 when you -- when you arrived at church.

12 A V.S. didn't finish her snack before we got in the
13 car. So I told her she could take her Ziploc bag in the
14 car. And so she was eating. She had chips -- chips,
15 apple sauce, and her -- her juice cup. And so I told her,
16 You take it -- you know, take it in the car. You can
17 finish on the way.

18 And so we were on the way to church. We pulled into
19 the parking lot. I was looking at her through the rear
20 view mirror. And I saw her eating. She had, like, a ton
21 of chips in her mouth. She was trying to drink some of
22 her water. And I saw she got strangled because she had
23 too much food in her mouth. And so -- so she threw up.
24 As soon as we -- as soon as we hit the parking lot, she
25 threw up everywhere. And so that's what happened.

1 Q What did you do at that point?

2 A I was thinking, oh, my goodness. We're already
3 15 minutes late. This is, like, the last thing that we
4 needed to happen when we're already running late. I don't
5 have any change of clothes in the car for her at that
6 point.

7 So I was thinking, okay, we'll drop the boys off.
8 We're already late. So their classes are already
9 starting. So we'll let them go inside. We'll run to
10 Walmart and get her some new clothes just to have
11 something to put on that's clean.

12 And so -- so we dropped the boys off. We went to
13 Walmart, which is, like, two minutes down the street
14 from --

15 Q When you say, "We went to Walmart," who all went to
16 Walmart?

17 A Me, Austin, and V.S. went to Walmart.

18 Q Okay. And what happened at Walmart?

19 A Because -- I was going to leave her in the car with
20 him so she didn't have to get out of the car in her throw
21 up clothes. So we get to Walmart and I realize I don't
22 have my debit card. And so I was like, great. So now, we
23 don't have any clean clothes.

24 So we go back to the church parking lot. Thankfully,
25 my sister and her family were, also, running late that

1 night. And so my three-year-old nephew and V.S. are about
2 the same size. He was a little bit bigger than her.

3 So I asked my sister -- I knew he had came from
4 daycare that day. So I said, Does [REDACTED] have any clothes
5 that, you know, we can borrow maybe out of his day care
6 bag? V.S. threw up everywhere. And so she did. She had
7 extra clothes. So I got some clothes from her.

8 Q And so did you get those clothes? And did you take
9 V.S. in the bathroom?

10 A Yes. I got the clothes from her. Me and V.S. went
11 into the bathroom inside of the church. And I was
12 cleaning her off in the bathroom.

13 Q All right. And -- and you heard the testimony of the
14 people who were in the bathroom. Were you -- were you
15 frustrated at that point?

16 A Yes. I was frustrated.

17 Q Okay. And why were you frustrated?

18 A I think I was just frustrated -- I was frustrated
19 with everybody. I wasn't just frustrated with V.S. I
20 was frustrated that everybody was taking their time.
21 Nothing [sic] was really ready to go. I felt like I was
22 getting it all done by myself trying to get -- trying to
23 get to church on time.

24 So I was just frustrated that, you know, we have to
25 stop and she's not in her class right now. She's having

1 to deal with this. And I'm having to clean this up, and
2 all that stuff.

3 Q Did you see any bruising on V.S. when you were
4 helping her in the bathroom?

5 A No. She didn't have any bruising on her.

6 Q And why did you take V.S. from the bathroom back to
7 your car?

8 A Well, when she was in the bathroom -- I think just
9 because, one, it was cold outside. And she had thrown up
10 all over herself. She was cold from that. Then she was
11 cold because I took the clothes off of her. And I was
12 wiping her down with the -- with the towels from the
13 dispenser in the bathroom. So she was cold from that.

14 So then I took her back to the car. I said, well,
15 I'll -- I'll sit in the front seat with her for a couple
16 minutes, turn the heat on, let her warm up a little bit,
17 get her dressed and stuff, and then bring her back inside.

18 Q Okay. And that's what you did. And y'all returned
19 to the service?

20 A Right.

21 Q After church, what -- what did you guys do?

22 A After church, I got everybody rounded up. We went
23 back home. I, basically, dropped Austin and all the kids
24 off. And then I left and went to a couple different
25 grocery stores.

1 Q All right. Where did you go that night?

2 A I went to Food Lion, which is about two miles down
3 the street from our house. And then I went to
4 Neighborhood Walmart, which is about another mile from
5 Food Lion.

6 Q Why did you go to two different stores?

7 A Just to -- the food I get, I have different food at
8 one place I have to get. I need to get lunches for the
9 boys stuff. And I, also, had some different recipes I was
10 wanting to try out that weekend. So I went to one store
11 for certain food that they had. And I went to another
12 store for the other food that I needed.

13 Q Okay. How long do you think you were gone that
14 night?

15 A At least, an hour and a half to two hours.

16 Q And when you returned back to the house, do you -- do
17 you know what time it was?

18 A It was definitely probably, like, after 10:00 by the
19 time I got back inside the house.

20 Q All right. And what -- what was everybody doing when
21 you got back to the house?

22 A By the time I got back, all the kids were in bed.
23 Nobody was up but Austin.

24 Q All right. V.S. was asleep?

25 A V.S. was asleep.

1 Q Was her door open or closed?

2 A No. Her bedroom door was shut. The boys bedroom
3 doors were shut.

4 Q Did Austin tell you anything about giving her a bath
5 and seeing any bruises at that point?

6 A He told me he gave her a bath. Because I asked him
7 to give her a bath since she needed to get a full bath
8 from the throw up. But he did -- he told me he gave her a
9 bath, but he didn't discuss any bruising.

10 Q When was -- when would have been the next time you
11 saw V.S. awake?

12 A I saw V.S. awake the next morning. Yeah, the next
13 morning.

14 Q About what time? Do you remember?

15 A It was about 10:00, 10:15.

16 Q All right. What time did you wake up that morning?

17 A I woke up around six something. Because I got up,
18 got the boys dressed, and took them to school.

19 Q And this is -- this is Thursday, January 14th, this
20 is -- this is the day that V.S. -- V.S. died. You took
21 the boys to school. How long did that take?

22 A The elementary school is about 10 to 15 minutes away
23 from our house just because of traffic. And we don't --
24 they don't, actually, go to where they were zoned for. We
25 were out of zone. So they were on special permission to

1 go to Bethel.

2 And then from Bethel, you know, I sat in the car line
3 for a little while. Then I took [K.R.] to Hillcrest
4 Middle. It's about 10 minutes or so, depending on traffic
5 from Bethel to the Hillcrest car line. It probably took
6 me about -- oh, after -- after [K.R.]'s school, I stopped
7 and got gas. The van needed gas. So, I mean, I was
8 probably gone for about 45 minutes, at least.

9 Q When you get back to the house, who's awake?

10 A [V.S.]'s door is still shut. Austin's awake.

11 Q And just take us through -- through that morning.
12 What happened -- what happened next?

13 A I was just doing some housework for a little bit.
14 And then around nine something, I started making pancakes.
15 I was planning on waking [V.S.] up if she wasn't already
16 awake. So I ended up waking her up around, like, 10:00,
17 or so.

18 I had already fixed the pancakes, and stuff. They
19 were sitting on the table waiting on her. And I told her,
20 you know, You can get up. Come on downstairs. When I
21 opened her door, she was -- she was awake. I didn't have
22 to wake her up. She was awake.

23 Q Okay. Did she -- did she come downstairs and eat
24 breakfast?

25 A She did. She came downstairs. She sat at the

1 kitchen table. I was at the kitchen table. I was on my
2 computer -- working on my computer. And she was sitting
3 at the table eating her pancakes.

4 Q All right. And then tell us what happened. How did
5 that go?

6 A She took a while. She took about an hour, I would
7 say. Because I was on my computer, like I said. And I
8 had my head phones in. Like, I could see her sitting
9 there. I knew she was sitting there. But I wasn't really
10 just paying attention. I knew she was eating. Sometimes,
11 she, you know, would sit there for a little bit longer.
12 And that day, she sat for a little bit longer eating her
13 pancakes.

14 Q What -- what was Austin doing at this point?

15 A He was downstairs some. He was saying he was going
16 to get started on some laundry. He had some stuff he was
17 working on that he needed to do downstairs.

18 Q All right. And tell us what happened next.

19 A After she finished her pancakes, she went to her
20 room. I think she played with her toys. She was in her
21 room for a little bit.

22 Not -- not long after that, maybe 30 minutes later,
23 she had came out of her room and said, I peed on myself.
24 I had an accident. I didn't make it to the bathroom in
25 time. I was in the kitchen. Austin was in the living

1 room. And he said, I'll -- I'll get that. I'll handle
2 that for you, you know. Finish doing what you're doing.
3 I'll go and change her, and stuff. And I was like, Oh,
4 well, great. Thank you.

5 Q And did he do that?

6 A He did. He went and changed her. Like I said, he
7 was doing some laundry. So he -- I think she might have
8 ended up, actually, peeing on her bed. Because he took
9 her bed sheet, and her clothes, and took them to the
10 laundry.

11 Q All right. And did he put new clothes on her?

12 A He did. He put her on some leggings and a T-shirt.

13 Q Okay.

14 A And a Pull-up. Sorry. A Pull-up.

15 Q Did Austin say anything to you about that incident?

16 A No.

17 Q Okay. And then tell me what happened next.

18 A After that -- a little bit after that, she had said
19 she wanted a popsicle. She wanted to watch her cartoons.
20 So she asked me if I would put it on. So I took her
21 popsicle up to her room.

22 Then I went in my room. I had to use the bathroom,
23 just doing some stuff in my room. And then she told me --
24 she said, Can I save the rest of this popsicle? I'm cold.

25 And I said, Okay.

1 Because usually, she doesn't eat popsicles any way.
2 She usually wants cookies. And she wanted a popsicle that
3 day. I said, Okay.

4 And so I asked Austin would he bring me a Ziploc bag
5 upstairs. Because he was in the kitchen. And I was -- I
6 was in there changing her show for her. And so he brought
7 me a Ziploc bag. I put the popsicle in there. I told
8 her, Okay, you can save it. You can eat the rest of it
9 later,
10 if you want to.

11 And she said, Okay.

12 And then I was putting her -- her show on, and stuff.
13 She said the popsicle made her cold. And I had a heating
14 blanket. I -- I usually sleep with a heating blanket.
15 I'm always cold. And she's usually cold sometimes, too.
16 So she -- I said, Well, do you want to sit in your rocking
17 chair with the heating blanket with me and watch cartoons?

18 And she said, Yes.

19 And so we sat down wrapped up in the heating blanket.

20 Q Okay. And what was she wearing at this time?

21 A She was wearing a T-shirt, and some leggings, and a
22 Pull-up just in case she had any more accidents.

23 Q All right. And tell us -- tell us what happened
24 next.

25 A So we're sitting in her rocking chair with the

1 heating blanket watching her cartoons. She had her sippy
2 cup right there and a pack of gummies was on her book
3 shelf from the day before that she didn't eat. So we
4 opened the gummies. I had put some in my hand. And so
5 she would take -- take one, eat it. She was drinking her
6 water. She drank a cup. And then she was saying she was
7 still thirsty. She wanted another cup. I said, Okay.

8 Well, we're wrapped up in the heating blanket. So
9 we're not going to go get the water. So I called Austin
10 upstairs to get the sippy cup, come get the sippy cup.
11 Can you get me some more water? So he came and got her
12 some more water. He ended up doing that, like, probably
13 about four times. Because she kept saying she was thirsty
14 and wanted something else to drink. And I was like, okay.

15 Finally, like, the fourth or fifth cup, she was like,
16 My tummy's hurting. And I felt her stomach.

17 And I said, Your stomach feels full. I said, I feel
18 like you've probably had too much between the pancakes,
19 the popsicle, the gummies, all this water. I said,
20 You've -- you've probably had enough. And -- and she did.

21 So she said, Yeah. My stomach hurts.

22 I told -- I asked Austin, I said, Well, do we have
23 any childrens Tylenol? Because, you know, I -- I remember
24 she threw up the night before, the previous day. So I
25 said, Well, maybe -- maybe her stomach is hurting. Maybe

1 she doesn't feel well. So I said, Do we have children's
2 Tylenol?

3 He said, No. We don't have children's Tylenol.

4 I said, Well, can you run to CVS and get some?

5 Because CVS is, like, two miles down the street. So
6 he went to CVS and got her some childrens Tylenol, brought

7 it back, gave it to her. Maybe 30 minutes to an hour
8 after that, we were still sitting in her room. And she
9 started acting like she needed to throw up.

10 Q So what did you do?

11 A I grabbed the trash can that was right beside her. I
12 grabbed the trash can that was right beside her rocking
13 chair. And I started patting her on her back. And I
14 said, Go ahead. Throw up.

15 Q Where -- where was Austin at this point?

16 A He was downstairs. And so she started throwing up a
17 little bit. And I could tell she still had some more
18 throw up that needed to come out. And so I took the
19 blanket off of us. And I stood up.

20 And I started trying, like, to do the Heimlich
21 maneuver -- maneuver on her. And some more throw up came
22 out. It was orange because the popsicle was orange. So
23 she started throwing up some more. And then I heard
24 she -- she still sounded like more was in there. And it
25 wasn't coming out. So then her body kind of just went

1 limp.

2 And I laid her on her -- her rocking chair stool.
3 And I started, like, pressing on her stomach, opening her
4 mouth trying to see if there was any gummies or anything
5 inside her mouth. Because she was sitting in her chair
6 eating gummies. And --

7 Q At this point, was Austin still downstairs?

8 A Yeah. He was still downstairs.

9 And so I didn't see anything in her mouth. I was
10 trying to -- every time I pressed on her stomach, water,
11 and fluid, throw up was coming out.

12 I blew in her mouth a couple times. When I blew in
13 her mouth, it started coming out her nose. And I hollered
14 for Austin to come upstairs. And he -- he came in the
15 room. And she was on her -- on her stool. And he looked
16 at me and he was like, Is she breathing?

17 And I said, I think I hear her trying to breathe. I
18 hear something in her lungs, though. It sounds like -- it
19 sounds like she's got, like, fluid in her lungs.

20 And so he said, Should I call 911?

21 I said, Yeah. Call 911. Because I don't know -- I
22 don't know what to do.

23 Q At this point, what were you thinking?

24 A At this point, I was thinking she was choking on
25 something, maybe a gummy was in her -- in her windpipe or

1 her throw up had went into her lungs. I could hear -- I
2 could hear her trying to breathe. I could hear it in her
3 lungs while she was on her stool, but I didn't know.

