

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Cherokee County

Honorable R. Keith Kelly, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BOBBIE JO BAYNARD,

APPELLANT

APPELLATE CASE NO. 2024-001941

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA)

2 COUNTY OF CHEROKEE)

COURT OF GENERAL SESSIONS

4 STATE OF SOUTH CAROLINA,)

5 PLAINTIFF,)

6 VS.)

7 BOBBIE JO BAYNARD,)

8 DAVID EUGENE BAYNARD,)

9 EDWARD VINCENT BAYNARD,)

10 DEFENDANTS.)

TRANSCRIPT

OF

RECORD

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22-GS-11-1299

24-GS-11-447, 448,
22-GS-11-1296

24-GS-11-451, 452,
22-GS-11-1304

13 October 28th - 31st, 2024

15 B E F O R E:

16 THE HONORABLE R. KEITH KELLY, Judge; and a jury.

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P R O C E E D I N G S

(WHEREUPON, State's Exhibit Nos. 1 through 126 were marked at this time. Court's Exhibit Nos. 1 through 5 were marked at this time. All of the above exhibits were for identification purposes only at this time.)

THE COURT: Ladies and gentlemen, we are about to select a jury in a criminal case in the case of 2022-GS-11-1296. It is alleged that David Eugene Baynard in -- did, in Cherokee County, South Carolina, on or about April 11 of 2022, commit the criminal offense of -- known as murder. It has been true billed by the Grand Jury.

In 2024-44 -- 0447, it is alleged that the defendant, David Eugene Baynard, committed the criminal offense known as unlawful conduct towards a child.

In 2024-GS-11-0448, it is alleged that the defendant, David Eugene Baynard, committed the criminal offense known as child abuse with great bodily injury.

And, in 2022-GS-11-1299, the State -- as to Mr. Baynard, Mr. Baynard has entered pleas of not guilty to these indictments and he is presumed innocent of the crimes alleged to have occurred. Again, he has -- he is presumed to be innocent and the burden is on the State to prove his guilt beyond a reasonable doubt.

In 2022-GS-11-1299, it is alleged that the defendant,

1 Bobbie Joe Baynard, in Cherokee County, South Carolina, on
2 or about April 11 of 2022, committed the criminal offense
3 known as murder.

4 In the Indictment 2024-GS-11-0449, it is alleged that
5 she committed the offense of unlawful conduct towards a
6 child between the dates of October 2 of 2020 and April 11
7 of 2022.

8 In 2024-GS-11-0450, it is alleged that the defendant,
9 Bobbie Joe Baynard, committed the offense known as child
10 abuse with great bodily injury between October 2 of 2020
11 and April 1 of 2022.

12 She has entered a -- pleas of not guilty to the
13 indictments and she is presumed innocent of the
14 allegations contained in those indictments. The burden is
15 on the State of South Carolina to prove her guilt beyond a
16 reasonable doubt.

17 In 2022-GS-11-1304, it is, it is alleged that Edward
18 Vincent Baynard committed the criminal offense known as
19 murder in Cherokee County, South Carolina on or about
20 April 11 of 2022.

21 In the Indictment 2024-GS-11-0451, it is alleged that
22 he committed the criminal offense known as child abuse
23 with great bodily injury between the dates of October 2,
24 2020, and April 11 of 2022.

25 In the Indictment 2024-GS-11-0452, it is alleged that

1 Edward Vincent Baynard committed the criminal offense
2 known as unlawful neglect or conduct towards a child
3 between the dates of October 2, 2020, and April 11 of
4 2022.

5 He has entered a plea of not guilty to all
6 indictments and he is presumed innocent of all the
7 allegations made in the indictments. The burden is on the
8 State of South Carolina to prove his guilt beyond a
9 reasonable doubt.

10 They're certain questions that I'm required, I'm
11 required to ask and they're certain questions that I have
12 been requested to ask.

13 Is there any member of this jury panel who is now or
14 ever has been related to David Eugene Baynard and/or
15 Bobbie Jo Baynard and/or Edward Vincent Baynard, if so,
16 please stand.

17 (WHEREUPON, there was no response.)

18 THE COURT: Is there any member of this jury panel
19 who has a social or personal relationship with any of
20 these three individuals?

21 You know them on Facebook. You know them at church.
22 You know them at work, recreation, whatever it might be,
23 have some relationship.

24 If so, please stand.

25 (WHEREUPON, there was no response.)

1 THE COURT: Oh, okay. I haven't seen it. So all
2 three---

3 SOLICITOR BARNETTE: Yes, sir.

4 THE COURT: ---are on the video.

5 Okay. All right.

6 Okay. Mr. File.

7 MR. FILE: And then my other motion had to do with
8 the autopsy postmortem photos.

9 From our standpoint, we don't intend to contest the
10 cause of death in this case, and, under State v. Nelson
11 and State v. Middleton, we are arguing that the, that the
12 autopsy photos should not come in in that they're
13 prejudicial. In fact, outweighs their probative value.

14 They can establish the cause of death uncontested in
15 the case by the testimony of other means and be our
16 position that those photos should not be seen by the jury.
17 I think they will inflame the jury.

18 THE COURT: Solicitor.

19 SOLICITOR BARNETTE: I didn't know if you want to
20 hear from all the first of them---

21 THE COURT: Well---

22 SOLICITOR BARNETTE: ---Your Honor.

23 THE COURT: We can do that.

24 Mrs. Racine.

25 MRS. RACINE: Thank you, Your Honor.

1 Your Honor, these -- there's case law that describes
2 certain photos as gruesome and horrific stating they
3 should be kept out.

4 Your Honor, the autopsy photo's definitely gruesome
5 and horrific. But I think the photos from the hospital
6 qualify as that too. I think they are equally bad.

7 The main difference is, you know, she has no clothes
8 on in the hospital. She doesn't have her clothes on at
9 the autopsy.

10 Also, Your Honor, there is a case, I believe it is
11 State versus Nelson, where if the State -- if the defense
12 stipulates to any relevant information contained in
13 photographs, then there's no factual dispute related to
14 the deceased cause of death. We don't plan to challenge
15 the final results of the autopsy diagnoses, Your Honor.

16 I believe that the -- Doctor Rose will be able to
17 explain the condition of [Minor] when she testifies. I
18 believe her, her report is very thorough as to the, the
19 damages that [Minor] or the injuries that [Minor] had and
20 the condition of her body.

21 Therefore, Your Honor, I would ask that these
22 gruesome and photos -- gruesome and horrific photos be
23 kept out.

24 Your Honor, I think the only reason that they would
25 go in is to just inflame the, the emotions of the jury,

1 Your Honor. I -- as bad as these pictures are, I don't
2 see any with -- they would do anything other than to
3 inflame the emotions of the jury and lead them to convict
4 based on those emotions rather than the facts of the case.

5 THE COURT: Mr. Morin or Mr. --.

6 MR. MORIN: Your Honor, Supreme Court Chief Justice
7 Few wrote an opinion in October of last year, just a
8 little over a year ago, State versus James B. Heyward,
9 they stated we have recently discussed a long line of
10 cases which would criticize the casual admission of
11 gruesome autopsy photographs because the emotional
12 reaction they tend to cause.

13 We strongly encourage solicitors to refrain from
14 doing so. The potential for emotional reaction is the
15 essence of the danger of unfair prejudice. The
16 photographs are unfairly prejudicial. They create a
17 tendency to suggest the decision on an improper basis
18 commonly known as an emotional one.

19 And then Chief Justice Kittredge, in a footnote, goes
20 on to cite Nelson and says we have said in previous cases
21 that the autopsy photographs always carry the inherent
22 danger of unfair prejudice.

23 Our position is, is that these photographs are an
24 attempt to create malice, and, in that same case, the
25 Court said there's only one malice. There's not degrees

1 of it. There's not, there's not more malice or less
2 malice. There's just malice and we stand on that case to
3 say that these should not come in.

4 THE COURT: Solicitor.

5 SOLICITOR BARNETTE: A couple points, Your Honor.

6 I -- obviously we're familiar with State v. -- do you
7 have a copy of it, Your Honor?

8 THE COURT: I think I do.

9 SOLICITOR BARNETTE: I believe all the defendants got
10 copies of them. So, I won't pass along, Your Honor.

11 But one of two things in this situation.

12 One, you got to remember we're also trying the felony
13 child abuse case as well as unlawful neglect.

14 So, obviously we have to show the child abuse. We
15 have to show, you know, the neglect in this situation as
16 well as the mal -- malice of murder in that situation.

17 I think this case is different from that point. It's
18 not your normal murder case.

19 To be frank with the Court, if homicide by child
20 abuse was available for a 14 year old, that would be the
21 charge in this case. Unfortunately, that law's not been
22 passed and it's up to the age of 11 at that point. It
23 does not cover from 11 to 18. We have an elder abuse for
24 18 and above.

25 So, the murder is the most appropriate thing we could

1 find to answer for the death of Minor in this case. But
2 we do have the other two charges that are with that, Your
3 Honor, and we have to also show that, in those cases from
4 that standpoint, and the pictures in this situation show
5 that child abuse.

6 Also, in this situation, Doctor Rose -- and what I
7 did was I -- let me hand the pictures and I know the Court
8 will look at them. I basically broke the pictures up into
9 different groups from there, and in meetings with the
10 Court, Your Honor, we talked about how to handle Doctor
11 Rose's testimony.

12 Her testimony will corroborate the autopsy as well as
13 the pictures at the hospital, Your Honor, in this case,
14 that State's Exhibits 2 through 27, which is gon' be made
15 for ID purposes only.

16 So, I'll share that with them and they're not gonna
17 be introduced. They're gonna be shown to the witnesses so
18 they can clearly see the pictures and see -- and recognize
19 that that's the situation they saw.

20 State Exhibit 20 -- that's 2 through 27, Your Honor,
21 just for ID purposes only. They'll only be showed in
22 that.

23 From State Exhibits 28 through 93 is pictures from
24 the scene at the house in this case. I've separated those
25 in the different packet.

1 And, Your Honor, State Exhibits 100 through 117, Your
2 Honor, in this case is from the actual hospital photos as
3 well as the autopsy photos in this case, Your Honor. They
4 will be shown to witnesses like Dennis Fowler that
5 appeared and he actually went to the hospital, went to the
6 house, the residence, [REDACTED] here in, in
7 Gaffney in Cherokee County as well as the autopsy, Your
8 Honor.

9 So, I'll be showing those and then marking them as ID
10 and they're 100 through 117, Your Honor, I've made them
11 black white or grayscale, Your Honor, in this case trying
12 to limit the obviously -- to let her describe what this is
13 from that standpoint and be able to explain to the jury
14 and she'll feel -- and we've talked to her. She feels
15 like the pictures will be needed to show that to the jury
16 to explain her findings in this case and explain the cause
17 of death and everything that occurred.

18 So, I just want to put that on the record, Your
19 Honor. We eventually want to entered (sic) all these
20 pictures as Court Exhibits. We are not doing this to
21 shock the jury. We're just trying to educate the jury to
22 show them what this poor girl went through and what it was
23 is horrific. And, believe me, these pictures are horrific
24 in trying to, to obviously limit that prejudicial effect
25 and we are trying to do that.

1 we feel like it's gonna be more probative and I
2 think, in talking in chambers, we was gonna say -- we were
3 not gonna introduce any of the autopsy or the hospital
4 pictures until Doctor Rose testified. I will be showing
5 them to the witnesses for ID purposes and let them
6 identify that these picture fairly represent what they saw
7 that night or that day from that standpoint. And that
8 would include Dennis Fowler as well as Doctor Rider, the
9 ER Doctor. Dennis Fowler's the coroner in this case.

10 And, like I say, Doctor Rose will testify at that
11 appropriate time. I don't know if you want to do a
12 proffer first to go ahead and weigh if the pictures will
13 come in at that point or not and then actually have her
14 testimony concerning that.

15 But I don't think that they're -- they're not
16 conceding child abuse and neglect in this case I don't
17 think. So, if they're not -- that's another part that's a
18 factor in this case that I'd just like to bring to the
19 Court's attention. We showed these exhibits to everyone
20 and we can bring them up.

21 And, Your Honor, I'm trying to take a measure
22 approach with this. I'm not trying to just say I'm gon'
23 need these pictures that are in color and everything else.

24 We're doing it in a way we feel like it can educate
25 the jury to teach the jury about what happened to **Minor**

1 [REDACTED] and what caused all this and we think we need to
2 do that from that standpoint. And we feel like the
3 pictures will do that especially the way the black and
4 whites with the autopsy and with the pictures at the
5 hospital.

6 And I've used this approach in other cases as well,
7 State versus Blackwell, the last death penalty case I did.
8 I used black and whites in that cause I don't want to
9 shock the jury. But I want to educate them.

10 Thank you, Your Honor.

11 THE COURT: Mr. File, anything at this point in time?

12 MR. FILE: Your Honor, we are -- we're conceding the
13 neglect in this case and that's, that's just -- they're
14 admitting to this. Should -- it's been admitted to all
15 along.

16 SOLICITOR BARNETTE: well, the homicide by child
17 abuse?

18 I mean the child abuse also, Your Honor, as well as
19 the neglect?

20 MR. FILE: Yes, judge. She's conceding to the abuse
21 and neglect.

22 THE COURT: Okay. well, procedurally is that
23 turned -- is that part turning into a plea?

24 SOLICITOR BARNETTE: May we approach for a second?

25 THE COURT: Yeah.

1 (WHEREUPON, a bench conference was held at this
2 time.)

3 THE COURT: Okay.

4 SOLICITOR BARNETTE: Your Honor, if I can put on the
5 record what objection -- and, like I say, 2 through 27 is
6 not coming in. That's just for ID purposes because
7 they're the colored pictures that showing the, the
8 witnesses that --.

9 Is there any objections to 20 -- State's Exhibit 28
10 through 93 if I can ask that on the record?

11 That's actually the scene of the house.

12 MRS. RACINE: No objection to those photos, Your
13 Honor.

14 THE COURT: Okay. So 28 through 93, no objection---

15 MRS. RACINE: No objection.

16 THE COURT: ---to those?

17 MR. FILE: None.

18 THE COURT: None.

19 SOLICITOR BARNETTE: That's the crime---

20 MR. MORIN: The crime---

21 SOLICITOR BARNETTE: The scene---

22 MR. MORIN: ---house -- I, I don't have any objection
23 to that.

24 THE COURT: Okay. So, 28 through 39 are without
25 objection.

1 (WHEREUPON, State's Exhibit Nos. 28 through 39 were
2 received into evidence at this time.)

3 SOLICITOR BARNETTE: And I'm assuming, Your Honor, a
4 hundred to a hundred -- 117, which is the autopsy and the
5 hospital pictures I can represent -- I didn't know if
6 there's any of them that they could agree to and -- or not
7 agree to?

8 MRS. RACINE: Your Honor, I do not agree to any of
9 them. But specifically I believe it's ex -- Exhibit 108
10 that actually shows her, her private areas and I do not
11 believe that the jury needs to see that at all.

12 Your Honor, in State versus Nelson, the, the, the
13 Court said it is well established that photographs
14 calculated to arouse the sympathies, capriciousness of the
15 jury are to be excluded if they are irrelevant or
16 unnecessary and then they further go on to quote State v.
17 Kornahrens. In the guilt phase of a trial, photographs of
18 the murder victim should be excluded where the facts they
19 are intended to show have been fully established by
20 competent testimony.

21 Your Honor, unless Mr. Barnette's willing to admit
22 that Doctor Rose is not competent to testify, then I think
23 that that case supports the idea that that -- photos
24 should be, should be left out based on her testimony.

25 SOLICITOR BARNETTE: Your Honor, I think State versus

1 Heyward basically says the opposite from that standpoint
2 if there's a basis for it and the pathologist -- obviously
3 you have to rule on each picture separately from a hundred
4 to 117 from that standpoint. I didn't know if there's any
5 pictures they would agree to. Now I know 108. I
6 understand their position on that.

7 THE COURT: Okay.

8 MR. MORIN: Your Honor, they chose to try these this
9 way. They should -- we should not be placed in the
10 position where we have to choose whether we're going to
11 admit to -- stipulate to things or if he's gonna be
12 allowed to do it because he's choosing to do those
13 together.

14 As far as I'm concerned, my client's charged with
15 murder and the addition of the other charges should not
16 result in him having to make a decision about whether he
17 should stipulate to something or allow unfairly
18 prejudicial photos to come in. I join with Mrs. Racine.

19 If Mr. Barnette needs to show the pathologist the
20 pictures so she can explain -- but the question we're
21 having here and the question I still don't quite get is
22 what pictures are they intending to put in evidence with
23 the doctor.

24 SOLICITOR BARNETTE: We're---

25 MR. MORIN: I suspect I know. But he's given me all

1 of those. But I'm objecting to those pictures. If she
2 gets up there and she, for some reason, can't explain or
3 says I need to see it so I can explain what happened,
4 that's one thing. To put them into evidence and to
5 publish them to the jury, that's a different thing.

6 SOLICITOR BARNETTE: Your Honor, I'm gon' -- like I
7 said, we're gon' have a hearing prior to that and I'm
8 trying to be out of an abundance of caution with these
9 pictures. It's like when I give it to Madam Court
10 Reporter. I made sure we did it outside the courtroom to
11 make sure nobody ever saw those photographs from the jury
12 to take any chances on that.

13 So, that's the reason why this a hundred to 117, I
14 just showed it to them. They've got those pictures in
15 evidence. These are black and whites of that.

16 So, obviously we'll deal with it at that time. But I
17 plan not to introduce them till Doctor Rose to give them
18 plenty of time to object and give them plenty of time for
19 the Court to review before we get into that point.

20 THE COURT: Okay.

21 SOLICITOR BARNETTE: And, Your Honor, the, the other
22 thing may be a comment that she made to us talking to her.
23 Well, she can't -- you can't put some of this into words
24 and, unfortunately, you can't and the private area will go
25 to the UTI from that standpoint and we'll talk about that

1 during her testimony.

2 THE COURT: Anything else from Mr. File --

3 MR. FILE: No.

4 THE COURT: -- before I move to---

5 MRS. RACINE: Just---

6 MR. FILE: No, Your Honor.

7 MRS. RACINE: I'm sorry.

8 Briefly, Your Honor, if she can't put it into words,
9 then how can she do it in an autopsy report?

10 THE COURT: Okay. Mr. Morin, anything?

11 MR. MORIN: No, sir, that's all I have.

12 THE COURT: Okay. Anymore, anymore motions from
13 Mr. File?

14 MR. FILE: No, Your Honor.

15 THE COURT: From Ms. Racine?

16 MRS. RACINE: I just have one motion, Your Honor, and
17 that would be just to ask the State to refer to **Minor** as
18 either **Minor** or the decedent rather than calling her the
19 victim. I think calling her the victim just reinforces
20 over and over again that some crime was committed against
21 her.

22 THE COURT: How about that, solicitor?

23 SOLICITOR BARNETTE: Your Honor, she's the victim. I
24 mean I'm gon' call her **Minor** if that's okay. I mean I'm
25 gonna---

1 try these cases.

2 (WHEREUPON, the jury was placed under oath at this
3 time.)

4 THE COURT: Juror Number 80, Mr. Jack Harris, sir,
5 will you be the foreperson for the jury?

6 THE FOREMAN: Yes, sir.

7 THE COURT: Thank you. You are so appointed.

8 Ladies and gentlemen of the jury, you are now the
9 jury in this case and I will take a few moments to tell
10 you something about your duty as jurors and provide
11 instructions for you. At the end of the trial, I will
12 provide more detailed instructions and those instructions
13 will control your deliberation.

14 These criminal cases, pleural, have been brought by
15 the State of South Carolina. Sometimes I refer to the
16 State as the prosecution or the government -- of the
17 government.

18 The State is represented by the solicitor and his
19 assistant solicitor and the defense -- the defendants are
20 represented by their respective lawyers, all of whom
21 introduced themselves earlier this, this morning.

22 Now, these defendants have been charged by the State
23 with various crimes.

24 The defendant, David Eugene Baynard, is charged with
25 the criminal offense known as murder in that it occurred

1 in Cherokee County, South Carolina, on or about April 11
2 of 2022. He is also charged with unlawful conduct towards
3 a child in -- between the dates of October 2 of 2020 and
4 April 11 of 2022. He is also charged with child abuse
5 with great bodily injury that occurred between October 2
6 of 2020 and April 11 of 2022. He has entered not guilty
7 pleas to each of these indictments and he is presumed
8 innocent of the allegations contained in the indictments.

9 The defendant, Bobbie Jo Baynard, is also charged in
10 an indictment with the offense of murder, of murder and
11 that it occurred in Cherokee County, South Carolina, on or
12 about April 11 of 2022. She is also charged with unlawful
13 conduct/neglect of a child that occurred between the dates
14 of October 2, 2020, and April 11 of 2022. She is also
15 charged with child abuse with great bodily injury in that
16 it occurred between the dates of October 2, 2020, and
17 April 11 of 2022. All occurring in Cherokee County, South
18 Carolina.

19 She has entered pleas of not guilty to the
20 indictments and she is presumed innocent of the
21 allegations contained in the indictments.

22 The defendant, Edward Vincent Baynard, is also
23 charged with murder in an indictment in that it occurred
24 in Cherokee County, South Carolina on or about April 11 of
25 2022. He is also charged with unlawful conduct towards a

1 child and that it occurred in Cherokee County, South
2 Carolina between the dates of October 2, 2020, and
3 April 11 of 2022. He is also charged with child abuse
4 with great bodily injury that occurred between the dates
5 of October 2, 2020, and April 11 of 2022.

6 He is pre -- he has entered a plea of not guilty to
7 all indictments and he is presumed innocent of all charges
8 contained in the indictments. The burden is on the State
9 of South Carolina to prove guilt beyond a reasonable doubt
10 as to each defendant on each indictment.

11 Now, South Carolina law makes the -- makes you the
12 judge of the facts. You 12 alone will decide what the
13 facts are from the evidence and -- presented. You will
14 hear the evidence, decide what the facts are, and apply
15 those facts to the law that I provide and give to you at
16 the close of this trial and that is how you 12 will reach
17 a verdict. In doing so, you must follow the law whether
18 you agree with it or not.

19 Ladies and gentlemen, evidence will consist of
20 testimony of witnesses, documents, and other items
21 received into evidence as exhibits and any facts on which
22 the lawyers agree are stipulated.

23 Now, the same law of South Carolina that makes you 12
24 the finder of facts makes me the judge of the law. Our
25 rules of evidence control what can be received into

1 evidence, and when a lawyer asks a question or offers an
2 exhibit into evidence, and a lawyer on the other side
3 believes it is not permitted by our rules, the lawyer may
4 object. This simply means the lawyer is requesting I make
5 a decision on whether a particular rule of evidence
6 applies.

7 State law forbids a trial judge from making a comment
8 to you, a jury, about a fact in a case and because it may
9 be necessary for me to comment on a fact in applying our
10 rules of evidence, it may be necessary for me to speak
11 with the lawyers outside of your hearing by having what's
12 known as a bench conference while you are present or by
13 excusing you from the courtroom.

14 You have already seen that today when I would motion
15 the lawyers up and we would come over and stand on this
16 side. And now that you're here, we would have our bench
17 conference on this side to keep you from hearing about
18 what the rule is or what comment I might make. Again, the
19 purpose of the conference is to decide how certain
20 evidence is to be treated under our rules and to avoid
21 confusion and error.

22 Now, certain things, ladies and gentlemen, are, are
23 not evidence. Statements, arguments, questions, and
24 comments by lawyers representing the respective parties in
25 this case are not evidence. Objections are not evidence.

1 A lawyer has a duty to a client to object if the
2 lawyer believes that something is improper under one of
3 our rules. You should not be influenced by an objection.
4 If I sustain the objection, you must ignore the question
5 or the exhibit and you must not try to guess what the
6 answer might have been or what the exhibit might have
7 contained.

8 If I overrule the objection, the evidence will be
9 admitted. But do not give it special attention because it
10 drew an objection.

11 Any testimony I ordered stricken from the record or
12 tell you to disregard is not evidence and must not be
13 considered and anything you 12 see or hear about this case
14 outside of this courtroom is not evidence.

15 Now, some of you have may heard -- have heard the
16 term direct evidence and circumstantial evidence. Direct
17 evidence is testimony by a witness about what that witness
18 personally saw, heard, or did. Circumstantial evidence is
19 indirect evidence. It is proof of one or more facts from
20 which one can find or infer another fact.

21 You may consider both direct and circumstantial
22 evidence. Our law permits you to give equal weight to
23 both. But it is for you 12 to decide how much weight to
24 give any evidence.

25 In deciding what facts are, you may have to decide

1 what testimony you believe and what testimony you do not
2 believe. You may believe everything a witness says or
3 part of what a witness says or none of what a witness
4 said.

5 In deciding what to believe, you may consider a
6 number of factors including, but certainly not limited to,
7 the witness' ability to see or hear or know the things
8 that the witness testifies to, the quality of the memory
9 of that witness, the manner in which the witness
10 testified, whether or not the witness has an interest in
11 the outcome or any motive, bias, or prejudice, whether the
12 witness is contradicted by something another witness said
13 or the same witness said before trial or other evidence,
14 and how reasonable the testimony is when considered in the
15 light of all other evidence.

16 It is my responsibility to rule as a matter of law as
17 to whether certain testimony is admissible. But, ladies
18 and gentlemen, once the testimony is admitted, whether or
19 not you believe it is solely for you 12.

20 Now, to ensure fairness, you, as jurors, must, must
21 not talk among yourselves about the case or about anyone
22 involved in the case until the end of the case when you go
23 to the jury room to decide your verdict. Do not talk with
24 anyone about the case or about anyone who has something to
25 do with it until the trial has ended and you have been

1 discharged as a juror. Anyone includes members of your
2 family and your friends.

3 You may tell them that you are a juror. But do not
4 tell them anything about this case until after you have
5 been discharged as a juror.

6 Ladies and gentlemen, after the case has ended and
7 you are -- have been discharged, you may talk as little or
8 as much about it as you choose but not until then.

9 Do not let anyone talk to you about this case or
10 anyone who has something to do with it. And if someone
11 should try to do so, please report that to Mr. Foreman and
12 Mr. Foreman would then pass that to -- on to me.

13 During the trial, do not speak with or talk with any
14 of the parties, the lawyers, or witnesses not even to pass
15 the time of day because it is important that not only do
16 you do justice but that you also give the appearance of
17 doing justice. And if a person from one side of this case
18 sees you speaking to a person on the other side, even if
19 it's simply to pass the time of day, an unwarranted and
20 unnecessary suspicion about fairness might be aroused. If
21 you see any of the lawyers, parties, or witnesses in
22 always -- in a parking lot, do not talk with them.

23 Do not read any news stories or articles about the
24 case or about anyone involved with it. Do not listen to
25 radio or television if any reports about the case are on

1 the news. That also includes social media.

2 Do not do any research on the Internet about the
3 case. Do not consult a blog, a dictionary, or other
4 reference materials and do not do any investigation on
5 your own. Do not make up your mind about what the verdict
6 should be until you have gone to the jury room to discuss
7 this case with your fellow jurors. Until then, keep an
8 open mind.

9 I am often times asked about note taking. You are
10 not to take notes during the trial and the reason is we
11 want you to pay close attention to what each witness says
12 as they testify and not fixated on making notes.

13 Now, the first step in the trial will be known as
14 opening statements. The State, in opening, will tell you
15 about the evidence that it intends to put before you so
16 that you will have some idea of what the case is about.

17 Just as the indictments is not evidence, neither is
18 the opening statements. Its purpose is to help you
19 understand what the case will be about and what the
20 case -- and what the State will try to prove.

21 After the State's opening statement, the lawyers for
22 the, the defendants may, if they choose, make an opening
23 statement, and, at this point in the trial, no evidence
24 will have been offered.

25 Next, the State will offer evidence that it says will

1 support the charges made against each of these defendants.
2 In this case -- the State's evidence in this case will
3 consist of testimony and it may include documents and
4 other exhibits. I remind you again that each defendant is
5 presumed innocent and the State must prove guilt of --
6 beyond a reasonable doubt as to each defendant. Neither
7 of the defendants has to prove his or her innocence. And
8 after you have heard all evidence, the State and the
9 defense will be given time for a final argument, and just
10 as I told you about opening statements, the lawyers, in
11 their closing statements, is not evidence before you.

12 The final part of this trial will occur when I
13 instruct you about the rules of law and that you are to
14 use in reaching your verdict, and after hearing my
15 instructions, you will leave the courtroom together as a
16 body of 12 to make the -- your decision.

17 Anything from the State as to what I told the jury?

18 SOLICITOR BARNETTE: None from the State, Your Honor.

19 THE COURT: Mr. File.

20 MR. FILE: None.

21 THE COURT: Mrs. Racine.

22 MRS. RACINE: No, Your Honor.

23 THE COURT: Mr. Morin.

24 MR. MORIN: No, sir.

25 THE COURT: Okay. Mr. Foreman, ladies and gentlemen,

1 please give your attention to the solicitor.

2 SOLICITOR BARNETTE: May it please the Court, Your
3 Honor?

4 THE COURT: Yes, sir.

5 SOLICITOR BARNETTE: Mr. Foreman, ladies and
6 gentlemen, I want to take you back to April 11th of 2020.
7 That night, our coroner, Dennis Fowler, you'll be hearing
8 from here shortly, he's in the second row there, got a
9 phonecall about a child's death. Her name is -- was
10 Minor [REDACTED]. She was 14 years old and she's a special
11 needs child, a special child.

12 It's always sad when the coroner gets a phonecall
13 like that. I'm sure he will tell you that. But what he
14 went and saw in that hospital room is something he'll
15 describe to you. When he got there to see the condition
16 that Minor [REDACTED] was in, he'll describe what was determined
17 from there.

18 When he arrived there, Doctor Rider, which you'll be
19 hearing from shortly, was the ER doctor there. Amy
20 vinesett was actually the patient representative that had
21 their first contact with Minor [REDACTED] as her father carried her
22 in like a sac of photos over her shoulder -- his shoulder.

23 You'll also hear from Gary Foster. He's the security
24 officer that was in charge of security there at Regional
25 in Spartanburg Regional and he'll be -- he'll be showing

1 you a video where they actually pull up in the van.

2 No rush whatsoever. No urgency whatsoever. You're
3 gonna see this for yourself off the video.

4 They walked in. Like I said, Mr. Baynard pulls her
5 out of the van. Just literally throws Minor over his
6 shoulder. Ms. Vinesett had actually walked by him then
7 and they walked in there and everything from there.

8 So, he walks over to the front door and he just
9 points. She touches him or touches her. She's gray and
10 blue. Very cold to the touch.

11 She's taken over to Doctor Rider. Doctor Rider will
12 tell you what he saw. Basically she was dead on arrival.
13 They'll tell you what her injuries or what her body looked
14 like. Just raw meat on her legs like an old man.

15 Dennis Fowler arrived there with law enforcement.
16 Like I said, I'll let him describe what he saw too.

17 After he talked briefly to the three parties there
18 that's involved in this case, he went to that residence at
19 here in Gaffney in Cherokee County.

20 He went over there with law enforcement. They got a
21 search warrant. Went in the residence.

22 You're gonna see that residence. They're gon'
23 describe to you -- he will describe what he saw. Brian
24 Burrell, one of the investigators, will tell you what he
25 saw when he got to the residence, the conditions and

1 everything that Minor had to live in as a special needs
2 child.

3 She had a feeding tube. She had a trach. In this
4 residence, you can not see the floor. It's actually
5 filthy. The crib that she stayed in in the bedroom was
6 filthy. Fee -- I mean you can't describe it. Like I
7 said, you're gonna see it. Roaches, flies, cats, dogs,
8 feces, and urine, everything you can imagine or can not
9 imagine.

10 Law enforcement kept doing their investigation.
11 Dennis Fowler went to the autopsy. He'll tell you what he
12 saw at the autopsy too.

13 Through the investigation of law enforcement and
14 everything, they found out that Minor was being taken
15 care of by three people, her mom, Bobbie Baynard, David
16 Baynard, her father, and Edward Baynard, her brother, and
17 he was getting paid to be her -- resting her -- her
18 respite nurse.

19 All three of these individuals here are responsible
20 for what happened to Minor over a period of time.
21 You'll hear from Axxess Health that was paying for them to
22 take care of her -- for Edward to take care of her.

