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S.C. SUPREME COURT

Exhibit

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In The United States District Court

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MAY 27 2020

For The District Of South Carolina

S.C. SUPREME COURT

Aryee Henderson,)

Plaintiff,)

v.)

Declaration of Aryee

Henderson

Officer Cleveland, et al.,)

Defendants)

ARYEE HENDERSON states:

1. I am the plaintiff in the above - entitled case. I make this declaration in support of my Verified Complaint.
2. On July 24, 2020, I filed a civil action against Ofc. Cleveland, Sgt. Thomas, Ofc. Corley, Ofc. Parrish, Ofc. Delk, Ofc. Henderson, Sgt. Coaxum, and Lt. Anderson - Davenport for excessive use of force.

Trista Baird - Cross-Examination by Mr. Williams

1 with the defendant about how he could have gotten those
2 marks, things of that nature. Did you talk to the
3 babysitter?

4 A Which babysitter.

5 Q How many babysitters did Minor have?

6 A None the last -- well, the last one that he had was
7 the Sunday before he left.

8 Q Okay.

9 A And we did talk with all of them.

10 Q Sunday?

11 A That's correct.

12 Q So the child died on Wednesday, so you had a
13 conversation with a babysitter on Sunday, right?

14 A The one that babysat him on Sunday, correct.

15 Q All right. And did you specifically talk to the
16 babysitter about marks and/or a bruise -- abrasions on the
17 child?

18 A We did. That was actually Regina Washington and
19 some of her, I believe they were her nieces. And Regina
20 Washington is also who made the report to DSS November
21 13th, I believe, the one that was made prior to his death
22 because her and her mother had discussed those injuries
23 that they had seen two weeks prior. And so we did actually
24 talk to her again about that.

25 Q All right. Any other babysitters that you talked

Trista Baird - Cross-Examination by Mr. Williams

1 to?

2 A We did. Tarkie Reese was a babysitter. You want
3 me go back through the list.

4 Q I just want to know how often the child was
5 actually being watched, I guess, by the defendant. Was
6 the -- the child obviously had several babysitters, didn't
7 he.

8 A He had several babysitters, but through our
9 investigation we learned that the defendant worked night
10 shift and the codefendant worked day shift and through our
11 investigation we learned that they would alternate who
12 would care for the child while each -- while the other was
13 at work.

14 Q And did you also know that the codefendant only
15 recently got a job at McDonalds that would have changed the
16 work schedule. She'd only been working there for two
17 weeks.

18 A Right. I don't remember the exact date, but right.

19 Q So before that two week time period, she wasn't
20 working at all, was she?

21 A I don't believe so, I'm not sure.

22 Q All right. So during that time span, either she --
23 would she have been watching the child the whole time or
24 did she have babysitters also?

25 A She had the babysitters because we talked to all of

Trista Baird - Cross-Examination by Mr. Williams

1 the individuals that she told us that watched him and so we
2 talked to those.

3 Q Even though she wasn't working?

4 A I'm -- I don't know if I know when she had her last
5 job. I believe that McDonalds said that she had worked
6 there and then came back -- quit and then came back.

7 Q All right. And did they tell you what time span
8 was involved in that?

9 A No, sir. I don't remember.

10 Q Now, obviously, you could secure that information
11 from her employment history since you were able to get the
12 time slots and everything, right?

13 A Yes, sir.

14 Q Well, in the -- you indicated that there were only
15 two toys found in the house; is that correct?

16 A That's all that I saw.

17 Q Okay. Could there have been more toys that you
18 just didn't see them, maybe in a closet or something like
19 that? They were picked up and put out to have way?

20 A That's possible. There were no photographs of any
21 of the other toys either.

22 Q No photographs of any of the toys?

23 A Any other toys there were no photographs taken by
24 the crime scene unit of any other toys.

25 Q So that would mean that they were not in the open

Trista Baird - Cross-Examination by Mr. Williams

1 area where the person could see them, correct?

2 A And in the areas that they searched, correct.

3 Q Well, actually, the photographs that were taken
4 indicate that house was well maintained and kept clean,
5 doesn't it?

6 A Fairly, yes, sir.

7 Q You took pictures of the stairway too, didn't you?

8 A I didn't take any photos.

9 Q Did you have pictures of the stairway?

10 A Yes, sir.

11 Q And what type of stairway was it?

12 A It was hardwood floors.

13 Q And was it -- did it have overlapping pieces of
14 wood -- did it -- did it -- did it have edges on it?

15 A I remember that it's hardwood and that it was kind
16 of awkwardly built, but I don't remember exactly how.

17 Q Okay. Now, the banana -- there's a question asked
18 you about the banana in reference to my client attempting
19 to give a banana to the child. That banana was found
20 upstairs; is that right?

21 A That's right.

22 Q And you found Gatorade downstairs in the -- in the
23 refrigerator in the kitchen, right?

24 A Right.

25 Q And you also found a McDonalds food bag downstairs

Dr. John Spalding - Direct Examination by Ms. Mayes

1 such as coroner.