4 Q How long did it take for paramedics -- or for
5 firefighters to arrive?

6 A Just a few minutes. Because they're, like, a mile
7 down the street. It's in our neighborhood.

8 Q Okay. Did -- did Austin say anything to you before
9 the paramedics arrived?

10 A No. He didn't say anything.

11 Q What did -- what did -- what did the first responders
12 do when they got there?

13 A Well, the first responder on the phone had told us to
14 lay her on the floor. And they were trying to walk us
15 through, like, CPR to, like, tilt her head back, blow in
16 her mouth, try to do chest compressions.

17 And then the first responders -- the fire department,
18 when they got there, they took over. And I was just in
19 shock. I didn't -- I was watching them. And I was
20 looking at what they were doing. I was like, I was not
21 doing that.

22 Q Did you -- how many firefighters and EMS arrived? Do
23 you remember?

24 A It was so many. It wasn't a whole bunch of
25 firefighters at first. But then, like, when EMS and the

1 fire department came, I kind of got out of the room. And
2 I just let them do what they were doing.

3 I, also, went to go take my clothes off because I had
4 throw up all over me. And I wanted to just put some clean
5 clothes on so I could hop in my car and go to the hospital
6 and follow behind them.

7 Q And -- and we saw the -- the body cam videos. And we
8 saw when -- when V.S. was taken out of the house. And
9 you're -- you're there. What are you feeling at that
10 point?

11 A What do you mean?

12 Q What was going through your mind?

13 A I just -- I just think I was -- I think I was just in
14 shock. I was just trying to get out of the house to go
15 with her either in the ambulance or follow behind. I
16 just -- I just wanted to figure out what's going on,
17 what's happening with V.S.

18 Q When all this is going on, did you have the
19 opportunity to see the bruising on -- on V.S.?

20 A No. I never saw the bruising on V.S.

21 Q Was she fully clothed when you left the room?

22 A When I left the room, they had just took her shirt
23 off.

24 Q Why did you tell the police that you thought you put
25 the bruising on her stomach?

1 A In my head, I'm thinking after all this, I just
2 pushed on her, and everything I just did. And she's got a
3 bruise on her stomach. Clearly, I had to -- I had to put
4 it on there. I just -- I just pushed on her stomach. And
5 I just did this to her. I had to. Because I'm thinking
6 in my head, well, people have gotten broken ribs before
7 from CPR. And the whole time I was trying to do it, I
8 just didn't know, am I going to bruise her? Am I doing it
9 too hard? What am I doing?

10 Q Why did you tell the police that you -- that J.E.
11 had left bruises on V.S.?

12 A When the EMS -- I was in the hallway when EMS was
13 taking her pants off, and stuff. And they were saying she
14 had bruises on her legs. And they were asking how could
15 she have gotten this on her -- her legs? And I said, Oh,
16 well, her brother has put bruises on her before. So maybe
17 he put bruises on her because he has anger issues.

18 Q When was -- when was the first time you, actually,
19 saw the extent in the pictures of -- of V.S.'s bruising?

20 A The very first time I saw the extent of her bruising
21 was when I was already here -- or not here, I was already
22 in jail in custody when Bill, my lawyer, brought the
23 pictures to me and showed me the pictures of her bruising.

24 Q As we sit here today, do you believe that J.E.
25 caused those bruises on -- on V.S.?

1 A No.

2 Q You heard the medical testimony and everything in
3 court. Do you think that's even possible?

4 A No.

5 Q Do you believe that you -- you caused the bruises on
6 her stomach from doing CPR?

7 A No.

8 Q Why did you decide to talk to law enforcement when
9 they came to the house?

10 A I just wanted to be helpful. And I wanted to be
11 cooperative. I didn't feel like I had anything to hide.
12 I just wanted to get to the hospital.

13 Q Did law enforcement allow you to go to the hospital
14 when they arrived at the house?

15 A No, not at first.

16 Q How were you feeling during this time that afternoon?

17 A After V.S. got sent to the hospital or at what time?

18 Q Yeah. After V.S. got sent to the hospital. You met
19 with police and provided a statement?

20 A I just -- I just felt like it was so much time going
21 by. I wanted to know what was happening with V.S. I
22 wanted to be out of the house. I wanted to help. I
23 wanted to give them as much information as fast as
24 possible to just get out of the house and get to the
25 hospital.

1 Q How would you describe Austin's demeanor during this
2 time?

3 A He was reserved. He shied away from the police and
4 didn't really talk too much.

5 Q You saw the video when Officer Guest asked to look at
6 your phone. Did you delete any videos from your phone?

7 A No. I didn't delete any videos from my phone. When
8 he asked to look at that app, if there were videos in my
9 phone, it would have been there right then.

10 Q Ariel, how was your -- you and V.S.'s relationship?

11 A We had a good relationship. She was my mini me. She
12 talked like me, acted like me. She went everywhere I
13 went. She wanted to do everything I did. She was
14 starting to ask me to teach her how to cook. She just
15 wanted to be like me.

16 Q Tell me, what were your thoughts when you first saw
17 Austin's interview with law enforcement?

18 A I said, He's lying.

19 Q Let's talk about y'all's relationship. What were
20 your plans for your marriage?

21 A (There was no response.)

22 Q Well, how was your marriage?

23 A It was real shaky. It was real rocky, especially
24 those last weeks just because of all the lies he's told me
25 over the past 14 years. And it just -- it was like it was

1 never stopping. He knew that after the adoption was
2 finalized, I was planning on leaving with the kids. And
3 that was really hard for him to...

4 Q You heard Austin's testimony about the fight that you
5 guys got into less than a month before V.S. passed away.
6 Some of those text messages have been admitted into
7 evidence. Is that accurate?

8 A Yeah.

9 Q Did you, actually, leave the house?

10 A I did. I left the house in December.

11 Q The Solicitor asked Austin some questions. And one
12 of them was if he felt inferior to you. And he said he
13 did. Do you feel like you're a better person than Austin?
14 Do you feel better than him?

15 A No. I don't think that Austin -- I think Austin
16 feels inferior to me for other reasons, not because he
17 doesn't have his high school diploma or GED, not because I
18 have degrees. Because when we met, I was 12. I was 16
19 when we started dating. I didn't even have a high school
20 diploma at that time. We grew up together. He knew me
21 when I didn't have any degrees. And there are people who
22 don't have high school diplomas and degrees and are more
23 successful. You don't -- that -- that never makes a
24 person.

25 Q You heard Austin's testimony where he admitted to --

1 to lying to you throughout your relationship and your
2 marriage. He touched on it and admitted to a lot of the
3 lies. Were those accurate?

4 A Most of them, yeah.

5 Q How often would Austin lie to you or keep secrets
6 from you?

7 A It would be on a monthly basis. It'd end up coming
8 out. It always would come out. But he would -- he would
9 keep the lie going for months -- for months at a time and
10 would go to great lengths and charades to keep it up.
11 And -- and I would ask him all the time when -- when the
12 truth would come out, I would say, How can you look at me
13 every day?

14 Q Could you tell when he was lying to you?

15 A Every time. I've known Austin since I was 12 years
16 old, 18 out of my 30 years. I would tell him every single
17 time, Austin, you do the same things every time you lie.
18 You have telltale signs every time you lie. So I know
19 when you're lying. Sometimes, I just let you go to see
20 how long -- how long you're going to keep it up.

21 Q Do you think Austin has anger issues?

22 A I think Austin has one of the scariest type of anger
23 issues. Because he holds everything in and he doesn't let
24 it out. And then when it does come out, it's too much
25 because he bottles it up.

1 Q If you could change anything from what happened, what
2 would it be?

3 A I think -- when I left in December, I think I should
4 have just left and stayed gone and took the kids with me.

5 Q Ariel, what do you think happened to V.S. that day?

6 A I know something terrible happened to V.S.. And I
7 wish I -- I wish I would have known. I wish I would have
8 seen the bruises sooner. I don't think J.E. did it.
9 And I don't want J.E. to think that I ever thought he
10 did it. Because the bruising he left on her, it was
11 never -- it wasn't even close -- remotely close to that.
12 And he never -- and he never left bruising like that on
13 her before. How could he have done it this time?

14 MR. BOUTON: Thank you, Ariel.

15 Please answer any questions from the Prosecutor.

16 THE COURT: Ms. Sustakovitch.

17 MS. SUSTAKOVITCH: Yes, ma'am.

18 May it please the Court.

19 THE COURT: Yes.

20 CROSS-EXAMINATION

21 BY MS. SUSTAKOVITCH:

22 Q Good morning, Ms. Robinson.

23 A Good morning.

24 Q I want to talk to you about several things. First of
25 all, we've talked a little bit about your social media.

1 Would you consider yourself a pretty active person on
2 social media?

3 MR. BOUTON: Your Honor, I object. I don't know what
4 the relevance of this is.

5 MS. SUSTAKOVITCH: It's relevant.

6 THE COURT: All right. Why don't y'all approach for
7 just a moment.

8 (WHEREUPON, a bench conference was held.)

9 THE COURT: All right. Overruled.
10 Go ahead.

11 THE WITNESS: I'm sorry. What was the question?

12 BY MS. SUSTAKOVITCH:

13 Q Ms. Robinson, I just want to go back a little bit.
14 So you're pretty active on social media; correct?

15 A Right.

16 Q And there's nothing wrong with that. A lot of people
17 are -- like to be on social media; correct?

18 A Right.

19 Q There's Facebook, there's Instagram. You were on
20 both of those?

21 A Right.

22 Q What other platforms were you on, ma'am?

23 A Probably all of them. I wasn't active on all of
24 them, though. I just had accounts.

25 Q Okay. But just trying to think back on -- let's see.

1 We -- you were on Instagram. What was your user name on
2 Instagram?

3 A Arifunnycomedy.

4 Q How did you pick that name?

5 A Well, arifunny was my stage name I used when I
6 performed comedy. And I just added the word comedy to the
7 end of it.

8 MS. SUSTAKOVITCH: I beg the Court's indulgence.

9 THE COURT: Okay.

10 (Pause.)

11 BY MS. SUSTAKOVITCH:

12 Q And you did podcasts, too; correct?

13 A Right.

14 Q Tell me about that.

15 A Me and Austin had a podcast together.

16 Q Okay. What was the name of it?

17 A Double A shenanigans.

18 Q And what was the purpose of the podcast?

19 A We listened to podcasts ourself, other peoples
20 podcasts. So we thought it might be fun to do one.

21 Q All right. When did you get interested in comedy?

22 A I think I've always loved comedy, just growing up
23 watching it. So I've always been interested in comedy.

24 Q All right. I'm going to show you what's already been
25 entered as State's Exhibit No. 24.

1 THE COURT: Wait just a moment, please.

2 MS. SUSTAKOVITCH: Sorry.

3 BY MS. SUSTAKOVITCH:

4 Q Sorry, Ms. Robinson. It takes just a moment to get
5 this fired up.

6 All right. And so you had a little set up in your
7 basement; correct?

8 A Yes.

9 Q Where you would do -- what would you do with these, I
10 guess, lights, and stuff here?

11 A The lights are just photography lights. So I would
12 use them for all types of purposes, even, like, to take
13 pictures with the kids.

14 Q Okay. And if you were doing, like, a photo shoot or
15 something with a podcast, you might be downstairs doing
16 that?

17 A No. We usually did it upstairs in the kitchen.

18 Q Okay. But you did different social media postings
19 from down here?

20 A No. It was just stored down there.

21 Q Oh, okay. And so going back to your arifunnycomedy,
22 you posted just life events, things like on -- on that
23 account; correct?

24 A Right.

25 Q All right. I'm just going to show you a few posts.

1 MS. SUSTAKOVITCH: You can mark this one as well --
2 sorry, Hollie -- these two.

3 (WHEREUPON, State's Exhibit Nos. 72 and 73 were marked
4 for identification only.)

5 BY MS. SUSTAKOVITCH:

6 Q I'm showing you what's marked as State's Exhibit Nos.
7 71 and 68. And these are just some Instagram posts -- or
8 you tell me. These are some -- what are these?

9 A Pictures of my boys, yes.

10 Q And these are posts from arifunnycomedy; is that
11 correct?

12 A Yeah.

13 Q Okay. And these are just different events in the
14 kids lives, in your life, things like that. Did you like
15 posting about different events in the kids lives?

16 A Yes.

17 Q Okay. And you recognize these as just different
18 posts from different days in your family; correct?

19 A Right.

20 MS. SUSTAKOVITCH: Your Honor, at this time, the
21 State moves to admit State's Exhibit Nos. 67, 68, 70, 71,
22 and 72.

23 THE COURT: Any objection?

24 MR. BOUTON: I just renew my previous objection.

25 THE COURT: All right. Your objection is overruled.

1 They're admitted.

2 MS. SUSTAKOVITCH: Thank you.

3 (WHEREUPON, State's Exhibit Nos. 67, 68, 70, 71, and 72
4 were admitted into evidence.)

5 BY MS. SUSTAKOVITCH:

6 Q So let's move on to a different topic. You were
7 talking about V.S. And you were saying how she -- you
8 showed favoritism to V.S., and how she was the baby girl.
9 And it's your testimony that she -- well, tell me this,
10 what kind of favoritism would you show her?

11 A If V.S. wanted extra of anything, she got it. V.S.
12 would go to the store with me. She knew if she went to
13 the store with me, she was going to get something at the
14 store.

15 Q And is it your testimony you were loving to her?

16 A Yes. I love all my children.

17 Q Is it your testimony you were kind to her?

18 A Yes.

19 Q And is it your testimony you treated her like a
20 mother should?

21 A Yes.

22 Q Did you talk to her in ways you think a mother
23 should?

24 A I'm pretty sure there times -- were times I said
25 something to her that I was frustrated and I probably

1 shouldn't have said.

2 Q And you just testified she was your mini me?

3 A Right.

4 Q Wanted to do everything you did?

5 A Right.

6 Q Do you think **V.S.** would want to be the kind of mom
7 you were?

8 A I would hope so.

9 Q Uh-huh. Wanted to be a little girl just like you?

10 A I'm not a little girl.

11 Q Or wanted to be a mom just like you?

12 A (There was no verbal response.)

13 Q Okay. I want to go forward to times in your house.
14 So going back to March 2020 when **C.E.**, and **J.E.**, and
15 **V.S.** moved in. **V.S.** got her own room; correct?

16 A Right.

17 Q And **J.E.** and **C.E.** got their own room?

18 A Well, they shared a room.

19 Q Right. Together?

20 A Yeah.

21 Q It was next door to **V.S.**'s; right?

22 A Right.

23 Q And your comedy routine really kicked off that
24 summer; right?

25 A No.

1 Q Or not comedy. Your podcast kicked off that summer?

2 A The summer of 2020?

3 Q Uh-huh.

4 A That might have been when we started. I -- or maybe
5 we started in the fall of 2020. I'm not really sure.

6 Q All right. I want to talk about your time at the
7 table inside your house. Why -- why did you feel like the
8 kids needed to be on a timer?