23 You'll even hear from Doctor Parra, which is her
24 nurse or her doctor that treated her over the years since
25 she was the age of four where they quit taking her into

1 visits to Doctor Parra. Doctor Parra called numerous
2 times to get them to come back to take her but they
3 wouldn't. The last time she saw Minor was January 1st,
4 2021, and she'll talk to you about that.

5 But, at the autopsy, Doctor Rose, which is a
6 pathologist down in Newberry, will come tell you what her
7 findings is and her death was from chronic neglect. She
8 will tell you that horrific injuries that she received and
9 remember all three of them are charged with neglect of a
10 child, felony child abuse with great bodily injury, and
11 murder for the death of Minor.

12 You'll see where the neglect basically starts with
13 the home. It's absolutely neglect whatsoever. You'll see
14 the injuries and you'll hear the -- Doctor Rider will come
15 and help describe.

16 These didn't happen one day. This happened over a
17 long period of time which led to her great bodily injury
18 just from what she was exposed to and, ultimately, the way
19 she treated by them led to her death.

20 And when we're talking about death, ladies and
21 gentlemen, it's malice aforethought that can be that quick
22 and this was not quick. Like I said, this was over a
23 period of time and the way that she was treated and left,
24 the way she was left, and the way she was found, that's
25 malice, ladies and gentlemen.

1 That's what led to her death, and then after you hear
2 all the evidence when we come back to talk to you, I'll
3 ask you to consider all three sets of charges against all
4 three of these defendants.

5 Again, I thank you for coming, being a part of this.
6 I know you didn't volunteer for this. But please give us
7 some time and listen to the evidence and we'll come back
8 to you at the end of it.

9 Thank y'all very much.

10 THE COURT: Yes, sir.

11 MR. FILE: Please the Court.

12 Ladies and gentlemen of the jury, my name's Robin
13 File. I'm Bobbie Baynard's lawyer and, of course, the
14 solicitor has spoken to you about -- told you what he
15 anticipates the evidence in this case to be. Of course,
16 that will be up for you to decide.

17 Mrs. Baynard has pled not guilty. She is not guilty
18 until you make a decision about that this week.

19 Okay. She is innocent of the charges and it's up to
20 the solicitor and the State of South Carolina to prove she
21 is guilty and to take that cloak of innocence off, off of
22 her.

23 Now, she is charged with murder. She is charged with
24 unlawful conduct toward a child and child abuse involving
25 great bodily injury.

1 Mrs. Baynard, I'll, I'll tell you from the outset,
2 Mrs. Baynard admits that she was neglectful. I mean they
3 were all living in this house with all this filth. They
4 were living in a house with, with a lot of fifth, all
5 three of them, and Minor, and that's admitted. They
6 lived for a number of years that way unfortunately.

7 And so it's probably a product of, of, of not having
8 enough income or perhaps pure laziness. But, for whatever
9 reason, they were living this way.

10 However, the solicitor and I differ in this case in
11 that it's, it's our position that this -- neither
12 Mrs. Baynard nor anyone else in this case acted willfully
13 or with malice in causing Minor's death. I mean she'll
14 admit all day that, that she was neglectful in this case,
15 that, that, that she and her family were neglectful to the
16 extent that it caused her daughter to get sick and, and
17 cause her daughter to eventually die.

18 But she did not have the malice that the solicitor
19 wants to prove to you in this case. And so you need to
20 listen to the evidence in this case and decide for
21 yourselves about that.

22 She was a special needs child. She had a medical
23 condition. Bobbie was familiar with her medical
24 condition, and, and, and was treating her whenever she
25 needed feeding or whenever she needed other things that

1 were required during her medical -- with, with -- for her
2 medical condition. For 14 years Bobbie Baynard tried or,
3 or did what she could do to take care of her.

4 So, listen to the evidence in this case and you, and
5 it will be up -- it will be your decision on what Bobbie
6 is, is, is guilty of and I, I would submit to you that
7 she's guilty of neglect in this case. Gross neglect,
8 however you want to call it, she's guilty of that. But
9 she's not guilty of murder.

10 Thank you.

11 MRS. RACINE: Thank you, Your Honor.

12 May it please the Court?

13 Good afternoon, ladies and gentlemen.

14 My name's Tracy Racine and I represent David Baynard
15 who's sitting there in the striped shirt. He's the father
16 of Minor [REDACTED].

17 As the solicitor told you, he's being charged with
18 three charges, unlawful conduct toward a child, child
19 abuse with great bodily injury, and murder.

20 David admits he's guilty of unlawful conduct of a
21 child, which is basically neglect. That's another way to
22 say it. He's not guilty of child abuse with great bodily
23 injury and he's not guilty of murder.

24 Over the next few days you're gonna see some pictures
25 and they will probably cause a very strong emotional

1 reaction with you. You may feel sad. You may feel rage.
2 You may feel something in-between and that's okay. It's
3 okay to feel that way.

4 But what I need for you to do, as this week goes on
5 and you listen to the facts of the case, I need you to
6 take your emotions and separate them from the actual facts
7 because there's a lot more to the story than just what the
8 pictures show.

9 You've already heard some things about David and the
10 state of his house and, and how things were and you're
11 gonna hear some nasty things about the house. You'll
12 probably dislike him. You may even hate him and that's
13 okay.

14 It's okay to hate him. It's okay to think he was a
15 bad parent. It's okay to think he has the filthiest house
16 you've ever seen. It's okay. But, again, I need you to
17 separate the emotion that you feel from the actual facts
18 of the case and I need you, no matter how much you hate
19 him, I need you to keep an open mind.

20 He's going to take the stand later this week and he's
21 gonna tell his side of the story. And, when he does,
22 you're gonna hear from a father who loves his daughter, a
23 husband who trusted his wife to tell him the truth. What
24 you're not going to find is a murderer to have any ill
25 will toward his daughter or wished to cause her any great

1 bodily injury or death.

2 I'll get a chance to talk to you again in a few days,
3 and, when I do, I'm gonna ask you to carefully consider
4 the charges against David.

5 The first charge, as we discussed, is unlawful
6 conduct toward a child. He admits that he's guilty of
7 this charge. However, he disputes this charge. Even
8 though the State will try to convince you that David did
9 inflict great bodily injury upon Minor [REDACTED], I'll ask that
10 you find that he did not inflict great bodily injury upon
11 Minor [REDACTED] and is not guilty of this charge and then finally
12 he's charged with murder.

13 The State is going to try to convince you that David
14 acted feloniously, willfully, and with malice
15 aforethought, express or implied, to cause the death of
16 Minor [REDACTED]. willfully and with malice, remember those words
17 as you listen to the facts of this case.

18 At the end of the case, you'll see that the State can
19 not prove these elements beyond a reasonable doubt and,
20 therefore, David can not be found guilty of this charge.

21 Thank you.

22 MR. MORIN: I'm gonna try to negotiate over here as
23 best I can. Sometimes my balance isn't what it used to
24 be.

25 When I first got this case I didn't understand. It's

1 my understanding that a mother and a father are
2 responsible for the health and welfare of their children.

3 what nobody said yet, but I'm gonna say, is Minor
4 slept in a bed in the main bedroom next to her parents
5 every night. My client, Edward, is the parent -- his
6 parents are the same people.

7 Okay. Now, back when the -- two years before this
8 happened, June of 2020, my client graduated from high
9 school. He didn't have a driver's license. He doesn't
10 have a car. He never had a job. He came in with Axxess
11 Home Care. Not health care. That's important. Home
12 care.

13 They gave him four hours of training. Four hours.
14 As the government lawyer's already told you, Minor had a
15 feeding tube, had a trach to breathe, was staying in his
16 parent's bedroom, and when they got arrested, in April of
17 that year, when Minor died, my client went to live with
18 some friends.

19 He was not charged. He wasn't charged with murder.
20 He wasn't charged with unlawful neglect to a child. He
21 wasn't charged with anything.

22 But then government investigators found out that he
23 got a check from Axxess Home Care and he went from not
24 charged to charged. They're gonna call Axxess up here to
25 testify in this witness stand and I got questions cause

1 the bottom line is his job as a personal care assistant
2 was to do the things to help the caregiver.

3 There they are, Bobbie and David Baynard, the
4 parents, the caregivers. And he did it at their house
5 that the government has said yes, it's terrible out there.
6 It's terrible.

7 Let's see if they know how long it was terrible.
8 Let's see how long my client had lived in it.

9 The government has decided everybody goes to jail. I
10 am outraged at the death of Minor . I am outraged as a
11 parent. That's your job.

12 Edward was five and a half years older than her and
13 they want to blame him for his sister's death.

14 No, ma'am. No, sir. That's not right. They can't
15 prove it. Even if they could, it's not right.

16 Thank you.

17 THE COURT: Solicitor.

18 SOLICITOR BARNETTE: May it please the Court, Your
19 Honor.

20 I'd like to call Gary Foster to the stand please.

21 THE CLERK: Please raise your right-hand.

22 GARY FOSTER, being first duly
23 sworn, testified as follows:

24 THE CLERK: Okay. Watch your step.

25 THE BAILIFF: Watch your step.

Gary Foster - Direct examination
By Solicitor Barnette

1 THE COURT: Sir, tell us who you are and spell your
2 last please. Adjust that microphone to suit you.

3 THE WITNESS: Gary Foster. Last name, F-O-S-T-E-R.
4 I'm an officer with Spartanburg Regional Medical Center
5 and I'm a supervisor with them, and the night that this
6 happened, I happened to be watching the video cameras and
7 also was able to provide video for the Court.

8 THE COURT: Okay. Solicitor.

9 SOLICITOR BARNETTE: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY SOLICITOR BARNETTE:

12 Q. I, I think you answered a lot of the questions I
13 already wanted to ask you, off---

14 A. Sorry about that.

15 Q. ---officer. Appreciate you doing that.

16 But you was working at Spartanburg Regional in, in
17 security.

18 Is that right, sir?

19 A. Yes, sir.

20 Q. And on April 11th of 2022, was you working that
21 evening?

22 A. Yes, sir.

23 Q. And is there video cameras at the ER?

24 A. We have multiple cameras, yes, sir.

25 Q. And did you -- did -- once -- law enforcement, did

1 they ask you for a copy of some of those videos?

2 A. Yes, sir, they did.

3 Q. And did you download those for them?

4 A. Yes, sir.

5 Q. Let me show you what's been marked as State Exhibit
6 No. 1.

7 Have you reviewed this, sir?

8 would you like to use my glasses?

9 A. I'm getting -- yeah, let me borrow yours for a
10 second---

11 Q. Yes, sir.

12 A. ---if that's all right.

13 Q. No, you're good.

14 A. Yes, sir.

15 Q. Okay. And does that fairly represent what the
16 form -- the video from the Spartanburg Regional Medical---

17 A. Yes, sir.

18 Q. ---Center?

19 Your Honor, I'd like to move State Exhibit 1 into
20 evidence at this time.

21 THE COURT: Any objection?

22 MR. FILE: Without objection.

23 MRS. RACINE: No objection.

24 MR. MORIN: No objection.

25 THE COURT: Without objection.

Gary Foster - Direct examination
By Solicitor Barnette

1 (WHEREUPON, State's Exhibit No. 1 was received into
2 evidence at this time.)

3 SOLICITOR BARNETTE: Your Honor, permission to
4 publish to the jury?

5 THE COURT: Yes, sir.

6 Q. If you would, sir, come on down if you would?

7 It'd be hard for you to see from there.

8 (WHEREUPON, the witness comes down from the stand.)

9 Q. If you would, sir, please tell us what we're looking
10 at right now. This is one of three videos. This is---

11 A. That's Spartanburg Regional Medical Center, the
12 Church Street campus, emergency room entrance. It's the
13 camera that's underneath the covered area looking at the
14 main slider doors just before the security checkpoint.

15 Q. And, right here, did you see this car actually pull
16 up at the---

17 A. I could see a car pull on -- from the other one,
18 other video in this.

19 Q. And did you find out later this was the Baynards when
20 you pulled up?

21 A. I didn't know who they were at the time. But I did
22 think it was odd cause they came in in the wrong
23 direction.

24 SOLICITOR BARNETTE: Okay. Your Honor, permission to
25 play it to the jury?

1 THE COURT: Yes, sir.

2 (WHEREUPON, a portion of the video was played for the
3 jury at this time.)

4 Q. Can you tell us where this location is from?

5 A. This is the main entrance, the same sliding doors we
6 saw just a moment ago. That's the security checkpoint and
7 just to the right of there's where the check-in on
8 patients at Spartanburg Regional main campus.

9 Q. Can this -- it takes from April 11th of 2022?

10 A. Yes, sir.

11 Q. And this is after 9:00PM obviously?

12 A. Yes, sir.

13 (WHEREUPON, a portion of the video was played for the
14 jury at this time.)

15 Q. And what location is this, sir?

16 A. This is just past the security checkpoint there at
17 Spartanburg Regional and Church Street in Spartanburg
18 where the patients come right after they come in the metal
19 detector area there and you saw them there.

20 Q. Okay. Thank you, sir.

21 If you would, please have a seat.

22 (WHEREUPON, the witness returns to the stand.)

23 Q. Sir, if you would, please answer any questions the
24 defense may have for you, sir.

25 THE COURT: Mr. File.

Gary Foster - Cross-examination
By Mrs. Racine

1 MR. FILE: I, I have no questions.

2 THE COURT: Mrs. Racine.

3 MRS. RACINE: Just a few questions.

4 CROSS-EXAMINATION

5 BY MRS. RACINE:

6 Q. Officer, officer, did you, did you actually talk to
7 David that night?

8 A. No, I didn't talk to anybody about this that night.

9 Q. So, you have no idea what his state of mind was when
10 he came in the hospital.

11 Is that right?

12 A. No.

13 MR. FILE: No further questions.

14 MR. MORIN: I have no questions.

15 THE COURT: Sir, you may step down. Please be
16 careful.

17 THE WITNESS: Good to see you, sir.

18 SOLICITOR BARNETTE: Your Honor, could we have your
19 permission for him to be excused, Your Honor?

20 THE COURT: Any, any objection?

21 MR. FILE: No objection.

22 MRS. RACINE: No objection.

23 MR. MORIN: No objection.

24 THE COURT: Without objection, you may stay or go.
25 Thank you, officer.

Amy Vinesett - Direct examination
By Solicitor Barnette

1 SOLICITOR BARNETTE: Your Honor, I'd like to call Amy
2 Vinesett to the stand please.

3 THE CLERK: Please raise your right-hand. Place your
4 left-hand on the Bible.

5 AMY VINESETT, being first duly
6 sworn, testified as follows:

7 THE COURT: Okay. Watch your step.

8 Ma'am, if you'll adjust the microphone to suit
9 yourself. Tell us who you are and spell your last name
10 please.

11 THE WITNESS: Okay. My name is Amy Vinesett.
12 Spelling V-I-N-E-S-E-T-T.

13 THE COURT: Thank you.
14 Solicitor.

15 SOLICITOR BARNETTE: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY SOLICITOR BARNETTE:

18 Q. Ms. Vinesett, where do you work at, ma'am?

19 A. I, I work at Cherokee Medical Center.

20 Q. Okay. What is your position there, ma'am?

21 A. Patient access supervisor.

22 Q. Okay. And back on April 11th, 2022, where was you
23 working at then, ma'am?

24 A. Spartanburg Regional.

25 Q. And what was your position there, ma'am?

Amy Vinesett - Direct examination
By Solicitor Barnette

1 A. I was a patient access representative.

2 Q. Okay. I know you just got to see the videos just
3 like the jury did from there.

4 Are you actually in the video?

5 A. I am.

6 Q. And let me show you the first video here and this is
7 State Exhibit No. 1 we're gonna publish here. You may
8 want to step down.

9 why don't you come down here and stand beside me so
10 you can see the video okay?

11 (WHEREUPON, the witness comes down from the stand.)

12 Q. On this video, are you the lady that actually walks
13 in the door?

14 A. I am.

15 Q. At that time, did anybody, did anybody say anything
16 to you as saying I need help or anything like that?

17 A. No, sir.

18 (WHEREUPON, the video was played for the jury at this
19 time.)

20 Q. Is that you walking in, ma'am---

21 A. It is.

22 Q. ---at that point?

23 You went to the trashcan right there, didn't you?

24 A. I did.

25 Q. Did they, they ever speak to you outside?

Amy Vinesett - Direct examination
By Solicitor Barnette

1 A. Never.

2 Q. Let's slow it down.

3 If you would, ma'am, as the video's playing, tell us
4 what happened.

5 A. So, after I came back in, I was going over to the
6 area over there and there was a WOW over there, which is a
7 workstation on wheels. As they were coming in, I noticed
8 that the child had blood on her back and I immediately,
9 you know, went over and he kind of just points to the
10 child. You know, no sense of urgency or anything. He did
11 tell me she was unresponsive.

12 Q. When you touched her hand, what did you feel?

13 A. She was cold.

14 Q. What was the color of her skin at the time?

15 A. She was blue and gray.

16 Q. If you would, tell us what's going on in this video.

17 A. As we come up here, we were getting the name and date
18 of birth of the patient to get them checked in. Again, I
19 reach over to her and she's cold, and, as you can see, as
20 he walks by, I'm leaning over looking at her face area
21 cause she's -- yeah.

22 Q. In your opinion, what was her condition?

23 A. It -- she was dead.

24 Q. Let me take you back in the video for a second here,
25 ma'am. You was talking about the blood.

Amy Vinesett - Direct examination
By Solicitor Barnette

1 was that the spot that you saw on back here where the
2 arrow is?

3 A. If you bring it up a little bit more you can see it
4 better I think.

5 Q. You tell me when to stop.

6 A. Keep going.

7 Q. I don't know if I can get it that way. Go back here.
8 You tell me when to stop.

9 A. Right there. That area along her -- the back of her
10 pajamas.

11 Q. Go back.

12 A. Right there.

13 Q. Is that the spot you're talking about?

14 A. Yes.

15 Q. If would, ma'am, please have a seat. Thank you.

16 A. Here?

17 Q. Yes, ma'am.

18 (WHEREUPON, the witness returns to the stand.)

19 Q. Did you actually check her in as part of the
20 patient -- I mean put her information in?

21 A. I did not. I relayed that information to the lady
22 sitting at the desk.

23 Q. Okay. And in talking to -- did you meet Mr. Baynard
24 obviously first?

25 A. I did.

Amy Vinesett - Direct examination
By Solicitor Barnette

1 Q. Did he show any emotion or anything?

2 A. None.

3 Q. Later on did you meet Bobbie Baynard, the mother?

4 A. I did.

5 Q. And do you see David Baynard in the courtroom here
6 today as you saw him?

7 A. I do.

8 Q. Could you identify where he's at, what he's wearing?

9 A. He's in the striped shirt with the glasses on.

10 SOLICITOR BARNETTE: And, Your Honor, I'd like the
11 record to reflect she's identified David Baynard, the
12 defendant.

13 THE COURT: So noted.

14 Q. Did you also meet Bobbie Baynard that night?

15 A. I did.

16 Q. Do you see her in the courtroom today?

17 A. I do.

18 Q. Can you just point where she's at, describe what
19 she's wearing?

20 A. The later -- lady in purple.

21 SOLICITOR BARNETTE: And, Your Honor, I'd like the
22 record to reflect that she's identified Bobbie Baynard,
23 the defendant.

24 THE COURT: So noted.

25 Q. Did you get to meet her also?

Amy Vinesett - Direct examination
By Solicitor Barnette

1 A. I did.

2 Q. In talking to her, did she show any emotion or
3 anything?

4 A. No.

5 Q. Did you talk to them separately or together?
6 How did you talk to them?

7 A. I talked to the father first. As we were coming back
8 from major care, we had some conversation and then, when
9 we went back to the lobby, I also registered the patient
10 with Bobbie and spoke with her as well.

11 Q. Okay. And when you were talking to both of them,
12 what was David doing at the time?

13 A. Well, when he came back from major care to sit down
14 beside his wife, he pulled out his cellphone and
15 immediately started scrolling through it. Didn't say---

16 Q. Did you---

17 A. ---anything to Bobbie.

18 Q. Didn't say anything?

19 Didn't change emotion or anything?

20 A. No.

21 Q. Now, Bobbie show any emotion?

22 A. No.

23 Q. Did you get the information from her --

24 A. I did.

25 Q. -- from there?

Amy Vinesett - Direct examination
By Solicitor Barnette

1 Did you ask any information about what happened or
2 anything from there?

3 A. I did.

4 Q. What did you ask?

5 A. Is her visit today accident related.

6 Q. And what -- did you answer that?

7 Who answered that for you?

8 A. Bobbie did.

9 Q. What did she say?

10 A. Absolutely not.

11 SOLICITOR BARNETTE: Okay. One moment, Your Honor,
12 please.

13 (Pause.)

14 Q. Please answer any questions the defense may have for
15 you, ma'am.

16 A. Okay.

17 Q. Thank you.

18 THE COURT: Mr. File.

19 CROSS-EXAMINATION

20 BY MR. FILE:

21 Q. You, you indicated that you talked with both David
22 and Bobbie?

23 A. Yes.

24 Q. Okay. And did you know anything about them or their
25 lives or anything?

Amy Vinesett - Cross-examination
By Mr. File

1 A. No, I did not.

2 Q. And so you don't know, know -- you didn't know
3 anything about Minor's medical history or anything like
4 that---

5 A. No, sir.

6 Q. ---did you?

7 Okay. You don't know anything about their state of
8 mind, how they dealt with things, or, or how they dealt
9 with stress or anything like that, did you?

10 A. No.

11 Q. That's all.

12 CROSS-EXAMINATION

13 BY MRS. RACINE:

14 Q. Ms.---

15 THE COURT: Mrs. Racine.

16 MRS. RACINE: Thank, thank you, Your Honor.

17 Ms. Vinesett, are you a trained medical doctor?

18 A. I am not.

19 Q. Okay. Cause you said that it appeared to you that
20 Minor was dead when she got into that emergency room.

21 Is that correct?

22 A. Yes, ma'am.

23 Q. You have no medical training to make an accurate
24 assessment of that.

25 Is that correct?

Amy Vinesett - Cross-examination
By Mrs. Racine

1 A. I do not.

2 Q. Thank you.

3 No further questions.

4 THE COURT: Mr. Morin.

5 MR. MORIN: I have no further -- no questions.

6 THE COURT: Thank you.

7 Anything as to that?

8 SOLICITOR BARNETTE: Nothing. I would ask the
9 witness be excused.

10 THE COURT: Ma'am, you may step down and be excused.
11 You can stay with us or go---

12 THE WITNESS: All right.

13 THE COURT: ---whichever you choose.

14 THE WITNESS: Thank you.

15 THE COURT: Thank you.

16 SOLICITOR BARNETTE: Your Honor, the State would like
17 to call Doctor Rider to the stand.

18 THE CLERK: Please raise your right hand. Put your
19 left-hand on the Bible.

20 DOCTOR RYAN RIDER, being first
21 duly sworn, testified as follows:

22 THE CLERK: Okay.

23 THE BAILIFF: Watch your step.

24 THE COURT: Doctor, adjust the microphone and tell us
25 who you are and spell your last name please.

Ryan Rider - Direct examination
By Solicitor Barnette

1 THE WITNESS: Yes. Doctor Ryan Rider. R-I-D-E-R.

2 THE COURT: Solicitor.

3 SOLICITOR BARNETTE: Excuse me, Your Honor.

4 DIRECT EXAMINATION

5 BY SOLICITOR BARNETTE:

6 Q. Doctor Rider, if you would, give your full name for
7 the record please.

8 A. Yes, Ryan Kevin Rider.

9 Q. And what kind -- what do you do, sir, for, for a
10 living?

11 A. I'm an emergency physician.

12 Q. And where do you work at, sir?

13 A. Spartanburg Regional.

14 Q. How long have you been in the medical field, sir?

15 A. Outside of residence or outside of my training, I've
16 been doing this for 27 years with four years of trainings.
17 So, a total of 21 years.

18 Q. Where do you go to school at, sir?

19 A. Mackel (phonetic) College, Ohio.

20 Q. And through your training and everything, are you
21 qualified as an ER doctor, sir?

22 A. Yes, I'm board certified.

23 SOLICITOR BARNETTE: Your Honor, I would move him as
24 an expert in ER, emergency, Your Honor---

25 THE COURT: Okay.

1 SOLICITOR BARNETTE: ---from that point?

2 THE COURT: Any questions?

3 MR. FILE: No questions.

4 THE COURT: Any questions?

5 MRS. RACINE: No question.

6 THE COURT: Any questions?

7 MR. MORIN: Yes, sir.

8 THE COURT: Okay. Give your attention to Mr., Mr.
9 Morin.

10 VOIR DIRE

11 BY MR. MORIN:

12 Q. You went to a medical college of Ohio?

13 A. Yes.

14 Q. Where did you go before that?

15 A. Allegheny College.

16 Q. Is that where you went and graduated from high
17 school?

18 A. Yes.

19 Q. How long were you at Allegheny College?

20 A. Four years.

21 Q. How long were you at Ohio medical school?

22 A. Four years.

23 Q. After that, did you get further education?

24 A. Yes.

25 Q. What was that?

Ryan Rider - Voir Dire
By Mr. Morin

1 A. I did a transitional year at Mount Sinai Medical
2 Center and then three years of emergency medicine
3 residency at St. Vincent's in Toledo, Ohio.

4 Q. Okay. So four more years after medical college?

5 A. That's correct.

6 Q. So, you had 12 years of post second -- post high
7 school training, four undergraduate, four medical, and
8 then four --?

9 A. Yes, sir.

10 Q. Okay. Did you seek -- receive any other training?

11 A. No, sir.

12 MR. MORIN: Okay. That's all the questions I have.
13 Thank you.

14 THE COURT: Any objection from anybody?

15 MRS. RACINE: No objection.

16 SOLICITOR BARNETTE: Is there any objection from Mr.
17 Morin since he asked---

18 THE COURT: Is there any objection, Mr. Morin?

19 MR. MORIN: No. No objection.

20 THE COURT: Okay. He is so qualified as an expert ER
21 doctor.

22 Ladies and gentlemen, a person normally can not give
23 opinion testimony. They can only testify to something
24 they see, hear, or by smell or do. But our, our law
25 allows some -- for someone to be qualified as an expert in

Ryan Rider - Direct examination
By Solicitor Barnette

1 their field of study or practice. He is now certified.
2 Does not mean you have to accept his opinion. Give it
3 whatever weight you deem advisable.

4 Solicitor.

5 CONTINUED DIRECT EXAMINATION

6 BY SOLICITOR BARNETTE:

7 Q. Thank you, doctor.

8 The night of April 11th of 2022, approximately after
9 9:00PM that day, did you treat Minor [REDACTED], Minor [REDACTED]?

10 A. I did.

11 Q. Could you tell the jury -- tell them how you --
12 obviously when you were called into the ER room to treat
13 her?

14 Can you tell the jury about that?

15 A. Yes.

16 When I got called into the room by the nursing staff,
17 I walked in the room and I was shocked by what I saw.
18 I -- the -- there was a PEG tube. There's a tracheostomy
19 tube and the, the patient was gray and listless and
20 lifeless and we started medical therapy at that time to
21 include medications to try to jump start the heart and
22 CPR.

23 Q. What did you observe about her body and would the --
24 would some pictures help with that your---

25 A. Please.

Ryan Rider - Direct examination
By Solicitor Barnette

1 Q. Doctor, let me show you what's been marked for ID
2 purposes State Exhibit 2 through 18, and if you would just
3 look at them yourself if you would, sir?

4 A. Yes.

5 Again, when I entered the room, I saw a -- someone's
6 lifeless with the -- had noted a PEG tube, tracheostomy
7 tube. There's no purposeful movements. There's no
8 respirations.

9 I'll be honest with you, it's something I've never
10 seen in 30 plus years. The lower extremities, there was,
11 you know, essentially lack of skin. There was just red
12 flesh and the extremities were -- just the total body was
13 something I've never seen before. I'm sorry.

14 Q. Now, when you were talking about there was no skin on
15 the legs --

16 A. Yes.

17 Q. -- how would, how would you describe raw meat or raw
18 skin?

19 I mean how would you describe it?

20 A. Again, there, there wasn't the normal -- there wasn't
21 skin covering it. It was literally like raw meat, I'm
22 sorry, and --.

23 Q. Did you notice other things that was wrong with her?

24 A. Yes, there was what's called mottling, which is where
25 the -- when the tissue doesn't get oxygen and blood flow,

Ryan Rider - Direct examination
By Solicitor Barnette

1 it turns -- like you have bruising all over your body.

2 There was bruising all over her backside.

3 Again, her extremities were raw meat like hamburger.

4 I apologize.

5 The, the face, it was grayish, purple from lack of
6 oxygen and blood flow.

7 Q. What was the conditions of her -- like her teeth and
8 things like that, sir?

9 A. Extremely poor.

10 Q. Was she -- was she dead when she arrived at the ER?

11 A. Yes, sir.

12 Q. And obviously did y'all try to do anything you could?

13 A. Yes, sir.

14 Q. And you said you had never seen anything like this
15 before?

16 A. I've never seen anything like this before.

17 Q. Would this happen overnight?

18 A. No, this is not something that happens overnight.

19 SOLICITOR BARNETTE: One moment, Your Honor, please.

20 (Pause.)

21 Q. And please use the pictures if you need to refresh
22 your -- do those pictures fairly represent what you saw
23 that night?

24 A. Yes, sir.

25 Q. On her back, can you describe the back of her to the

1 jury please?

2 A. Yes.

3 The, the back, again, was much like her legs. The
4 legs, again, significant amount of skin loose to the point
5 where it was just like exposed muscle kind of giving that,
6 that red beef appearance, if you will, beefy, meaty
7 appearance.

8 On her back, there was this dark ruby bruising.
9 Again, that's something that takes time, and, again, this
10 is -- there were sores and it's, again, what we call deep
11 mottling where there's just not accurate blood flow. And
12 when the body and the skin and the tissue doesn't get
13 adequate blood flow or oxygen and it's been compressed for
14 a long time, you'll get this deep purple mottling.

15 Q. Basically what happens when your legs -- does your
16 body -- does it start shutting down to help protect the
17 rest of the body?

18 what happens to that?

19 MR. MORIN: Objection, Your Honor. I'd ask that he
20 not lead the witness.

21 THE COURT: Rephrase it please.

22 SOLICITOR BARNETTE: I'll rephrase the question.

23 From the loss of skin, what happened?

24 what did that show you what happened?

25 A. So, that tells us that the, that the -- what happens

Ryan Rider - Direct examination
By Solicitor Barnette

1 is -- the initial kind of state of shock or sepsis or
2 shock, the body will -- is, is smart on its own and it
3 will shut down blood flow to the extremities and it will
4 shut the blood flow, the oxygenated blood flow, to the
5 core of the body to try to preserve the heart and lungs to
6 pump oxygenated blood to the brain to preserve the, the
7 crucial elements of the body, the heart and lungs and the
8 brain. And it will -- and then what happens over time
9 when the extremities, arms, legs, do not get blood flow,
10 then the skin starts to break down, sluff off, and it's no
11 longer viable.

12 SOLICITOR BARNETTE: One moment, Your Honor, please.

13 (Pause.)

14 Q. Doctor, if you would, answer any questions the
15 defense may have for you, sir. Thank you.

16 THE COURT: Mr. File.

17 CROSS-EXAMINATION

18 BY MR. FILE:

19 Q. Doctor, you, you said you did do CPR though and gave
20 her medications to try to start, start her heart back?

21 A. Yes, I'd have to refer to my record exactly. But I
22 believe there was CPR and more forms of medication given.

23 Q. Okay. That's all I have.

24 THE COURT: Mrs. Racine.

25 MRS. RACINE: Thank you, Your Honor.

Ryan Rider - Cross-examination
By Mrs. Racine

1 CROSS-EXAMINATION

2 BY MRS. RACINE:

3 Q. Just one question, Doctor Rider.

4 If she was already dead, why did you try CPR?

5 A. In emergency medicine, you never know the scenario.

6 You try anything and everything particularly with a child.

7 Q. Okay. Thank you. No further questions.

8 A. You welcome.

9 THE COURT: Mr. Morin.

10 MR. MORIN: I have no questions.

11 THE COURT: Anything, solicitor?

12 SOLICITOR BARNETTE: No, sir, I'd like to ask the
13 witness be excused, Your Honor.

14 THE COURT: Sir, you may be -- any, any objection?

15 MR. FILE: No objection.

16 MRS. RACINE: No objection.

17 MR. MORIN: No objection.

18 THE COURT: Without objection, you may stay or go.

19 You're released from your subpoena. Thank you.

20 SOLICITOR BARNETTE: Your Honor, may we approach for
21 a second?

22 THE COURT: Yes, sir.

23 (WHEREUPON, a bench conference was held out of the
24 hearing of the jury at this time.)