2 A The pathologist is -- actually basically aids the
3 coroner in determining cause and manner of death. Whereas
4 the coroner will do so, either based on opinions of other
5 physicians who have been treating a patient or of other
6 past medical history.

7 Q All right. And in Lexington County for example is
8 the coroner actually a medical doctor?

9 A They are not.

10 Q Now, moving forward to the situation in this case,
11 Dr. Spalding. I'm going to ask you whether or not you had
12 the opportunity to conduct an autopsy on a child by the
13 name of **Minor**

14 A I did.

15 Q What was the date of that autopsy?

16 A 11/28 of '13.

17 Q And where was it conducted?

18 A At Lexington Medical Center morgue.

19 Q And as part of conducting the autopsy, do you
20 prepare a report?

21 A Yes, we do.

22 Q And does the report -- can you tell us whether or
23 not the report captures your findings and observations
24 during the autopsy?

25 A It does.

Dr. John Spalding - Direct Examination by Ms. Mayes

1 Q Okay.

2 A Other than the diaper.

3 Q All right. And when a diaper accompanies the body,
4 why does that happen?

5 A It would happen with any clothing articles that are
6 either on or near a body or gathered up with the body and
7 delivered.

8 Q All right. What, if any, notation did you make
9 about the condition of the diaper upon observing it?

10 A There was some bloody, more serous type fluid on
11 the back part of the diaper.

12 Q All right. What, if anything, did that indicate to
13 you in accordance with your notes?

14 A It was likely drainage from wounds over the
15 buttocks region.

16 Q So the bloody stain that you observed in the diaper
17 that came with the body appears to be consistent with
18 injury you noted to the buttocks?

19 A Yes.

20 Q Doctor, once you began the autopsy, take us through
21 the general procedure -- what the objective of the autopsy
22 is and what areas you observe externally and internally.

23 A We observe the entire body. We do an examination
24 of all of the external surfaces: Front, back, genital
25 regions fingers, hands, toes, eyes, inside of mouth, ear

Dr. John Spalding - Direct Examination by Ms. Mayes

1 canals, nose, actually the naris, to see what -- for bloody
2 discharge, mucous, any of those types of things.

3 And then for the internal examination, a "y" shaped
4 incision is made to reflected back. The breast plate is
5 removed. We do examinations then to look for abnormal
6 accumulations of fluid, blood, abnormal organ orientation,
7 congenital defects, any signs of injury, or infection,
8 inflammation.

9 The organs are then removed. We then examine the
10 interior, looking for any signs of broken ribs, any signs
11 of skeletal abnormalities. The skin of the neck is then
12 reflected upward. We examine the soft tissues and
13 structures within the neck, the hyoid bone, the thyroid,
14 the trachea. Then an incision is made on the scalp. The
15 scalp is reflected, the cranium is open and we then examine
16 the inside of the cranial cavity and the brain.

17 Q All right. And are your findings photo documented?

18 A Yes.

19 Q Are tissues found and collected?

20 A They are.

21 Q And is blood drawn for the purpose of toxicology?

22 A Yes, and other testing if applicable.

23 Q What, if anything, did you note, Dr. Spalding
24 regarding the physical condition of **Minor**

25 A There were extensive areas of contusion or

Dr. John Spalding - Cross-Examination by Mr. Williams

1 A I believe the entire report.

2 Q And you noted that he had listed cardiopulmonary
3 arrest, nausea, and vomiting and diarrhea as being the
4 diagnosis for the deceased. Were you aware of that?

5 A I'm sure I read that report, but...

6 Q Would you like to see it?

7 A Sure.

8 Q Okay.

9 A (Looking.) Okay.

10 Q Does that -- does that in itself have, I guess, any
11 basis in your determination that he died from trauma?

12 A You mean does his diagnosis --

13 Q Right.

14 A -- support trauma.

15 Q Support any of your decision making?

16 A Well, I can tell you this, that in my examination
17 of the gastrointestinal track, the stomach, intestines,
18 there was no inflammation. There was nothing in there that
19 would tell me that this was someone who had diarrhea or
20 nausea so tremendous that it would result in death.

21 Q Well, when you examined the nose and the mouth was
22 there evidence of chapping or dehydration that might be an
23 indication that there was some vomiting or some sort of --

24 A The lips were very dry. The skin was very loose.

25 Q And is that an indication of vomiting or

Dr. John Spalding - Cross-Examination by Mr. Williams

1 A Sure.

2 Q -- would be the area between the buttocks and the
3 shoulders; is that what you're telling me? Because if
4 you're laying flat, you have the high points --

5 A Except for the pressure points.

6 Q Right.

7 A Uh-huh. But that would be the external appearance.

8 Q All right. Was there any of that evidence when you
9 examined to body -- the body was laying on it's back,
10 wasn't it, when you examined him?