9 A I didn't feel like the kids needed to be on a timer.
10 Sometimes, V.S. would take forever. She was a slow eater,
11 not a fast eater. She was a slow eater.

12 So I would tell her, Okay, V.S., when the timer is
13 up, we're going to move on. I'm going to put your food
14 away. You can save it for later. You can come back to it
15 for later. But it might be time for, like, bedtime, bath
16 time, we have to go somewhere.

17 So if I felt like she -- if they're not hungry
18 anymore, you're just playing with your food and you just
19 want to be at the table maybe, then I would put it up for
20 later for her.

21 Q So you thought setting the timer would give her an
22 extra push to -- to get through her meal when she was
23 eating slow?

24 A No. I thought setting the timer would keep us on
25 schedule.

1 Q Did you ever consider it might stress V.S. out?

2 A No. Because it wasn't an everyday-type thing. It
3 was, like, okay, V.S., you've been here now for, like, 45
4 minutes. Girl, can you finish up real quick so we can
5 get -- get to bed, get to bath time? We've got church.
6 We've got somewhere to get to. We've got an appointment.

7 Q But 45 minutes, that's a long time?

8 A It is a long time.

9 Q And that's got to be frustrating, I mean, just
10 sitting there with V.S. for 45 minutes. That is a long
11 time; right?

12 A Oh, I'm not sitting there the whole time with her for
13 45 minutes.

14 Q But she's taking a long time. That's a long time.
15 So when the timer would go off, isn't it true that V.S.
16 sometimes would get in trouble when she had not eaten her
17 food when the timer would go off?

18 A (There was no verbal response.)

19 Q What did you do? Like, what did you do when the
20 timer went off and V.S. had been sitting there and she
21 wasn't eating, what would happen then, Ariel?

22 A V.S. was eating during that time. She wasn't just
23 sitting there not eating. She might be playing with her
24 food or --

25 Q Just taking a long time?

1 A Yeah. She might just be playing, yeah.

2 Q And so when **V.S.** -- sometimes, she would throw up;
3 correct?

4 A She has thrown up, yeah.

5 Q Okay. And when she would throw up after eating and
6 these times with the timer, it's -- it's a fact you

7 thought she was doing that on purpose sometimes; correct?

8 A No. I didn't think when -- she wasn't sitting at the
9 table throwing up because of the timer. And I didn't
10 think she was sitting at the table trying to throw up on
11 purpose either.

12 Q I want to talk about corporal punishment --

13 A Okay.

14 Q -- Ms. Robinson. There's nothing wrong with corporal
15 punishment; right?

16 A It depends.

17 Q Well, as long as it's legal --

18 A Right.

19 Q -- and it's not going too far. You would agree that
20 corporal punishment is not legally wrong?

21 A It's not legally wrong, no.

22 Q And growing up, you as a child were corporally
23 punished by your dad with a belt; correct?

24 A Sometimes, yeah.

25 Q And as long as you're doing it within reason, there's

1 nothing wrong with that; correct?

2 A (There was no verbal response.)

3 Q And it's your testimony -- or is it your testimony
4 that when -- any time you had to use a belt on **V.S.** or any
5 of the kids, your testimony would be that it never went
6 too far?

7 MR. BOUTON: Objection, Your Honor.

8 MS. SUSTAKOVITCH: I'm asking her a question related
9 to her use of corporal punishment.

10 THE COURT: Overruled.

11 BY MS. SUSTAKOVITCH:

12 Q So any time that you would have to use a belt, do you
13 feel like you did it within the bounds of the law?

14 A If I used a belt on my children, then, yes, I would
15 have used it within the bounds of the law.

16 Q Okay. And if you had to use a belt, was it just
17 different belts, or was it one specific belt?

18 A I didn't like to use belts at all. So I would just
19 stay away from belts really anyways.

20 Q Yeah. But you just testified if you had to, you
21 didn't want to go too far; right?

22 A I said if I had to -- if I would use a belt on my
23 child, then I would use it in -- within the legal bounds
24 of the law.

25 Q Got you. All right. I want to go to the bathroom

1 with V.S. You were testifying about her with the timer
2 on the table and eating. So in the bathroom, isn't it a
3 fact that you were the primary person that took care of
4 V.S. when she was in the bathroom? Correct?

5 A No. That's not true. Because V.S. was big enough
6 and smart enough to go to the bathroom by herself. She
7 would wipe herself. She would just stand at -- at the
8 door and say, Hey, I need help getting to the sink and
9 washing my hands. And so I would help her wash her hands.
10 Austin would help her wash her hands. Even our oldest son
11 would help her wash her hands.

12 Q But that's not true, though. She would have to sit
13 on the toilet sometimes for long periods of time; correct?

14 A She didn't have to sit on the toilet for long periods
15 of time. V.S. would sit on the toilet sometimes for a
16 long time.

17 Q And that was frustrating to you?

18 A That's not frustrating that she had to sit on the
19 toilet. She --

20 Q You -- you were never frustrated when she would sit
21 on the toilet?

22 A I'm not saying I was never frustrated. Sometimes,
23 V.S. would sit on the toilet, like, before she was about
24 to get her bath, or something. And she would sit on the
25 toilet for, like, 40 -- 30, 40 minutes just sitting there.

1 And she'd end up falling asleep. Because she was
2 trying to avoid getting her bath. Because she knew once
3 she got her bath, it's time to go to bed. So she was,
4 like, well, if I can prolong this potty experience, I can
5 prolong going to bed.

6 Q You thought it was a game. Was **V.S.** playing a game
7 on the potty?

8 A It's not necessarily a game. I think she was just
9 smart to know that if I can not sit on this -- if I can
10 get off of this toilet, then I'm going to bed. If I can
11 sit on this toilet, then I've got a couple more minutes
12 awake.

13 Q Do you think she would sometimes play a game to just
14 pretend like she was asleep on the toilet?

15 A No. I don't think she was pretending when she was
16 falling asleep on the toilet. Sometimes, she was asleep.

17 MS. SUSTAKOVITCH: Your Honor, may we approach?

18 THE COURT: Yeah.

19 (WHEREUPON, a bench conference was held.)

20 BY MS. SUSTAKOVITCH:

21 Q So I -- I want to go back to the church the day
22 before **V.S.** was killed -- or back to your house. So you
23 guys are going to church that night; correct?

24 A Right.

25 Q And what do you normally do on Wednesday nights at

1 church?

2 A We have Bible study.

3 Q All right. And V.S. got sick in the car that night;
4 correct?

5 A She did.

6 Q And when you got into the church parking lot, you
7 turned around and you saw she had thrown up on herself;
8 correct?

9 A (There was no verbal response.)

10 Q And you were frustrated; correct?

11 A Correct.

12 Q And then that's when you went off and tried to go to
13 Walmart, I think you testified to?

14 A Right.

15 Q With V.S. and Austin; correct?

16 A Right.

17 Q And then you came inside when you came back to the
18 church. And you saw Jean Smith in the bathroom?

19 A Right.

20 Q And what did you mean when you said, She makes
21 herself throw up? How does a child make themselves throw
22 up?

23 A I wasn't saying that she makes herself throw up. I
24 don't even recall saying, She makes herself throw up. I
25 said, She throws up sometimes. But not that she's

1 necessarily making herself throw up.

2 Q You don't recall saying that, She makes herself throw
3 up?

4 A No, not that she makes herself throw up.

5 Q What did you mean by, It's a game. She makes herself
6 throw up. It's a game. What does that mean?

7 A I'm really not sure.

8 Q Okay. And then when Avery Santiago came in, what did
9 you mean by -- now -- now, **V.S.** 's cold; correct? She's
10 sitting on the sink and she's shivering. And she's in her
11 diaper. And she's vomited. And now you're cleaning up
12 her vomit; correct?

13 A (There was no verbal response.)

14 Q And what did you mean by, Girls that make themselves
15 throw up deserve to be cold?

16 A Yeah. That was not exactly what I said.

17 Q It wasn't?

18 A No. I didn't say those exact words.

19 Q Okay. But you were irritated; right?

20 A I was definitely frustrated with her.

21 Q Okay. And when you took **V.S.** outside, it was the
22 middle of January; right?

23 A Right.

24 Q You walked her out just in her diaper?

25 A And her underwear.

1 Q Did you think about maybe putting something on, maybe
2 your red jacket, or anything?

3 A No. I didn't think about that.

4 Q Did you think it might be cold for her, January the
5 13th?

6 A Yeah. She was already cold. And I was going to put
7 her in the car with the heater on so --

8 Q And when you walked out with V.S. and grabbed her
9 little arm and you went like that, why'd you pull her up
10 like that?

11 A Well, I had an arm full of stuff on this side. And
12 when I looked down, I realized she doesn't have her shoes
13 on. So I just picked her up with my other arm and put her
14 in my arms.

15 Q Okay. So you get home. You guys go to church and
16 you come home; correct?

17 A (There was no verbal response.)

18 Q And that night, the kids all go to bed. Did you eat
19 pizza that night? I believe there was testimony --

20 A I didn't.

21 Q Did -- did the kids eat pizza?

22 A I'm not sure. I wasn't there when they ate. I was
23 at the store.

24 Q Okay. But anyway, you come home. And V.S. goes to
25 bed fine; correct?

1 A I guess. I wasn't home when V.S. went to bed.

2 Q Okay. But when you got home, you didn't hear any
3 screaming, or anything like that. It was quiet, I guess,
4 when you got home?

5 A When I got home, all the kids were in their beds.

6 Q Okay. And J.E., C.E., they're asleep. It's
7 quiet in their room?

8 A (There was no verbal response.)

9 Q V.S., it's -- you're nodding your head. Is that
10 correct?

11 A Yeah. I'm saying yeah. Everybody was asleep when I
12 got home. The only person that was awake was Austin.

13 Q Okay. And the next morning, the boys go to school.
14 And then V.S. the next morning -- let's talk about her.
15 So you made her pancakes that morning; correct?

16 A Correct.

17 Q Did you make them from scratch, or did you make them
18 from a box, or what was it?

19 A I don't recall.

20 Q Okay. And V.S. was fine that morning when you were
21 making her pancakes; correct?

22 A She was in her bed when I was making the pancakes.
23 So I'm assuming she was fine.

24 Q Okay. But then she comes out and she -- you -- she
25 gets in her little -- her chair there at the table;

1 correct? And she's fine; correct?

2 A Yeah, I guess.

3 Q Yeah, you guess. So then, at this point, you give
4 V.S. some pancakes?

5 A Yeah. The pancakes were already sitting on the
6 table.

7 Q And does she eat them, or no?

8 A She was eating them, yes.

9 Q And did she seem fine to you at this point?

10 A I really wasn't paying attention much to V.S. when
11 she was eating there -- eating the pancakes. Because I
12 was on my computer. So I really wasn't really paying
13 attention to if she was fine eating the pancakes. I know
14 she took a really long time to eat the pancakes, so.

15 Q And isn't it a fact that you said that she was acting
16 normal that morning; correct?

17 A I guess as normal as --

18 Q We're just going to go back and look at one little
19 bit here and talk to you about it.

20 MS. SUSTAKOVITCH: Your Honor, could we turn the
21 video on?

22 THE COURT: Oh, I'm sorry.

23 MS. SUSTAKOVITCH: That's okay.

24 (WHEREUPON, a portion of a video was played in open
25 court.)

1 MS. SUSTAKOVITCH: Thank you, Lindsey.

2 BY MS. SUSTAKOVITCH:

3 Q Does that refresh your recollection about what you
4 told police?

5 A Yeah. If you asked me on that day if V.S. was fine,
6 yeah.

7 Q And she appeared fine to you with the pancakes;
8 correct?

9 A I wasn't paying attention to V.S. sitting at the
10 table eating the pancakes. I know she sat at the table
11 and she ate pancakes. So, I mean, I figured she was fine.

12 Q Okay. Prior to making the pancakes for V.S., do you
13 remember calling AAA for the broken down van?

14 A Yeah. I called AAA.

15 Q And do you remember when the tow truck driver came?
16 You weren't outside for that; correct?

17 A Yes, I was.

18 Q Okay. And the van gets towed away; correct?

19 A Right.

20 Q But that's before the whole pancakes; right?

21 A Right. That was, like, right after I got back from
22 taking the boys to school.

23 Q Okay. And you said V.S. started eating around 10:15;
24 correct?

25 A Uh-huh.

1 Q And then she finished eating her pancakes around
2 11:15; is that correct?

3 A Probably.

4 Q So it took her about an hour?

5 A Yeah.

6 Q At the table?

7 A Right.

8 Q Was this one of those times that she was taking a
9 long time to eat?

10 A She was taking a little bit longer to eat. But,
11 honestly, I was distracted because I was on my computer.
12 So I wasn't really paying attention to what she was doing,
13 how long it was taking. I was not paying attention.

14 Q So you didn't have to put **V.S.** on a timer this time?

15 A No. She didn't get put on a timer often anyways.

16 Q And -- but Ms. -- okay. So when **V.S.** finished eating
17 her pancakes, Ms. Robinson, isn't it true you're leaving
18 out a chunk of time here from 11:15ish to when Austin goes
19 to the CVS at 12:59; correct?

20 A No.

21 Q And --

22 A I'm sorry. What's your question?

23 Q I'm asking you, isn't it your testimony that you're
24 leaving out a chunk of time from 11:15ish to when Austin
25 goes to the CVS at 12:59?

1 A Like I said, after she finished her pancakes, she
2 went to her room. So she was in her room for most of that
3 time. And then I went upstairs. And then that's when she
4 was asking about the popsicle.

5 Q But, Ms. Robinson, isn't it a fact that during that
6 time at the table, V.S. was being defiant to you and was
7 not eating her pancakes?

8 A V.S. was not being defiant with eating her pancakes.
9 V.S. was not being defiant towards me at all that day.

10 Q And isn't it true that during that interaction with
11 V.S., you picked up a belt and you hit V.S.?

12 A That's absolutely not true.

13 Q And, Ms. Robinson, isn't it true that that's when
14 Austin came in and saw you with the belt?

15 A No, ma'am. That's not true.

16 Q Okay. Let's -- let's go back to some times that we
17 can agree on.

18 A Okay.

19 Q Let's go back upstairs. You're giving V.S. gummies;
20 correct?

21 A Uh-huh.

22 Q And time is passing; right?

23 A Uh-huh.

24 Q And this is -- this is -- Austin's gone over to the
25 CVS to get some -- some Tylenol; correct?

1 A At what time?

2 Q Well, I believe we had testimony that it was at
3 12:59. Would that be correct?

4 A Okay.

5 Q And so then time is still passing, isn't it,
6 Ms. Robinson?

7 A Right.

8 Q And you're home alone with V.S. And Austin is off
9 to buy the meds to bring down V.S.'s bruising; is that
10 correct?