25 THE COURT: Mr. Foreman, ladies and gentlemen, it is

1 usually my custom to not break up testimony and, and we're
2 at that point and it's 3:30, which is about a good time as
3 any to take our afternoon break.

4 So, we're gonna break now for a good 15, 17 minutes,
5 something like that. Again, facilities are in here,
6 coffee, water, if anything that you might require is, is
7 also back there for you.

8 I'm gonna ask a question. I hope the answer to it is
9 no.

10 But is there a juror who is a smoker and you wish to
11 smoke?

12 If so, I have to send a deputy with you outside.
13 There's no smoking in the building.

14 Anyone?

15 (WHEREUPON, there was no response.)

16 THE COURT: All right. I'm certainly glad to know.
17 It's personal to me. My sister was 48 years of age when
18 she died of lung cancer and she was a degreed RN and the
19 only smoker in our family.

20 Mr. Foreman, take your jury out please. Don't talk
21 about the case. You're on break.

22 (WHEREUPON, the following takes place outside the
23 presence of the jury.)

24 THE COURT: All right. We'll be in recess for about
25 15, 16 minutes.

1 (WHEREUPON, Court was in recess for a short break.)

2 THE COURT: Thank you. Please be seated. Thank you.

3 Everybody ready?

4 SOLICITOR BARNETTE: State's ready, Your Honor.

5 MR. MORIN: We're ready.

6 MRS. RACINE: We're ready.

7 THE COURT: Okay. We'll have the jury.

8 (WHEREUPON, the following takes place within the
9 presence of the jury.)

10 THE COURT: Mr. Foreman, everybody good?

11 THE FOREMAN: Everybody's good, sir.

12 THE COURT: Ready to work?

13 THE FOREMAN: Yes, sir.

14 THE COURT: Solicitor.

15 SOLICITOR BARNETTE: May it please the Court, Your
16 Honor.

17 Like to call Dennis Fowler to the stand please.

18 THE CLERK: Please raise your right-hand. Place your
19 left-hand on the Bible.

20 DENNIS FOWLER, being first duly
21 sworn, testified as follows:

22 THE CLERK: Okay.

23 THE COURT: Good afternoon, coroner.

24 THE WITNESS: Good afternoon, sir.

25 THE COURT: Tell us your name. Spell your last name

Dennis Fowler - Direct examination
By Solicitor Barnette

1 and tell us who you are please.

2 THE WITNESS: Dennis Fowler. F-O-W-L-E-R. I'm the
3 Cherokee County Coroner.

4 THE COURT: Solicitor.

5 SOLICITOR BARNETTE: Thank you, Your, Your Honor.

6 DIRECT EXAMINATION

7 BY SOLICITOR BARNETTE:

8 Q. Mr. Fowler, how long you been our coroner here in
9 Cherokee?

10 A. Since January 1st, 2007.

11 Q. And how many cases have you worked as coroner?

12 A. Over 6,000.

13 Q. And going back to April 11th, 2022, was you called
14 to a death call at Spartanburg Regional---

15 A. I was.

16 Q. ---Hospital?

17 If you would, tell the jury a little bit about that,
18 sir.

19 A. I was notified by my Cherokee County dispatch to
20 contact Spartanburg Regional Medical Center in reference
21 to a death in the emergency department, which is common
22 procedure. Anytime someone passes away within 24 hours of
23 going through the doors of a medical facility, they must
24 call the coroner.

25 So I, I responded by making that call to the nursing

Dennis Fowler - Direct examination
By Solicitor Barnette

1 staff and I was advised by the nursing staff that there
2 was a death in the emergency department involving a 14
3 year old special needs child.

4 Q. And those are always sad cause I know you've gotten
5 more than one call on that unfortunately?

6 A. Yes, sir.

7 Q. Was this like those calls though?

8 A. Different from all the rest.

9 Q. If you would, tell the jury about when you arrived
10 there and what happened, sir.

11 A. When I arrived, security directed me to Room 63,
12 which was one of the treatment rooms and that's where the,
13 the subject was, the decedent was, and had been treated
14 obviously and then pronounced by Doctor Rider as deceased.

15 Q. Let me show you State's Exhibits 22 through 27. I'll
16 turn them -- just look at them yourself.

17 If you would, take a look at those pictures -- and
18 you also went to the autopsy.

19 Is that right, sir, from there?

20 A. That is correct.

21 Q. If you would, look at those pictures 2 through 27
22 just for ID purposes and see if those photographs
23 represent what you saw at the hospital or at the autopsy?

24 A. Yes, sir, exactly what I saw.

25 Q. Thank you, sir.

1 And just for a housekeeping measure, can I show you
2 State's Exhibit 100 through 117?

3 These are just marked for ID purposes. See if those
4 pictures fairly represent what you saw at the hospital or
5 at the autopsy.

6 A. Yes, sir, exactly what I saw.

7 Q. All right. Thank you.

8 Sir, going back to the ER, if you would, tell the
9 jury what you saw when you saw **Minor**.

10 A. I saw a -- obviously a special needs child that was
11 in very poor condition. Obviously not well taken care of.

12 There were lesions on both legs. Skin was very, very
13 thin. There were a number of marks, what appeared to be
14 bites or maybe insect bites or animal bites on the legs.
15 The feet are swollen. There is -- genitalia is very, very
16 swollen.

17 There's redness all over the body. The, the head
18 is -- has a stocking, white stocking cap, like on the, on
19 the head that is -- it's blood stained. The hair is wet.
20 The -- there's a diaper that's on the, the child, which is
21 soaked with urine and that has a -- the entire body has a
22 stench.

23 Q. How old was **Minor** at the time?

24 A. Fourteen.

25 Q. Do you remember what her date of birth was?

Dennis Fowler - Direct examination
By Solicitor Barnette

1 A. Yes, sir. It was [REDACTED].

2 Q. In looking at the body and everything, did you notice
3 any cuts or anything on it from that standpoint?

4 A. Yes, sir. Appeared to be some, some cuts on the, on
5 the head.

6 Q. Okay. And based off that, did you go talk to the
7 parents in this case?

8 A. I did.

9 Q. And who was actually the first person you talked to
10 before when you got out of the, out of the room?

11 A. Actually talked to the brother, Edward, who was
12 standing in the hallway.

13 Q. Okay. Do you see him in the court here today, sir?

14 A. Yes, sir, I do.

15 Q. Can you point at him and identify what he's wearing,
16 sir?

17 A. He is seated in the far right in the white shirt.

18 SOLICITOR BARNETTE: Your Honor, I'd like the record
19 to reflect that he identified Edward Baynard, one of the
20 defendants in the case.

21 THE COURT: So noted.

22 Q. After talking to him, did you talk to the parents
23 too, sir?

24 A. I did.

25 Q. And in talking to Bobbie Baynard, did she talk about

1 the cut on the hair or anything like her about her hair?

2 A. Well, she had told me, when I asked her about that,
3 she told me that she had put her into a bathtub to try to
4 stimulate her because she had been found with her oxygen
5 tube off of her face. She checked her oxygen level, which
6 was like 30 percent, and that was around 7:00PM on that
7 evening.

8 And so she put her in the bathtub to stimulate her.
9 And once she got her out, she -- the hair was, was wet.
10 She noticed it was matted. So, she was trying to cut the
11 mats out of the hair and she cut her with the scissors.

12 Q. When you talked to all -- any of the three, Edward,
13 David, or Bobbie, did they show any emotions or anything
14 like that?

15 A. None whatsoever.

16 Q. So, after you started talking to them and everything,
17 did y'all go to their house?

18 A. We did.

19 Q. Is the house located at [REDACTED] here in
20 Cherokee County?

21 A. Yes, it is.

22 Q. So, that location's Gaffney, South Carolina in
23 Cherokee County---

24 A. Yes, sir, it is.

25 Q. ---right?

Dennis Fowler - Direct examination
By Solicitor Barnette

1 If you would, tell the jury about going to that
2 residence.

3 A. Well, once I arrived at their location, there was a,
4 a chain across the driveway and -- which said no
5 trespassing and the chain was unlocked by, by Mr. Baynard
6 who was there. We went into the actual location---

7 MR. MORIN: Your Honor, if I may?

8 I'm gonna ask the witness to identify David or Edward
9 so I can follow which Baynard he's talking about.

10 THE COURT: Yes, sir.

11 THE WITNESS: Edward's the far right --

12 MR. MORIN: Yes.

13 THE WITNESS: -- sitting at the table in the white
14 shirt. David's in the, the striped shirt seated in the
15 ponytail.

16 MR. MORIN: I'm---

17 SOLICITOR BARNETTE: I'll follow-up with a question,
18 Your Honor, if I may --

19 THE COURT: Okay.

20 SOLICITOR BARNETTE: -- from there.

21 If you would, you did talk to David Baynard and/or
22 met him at the ER.

23 Is that right, sir?

24 A. I did.

25 Q. Can you identify him who he is?

Dennis Fowler - Direct examination
By Solicitor Barnette

1 A. He is the gentleman sitting there in the stripped
2 shirt with the glasses and the ponytail.

3 SOLICITOR BARNETTE: And, Your Honor, we'd like the
4 record to reflect that's David Baynard, the defendant's---

5 THE COURT: So---

6 SOLICITOR BARNETTE: ---been identified.

7 THE COURT: So noted.

8 Q. And do you see Bobbie Baynard in here?

9 A. Yes, I do. She's seated at the first table and she
10 has on a purple shirt wearing glasses.

11 SOLICITOR BARNETTE: And, Your Honor, I'd like the
12 record to reflect that he's identified Bobbie Baynard,
13 Bobbie Jo Baynard.

14 THE COURT: So noted.

15 MR. MORIN: I appreciate that. Perhaps I wasn't
16 clear.

17 When he said he went to the gate and was met by Mr.
18 Baynard, I would appreciate it if he would say. I met
19 David Baynard. I was met by Edward Baynard so I can
20 understand that part.

21 Q. Okay. Do you remember who opened the gate, sir?

22 A. David Baynard.

23 Q. David Baynard did.

24 Going on to the residence, was there several pictures
25 taken, sir?

Dennis Fowler - Direct examination
By Solicitor Barnette

1 A. Yes, sir.

2 Q. Okay. Matter of fact, the pictures that you looked
3 at earlier, 2 through 27, 100 to 117, is those taken by
4 you, sir?

5 A. Yes, sir.

6 Q. Okay. Let me show you what's been marked State's
7 Exhibit 28 through 93. I think they already been entered
8 as evidence. But let me look through, let you look
9 through as taken that, sir, and see if those pictures
10 fairly represent what you saw that night.

11 A. Yes, sir.

12 Q. Okay.

13 A. Exactly what I saw.

14 SOLICITOR BARNETTE: Your Honor, I'd like to move
15 State's Exhibit 28 through 93. I don't think there's any
16 objection. Move those into evidence and publish them to
17 the jury.

18 THE COURT: Any objection to 28 through 93?

19 MR. FILE: No objection.

20 MR. MORIN: Can I just make a quick view to make
21 sure---

22 THE COURT: Sure.

23 MR. MORIN: I believe that is correct.

24 (WHEREUPON, Mr. Morin was reviewing the exhibits.)

25 MR. MORIN: No objection from Edward Baynard.

Dennis Fowler - Direct examination
By Solicitor Barnette

1 MRS. RACINE: No objection.

2 MR. FILE: No objection.

3 THE COURT: Without objection, 28 through 93 -- what
4 exhibit is that, solicitor?

5 SOLICITOR BARNETTE: It's gon' be State's Exhibit 28
6 through 93, Your Honor.

7 THE COURT: State's -- oh, 28 through 93.

8 SOLICITOR BARNETTE: Through 93, yes, sir.

9 THE COURT: Through 93.

10 (WHEREUPON, State's Exhibit Nos. 28 through 39 were
11 previously received into evidence. State's Exhibit Nos.
12 40 through 93 were received into evidence at this time.)

13 SOLICITOR BARNETTE: And, Your Honor, we do have them
14 on a digital format. We're gonna -- can I ask the, the
15 coroner to step down now so he can describe those as we go
16 through the pictures if you would, sir?

17 THE COURT: Certainly.

18 (WHEREUPON, the witness comes down from the stand.)

19 THE COURT: What we did was we put the exhibit
20 numbers with the pictures to see if there -- if you would,
21 just describe -- did the Sheriff's Department get a search
22 warrant before y'all went on the property, sir?

23 A. They did.

24 Q. And that was executed before y'all went with the
25 search warrant?

Dennis Fowler - Direct examination
By Solicitor Barnette

1 A. That is correct.

2 Q. Who was present at the residence when y'all got
3 there?

4 A. You mean from the family or anybody?

5 Q. From the family.

6 A. From the family, David Baynard, Bobbie Jo Baynard,
7 and Edward Baynard.

8 Q. They were all present there---

9 A. Yes.

10 Q. ---at the residence?

11 If you would explain -- this is State Exhibit 28.

12 Can you describe that for us?

13 A. Yes, sir. This is the chain that was across the
14 driveway leading from the roadway into the residence.

15 Q. Go to the next one, State Exhibit 29.

16 Can you describe this for us, sir?

17 A. Yes, sir, this is walking up the driveway. This is,
18 as you start up the driveway, you can see a lot of debris,
19 trash, et cetera.

20 Q. And a lot of them you have like diapers and stuff
21 like that?

22 A. Yes, sir, there's a lot of soiled diapers, other
23 trash, feces.

24 Q. We'll go on to State Exhibit 30.

25 If you would, describe that, sir?

1 A. This is getting a little closer to the residence. As
2 you see, there's -- again, there's a lot of diapers there
3 that's been soiled, that's been thrown out. There's also
4 old lawn mowers, other general trash there.

5 Q. Okay. We'll go to State Exhibit 31.

6 Can you tell us what that is, sir?

7 A. Yes, sir, here again, that's, that's more trash
8 stacked up, diapers, soiled diapers.

9 Q. We'll go to State Exhibit 32.

10 Tell us what this is, sir.

11 A. Yes, sir, that's a continuation of what we were
12 seeing before, more old trash and just debris just thrown
13 out in the roadway -- in the driveway.

14 Q. Go to State Exhibit 33.

15 The blue thing right there at the very bottom there
16 --

17 A. Yeah.

18 Q. -- is that diapers, just a pack of diapers?

19 A. That's just -- yes, that's just a pack of diapers
20 there.

21 Q. Okay. And we can actually go and there's other packs
22 of diapers---

23 A. Yes.

24 Q. ---there too?

25 A. Yes, sir.

Dennis Fowler - Direct examination
By Solicitor Barnette

1 Q. Okay. In that -- as you're going up there -- well,
2 we'll keep going.

3 State Exhibit 33, if you would just describe that,
4 sir.

5 A. More, more yard trash, more just used rags.

6 Q. Did they have a lot of animals and dogs and cats
7 there also?

8 MR. MORIN: Objection, Your Honor. The coroner's
9 done 6,000 cases. He can testify as to what he saw---

10 SOLICITOR BARNETTE: I just said did---

11 MR. MORIN: ---without his assistance.

12 THE COURT: It's, it's---

13 SOLICITOR BARNETTE: Your Honor, I'm not leading him.
14 I asked just did you see any dogs or cats.

15 THE COURT: Yeah, answer the question.

16 It's overruled.

17 SOLICITOR BARNETTE: Okay. Thank you, Your Honor.

18 A. Yes, I did.

19 Q. Okay. Going to the next picture, State Exhibit 34.

20 All right. Go to the next one.

21 State Exhibit 35, what is that a picture of?

22 A. More diapers.

23 Q. Okay. State Exhibit 37, what is that a---

24 A. More---

25 Q. ---picture of?

- 1 A. More diapers, more trash.
- 2 Q. Going to State Exhibit 37, is that more diapers?
- 3 A. More diapers, correct.
- 4 Q. What is that a picture of?
- 5 A. More, more used diapers and generally trash.
- 6 Q. Okay.
- 7 A. Continuation of the same thing, trash, diapers.
- 8 Q. And State Exhibit 39, is that the ramp going up to
- 9 the house?
- 10 A. Yes, sir, that's leading into the, the residence
- 11 itself.
- 12 Q. State Exhibit 40.
- 13 A. Just a wide shot of the, the ramp.
- 14 Q. State Exhibit 41.
- 15 A. As you can see, there's more used diapers.
- 16 Q. What is that one item that's on the ramp there, sir?
- 17 A. The diapers.
- 18 Q. Can you see something else?
- 19 What are those?
- 20 A. Can I get a little closer here?
- 21 Q. We can actually pull it up.
- 22 A. Yeah. Yeah. More, more diapers, more used items,
- 23 yes, sir.
- 24 Q. What's the green and silver thing, sir?
- 25 A. That's a used oxygen tank.

Dennis Fowler - Direct examination
By Solicitor Barnette

1 Q. Going to State Exhibit 30 -- or State Exhibit 42.

2 Is this a wider angle of the ramp?

3 A. This is a longer range view as you walk up the ramp.

4 Q. And what is this, State Exhibit 43?

5 What is that a picture of?

6 A. That's the actual front door. You can see a propane
7 tank outside.

8 Q. Showing you State Exhibit 44, can you tell us what
9 that is?

10 A. This is looking into the door after the door is
11 opened into the actual residence.

12 Q. What's on the floor?

13 A. Feces, feces and general trash. Some of the trash is
14 2-feet deep.

15 Q. Going to State Exhibit 45, what's this a---

16 A. Looking---

17 Q. ---picture of?

18 A. Looking into the room. This is a lot of feces.

19 Here's -- you can not only see feces. But there's urine
20 soaked floors.

21 Q. Was there any insects in there?

22 A. Yes, sir.

23 Q. What kind of insects did you have?

24 A. Roaches.

25 Q. Was there any smell in the residence?

1 A. Oh, yes, sir. It, it smelled unlike any smell I've
2 ever smelled before. But it's urine and feces and
3 ammonia, ammonia type smell.

4 Q. Going to State Exhibit 46, can you tell us what we're
5 seeing here, sir?

6 A. Well, you're seeing cobwebs that hang from the
7 ceiling.

8 Q. What -- what's in the cobwebs and we can make it a
9 little bit closer?

10 A. Well, you're gonna see a lot of bugs in there as
11 well. Insects.

12 Q. What kind of insects are there if you can tell?

13 A. Appear to be flies and fleas.

14 Q. And what -- is the cobwebs, what color are they, sir?

15 A. What color are they?

16 Q. Yeah.

17 A. They're grayish.

18 Q. Okay. What about the fan going up?

19 A. The fan's coated with bugs, coated with cobwebs as
20 well.

21 Q. We'll go to State Exhibit 47 and these are different
22 rooms in the house?

23 A. Yes, sir.

24 Q. Is that right?

25 A. This is, this is different rooms looking, you know,

Dennis Fowler - Direct examination
By Solicitor Barnette

1 from the front door over to the left into the living room
2 if you will.

3 Q. Go to State Exhibit 48.

4 Is this a picture through -- to which side of the
5 house or towards what area of the house?

6 A. It's toward the left side of the house.

7 Q. And is there stuff stacked everywhere?

8 A. Yes.

9 Q. We'll go to State Exhibit 49.

10 Is this another part of the house we're going toward
11 that direction?

12 A. Yes, sir.

13 Q. And this is -- what condition you saw that night?

14 A. Yes.

15 Q. Going to State Exhibit 50, and was there dogs -- and
16 when y'all went in, was there somebody suppose to get the
17 dogs out of the house before y'all went in there, dogs and
18 cats?

19 A. Yes, sir.

20 Q. Was anyone getting them out of there?

21 A. Not all of them.

22 Q. Okay. So, go to State Exhibit 51.

23 Is this the floor like in the living room towards the
24 right of the door on right side of the door?

25 A. Yes, sir, it's hard to see the floor. But the floor

1 is there.

2 Q. Okay. And is that like a -- I guess a baby chair?

3 A. Highchair.

4 Q. Highchair?

5 A. Yes, sir.

6 Q. And how deep was the stuff on the floor?

7 A. Three to four feet deep.

8 Q. Okay. And State Exhibit 52 here, getting a little
9 bit closer in there, was there a flycatcher for flies?

10 A. Yes, there was.

11 Q. When was it -- what kind of condition was it in?

12 A. It was full.

13 Q. Again, the webbing over it -- on the curtains and
14 things like that, what was in those?

15 A. Fleas, flies, bugs.

16 Q. Going to State Exhibit 53, is this just showing the
17 conditions there on the floor and everything?

18 A. Yes, sir.

19 Q. Okay. Was there a Coke bottle there, Coke bottles
20 that was just not opened?

21 A. Unopened Coke bottles, yes.

22 Q. Was there an oxygen tank in there?

23 A. Yes, there was.

24 Q. And was there a shovel actually there?

25 A. Yes, sir.

1 Q. Going to State Exhibit 54, can you tell what -- the
2 jury what we're looking at here?

3 A. This is just another, another area in the house. I
4 think it's commonly called the kitchen.

5 Q. What is that?

6 Let me ask you a question.

7 Are those diapers or whatever---

8 A. Yes.

9 Q. ---on there?

10 A. Yes, over toward the left of the kitchen, yes.

11 Q. Okay. All through there and cobwebs all over---

12 A. Yes, sir.

13 Q. ---and things?

14 Showing you State Exhibit 55. This is a wider angle
15 of that -- in the living room area.

16 A. Yeah.

17 Q. Showing you State Exhibit 56, is that the general
18 area again?

19 A. General, general area of, of the home.

20 Q. What was in the middle?

21 What did it appear to be in the middle of all that in
22 there, that red thing?

23 A. Bring it up a little bit closer.

24 It appeared to be some kind of table or something.

25 Q. Okay. Going to State Exhibit 57, is this just now

1 part of the, the house?

2 A. Yes, sir.

3 Q. State Exhibit 58, can you describe what's on this
4 desk or whatever, the materials on it?

5 A. Looks like more diapers, feces. A lot of feces and
6 this is feces from animals.

7 Q. Let's go to State Exhibit 59.

8 Okay. Is this the---

9 A. This is looking at -- yes, this is looking into the
10 kitchen from the living room area.

11 Q. And we'll go to State Exhibit 60.

12 Is that the floor in the kitchen area?

13 A. That, that is the floor.

14 Q. Is that the refrigerator over there?

15 A. Appears to be.

16 Q. Going to State Exhibit 61, is this another picture of
17 the other side of the kitchen?

18 A. Yes, sir.

19 Q. Is that the conditions that you saw that night?

20 A. Yes, sir.

21 Q. State Exhibit 62, is this going into the master
22 bedroom?

23 A. Yes, sir, it is.

24 Q. Did y'all have to basically force the door kind of to
25 go in there?

Dennis Fowler - Direct examination
By Solicitor Barnette

- 1 A. Yes, we did.
- 2 Q. Okay. Is that where it's kind of bent?
- 3 A. Yes, sir.
- 4 Q. Okay. Is this the master bedroom?
- 5 A. Yes, sir, this is the master bedroom.
- 6 Q. Where it -- was her crib to the left?
- 7 A. To the left.
- 8 Q. All right. Can you see part of it in the picture?
- 9 A. Just the small part to the left---
- 10 Q. What---
- 11 A. ---yes.
- 12 Q. And that's where she slept?
- 13 A. Yes, sir.
- 14 Q. And then I guess there's a bed on the other side.
- 15 Could you tell where the bed began or ended?
- 16 A. Well, it's really hard to tell where it was beginning
- 17 or ending because of the trash. We had to move some trash
- 18 around off the bed just to, to find out where the bed was.
- 19 Q. State Exhibit 64. State Exhibit.
- 20 Is this a---
- 21 A. It's a---
- 22 Q. ---picture---
- 23 A. ---a wider shot.
- 24 Q. Okay. And you just -- you see the crib in there---
- 25 A. Yes, sir, to the left.

1 Q. To the left.

2 what's it got -- what kind of light's on it?

3 I see -- is there a cat on top of it?

4 A. There is.

5 Q. Okay. Go to State Exhibit 65.

6 well, let me ask you one question.

7 Is that a radiator in the middle, a heater radiator

8 --

9 A. Yes.

10 Q. -- in that picture?

11 How deep is that trash in there?

12 A. About four to five feet.

13 Q. Okay. Okay. State Exhibit 65.

14 Is this a picture of the other side of the bedroom?

15 A. Yes, sir.

16 Q. And was there a bathroom in-between these that you

17 couldn't get into?

18 A. Could not make our way to it.

19 Q. And is there dust in that fan or what is in that fan?

20 A. It's dust and dirt and bugs and fleas.

21 Q. Okay. Going to State Exhibit 66.

22 Is this a picture of the kitchen going into the

23 washroom area?

24 A. Yes, sir.

25 Q. Going to State Exhibit 67.

1 Is that the picture of the sink in the kitchen?

2 A. A wide shot of the kitchen.

3 Q. State Exhibit 68, is this the washroom back here?

4 A. Yes, we determined that that was probably both -- the
5 wash room based on what was there along with other things.
6 But yes.

7 Q. And how deep was the trash and stuff in there?

8 A. About four and a half feet.

9 Q. Going to State Exhibit 69.

10 Is this a -- like the back area near the kitchen
11 going into another room?

12 A. Yes.

13 Q. Look -- is that like a firewood heater or electric
14 heater right there in the middle?

15 A. Appears to be, yes.

16 Q. What is on that item and we can go a little bit
17 closer?

18 What kind of insects appear to be on there?

19 A. Those are roaches and fleas.

20 Q. Are they -- appear to be live at the time?

21 A. They were.

22 Q. And was there dead roaches also?

23 A. Yes, sir.

24 Q. And when y'all went in, did you initially have
25 equipment on you when you initially went in?

1 A. I did not but, but some did.

2 Q. And did you go back and get any more -- did you go
3 back and get any more equipment on them?

4 A. Yes.

5 Q. Okay. Okay. Going to State Exhibit 70.

6 Can you describe this to us?

7 A. This is, again, just more piled up trash in the
8 house.

9 Q. Okay. Going to State Exhibit 71.

10 Is that just another picture on the other side of the
11 room?

12 A. Yes, sir.

13 Q. State Exhibit 72.

14 Is this going back towards the bathroom area?

15 A. Yes, sir, this is looking down that hallway.

16 Q. Okay. State Exhibit 73.

17 Is that the floor going back to that -- was there
18 only one functioning bathroom in the house?

19 A. Yes, sir, but I couldn't confirm that it was
20 functional.

21 Q. I understand it. We'll let you describe that in a
22 minute.

23 State Exhibit 74.

24 Is this a picture of the ceiling in the area going
25 back to the bathroom?

Dennis Fowler - Direct examination
By Solicitor Barnette

1 A. It is.

2 Q. And then what's on the ceiling or on the walls going
3 to the ceiling?

4 A. Cobwebs. Deep cobwebs.

5 Q. State Exhibit 75.

6 was that the bathroom?

7 A. Yes, sir.

8 Q. Was that the functioning or I -- was that the only
9 bathroom that you could get into?

10 A. Yes, sir.

11 Q. Okay. State Exhibit 76.

12 A. Another, another picture of the bathroom.

13 Q. How deep was the -- what was on the floor?

14 A. Feces, urine, trash.

15 Q. Looking to the right there, was there a bag of
16 diapers opened?

17 A. There was.

18 Q. Did that appear -- been the like clean thing that
19 appeared to be in there?

20 A. In the bathroom, yes.

21 Q. Okay. Going to State Exhibit 77.

22 Can you tell us---

23 A. It's the crib.

24 Q. ---what this is?

25 A. It's the crib.

Dennis Fowler - Direct examination
By Solicitor Barnette

1 Q. In the crib, did there appear to be animal feces or
2 anything in there?

3 A. There was animal feces. It is soaked in urine which
4 appears to be human urine as well along with animal.

5 Q. Going to State Exhibit 78.

6 She had medical equipment in her room?

7 A. She did.

8 Q. Was that the medical -- part of the medical equipment
9 that she had?

10 A. Yes, sir.

11 Q. And is that her crib to the right of it?

12 A. Yes, it is.

13 Q. Is those the conditions you saw?

14 A. They are.

15 Q. State Exhibit 79.

16 Was that the bags of medicine that was for her?

17 A. Yes, sir.

18 Q. Does there appear to be a cat right behind it?

19 A. There was.

20 Q. And what kind of condition was those medicine in?

21 A. Deplorable condition.

22 Q. State Exhibit 80.

23 Did you -- they told you that -- Bobbie told you she,
24 she cut some hair off her?

25 A. She did.

Dennis Fowler - Direct examination
By Solicitor Barnette

1 Q. And did y'all find hair in the bedroom?

2 A. We did.

3 Q. And is that a picture of the hair that was in there?

4 A. It is.

5 Q. Going to State Exhibit 81.

6 Is that a closer picture of it, sir?

7 A. It is.

8 Q. Okay. State Exhibit 82 next.

9 Is that showing where they couldn't get in the room
10 to the bathroom by the bedroom?

11 A. Right, yes, sir.

12 Q. State Exhibit 83.

13 Is that another picture---

14 A. A wider shot of her crib.

15 Q. State Exhibit 84, how far was this trash and
16 everything up to her crib?

17 A. Pit was all the way up to the crib in the crib.

18 Q. And this is all kinds of stuff?

19 A. Yes, sir.

20 Q. And was there stuff crawling through that stuff?

21 A. Yes, sir.

22 Q. Insects, things of that nature?

23 A. Yes, sir.

24 Q. Going to State Exhibit 85.

25 Is that what's beside her crib?

Dennis Fowler - Direct examination
By Solicitor Barnette

1 A. It was.

2 Q. State Exhibit 86.

3 Is this just a wider angle of the area --

4 A. A little further back, yes, sir.

5 Q. -- kind of off everything there.

6 State Exhibit 87.

7 Is this another picture of the bedroom area with her
8 crib in it?

9 A. It is.

10 Q. And did -- is that the radiator heat that we showed
11 earlier?

12 A. It is.

13 Q. And is this showing everything -- is that the gauze
14 that was found with blood on it?

15 A. It did have blood on it, yes, sir.

16 Q. And then she had said that she'd cut her hair I guess
17 from that standpoint?

18 A. Yes, sir.

19 Q. And there was a cut on her hair or her head
20 afterwards?

21 A. Yes, sir.

22 Q. Going to State Exhibit 88.

23 Is this a picture of what area of the bedroom?

24 A. This is toward the left side of the bedroom over
25 here.

1 Q. Did they have beer in there -- appears to be?

2 A. Yes, sir.

3 Q. Okay. State Exhibit 89.

4 Is that another picture of the gauze?

5 A. It is.

6 Q. State Exhibit 90.

7 Was there a pair of scissors that was also found in
8 that area?

9 A. Yes, sir.

10 Q. And is this the -- I guess that was the pillow we saw
11 earlier once it's kind of blood or stained I should say?

12 A. Yes, sir. That's right.

13 Q. Okay. State Exhibit No. 91.

14 Is that a close-up of the scissors that was found?

15 A. It is.

16 Q. And did the Sheriff's Department collect the
17 scissors, the hair, and the gauze from the scene?

18 A. Yes, they did.

19 Q. Okay. State Exhibit 92.

20 What is the -- does that appear to be the machine?

21 A. Yes, sir, it does.

22 Q. That was used for medical, as far as you can tell,
23 for medical purposes?

24 A. Yes.

25 Q. What kind of conditions was around it?

1 A. A lot of feces, a lot of bugs, a lot of fleas, a lot
2 of trash.

3 Q. And is that also another oxygen tank?

4 A. It is.

5 Q. Okay. It goes to State, State Exhibit 93.

6 Are these part of the cobwebs in the house --

7 A. Yes, sir.

8 Q. -- on the ceiling?

9 A. Yes, sir.

10 Q. What's in those cobwebs and we can get a little bit
11 closer into it?

12 A. Bugs, flies, fleas.

13 Q. Did you also have cockroaches too?

14 A. And roach -- and, yes, sir, and roaches.

15 Q. Okay. If you'll please have a seat, sir. Thank you.

16 A. Sure.

17 (WHEREUPON, the witness returns to the stand.)