11 A When I first entered the room, I believe so, yes.

12 Q Was there any evidence that perhaps some of the
13 blood had settled into -- that may have increased the
14 coloring on him?

15 A Not particularly.

16 Q Okay. Does that change when you flip the body
17 over?

18 A Not really.

19 Q Because there's nothing to pump the blood, right.

20 A That's right. It will -- and it will actually
21 start to clot a little bit, so it's not still in a liquid
22 state.

23 Q Okay. Now, you're -- when you reviewed the -- I
24 don't know this -- was it the diagnosis of the ER doctor
25 that you reviewed?

Direct exam J. Hopkins

1 A. Yes, sir. That --- little jittery, it's a little
2 cold over there.

3 Q. That's okay. I understand.

4 A. Basically he said he didn't want to hire another
5 expert --- expert witness because they was --- they was
6 diagnosing the two different claims of the death.

7 Q. Okay. Let's --- let's slow down just a little bit.
8 Okay?

9 A. Yes, sir.

10 Q. So when you met with him, did he show you what the
11 discovery was? What the State's evidence was against you?

12 A. I received a Rule 5.

13 Q. Received a Rule 5?

14 A. Yes, sir.

15 Q. Okay. And did you go through that Rule 5 with Mr.
16 Williams?

17 A. Not necessarily with him. I would more likely look
18 over it myself. I --- I mentioned some stuff to him.

19 Q. Okay. What's your education, if you don't mind me
20 asking?

21 A. I dropped out of 11th grade.

22 Q. 11th grade?

23 A. Yes, sir.

24 Q. Got your GED?

25 A. No, sir. I working on it.

Direct exam J. Hopkins

1 directed verdict was saying that they directly had to put
2 every evidence --- every element of the crime on me.

3 That was my basically understanding of it.

4 Q. All right. So what did Mr. Williams tell you about ---
5 what do you remember about a directed verdict?

6 A. I just been told we was going --- he was going to
7 give me a direct verdict to take the --- don't accept the
8 plea offer.

9 Q. Okay. And did y'all talk about the evidence that he ---
10 that they had --- the State had against you?

11 A. Yes, sir.

12 Q. And what --- what, if anything, did y'all talk about?

13 A. Talked about the testimony. He said I didn't say
14 anything incriminating when I met with the officers ---
15 law enforcement.

16 Q. Okay.

17 A. He said I didn't say anything incriminating and they
18 never really had no evidence to prove my guilt.

19 Q. All right. Now, you did make statements?

20 A. Yes, sir.

21 Q. Can you tell us about those?

22 A. Yes, sir. Well, basically, they call me two years
23 later to the police station and questioned me. They had
24 me in there for two and a half hours. I kept saying I
25 don't know. I don't know. Say anything with --- I told

Cross-exam J. Hopkins

1 A. Yes. He took him.

2 Q. Sabrina along on that day?

3 A. Yes, sir. She ---

4 Q. They both went?

5 A. Yes, sir.

6 Q. Okay. And at that time he went to the hospital for a
7 fever, congestion, some eye pain; is that what --- do you
8 know?

9 A. I believe so. I was at work at the time.

10 Q. Okay. But you heard that before?

11 A. Yes, sir.

12 Q. Okay. He was released after that?

13 A. That's correct.

14 Q. And were you aware that on the 13th of November Sabrina
15 had an investigation begun by DSS?

16 A. No, sir.

17 Q. Okay. But did you hear that come out at the trial?

18 A. Yes. At trial. Yes.

19 Q. Okay.

20 A. Before trial, my Rule 5.

21 Q. All right. The information you told me, is that what you
22 told Mr. Williams?

23 A. That's correct.

24 Q. All right. When you went back in the house after EMS
25 arrived, did the child have a heartbeat?

Cross-exam J. Hopkins

- 1 A. I don't know. I'm rushing to get him to them. I
2 don't --- I didn't sit there just putting my finger and
3 see, you know.
- 4 Q. Was the child gasping? Talking to you?
- 5 A. Wasn't --- he wasn't saying anything.
- 6 Q. Wheezing?
- 7 A. He wasn't saying anything.
- 8 Q. Was he a dead weight?
- 9 A. Again, I don't ---
- 10 Q. Any movement in his arms?
- 11 A. Again, I don't know. I was just trying to make sure
12 the paramedics get to him as fast as they could.
- 13 Q. Okay. What caused you to call 911 15 minutes before?
- 14 A. You said what caused me to call 911 15 minutes
15 before?
- 16 Q. Did you think he was alive, or did you think he was dead?
- 17 A. I mean, I --- I know --- I didn't know either ---
18 I --- I knew he was alive, he was still breathing, and
19 that's ---
- 20 Q. Still breathing when you called 911?
- 21 A. Right. That's correct.
- 22 Q. Okay. In your meetings with Mr. Williams at --- at some
23 point in time there were plea discussions? And how did Mr.
24 Williams prepare you for the trial?
- 25 A. How did he prepare me?