11 A No. I sent Austin to CVS to get her some Tylenol for
12 her stomach pains.

13 Q But you sent him to the CVS to get the Tylenol for
14 stomach pains; is that correct?

15 A Right. Because I -- we didn't have any.

16 Q Okay. And then he gets home and you watch him give
17 V.S. Tylenol; correct?

18 A Right.

19 Q And time is still passing; right, ma'am?

20 A Right.

21 Q And she's having stomach pains. No one's calling 911
22 yet; right?

23 A I wouldn't, generally, call 911 just because my child
24 has a stomach ache.

25 Q Okay. And V.S. is doing worse at this point;

1 correct?

2 A [V.S.]'s sitting in my lap watching TV.

3 Q Has [V.S.] been put in the Epson salt bath yet, or not?

4 A I never gave [V.S.] a bath at all that day. The last
5 time I gave [V.S.] a bath was on Tuesday night.

6 Q Okay. And so [V.S.] -- you put her in this heated
7 blanket; correct?

8 A Uh-huh.

9 Q And she's getting colder, isn't she, Ms. Robinson?

10 A I don't -- I don't know if [V.S.] is getting colder or
11 if she's not getting colder. We're sitting in a heated
12 blanket together, so.

13 Q And you observed [V.S.] when she was in that heated
14 blanket. She stood up. You saw when she pooped on the
15 floor; correct?

16 A [V.S.] never pooped on the floor. If [V.S.] was in the
17 heated blanket, how would poop get on the floor and not on
18 the blanket?

19 Q And time is still passing, isn't it, Ms. Robinson?

20 A Time is going.

21 Q And no one called 911 yet; correct?

22 A I had no reason to call 911 at that time.

23 Q And then [V.S.] starts asking for water; correct?

24 A Correct.

25 Q And she asks for more than one cup of water; correct?

1 A Correct.

2 Q And Austin brings her several cups of water; correct?

3 A Right.

4 Q And at this point, you start pressing on her stomach;
5 correct?

6 A Well, at first, she -- I was patting on her back.

7 She was throwing up.

8 Q And then she starts convulsing; right?

9 A What does convulsing mean?

10 Q She's getting sick. Things aren't going well.

11 **V.S.** 's really not doing well at this point.

12 A That never happened. Her -- she just kind of went
13 limp a little bit.

14 Q Okay.

15 A But convulsing, no.

16 Q And so then she went limp. **V.S.** went limb. And she
17 went limp in your arms?

18 A Right.

19 Q Okay. And she's in this heated blanket, or is she
20 naked, or is she in her diaper at this point?

21 A At this point, the blanket's on the floor. And she's
22 got her T-shirt and her leggings on.

23 Q And she's now gone limp?

24 A Uh-huh.

25 Q And you still haven't called 911?

1 A (There was no verbal response.)

2 Q "Yes" or "no"?

3 A 911 was called, like, two -- maybe a minute or so
4 after that --

5 Q Okay. So --

6 A After I --

7 Q I'm sorry. Go ahead.

8 A Well, when -- when her body went like that, that's
9 when I laid her on her stool and started, like, trying to,
10 like, breathe in her mouth, and stuff. And at that point,
11 911 was called.

12 Q And when you started pressing on her stomach, she
13 started vomiting, and water started coming up, and things
14 like that; right?

15 A Yeah. It was -- she was already vomiting. But,
16 yeah, more was coming up.

17 Q Do you recall firefighters running in the room?

18 A Yes.

19 Q Do you recall being in your chair and you were
20 pressing down on V.S.'s stomach?

21 A I was in the middle of the floor with V.S. on the
22 floor. So I wasn't in my chair.

23 Q And do you recall EMS running in the room?

24 A I do remember EMS coming in.

25 Q And, Ms. Robinson, isn't it a fact that your first

1 statements were to EMS and firefighters, not law
2 enforcement; correct?

3 A Yeah, whoever was in the room first.

4 Q And those paramedics were working really hard to save
5 V.S.; correct?

6 A They were.

7 Q And you were leaned inside the door; correct?

8 A Correct.

9 Q And they had her clothes cut off because they were
10 working on her, putting in lines and trying to save her
11 life; correct?

12 A They were working on her.

13 Q Uh-huh. And --

14 MS. SUSTAKOVITCH: Lindsey, will you go to the next
15 one?

16 (Pause.)

17 BY MS. SUSTAKOVITCH:

18 Q I'll move forward. When you answered Ken Koehler,
19 who was the paramedic, and said all -- he asked in
20 disbelief, All this bruising is from the brother? He was
21 EMS; correct?

22 A I guess he was EMS. I don't -- I don't know. I was
23 confused with the fire department and EMS --

24 Q He was working on your foster daughter, V.S.;
25 correct?

1 A Yeah. It was so many people in the room. I don't
2 know who was who.

3 Q All right. Let's watch this for one second.

4 (WHEREUPON, a portion of a video was played in open
5 court.)

6 BY MS. SUSTAKOVITCH:

7 Q And isn't it a fact, Ms. Robinson, that's when you
8 began your lies about J.E.? Correct?

9 A No. That's not true. Because I never lied on
10 J.E. I reported to DSS, his school counselor, his
11 guardian ad litem, her -- her doctor. Everyone knew that
12 J.E. had a history of lying and abusing her. So that
13 was very accurate.

14 Q Ms. Robinson, at this point, Ken Koehler is working
15 on V.S. on the floor. And firefighters are helping her;
16 correct?

17 A Whoever is on the floor.

18 Q And they've cut her shirt off; correct?

19 A Uh-huh.

20 Q And they've cut her pants off; correct?

21 A I guess. I couldn't see when --

22 Q You're leaned in the door. We're looking at you
23 leaned in the door.

24 A Right. I'm leaning in the door. But you can't see.

25 It's, like, five people on the floor surrounding her. And

1 the room is very small. So I -- I never could see her
2 legs. She was on her back, too. So I could not even see
3 her legs, or the extent of anything.

4 Q And he said, All this bruising is from the brother?
5 And that's when you started lying; correct?

6 A When he said, All these bruises are from the brother,
7 I'm thinking, okay, J.E. has put bruising on her before.
8 So whatever he's seeing has got to be from J.E. But,
9 like I said, I didn't see the extent of the bruising on
10 her at that time.

11 MS. SUSTAKOVITCH: Would you go to the next one,
12 Lindsey? Time code 206.

13 Thank you.

14 (WHEREUPON, a portion of a video was played in open
15 court.)

16 MS. SUSTAKOVITCH: Please stop.

17 BY MS. SUSTAKOVITCH:

18 Q Ms. Robinson, isn't it true that you're lying right
19 here? You know you didn't cause that bruising on her
20 abdomen doing CPR or the Heimlich; correct?

21 A I know now that I did not cause that bruising on her.
22 At the time, I did not know that. Because I hadn't seen
23 her stomach prior to any of that.

24 Q Did you think the police needed your help in
25 gathering evidence at this scene?

1 A Oh, I don't think police ever need a civilian's help.

2 Q Well, why did you offer to get a pop -- tell Austin
3 to get a popsicle out of the fridge and give it to the
4 police? Did you think that was going to further the
5 investigation?

6 A No. I think I was just trying to give them whatever
7 they needed to help. I didn't feel like I had any reason
8 to lie to the police or to not be cooperative. I felt
9 like give them whatever they need so they can have it and
10 we can get to the hospital, whatever they need.

11 MS. SUSTAKOVITCH: Lindsey, would you go to Patrikis
12 27?

13 (WHEREUPON, a portion of State's Exhibit No. 1 was
14 played in open court.)

15 BY MS. SUSTAKOVITCH:

16 Q Why did you feel it necessary to double down on
17 J.E. with the J.E. did it lie?

18 A I didn't feel it was necessary. Austin had told me,
19 You need to go and tell them that J.E. lies about stuff.
20 Make sure you go and tell them before we leave that J.E.
21 lies about stuff. So I said, Okay, I'll go tell them.

22 Q Did you ever consider how it might affect J.E. if
23 he thought that somebody was blaming him for killing his
24 sister?

25 A At the time, V.S. was [sic] not passed away. I

1 didn't know what was going on. I didn't think the
2 bruising was even significant. Because I hadn't seen the
3 bruising. If I would have seen the bruising and how
4 significant it was, I would have never thought [REDACTED] J.E. was
5 capable of doing that in the first place.

6 Q So I want to talk about your marriage to Austin. As
7 we've heard testified to, you guys were having trouble;
8 correct?

9 A Right.

10 Q And Austin lied to you about several things; correct?

11 A (There was no verbal response.)

12 Q He lied to you about finishing high school; correct?

13 A Correct.

14 Q He lied to you and said he had his GED; correct?

15 A Correct.

16 Q He lied to you. And you had a party and, I guess, it
17 was for passing the GED, but he hadn't done that; correct?

18 A Correct.

19 Q And that was irritating to you, wasn't it?

20 A Along with other things, yes.

21 Q Yeah. And he pawned some of your items; correct?

22 A (There was no verbal response.)

23 Q And then he, at one point, didn't pay the Sprint
24 bill, or didn't get it paid on time and your phones got
25 cut off; correct?

1 A Correct.

2 Q And that was very embarrassing to you, wasn't it?

3 A No one knew our phones got cut off. So it wasn't
4 embarrassing. They didn't know our phones was off.

5 Q All right. And -- but you did -- you did feel like
6 Austin's one redeeming quality was being a good husband to
7 you; correct?

8 A No.

9 Q You didn't feel like he was a good husband?

10 A Sometimes. I'm not saying he was a terrible husband.
11 I'm just saying he wasn't always the best either.

12 Q But you did feel like his one redeeming quality was
13 that he was a good father; correct?

14 A I felt like he was.

15 Q And you told him that he was?

16 A I did tell him that he was.

17 Q And you told him that he shouldn't let the kids talk
18 to him like he let the kids talk to him; correct?

19 A I did tell him that.

20 Q And he told you that he was going to work on that.
21 And he wasn't going to let the kids talk to him in such a
22 way; correct?

23 A I think he did say that he was going to work on it.

24 Q Ms. Robinson, so you're saying J.E. did not do
25 this; correct?

1 A I'm saying that the medical experts said that they
2 don't believe a seven-year-old could do that. So I don't
3 believe a --

4 Q And you've sat here all week long. It's now almost
5 11:00 on Thursday. You've sat here all week long and
6 heard this testimony come in; correct?

7 A Which testimony? I'm sorry.

8 Q From all the experts you just mentioned.

9 A Right.

10 Q So isn't it a fact you know, at this point, the
11 J.E. defense is not going to fly; correct?

12 A I think I knew when I saw V.S.'s autopsy pictures
13 that this looks really bad. J.E.'s never done anything
14 like this to her.

15 Q Well, but this is it, Ms. Robinson, right now. This
16 is when we're hearing you tell this story; correct?

17 A Correct.

18 Q Okay. And so there is -- if J.E. didn't do it,
19 let's boil it down to brass tacks. It's either you or
20 Austin; correct?

21 A I'd say so.

22 Q No aliens came in and did this. No strangers came in
23 and did this. And you would agree because you've seen the
24 pictures that V.S. was beaten to a pulp; correct?

25 A I would agree with that.

1 Q And whoever did this to her did a heinous act;
2 correct?

3 A Correct.

4 Q And whoever did this to her should be held
5 accountable for this; correct?

6 A Correct.

7 MS. SUSTAKOVITCH: Your Honor, at this time, the
8 State moves -- is going to publish State's Exhibit No. 70.

9 THE COURT: All right.

10 BY MS. SUSTAKOVITCH:

11 Q Ms. Robinson, you testified when we put in some of
12 your Instagram posts -- this is a little Father's Day post
13 you did for Austin; correct?

14 A Correct.

15 Q And I'm just going to look at the date. It's
16 6/23/2020; correct?

17 A Uh-huh.

18 Q I'm going to read it. Because yesterday was Father's
19 Day and this man didn't get enough shine on his day, I'm
20 posting this today. There's not a daddy-daughter duo in
21 the world who love each other more than these two right
22 here. Happy Father's Day to what I believe is what young
23 folks call an OG, but for today an OD, an original dad.
24 What an amazing daddy he is.

25 Most men would run for the hills when their wife asks

1 to increase their children amount by 66 percent at one
2 time, but not him. He listened, prayed about it, and let
3 the Lord speak to him about becoming a dad of five.
4 Nobody but Jesus.

5 Austin truly has a heart for kids and has -- was made
6 to be a daddy. He's so patient, kind, loves to prank his
7 kids. He's lenient, especially to the threenager [sic],
8 and loving. They for sure have a cuddly teddy bear, their
9 nickname for him. But he's, also, a fierce protector
10 because he wouldn't let anyone harm them.

11 Our kiddos are blessed beyond measure to have you as
12 a dad. I hope you were listening during Pastor Donnie's
13 message today, though. He said your kids need discipline.
14 He was, also, including if that kid is a little girl with
15 long curly hair, the cutest little voice, and has you
16 completely wrapped around her fingers, and is
17 approximately three years old. The threenager needs
18 discipline, too. And I know that will never come from you.

19 Happy Father's Day, babe. Love you bunches. And I'm
20 honored to have you as a parenting partner in crime.

21 MS. SUSTAKOVITCH: Nothing further, Your Honor.

22 THE COURT: All right. Mr. Bouton.

23 REDIRECT EXAMINATION

24 BY MR. BOUTON:

25 Q Ariel, do you -- do you post bad pictures of you and

1 your family on -- on social media?

2 A No, not at all.

3 Q Do you post bad things that are going on in your life
4 on social media?

5 A I would never embarrass my family like that.

6 Q Do you only post positive things that you want the
7 rest of the world to see?

8 A Absolutely.

9 Q Have you ever told anyone outside of maybe your
10 immediate family about Austin's lies?

11 A Only the marriage counselors. That was it.

12 Q And -- and why have you not told other people about
13 that?

14 A It's real embarrassing to have these issues. I
15 didn't want people to know.

16 Q So it's not something you would put on social media?

17 A Absolutely not something I would put on social media.

18 MR. BOUTON: Thank you, Ariel.

19 No further questions.

20 THE COURT: Anything else from the State?

21 MS. SUSTAKOVITCH: Nothing further.

22 THE COURT: All right. Ma'am, you can step down.

23 THE WITNESS: Thank you.

24 THE COURT: Thank you.

25 Mr. Bouton.

1 take a little bit longer break. Let's take a break until
2 11:15. And then we'll come back and -- for closing
3 arguments.

4 All right. Thank you.

5 MS. SUSTAKOVITCH: Your Honor, could we do just a few
6 more minutes than 15? Would it be okay to do 20?

7 THE COURT: Yeah. Let's do 20.

8 Okay. We'll be back at 11:20.

9 (WHEREUPON, a break was taken.)