18 Q. Oh, I'm sorry.

19 Did you attend an autopsy for Minor [REDACTED]?

20 A. I did.

21 Q. And who performed the autopsy?

22 A. Doctor Kelly Rose, forensic pathologist.

23 Q. And you went to the autopsy.

24 Is that right, sir?

25 A. Yes, sir, I did.

Dennis Fowler - Direct examination
By Solicitor Barnette

1 Q. And you took some of the pictures that we've looked
2 at from me that you looked at earlier.

3 Is that right?

4 A. Yes, sir, I did.

5 Q. Okay. And all these -- look -- pictures represent
6 what you saw or what you saw --

7 A. Yes, sir.

8 Q. -- from there?

9 In there, during the autopsy and everything, what was
10 her findings on the autopsy or tell, in gen -- general,
11 what was her diagnosis if you would, sir?

12 MR. MORIN: Objection, Your Honor. There's gonna be
13 an expert on this unless he's gonna establish the coroner
14 is an expert on medical diagnoses.

15 SOLICITOR BARNETTE: I'll rephrase the question, Your
16 Honor, from that standpoint.

17 Q. Did Doctor Rose do an -- a full examination upon
18 Minor [REDACTED]?

19 A. It was full post, yes, sir.

20 Q. Based off that autopsy and everything, did you see a
21 scalp incision or two scalp incisions at the time?

22 A. Yes, sir, I did.

23 Q. And what did she determine that to be---

24 A. Some---

25 Q. ---that---

1 A. Some type of laceration which would of -- which she
2 said was postmortem.

3 Q. And based off her examination and everything from the
4 information you had, did you determine a cause of death in
5 this case?

6 A. I did, sir.

7 Q. And what was that cause of death?

8 A. Determination of the cause of death was complications
9 of acute and chronic medical neglect.

10 Q. And the matter of death, what did you assign this as?

11 A. Homicide.

12 SOLICITOR BARNETTE: One moment, Your Honor, please.

13 (Pause.)

14 Q. During the autopsy, and what you say what -- I know
15 you got to see more of the body at the autopsy as you went
16 to the hospital unfortunately.

17 where did -- I don't know -- it's a tough question to
18 ask.

19 where did the injuries from her lower body start at?

20 A. The abdomen.

21 Q. Okay. And did it go all the way down her lower body?

22 A. well, the feet were swollen and, of course, the legs
23 had been infected with injuries or inflicted with injuries
24 from fleas and bug bites.

25 Q. was there hardly any skin on the legs?

Dennis Fowler - Direct examination
By Solicitor Barnette

1 A. Oh, there's very little skin.

2 Q. And in all the years that -- all the case (sic) you
3 worked, have you ever worked a case like this?

4 A. I've never seen anything like it.

5 SOLICITOR BARNETTE: One moment.

6 (Pause.)

7 Q. Please answer any questions the defense may have for
8 you, sir.

9 A. Yes, sir.

10 Q. Thank you.

11 THE COURT: Mr. File.

12 CROSS-EXAMINATION

13 BY MR. FILE:

14 Q. Doctor, you had -- when you initially went to the
15 hospital, you had written in your report that you
16 suspected medical neglect.

17 Is that right?

18 A. I was told by the nursing staff that they suspected
19 medical neglect.

20 Q. Okay. And that's -- that was the finding you made
21 and ended up may -- making with medical neglect, is that
22 right, complication from medical neglect?

23 A. Yes, sir.

24 Q. Correct?

25 A. Yes, sir.

Dennis Fowler - Cross-examination
By Mr. File

1 Q. Okay. And you, you noted that her skin was very thin
2 and she was red or there was redness on her skin all over
3 her body or lower body?

4 A. Yes, sir.

5 Q. Okay. You told Mr. Barnette that, that she -- they
6 told you that she had pulled the oxygen tube off her face?

7 A. That's what I was told.

8 Q. Okay. They---

9 A. I was told it was off. I wasn't told that she pulled
10 it off. I was told that it was discovered off the face.

11 Q. But yet she had a tracheotomy?

12 Did you not know that?

13 A. I'm just relaying what was told to me.

14 Q. You said Edward came to the ER?

15 A. Yes, sir.

16 Q. Okay. You don't know -- if he got there before or
17 after.

18 Is that correct?

19 A. I do not know.

20 Q. Before or after Bobbie and David?

21 A. I do not know that. I know he was there when I was
22 there.

23 Q. Now, you went to the house too?

24 After your investigation at the hospital, you went to
25 the house, correct?

Dennis Fowler - Cross-examination
By Mr. File

1 A. Yes, sir.

2 Q. Okay. And did you have to wait for, for David
3 Baynard to arrive and let you in?

4 A. He was there when I got there.

5 Q. Okay. And did -- you said -- you described in some
6 of the pictures or you pointed out some of the pictures
7 there were a number of, of diapers around the house --

8 A. Yes.

9 Q. -- laying around.

10 Those are soiled diapers, weren't they?

11 A. Yes, sir.

12 Q. They weren't clean diapers?

13 They were soiled diapers?

14 A. Correct.

15 Q. So obviously somebody'd been changing diapers and
16 just throwing them out there.

17 Is that correct?

18 A. I don't know how they got there.

19 Q. You didn't, you didn't see any signs of, of Bobbie or
20 David or Edward that -- wearing diapers, did you?

21 A. No, sir.

22 Q. Okay. And you said there was oxygen tanks there at
23 the house or used oxygen tanks?

24 A. Correct.

25 Q. And you described a bag of, of medication.

Dennis Fowler - Cross-examination
By Mr. File

1 were you aware that she had a feeding tube in her
2 stomach?

3 A. I was told she did, yes.

4 Q. Okay. And what you've described as medication, could
5 that not have been feeding her food for, for her?

6 A. It could of been but it was so dirty I couldn't tell
7 what it was.

8 Q. Okay. And there was medical equipment you've
9 described as being there in the house---

10 A. what appeared to be---

11 Q. ---amongst the trash.

12 A. what appeared to be.

13 Q. Okay. All right. That's all I have.

14 THE COURT: Mrs. Racine.

15 MRS. RACINE: I have no questions for this witness,
16 Your Honor.

17 THE COURT: Counsel, Mr. Morin.

18 CROSS-EXAMINATION

19 BY MR. MORIN:

20 Q. Mr. Fowler, you are the Cherokee County coroner,
21 correct?

22 A. Correct.

23 Q. And you are elected by the people of Cherokee County.
24 Is that correct?

25 A. Correct.

Dennis Fowler - Cross-examination
By Mr. Morin

1 Q. Minor was in Spartanburg at the time.

2 Is that correct?

3 A. That's correct.

4 Q. Minor died in Spartanburg.

5 Is that correct?

6 A. That's correct.

7 Q. True?

8 why were you called to Spartanburg?

9 A. Because the incident began here in my county.

10 Q. And how was that determined before you arrived?

11 A. Because the medical staff at Spartanburg Regional
12 told me that she came from Gaffney.

13 Q. Okay. And that was [REDACTED] -- [REDACTED]
14 [REDACTED].

15 Is that right?

16 A. That's correct.

17 Q. Who owns [REDACTED]?

18 A. I have no idea.

19 Q. How is Edward Baynard related to Bobbie and David
20 Baynard?

21 A. Son.

22 Q. When you were in the house, you say that in some
23 places the trash was four and a half to 5-feet deep.

24 Is that correct?

25 A. That's correct.

Dennis Fowler - Cross-examination
By Mr. Morin

1 Q. So, it came up almost at least to your chest if not
2 your shoulders.

3 Is that correct?

4 A. That is correct.

5 Q. Okay. Now, when you go to the house, and you go into
6 the -- where -- the main bedroom, you had to force the
7 door open, correct?

8 A. Yes.

9 Q. Okay. And once you got it forced open, and you're
10 standing in the doorway, and you're looking into the
11 master bedroom, can you see the crib?

12 A. Yes.

13 Q. All of it or part of it?

14 A. Part of it.

15 Q. Okay. Because when you go in, isn't there like a
16 cabinet or something right there on the left?

17 A. There was.

18 Q. And then next to that was that medical stuff and then
19 the crib?

20 A. Yes.

21 Q. Now, if you were in that day, such as it is, in the
22 main bedroom and you were laying or sitting on it, you'd
23 have a clear view of the crib as best you can given the
24 conditions?

25 A. So long as the trash wasn't in the way.

Dennis Fowler - Cross-examination
By Mr. Morin

1 Q. Correct.

2 Now, when you talked to the people at the hospital,
3 that was the beginning of your investigation into it,
4 correct?

5 A. That's correct.

6 Q. And during that investigation, isn't it true that you
7 learned that both Minor and Bay -- and Edward had been
8 removed from the house?

9 SOLICITOR BARNETTE: Objection, Your Honor. We got a
10 matter of law to deal with right now.

11 THE COURT: Mr., Mr. Foreman, ladies and gentlemen,
12 we have a matter that I'm gon' have to take up outside of
13 your presence. We got a, we got a objection on the table.

14 So, don't talk about the case. Don't do speculation
15 about what the objection is and please, Mr. Foreman, take
16 them out.

17 (WHEREUPON, the following takes place outside the
18 presence of the jury.)

19 THE COURT: Mr. Solicitor, the objection.

20 SOLICITOR BARNETTE: My objection, Your Honor, I made
21 a motion in limine before the trial started about DSS
22 information. That's what he's going into about removal of
23 the children out of the home -- out of the house.

24 I've been good about making sure I don't step over
25 the line and ask questions before making somebody object

1 before on, on the pictures. I thought we were gonna talk
2 about this before it came open.

3 The door has not been opened in this case and he's
4 asking questions to lead to those DSS questions, which I
5 don't think the Court has ruled on at this point.

6 THE COURT: Mr. Morin.

7 MR. MORIN: Your Honor, in his statement -- in his
8 report, he wrote Mrs. Baynard admits there have been
9 previous cases where both children had been removed from
10 the home due to its prior living conditions. I was not
11 gonna make a reference to DSS. I simply asked him if he
12 learned that during his investigation.

13 Same DSS would certainly, I agree with Mr. Barnette,
14 do that. But rather than say DSS or say that Mrs. Baynard
15 said it, I simply asked him if he learned that was true.
16 Left out DSS. Left out any hearsay. He has investigated
17 6,000 cases and I simply asked him if he found that out
18 during his investigation.

19 SOLICITOR BARNETTE: Well, two, two problems with
20 that.

21 One, basically removal. Everybody understands that's
22 basically DSS language from that standpoint. So the
23 inference is there.

24 Two, how's it relevant to this case?

25 I mean the removal of them does not matter from that

1 standpoint. It doesn't decide what happened from
2 April 11th, 2022, or even before that cause removal's in
3 2016 the way I understand it.

4 So, my objection is that it's not relevant at this
5 point. It's highly prejudicial. It has no basis to be
6 asked in this case involving this investigation.

7 MR. MORIN: He just answered -- Your Honor, if I may?

8 He just entered almost 50 pictures of a house. Fifty
9 to make a point of how despicable this was. So, he can
10 argue that that's -- that is unlawful neglect and he
11 certainly has implied that no one would live in this and
12 no one would be expected to and all I'm trying to say is
13 my client has lived in that all his life and it was
14 because of his parents.

15 Now, that's the evidence I'm trying to get to. It's
16 what he's relying on. He could of put up two pictures,
17 three pictures. He put in about 50 and he did it so he
18 can imply later that my client is somehow bad for living
19 in that condition when that's the only condition he ever
20 lived in and that's why I'm asking him that.

21 That was a question resulting from his investigation,
22 not from DSS.

23 Now, he can say well, it implies DSS. Well, his
24 picture's imply my client was okay and didn't
25 understand -- and understood that that was terrible if

Dennis Fowler - Cross-examination
By Mr. Morin

1 we're gonna do implications.

2 THE COURT: Yes, sir.

3 SOLICITOR BARNETTE: There's only one problem with
4 that logic.

5 In 2016, not wanting to get into this, that house was
6 clean. We have pictures showing that that -- he's not
7 lived in that all his life from that standpoint.

8 So that -- the problem I've got is how's it relevant
9 to this discussion at this point. We didn't open the door
10 throughout questioning or anything like that. So, I don't
11 know how it is from there.

12 THE COURT: I -- I'm going to sustain the objection
13 at this point. But it may become relevant.

14 SOLICITOR BARNETTE: Yes, sir, I understand that.

15 THE COURT: Okay.

16 SOLICITOR BARNETTE: If they, if they testify, it
17 might be a different story. But, like I said, state of
18 mind. But that's not been introduced into evidence.

19 THE COURT: There might be some other witnesses. I
20 haven't heard everybody yet. But it's -- it may become
21 relevant. But not at this point.

22 MR. MORIN: At this point, Your Honor, I would make a
23 proffer of the questions and answers to which I may ask
24 him.

25 THE COURT: Certainly.

Dennis Fowler - Cross-examination
By Mr. Morin

1 CONTINUED CROSS-EXAMINATION

2 BY MR. MORIN:

3 Q. Now, Mr. Fowler, did, during the course of your
4 investigation, find that both Edward and Minor had been
5 removed from the house?

6 Isn't that -- on several occasions.

7 Is that correct?

8 A. That came later in the investigation. Not initially.

9 Q. But it was in your investigation, correct?

10 A. Yes.

11 Q. Okay. Your investigation also revealed that Minor
12 had missed eight doctor's appointments.

13 Is that correct?

14 A. That is correct.

15 Q. And you would -- found out that the appointments had
16 been canceled after being made.

17 Is that correct?

18 A. That's correct.

19 Q. And who did you find canceled those appointments?

20 A. According to the medical professionals --

21 Q. Uh-huh. (Affirmative)?

22 A. -- the doctor's office --

23 Q. Yes, sir.

24 A. -- I was told that -- Mrs. Baynard.

25 Q. Okay.

1 SOLICITOR BARNETTE: Your Honor, we're getting
2 into -- I'm objecting about hearsay at this point. We're
3 getting into double hearsay, you know, through different
4 witnesses.

5 We're having Mrs. Baynard talking to a witness at
6 Axxess or a doctor's office and then talking. So, I
7 think -- I object to hearsay at this point cause it is
8 double hearsay.

9 THE COURT: Okay. I understand the objection. He's
10 going to the proffer though. I want to hear what he, what
11 he will -- what he is to go -- go ahead.

12 Q. And we've already established that **Minor** slept in
13 the same room with the parents.

14 Is that correct?

15 A. That's what they said.

16 Q. But you observed the -- a, a bed and a crib in that
17 room?

18 A. Correct.

19 Q. Do you know, from your investigation, if Bobbie Jo or
20 David Baynard had medical treatment regarding the feeding
21 tube and the oxygen?

22 A. Treatment or training?

23 Q. Training.

24 A. I do not.

25 MR. MORIN: Okay. May I approach, Your Honor?

Dennis Fowler - Cross-examination
By Mr. Morin

1 THE COURT: Yes, sir.

2 Q. Is this your -- part of your report --

3 A. Okay.

4 Q. -- filed 10 -- and may I stand---

5 A. Yes.

6 Q. ---for -- quickly?

7 A. Yeah, I stand corrected that they had been trained.

8 That's what we were told.

9 Q. That's right. They got---

10 A. That's what we were told.

11 SOLICITOR BARNETTE: Your Honor, I'm gonna object
12 again. That's double hearsay from that standpoint.

13 MR. MORIN: I'm asking him what he learned in his
14 investigation. He's turning it into told. I can't tell
15 him what to answer. It's a common practice.

16 SOLICITOR BARNETTE: Well, I know but it's double
17 hearsay at this point and I understand hearsay exceptions
18 and things like that and it's double hearsay. I, I just
19 want to put my objection on the record, Your Honor.

20 THE COURT: I understand, sir.

21 MR. MORIN: That's my questions, Your Honor.

22 I think some of them he's already answered and the
23 others. And that's what I would submit and the reason I'm
24 submitting it is to address these pictures that imply my
25 client or all the defendants were accustomed to this and

1 that's unusual.

2 THE COURT: Solicitor.

3 SOLICITOR BARNETTE: Your Honor, like I say, once
4 state goes to state of mind, that's -- his client's got to
5 testify to that from that standpoint.

6 But the other thing too is he didn't do anything
7 about it. He didn't call anybody. Didn't let anybody
8 know about it, from that standpoint, what **Minor** was
9 going through cause obviously this wasn't an overnight
10 process.

11 This was a long process and we've heard testimony
12 already and from that standpoint. A lot of this is what
13 he's asking about is really double hearsay.

14 So, wouldn't be allowed in anyway under the hearsay
15 cause there's no hearsay exception I know for double
16 hearsay.

17 So, we would object to it at this point. Like I say,
18 I understand the Court's ruling that it may become
19 relevant at a later time with a different witness. But I
20 think this witness it can not come through.

21 MR. MORIN: Just, just in closing.

22 You just made my point. He just said why didn't he
23 call somebody. It's not just 2016. It's 2006. It's 2002
24 when my client was two. So, that continued to happen.
25 That's my point. He just made it.

1 SOLICITOR BARNETTE: No, not making the point. The
2 problem is April 11th, 2020, is when this happened from
3 that standpoint.

4 Looking at all the -- and saying -- like 2016, it was
5 perfectly clean. This kid graduated from high school, was
6 getting paid to take care of Minor [REDACTED] and, of
7 course, we'll go into that I know. We'll go through all
8 that.

9 THE COURT: I understand.

10 SOLICITOR BARNETTE: But I think, for the purpose of
11 this, I think it's not proper pertaining to this witness.

12 THE COURT: Okay. At this point, the Court's not
13 gonna allow those questions to be asked and under that
14 investigation, which I used to have to fight all the time
15 and I understand that, there is -- that is based on
16 hearsay and it is hearsay.

17 MR. MORIN: Thank you, Your Honor. I'll stand over
18 here cause I don't have any other further questions at
19 this time. But --.

20 THE COURT: We ready for the jury?

21 SOLICITOR BARNETTE: State's ready, Your Honor.

22 THE COURT: Bring the jury back.

23 (WHEREUPON, the following takes place within the
24 presence of the jury panel.)

25 THE COURT: Thank you, Mr. Foreman, ladies and

Dennis Fowler - Cross-examination
By Mr. Morin

1 gentlemen.

2 Mr. Morin.

3 MR. MORIN: One more question.

4 CONTINUED CROSS-EXAMINATION

5 BY MR. MORIN:

6 Q. Again, when you say that the debris was four or
7 five -- in places it was that high, in some places it was
8 just on the floor and a smaller amount that allowed you to
9 walk.

10 Isn't that correct?

11 A. Well, we had to move it out of the way so we could
12 walk.

13 Q. Uh-huh. (Affirmative).

14 How many feet did you bring -- to move?

15 A. How many what?

16 Q. How many feet did you---

17 A. Sometimes two or three people.

18 Q. Okay. All right. That's all the questions I have,
19 Your Honor.

20 THE COURT: Okay. Anything from the State?

21 SOLICITOR BARNETTE: A few on redirect, Your Honor,
22 for a second.

23 REDIRECT EXAMINATION

24 BY SOLICITOR BARNETTE:

25 Q. Sir, as coroner in Cherokee County, have you had

Dennis Fowler - Redirect examination
By Solicitor Barnette

1 people die in Cherokee County that's pronounced dead at
2 Spartanburg Regional?

3 A. Yes, sir.

4 Q. So that's not uncommon from that standpoint?

5 A. Not uncommon.

6 Q. And based off the information you received, basically
7 the hair was cut in Cherokee County at the residence?

8 A. Yes, sir.

9 Q. Is that right?

10 And was it cut postmortem that was on her head?

11 A. Yes, sir.

12 Q. Does that show that it occurred in Cherokee County
13 when she died?

14 A. Yes, sir.

15 Q. She didn't die in Spartanburg.

16 Is that right?

17 A. That's correct.

18 SOLICITOR BARNETTE: One moment, Your Honor, please.

19 (Pause.)

20 Q. Thank you, sir. Please answer any other questions
21 the defense may have for you.

22 THE COURT: Any, any -- anything as to those
23 questions?

24 MR. FILE: No additional.

25 MR. MORIN: Yes, Your Honor.

1 THE COURT: Well let's see if Mrs. Racine -- Mrs.
2 Racine?

3 MRS. RACINE: Mr. Morin's fired up, Your Honor. I'll
4 defer to him for the time, the time being.

5 THE COURT: Mr. Morin.

6 MR. MORIN: Let me mark this for the defense. Well
7 --.

8 (WHEREUPON, the death certificate for Minor
9 was marked as Defendant's Exhibit No. 1 for identification
10 purposes only at this time.)

11 RECROSS EXAMINATION

12 BY MR. MORIN:

13 Q. You've testified that the location of Minor's death
14 was Cherokee County.

15 A. That's correct.

16 Q. And you have to sign off on the death certificate.

17 Is that correct?

18 A. That's correct.

19 Q. I'm gonna show you what's marked as State's Exhibit
20 No -- Defense Exhibit No. 1.

21 Do you recognize what that is?

22 A. I do.

23 Q. It's a death certificate, correct?

24 A. That's correct.

25 Q. It bears your signature, correct?

Dennis Fowler - Recross examination
By Mr. Morin

1 A. That's correct.

2 Q. What county does it say that they or the death was
3 in?

4 A. Well, it says Spartanburg County. But that's when
5 she was pronounced dead.

6 Q. You signed it as well.

7 No further questions.

8 THE COURT: Coroner, you may step down. Please be
9 careful, sir.

10 SOLICITOR BARNETTE: May I ask that the witness be
11 excused if he wants to be, Your Honor?

12 THE WITNESS: Thank you.

13 THE COURT: Any objection to him being excused?

14 MR. FILE: No objection.

15 MRS. RACINE: No objection.

16 MR. MORIN: No objection.

17 THE COURT: Hearing none, sir, you're excused from
18 your subpoena.

19 THE WITNESS: Thank you, sir.

20 SOLICITOR BARNETTE: I'll leave it up to the Court,
21 Your Honor.

22 THE COURT: Yes, sir.

23 Okay. Mr. Foreman, ladies and gentlemen, we're at
24 five o'clock. It's a good time to stop. We'll begin
25 tomorrow morning at 9:30, at 9:30.

1 In conferring with Madam Clerk, there's a little
2 matter I got to take care of at 9:00. It will only take a
3 couple of minutes, five, 12, maybe 15 minutes. It won't
4 take long at all.

5 Has zero to do with this case. It was something
6 scheduled weeks ago in front of me. So, it has nothing to
7 do with this case.

8 Be here about 9:15'ish.

9 Now, I will tell you before you leave cause you might
10 want to come earlier than that, the courthouse opens at
11 8:30?

12 THE CLERK: Yes, sir.

13 THE COURT: People with the blue coats on here make
14 some of the best coffee in Cherokee County. If you'll get
15 on over here, they'll have a good, hot pot of coffee for
16 you. I get here every morning about eight o'clock or so
17 and get the coffee and I catch up on the news and, and
18 I -- and so I encourage you to. But you don't have to be
19 here that early. But I will be ready to work.

20 I'll already be on the bench at 9:00 and I'll take
21 care of that small matter and then we'll be ready for, for
22 you.

23 Okay. Nine thirty. Do not do any investigation. Do
24 not try to learn anything about the case whatsoever. You
25 and I must learn about this case in this courtroom.

1 Mr. Foreman, take your jury out for the evening.

2 THE FOREMAN: Thank you, sir.

3 (WHEREUPON, the following takes place outside the
4 presence of the jury.)

5 THE COURT: Anything from the State or defense before
6 we recess?

7 SOLICITOR BARNETTE: None from the State, Your Honor.

8 THE COURT: Anything?

9 MR. FILE: I don't have anything from me.

10 THE COURT: Mrs. Racine.

11 MRS. RACINE: None, Your Honor.

12 MR. MORIN: Your Honor, I just want to state my
13 objection to your ruling and with not permitting me to
14 submit that testimony in front of the jury.

15 THE COURT: Yes, sir. You're protected on the
16 record.

17 MR. MORIN: Thank you, sir.

18 THE COURT: Anything?

19 (WHEREUPON, there was no response.)

20 THE COURT: All right. Nine thirty on this case. If
21 anybody needs me, everybody here has my cellphone number
22 I'm sure. Just don't ex parte.

23 So, see you, see you at 9:30 on this case.
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(WHEREUPON, Court was in recess for the evening.)

1 Tuesday, October 29th, 2024

2
3 (WHEREUPON, a flash drive was marked as Court's
4 Exhibit No. 7 for identification purposes only at this
5 time.)

6 SOLICITOR BARNETTE: I just need to put something on
7 the record very short -- for very short.

8 THE COURT: Okay. Yes, sir.

9 SOLICITOR BARNETTE: Your Honor, I marked Court
10 Exhibit No. 7. These are the digital photographs that we
11 were showing to the jury yesterday. It's actually part of
12 the exhibits, the paper exhibits and everything. Just
13 gonna make that Court Exhibit 7. I've told defense
14 counsel. Wanted to just make sure that (sic) in the
15 record.

16 THE COURT: Okay. Any objection?

17 MR. FILE: No.

18 MR. MORIN: No, sir.

19 MRS. RACINE: No, Your Honor.

20 SOLICITOR BARNETTE: We're ready to go, Your Honor,
21 when you are.

22 THE COURT: Okay. Everybody ready?

23 MR. MORIN: Yes, sir.

24 THE COURT: We'll have the jury.

25 (WHEREUPON, the following takes place within the

1 presence of the jury.)

2 THE COURT: Good morning, Mr. Foreman, and ladies and
3 gentlemen.

4 Mr. Foreman, everything good?

5 THE FOREMAN: Yes, sir.

6 THE COURT: Got some good coffee this morning?

7 THE FOREMAN: We did.

8 THE COURT: All right.

9 THE FOREMAN: Thank you, sir.

10 THE COURT: Solicitor.

11 SOLICITOR BARNETTE: May it please the Court, Your
12 Honor.

13 I'd like to call Brian---

14 THE COURT: Yes, sir.

15 SOLICITOR BARNETTE: ---Brian Burrell to the stand
16 please.

17 THE CLERK: Will you please raise your right-hand.
18 Place your left-hand on the Bible?

19 BRIAN BURRELL, being first duly
20 sworn, testified as follows:

21 THE CLERK: Okay.

22 THE BAILIFF: Watch your step.

23 THE COURT: Sir, adjust the microphone to suit, to
24 suit yourself. Tell us who you are and spell your last
25 name for Madam Court Reporter please.

Brian Burrell - Direct examination
By Solicitor Barnette

1 THE WITNESS: Hi. My name is Brian Burrell. Last
2 name spelling, B-U-R-R-E-L-L.

3 THE COURT: Solicitor.

4 SOLICITOR BARNETTE: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY SOLICITOR BARNETTE:

7 Q. Sir, where do you work at?

8 A. Currently I work with Cherokee County Sheriff's
9 Office crime scene division.

10 Q. And how long have you been in that position?

11 A. I've been with the Sheriff's Office for six years.
12 Been with the crime scene division for four years.

13 Q. And how long you been in law enforcement, sir?

14 A. I been in law enforcement for 23 years.

15 Q. Going back to April 11th of 2022 or April 12th,
16 2022, was you called to a crime scene at [REDACTED]

17 [REDACTED] here in Cherokee County, Gaffney?

18 A. Yes, sir. I was called there on that evening in the
19 capacity as the time I was a sergeant with crime scene
20 division. I was called there and arrived at approximately
21 3:09AM.

22 Q. And was the search warrant gathered by the Sheriff's
23 Department before you went in the residence?

24 A. Yes, the search warrant was obtained by John --
25 Detective John Underwood who gave it to me at 4:12AM.

1 Q. Okay. And did y'all execute that search warrant?

2 A. Yes, sir, that execution was done on David Baynard.

3 At the time I was given the crime certainly.

4 Q. And his residence is in Cherokee County.

5 Is that right?

6 A. It is.

7 Q. If you would, tell the jury, as you executed the
8 search warrant, what y'all did while, while -- from that
9 standpoint.

10 A. After the execution of the search warrant, myself,
11 Deputy Heflin, Coroner Dennis Fowler, and Special Agent
12 Agrawal with SLED proceeded up to the residence after
13 David Baynard took down the chain across the driveway at
14 which point we started making our way up the driveway.

15 I started taking photographs as I went up the
16 driveway noticing several things along the way of interest
17 that I started taking photographs of including there was a
18 large number of chewy.com boxes for pet supplies at the
19 side of the road in different states of breaking down.
20 Some new ones on top and ones that you know had been there
21 for a very long time.

22 As we went up further up the driveway, we could hear
23 dogs barking, a lot of movement. There was open pens or
24 like gated off makeshift gates around like dog pens that
25 had been made with camper tops or shell top of trucks and

1 things like that.

2 The -- as you approach, you could smell the dogs, the
3 dog feces, and start observing more and more trash, more
4 and more mechanical items like lawn mowers and push mowers
5 and, like I said, riding lawn mowers and broken down,
6 sitting in the yard. Started seeing packs of adult
7 diapers, some opened and some unopened, some used, some
8 unused, discarded in various ways around the residence.

9 At one point we actually thought there was a dog
10 loose outside of one of the pens. It turned out to be a,
11 a fairly large rat that ran across the front of the
12 residence. You could hear running water to the right side
13 of the residence.

14 There was so much overgrowth over there it was kind
15 of hard to get back to that area to find out where the
16 water was coming from. But that water apparently was
17 supplying that overgrowth making it hard to get back
18 there.

19 There seemed to be some type of detached porch that
20 possibly was part of the residence at one point but was
21 set off to the side. And as we went up the, the ramp and
22 got closer to the house, you could definitely, definitely
23 start smelling more of an ammonia smell like old, old cat
24 urine, more dog feces. We could hear dogs inside as well.

25 Once we found out that there were dogs inside, we

1 actually went back down to the road and spoke with both
2 David and Edward Baynard and they said that there was
3 approximately five dogs inside the house. So, we told
4 them that they needed to come up and get the dogs, secure
5 them, so that we could continue inside the residence so
6 that I could continue processing the, the scene.

7 Once we actually got up to the porch, there was, like
8 I said, more used diapers, unused diapers on the porch.
9 There's an oxygen tank that was discarded on the front
10 porch as well.

11 Once we got to the front door, and the front door was
12 opened and we could see inside, there was, at that
13 point -- something I did fail to mention. I do apologize.
14 Myself and Deputy Heflin, we, at the time, had respirators
15 that we were actually equipped with. He was shadowing
16 crime scene to get in full-time and I had one because I
17 was already in.

18 Once the door was opened, it became necessary for us
19 to put on those respirators because it became difficult to
20 kind of breath with all that, like I said, ammonia smell
21 and part of the feces.

22 Once the door was actually opened, we could tell that
23 there were way more dogs than five inside the residence at
24 which point I told David and Edward to back out and just
25 go back down to the end of the road with the rest of the

1 deputies and that we would proceed without their, without
2 their help and that's up to the point where we got to the
3 residence itself.

4 Q. If you would, describe to them the residence as you
5 went through it and everything from there.

6 A. Once they backed -- once they backed out, we had only
7 put on foot coverings, gloves, and the respirators and we
8 started into the residence and we could immediately tell
9 that there was not any part of the floor that was not
10 covered with some type of animal feces, whether it was
11 cat, whether it was dog.

12 The trash was in parts from knee deep to almost hip
13 deep depending on where in the residence you tried to go.
14 There was a layer of both dirt and a combination of the
15 animals' feces on everything. That would include the, the
16 cobwebs that were full of flies, full of roaches.

17 The floors, as you moved, we could tell stuff was
18 jumping on us as we were doing it. I then stopped what we
19 were doing. I told everybody that we needed to back out
20 and that I had Tyvek suits for everybody to wear so that
21 we could incapsulate ourselves and create a barrier
22 between what all was in the residence, bug, filth, feces,
23 urine, whatever was in there we could barricade ourselves
24 from that.

25 Q. Can you tell me about -- what about that suit please?

1 A. Tyvek suit is a suit that, like I said, is lined with
2 plastics and other things, other materials. I don't know
3 the exact materials. But I do know that, once you put
4 them on, zip them up, close up the hood, you're creating a
5 barrier as best you can against what you have from the
6 outside from coming in and also -- it also helps for you
7 to not contaminate the scene as well.

8 So, myself, Special Agent at SLED, and Deputy Heflin,
9 we went and put on the full Tyvek suits with, with our
10 respirators. Unfortunately, a couple people did not have
11 respirators and we returned back to the house where I
12 continued taking pictures throughout the house.

13 As I continued taking pictures, there were, there was
14 one room that, as soon as you opened the door, it was
15 piled up with boxes. I maybe got three pictures in the
16 room. There was no way to get into the room any further
17 and that is as far as we went with that one room.

18 The next was a bathroom. Sorry.

19 Q. Let me do this.

20 Did you do a diagram for us here?

21 A. I did.

22 Q. Let you show you State Exhibit 99. I know this is a
23 rough sketch.

24 Is that a rough sketch of the residence?

25 A. Yes, it is, sir.

1 SOLICITOR BARNETTE: Okay. Your Honor, I'd like to
2 move this into evidence at this time.

3 MR. FILE: No objection.

4 MRS. RACINE: No objection.

5 MR. MORIN: No, sir.

6 THE COURT: Ninety-nine, solicitor?

7 SOLICITOR BARNETTE: Ninety-nine, yes, sir.

8 THE COURT: Without objection.

9 (WHEREUPON, State's Exhibit No. 99 was received into
10 evidence at this time.)

11 Q. What I'd like to do is let you come down and show the
12 diagram to the jury so you can describe each room in
13 detail from that standpoint --

14 A. Yes, sir.

15 Q. -- and tell us what is there.

16 (WHEREUPON, the witness comes down from the stand.)

17 Q. And, if you would, using -- by using this, show which
18 room you were describing that had the boxes in it, sir.

19 A. This, this room right here, as you, as you opened
20 this door, this, this room, like I said, is -- that's as
21 good as I can draw it or as good as I can draw it cause I
22 don't know the exact dimensions or what, or what all was
23 in there, where a closet was. This room right here I was
24 unable to get into.

25 Q. And, the front door, can you show the jury where

1 that's at.

2 A. This is -- the front door's right here. The front of
3 the front steps and then this is the long handicap
4 accessible room. That right there.

5 Q. Let me let you go ahead and describe everything to
6 the jury if you would, sir.

7 A. All right. After, after taking, like I said, just
8 two or three pictures from the outside in of this room, I
9 then moved to this which what I consider the -- I guess
10 the guest bathroom.

11 Once the door was opened, there was I believe one dog
12 that appeared to have one eye and had mange in the bathtub
13 trying to -- it was scared, trying to get away from us,
14 and it was in the tub. Everything in this room also had a
15 layer of filth, dog feces, animal, and possible cat feces
16 as well as I found the source of the running water. It
17 appeared to be the toilet that had -- it was possibly
18 leaking outside.

19 So, this, this bedroom, moving on, appeared to be
20 lived in. There was a path going to a bed. Still the
21 same thick black cobwebs, the thing -- the same layer of
22 feces on the floor, flies, roaches, and open and crawling
23 over everything, the bed, the containers. Just anything
24 in that room had bugs of type -- type on it.

25 Coming back doing a sweep of the living room, there

1 was a couch. Numerous dogs, everything, again, covered,
2 covered in dirt. Even through the -- unfortunately, even
3 through the respirator, it, it was not a full face
4 respirator. So our eyes were still stinging while we were
5 in there. We did have to, from time to time, come out the
6 front door for a second before going back in.

7 I couldn't honestly not find a clean spot or a place
8 that anybody would sit on this couch. Everything,
9 wherever you step, was trash.

10 Coming into what I believe is like used to be a
11 former like dining room area, there were broken down
12 appliances. Everything, everything in this front room was
13 also covered in dirt. There was a -- right here against
14 this wall were -- looked like a cover that had adult
15 diapers that had never been opened in them. But they were
16 covered in -- if you leave something sitting for years,
17 like a layer of dirt and dust laying on them. You could
18 not tell where the carpet began or, or you could not tell
19 whether it's carpet or tile in this house at all cause
20 everything was covered in feces.

21 This T-wall right here separated the kitchen, this
22 dining room, living room, kind of what I believe to be
23 like a breakfast nook and in the rest of the kitchen.
24 This has cords hanging from the ceiling of some sorts and
25 the cords themselves were covered in hundreds of roaches.

1 Everything you hit on the walls you knocked roaches off
2 the wall and onto you when you were moving around inside
3 the house.

4 None of the appliances in the kitchen appeared to be
5 working. Did not open the refrigerator to find out.

6 Everything in the kitchen, including the sink, the
7 countertops, nothing was clean. Nothing had -- was
8 untouched by animal feces, filth, and the smell of ammonia
9 that was stinging our eyes.

10 The laundry room was piled up. I believe the
11 backdoor was here. I can not say. But the laundry room
12 was piled with trash. You could not reach a washer or a
13 dryer and it was also, it was also filthy, covered in a
14 layer of dirt and feces and a combination of that.

15 This was the -- what we believed to be the master
16 bedroom. But the door we could not open all the way
17 originally. Once we forced the door open more, there was
18 a -- like a three tiered shelf of some kind right here
19 that was obviously more covered with cat feces and urine
20 than anything else because there was approximately four to
21 five cats, most of them with one eye and ill taken care
22 of, looking at us as we opened this door. And that was
23 the strongest area of ammonia that we found in the entire
24 house.

25 This is only a speculation of this area because this

1 door was piled up at least waist high with trash. We
2 could not get to nor even attempt to open this door. So,
3 to this day, I do not know what was in this bathroom. I
4 assume it was a bathroom.

5 The crib where [Minor] was here on in this corner,
6 you could not tell where the floor was and the trash
7 began. It came up to the side of the crib and went even
8 with the bed and was on the bed and seemed to be part of
9 the bed.

10 After photographing all of this room, and obtaining
11 all of my photographs, overall photographs, we then backed
12 out and spoke with the coroner, the SLED agent, and wanted
13 further instructions on what we needed to do after
14 photographing the entire scene.

15 Q. Later on did you find that [Minor's] hair had been
16 cut before she went to the ER that night or before she was
17 taken to Spartanburg Regional?

18 A. When---

19 Q. Go ahead.

20 A. When, when I was backed out, and, as I said, spoke
21 with the coroner and the SLED agent, they asked me if I
22 saw anything in that room that looked like her hair had
23 been cut. So, I said well, I was not looking for anything
24 specific. But I will go back in and I will check.

25 When I returned to the room and began scanning the

1 bed, began scanning the crib, and the trash along the way,
2 I found a pair of scissors. I found a clump of hair. I
3 found a bloody gauze, bloody gauze and then, as I kept
4 standing, I found two more clumps of hair. They requested
5 that I collect those items as evidence.

6 Q. And did you collect those items?

7 A. I did collect those items.

8 Q. Let me show you what's been marked as State's Exhibit
9 94, 95, 96.

10 Is those the three clumps of hair that you collected,
11 sir?

12 A. Yes, they are.

13 Q. All right. Let me show you State Exhibit 98.

14 Is that the bloody gauze that you collected, sir?

15 A. Yes, it is.

16 Q. And let me show you State Exhibit 97.

17 was that the pair of scissors that you collected,
18 sir?

19 A. Yes, it is.

20 (WHEREUPON, the witness returns to the stand.)

21 SOLICITOR BARNETTE: Okay. Your Honor, I like to
22 move these into evidence, these into evidence at this
23 time.

24 THE COURT: You got the numbers?

25 SOLICITOR BARNETTE: I believe it was 94, 95, and 96,

1 97, and 98, Your Honor.

2 THE COURT: Any objection from anyone?

3 MR. FILE: No objection.

4 MRS. RACINE: No objection.

5 MR. MORIN: No, sir, no objection.

6 THE COURT: Without objection, they're admitted.

7 SOLICITOR BARNETTE: Okay. Thank you, Your Honor.

8 (WHEREUPON, State's Exhibit Nos. 94 through 98 were
9 received into evidence at this time.)

10 Q. If you would, sir, I'd like to show you just a couple
11 of pictures. I know the jury has seen these pictures.
12 But I want to show you just a couple specific ones showing
13 like the hair and the scissors and so forth.

14 (WHEREUPON, the witness comes down from the stand.)

15 Q. Let you use this again for a pointer if you will.

16 A. Okay.

17 Q. Let me get them or show them to the jury.

18 Okay. If you would, sir, show us where you found the
19 scissors in this case. It might be easier to use this.

20 A. Obviously next to this, next to this pillow that had
21 some type of blood like stain on it, it -- they were found
22 down between two pillows.

23 Again, I, I do apologize. I just can not tell you
24 where the bed begins and the trash is. I just knew that,
25 once I started moving around, that it became apparent,

1 because of having to step actually on the bed at some
2 point as well, that it became apparent that when they were
3 down between these, these two pillows and like guard --
4 like a blanket here.

5 Q. And that's State Exhibit No. 90. Go to the next one
6 here.

7 Is that just a close-up picture of the scissors that
8 you gathered?

9 A. That, that is a close-up picture of the same
10 scissors.

11 Q. State Exhibit 91.

12 Let me show you State Exhibit 89.

13 Can you tell the jury what you're seeing there, sir?

14 A. That is the -- that's a picture of the gauze with
15 blood like stains on that that was collected as well.

16 Q. Okay. And then go right there and then right up
17 here.

18 Is this some of the hair that you collected, sir?

19 A. Yes, just on that leopard print, leopard print sheet
20 or something.

21 Q. And this is the master bedroom.

22 Is that correct?

23 A. Yes, this is in that master bedroom.

24 Q. And that's the leather print down there where the
25 hair was found on the bed.

1 Is that right, sir?

2 A. Yes, that would be the edge of the bed closest to
3 the, the crib area.

4 Q. Okay.

5 MR. MORIN: Your Honor, if I may?

6 Can you tell me what exhibit that was he just
7 referred to?

8 SOLICITOR BARNETTE: I did. I stated it earlier. I
9 think it was---

10 MR. MORIN: Okay. The one -- the last one -- this
11 one. Not that one. This one.

12 SOLICITOR BARNETTE: That's State's Exhibit 88.

13 MR. MORIN: Thank you.

14 Q. Showing you State Exhibit 84, what -- can you tell me
15 what that was?

16 A. This, this was the crib area. It had numerous adult
17 diapers, used, just discarded in the crib. Also it --
18 what I would describe as the puppy pads that you would lay
19 down for cats or dogs that are being potty trained or
20 house trained and it looked to be layers and layers of
21 those. Again, that was compacted smell of, of different
22 kind of feces altogether to potentially include human in
23 this one.

24 Q. Let me ask you about an area right here and we
25 might -- well, get closer. Right in that area right

1 there.

2 what did that appear to be inside that big crib in
3 that area?

4 A. In -- inside the crib there were numerous flies and
5 roaches both dead and alive.

6 Q. Did there also appear -- let me move a little bit
7 closer in that, sir.

8 what else did that appear to be in this area right in
9 here?

10 A. Are you talking about the, the fecal stains or
11 possibly the---

12 Q. No, the item---

13 A. ---other---

14 Q. The item that's inside the -- right there. The dark
15 area.

16 A. I, I can't tell.

17 Q. Okay. But obviously it, it was all kind of different
18 things in there?

19 A. Yes, unfortunately, urine and feces compacted in
20 there and just layers of those puppy pads.

21 Q. Could you tell if it was human or, or animal or --?

22 A. I, I could not tell. I just -- that is an
23 assumption.

24 Q. Let me look here for a second.

25 Agent, State Exhibit 81, is that a close-up of some

1 of the hair that you found?

2 A. That is, that is a close-up of more hair on that --
3 with the print blanket on there, yes.

4 Q. Showing you State Exhibit 79, is this the area you
5 was talking about as you went into the master bedroom that
6 you was talking about with the cats and so forth?

7 A. Yes, ah -- originally that is the bedroom to the
8 doors to the left of, of that and, like I say, the
9 shelving there. That seemed to be a quiet resting place
10 for numerous cats. They did kind of run away, of course,
11 when we got closer. But there were two cats that remained
12 up there both in poor condition.

13 That top layer was very slick and I believe that that
14 was cat urine because that was where the strongest smell
15 was coming from. And the bottom shelf was cat feces
16 because that's where they seemed to hop down to to use the
17 restroom.

18 Q. And that is where the -- her, her crib was right at
19 the corner of her room I guess?

20 A. Yes, it was.

21 Q. And it's just -- State Exhibit 78, that's just a
22 picture lower of the area.

23 Is that right?

24 A. Yes.

25 Q. And that's where are the -- where her medical

1 supplies were I guess?

2 A. Yeah, there seemed to be an oxygen tube and some type
3 of IV tube that was there and they, they themselves were
4 also covered with bugs and roaches and you can see a few
5 of them in the pictures as well.

6 Q. Going back to this, State Exhibit No. 75, is this
7 the -- was it the only working bathroom that you saw in
8 the house or I guess -- I---

9 A. After---

10 Q. This is gonna be accessible too I guess.

11 A. The bath -- yes, this was the only accessible
12 bathroom that we could get to and this is the one where I
13 could hear the running water both inside and outside from
14 it. So, this would of been on the right-side of the
15 residence from there.

16 Q. Was this the, the dog you was describing in the
17 bathtub too?

18 A. Yes, this was a dog that was hiding from us. Seemed
19 to appear to be suffering from mange, and, as you can see,
20 everything in the bathroom is covered in a layer of, like
21 I said, feces, filth, roaches. Just flies, fleas, any
22 kind of bugs.

23 Q. Showing you State Exhibit 76.

24 Is that just another picture of another area of the
25 bathroom?

Brian Burrell - Direct examination
By Solicitor Barnette

1 A. That is the, that is the closer down of the, of the
2 floor, yes.

3 Q. Was that the only thing -- the package of diapers,
4 was that the only thing that looked clean at the point?

5 A. That and the one pad that looked like it had just
6 been moved off the side behind the toilet. Those are the
7 only things that looked clean and had recently been, I
8 guess you would say, added to the bathroom.

9 Q. Let me show you what's been part of State's 69.
10 Can you tell us what that area is, sir?

11 A. That is directly kind of -- it -- it's between the
12 T-wall I described and the kitchen and that breakfast nook
13 that I would describe it as. That seemed to be a portable
14 like stand-alone heater covered in roaches, hundreds of
15 roaches, both dead and alive, and in and out of the actual
16 heater itself.

17 Q. And a close-up into that.

18 Is that what you are describing, sir?

19 A. Yes. Yes, it is.

20 Q. And you said there's live and dead?

21 A. Yes.

22 Q. Showing you State Exhibit 67.

23 Is this the kitchen that you saw that night?

24 A. This was the kitchen. This was I believe how I
25 described no working appliances that appeared -- like the

1 oven didn't appear to be in working order. There was
2 another oven in the front room that did not appear to be
3 in working order.

4 All of the countertops were covered, including the
5 table that's off to the right, all of it was covered in
6 some, some layer of filth, some layer of dirt, some layer
7 of feces, bugs, roaches, and just the smell was
8 particularly bad in the, in the kitchen floor area and the
9 countertops depending how thick it was.

10 Q. And then State Exhibit No. 64, that's just a general
11 picture of the whole master bedroom.

12 Is that right?

13 A. Yes.

14 At this time there were approximately three dogs on
15 the bed and one cat and this, as I said, was us having to
16 force the master bedroom door open and, again, not being
17 able to tell where the floor was suppose to be and where
18 the bed began.

19 Q. Let me ask you a question.

20 Did you open the door to discern or in order to get
21 in -- to fully get into the -- force it open?

22 A. We did have to force it open and we actually had to
23 step up onto the trash to get in and it was only one at a
24 time. Somebody had to hold the door for the next person
25 to come in.

1 Q. But could you open it in any amount of time?

2 A. Oh, no, like I said, every time you opened it it
3 would come back because, to the right, that pile of trash
4 would come back on -- onto the door.

5 Q. Okay. But it could be opened?

6 A. It could be. It could be opened but with the help if
7 you definitely want to open in.

8 Q. That's the door we're talking about, State Exhibit
9 62.

10 So there is a spot that you can get through to get
11 into the bedroom?

12 A. Yes, sir, you can actually tell the -- you may not be
13 able to tell with this. But the door's actually bowed
14 from having to be forced open by so many people.

15 Q. Showing you State Exhibit 58.

16 Was this just what you're talking about the surfaces
17 are just generally in this condition?

18 A. Yes, they were. Like I said, they had, they had the
19 layer of whether it was filth or feces compacted from a
20 long standing period of just repeated use and not
21 cleaning.

22 Q. Okay. Showing you State Exhibit 54, can you tell
23 what -- describe -- I think you described this but if
24 you'd tell us again what this is.

25 A. This is that front room. On, on the other side of

Brian Burrell - Direct examination
By Solicitor Barnette

1 the window you can see the handicap rail going down too.
2 So this is the front room to the left that you have -- you
3 walk in the front door. I'm working---

4 MR. MORIN: Your Honor, I have a motion.

5 Can we approach?

6 THE COURT: Sure.

7 (WHEREUPON, a bench conference was held out of the
8 hearing of the jury at this time.)

9 Q. If you'd have a seat.

10 (WHEREUPON, the witness returns to the stand.)

11 Q. With the pictures you saw and everything, they show
12 it -- that's what you saw that night from there?

13 A. That, that is correct. Those are the conditions of
14 the house as we found them that evening.

15 Q. And then you took the evidence and obviously put it
16 into evidence at the Sheriff's Department.

17 Is that right, sir?

18 A. Yes, it was taken back to the Cherokee County crime
19 lab where it was packaged, sealed, and placed in our
20 evidence vault.

21 SOLICITOR BARNETTE: Okay. One moment, Your Honor,
22 please.

23 (Pause.)

24 Q. If you'll please answer any questions the defense may
25 have for you, sir. Thank you.

Brian Burrell - Cross-examination
By Mr. Morin

1 MR. FILE: No questions.

2 MRS. RACINE: I have no questions for this witness.

3 THE COURT: Mr. Morin.

4 MR. MORIN: I have a few questions.

5 THE COURT: Yes, sir.

6 CROSS-EXAMINATION

7 BY MR. MORIN:

8 Q. You served a search warrant on David Baynard.

9 Is that correct?

10 A. I did, sir.

11 Q. Is it your understanding that he was the homeowner?

12 A. It was my understanding that he was the homeowner.

13 Q. Is it your understanding there were three adults
14 living there?

15 A. At the time I was not aware of the son's age. So I
16 was only aware of two adults. At the time I just know it
17 was two adults and a son. So, I was not aware of his age
18 at the time.

19 Q. Okay. I need to -- I'm sorry, Your Honor. I
20 don't -- I'm not familiar with this ELMO system.

21 Can I get someone to help turn on this diagram?

22 I need State's Exhibit No. 99.

23 Your Honor, may he step down for a moment?

24 THE COURT: Sure.

25 (WHEREUPON, the witness comes down from the stand.)

1 Q. And I don't have this pointer. But I think we can
2 cover it.

3 You referred to -- well, let me just come over here.

4 This area right here is the main master bedroom,
5 correct?

6 A. From my understanding it was.

7 Q. Okay. And this is also where the crib was?

8 A. It -- yes, it was.

9 Q. And you've marked the doorway and entryway on the
10 diagram where there was a door that you could not open.

11 Is that right?

12 A. No, you could, you could open the door.

13 Q. Well, I mean---

14 A. But, again, you had to force the door open to get in.

15 Q. I'm sorry. My bad description. Had to force it
16 open.

17 All right. And there's also another bed in here that
18 you could -- stood on I think at one point?

19 A. That's what they -- yes, at some point I had to stand
20 on it and it was a more solid surface than the trash I was
21 on.

22 Q. Sure.

23 And then the other bedroom is all the way over there.

24 Is that right?

25 A. Yes, the far right bedroom, yes.

Brian Burrell - Cross-examination
By Mr. Morin

1 Q. That's right.

2 And that door faces out into what I would call a
3 small hallway.

4 Is that correct?

5 A. Yes.

6 Q. Okay. That's all. You can --.

7 (WHEREUPON, the witness returns to the stand.)

8 MR. MORIN: That's all the questions I have.

9 THE COURT: Anything?

10 SOLICITOR BARNETTE: Nothing else from the State,
11 Your Honor. We ask him to be excused, Your Honor.

12 THE COURT: Any objection to him---

13 MR. FILE: No objection.

14 THE COURT: ---being excused?

15 MRS. RACINE: No objection.

16 MR. MORIN: No, sir.

17 THE COURT: Sir, you may step down and be excused.
18 Stay with us or go, whichever you choose.

19 THE WITNESS: Thank you, sir.

20 SOLICITOR JORDAN: Thank you, Your Honor.

21 State calls Melissa Patton.

22 THE CLERK: Raise your right-hand. Place your
23 left-hand on the Bible.

24 MELISSA PATTON, being first duly
25 sworn, testified as follows:

Melissa Patton - Direct examination
By Solicitor Jordan

1 THE CLERK: Watch your step.

2 THE BAILIFF: Watch your step.

3 THE COURT: Ma'am, tell us who you are and spell your
4 last name for my court reporter please.

5 THE WITNESS: My name is Melissa Patton. Last name
6 is P-A-T-T-O-N.

7 THE COURT: Thank you.
8 Solicitor.

9 SOLICITOR JORDAN: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY SOLICITOR JORDAN:

12 Q. Ms. Patton, where are you employed?

13 A. I work at Axxess Home Care.

14 Q. Okay. For the record, can you just spell Axxess
15 cause I know it's different?

16 A. It is. It's A-X-C-E-S-S.

17 Q. Okay. What, what services does Axxess provide or
18 what services did Axxess provide in this case involving
19 Minor [REDACTED]?

20 A. We provided CPCA and respite for medically complex
21 children.

22 Q. Okay. Could you tell the jury what CPCA is?

23 A. The CPCA is a children's personal care aid.

24 Q. Okay. I'm gonna go back just for a minute.

25 Can you just tell the jury what your background is?

Melissa Patton - Direct examination
By Solicitor Jordan

1 A. I'm---

2 Q. What---

3 A. ---mainly a pediatric nurse.

4 Q. Did you go---

5 A. I was---

6 Q. ---to college?

7 A. I did. I went to USC-Upstate.

8 Q. Okay. What did you finish with?

9 A. A bachelor's of science in nursing.

10 Q. Okay.

11 A. And then I did further my education and received half
12 of my masters for when I taught at Gardner-Webb.

13 Q. Okay. How long have you been at Axxess Health?

14 A. I have been there eight years.

15 Q. Okay. What was your position in 2020?

16 A. In 2020 I am the -- was the or I am the nurse
17 director and the head of the education.

18 Q. Okay. And you mentioned just a moment ago that you
19 also taught in addition to nursing?

20 A. I did.

21 Q. Where did you teach?

22 A. At Gardner-Webb University. I taught the nursing
23 program.

24 Q. Okay. What were your duties as the nursing
25 director/educator?

1 what -- I'm sorry.

2 what your title was again.?

3 A. It is director -- the director of nursing but I
4 also -- and educator.

5 Q. Okay.

6 A. As the educator, it is my responsibility to provide
7 all of the education that the State requires. They
8 require us to do so much in their policy. So, my job is
9 to ensure that all of our aids are equipped with those
10 tests, with those pamphlets we use on multiple
11 PowerPoints, handouts, videos.

12 Q. Okay. And those trainings are done with every
13 employee who is a children's personal care aid or respite
14 aid?

15 A. And a PCA, which is just personal care aid, yes,
16 ma'am.

17 Q. Okay.

18 A. Every employee.

19 Q. How are -- how does a person come to -- how does the
20 caregiver or a parent come to you to retain the services
21 of your agency?

22 A. The parents are -- when they are part of the waiver,
23 there's different waivers that they would be on. The --
24 their caseworker would give them a whole list of different
25 providers that could provide those services and the parent

Melissa Patton - Direct examination
By Solicitor Jordan

1 or responsible party would choose which agency they wanted
2 to use and their caseworker would send us what's called an
3 authorization.

4 Q. Okay. And when -- who picks the person that would be
5 the CPCA or the respite aid?

6 A. We allowed the responsible party to do that.

7 Q. Okay. And, in this case, it would be the parents of
8 Minor [REDACTED]?

9 A. Yes, ma'am.

10 Q. Okay. Who did the parents pick?

11 A. They chose their son, Edward --

12 Q. Okay.

13 A. -- Baynard.

14 Q. I want to show you some documents.

15 MR. MORIN: Your Honor, I may have a motion.

16 THE COURT: Okay.

17 (WHEREUPON, a bench conference was held out of the
18 hearing of the jury at this time.)

19 Q. Ms. Patton, I'm gonna start with what's been
20 previously marked as State's Exhibit No. 126 and ask you
21 to review this?

22 A. Okay.

23 Q. Do you recognize what that exhibit is?

24 A. Yes, ma'am, it is our employee handbook.

25 Q. Okay. And is that kept in the normal course of your

Melissa Patton - Direct examination
By Solicitor Jordan

1 business?

2 A. Yes, ma'am.

3 Q. Okay.

4 A. It is required.

5 SOLICITOR JORDAN: Okay. Your Honor, at this time we
6 would move State's No. 120 -- I'm sorry. I forgot the
7 number already.

8 THE WITNESS: One twenty-six.

9 SOLICITOR JORDAN: One twenty-six into evidence.

10 THE COURT: Any objection?

11 MR. MORIN: No, sir.

12 MRS. RACINE: No objection.

13 MR. FILE: No.

14 THE COURT: Okay.

15 MR. FILE: No.

16 THE COURT: Without objection.

17 (WHEREUPON, State's Exhibit No. 126 was received into
18 evidence at this time.)

19 Q. Okay. I'm also going to -- got it over here.

20 Show you what's been previously marked as 119 and ask
21 if you recognize those documents.

22 I'll take that.

23 Do you recognize what's in State's Exhibit 119?

24 A. Yes, ma'am, this is part of his application.

25 Q. Okay. And as part of his applica -- I'm sorry.

Melissa Patton - Direct examination
By Solicitor Jordan

1 As part of his application, is that kept in the
2 normal course of ordinary records within your agency?

3 A. Yes, ma'am, it is kept in his file.

4 SOLICITOR JORDAN: Okay. Your Honor, at this time I
5 would move 119 into evidence.

6 MR. MORIN: No objection.

7 MRS. RACINE: No objection.

8 MR. FILE: None.

9 THE COURT: Very well. One nineteen's without
10 objection.

11 (WHEREUPON, State's Exhibit No. 119 was received into
12 evidence at this time.)

13 Q. Well, also gonna hand you what's been previously
14 marked as 120.

15 Do you recognize what's in 120?

16 A. Yes, ma'am.

17 Q. Okay. What is that?

18 A. It is a combination of the different educations that
19 Edward had completed.

20 Q. Okay. And those are also kept in the normal course
21 of your ordinary business --

22 A. Yes, ma'am.

23 Q. -- records?

24 Your Honor, I move that -- State's 120 into evidence.

25 MR. MORIN: No objection.

1 MRS. RACINE: No objection.

2 MR. FILE: None.

3 THE COURT: Without objection.

4 (WHEREUPON, State's Exhibit No. 120 was received into
5 evidence at this time.)

6 Q. Can you tell the jury what is the first step that
7 a -- an employee who's gonna be a respite or CPCA, what is
8 one of the, the first steps that they do?

9 A. They would get an application. So, we send that
10 through a program could ApplicantStack.

11 Q. Okay. In addition to that, are they also given a
12 list of things that are required?

13 A. Yes.

14 Q. Okay. And is that's what's contained in State's
15 Exhibit No. 119?

16 A. Yes, ma'am.

17 Q. I'm gonna hand you 119 and just ask you about a
18 couple things once I pull a copy up for myself.

19 In 119, in addition to the application -- and on the
20 application, does it give you Edward's date of birth?

21 A. It does.

22 Q. Okay. What is that?

23 A. His date of birth is [REDACTED].

24 Q. Okay. Does it also give you his phone number?

25 A. It does.

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By Solicitor Jordan

1 Q. what is his phone number?

2 A. The phone number. There it is. Sorry.

3 [REDACTED]-5299.

4 Q. Thank you.

5 If you will fast forward.

6 Are there documents in here that contain with -- that
7 cover confidentiality---

8 A. We're---

9 Q. ---standard of conduct agreement --

10 A. Yes, ma'am.

11 Q. -- as well as information indicating that he has
12 received the information that's provided on what's --
13 if -- can you look at the very bottom?

14 There's a 26 at the very bottom of the page---

15 A. Yes, ma'am.

16 Q. ---on that.

17 Does that also indicate that he has received the
18 documents that are contained there?

19 A. Yes, ma'am, it does.

20 Q. Okay. And he has an e-Signature on this?

21 A. He does.

22 Q. And what is the date?

23 A. 9/14/2020.

24 Q. Okay. And does it -- some of the issues -- what are
25 some of the things that are in there that he is stating

1 that he received?

2 A. Ah, our confidentiality, the documentation on
3 recordkeeping, infection control, patient hygiene and
4 skincare, lifting and transferring, meal preparation,
5 substance abuse, abuse policy, dress code, and call-in,
6 the job description of the PC 1 and 2 or CPCA.

7 Q. Okay. He also on -- if you look at that State's
8 Exhibit, the little number at the bottom, 28, did Edward
9 also complete a skills assessment?

10 A. A self. It's a self-assessment for unskilled.

11 Q. Okay. Did he state things that he had done versus
12 things he had never done?

13 A. Yes.

14 Q. Okay. On Number 30 at the bottom of that exhibit,
15 very tiny bottom, is there -- is that just the dress code
16 for your agency?

17 A. Yes, ma'am.

18 Q. Okay. And Number 52 -- I'm sorry. I'm gonna skip
19 number -- I'm gonna skip that one for right now.

20 Let me ask you this.

21 When did you first come into contact with Edward?

22 What was the date?

23 A. I -- it would of been when he came into the office
24 for the first time to complete his health assessment and
25 drug test.

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By Solicitor Jordan

1 Q. Okay. And that drug test is referenced -- and it was
2 a negative drug test?

3 A. Yes, ma'am.

4 Q. Okay. And that drug test is referenced on the bottom
5 of the little, little Numbers 54 as September the
6 23rd of 2020?

7 A. Yes, ma'am.

8 Q. Okay. So you met with Edward in person that day?

9 A. Yes, ma'am.

10 Q. Okay. How did Edward arrive at your office?

11 A. His father brought him to the office.

12 Q. Okay. And where is your office located?

13 I should of asked you that earlier?

14 A. We're located at 110 Garner Road. It's close to the
15 hospital.

16 Q. Okay. In Spartanburg County?

17 A. In Spartanburg. I apologize.

18 Q. Okay. So when you met with him in person, did his
19 father stay for the whole time?

20 A. He did.

21 Q. Did he stay in the same room as y'all?

22 A. No, ma'am. I met them in the lobby and then me and
23 Edward went into the nursing office.

24 Q. Okay. And while in the nursing office, did you fill
25 out with Edward the forms that are contained within this

1 that have an, an actual physical sig -- signature on them?

2 A. Yes.

3 Q. Okay. Did you also, in addition to that, complete
4 a -- and his signature's contained on Number 54 at the
5 bottom of that exhibit as well as in other places?

6 A. Yes, ma'am.

7 Q. Okay. So, when you met with him that day, did you
8 also go through the training materials that were contained
9 in the employment handbook?

10 A. Yes, ma'am.

11 Q. Could you explain to the jury how 126 is tested in
12 relationship to what's on 120 and I'll give these to you?
13 I'll take that one and hand it back.

14 A. So, on 120 is the training guide competency test.
15 When he was filling out the application from applicant's
16 stack, he was given 126, which is the handbook, and then
17 there were test questions that he was given to go through
18 and he would have to answer each one of those.

19 Q. Okay. So, he answered that before he met with you on
20 September the 23rd of 2020?

21 A. Yes, ma'am.

22 Q. Okay. But what did you do with that test when he
23 came into the office?

24 A. So, what I do when I'm doing -- we call it
25 on-boarding. So, when we're completing his new hire, I

1 will look at this competency test, and anything that he
2 has wrong, I'm gonna find out why he got it wrong. Did he
3 just misunderstand the question or just explain what the
4 correct answer would be.

5 Q. Okay. And he did get multiple questions correct?

6 A. Yes, ma'am.

7 Q. Okay. Including -- can you tell the jury about the
8 question on Number 10?

9 A. Question 10 is what is one early sign of a pressure
10 sore.

11 Q. Okay. I'm gonna put it -- if you'll bring that and
12 come down here with me. We're jut gonna go through a
13 couple of these questions, not all of it, cause the jury
14 will have it.

15 (WHEREUPON, the witness comes down from the stand.)