10 THE COURT: Just to let everybody know, normally,
11 when we do closing arguments and my final charge on the
12 law, the courtroom is locked. What I'm going to do in
13 this instance is I'm going to let the attorneys do their
14 closing arguments. Then when their closing arguments are
15 finished, if at that moment before I start my charge on
16 the law, anybody wants to get up and leave the courtroom,
17 I'm going to allow you to do that. The bailiff has asked
18 me. And I will do that.

19 All right. Thank you.

20 But other than that, again, my same rules apply.
21 You're in the courtroom. And I expect everybody to act as
22 such.

23 All right. Are we ready to bring the jury back in?

24 MS. SUSTAKOVITCH: Yes, ma'am.

25 MR. BOUTON: Yes, Judge.

1 THE COURT: All right. Thank you.

2 (WHEREUPON, the jury came into open court at
3 approximately 11:24 a.m.)

4 THE COURT: All right. Just to give everybody a
5 little road map. We're going to hear closing arguments
6 and then my final charge on the law. I anticipate my
7 charge on the law to be, oh, something less than
8 15 minutes.

9 And then your lunch will be here for you just as soon
10 as we break. And, as I said, the case will be in your
11 hands.

12 All right. Ms. Sustakovitch.

13 MS. SUSTAKOVITCH: Yes, ma'am.

14 Thank you.

15 THE COURT: Thank you.

16 MS. SUSTAKOVITCH: May it please the Court.

17 THE COURT: Yes.

18 CLOSING ARGUMENTS

19 MS. SUSTAKOVITCH: Good afternoon, almost afternoon.

20 What is this case about? It's about a little girl
21 whose life was taken from her. What are we on? We're on
22 a search for truth and justice.

23 I told you at the beginning that your task was going
24 to be hard and you were going to have to hear some very
25 hard things this week. When I first got this case, I

1 didn't know who would be sitting here. But I just want to
2 echo what Defense Counsel has said, we thank you for what
3 you've done and for what you've seen.

4 And I -- also, as I said in my opening statement, I
5 am asking that you decide this case not on emotions, but
6 on common sense, on reasoning, not on the pictures as
7 horrific as they are, but on what the evidence in this
8 case shows. The evidence in this case is overwhelming.
9 And it is clear that Ariel Robinson is guilty of homicide
10 by child abuse.

11 The State has the complete burden of proof, ladies
12 and gentlemen. And it's a burden that we welcome. This
13 case is important to everyone, Ms. Robinson, the State,
14 V.S. .

15 And at the end of the day, the State deserves
16 justice, if they've met their burden. And I submit to you
17 the State has. Every defendant is entitled to a fair
18 trial. But at the end of the day, V.S. is
19 entitled to justice, if the State has met its burden of
20 proof, which I submit to you it has.

21 You're going to hear from Judge Verdin about
22 reasonable doubt. What is reasonable doubt? It's the
23 tenant and the -- the core of our criminal justice system.
24 And we have the best criminal justice system in the world.

25 What reasonable doubt means -- it's not beyond every

1 single doubt you could ever imagine. It's beyond a
2 reasonable doubt. It means that as -- you take all this
3 evidence and you are firmly convinced that Ariel Robinson
4 is guilty in this case. It means you're not hesitating
5 when you give your verdict and you render your verdict in
6 this case to act on that because the State has firmly
7 convinced you in your core what happened to V.S.

8
9 Judge Verdin is going to instruct you on the law in
10 just -- in just a moment. But, as I mentioned at the
11 beginning, essentially, homicide by child abuse is when
12 somebody commits child abuse on a child under the age of
13 11 and causes the death of that child under circumstances
14 that exhibit an extreme indifference to human life.

15 And Judge Verdin is, also, going to tell you that
16 child abuse can mean an act or failure to act which causes
17 harm to the child's welfare. And she's, also, going to
18 tell you that harm to V.S.'s physical health or welfare
19 can mean either the Defendant inflicted the actual injury,
20 or allowed the injury to be inflicted on a child and it
21 caused her death, or that the Defendant failed to supply
22 V.S. with medical care and it caused her death.

23 In this case, whoever beat V.S. so severely is
24 guilty of homicide by child abuse. The injuries that she
25 suffered were extreme indifference to human life. There

1 can be no other description of what happened to her.

2 Those injuries, as you heard from medical expert
3 after medical expert, are not from some failed attempt, as
4 this Defendant tried to claim, of doing CPR. That's a
5 lie. That's lie upon lie upon lie by this Defendant.
6 It's not from the Heimlich. It's a lie, a lie. And it's
7 not from [J.E.]. That defense is offensive. That [J.E.]
8 [REDACTED] -- that seven years of age, 48 pounds could ever
9 hurt his sister like this, it's offensive. And it's a
10 ridiculous defense.

11 And just I'll mention this, the State 100 percent
12 believes Ariel Robinson committed the blows that killed
13 [V.S.]. If for some reason, one of you seems to believe
14 what she's trying to tell you, which I submit to you the
15 evidence does not in any way support, but if you did, she
16 is still guilty of homicide by child abuse. Because the
17 evidence in this case is clear that if you believe her,
18 she failed to act.

19 When she got on the stand and told you she didn't see
20 the injuries, that's a lie. That's not the truth. You
21 heard from Firefighter Beau Givens. He told you how she
22 stood in the door and the shirt was cut off. And they
23 said nothing to her. And what did she do? She offers up,
24 Oh, oh, I must have done that doing CPR. She saw the
25 injuries. She knew the injuries were there because she

1 caused them.

2 And then, again, they cut off [V.S.] 's pants to
3 drill into her bone with no anesthesia because she's,
4 basically, dead. No reflexes, nothing, flat lined this
5 baby is.

6 And, again, she unsolicited. You heard the testimony
7 from Firefighter Givens. She offers up, Oh, oh, [J.E.]
8 So now is the time to pull out the [J.E.] defense. And
9 she's thinking. Honest to goodness, you heard her in this
10 fire hose of just rapid fire, so many descriptive words
11 for it, but explanations.

12 She thinks one of those firefighters, or EMS
13 personnel, or one of the police officers is going to be
14 dumb enough to believe her. I -- that must be the only
15 thing she could be hoping. That she is so persuasive that
16 one of them falls off the truck and believes this.

17 I can't sugar coat it. [V.S.] was
18 beaten to death. And the evidence in this case shows that
19 Ariel Robinson is the one that did that.

20 I'm not going to show you pictures during this
21 closing because, obviously, you've -- you've had to see
22 them a lot. And they're hard. And, again, I don't want
23 you to decide this case based on that. But, you know, you
24 had to see them, ladies and gentlemen. And I'm sorry.
25 But if she had to live and die by that, we're adult enough

1 to look at it. We're adult enough to see the bruising
2 that she had to feel, she had to go through, that
3 Dr. Granger testified would be excruciating. And, again,
4 I apologize.

5 I want to go -- get one -- one element out of the way
6 that I briefly touched on. It was the extreme
7 indifference to human life. You saw Dr. Granger. You saw
8 Dr. Ward. You saw Dr. Goben testify about the injuries to
9 V.S. You saw each one of them testify.

10 And I'm going to refer back to some notes because
11 this is very important. And I don't want to forget
12 something that you might need for me to remind you.

13 But going back to Dr. Granger. She talks about
14 extensive bruising. It was all hands on deck. They're
15 doing everything they could to save her. She said, You
16 could not hold a three-year-old down long enough for a
17 seven-year-old to inflict those injuries.

18 She said CPR, she has never seen bruising like that.
19 She said V.S.'s platelets was normal. She has no
20 bleeding disorder. You heard Defense Counsel ask
21 Dr. Goben about anemia. These injuries are from a severe,
22 massive beating, nothing else.

23 We go to Dr. Goben. She stated she was the sickest
24 of the sick. I don't know. That stood out to me.
25 Dr. Goben -- God bless those people that can work in that

1 job. They lay hands on children day in and day out who
2 are on just the tip of -- of life, whether they're going
3 to make it or not.

4 V.S. wasn't going to make it. When she rolled in
5 the door that day, she was so far gone. She was wet. She
6 was cold. She was dead. They gave her artificial
7 adrenaline to bring her back, to artificially start her
8 heart. She was gone.

9 How long must she have laid there? I don't know.
10 When that beating happened, how long? Well, what we do
11 know is that it was, at least, an hour and 15 minutes.

12 What we do know -- we have part of this case -- and
13 part of the timeline the State is providing you. You may
14 have wondered all these little witnesses, what was that
15 about? But the State wanted to provide you with brick by
16 brick by brick, a tapestry, a painting, if you will.
17 Because your jobs are hard. And we wanted to give you
18 every tool to do your job and know what happened on that
19 day.

20 So you look at the timeline. You have Ronnie Lord
21 who came in. He was, actually, a breath of fresh air in
22 this really serious case. He -- he told you about his
23 invoice. And how we know that the Robinsons van got towed
24 in there at 10:22 that morning. V.S. 's not beaten. The
25 tow truck driver guy comes, gets the van. V.S. is okay.

1 And then we have the CVS video. We know Austin
2 Robinson was at CVS at 12:59 that day. Well, what we know
3 is -- think of the time, tick tock, tick tock. She has
4 been beaten. He's off running around getting Tylenol.
5 Ariel is off doing whatever in the house with a heating
6 blanket. And V.S. is bleeding out. An hour 15, an hour
7 30. It's ridiculous.

8 Let's talk about Dr. Ward. Dr. Ward has examined
9 7,000 bodies. He's a special human. He -- he can do that
10 kind of work. He is skilled in a way that a lot of --
11 most everybody isn't. But he talked you through that
12 medical evidence. He told you the degree of force that
13 was involved to cause the injuries to V.S.'s legs.

14 And that one -- the one picture you saw from the
15 autopsy, the reason that was so significant -- it's the
16 only one he got to talk about. But the fact of the matter
17 is it showed the force from the repeated blows to her
18 legs. It's similar to what he sees when somebody's been
19 hit by a car.

20 He, also, told you how -- this Defendant's lie upon
21 lie about, oh, it's the CPR. Y'all think back to the body
22 cams, how much she was interweaving this. I've often said
23 in doing this for almost 20 years, sometimes, the best lie
24 is one that has a little bit of truth in it. And then you
25 just go prop everything up on top of it. Okay.

1 I -- I believe that there was probably pushing on the
2 stomach. I believe V.S. was vomiting. I believe that
3 part happened. What we're not getting is when she was
4 beaten to death. We're just not having that brought into
5 the equation. That's what we're leaving out.

6 Ladies and gentlemen, I want to talk briefly about
7 Austin. The State called him as a witness. He's -- I --
8 I don't know what to say about Austin, other than he is a
9 criminal. He is going down the road for, at least, 10 to
10 20 years. He is going to serve his part in this case.
11 That's what he is. He failed V.S., as he testified to.
12 He did not protect V.S..

13 You heard -- you saw from the body cams how this
14 Defendant on that day, what was she doing? You can go
15 back and watch them however many times you want. But
16 Ariel Robinson is the person who was on it. She is on it.
17 She lied to you on the stand saying she didn't know about
18 the injuries. That is just not true. She had seen the
19 injuries. Okay. And she's down there believing that
20 somebody is going to believe her.

21 And what is Austin doing? He's in the background
22 quiet. You see him back there quiet. He's trying to get
23 all this together in his little head, I guess.

24 He should have called 911. When he came in that door
25 and he saw Ariel standing over V.S. with a belt, he

1 should have called right then, not let her sit there, not
2 go off to CVS.

3 And the last point I'll make on Austin is this,
4 frankly, both of them, I believe, are guilty of homicide
5 by child abuse in the 20 to life range because he failed
6 to act. What did Austin get? So Austin gets arrested.
7 He testified to you and said he sat in there. And he
8 thought about it. And he was in those four walls. And he
9 wanted to tell the truth. Okay. Fine.

10 But, as I told you at the beginning of this case,
11 this case does not hinge on Austin. If he had never given
12 a statement, this exact case would be right here in front
13 of you. Just put him over here. Because the evidence
14 against Ariel Robinson is overwhelming. And it is
15 damming.

16 And there is only one person who is on video lying,
17 lying, lying again about stuff. I guess she just didn't
18 realize that medical evidence was going to shoot down her
19 CPR story that she just kept weaving in there.

20 You -- you saw her on body cam, some of the most
21 bizarre behavior. I don't know if you saw it. But her
22 behavior was not normal. She talks at one point about
23 some officer she knew from -- from back in high school.
24 She just had a dead child brought out of her house. Is
25 that what anybody normal would be doing?

1 When you watch [V.S.] brought -- being brought down
2 the stairs, did you see what Ariel Robinson was doing?
3 She had her hands on her hips just like this. Is that
4 what a loving, caring mom is doing as your foster daughter
5 is being brought out flat lined? No. That's what
6 somebody does when they've beaten the child to death.

7 They've had time to think about their story. And, now,
8 they're trying to sell it. Because this is the big show.
9 She has got to make sure these -- these paramedics and
10 police officers believe her.

11 Ladies and gentlemen, the last thing I'll say about
12 Austin, he is getting no recommendation from the State.
13 He will be pleading. And it will be to a range between 10
14 and 20 years, which Judge Verdin will determine. He has
15 nothing coming from the State.

16 The Defendant, I do want to remind you, is charged
17 with homicide by child abuse. She is not charged with
18 murder. There's a difference. We do not believe that
19 Ariel Robinson woke up that morning and that she intended
20 to kill [V.S.]. This would be a murder case if we had
21 different evidence.

22 What we believe, what the State's evidence proves is
23 she lost it. She lost it. And she went back and she
24 started using a belt, which she admitted to you on the
25 stand that she has used belts before. She was having

1 trouble with [REDACTED] V.S. [REDACTED] over the pancakes, which she
2 admitted to you on the stand. [REDACTED] V.S. [REDACTED] would take
3 45 minutes.

4 She -- I didn't think she would admit it, but she
5 admitted to the timer. I was surprised. But here's
6 [REDACTED] V.S. [REDACTED] being defiant and not getting those pancakes
7 down. I know that to most of you that seems insane. It
8 is.

9 The one thing I've learned is that we cannot crawl
10 inside her head and know what made her go off. I mean,
11 what was it? Was it that she had five kids? We're in
12 COVID. Times are tough. The kids didn't go back to
13 school in August. Now, it's January. Her marriage is
14 failing. Money's hard. Phones are getting cut off. I
15 mean, it could be a totality of all of it. But what we
16 know the evidence proves is that surely happened.

17 I want to take you briefly back through some of the
18 evidence and then I'm going to sit down. You saw Officer
19 Patrikis' body cam. You saw contemporaneously as she
20 walked up those stairs. You heard Ken Koehler say, All
21 this bruising's from the brother? You saw it all. I
22 don't have to tell you what you saw. And that's when she
23 goes into action. Time to get going.