16 Q. Okay. So, 110 deals with pressure sores?

17 A. Yes, ma'am.

18 Q. Okay. Eleven, could you tell the jury what that
19 question is and what the answer was?

20 A. The question is whose responsibility is it to report
21 suspected abuse or neglect and the answer is everyone.

22 Q. Okay. Number 12.

23 A. Number 12 is true or false. Neglect is a type of
24 abuse.

25 Q. Number 13.

1 A. What is the number one way to prevent an infection is
2 hand washing.

3 Q. Okay. I'm just gonna refer to my notes briefly.

4 Okay. You can have a seat. Actually just --
5 actually if you'll remain right here.

6 Did -- of State's Exhibit No. 120 of the small
7 letters, 59, small numbers, 59 at the bottom, what is
8 that?

9 A. That is our competency evaluation documentation.

10 Q. Okay. Did you document that Edward either passed or
11 failed those items?

12 A. Yes, ma'am.

13 Q. Okay. What would of happened if he failed the items?

14 A. Then he would of been given additional education.

15 Q. Okay. How much -- if you'll have a seat.

16 (WHEREUPON, the witness returns to the stand.)

17 Q. How much training do you do initially when you're at
18 the on-boarding process?

19 A. How much education do they do?

20 Q. Yes, ma'am, at the on-boarding process.

21 A. When they're on-boarded, they will go through the
22 training guide and do the competency test. So, that's one
23 form of education.

24 Q. Okay.

25 A. Then the State requires us to do 10 units of

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By Solicitor Jordan

1 education per year for them in person and then six can be
2 independent. Normally, at the on-boarding, we definitely
3 complete the in-person education and it depends on how we
4 do the, the rest.

5 Q. And when you say units, what do you mean?

6 A. That -- hours.

7 Q. Okay. And so---

8 A. Sorry.

9 Q. You, you document it in a client's or rather an
10 employee's file that that is completed?

11 A. Yes, ma'am.

12 Q. Do you---

13 A. We use an in-service document.

14 Q. And I don't know if you'll get to see this or not
15 from there but this is 120, little 62 at the bottom. I'll
16 zoom out.

17 Can you see that from there?

18 A. Yes, ma'am.

19 Q. Okay. Does that indicate that he did complete
20 training in 2020?

21 A. Yes, ma'am.

22 Q. Okay. Do you -- do -- you mentioned yearly.

23 Do y'all also do training the following year if he's
24 still employed?

25 A. Every year that you are employed we complete the 10

1 of education.

2 Q. Okay. And this notes that these items were completed
3 on four different days, I'm sorry, three different days?

4 A. Yes, ma'am.

5 Q. Okay. For 2021, which this is State's 120, 61, was
6 training also completed in 2021?

7 A. Yes, ma'am.

8 Q. Okay. I see the 5/12 and did you meet with Edward in
9 person on that date?

10 A. Yes, ma'am, I did.

11 Q. Okay. So, you met with Edward at your office?

12 A. Yes, ma'am, he came in.

13 Q. Okay. Who brought him?

14 A. His father again.

15 Q. Okay. Did his father come back into the office with
16 you for training or wait in the lobby?

17 A. He stayed in the lobby.

18 Q. Okay. So he was by himself with you for training in
19 2020 and in 2021?

20 A. Yes, ma'am.

21 Q. Okay. In addition to the in-person training that you
22 completed with Edward, did you also have other trainings
23 throughout that year?

24 A. We did.

25 Q. How do y'all do those?

1 A. So, at the time that Edward was with us, we used an
2 app called Kaizala. It's -- through Microsoft.

3 You are able to create the different trainings done
4 by either PowerPoint, a hand-out. I've done several
5 videos that will go over different things and you would
6 actually send that through the app. And after they
7 watched or read the material, then they would answer the
8 following questions or the questions that go with it and
9 we would grade each one that came in.

10 Q. I'm gonna show you what's marked as State's
11 Exhibit -- on State's 120, the little bottom, 74, and ask
12 if this is an example of the Kabala (phonetic)?

13 A. Kaizala.

14 Q. Kaizala training.

15 Is that an example of the training through the app?

16 A. That is an example of the questions, the test portion
17 of it, yes, ma'am.

18 Q. Okay. And what phone number is notated on that?

19 I'm sorry. You can step down if you need to.

20 A. All right.

21 (WHEREUPON, the witness comes down from the stand.)

22 A. [REDACTED]-1529.

23 Q. Okay. And what is number one?

24 what is the, the question and answer to number one?

25 A. The answer is true. Our goal is to prevent the

1 client from getting bed sores and to keep them
2 comfortable.

3 Q. Okay. If you'll have a seat back --.

4 (WHEREUPON, the witness returns to the stand.)

5 Q. So you did training with him in 2020.

6 Also in 2021?

7 A. Yes, ma'am.

8 Q. And that training is do -- is documented in 120 --

9 A. Yes, ma'am.

10 Q. -- State's 120?

11 In the employee handbook -- that's it.

12 A. Sorry.

13 Q. That's okay.

14 One twenty-six -- does 126 also dock -- reference
15 neglect and give examples of that?

16 A. It does.

17 Q. Okay. In addition to that, does it also talk
18 about -- in that example that you have, I'm looking at
19 what's at the bottom that's marked 431 or Page 10 of the
20 employee handbook.

21 A. Yes, ma'am.

22 Q. Does it give examples of physical abuse?

23 A. It does.

24 Q. The -- what is the last dot under physical abuse?

25 A. Injuries from which the explanation given is

1 incorrect or inadequate. Excuse me.

2 Q. Okay. And that's in addition to other, other stuff
3 on there including bruises of different colors, bruising
4 in different areas?

5 A. Yes.

6 Q. Okay. So, this is this try -- this is a book that
7 Edward had and took a test on?

8 A. Yes, ma'am.

9 Q. Also, on Page 11 of that, does it also cover neglect?

10 A. It does.

11 Q. And what is the fourth dot down under neglect?

12 A. Demonstrates poor hygiene or smell of urine or feces.

13 Q. And going two down, what is that one?

14 A. Appears excessively tired.

15 That one?

16 Q. No. Six. The sixth one down. Starts with have.

17 A. Oh, have unattended medical or dental problems such
18 as infected sores or badly decayed teeth.

19 Q. Okay. And at the -- can I see yours for just a
20 moment?

21 A. Yes, ma'am.

22 Q. At the bottom of 11, does it also give numbers to
23 call?

24 A. It does.

25 Q. So, in addition to 9-1-1, does it give other help for

1 people who need to report abuse or neglect?

2 A. Yes, ma'am, it is the hotlines, American help lines.

3 Q. Okay. And, on Page 12, is there a section on there
4 about caring for the client?

5 A. Yes, ma'am, there is.

6 Q. And what is the number one way to prevent infection?

7 A. Always wash your hands.

8 Q. And I believe we also saw that on the exam?

9 A. Yes, ma'am.

10 Q. Did Edward -- in addition to the training, what were
11 your other responsibilities as far as time management,
12 time documentation?

13 A. The -- yes. How you turn in your hours worked.

14 Q. Okay.

15 A. Your activity and time sheet.

16 Q. I'm gonna show you 123 and 122 and ask if you can
17 identify -- well, first we'll start with 122.

18 Okay. Do you recognize what's contained in State's
19 122?

20 A. Yes, ma'am, these are his activity and time sheets
21 for his respite hours.

22 Q. Okay. And are those kept in the normal course of
23 your ordinary business?

24 A. Yes, ma'am.

25 SOLICITOR JORDAN: Your Honor, I would move, at this

Melissa Patton - Direct examination
By Solicitor Jordan

1 point, 122 into evidence.

2 MR. MORIN: No objection.

3 MRS. RACINE: Without objection.

4 MR. FILE: No objection.

5 SOLICITOR JORDAN: Permissions---

6 THE COURT: Without objection, 122.

7 SOLICITOR JORDAN: Thank you, Your Honor.

8 (WHEREUPON, State's Exhibit No. 122 was received into
9 evidence at this time.)

10 Q. I'm gonna show you 123 and ask you to do the same.

11 A. They are his time records for his CPCA hours.

12 Q. Okay. Can you tell the jury, in Edward's case, what
13 hours he was allowed to work?

14 How many number of hours a week was he allowed to
15 work?

16 A. What they're allowed is what the authorization says
17 and, for Minor, she I believe got 28.

18 Q. Twenty-eight---

19 A. CPCA hours --

20 Q. Okay. And---

21 A. -- and 68 respite hours per month.

22 Q. Okay. Did he---

23 A. CPCA's per week.

24 Q. Okay. CPCA's weekly and that was 28?

25 A. Yes, ma'am.

1 Q. And the other was respite and that was 68 per month?

2 A. Per month.

3 Q. Is that why it's documented separately?

4 A. Yes.

5 SOLICITOR JORDAN: And, Your Honor, did I move 123
6 into evidence?

7 THE COURT: You have not.

8 MR. MORIN: No objection.

9 MRS. RACINE: No objection.

10 MR. FILE: No objection.

11 THE COURT: Without objection.

12 SOLICITOR JORDAN: Thank you, Your Honor. I
13 apologize for that.

14 (WHEREUPON, State's Exhibit No. 123 was received into
15 evidence at this time.)

16 Q. I'm gonna just put an example up up here. If you'll
17 just step down with me.

18 (WHEREUPON, the witness comes down from the stand.)

19 Q. I just want to show the jury what's contained in
20 these. So, I'll start out with the 120 -- I'm sure --
21 I'll start out with 123. I am just going to, to pick a
22 date. In 123 at the bottom it says 170.

23 Tell the jury -- can you explain to the jury what is
24 on this page?

25 Let me zoom out.

1 A. So, on this page, it consists -- it says the client's
2 name, which is Minor, her client number, which is the
3 number that is her -- normally it's the Medicaid number.
4 But it's the number that the state gave her.

5 Below that is a graph that shows the day of the week
6 that they worked. The end time is the time that they
7 clocked for -- put down that they started work. The out
8 time is the time that they quit -- stopped.

9 The first set of initials, the initials underneath,
10 one set is for the aid, which would of been Edward, and
11 the other set is of a parent or the responsible party that
12 shows that they agreed with the -- of times that they
13 worked.

14 Underneath that you would have Edward's signature for
15 the home health and then you would have the client's or
16 the responsible party, the guardian, signature.

17 Below that we do personal care. So this would be
18 their activities, what they -- what activities they
19 provided that day.

20 Q. Okay. What is at the bottom of client observations?

21 A. The client observations, the way we explain it is
22 that the observations is the reason we did the activity.

23 Q. Okay. And how is this submitted to Axxess?

24 A. These forms are on an app that they would have on
25 their phone. It's called doForms.

1 So, it -- they actually pull it up on their phone.
2 They would put in -- log in their time in, time out, the
3 days of the week, the weekend, and, and you can actually
4 hit the little pencil and it would open up and you would
5 sign your name with your number.

6 Q. Okay. And then that was submitted to you?

7 A. Once they completed it for the week, they submit it
8 and it goes to our main system. And, on Monday mornings,
9 I would go into the system, pull up his sheets. We check
10 the sheets just to make sure that they have their dates on
11 them, the AM and PMs are not mixed up. If we do see
12 something wrong, we would contact them to fix it cause we
13 can send it back to their phone and then we print them out
14 and log those onto a separate spreadsheet for available.

15 Q. Okay. And do you see the initials for the client or
16 guardian of Minor [REDACTED]?

17 Can you read those from there?

18 A. On that one, on that one it looks like the second set
19 is -- is it Bobbie's?

20 Yes. The client bar name is the second set.

21 Q. Okay. Pull this out and we'll flip for a moment.

22 Let me ask you if you can identify the, the initials
23 for the client or guardian there.

24 A. Again, it appears that Edward's is the first set of
25 initials under the time and this one looks like it is

Melissa Patton - Direct examination
By Solicitor Jordan

1 David's---

2 Q. Okay.

3 A. ---initials.

4 Q. Did it matter which parent signed?

5 A. No, ma'am, it doesn't.

6 Q. Okay.

7 A. It's the responsible party.

8 Q. And they were able to pick and choose the dates and
9 the -- how to use the 28 hours or the 68 hours?

10 A. Yes. In children, they get to do their flex of the
11 schedule.

12 Q. Okay.

13 A. It's not a set schedule.

14 Q. So, for this one, which is on State's 123, 172 at the
15 bottom little numbers, they chose Monday, 12:00 to 21:30?

16 A. Yes, ma'am.

17 Q. Tuesday, 12:00 to 21:30?

18 A. Yes, ma'am.

19 Q. And Wednesday, 12:00 to 21:00?

20 A. Yes, ma'am.

21 Q. Which totals to 28?

22 A. Yes, ma'am.

23 Q. Okay. So, if we are going to look at State's No. 122
24 for that same week, is there also documentation on State's
25 26?

Melissa Patton - Direct examination
By Solicitor Jordan

1 A. Yes, ma'am, there is.

2 Q. I'm sorry. State's 126, little letter -- little
3 numbers two down at the bottom.

4 A. Yes, ma'am.

5 Q. Okay. Does that indicate that on Thursday of that
6 same week Edward worked 12:00 to 20:30?

7 A. Yes, ma'am.

8 Q. And the same the next day on Friday?

9 A. Yes, ma'am.

10 Q. Okay. And so if you put those two together, that
11 shows that he worked five days?

12 A. Yes, ma'am.

13 Q. And that's how these two exhibits would go together
14 to show his work week?

15 A. Correct.

16 Q. Okay. I'm gonna flip.

17 So y'all work week starts on Sunday?

18 A. Yes, ma'am, it goes Sunday through Saturday.

19 Q. Okay. And occasionally there's blank sheets in here.
20 What does that mean?

21 Find one over here.

22 A. There would be more blank sheets in the respite
23 because, again, he only got 68 a month and they can divide
24 that up however they want as long as her employee don't
25 exceeds more.

Melissa Patton - Direct examination
By Solicitor Jordan

1 Q. Okay.

2 A. So he -- if that's what's in there, he could show
3 that.

4 Q. Okay. And I'm gonna go to staying with State's 123.

5 Can you tell the jury on this one, which is the
6 second page of that exhibit, what is the date of service
7 for that Sunday?

8 A. Four ten.

9 Q. Okay. And what are the hours that is placed on
10 there?

11 A. 8:00AM to 22 PM, which would be 8:00 to 10:00 at
12 night. Eight in the morning until 10:00 at night.

13 Q. Which, if my math is correct, is 14 hours?

14 A. Yes.

15 Q. Okay. Well, how about on Monday, Monday, April 11th,
16 2022?

17 A. It's from 6:00 in the morning to 20 at night, which
18 is eight o'clock at night.

19 Q. Okay. Is that an additional 14 hours?

20 A. It is.

21 Q. Okay. For a total of 28?

22 A. Yes, ma'am.

23 Q. If you will have a seat.

24 (WHEREUPON, the witness returns to the stand.)

25 Q. Did you see Edward again in 2022?

1 A. Yes, ma'am, I did.

2 Q. Okay. And when did you see Edward again roughly?

3 A. I believe it was the Monday of the 18th.

4 Q. Okay. Of what month?

5 A. Sorry. Of April.

6 Q. Okay. So, this was after **Minor** passed?

7 A. Yes.

8 Q. Okay. And where did you see him?

9 A. Him and his father actually came to the office --

10 Q. Okay.

11 A. -- because he had requested a copy of his w-2 so he
12 could go file his taxes.

13 Q. Okay. So, he appeared in the office again that day?

14 A. Yes.

15 Q. Okay. I'm gonna show you -- oh, I'm sorry. I put it
16 on the bar.

17 I'm gonna show you State's 124 and ask if you
18 recognize this.

19 A. Yes, ma'am.

20 Q. Okay. What does State's 124 show?

21 A. This is a text thread between me and Edward Baynard.

22 Q. Okay. Is, is anyone else also included in the first
23 screenshot?

24 A. Sorry. In the first one, his mother, Bobbie, was
25 also there.

Melissa Patton - Direct examination
By Solicitor Jordan

1 Q. Okay. Is that a fair and accurate representation of
2 those -- that set of text messages?

3 A. Yes, ma'am.

4 SOLICITOR JORDAN: Your Honor, at this time we move
5 that exhibit into evidence.

6 MR. MORIN: No objection.

7 MRS. RACINE: Without objection.

8 MR. FILE: No objection.

9 THE COURT: Without objection, 124 is admitted.

10 (WHEREUPON, State's Exhibit No. 124 was received into
11 evidence at this time.)

12 Q. So, you communicated with Edward --

13 A. Yes.

14 Q. -- on this via text?

15 You also communicated with Bobbie?

16 A. Yes, ma'am.

17 Q. Okay. On State's 124 is the first -- a text message
18 between you and Bobbie?

19 A. Yes.

20 Q. You can step down if you need to. I know it's small
21 writing.

22 A. Yes.

23 Q. And is Edward also on that?

24 A. He is.

25 Q. Okay.

1 A. The first---

2 Q. But didn't respond but he's on it?

3 A. Right.

4 Q. Okay. But the next one, the second page -- part of
5 that is just with Edward?

6 A. Yes, ma'am.

7 Q. Okay. In the first one with Bobbie, is she
8 confirming -- are you confirming the numbers of hours?

9 A. I am. So, each week we confirm the hours worked with
10 the responsible party.

11 Q. Okay. And in the other one, are you just going
12 through with Edward about his timecard?

13 A. Um.

14 Q. You can come down if you can't see it.

15 A. I was gonna say is that not the one I've said as per
16 our conversation?

17 (WHEREUPON, the witness comes down from the stand.)

18 Q. At the very top, what does that bubble say?

19 A. Oh, sorry. Do you want me to do the hours as a time
20 sheet though.

21 Q. And your response?

22 A. Yes. Please.

23 Q. Okay. Then you, then you discussed his last date
24 with Axxess and expressed your sympathy for---

25 A. Yes, ma'am.

Melissa Patton - Direct examination
By Solicitor Jordan

1 Q. ---the loss of Minor ?

2 And did he also ask when he started working for
3 Axcass?

4 A. He did.

5 Q. Okay. And that date again was?

6 A. 9/23 of 2020.

7 Q. And that was one of the dates you met him in person?

8 A. Yes.

9 Q. And you trained Edward?

10 A. Yes, ma'am.

11 SOLICITOR JORDAN: Your Honor, may I have a moment?

12 THE COURT: Yes.

13 (Pause.)

14 Q. The services that are provided by Axcass, who pays
15 for that?

16 A. Who pays Axcass?

17 Q. Yes.

18 A. Medicaid does.

19 Q. Okay. Please answer any questions these three may
20 have.

21 THE COURT: We're gon' take a break.

22 SOLICITOR JORDAN: Okay. Sorry.

23 THE COURT: Ma'am, we're gonna take a break and I'm
24 gonna allow you to leave the stand. But you can't talk to
25 anyone.

1 okay?

2 THE WITNESS: Can I use the restroom?

3 THE COURT: Yeah, you can refresh yourself and so
4 forth and let the jury go out and do likewise.

5 Mr. Foreman, ladies and gentlemen, you've been
6 running a good hour and a half here. But we've been going
7 two hours cause I had 30 minutes or so to take care of
8 this morning. So we're gonna take a break, our staff
9 here.

10 This will be our, our morning break for 15, 17
11 minutes. Coffee, water, whatever you might need, will be
12 available for you.

13 Okay. And, Madam Alternate, if you would stay with
14 me just one minute please?

15 Thank you.

16 Mr. Foreman, if you'd take the jury out.

17 (WHEREUPON, the following takes place outside the
18 presence of the jury with the exception of the alternate
19 juror.)

20 THE COURT: You may step down.

21 Ma'am, you're having, you've having trouble staying
22 awake and I'm gon' invite you to stand if you need to.

23 okay?

24 THE JUROR: Ma'am?

25 THE COURT: You, you are having trouble staying

1 awake.

2 THE JUROR: Excuse me. I didn't mean to say ma'am.

3 THE COURT: You're having trouble staying awake.

4 So -- but I need you to stay awake.

5 Okay. So do you -- I'm gon' invite you to stand if
6 you want to stand some.

7 THE JUROR: Oh, okay.

8 THE COURT: If you get sleepy, just stand.
9 Okay?

10 THE JUROR: All right.

11 THE COURT: Thank you, ma'am.

12 (WHEREUPON, the following takes place outside the
13 presence of the alternate juror.)

14 THE COURT: Anything from the State or defense?

15 SOLICITOR JORDAN: No, sir, Your Honor.

16 THE COURT: Okay.

17 MR. MORIN: Your Honor, I'm obligated to say there's
18 another juror who's also falling asleep and she's an
19 active juror. I believe she's sitting in the third seat,
20 African-American, in the front and at least three times
21 she jerked her head back up when we -- Mr. Barnette was
22 talking. I think she's woke up now but --.

23 THE COURT: I'll be looking for her.

24 MR. MORIN: Thank you.

25 THE COURT: Thank you.

1 Let's take a break.

2 (WHEREUPON, a short recess was taken at this time.)

3 THE COURT: Thank you. Please be seated. Thank you.
4 Everybody ready?

5 SOLICITOR BARNETTE: State's ready, Your Honor.

6 MRS. RACINE: Yes, sir.

7 THE COURT: We'll have the jury.

8 where's my -- come on up, ma'am.

9 (WHEREUPON, the witness returns to the stand.)

10 (WHEREUPON, the following takes place within the
11 presence of the jury.)

12 THE COURT: Mr. Foreman, everybody good?

13 THE FOREMAN: Yes, Your Honor.

14 THE COURT: All right.

15 MR. FILE: May it please the Court?

16 THE COURT: Yes, sir.

17 CROSS-EXAMINATION

18 BY MR. FILE:

19 Q. I just have one question.

20 I'm assuming you didn't do any home visits yourself,
21 did you?

22 A. Did I do what?

23 Q. No home visits.

24 A. Not for Edward or not for Minor [REDACTED], no.

25 Q. Okay. Thank you.

Melissa Patton - Cross-examination
By Mrs. Racine

1 CROSS-EXAMINATION

2 BY MRS. RACINE:

3 Q. Hi. I have two questions for you.

4 It looked from here like the timecards were
5 electronically signed.

6 Is that correct?

7 A. No.

8 Q. They have physical signature's on them?

9 A. Yes.

10 Q. Okay.

11 A. They are -- what it does is the app will open up a
12 signature box.

13 Q. Okay.

14 A. And just like when you go places and you use a PIN or
15 your finger to sign your name. So, it is their signature.

16 Q. Okay. But you can't verify that David is the one who
17 actually signed his name on the, the box, can you?

18 A. Can I verify that that's his---

19 Q. Were you there when he signed?

20 A. No, I am not there when he signs an app.

21 Q. Okay. So, you can't say for sure that that
22 signature's actually his?

23 A. Correct.

24 Q. No further questions. Thank you.

25 THE COURT: Okay.

Melissa Patton - Cross-examination
By Mrs. Racine

1 MR. MORIN: Okay.

2 THE WITNESS: Can I say anything else with that one
3 question?

4 MR. MORIN: No. I mean I'm not the judge but --.

5 THE COURT: Do you need, do you need---

6 MR. MORIN: Right.

7 THE COURT: ---to fully explain that question?

8 THE WITNESS: I was just gonna put that we are able
9 to have electronic signatures. We are verified through
10 the state. That does allow it.

11 THE COURT: Okay. All right. Thank you.

12 CROSS-EXAMINATION

13 BY MR. MORIN:

14 Q. Axxess Home Care has contracts with the state.

15 Isn't that correct?

16 A. Yes.

17 Q. Okay. And that includes the Department of Special
18 Needs.

19 Is that correct?

20 A. Yes.

21 Q. I believe health and human services or South
22 Carolina's version of it you also have a contract with?

23 A. With DHEC.

24 Q. Yes.

25 A. Yes.

Melissa Patton - Cross-examination
By Mr. Morin

1 Q. Okay. Now, Axxcess Health Care is a for profit
2 corporation?

3 A. Correct.

4 Q. And they're -- primarily get their income from these
5 contracts.

6 Is that correct?

7 A. That is correct. We are paid for a service --

8 Q. Okay.

9 A. -- that we bill.

10 Q. All right. Now, so, what happens is government money
11 goes to Axxcess, correct, and then Axxcess takes some of
12 that money for administrators and trainings and that sort
13 of thing, correct?

14 A. Do we just take money?

15 Q. No.

16 You charge -- part of the money you get to run the
17 service. You just testified you're a for profit
18 corporation.

19 A. Yes, Axxcess is paid a specific amount --

20 Q. Uh-huh. (Affirmative).

21 A. -- that is across the board that the state does.
22 Axxcess takes that money --

23 Q. Uh-huh. (Affirmative).

24 A. -- that we're paid and --

25 Q. Uh-huh. (Affirmative).

Melissa Patton - Cross-examination
By Mr. Morin

1 A. -- provide the services to our employees.

2 Q. Right.

3 And the company---

4 A. Our clients.

5 Q. ---makes money too?

6 A. Yes.

7 Q. Okay.

8 A. You have to, to survive.

9 Q. Right.

10 Now, does Axxess get like a block grant at the
11 beginning of the year or are you paid by the client?

12 A. We are paid per hour billed.

13 Q. Per hour billed.

14 Okay.

15 A. So that would be that the aid --

16 Q. Uh-huh. (Affirmative).

17 A. -- either clocks in or sends in their time, the hours
18 that they worked, we then bill Medicaid for that time that
19 they have said they worked.

20 Q. All right. So, in other words, and let me make sure
21 I got this straight, you hire aids, correct?

22 A. That is part of it.

23 Q. Okay. And you have clients?

24 A. We do.

25 Q. And, in this particular case, Minor is a client?

Melissa Patton - Cross-examination
By Mr. Morin

1 A. Yes, **Minor** was the client.

2 Q. And Edward was the aid?

3 A. Yes, that the parents requested to be hired.

4 Q. Correct.

5 And the parent is the caregiver?

6 A. No.

7 Q. Okay. I'm gonna show you what's marked as State's
8 Exhibit 126, the employee handbook.

9 A. Yes, sir.

10 Q. I'm gonna ask you to look at Page 4 I believe. Make
11 sure I've got it right.

12 All right. I'm sorry. Yes, Page 4.

13 Do you see that right there at the bottom in bold
14 type?

15 A. (WHEREUPON, the witness nods affirmatively.)

16 Q. What does it say?

17 A. The vital signs is the very last---

18 Q. Up above that.

19 A. ---bold statement.

20 Q. Up above that.

21 A. Observations that need to be reported to the
22 caregiver.

23 Q. To the caregiver.

24 This is what you gave Edward to, to go by, correct?

25 A. Correct.

1 Q. And it says right here observations he's suppose to
2 give to the caregiver?

3 A. Which is the responsible party.

4 Q. Okay. The responsible party.

5 A. The person who is going to resume care of the client
6 after the aid is finished.

7 Q. All right. And, in this case, that caregiver or
8 responsible party is who?

9 A. The parents.

10 Q. Bobbie Jo Baynard and David Baynard?

11 A. Yes, the parents of the client.

12 Q. And, of course, they're also just happened to be
13 Edward's parents.

14 Is that right?

15 A. They are Edward's parents.

16 Q. Okay. Now, are your aids authorized to do things not
17 directed by the caregiver?

18 A. Can you say that again?

19 Q. Well, can an aid do something that hasn't been
20 directed by the caregiver?

21 Can they just take it on their self to do something,
22 whether it's feed them some sort of food, whether it's
23 take them out of their bed?

24 I mean they work for you, correct?

25 A. They do.

Melissa Patton - Cross-examination
By Mr. Morin

1 Q. But they work at the direction of the parents,
2 correct?

3 A. To an extent.

4 Q. All right. Well, let me ask you this.

5 Isn't it true that Axxess contacts the
6 parents/caregivers while aids are working for you to check
7 on how they're doing?

8 A. Correct.

9 Q. All right. So, Axxess calls -- we'll go with parent
10 for you.

11 Okay. Axxess calls the parent and says how is your
12 aid doing.

13 Is that right?

14 A. The only reason that we were calling them to do that
15 --

16 Q. Uh-huh. (Affirmative).

17 A. -- was because of Appendix K which was added to the
18 Medicaid guidelines for COVID. Normally we go to the
19 homes to do visits, which the State requires us to do.
20 So, in this case, it was telephonic because of the
21 Appendix K.

22 Q. Right.

23 And you spoke to Bobbie Jo?

24 A. No, sir, I did not.

25 Q. Someone in your office spoke to Bobbie Jo?

Melissa Patton - Cross-examination
By Mr. Morin

1 A. One of our employees did, yes.

2 Q. Okay. And that was over the phone?

3 A. Correct.

4 Q. And part of the reason -- the reason was to see how
5 the aid was doing.

6 Is that right?

7 A. We asked the parents are they satisfied with their
8 service.

9 Q. That's not gonna stay.

10 And his mother said he was doing fine?

11 A. The responsible party did, yes, sir.

12 Q. Well, you can call it the responsible party but
13 that's who it was.

14 Now, let me ask you this. You went over it briefly
15 and I may have to make you repeat some things cause I want
16 to make sure I got it clear.

17 A. Okay.

18 Q. **Minor** had a caseworker?

19 A. Yes.

20 Q. Is that with DDSN?

21 A. Yes.

22 Q. Okay. Department of Special Needs. I didn't want
23 to -- make sure the jury understands the terminology I'm
24 using.

25 A. Yes, that is a Medicaid caseworker --

Melissa Patton - Cross-examination
By Mr. Morin

1 Q. Okay.

2 A. -- and it goes by which service they have.

3 Q. Right.

4 And there's waivers.

5 Can you tell me what those waivers are that you
6 referred to?

7 A. There are multiple kind. There are medically complex
8 children's waiver.

9 Q. Uh-huh. (Affirmative).

10 A. There's the --.

11 Q. Well, do you know which one **Minor** was?

12 A. Not without looking at her authorization.

13 Q. Do you have her authorization?

14 A. I believe.

15 Q. You don't?

16 A. It was in her file, yes.

17 Q. Do you have her file?

18 Ma'am, do you have her file?

19 A. Not sitting up here with me, no, sir.

20 Q. Did you know you were gonna be testifying about this
21 today?

22 A. I knew I was called, yes.

23 Q. All right. So you don't know what exactly it was---

24 A. She was---

25 Q. ---that---

Melissa Patton - Cross-examination
By Mr. Morin

1 A. ---part of the DDSN.

2 Q. That's what you---

3 A. So we have CLTC and DDSN.

4 Q. Right.

5 well, I understand you saw your duty and be done.

6 But I'm asking you what you have -- I'm asking you what --

7 I'm asking you how things went along.

8 A. Okay.

9 Q. Now, just to get it out of the way, no one from
10 Axxess ever saw Minor ?

11 SOLICITOR JORDAN: Objection, Your Honor. He's---

12 Q. Is that true?

13 SOLICITOR JORDAN: Objection, Your Honor. She can't
14 speak as to what other people saw or did.

15 MR. MORIN: Okay. Let me, let me -- I'll rephrase.

16 THE COURT: Okay.

17 Q. You were working at Axxess the entire time Minor
18 was a client?

19 A. Correct.

20 Q. Okay. And during the time, the entire time they
21 would -- that Minor was a client, did you ever see her?

22 A. I did not.

23 Q. You were never in her presence---

24 A. Not---

25 Q. ---correct?

Melissa Patton - Cross-examination
By Mr. Morin

- 1 A. ---that I can recall.
- 2 Q. You never saw her on any kind of video?
- 3 A. No, sir.
- 4 Q. Now, Minor had a feeding tube.
- 5 Is that correct?
- 6 A. Of what I've read, yes.
- 7 Q. So, Axxess was aware of that?
- 8 A. Yes.
- 9 Q. And Minor had a trach to give her oxygen, correct?
- 10 A. As, again, what I've read.
- 11 Q. Okay.
- 12 A. I've never seen her though.
- 13 Q. Correct.
- 14 When you trained her 18 year old brother to assist
- 15 his parents taking care of her, did you know that?
- 16 A. Yes.
- 17 Q. In fact, the handbook --.
- 18 A. I still have it.
- 19 Q. Uh-huh. (Affirmative).
- 20 I got a copy---
- 21 A. Oh, okay.
- 22 Q. ---so we can both look.
- 23 All right. The handbook has a medical conditions
- 24 overview. That's on Page 23.
- 25 A. Okay.

1 Q. And it says medical conditions overview, right?

2 A. It does.

3 Q. And it lists asthma, cerebral palsy, turn over to the
4 next page---

5 A. Autism is on that page as well.

6 Q. Okay. Cystic fibrosis, diabetes, seizures or
7 epilepsy, right, and then it goes on and it even says
8 traumatic brain injury.

9 Now, my question is, when Axxess hires a personal
10 aid, do they, in any way, match up the skills of the
11 applicant to the client's needs or they just say anybody
12 who wants to be an aid and we just put them in?