24 We heard from Jay Weibel, Investigator Jay Weibel. I
25 know that was at the beginning of the trial. You do

1 remember him. That's when I think the J.E. did it
2 defense is -- to me, it's like the Titanic, you know.
3 It's -- it's out there in the sea and it's going. And
4 with Jay Weibel, I think it might have still been alive.

5 Because there were questions about J.E. and his
6 anger problems. Did you pick up on that? And his -- that
7 he had these problems at another school. So I think the
8 J.E. defense still had some oxygen in it at that point.

9 But then like turning a ship, oh, there's an iceberg.
10 This is not going to work after doctor after doctor
11 says -- this is not going to work. We have to shift. We
12 can never say the J.E. defense when we get on the stand.
13 It's unbelievable. It's incredulous. It's offensive.

14 You heard from Jonathan Hamilton with forensics.
15 I'll touch on two things. One, if we had video of this
16 happening, I promise you would have it. There is no
17 video. As you heard the testimony, these are live feed
18 cameras. I believe it's on one of the body cams. It's
19 just not...

20 And, also, the belts. When V.S. went into the
21 hospital, they were trying to figure out what in the world
22 could have caused this damage on this baby? What? What
23 was she beaten with? You could see the pattern bruising.
24 Do you remember Dr. Ward showing you -- he stood up and he
25 showed the pattern bruising on her little legs.

1 After Jerry Austin Robinson on February 3rd contacted
2 law enforcement via his attorney and said, I want to give
3 a statement. And you heard several officers say there
4 were no promises. They can't make promises. They can't
5 make offers. No offers were made. But he was going to
6 tell his whole story, which he did. And he filled in some
7 information.

8 At that point, police went back and they said, well,
9 let's see about a belt. Can we find some belts? They
10 found some belts. But nothing -- honestly, ladies and
11 gentlemen, I will tell you the DNA in this case doesn't
12 mean one -- anything one way or another. There's too much
13 time between it. And we don't know which belt it was.

14 As you heard the testimony, they were moving out. So
15 it's just one of those cases where they tested them so
16 that we could give you whatever we had. But it doesn't
17 add up to anything that you need to really consider here.

18 You go back to Beau Givens. And I just touched on
19 this. But he was very clear that -- about the fact that
20 this Defendant saw the injuries on [REDACTED] V.S. [REDACTED] when her shirt
21 was cut off and when her pants were cut off. And at both
22 times, she unsolicited, made comments to them about it.
23 When she testified that she didn't see the injuries, that
24 is a lie. And what do we know about Ariel? She's good at
25 lies.

1 You heard about from various witnesses the
2 Defendant's demeanor. Strange. It was bizarre. You
3 heard Mia Pressley testify, the lady from DSS. She's not
4 consistent. She came out to the car with [J.E.] trying to
5 double down on that [J.E.] defense. But she doesn't know
6 what the medical evidence is going to be. Bizarre.

7 You heard from Jeffrey Jennings. He talked about how
8 he's never seen bruising from CPR like that. You heard
9 that from multiple witnesses. You heard from Jamie
10 Anderson who talked about the CVS video. You heard from
11 Penny Knight. Because the State, we want to make sure
12 that nobody had any question left about [J.E.]. If the
13 medical evidence wasn't enough, we just wanted to make
14 sure to do our job to present everything to you to show
15 what a ridiculous defense that was.

16 You heard from SLED agents. And Britt Dove testified
17 about the church video. Timeline. Thank goodness for the
18 church video. It pinned her in. What do you see here?
19 [V.S.]'s fine. She's not beaten. She's not bleeding out.
20 She's fine.

21 What do you hear about the next morning? From this
22 Defendant even, but from all the other evidence, she's
23 fine when she's eating her pancakes. She sits there for
24 almost an hour, according to the Defendant.

25 And, ladies and gentlemen, you heard from two

1 physicians, Dr. Granger and Dr. Goben. And key in their
2 testimony is this, there is no time after which V.S.
3 was beaten like that that she was okay.

4 I don't know if -- if the argument here is, well,
5 God, maybe Jerry just did it and I -- I didn't know. It
6 was a quiet beating. I -- I didn't know. It didn't
7 happen. That didn't happen.

8 V.S. was not okay after she was beaten. Do you
9 know what V.S. was doing? She was doing just what
10 this Defendant said. She was convulsing -- or throwing
11 up. I'll use that word. She was vomiting on herself
12 while this Defendant is giving her water down her throat,
13 which she cannot swallow because she is dying. That's
14 what's happening.

15 Ladies and gentlemen, the State has no interest in
16 this case, other than to make sure that justice is served
17 in V.S.'s death.

18 And I can't thank you enough for your service. I can
19 tell you that at the end of this case, there's one thing
20 that's certain, there are no winners. There's no happy
21 day. V.S. is still dead. And I've learned in these
22 cases, sometimes, the only thing you can hope for is
23 justice.

24 Thank you.

25 THE COURT: Mr. Bouton.

1 MR. BOUTON: Your Honor, may it please the Court.

2 THE COURT: Yes, sir.

3 MR. BOUTON: Ladies and gentlemen, again, I'm -- I'm
4 sorry. I'm sorry you've had to sit through this week.

5 It's been a hard week for everybody. I don't know
6 that there's anybody in the courtroom who really wants to

7 be here. It's been a heartbreaking trial. And it's --
8 it's terrible what happened. I think everybody can agree.

9 I think your natural instinct is -- is to do what the
10 Solicitor is asking you to do, do justice for V.S., you
11 know. We feel the urge to -- to do something for her.
12 But that's not your job.

13 Your job is to analyze the evidence that's been
14 presented and apply it to the law that the Judge is going
15 to give you in a few minutes and systematically determine
16 whether or not the State has met its burden beyond a
17 reasonable doubt. That's what your job is. You have to
18 leave the emotion and the -- and the feelings out of it.
19 And that's hard to do.

20 No one is denying that V.S. suffered a tragic death.
21 It is heartbreaking. Your job is to listen to the
22 evidence, to observe the testimony, and analyze it, and
23 make that determination of whether or not the State has
24 reached its burden. That's it.

25 What do we know about this trial? I think we know

1 that this poor child died of a homicide. I don't think
2 there's any debate on that. You've heard all the medical
3 evidence. And I'm not going to go through it. I don't
4 necessarily disagree with any of it. There are smart
5 people who are much smarter than me. And I think that
6 they -- they were accurate.

7 We, also, know that [J.E.] didn't do this. I don't
8 doubt the testimony that he didn't have the force to do
9 it. You've seen the pictures. And I think -- I think
10 that's true. But I had to ask questions. And I hesitated
11 to do it, but I had to. I had to ask the teacher. I had
12 to ask DSS about his history.

13 Because it was important to tell you and show you
14 that Ariel wasn't lying when she said the child had a
15 history of aggression. I'm not going to blame the child
16 for what happened. He, also, had a documented history of
17 lying. And what she said is true. The State wants to
18 make sure that you believe that she was blaming [J.E.] and
19 blaming herself from the CPR for causing those bruises.

20 You heard Ariel testify. She didn't know the extent
21 of those bruises until she saw the pictures of her. And
22 there were lots of questions with lots of first responders
23 about what happened. And what do we know? We can all
24 probably agree, and we saw the video, that it was a
25 chaotic scene when they arrived to try to save [V.S.].

1 The firefighters, EMS, six, seven, eight people in
2 the room. Ariel is outside. What do some of those people
3 say? What did Officer Guest say? That's the reason I
4 called him. I didn't really get a good look at her. I
5 couldn't really see the injuries to the victim. There
6 were a lot of people in there. It was chaotic.

7 Ariel didn't see the extent of what happened until
8 later. And what she said about the brother -- excuse me,
9 V.S.'s brother, it was the truth. He had been aggressive.
10 She didn't know what she had done giving CPR.

11 She came in today and told you, I admit I -- J.E.
12 didn't cause those bruises. I admit -- I believe the
13 medical evidence. I didn't cause those bruises from CPR.
14 At the time, she didn't know.

15 The State wants to make a big deal about her -- her
16 appearance. Everyone acts to chaotic and traumatic events
17 in their life differently. Some people break down and
18 cry. Some people get catatonic and can't talk. Everyone
19 acts differently. You can't convict her on how she acted
20 in that type of situation. You have to analyze all of the
21 evidence and determine whether or not the State has met
22 its burden of proving each element beyond a reasonable
23 doubt.

24 So what do we know? What did the police know? After
25 the first couple of days, they didn't know who did this.

1 They arrested two people with the same charge, homicide by
2 child abuse. Because, at that point, they didn't know.
3 They didn't have any evidence that Ariel had done it or
4 Austin had done it. They charged them both. And it
5 stayed like that for two weeks while Austin sat in
6 solitary confinement and thought about it.

7 He got a lawyer. And he reached out and said, you
8 know what, I'm going to make a deal. And that's what he
9 did.

10 The Solicitor can say, I -- you know, I'm not making
11 any recommendations. I'm not making any promises. But he
12 cut a deal. There's a big difference between 10 years and
13 life in prison. He's got no chance of getting any more
14 than 20 years. And he's going to come in here and hope he
15 gets 10 years. He's going to hope he did a good job and
16 testified appropriately. So he had a lot to gain.

17 The only thing that changed in their investigation is
18 when Austin came forward. That's what changed. When he
19 came forward with a statement, this -- this whole case
20 changed.

21 Did anything else happen? DNA testing. That's about
22 the only thing that happened after he came -- came
23 forward. The DNA. The belts were seized two weeks later.
24 If anything, the DNA hurts the State's case. There's one
25 sample that had **V.S.**'s DNA on it. And you heard the DNA

1 analyst. More of Austin's DNA was on that sample than --
2 than Ariel's. So, if anything, that's the only other
3 evidence that we've had in this case besides what Austin
4 came forward with.

5 So I submit to you that the case comes down to
6 credibility. It's he said, she said. Who do you believe,
7 Austin or Ariel? I think we can probably admit that the
8 evidence dictates that one of these two people committed
9 this crime.

10 Who was the most credible? Credibility means
11 believability. You got to hear what was on the stand.
12 You heard the assistant pastor come in and say Austin
13 doesn't have a reputation for being truthful. He got up
14 there himself and admitted to years and years of lying.

15 The State's burden is the highest that we have in our
16 country. There are different burdens in our judicial
17 system. And the Judge is going to charge you on the
18 burden of proof, beyond a reasonable doubt. And listen to
19 the Judge. She's -- she's correct. I'm not telling you
20 something different. At least, I'm not trying to.

21 To arrest somebody, you've got to have the burden of
22 probable cause. Probable cause is down here. It's a
23 reasonable belief that a crime may have been committed.
24 The police had probable cause that Ariel had committed a
25 crime or Austin. And they both were charged with homicide

1 by child abuse.

2 You'll hear in civil cases about the preponderance of
3 the evidence. That's -- that's kind of like if you
4 have -- in a -- in a car wreck case, you have scales.
5 Does one side tip to the other? Is it possible that one
6 person is telling the truth?

7 You have clear and convincing evidence. It's a
8 higher standard. A lot of times in a -- in a civil case,
9 if there's punitive damages, you say you have a clear and
10 convincing standard. That's more than 50 percent. It's
11 got to be higher.

12 The highest standard we have in our judicial system
13 and way it's set up is beyond a reasonable doubt. And
14 that's what we have here. You have to be convinced beyond
15 a reasonable doubt in order to convict.

16 The burden is never upon the Defendant to prove that
17 she is not guilty or to prove that she is innocent.
18 Because in some cases, that may not be possible. The
19 burden is always on the State to prove the Defendant
20 guilty beyond a reasonable doubt.

21 And in considering that, considering whether the
22 State's met its burden, you're allowed to consider the
23 credibility of the witnesses. You're allowed to consider
24 Ariel's testimony today. You observed her. You got a
25 chance to -- to hear her story. And you -- you observed

1 Austin's testimony.

2 I submit to you that in order for you to find that
3 the State has met its burden of proof, you've got to --
4 you've got to make the determination that Austin's
5 credibility is [inaudible]. This is the same guy who
6 admitted to lying for 14 years to Ariel. He admitted to
7 losing his job and driving to the parking lot and sitting
8 for weeks so that she would think he had a job, not paying
9 the bills, getting the cell phones cut off. He even
10 admitted to pawning the families electronics. He has
11 serious credibility issues.

12 Ariel never changed her story. She told you the same
13 thing that she told police that first day. Now she knows
14 more about what the extent of the injuries are. But her
15 story never changed. Only the guy that came forward and
16 took the plea deal is the guy that you have to believe.
17 And you have to believe it to the level that you believe
18 the State must meet its burden of proof.

19 Your oath, you must find that the State has met its
20 burden. And if you find that it hasn't, then you must
21 find her not guilty. It's that simple.

22 If Austin's testimony and history cause you to pause
23 to think I'm not sure the State has met its burden of
24 proof, then you must find Ariel not guilty.

25 Thank you.

1 THE COURT: Ms. Sustakovitch, anything in reply?

2 MS. SUSTAKOVITCH: Just very briefly.

3 Ladies and gentlemen, just to briefly clarify a few
4 things. The State never had a question about whether
5 Ariel Robinson inflicted these injuries. Ariel Robinson
6 is the only person who lied about CPR, who lied about
7 J.E., who is completely changing her story today. She
8 saw the injuries. She offered up lies on that day.

9 How does the State know V.S. was killed by Ariel?
10 Because Ariel told you she did it. She said, oh, this, I
11 did that. I did that. And she said that after having
12 seen the injuries. What she said on the stand is not the
13 truth.

14 You heard from Beau Givens and other witnesses.
15 Ariel figured she would come up with a story and they
16 would buy it. Frankly, Austin gave a statement. He
17 didn't really even help himself. He, actually, put
18 himself more into the case. The State had Ariel. Austin
19 just made sure that it was very clear how little he did to
20 help out.

21 But there was never a question on Ariel Robinson and
22 her admission to causing these injuries. What you heard
23 from Dr. Ward was this all happened at the same time.
24 There's no split difference between J.E. doing this and
25 her doing this. It's all a lie.

1 And the only person that you've seen being cruel to
2 V.S. that you heard testimony is this Defendant.
3 Girls that make themselves throw up deserve to be cold.
4 She eats too much. It's just a game.

5 And then we come down to State's Exhibit No. 70, the
6 threenager needs discipline, too. Although, I know
7 that'll never come from you. Ariel to your ears. Jerry
8 did not beat V.S. to death. The evidence is clear,
9 Ariel Robinson did.

10 THE COURT: Thank you.

11 All right. Ladies and gentlemen of the gallery, I
12 did say I'd give you the opportunity to leave before my
13 final charge on the law. If there's anybody who would
14 like to leave, at this time, you may do so.

15 (Pause.)

16 THE COURT: Is everybody okay? We've got about 15
17 minutes, something less than 15 minutes.

18 (WHEREUPON, all of the jurors indicated in the
19 affirmative.)

20 CHARGE ON THE LAW

21 THE COURT: Madam Foreperson, ladies and gentlemen of
22 the jury, you have seen and heard the evidence presented,
23 as well as the arguments of counsel. It now becomes my
24 duty and obligation to instruct you on the law applicable
25 in this case. It will then be your duty and obligation to

1 begin your deliberations through which process you will
2 decide the facts, apply the law as instructed by the
3 Court, and determine whether the State has met its burden
4 of proof.

5 It is your exclusive duty to determine the facts in
6 this case. You do that based upon your own common sense
7 examination and evaluation of the testimony, and other
8 evidence received during the trial of the case.

9 You 12 jurors alone will decide what weight, value,
10 and effect that is to be given to any particular
11 testimony, or other evidence received. Your ultimate goal
12 is to determine whether the State has met its burden of
13 proof in this case. And in doing so, you will have
14 fulfilled your obligation as jurors.

15 Some of you chose to take notes during the trial of
16 this case. Please remember that some people are better
17 note takers than others. Juror notes should not be given
18 any greater weight than the recollection of other jurors.
19 The recollection of the individual jurors should be
20 considered as rely -- as reliable as any notes taken by
21 other jurors.

22 In this case, the State of South Carolina through the
23 circuit solicitor has charged the Defendant with the
24 criminal offense known as homicide by child abuse. The
25 allegations charging the Defendant with this crime is set

1 forth in the indictment that has been previously explained
2 to you. The indictment is not evidence in this case and
3 may not be considered by you as evidence against the
4 Defendant.

5 As to the charge set forth in the indictment, the
6 Defendant has entered a plea of not guilty. That plea of
7 not guilty has, therefore, placed upon the State the
8 burden of proving the allegations that are set forth in
9 the indictment, the burden of proving each of the
10 essential elements of the crime charged. And, therefore,
11 the burden of proving the guilt of the Defendant to the
12 satisfaction of you 12 jurors beyond a reasonable doubt
13 before a verdict of guilty could be returned as to any
14 indictment.

15 The burden is never upon a defendant to prove that
16 she is not guilty or to prove that she is innocent.
17 Because in some cases, that may not be possible. The
18 burden is always upon the State. Because they have made
19 the allegations to prove the Defendant beyond -- guilty
20 beyond a reasonable doubt.

21 You are further instructed that it is a vital,
22 important, and cardinal rule of law that every defendant
23 in a criminal trial no matter how serious the offense
24 might be for which she stands charged shall always be
25 presumed innocent of that charge. And that presumption of

1 innocence shall be with the Defendant from the moment of
2 her -- her arrest, and throughout the course of the
3 criminal process, and even throughout the course of the
4 actual trial.

5 The presumption of innocence shall be with the
6 Defendant even as you go into the jury room to begin your
7 deliberations. And that presumption of innocence shall be
8 with her there and be with her forever, unless you 12
9 jurors determine that she is no longer entitled to that
10 presumption of innocence. It is only if, unless, and
11 until you are satisfied of the Defendant's guilt beyond a
12 reasonable doubt that she would no longer be entitled to
13 the presumption of innocence.

14 I remind you that during this trial you and I have
15 certain duties to perform. As the trial judge, it is my
16 responsibility to preside over the trial of this case.
17 And I, also, have the duty to rule on the admissibility of
18 evidence offered during this trial.

19 You are to consider only the competent evidence
20 before you. If there was any testimony ordered stricken
21 from the record, you must disregard that testimony. You
22 are to consider only the testimony which has been
23 presented from this witness stand and any exhibits that
24 have been made a part of the record in this case, as well
25 as the stipulation between the parties in this case.

1 I have the additional duty to charge you the law
2 applicable to this case. As the presiding judge, I'm the
3 sole judge of the law of the case. And it's your duty, as
4 jurors, to accept and apply the law as I now state it to
5 you.

6 If you already have any idea as to what the law is or
7 what the law ought to be, you must abandon this idea.
8 Because you are sworn to accept the law and apply the law
9 exactly as I state it to you.

10 In every case tried in this Court before a jury, the
11 jury becomes the sole and exclusive judge of the facts in
12 a case. A trial judge cannot comment on, intimate, state,
13 or make any statement as to a trial jury about the facts
14 in a case.

15 Since you, the juror -- jury are the sole judge of
16 the facts in the case, you are not to infer from what I
17 have said during the progress of this trial in ruling upon
18 the admissibility of evidence or otherwise, or anything
19 that I say now during the course of this instruction to
20 you that I have any opinion about the facts in this case.
21 I do not. The law does not allow me to have an opinion
22 about the facts in the case. This is a matter solely for
23 you, the jury, to determine. As jurors, it is your duty
24 to determine the effect, value, weight, and truth of the
25 evidence presented during this trial.

1 The State has the burden of proving the Defendant
2 guilty beyond a reasonable doubt. Some of you may have
3 served as jurors in civil cases where you were told it is
4 only necessary to prove that a fact is more likely true
5 than not true, such as by the greater weight or
6 preponderance of the evidence.

7 In criminal cases, the State's proof must be more
8 powerful than that. It must be beyond a reasonable doubt.
9 Reasonable doubt is the kind of doubt that would make a
10 reasonable person hesitate to act. Proof beyond a
11 reasonable doubt is proof that leaves you firmly convinced
12 of the Defendant's guilt.

13 There are very few things in this world that we know
14 with absolute certainty. And in criminal cases, the law
15 does not require proof that overcomes every possible
16 doubt.

17 If based on your consideration of the evidence, you
18 are firmly convinced the Defendant is guilty of the crimes
19 charged, you must find the Defendant guilty. If, on the
20 other hand, you think there's a real possibility that the
21 Defendant is not guilty, you must give the Defendant the
22 benefit of the doubt and find her not guilty.

23 There are two types of evidence which are, generally,
24 presented during a trial, direct evidence and
25 circumstantial evidence.

1 Direct evidence is the testimony of a person who
2 claims to have actual knowledge of a fact, such as an eye
3 witness. It is evidence which immediately establishes the
4 main fact to be proved.

5 Circumstantial evidence is proof of a chain of facts
6 and circumstances indicating the existence of a fact. It
7 is evidence which immediately establishes collateral facts
8 from which the main fact may be inferred. Circumstantial
9 evidence is based on inference and not on personal
10 knowledge or observation.

11 The law makes absolutely no distinction between the
12 weight or value to be given to either direct or
13 circumstantial evidence. Nor is a greater degree of
14 certainty required of circumstantial evidence than of
15 direct evidence. You should weigh all of the evidence in
16 the case. And after weighing all the evidence, if you are
17 not convinced of the guilt of the Defendant beyond a
18 reasonable doubt, you must find the Defendant not guilty.

19 Necessarily, you must determine the credibility of
20 witnesses who have testified in this case. Credibility
21 simply means believability. It becomes your duty, as
22 jurors, to analyze and to evaluate the evidence and
23 determine if the State has met its burden of proof in this
24 case.

25 In determining the believability of witnesses who

1 have testified in this case, you may believe one witness
2 over several witnesses, or several witnesses over one
3 witness. You may believe a part of the testimony of a
4 witness and reject the remaining part of the testimony of
5 that same witness. You may believe the testimony of a
6 witness in its entirety or reject the testimony of a
7 witness in its entirety.

8 You may consider whether any witness has exhibited to
9 you any interest, bias, prejudice, or other motive in this
10 case. You may, also, consider the appearance and manner
11 of a witness while on the witness stand.

12 As I have stated to you, the rules of evidence
13 ordinarily do not permit witnesses to testify as to
14 opinions or conclusions. An exception to this witness --
15 this rule exists for witnesses we call expert witnesses.
16 A witness who by education and experience has become an
17 expert in some art, science, profession, or calling may
18 state an opinion as to relevant and material matter in
19 which the witness claims to be an expert and may, also,
20 state the reasons for the opinion.

21 You should consider any expert opinion received in
22 evidence in this case and, like any other evidence, give
23 it the weight you think it deserves. If you decide that
24 the opinion of an expert witness is not based on
25 sufficient education and experience, or if you conclude

1 that the reasons given in support of the opinion are not
2 sound, or that the opinion is outweighed by other
3 evidence, you may disregard the opinion entirely.

4 An expert witnesses testimony is to be given no
5 greater weight than that of other witnesses simply because
6 the witness is an expert. Further, you are not required
7 to accept an expert's opinion, even if it is not
8 contradicted.

9 Statements alleged to have been made by the Defendant
10 have been admitted into evidence in this case. While the
11 Court has determined that these statements are admissible,
12 I instruct you that you make the ultimate decision of
13 whether or not the Defendant made the statements.

14 If the Defendant did make the statement, you must
15 determine whether the statement was made by the Defendant
16 voluntarily and of her own free will. This means that the
17 statement was not caused by pressure, force, fear,
18 threats, coercion, or intimidation, or by hope or promise
19 of leniency or reward of any kind. In determining whether
20 the statement was voluntary, you should consider both the
21 characteristics of the Defendant and the details of the
22 questioning.

23 Some of the factors you must consider are, one, the
24 age of the Defendant; two, the Defendant's education or
25 lack of education; three, the Defendant's mental ability

1 or capacity; four, the Defendant's IQ or intelligence;
2 five, the Defendant's background and environment; six, the
3 place and length of detention; seven, the nature of the
4 questioning; and, eight, the advice or lack thereof to the
5 Defendant of her Constitutional rights, including but not
6 limited to the right to remain silent, that any state
7 could -- statement could be made -- any statement made
8 could be used against her in a court of law, the right to
9 have a lawyer present, if she could not afford a lawyer, a
10 lawyer would be appointed to represent her without any
11 cost, and that she could stop making a statement at any
12 time. You must carefully consider all the surrounding
13 circumstances before you give any weight to an alleged
14 statement.

15 The State has the burden of proving beyond a
16 reasonable doubt that the alleged statement was voluntary.
17 If you determine it was, you must -- you may give the
18 statement any further consideration you deem proper. You
19 must decide what weight, if any, should be given to the
20 alleged statement. If you determine the alleged statement
21 was not the free and voluntary statement of the Defendant,
22 you should not consider the statement at all.

23 In order to establish criminal liability, the State
24 must prove criminal intent. The State must prove criminal
25 intent beyond a reasonable doubt. Criminal intent is a

1 matter that must be determined by the jury from the facts
2 of the case. There is no way to prove criminal intent to
3 a mathematical certainty.

4 So the law says that criminal intent may be inferred
5 from the circumstances shown to have existed. This is how
6 you determine whether or not the element requiring intent

7 was present. It is not necessary to establish intent by
8 direct evidence. Intent may be determined and established
9 by circumstantial evidence, or by taking into
10 consideration the acts of the parties, and all the facts
11 and circumstances of the case.

12 Criminal intent is a mental state of conscious
13 wrongdoing. It is up to you to determine what the
14 Defendant intended to do, based on the circumstances shown
15 to have existed in this case.

16 The Defendant is charged with homicide by child
17 abuse. The State must prove beyond a reasonable doubt
18 that the Defendant caused the death of a child under the
19 age of 11 while committing child abuse or neglect. Child
20 abuse or neglect is an act or failure to act which causes
21 harm to the child's physical health, or welfare.

22 Harm to the child's physical health or welfare means
23 that the Defendant either, one, inflicted or allowed to be
24 inflicted on a child physical injury; two, failed to
25 supply the child with adequate food, clothing, shelter, or

1 other healthcare and this failure caused a physical injury
2 or condition which caused death; or, three, abandoned the
3 child causing the child's death.

4 The State must, also, prove beyond a reasonable doubt
5 that the death occurred under circumstances showing an
6 extreme indifference to human life. I charge you that
7 extreme indifference in -- excuse me, is in the nature of
8 culpable mental state and, therefore, akin to intent.

9 In South Carolina, indifference in the context of
10 criminal statutes has been compared to the conscious act
11 of disregarding a risk, which a person's conduct has
12 created or a failure to exercise ordinary or due care.

13 Ladies and gentlemen, your verdict must be a
14 unanimous one.

15 Madam Foreperson, when the jury agrees on a verdict,
16 you will write the verdict on this verdict form, which I
17 believe is very simple. Then knock on the door of your
18 jury deliberation room or -- or activate the light to
19 signal the bailiff that you have reached a verdict. At
20 that time, we'll receive you back in the courtroom.

21 I ask that you now return to your jury room. But do
22 not begin deliberations until you're told to do so by the
23 bailiff. There are some brief legal matters I need to
24 take up with the attorneys before beginning your
25 deliberations. When you receive the verdict form, as well

1 as the exhibits entered in this case, you may begin your
2 deliberations.

3 Thank you so much for your service in this case.

4 (WHEREUPON, the jury was excused from open court at
5 approximately 12:21 p.m.)

6 THE COURT: Any objection to my charge on the law
7 from the State?

8 MS. SUSTAKOVITCH: None from the State.

9 THE COURT: Any from the Defense?

10 MR. BOUTON: No, Your Honor.

11 THE COURT: All right. Then very well. Would you
12 all, please, ensure that you've got all the evidence
13 together. And then here's the verdict form that we'll add
14 to that.

15 All right. We'll be in recess pending a verdict.

16 (WHEREUPON, the proceedings were recessed at
17 approximately 12:22 p.m.)

18 THE COURT: All right. It's my understanding that
19 we've got a verdict.

20 Are we ready to bring the jury back in?

21 MS. SUSTAKOVITCH: Yes, ma'am.

22 MR. BOUTON: Yes, Your Honor.

23 THE COURT: All right. While they've gone to get the
24 jury, I just want to make an announcement again just to
25 say that folks in the gallery, you know, if you feel like

1 you can't handle a verdict in -- in either direction, then
2 you should leave now.

3 Because I'm going to maintain control of the
4 courtroom, period. And I'm going to put -- and anybody
5 who makes a scene in the courtroom -- this jury doesn't
6 deserve this. They didn't ask to be involved in this.
7 Anybody that makes a scene, you need to know my contempt
8 powers are right off the bat six months in jail, right off
9 the bat.

10 (WHEREUPON, the jury came into open court at
11 approximately 1:54 p.m.)