13 A. One, these are not -- we don't provide skilled
14 services. These are unskilled.

15 Q. Yes, ma'am, unskilled.

16 A. So that GT, that trach, Edward would of never have
17 touched or never been trained to.

18 Q. Never been touched?

19 A. From our standpoint, yes, sir.

20 Q. From Edward's---

21 A. We did not---

22 Q. ---standpoint?

23 A. No.

24 Q. He should know---

25 A. I can't tell you what he did on his own.

Melissa Patton - Cross-examination
By Mr. Morin

1 Q. Well, I understand that.

2 But he -- Axxess didn't train him for those things,
3 did they?

4 A. No, because they're not allowed. The State
5 specifically tells us that they can't.

6 Q. Okay. Now, I also note that they're several pages in
7 here about lifting and moving clients.

8 A. Yes.

9 Q. However, and correct me if I'm wrong, this directions
10 about movement is more about making sure that the aid
11 doesn't hurt themselves --

12 A. Or the clients.

13 Q. -- or the client.

14 But, again, he wouldn't of been moving someone if he
15 did with these op -- with these two -- with the feeding
16 tube and the oxygen?

17 A. Yes.

18 Q. He's not suppose to touch them --

19 A. No.

20 Q. -- according to Axxess, right?

21 A. Correct.

22 Q. All right.

23 A. But there -- if you look, there are other educations
24 that show care of the bed bound clients --

25 Q. Uh-huh. (Affirmative).

1 A. -- the different areas. There are educations and we
2 show how to safely move, roll, or lift the client. But,
3 like I said, the State does not allow us to do that unless
4 they are on a certain waiver and they have nursing
5 services --

6 Q. Right.

7 And that wasn't---

8 A. -- and the parents -- the way we've (sic) operate---

9 Q. Uh-huh. (Affirmative).

10 A. -- is the parents, when they are given that list of
11 the different providers, they choose which provider they
12 want to use and we -- they get to choose what employee.

13 In this case it was the son. In other cases it may
14 be a friend or it may be one that we are staffing for.
15 But they have to meet the -- all of the qualifications.
16 There's, of course, Medicaid handbook or policy and they
17 have to be able to qualify and meet all of those
18 requirements.

19 Q. Now, do you know if Axxcess has changed the
20 requirements for someone to have this job since Edward was
21 hired?

22 A. To my knowledge, I don't know.

23 Q. Well---

24 A. It's all based on the policies. So, I haven't seen
25 the policies change.

Melissa Patton - Cross-examination
By Mr. Morin

1 Q. Okay. But you're in charge of intake, right?

2 A. For parts of it, yes.

3 Q. Okay.

4 A. I don't and -- do everyone.

5 Q. Edward didn't have a driver's license. Here's my
6 question.

7 A. Correct.

8 Q. But now the driver's license is listed as a
9 requirement or -- is that true?

10 A. No, that is not true.

11 Q. Okay. So, when you say he doesn't have a license or
12 he has to have an ID?

13 A. No, sir.

14 Q. Okay. So---

15 A. We have to have something that verifies, their social
16 security card, their birth certificate.

17 Q. So, he doesn't need---

18 A. We have some passports or actually---

19 Q. Yes.

20 A. I believe I did misspeak.

21 Q. Yeah.

22 A. I think you do have to have an ID.

23 Q. Right.

24 A. Because we have to have something that we can run a
25 background check.

Melissa Patton - Cross-examination
By Mr. Morin

1 Q. Okay.

2 A. That's what Medicaid makes us do.

3 Q. Okay. Where is this application that we -- that's
4 what's I'm looking for.

5 Do you have it up there that you -- State's 119.

6 Okay. It's part of this.

7 All right. So, he's an unskilled worker, correct?

8 A. Correct.

9 Q. Unskilled person, aid?

10 A. He is an aid, yes.

11 Q. All right. And he's listed as unskilled, correct?

12 A. He's listed as a personal caregiver --

13 Q. Okay.

14 A. -- or a children's personal care aid.

15 Q. All right. Well, I'm referring to this document.

16 This is State's No. 119.

17 Are you familiar with this?

18 A. Yes.

19 MR. MORIN: All right. May I approach the witness,
20 Your Honor?

21 THE COURT: Yes, sir.

22 SOLICITOR JORDAN: Your Honor, can we get Mr. Morin
23 to tell us the page number of that exhibit cause I -- it's
24 at the very bottom.

25 MR. MORIN: Twenty-eight.

1 SOLICITOR JORDAN: Thanks.

2 Q. Just let me -- well, I'm -- this lists what he has
3 never done before and what he has done.

4 Is that correct?

5 A. No.

6 Q. Well, there's a column that says --.

7 A. Can easily do.

8 Q. And have never done.

9 A. And has never done.

10 Q. That's right.

11 Now, one of the things that he lists as never done is
12 care for bed sore.

13 Is that correct?

14 A. Sorry. I'm reading too fast.

15 Yes.

16 Q. All right. So, you've testified that he received
17 four hours of training from you.

18 Is that correct?

19 A. Yes.

20 Q. Now, isn't it true that that training is basic first
21 aid for the most part?

22 A. No.

23 Q. Okay. Did you train him on how to deal with bed
24 sores?

25 A. No.

1 Q. No.

2 Were you aware that Minor was bedridden?

3 A. No, cause she was able to get in that chair as well,
4 right?

5 Q. Well, you've never seen her and I've never seen her.

6 A. Oh.

7 Q. But that wasn't provided to me.

8 Now, is the aid -- does the aid have access or
9 permission to go anywhere in the parent's home?

10 A. That the client is.

11 Q. Okay.

12 A. They can go anywhere the client goes.

13 Q. Okay. So, the parent can not prevent the aid from
14 going anywhere he's -- needs to go where the client is?

15 A. If the client in there and they are scheduled and are
16 working on the clock, then, yes, the client or the aid
17 goes with the client.

18 Q. The aid can override the parent?

19 A. Can the aid override a parent?

20 Q. Uh-huh. (Affirmative).

21 A. No.

22 Q. No.

23 So, if the parent says don't go in my bedroom, the
24 main bedroom, the master bedroom --

25 A. Uh-huh. (Affirmative).

Melissa Patton - Cross-examination
By Mr. Morin

1 Q. -- the aid's not allowed to go in there?

2 A. If the client is in -- if the client is there --

3 Q. Yes.

4 A. -- the aid is allowed to go. If as instance did
5 happen that the parent or the responsible party said do
6 not, it would be the aid's responsibility to call his
7 supervisor nurse or call the office --

8 Q. Okay.

9 A. -- and say I'm here working with so and so and they
10 say I can't go do something.

11 Q. Is that---

12 A. What do I need to do.

13 Q. And what does the handbook say about that?

14 A. What?

15 Q. About what you just said.

16 Does that appear in the handbook?

17 A. No.

18 Q. No.

19 A. But it does say to any concerns arise.

20 Q. Correct.

21 But, in this case, we have a parent of both the
22 client and the aid, correct?

23 A. Correct.

24 Q. So, the aid has to decide whether he's gonna override
25 his mother's direction and go with Axxcess' directions,

1 correct?

2 A. I can't speak to what he thinks.

3 Q. All right. Well, the -- he doesn't get any guidance
4 from the handbook, does he?

5 A. The handbook explains how to do things safely. It
6 also goes into what abuse is.

7 Q. Uh-huh. (Affirmative).

8 A. It goes by burns, minor injuries, what you need to
9 do.

10 Q. Uh-huh. (Affirmative).

11 But you don't give aids direction when their -- when
12 the parent of the -- I mean --.

13 A. They are told to call us with any concerns.

14 Q. Right.

15 A. Problems or concerns. They're told multiple times to
16 reach out to us.

17 Q. Correct.

18 But if the -- if a parent tells his child not to come
19 in her bedroom, is that some reason concerning?

20 A. Yes.

21 Q. I see.

22 So---

23 A. Because our aids are there to provide a service for
24 the client.

25 Q. Okay. Now, when you hired Edward, had he ever worked

Melissa Patton - Cross-examination
By Mr. Morin

1 anywhere before?

2 A. I believe on his application he had said no.

3 Q. Never worked, 18 years old, no driver's license, and
4 you hired him to be an aid in his parent's home?

5 A. He met all of the requirements that -- Medicaid, they
6 have an entire list of what -- the criteria that they can
7 have no record.

8 Q. Okay. So---

9 A. We do a background check. They -- as long as they
10 have met all of the qualifications that are set by
11 Medicaid, then, yes, we can hire them --

12 Q. Well, I know you---

13 A. -- and most want a family member of medically complex
14 children --

15 Q. Uh-huh. (Affirmative).

16 A. -- instead of a stranger.

17 Q. Fair enough.

18 But my question---

19 A. Uh-huh. (Affirmative).

20 Q. I understand there's, there's the level down here
21 that the State reminds -- requires you to do and that you
22 met those.

23 But my question is that's all you do.

24 Axxess just makes that bottom line and you're like
25 let's go, right?

Melissa Patton - Cross-examination
By Mr. Morin

1 A. No.

2 Q. Well, 18 years old, no driver's license, no job, no
3 kind of training other than your four hours, right?

4 A. No.

5 Q. Okay. But---

6 A. It's ten.

7 Q. That -- I'm sorry. I didn't mean to cut you off.

8 A. It's 10 hours that the state requires per year. It
9 is prorated based on the first year of hire.

10 Q. Right. But in person---

11 A. Correct.

12 Q. ---for us?

13 A. That's what the state requires.

14 Q. Again---

15 A. No, sir, I would not put the state that low.

16 Q. Well---

17 A. They require a lot.

18 Q. I see.

19 All right. Well, tell me.

20 During the four hours you were training him, tell me
21 what you went over with him.

22 Tell me what training you gave him in general. You
23 don't have to tell me everything you did in four hours.

24 A. We went over the self-assessment that he filled out,
25 ones that he had never done. That was on the client's

Melissa Patton - Cross-examination
By Mr. Morin

1 task list that he would be providing, which is given by
2 the parents or the responsible party. Then you have a
3 task list that okay, we would go over---

4 Q. Uh-huh. (Affirmative).

5 A. ---all of those---

6 Q. Uh-huh. (Affirmative).

7 A. ---making sure that he understands. There are
8 several different educations and I would have to look at
9 the form again to know exactly which ones were in 2020 --

10 Q. Okay.

11 A. -- cause I do not know right off --

12 Q. Well, let's go back---

13 A. -- cause we do multiple.

14 Q. Okay. Well, let's talk about task lists.

15 The task list comes from the parent, correct?

16 A. No.

17 Q. Okay. Well, can you tell me where they come from
18 cause I could of sworn you just said the task list that's
19 given by the parents?

20 A. I apologize if that's what it seems.

21 So, our supervising nurse does an initial visit. As,
22 in this case, because we didn't go to the home, a
23 telephone visit. They get all the information, what's
24 wrong with the child, can they do the different things,
25 move, can they eat, do they talk, do they wear diapers.

Melissa Patton - Cross-examination
By Mr. Morin

1 we get all the information and, from that, there is a
2 task list cause we also ask what is it you would like the
3 aids to help you with or help provide service for for the
4 client.

5 Q. Right.

6 A. And then the supervising nurse creates that task
7 sheet.

8 Q. Okay. Do you have that task sheet?

9 A. It is in his files.

10 Q. But you don't have the file?

11 A. No, I don't. Not on me.

12 Q. The -- and you weren't that nurse that did that.
13 Is that correct?

14 A. No.

15 Q. Do you know what her name was?

16 A. I do.

17 Q. well, what's her name?

18 A. Abby.

19 Q. Abby Humphries?

20 A. Yes, she is one of our nurses.

21 Q. And she's the one who had the telephone conversation,
22 correct?

23 A. Correct.

24 Q. Now, let's talk about personal aid.

25 That's what -- he's an aid, right?

Melissa Patton - Cross-examination
By Mr. Morin

1 A. Correct.

2 Q. He's not a healthcare provider. He's an aid.

3 A. Correct. We don't do -- we're not a home health
4 agency.

5 Q. Right.

6 And he has a client, in this case [Minor], but he's
7 actually aiding the parent with the routine things that
8 they have every day.

9 Is that correct?

10 A. He is there to aid [Minor]. Provide care for
11 [Minor].

12 Q. Right.

13 But not anything beyond what the parent does?

14 A. I wouldn't say that.

15 Q. Okay. So---

16 A. Cause the parents do the trach -- G-Tube, the trach,
17 wounds. They can do all of that.

18 Q. Right. Okay.

19 A. An aid can not.

20 Q. Well, let me ask you this.

21 A. All right.

22 Q. If the parents says I don't want my 14 year old
23 daughter being bathed by her brother or whoever and I'm
24 gonna do it all the time, all right, that's okay. That
25 would, that would be a thing that Axxess would say okay.

Melissa Patton - Cross-examination
By Mr. Morin

1 A. Yes.

2 Q. Okay. And if the parent says I'm going to change the
3 diaper, again, I don't want my, my child to be changed by
4 anybody but me, that would be okay?

5 A. Yes.

6 Q. Okay. That's my point. The parent's in control.

7 A. To an extent, yes, cause it's their child. But if --
8 they're also in control of who their aid was.

9 Q. That's right.

10 A. So, they chose Axxess to provide -- be the provider
11 and they chose Edward to be the aid.

12 Q. And Edward lived with them?

13 A. Yes.

14 Q. You knew that too, right?

15 A. Yes.

16 Q. And if they didn't get an aid, their waiver would be
17 in jeopardy, correct?

18 A. I can't speak to that.

19 Q. Well---

20 A. I don't work for the waivers.

21 Q. Right.

22 But they have to have a waiver to come there, right?

23 A. Correct.

24 Q. All right. You got the application up there with
25 you?

Melissa Patton - Cross-examination
By Mr. Morin

1 A. Uh-huh. (Affirmative).

2 Q. Can I see that?

3 Just a moment, Your Honor.

4 (Pause.)

5 Q. There we go. This is on the application. This is
6 Page 22 of State's 119.

7 That's Edward's signature, is it not?

8 A. It is.

9 Q. Other than this Page 22, which is -- does this
10 signature a page -- appear anywhere else?

11 I'm gon' give it back to you.

12 Anywhere else, that signature?

13 Not the electronic one. That one.

14 A. Yes.

15 Q. Let me see it please.

16 A. So, it is on his drug screen that he took.

17 Q. Uh-huh. (Affirmative).

18 A. It is on his second health assessment in '21 when he
19 came into the office --

20 Q. Uh-huh. (Affirmative).

21 A. -- and it was also on that drug screen and I was the
22 one with him when he signed it.

23 Q. All right. This is Page 55.

24 Do you see Edward -- right here it says donor's
25 signature and you made him sign it, didn't you?

1 A. Yes.

2 Q. And he's sort of up here I think, this top part.

3 Can you see that?

4 Do you need to step down?

5 (WHEREUPON, the witness comes down from the stand.)

6 Q. This is his handwriting right here, ain't it,

7 employee contact information?

8 Is that right?

9 A. Correct.

10 Q. Okay. And then there are -- so, the -- he came in

11 once a year for you.

12 Is that correct?

13 A. Correct.

14 Q. And those were the times he signed his name, correct?

15 A. In front of me, yes.

16 Q. All right. Now, the other times he signed an

17 electronic signature from his home?

18 A. Through the app.

19 Q. Okay. And you've referred to he went on an app to

20 receive further trainings. I forgot what you called it.

21 A. Kaizala.

22 Q. All right. And those further trainings, he would

23 fill out -- he -- you -- explain that to the jury.

24 How does that go?

25 He's gonna get trained. There's a thing he goes on

1 where he answers some questions or gets some training.

2 How does that work?

3 A. So, the state requires the 10 hours, correct. Four
4 in-person and then four they call independent study.

5 So, what I've done is, at the time, the Kaizala app.
6 So, I would have a PowerPoint. We had videos that would
7 show how to move people and those would be sent through
8 the app to them and they would go to it first. And they
9 would have to watch or read the information and then
10 follow-up questions would be there. Once they filled it
11 out and hit submit, it would go through the system and
12 that's what, what would be printed. It's just the test
13 questions. But it said what the training was on.

14 Q. So, basically it's what we call an open book test?

15 A. Correct.

16 Q. And he can receive -- he can receive help from any
17 avenue he needs to?

18 A. Correct.

19 Q. Does it at least do a timer and what I mean by that
20 is, is occasionally I have to take a training by video and
21 it has a little thing on top occasionally and say are you
22 still there, are you watching this video.

23 Do you have that in Kaizala?

24 A. Kaizala, no.

25 Q. So, he could of hit play. He can walk, walk away and

1 come back, whatever.

2 Is that right?

3 He could do that, right?

4 A. I guess.

5 Q. He'd be a bad employee?

6 A. Correct. But you'd still have to answer the
7 questions.

8 Q. Yeah.

9 But you could do that over time or it would be
10 possible, wouldn't it, for someone else to do it?

11 A. It is on his---

12 SOLICITOR JORDAN: Objection, Your Honor. She can't
13 testify as to what was done at the house.

14 MR. MORIN: The question was could they.

15 THE COURT: It's overruled.

16 Go ahead. Answer the question.

17 A. Yes, sir, it's on his phone and that was verified by
18 him, his name being printed on it, and the phone number he
19 used.

20 Could someone else pick up their phone?

21 Sure. My children steal mine all the time.

22 Q. Now, are you aware that initially Bobbie Jo applied
23 for this position?

24 A. She couldn't.

25 Q. All right. Why not?

Melissa Patton - Cross-examination
By Mr. Morin

1 A. Because she is the parent --

2 Q. Okay. Well why---

3 A. -- and Medicaid will not allow that.

4 Q. Medicaid won't allow the parent, either parent?

5 A. No.

6 Q. Do you know why that is?

7 If you don't, that's fine.

8 A. It's --.

9 Q. They just don't allow it?

10 A. That's part of --

11 Q. That's right.

12 A. -- Medicaid.

13 Q. Getting back to my question about when Medicaid
14 started making you -- well, the phonecall that was made to
15 the house, did you say that there was a change in the
16 policy and it required you to contact the parent?

17 A. No.

18 Q. Okay. So, Axxcess always contacted the parent
19 annually?

20 A. No, the -- we were -- we contact the responsible
21 party every four months by the end of that fourth month.

22 Q. Okay.

23 A. What Appendix K did was, instead of us physically
24 going to the homes, it brought us out of the homes because
25 of COVID because we are dealing with medically complex

1 kids and adults. You wouldn't want someone to come in
2 your house sick with your child there.

3 Q. Uh-huh. (Affirmative).

4 So, when he was hired in 2020, I believe that's
5 correct?

6 A. Yes.

7 Q. We were in COVID?

8 A. Yes, sir.

9 Q. And normally Axxess would contact the parents. I'm
10 gonna say parents cause we're talking about this case.

11 A. Correct.

12 Q. Okay. Contact the parent and see how things were
13 going.

14 One of the questions would be how -- how's the aid
15 doing, correct?

16 A. Is the aid providing the services.

17 Q. Exactly.

18 Now, if the parent says the aid is not doing well,
19 what's Axxess' response?

20 A. Our response is that we will contact -- we will get
21 more information, get the examples of what they were
22 talking about. We would call the aid and actually ask
23 them what their response to it is.

24 Q. Uh-huh. (Affirmative).

25 A. If it ends up being where they're just not working

Melissa Patton - Cross-examination
By Mr. Morin

1 well together --

2 Q. Uh-huh. (Affirmative).

3 A. -- we would pull the aid out.

4 Q. Okay.

5 A. But additional education would be given first.

6 Q. Okay. Is it like --.

7 THE COURT: Let me have -- stop there just for a
8 minute.

9 Let's -- all jurors, let's do a seventh inning
10 stretch right now. Everybody stand up and stretch.

11 (WHEREUPON, all the jurors stand.)

12 THE COURT: Okay. I, I got a couple people that are
13 a little bit sleepy.

14 Okay. And if you are, and I'm not gon' embarrass
15 anyone, but if you are, you are welcome to stand.

16 Okay. Please stand. Can not have a sleeping juror
17 or somebody who's fighting that.

18 Okay. Everybody, everybody ready now?

19 (WHEREUPON, the jurors nod affirmatively.)

20 THE COURT: Okay. We'll all have a seat now.

21 Mr. Morin, continue.

22 MR. MORIN: Thank you.

23 Your Honor, I'd like to have this marked as -- for
24 identification as Defendant's No. 2.

25 THE COURT: Defendant's 2.

Melissa Patton - Cross-examination
By Mr. Morin

1 SOLICITOR JORDAN: If I can see it just briefly to
2 look at the number?

3 MR. MORIN: Uh-huh. (Affirmative).

4 (WHEREUPON, Axcass records were marked as Defendant's
5 Exhibit No. 2 for identification purposes only at this
6 time.)

7 Q. I'm gonna show you what's number -- been marked as
8 Defense, Defense Exhibit No. 2 for identification.

9 My question is is this a document that you completed?

10 A. It has Abby's signature.

11 Q. All right. That's Ms. Humphries?

12 A. Yes.

13 Q. All right. So, you mentioned that in 2022, even
14 after [Minor] had passed, right, that Edward and his
15 father came by to deal with a w-2 and notifying that -- do
16 you remember that?

17 A. I do.

18 Q. Is that one Axcass -- did they also inform you and
19 Axcass that [Minor] had passed?

20 A. Yes, they informed me.

21 Q. Okay. Did you later meet with a SLED agent by the
22 name of Glover?

23 A. I met with SLED, yes.

24 Q. Okay. Do you recall telling the SLED agent that
25 Edward appeared to be sad and devastated at his sister's

Melissa Patton - Cross-examination
By Mr. Morin

1 passing?

2 A. I would have to reread my statement to tell you
3 exactly what I said.

4 Q. All right. Do you recall saying that Edward was
5 slower than most taking the exam?

6 A. I do not believe I worded it like that.

7 Q. Okay. All right. Do you recall telling the agent
8 that Edward had a mixture of body odor and cat pee?

9 A. I believe I did say that. I said not -- don't know
10 exact words --

11 Q. Uh-huh. (Affirmative).

12 A. -- but I could read it. But, yes, there was
13 something to that extent.

14 MR. MORIN: May I have just a moment, Your Honor?

15 (Pause.)

16 Q. The employee handbook suggests that employee's wear
17 medical scrubs and be in professional attire suggests --
18 doesn't say that but it suggests it.

19 Is that correct?

20 A. It says to be professional.

21 Q. Okay. Does Axxess do background checks of the
22 parent?

23 SOLICITOR JORDAN: Objection, Your Honor. They're
24 not employees of Axxess.

25 THE COURT: I'm gonna let her answer the question if

1 she knows or not.

2 Q. If you don't know---

3 THE COURT: Go ahead.

4 A. We don't because they're not our employees. They're
5 our clients.

6 Q. Well, actually **Minor's** the client.

7 A. Correct.

8 Q. The parents aren't your client?

9 A. No.

10 Q. Okay. I want to make sure that we keep everything---

11 A. Separate---

12 Q. ---who's, who's doing what.

13 You still have the application up there?

14 A. I believe that is it.

15 Q. Is Axxess Healthcare Services, LLC a different
16 company than Axxess Home Care?

17 A. I don't know the answer to that.

18 Q. Well, I'm just asking because this application says
19 Healthcare, LLC at the top, correct?

20 A. It does.

21 Q. This is State's Exhibit No. 119. It's Page 54.

22 But, again, you're not alleging at any point that he
23 was a healthcare provider?

24 A. Correct.

25 Q. Last question.

Melissa Patton - Cross-examination
By Mr. Morin

1 During his training, Edward's training, was he ever
2 asked to demonstrate anything he might have to do with a
3 client?

4 A. No.

5 MR. MORIN: That's all the questions I have at this
6 time, Your Honor.

7 THE COURT: Solicitor, anything?

8 SOLICITOR JORDAN: Yes, sir, just a couple quick
9 follow-up questions.

10 REDIRECT EXAMINATION

11 BY SOLICITOR JORDAN:

12 Q. Mr. Morin referenced the government money that Axxcess
13 received.

14 who else received government money in this case?

15 A. Edward.

16 Q. Okay. They -- the aids are chosen by the family?

17 A. Correct.

18 Q. And then the aid chooses to also work for Axxcess?

19 A. Correct.

20 Q. So, it's not a one way street of just one person
21 deciding it. It's both.

22 A. Yes, ma'am.

23 Q. Okay. And he came to your office at least three
24 times?

25 A. Yes, ma'am.

1 Q. You gave him training on abuse and neglect?

2 A. Correct.

3 Q. And how to report that?

4 A. Correct.

5 Q. That included calling 9-1-1 if needed?

6 A. Yes.

7 Q. Okay. So, he had training in that area?

8 A. Yes, ma'am.

9 Q. And if we look at State's Exhibits that contain the
10 time sheets, the only thing, for the most part that I
11 recall, is that he was paid or he claimed to do meal prep
12 and set-up --

13 A. Correct.

14 Q. -- for the majority of the time, if not all. I'm
15 not, not sure.

16 You also trained or he received training on bed sores
17 or on pressure sores?

18 A. Yes.

19 Q. And how to identify those?

20 A. Yes.

21 Q. Okay. You never received complaints from Bobbie that
22 she never allowed him into her room, did you?

23 A. No.

24 Q. Did you receive complaints from David that she -- he
25 wasn't allowed in their room?

1 A. No, ma'am.

2 Q. Did Edward tell you that he wasn't allowed into that
3 room?

4 A. No, ma'am.

5 Q. That he was blocked access, access to Minor ?

6 A. No.

7 Q. Okay. No one made any complaints about access to
8 Minor ?

9 A. Correct.

10 Q. Appendix K that you mentioned, that came about during
11 COVID?

12 A. Yes, ma'am.

13 Q. And what was the big thing with Appendix K?

14 A. That they -- we'd no longer have to go to the homes.

15 Q. So that was a choice by the government?

16 A. Yes.

17 Q. Mr. Morin talked about them or asked about the care
18 and at the direction of the parents.

19 In addition to the care, it was also respite?

20 A. Correct.

21 Q. And what is respite?

22 A. Respite is also a form of care. But it's to give the
23 parents rest.

24 Q. Okay. To give them rest to take --?

25 A. Responsibility of the caring.

1 Q. Okay. And he was paid how much or he was paid for
2 how many hours a month for that?

3 A. Sixty-eight.

4 Q. No complaints from either three of them during this
5 entire time period?

6 A. No, ma'am.

7 Q. Mr. Morin made comments about the fact that you did
8 not lay eyes on Minor .

9 Is that a part of your job in what, what you do?

10 A. It is not.

11 Q. Okay. You're the coordinator and the trainer?

12 A. Yes, ma'am.

13 Q. Nothing further.

14 MR. MORIN: Your Honor, I have a few on re -- if I
15 may?

16 THE COURT: Let's see where it is -- anybody else --
17 well, that's fine.

18 Go ahead.

19 RECROSS-EXAMINATION

20 BY MR. MORIN:

21 Q. Edward lived with his parents.

22 Is that right?

23 A. To my knowledge, yes.

24 Q. And the money that was being paid for him was flowing
25 into their home.

Melissa Patton - Recross examination
By Mr. Morin

1 Is that right?

2 A. It was paid to Edward.

3 Q. All right. You say it was paid to Edward.

4 Now, if I understand correctly, you made direct
5 deposits.

6 Is that correct?

7 A. We made a deposit to the information that Edward
8 provided us, the account he gave us.

9 Q. Okay. So, Edward gave you an account number and
10 that's where the money went --

11 A. Correct.

12 Q. -- for him, what he was doing for y'all?

13 A. Yes, we paid---

14 Q. But---

15 A. ---for service.

16 Q. But you don't know where that account was or who it
17 belonged to. You just know that's the account number he
18 gave.

19 Is that correct?

20 A. He fills out the application and puts down how he
21 wants to get paid.

22 Q. Right.

23 Puts down an application -- puts down an account
24 number.

25 A. He did, yes.

Melissa Patton - Recross examination
By Mr. Morin

1 Q. Right.

2 But Axxess doesn't know whose account number that is
3 and you don't care, do you, as long as you're paying,
4 right?

5 That's where he said to send it.

6 Is that correct?

7 A. It's where the employee wants to receive their
8 paycheck.

9 Q. Okay. And, in this case, he was a cash app card, was
10 it -- wasn't it?

11 A. I'm -- I would have to look. I believe so.

12 Q. You have -- she -- no.

13 Okay.

14 A. It would be---

15 Q. No further---

16 A. ---the account they wanted.

17 MR. MORIN: No further questions.

18 THE COURT: Okay. Ma'am, you may step down. Please
19 be careful.

20 SOLICITOR JORDAN: Your Honor, may this witness be
21 excused?

22 May Ms. Patton be excused?

23 THE COURT: Any objection?

24 MR. FILE: No objection.

25 MR. MORIN: No objection.

Kelly Rose - Direct examination
By Solicitor Barnette

1 Newberry Pathology Group.

2 THE COURT: Thank you.

3 Solicitor.

4 SOLICITOR BARNETTE: Thank you, Your Honor.

5 Your Honor, I know we had a meeting in your chambers
6 back in there. I think, for purposes of this, all three
7 defendants agreed to qual -- stipulate to her
8 qualifications as a forensic pathologist.

9 THE COURT: For the purposes of the proffer, yes,
10 sir.

11 SOLICITOR BARNETTE: Okay. And I believe that's --
12 you may want -- is that correct, from all the defendants?

13 MR. FILE: That's correct.

14 MRS. RACINE: That's correct.

15 MR. MORIN: That's correct.

16 SOLICITOR BARNETTE: Thank you.

17 THE COURT: Thank you.

18 SOLICITOR BARNETTE: Thank you.

19 DIRECT EXAMINATION

20 BY SOLICITOR BARNETTE:

21 Q. Doctor, in this case, did you perform an autopsy on
22 Minor [REDACTED], Minor [REDACTED] in this case?

23 A. I did.

24 Q. And, in that autopsy and everything, was there
25 photographs taken from those?

1 physically.

2 And then on her outsides it looked like she had been
3 dropped in acid from her buttock to her toes. Her skin
4 was raw, red. In areas it had actually almost appeared to
5 have dissolved. Now, that's not exactly what happened to
6 it. But it looked as it had. It was absent.

7 This is from the -- you know, urine has ammonia.
8 It's a chemical one. Feces is very -- poo is very
9 irritating to the skin and she -- you get these kind of
10 marks on the skin when you -- someone is exposed to urine
11 and feces chronically.

12 Your skin is a good barrier it -- for most things.
13 But it can not withstand that type of chemical burn.

14 Her teeth were in a -- were in terrible shape and she
15 appeared just with her -- the muscles in her arms and
16 legs, she would not have been able to care for her own
17 oral hygiene. Her teeth were rotten.

18 She had so much earwax in her ears that I doubt she
19 heard anything in a long time. Like she would of been
20 deaf. The amount of earwax in her ears was similar to
21 what you take out of a very elderly, old patient that
22 comes to you and the wife's been complaining he hasn't
23 heard anything for a month because they have so much
24 earwax.

25 Her hair looked like -- it was short, irregular in

1 patches. It looked like it had been cut by a child or she
2 was recuperating from some sort of a -- like grave
3 illness. It did -- it was not healthy.

4 within the short hair I found cuts that appeared to
5 have been made from scissors and there was no vital
6 reaction to those cuts so that her scalp had been cut and
7 her hair had been cut after she had died. That was just
8 that the -- what I saw on the outside.

9 On the inside -- oh, down her little bottom was so
10 swollen -- I've never seen that -- a diaper -- you see
11 diaper rash on babies. She was 14. But I've never seen
12 anything that comes close to that on, on any of my
13 autopsies or any of the people that I saw in med school.

14 Then, on the inside, she had horrific pneumonia.
15 Both lungs were -- had areas of pus. She obviously was
16 septic. The bacteria had gotten into her blood, seated
17 her lungs, and I ran a culture and that was a urinary
18 tract infection. So, she had been sitting around in the
19 urine and feces so long that it had gotten access to her
20 bladder, then her bloodstream, and then it seated her
21 lungs.

22 Q. In talking about the bacteria and everything, through
23 the wounds in her legs, things like that, through her
24 vagina, her genital area, would that be where the UTI or
25 where the bacteria came through those different areas?

1 legs. Especially in the deeper tissues. You -- ch --
2 her -- the little superficial vessels in the skin itself
3 were probably involved in all this and that's why it, in
4 real life, they were so red.