12 THE COURT: Madam Foreperson, it's my understanding
13 that the jury has reached a verdict; is that correct?

14 JUROR #193, KIMBERLY LITTLE: Yes, Your Honor.

15 THE COURT: Would you, please, give the verdict form
16 to the bailiff?

17 The verdict form appears to be in order.

18 I'll ask the clerk to publish it.

19 VERDICT

20 THE CLERK: Your Honor, this is case number
21 2021-GS-23-6831, the State of South Carolina vs. Ariel
22 Robinson. As to the charge of homicide by child abuse,
23 we, the jury, unanimously -- unanimously find the
24 Defendant guilty of homicide by child abuse, signed by our
25 Foreperson.

1 THE COURT: All right. Anything further from the
2 State before I release the jury?

3 MS. SUSTAKOVITCH: Nothing further from the State.

4 THE COURT: Anything further from the Defense?

5 MR. BOUTON: Your Honor, respectfully, I'd ask that
6 you poll the jury.

7 THE COURT: All right. I'm going to ask you to poll
8 the jury, please.

9 POLLING OF THE JURORS

10 THE CLERK: The verdict I have published was the
11 verdict you reached in the jury room. I ask you was it
12 your verdict then and is it your verdict now?

13 When I call your name, please, answer "yes" or "no."

14 Do we want to do names or do you want to just --

15 THE COURT: You can just do numbers, as long as
16 people know their juror number.

17 Thank you.

18 THE CLERK: Juror #300?

19 JUROR #300, BOYD STEWART: Yes.

20 THE CLERK: Juror #234?

21 JUROR #234, MEGAN NORTON: Yes.

22 THE CLERK: Juror #301?

23 JUROR #301, GREGORY STRICKLAND: Yes.

24 THE CLERK: Juror #117?

25 JUROR #117, DAMON GARRETT: Yes.

1 THE CLERK: Juror #193?

2 JUROR #193, KIMBERLY LITTLE: Yes.

3 THE CLERK: #338?

4 JUROR #338, HANNAH WILLIAMS: Yes.

5 THE CLERK: Jury #296?

6 JUROR #296, STEVEN STEADMAN: Yes.

7 THE CLERK: Juror #322?

8 JUROR #322, TONY VINSON: Yes.

9 THE CLERK: Juror #261?

10 JUROR #261, CALISHA RAYFORD: Yes.

11 THE CLERK: Juror #112?

12 JUROR #112, ROBBILIN FURMAN: Yes.

13 THE CLERK: Juror #173?

14 JUROR #173, ERIN KING: Yes.

15 THE CLERK: And Juror #336?

16 JUROR #336, JORDON WHITNEY: Yes.

17 THE COURT: Anything further from the Defense?

18 MR. BOUTON: No, Your Honor.

19 THE COURT: All right. I know I speak for all the
20 attorneys involved, thank you so much for your service.

21 I want to come and say goodbye to you before you
22 leave. I don't want to hold you up, however, because I
23 know you have been with us and have been very gracious
24 with your time.

25 But thank you so much.

1 (WHEREUPON, the jury was excused from open court at
2 approximately 1:57 p.m.)

3 THE COURT: All right. We'll move to sentencing in
4 just a moment. But I want to let the jury go.
5 Thank you.

6 (WHEREUPON, a break was taken.)

7 THE COURT: All right. Are we now ready to proceed
8 with sentencing?

9 MS. SUSTAKOVITCH: Yes, ma'am.

10 MR. BOUTON: Yes, Your Honor.

11 Would you like us to come forward?

12 THE COURT: Please come forward.

13 And do you know Ms. Robinson's jail days?

14 MS. SUSTAKOVITCH: Yes, ma'am. It's 478 days.

15 THE COURT: All right. Anything from the State?

16 MS. SUSTAKOVITCH: Just very briefly, Your Honor.

17 THE COURT: Yes, ma'am.

18 MS. SUSTAKOVITCH: I know we've seen a lot of
19 horrible photographs in this -- this case. But I did want
20 to share with the Court, if it's okay, just three
21 photographs of V.S. that are showing the child that she was.

22 And, Your Honor, is now the appropriate time for
23 victim input?

24 THE COURT: Yes, ma'am.

25 MS. SUSTAKOVITCH: In this case, J.E. and C.E.,

1 her brothers that we've heard a lot about, have lost out
2 on having their sister. The loss of that is so profound
3 and cannot be put into words. I did want to say that on
4 behalf of them.

5 And I, also, did want to mention on behalf of law
6 enforcement, and every first responder, and physician that
7 worked on this case, it's been like none other that I've
8 handled because each one has been touched by **V.S.**. And it
9 was very difficult. And it was very hard to work through
10 this. But I just wanted to thank all of them for their
11 professionalism that they've showed in this case.

12 THE COURT: Thank you very much.

13 Mr. Bouton.

14 MR. BOUTON: Thank you, Your Honor.

15 I -- I don't have a lot to add. But as far as
16 mitigation goes, I would like to hand you a report from
17 Dr. Jeffrey McKee that had Ariel seen and evaluated by
18 him. I just would like to hand that up for your --

19 THE COURT: Certainly.

20 MR. BOUTON: And the Solicitor has seen that.

21 It's -- just as far as mitigation goes, Your Honor...

22 (Pause.)

23 THE COURT: Yes, sir.

24 MR. BOUTON: Your Honor, I -- I'm not going to add
25 much. I know you've heard and know the background of

1 Ms. Robinson. She is 30 years old. She has no prior
2 record, Judge. As you heard, she does have degrees from
3 Lander and from Clemson.

4 Your Honor, two things I would like to point out for
5 mitigation is the fact that the medical testimony through
6 this trial indicated that there was no signs of prior
7 bruises and abuse. And I think -- I think that is
8 potentially important for sentencing. In my mind, that
9 indicates maybe that this was a -- an incident where
10 someone snapped, not something that was a prolonged
11 history.

12 Judge, in the text messages between my client and --
13 and Mr. Robinson, you can get an idea of -- of how much
14 this family was struggling at the time. They did not have
15 a lot of money. They -- COVID, the quarantine was going.
16 And there was a lot of stress on the family, Judge. And
17 I -- I would like for you to take that into account.

18 I think the legislature has put in place a penalty
19 range that is different from murder for a reason. I think
20 people understand -- not to excuse or justify at all. But
21 I think people understand that sometimes there are
22 stresses and situations that come with a family,
23 especially having multiple kids. And I would just ask
24 that you take that into consideration.

25 THE COURT: All right.

1 MS. SUSTAKOVITCH: Your Honor, briefly, I was just
2 made aware, Mr. Reid Sherard is present on behalf of
3 J.E. and C.E. and wanted to address the Court.

4 THE COURT: All right. Well, I'll hear from you
5 briefly.

6 MR. REID SHERARD: Thank you.

7 May it please the Court.

8 Your Honor, Reid Sherard on behalf of the boys
9 through their foster parents.

10 J.E. and C.E. remember V.S. frequently and the
11 incredible affection unique to the relationship between
12 big brothers and a baby sister. They remember her
13 smiling, and vibrant, and happy. J.E. often tells us,
14 You would have liked her a lot. She was so nice and cute.
15 She loved girly things. C.E. just says he wishes she
16 was here and hopes she's okay in heaven. He likes to
17 check on her during grace.

18 We wish she was here, too, and with these incredible
19 boys. We mourn the loss of a beautiful life that was and
20 the beautiful future that might have been.

21 J.E. and C.E. are mad about what happened to her
22 and to them in that house. They have more questions than
23 we can answer. They want you all to know they are safe
24 now. We hope that time and unfailing love will help happy
25 memories of V.S. overtake the pain of her loss.

1 J.E. and C.E. also, have an unfathomable
2 capacity for forgiveness, grace, and hope. It seems to be
3 innate, even divine in these little boys who are a good
4 example for all of us when faced with unspeakable tragedy.

5 Thank you.

6 MS. SUSTAKOVITCH: Thank you.

7 THE COURT: Thank you.

8 Anything else from the State?

9 MS. SUSTAKOVITCH: No, ma'am.

10 THE COURT: All right. And I appreciate, Mr. Bouton,
11 you providing this report. And I have had an opportunity
12 to review it.

13 I'm glad to hear that the -- those boys are being
14 well taken care of now and, certainly, deserved it after
15 being in the situation that they were in with this and
16 losing their sister in such a horrific way.

17 Ms. Robinson, I -- I don't really have a lot to say
18 at this point.

19 I didn't ask you, but does your client have anything
20 to say?

21 (Pause.)

22 MR. BOUTON: I don't think she can, no, ma'am.

23 THE COURT: Okay. But I will just say this. I
24 don't -- I think the medical testimony in this case was
25 incredibly heartbreaking. And for folks who deal in the

1 emergency room and who serve us in that way and folks who
2 deal with children in the most critical of situations, for
3 them to say that this was substantially worse than
4 anything they had seen, I think that has to put something
5 into perspective for you.

6 I can say that in my 13, 14 years of being a Judge,
7 I've never seen anything like this. I've never seen
8 anything like this, not even approaching it. And what
9 compounds it is that I understand what your attorney is
10 saying, perhaps, you snapped at that moment. But then
11 why -- then why let this child suffer and not get her the
12 medical attention that she desperately needed as she lay
13 dying in her own bedroom.

14 SENTENCING

15 THE COURT: Based upon all of that, the sentence of
16 the Court cannot be anything but life in prison.

17 Thank you.

18 *****END OF TRANSCRIPT OF RECORD*****
19
20
21
22
23
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25

CERTIFICATE OF REPORTER

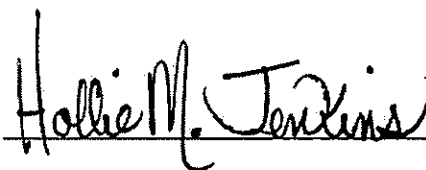
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 9th thru 12th days of May, 2022.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

October 20, 2022

A handwritten signature in cursive script, reading "Hollie M. Jenkins", written over a horizontal line.

Hollie M. Jenkins, Court Reporter

DOCKET NO. 2021-GS-23-
CLK 006831

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

October TERM 2021

THE STATE

vs.

ARIEL S. ROBINSON

WITNESSES

S. Magaw

Simpsonville Police Dept.

1/19/2021

S. Magaw 3/1/2021

ARREST WARRANT NUMBER

2021A2320400037

ACTION OF GRAND JURY

TRUE BILL

[Signature]

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Indictment for

2356

HOMICIDE BY CHILD ABUSE

VIOLATION § 16-03-0085(A)(1)

[Signature]
1001
CLK

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
HOMICIDE BY CHILD ABUSE

At a Court of General Sessions, convened on

OCT 05 2021

the Grand Jurors of Greenville

County present upon their oath:

That ARIEL S. ROBINSON did in Greenville County, on or about the 14th Day Of January, 2021, cause the death of [REDACTED] V. S. [REDACTED], a child under the age of eleven, while committing child abuse or neglect, and the death occurred under circumstances manifesting an extreme indifference to human life. This is in violation of §16-03-0085(A)(1) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Christina Susakovich
SOLICITOR BAR # 70325

442
STATE OF SOUTH CAROLINA)
COUNTY OF Greenville)
STATE)
VS.)
Ariel S Robinson)
AKA:)
Race: BLACK Sex: F Age: 30)
DOB: [REDACTED] SS# [REDACTED])
Address: Sellwood Cir)
City, State, Zip: [REDACTED])
DL#: [REDACTED] SID#: [REDACTED])

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2021GS2306831
A/W#: 2021A2320400037
Date of Offense: 1/14/2021
S.C. Code § : 16-03-0085
CDR Code #: 2356

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Homicide By Child Abuse (20y To Life)

in violation of § 16-03-0085 of the S.C. Code of Laws, bearing CDR Code # 2356

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Christy Kednocker 70325 SC Bar# Defendant BOUTON, WILLIAM 72885 SC Bar#
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of Life days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____ provided that upon the service of _____ days/months/years/Time Served and or payment
of \$ _____ ; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

The sentence shall run
☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
478 days/months
☐ To include time spent on monitored house arrest prior to trial and sentencing.
☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65
(Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS Ariel S Robinson INDICTMENT/CASE#: 2021GS2306831SPECIAL CONDITIONS: A/W#: 2021A2320400037☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Term _____ ☐ Set by SCDPPPS

*Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5 %)		\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$	100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$	
§56-5-2995 (DUI Assessment)	\$12	\$	
§56-1-286 (DUI Breath Test)	\$25	\$	
§14-1-212 (Law Enforce. Funding)	\$25	\$	25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$	
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$	
§50-21-114(BUI Breath Test Fee)	\$50	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
3% to County (if paid in installments)	TBD	\$	3.75

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

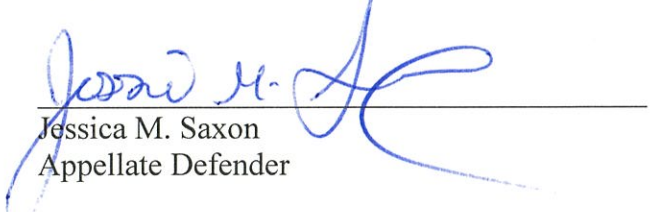
TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk: Paul B. WickensimerCourt Reporter: JenkinsPresiding Judge: [Signature]Judge Code: 2162Sentence Date: 5/12/22

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED**Feb 01 2024****SC Court of Appeals**

Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 1st day of February, 2024.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
Feb 01 2024
SC Court of Appeals

Appeal from Greenville County

Honorable Letitia H. Verdin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

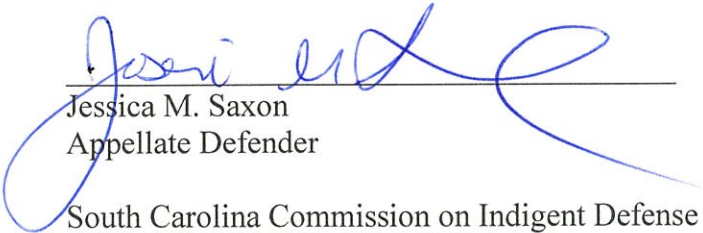
ARIEL ROBINSON,

APPELLANT

APPELLATE CASE NO. 2022-000716

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Ambree M. Muller, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 1st day of February, 2024.



Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

From: [Stock, Chris](#)
To: [SC - MULLER AMBREE](#); [Grace Sommer](#)
Cc: [Saxon, Jessica](#)
Subject: 2022-000716 - The State v. Ariel Robinson - Record on Appeal & Proposed Transportation Order
Date: Thursday, February 1, 2024 3:16:50 PM
Attachments: [2022-000716 - The State v Ariel Robinson - Proposed Transportation Order.pdf](#)
[2022-000716 - The State v. Ariel Robinson - Record on Appeal.pdf](#)

Ms. Muller,

Please find attached for service the Record on Appeal and Proposed Transportation Order for Ariel Robinson's appeal which will be filed today with the Court of Appeals.

Thank you.

Chris

Chris Stock

Administrative Assistant
Commission on Indigent Defense
Appellate Division
(803) 734-1330