5 Q. So, obviously it's the urinary -- these are like
6 chemical burns?

7 A. Yeah, that's the best way to kind of try to capture
8 it in a description. It's a chemical burn.

9 Q. And the legs -- and the, and the child abuse led to
10 this also or the abuse?

11 A. One hundred percent. That is a child who has not
12 been bathed or changed or picked up or had their clothes
13 removed, their bedding replaced in a very long time.

14 Q. And how long would this occur?

15 How long --?

16 A. At a minimum, I would say weeks.

17 Q. So, it happened over weeks, this period of time?

18 A. Yes.

19 Q. So, this is something -- this is not a merely medical
20 event?

21 A lot of people think---

22 A. No.

23 Q. ---when a child dies, it's like a -- just sudden like
24 this but it's not a medical event, and would those
25 pictures help educate the jury on that?

Kelly Rose - Direct examination
By Solicitor Barnette

1 A. Yes.

2 Q. Let me show you 102.

3 Can you tell the judge what that is?

4 Tell the Court please.

5 A. That is a closer picture of the knee. You can
6 actually see the skin is gone there now. That circle of
7 the -- the darker circle on the knee, anterior knee near
8 the kneecap, tissue's gone, the skin and subcutous
9 (phonetic).

10 Q. So, the -- obviously this leads to sepsis and
11 everything else?

12 A. Oh, yeah, any open wound on anyone's body, let alone
13 the, the number of open wounds she had.

14 Q. And this could show evidence of abuse that
15 occurred---

16 A. Oh, yes.

17 Q. ---over weeks at least?

18 A. Yes, the chronic nature of them.

19 Q. Let me show you State Exhibit 103.

20 Can you tell us what that picture is, ma'am?

21 A. That is a thigh. That is her thigh and that shows
22 you more of where the, the -- this top layer of skin is
23 gone and then like it was red as that number down there,
24 103, and moist -- you almost -- you'd say gooey and those
25 are from the -- that is from the urine and the feces on

1 her skin.

2 Q. And, like I said, that's evidence of the, of the---

3 A. Of---

4 Q. ---abuse and everything else?

5 A. Yes, that is evidence of how chronic nature. That
6 doesn't happen that -- I, I do autopsies on a lot of
7 elderly individuals that do sit around in, you know, their
8 urine and feces. I've never seen this degree.

9 Q. Looking at 104, can you tell us what that is a
10 picture of for the Court?

11 A. That is a -- just more of her leg. You can see a
12 little bit of back there.

13 Q. Okay. And is that also -- the back, does that show
14 the sores and the injuries that she had in her back?

15 A. Yes.

16 Q. And that occurred from, from lack of care from there?

17 A. That does. That's just more of the urine seeping up.

18 Q. One hundred five, can you describe that for the Court
19 please?

20 A. These are her little legs, different view.

21 I remembered -- I think she had on like -- which --
22 I'll have to look at my report.

23 There were tights. I want to say it looked as if the
24 pattern on her legs looked as this. She'd had been in
25 tights or like leggings and had just -- and that -- those

Kelly Rose - Direct examination
By Solicitor Barnette

1 clothes being soaked with the urine and the feces were --
2 clung to her legs and caused the burns to be that severe.

3 So, not only is she laying around in feces and pee,
4 but her clothes are not being changed, and that's adding
5 to the injuries and the chronic --.

6 Q. Let me go to the other knee from there.

7 Did it show the similar damage to it on the---

8 A. It---

9 Q. ---other knee too?

10 A. It did.

11 Q. And is that caused from the abuse and the, the --
12 over the weeks that it occurred?

13 A. Yes.

14 Q. Show you State Exhibit 106.

15 A. That's on -- a picture of her back. Those are more
16 scratches and irritation from the urine --

17 Q. Could that be---

18 A. -- and filth.

19 Q. Could that be scratches from animals or from---

20 A. Yeah. See, at the time, I wasn't aware. But it does
21 look a little like what I see with roach activity on
22 bodies. I've seen -- looks like that with roach --
23 roaches on other bodies that I've had autopsy. That could
24 be it in part, insect activity.

25 Q. And so that could be part of the neglect---

1 A. And filth.

2 Q. ---as well as the abuse in this case --

3 A. Yes.

4 Q. -- where she was exposed to over weeks?

5 A. Yes.

6 Q. State Exhibit 107.

7 Can you tell us what that is a picture of, ma'am?

8 A. That is a picture of her ears. A little hard to tell
9 in this picture. But down where you -- inside her little
10 ear canal there, the -- what you're seeing is earwax that
11 it was just thick and it's hanging out of the ear nearly
12 at this point.

13 Q. And, like I said, a colored picture would actually
14 show this better?

15 A. Yeah, a hundred percent.

16 Q. State Exhibit 108.

17 If you could, tell us what this is, ma'am.

18 A. Those are her little genitals. That is how swollen
19 her little bottom was and bright red. Where you see it
20 dark, it was actually an angry red color and it's just
21 completely swollen.

22 Q. Okay. And is that signs of the, the abuse and the---

23 A. Yes.

24 Q. ---neglect that they left her -- left her in?

25 A. I mean yes.

1 Q. And is this part of what led to her death too?

2 A. It -- one hundred percent did.

3 Q. And the -- to show the jury, that would educate them
4 concerning the -- what happ -- the manner of death in this
5 case?

6 A. Correct.

7 Q. And it'd show them where the -- they -- the bacterias
8 and everything that led to the UTI that led to her sepsis?

9 A. Correct. As bad as it is on the outside, that's how
10 bad it had gotten on the inside.

11 Q. Okay. And, of course, across here, is that the area
12 basically you said below that from that standpoint is like
13 the chemical burn from that standpoint?

14 A. One hundred percent.

15 Q. Let me show you State Exhibit No. 109 I believe.

16 Can you tell us what -- tell the Court what this is,
17 ma'am?

18 A. This is a picture of her torso, which is just her
19 chest and abdomen. You can see she has a feeding tube in
20 place and you can see how her chest is a little bit
21 bigger, a little misshapen, and how thin her left arm is
22 in this picture. So, you can see how she was debilitated
23 and couldn't at all care for herself. And then, in the
24 lower abdomen, you see more of the areas of irritation.

25 Q. Could that be from the insects and other things too?

1 THE COURT: You remain my alternate.

2 THE JUROR: Oh, okay.

3 THE COURT: All right. Everybody ready, Mr. Foreman?

4 THE FOREMAN: Yes, sir.

5 THE COURT: Solicitor.

6 SOLICITOR BARNETTE: Your Honor, I'd like to call

7 Doctor Rose to the stand please.

8 THE CLERK: Please raise your right-hand. Place your
9 left-hand on the Bible.

10 DOCTOR KELLY ROSE, being first duly
11 sworn, testified as follows:

12 THE COURT: Doctor, if you'll position that
13 microphone to suit yourself and tell us who you are and
14 spell your last name please.

15 THE WITNESS: I am Kelly Rose like the flower.
16 R-O-S-E. I am the forensic pathologist in Newberry, South
17 Carolina, and I cover Cherokee County cases.

18 THE COURT: Solicitor.

19 SOLICITOR BARNETTE: And -- thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY SOLICITOR BARNETTE:

22 Q. Doctor Rose, tell the jury a little bit about your
23 position and what you do, ma'am.

24 A. I am the, the only forensic pathologist there. It's
25 a group and I do autopsies for 16 of South Carolina

Kelly Rose - Direct examination
By Solicitor Barnette

1 counties, for the South Carolina Department of
2 Corrections, and the Federal Bureau of Prison. I do a --
3 about a thousand -- 900 to a thousand autopsies a year.

4 Q. Can you tell what a forensic pathologist does, ma'am?

5 A. Yes.

6 So, a forensic pathologist is a medical doctor. I
7 get asked that a lot, are y'all doctors. We are medical
8 doctors.

9 So, I went to medical school and then I decided I
10 wanted to go into pathology, which is the study of
11 disease. Once I did my residency in pathology, and you're
12 learning how to diagnose diseases, you can then
13 subspecialize or get extra training and I decided to do
14 that in forensics. And a forensic pathologist does
15 autopsies to determine the cause and manner of death.

16 So what you're diagnosing as a forensic pathologist
17 is how the -- did the person die and what was that manner.
18 So it's a little bit of the circumstances in which the
19 death occurred and you do that using an autopsy.

20 Q. If you could, tell the jury a little bit about your
21 education, your background, ma'am.

22 A. I went to college at the College of Charleston. I
23 got my bachelor of science in biology. I then went to the
24 Medical University of South Carolina where I got my
25 medical doctorate.

Kelly Rose - Direct examination
By Solicitor Barnette

1 I finished my residency training in pathology at
2 Emory in Atlanta and I stayed on for an extra year to do
3 a -- their forensic fellowship at Emory and that is in
4 downtown Atlanta, Fulton County, medical examiner's
5 office.

6 Q. And how many autopsies have you performed, ma'am?

7 A. It's in-between 6,500 and 7,000. I haven't finished
8 tallying it. But it's in-between that.

9 Q. And how many times have you been qualified as an
10 expert in forensic pathology, ma'am, in state court?

11 A. There -- around 65. So, it could be a little -- plus
12 or minus one or two. Sixty-five.

13 SOLICITOR BARNETTE: Your Honor, I would move her as
14 an expert in forensic pathology at this point.

15 THE COURT: Any questions, Mr. File?

16 MR. FILE: No questions.

17 THE COURT: Mrs. Racine.

18 MRS. RACINE: No questions.

19 MR. MORIN: No questions.

20 THE COURT: Okay. Ladies and gentlemen of the jury,
21 again, most witnesses have to testify to something they
22 have seen, heard, or know of in their personal knowledge.
23 But someone can be qualified in their field of training
24 and she is now qualified as an expert in forensic
25 pathology.

Kelly Rose - Direct examination
By Solicitor Barnette

1 So, you do not have to accept her opinion. You give
2 it whatever weight you deem advisable.

3 Solicitor.

4 SOLICITOR BARNETTE: Okay. Thank you, Your Honor.

5 In this case, Doctor Rose, did you do an autopsy on
6 Minor [REDACTED] in this case, Minor [REDACTED]?

7 A. I did. It was in 2022. April the 14th.

8 Q. If you would, tell the jury about the findings -- let
9 me ask you a question. I think there was some pictures
10 that you did that was taken at the autopsy as well as the
11 ER.

12 Let me show you State's Exhibits 2 through 27.

13 Without showing the jury, if you would, just mark for
14 ID purposes, do those pictures fairly represent what you
15 saw and what you understand from her case?

16 A. They do.

17 Q. And I'll let you keep those with you if you want to
18 from that standpoint.

19 If you would, tell the jury what you observed and
20 what you found, ma'am.

21 A. So, an autopsy is broken into several parts. And so
22 the first part is the external examination.

23 So, in this case of Minor [REDACTED], I -- we unzipped the bag
24 that she was in, the body bag, and we took pictures. I
25 looked at her from head to toe and what I'm doing, when

Kelly Rose - Direct examination
By Solicitor Barnette

1 I'm looking at a body, is I'm looking for signs of
2 disease, signs of injury, anything to help me figure out
3 why did, in this case, did this little girl die.

4 She -- her body, and the way her arms and legs were
5 positioned, there was obvious that she was disabled. It
6 looked like she couldn't walk. She had really
7 underdeveloped muscles in her arms.

8 She -- her spine was at a position that you see in
9 profound disabled children and I've seen -- I've done many
10 autopsies on profoundly disabled children. Someone who's
11 had that problem since birth is generally what gives you
12 that -- the picture of her little body.

13 And then, superimposed on that, she had -- it
14 appeared -- looked as if she -- her lower body had been
15 dipped in acid. It was moist. It wasn't dry like your
16 skin's suppose to be.

17 It was bright red, as red as that gentleman's shirt.
18 It looked raw. There were areas on her skin that it
19 almost looked as if someone had switched her or flogged
20 her. The skin on both of her knees was -- it looked
21 dissolved.

22 Now it wasn't dissolved because your skin doesn't
23 dissolve but it can break down if it's exposed --
24 constantly exposed to an irritant. And when I see
25 findings like this -- I've never seen findings this bad,

1 this extensive. But I have seen these before. It's from
2 prolonged exposure to urine and feces.

3 So, if you can imagine you can not walk. You can not
4 tell someone that you need to use the bathroom and you are
5 lying in your own filth, urine, and feces for weeks and
6 what it might do to your skin. I mean I don't know if
7 many of you have children. But you know a regular diaper
8 rash, if you don't change a diaper, quickly what it can
9 look like, what it can do, and now imagine what it might
10 look like if that had been going on for weeks.

11 Her little privates, her, you know, vulva and the
12 labia to her privates were so swollen and red. I've yet
13 to see anything even remotely close to that.

14 Being a woman, I know how if you have a little
15 irritation down there, the pain that you experience. I
16 can't -- I don't think I can fathom the pain that she was
17 probably experiencing from what I saw on her bottom.

18 She had rotten teeth. It was obvious to me that she
19 couldn't brush her own teeth. She was a help -- she was a
20 helpless child and her teeth were rotten. So, her teeth
21 had been neglected.

22 I remember around her eyes were even red, and, at the
23 time, I was trying to make sense of why are -- is it --
24 are her eyes red. It's, to the best of my knowledge and
25 from my experience, I believe that it's likely from the

1 urine and the ammonia smell and it was irritating her
2 eyes. So, not only was she getting a, a type of chemical
3 burn coming in contact with her skin but the fumes were
4 irritating her eyes.

5 And there were areas that were of similar changes
6 that involved her lower back and her lower belly, which
7 would be consistent with if your pants or whatever you're
8 wearing, it's soaked in urine, it starts to creep up. So
9 soaked with urine it spills over out of your pants onto
10 your -- the lower back and belly. And that was just what
11 I saw on the outside.

12 Q. If I can ask you, on her back, upper back area, what
13 did you see to -- from your examination from looking at
14 her body?

15 A. There were abrasions and areas of irritation that
16 resembled what I see with insects when insects will get on
17 people's skin. If you are around enough insects, roaches
18 in particular, they will irritate your skin. It's as
19 almost as if they've chewed on your skin. I don't know,
20 I'm not an insect person, what exactly they're doing. But
21 that is -- it looked like that to me.

22 Q. In talking about her scalp area, if you can talk
23 about her hair and everything?

24 A. She had really short hair and it wasn't short like a
25 style. It looked irregular and patchy like as if, you

1 know, maybe when you're a little kid, try to cut your own
2 hair. But it was her entire scalp.

3 So, almost like in cancer victims, hair grows back,
4 it will grow back in patches. That's what her hair looked
5 like and she had a fungal infection of her scalp.

6 Y'all've all heard of athlete's foot. You can get
7 those same types of changes in your -- the skin of your
8 scalp if you are not clean, not taken care of, and she
9 had -- we -- the word we use is diffuse. Her entire scalp
10 was involved by this fungus infection.

11 And then I noticed two parallel cuts above her ear on
12 her scalp and that struck me as odd because they were very
13 parallel like what you get if you've ever cut yourself
14 with scissors.

15 So, she had two cuts that appeared like they were
16 made, made from scissors and what would the -- the most
17 significant finding was there's no reaction to them. So
18 someone had cut her scalp after she died trying to cut her
19 hair and she was already dead and they were cutting her
20 hair. I don't know why. But that was what I saw and I
21 even took that tissue and looked at it under the
22 microscope and there's no reaction to it.

23 So, what -- a hundred percent she had her hair cut in
24 a very haphazardly way after she was dead. It's hard --
25 really hard for me to put into words what I saw.

1 Q. Had you ever seen anything like this in your career?

2 A. I have never seen anything like this in my career
3 before or since. I do examinations of prisoners who have
4 a cancer and they send them to me to do an examination.

5 So, people that -- with in-stage cancer that have
6 some skin -- problems with skin breakdown did -- none of
7 their findings compare to what I saw on this little girl.
8 It was by far the most horrific thing I've seen and, as I
9 described earlier, she was disabled. You could tell she
10 was disabled.

11 But you still have pain receptors in your skin. I
12 can't imagine the level of pain that she would of been in.

13 Additionally, in her ears, there was such thick wax.
14 I've never seen wax that thick other than when I was going
15 through training and we would have to clean out people's
16 ears. I've never seen wax that thick. It was so thick
17 that I don't think she was able to hear.

18 So she was in pain in the -- and not able to hear
19 anything and suffering for weeks before she died. At --
20 minimum of weeks before she died.

21 Q. So, this condition on the outside of her body,
22 would -- how long would it take to get in that kind of,
23 kind of condition?

24 A. Eight weeks minimum.

25 Q. All right. Let me ask you, on the internal part of

Kelly Rose - Direct examination
By Solicitor Barnette

1 her body, if you would, talk about what you found, doctor.
2 A. So, she had pneumonia in her lungs and sometimes
3 someone could have pneumonia and you don't really see it
4 at the time of the autopsy. You have to look at it under
5 the microscope.

6 But I -- she had pus in her -- both of her lungs, her
7 right and her left lungs. There was just frank,
8 consolidated pus in her lungs and that's what we call low
9 bar pneumonia, and that is indicative of a process that's
10 been going on for a long time. This is not a quick
11 process. That -- the bugs, the bacteria were able to
12 fester in her lungs long enough for it to cause pus to be
13 seen with the naked eye.

14 I did blood cultures on her and blood cultures are
15 just you take a sample of blood and you send it to the lab
16 to see what's growing in it, what kind of bacteria or bug
17 is there and that you should not have.

18 She -- the -- what it grew out were two bacteria,
19 bugs that are very common with a -- urinary tract
20 infections. So, I see that in really old, elderly people
21 and, in her case, that indicated to me that she sat in her
22 own urine and feces with open sores on her legs and the
23 bacteria was able to gain access to her blood, travel to
24 her lungs, set up pneumonia, and the pneumonia sits there
25 and develops and festers for weeks.

1 Q. This led to what we call sepsis in her also?

2 A. Yes.

3 Sepsis is when the bacteria actually gains access to
4 the blood and it, it causes a set of symptoms because your
5 body's trying to fight the, the bacteria in the blood.
6 The -- they're growing so much and they're rapidly growing
7 and multiplying and it's -- your body's trying to fight it
8 off and it causes symptoms.

9 Q. In her colon, her intestines, did you find something
10 else?

11 A. So, in her colon, what was a large, hard piece of
12 stool. So we call those fecaliths. That is indicative of
13 what we call impaction.

14 So, once you are pass the point of being constipated,
15 you can not physically pass that stool. It's too big.
16 It's too hard. It was the size of my hand. So, the only
17 option your body has at that point is to have loose
18 stools, diarrhea around it. But you can't get that out on
19 your own. You have to have procedures. They have to go
20 in and actually break that up to get that out. So that
21 was there.

22 Q. So, this -- was this signs of abuse in your opinion?

23 A. Yes.

24 This surpassed neglect and I've done many neglect
25 cases. This -- you would have to not care at all and

Kelly Rose - Direct examination
By Solicitor Barnette

1 all -- almost have malice or a hardened, very hardened
2 heart to allow someone to suffer like that.

3 Q. And, in your opinion, obviously the neglect and
4 abuse, would it lead to great bodily injury first before
5 death?

6 A. Yes, which is what made this case so hard. I'm
7 trying not to get emotional and I've seen a lot of cases
8 and usually I can distance myself. But it's been very
9 hard with this case. It would of been more kind for her
10 to have been shot in the head. She suffered tremendously
11 before she died.

12 Q. So, obviously serious or permanent impairment
13 occurred before death in this case?

14 A. Yes.

15 Q. Obviously this abuse led to her death.

16 Is that right --

17 A. Yes.

18 Q. -- from there?

19 And would you say that the, the way she was treated,
20 would that show wantonness or reckless disregard for human
21 life?

22 A. Yes, and that's putting it mildly in my opinion.

23 Q. What was the cause of death that you found, ma'am?

24 A. It was complication of acute and chronic medical
25 neglect and, by that, that encompassed all the findings

Kelly Rose - Direct examination
By Solicitor Barnette

1 that were -- she was allowed to suffer which that led to
2 her death.

3 Q. The problem is a lot of these things was totally
4 preventable, is that -- or all preventable---

5 A. One hundred percent---

6 Q. ---correct?

7 A. ---preventable. And that's why I -- said the manner
8 of death in this case was a homicide. This was murder.

9 SOLICITOR BARNETTE: One moment, Your Honor, please.

10 (Pause.)

11 Q. Just a couple more questions real quickly, ma'am.

12 Her knees, if you would, describe those to the jury
13 if you could?

14 A. Her knees were so involved by the chemical burns and
15 the issues that she would of had from the -- her feces,
16 the liquid stool that she was probably passing, diarrhea,
17 that -- the word we use in medicine is called macerated
18 and that means to soften from soaking in water, that it
19 was so softened that it was gone. It -- and I could see
20 past her skin to the tissue underneath from where -- what
21 your skin is on her knees.

22 Q. How many open wounds could you see?

23 A. There was so many I, I couldn't count them. I
24 usually try to do a diagram for all the pertinent
25 findings. There were too many. I couldn't.

Kelly Rose - Direct examination
By Solicitor Barnette

1 Q. And did you do a summary of your autopsy in this
2 case, ma'am?

3 A. I did.

4 Q. Let me show you what's been marked as State Exhibit
5 18.

6 Is that a summary of your autopsy, ma'am?

7 A. Yes.

8 SOLICITOR BARNETTE: Your Honor, I'd like to move
9 this into evidence at this time.

10 THE COURT: Any objection?

11 MR. MORIN: Need to approach.

12 THE COURT: Sure.

13 (WHEREUPON, a bench conference was held out of the
14 hearing of the jury at this time.)

15 Q. Doctor, thank you for testifying. Please answer any
16 questions the defense may have for you, ma'am. Thank you.

17 THE COURT: Mr. File.

18 MR. FILE: No questions.

19 THE COURT: No questions.

20 Mrs. Racine.

21 MRS. RACINE: Thank you, Your Honor.

22 May it please the Court?

23 CROSS-EXAMINATION

24 BY MRS. RACINE:

25 Q. Doctor, I just have a couple questions for you.

1 A. Okay.

2 Q. I believe you testified that Minor got a UTI, which
3 led to sepsis, which led to pneumonia?

4 A. Yes, that's -- she had that.

5 Q. Okay. Can you tell by looking at someone that they
6 had a UTI just --?

7 A. No.

8 I was able to tell she had it -- a UTI, from, A, the
9 fact that her body, which was red as it was, that she'd
10 been sitting in her feces, her stool, and her urine, and
11 then I did a blood test and the bugs that grew out are
12 common bacteria that cause UTIs, and in all the cases that
13 I've done of elderly women, to get this situation is the
14 same exact pattern.

15 So, you learn all of that in med school and then it's
16 been reinforced with all the autopsies that I've seen.
17 That's how I diagnosed that.

18 Q. How about sepsis?

19 Can you tell from looking at somebody if they have
20 sepsis?

21 A. No, that's an inference. You infer it from all your
22 findings. It doesn't mean they don't have it. It's
23 inferred based on the facts.

24 Q. Okay. And, finally, the pneumonia, would, would a
25 parent be able to look and tell their child has pneumonia

Kelly Rose - Cross-examination
By Mrs. Racine

1 just by looking at them?

2 A. This child -- I've seen live parents bring their
3 children in cause they're coughing. They have a fever.
4 They seem ill. They don't eat. They're -- they don't
5 seem normal. Her baseline was a little different.

6 Yes, I can tell when my cats are sick. Parents can
7 tell when their kids are sick and she wasn't just a little
8 sick. She was acutely sick. She was terminally sick,
9 yes.

10 Q. I'm sorry.

11 A. Yes to your answer. Parents can tell when their
12 children are sick and pneumonia is a very grave illness.

13 Q. But can they tell, just by looking, that it's
14 pneumonia?

15 A. No, you would not know what---

16 Q. Thank you.

17 A. ---exactly the problem is.

18 Q. Thank you, Doctor Rose.

19 No further questions.

20 MR. MORIN: I have no questions.

21 THE COURT: Thank you.

22 Doctor -- anything?

23 SOLICITOR BARNETTE: Your Honor, I just have one
24 matter I'd like to take up with the Court at this time
25 real quick.

1 THE COURT: Okay.

2 (WHEREUPON, a bench conference was held out of the
3 hearing of the jury at this time.)

4 THE COURT: Anything, solicitor?

5 SOLICITOR BARNETTE: Other than the matter I took up
6 at the side---

7 THE COURT: Yeah, we'll put that---

8 SOLICITOR BARNETTE: ---I'd like to be heard on that.

9 THE COURT: We'll put that -- we'll put that on the
10 record.

11 Doctor, you may step down.

12 Is she excused?

13 SOLICITOR BARNETTE: She will be once I put my matter
14 on the record, Your Honor.

15 THE COURT: Oh, okay.

16 SOLICITOR BARNETTE: Well, she can step down at this
17 point. But I would ask her not to be excused at this
18 point.

19 THE COURT: Okay. Any, any objection to her being
20 excused?

21 MR. MORIN: No.

22 MRS. RACINE: No, Your Honor.

23 MR. FILE: None, Your Honor.

24 THE COURT: Okay. Thank you, doctor.

25 You need to send them---

1 SOLICITOR BARNETTE: Yes, sir, if we could be heard
2 on that, what we talked about.

3 THE COURT: Okay. Mr. Foreman, ladies and gentlemen,
4 we'll let you take a real quick break. He's gon' put
5 something on the record and, quite honestly, I'm gon' get
6 a little glass of ice water.

7 So, if you take a -- just about a five minute break
8 here, 10 minute break.

9 (WHEREUPON, the following takes place outside the
10 presence of the jury.)

11 THE COURT: Solicitor.

12 SOLICITOR BARNETTE: Thank you, Your Honor.

13 May it please the Court.

14 The reason why I asked for the side bar before the
15 jury was excused, Your Honor, I know they're not here now,
16 the pictures that we moved in, Your Honor, I think they
17 become more relevant that -- in this case and then very
18 probative in this cases especially on the question Mrs.
19 Racine just asked if a parent could recognize this
20 situation.

21 If you look at these pictures, there's no question
22 about it. That's the whole problem with the way the case
23 has gone.

24 A lot of people think this is just a medical event.
25 This is not a medical event. This happened over weeks

1 from that standpoint.

2 we've had two doctors testify about the injuries and
3 so forth. And for her to ask that question, can you tell
4 by seeing or whatever, Doctor Rose tried to answer the
5 question but the pictures would answer that question.

6 THE COURT: Okay.

7 SOLICITOR BARNETTE: There's no question about the
8 injuries that occurred. It becomes a lot more probative
9 in this case and relevant than any prejudicial because now
10 they've put in the mind that these were injuries that
11 possibly a parent couldn't see from that standpoint and I
12 think that's -- that's the reason I'm making the motion to
13 renew my motion to enter these pictures. That's State
14 Exhibits 100 through 117.

15 Thank you.

16 THE COURT: Mr. File.

17 MR. FILE: No, Your Honor. We stand by our motion
18 and your ruling on that. I think it's still -- your
19 ruling is still correct. So --.

20 THE COURT: Mrs. Racine.

21 MRS. RACINE: Thank you, Your Honor.

22 Very briefly, Doctor Rose began her testimony --
23 testified that in order to identify the UTI, she had to do
24 blood cultures. She also said she had to do -- she had to
25 cut **Minor** open to look at her lungs to see that the

1 pneumonia was there.

2 The question I asked was simply could she tell by
3 looking and how -- she already answered -- well, she did
4 answer about it that she had to do cultures.

5 I didn't ask anything that was outside the scope of
6 her autopsy report or anything that she already testified
7 to. I just wanted to clarify a parent would be unable to
8 do that or see that. But she wasn't even able to do that
9 or see that by simply looking at her. She had to perform
10 the autopsy in order to do that.

11 I ask that your ruling still stand and the
12 photographs will still be excluded at this time.

13 THE COURT: Mr. Morin.

14 MR. MORIN: I think Doctor Rose's response that a
15 parent can tell, based on what she's testified to, is
16 sufficient.

17 THE COURT: Okay. Okay. The -- you're protected on
18 the record. But it's denied again, solicitor.

19 SOLICITOR BARNETTE: Thank you, Your Honor.

20 We'd ask that Doctor Rose be excused then, Your
21 Honor. I appreciate you letting me put that on the record.

22 THE COURT: Yeah. Certainly. Absolutely.

23 Any objection to her being excused?

24 MR. FILE: No, Your Honor.

25 THE COURT: Thank you.

1 MRS. RACINE: No, Your Honor.

2 THE COURT: Let's, let's all take a, a quick five to
3 six minute break. I'm gon' get some, some more water for
4 me.

5 (WHEREUPON, a short recess was taken at this time.)

6 THE COURT: Thank you. Thank you.

7 Everybody ready?

8 SOLICITOR JORDAN: I'm, I'm gon' -- I lost Barry.

9 THE COURT: Okay.

10 MR. MORIN: I lost my assistants.

11 SOLICITOR JORDAN: I think he went to the restroom.

12 MR. MORIN: Yeah, I think that's where they are.

13 (Pause.)

14 SOLICITOR JORDAN: Your Honor, if I can have one
15 moment to find the right notepad?

16 THE COURT: Sure. Sure.

17 SOLICITOR JORDAN: I seem to have selected too many
18 of them.

19 (Pause.)

20 THE COURT: You ready?

21 SOLICITOR JORDAN: Yes, sir.

22 THE COURT: Everybody ready?

23 (WHEREUPON, there was no audible response.)

24 THE COURT: we'll have the jury.

25 (WHEREUPON, the following takes place within the

Alicia Dunnaway - Direct examination
By Solicitor Jordan

1 presence of the jury.)

2 THE COURT: Mr. Foreman, everybody, everybody good?

3 THE FOREMAN: Yes.

4 THE COURT: Solicitor.

5 SOLICITOR JORDAN: Thank you, Your Honor.

6 State calls Alicia Dunnaway.

7 THE CLERK: Please raise your right-hand. Place your
8 left-hand on the Bible.

9 ALICIA DUNNAWAY, being first duly
10 sworn, testified as follows:

11 THE CLERK: Watch your step.

12 THE COURT: Ms. Dunnaway, tell us who you are and
13 spell your last name for the court reporter please.

14 THE WITNESS: I'm Alicia Dunnaway. Dunnaway is
15 D-U-N-N-A-W-A-Y.

16 SOLICITOR JORDAN: Thank you.

17 DIRECT EXAMINATION

18 BY SOLICITOR JORDAN:

19 Q. Ms. Dunnaway, where are you, where are you currently
20 employed?

21 A. Axxess Healthcare.

22 Q. Were you employed there in 2020 through 2022?

23 A. Yes, ma'am.

24 Q. Okay. How long have you been employed at Axxess?

25 A. Eight years.

Alicia Dunnaway - Direct examination
By Solicitor Jordan

1 Q. what is your title?

2 A. Administrator.

3 Q. Okay. Just a little bit about your background.

4 what, what education level do you have?

5 A. I have a bachelor of science in nursing from
6 USC-Upstate.

7 Q. Okay. And you said you've been with Axxess for eight
8 years?

9 A. Yes, ma'am.

10 Q. As part of your job, do you keep up with information
11 in, in regard to payments to employees with Axxess?

12 A. Yes, ma'am.

13 Q. Okay. I'm gonna show you what's previously been
14 marked as State's Exhibit No. 121 and ask if you recognize
15 these three pages.

16 A. Yes, I do.

17 Q. And is -- are these records kept in the ordinary
18 course of your business?

19 A. They are.

20 SOLICITOR JORDAN: Okay. Your Honor, at this time,
21 the State, the State would move 121 into evidence.

22 MR. MORIN: I --.

23 THE COURT: Any objection?

24 MR. FILE: No objection.

25 THE COURT: Any objection?

Alicia Dunnaway - Direct examination
By Solicitor Jordan

1 MRS. RACINE: No objection.

2 MR. MORIN: I've seen them. No objection.

3 THE COURT: No objection. They're admitted.

4 (WHEREUPON, State's Exhibit No. 121 was received into
5 evidence at this time.)

6 Q. Ms. Dunnaway, if you will, just come down so you can
7 see the TV on the wall?

8 Come around.

9 (WHEREUPON, the witness comes down from stand.)

10 SOLICITOR JORDAN: Your Honor, is it okay if I
11 publish it to the jury?

12 THE COURT: Yes, ma'am.

13 SOLICITOR JORDAN: Thank you.

14 Okay. Could you just explain to the jury what each
15 one of these columns is, is stating?

16 A. So, the date column is the pay date. You will see
17 Edward Baynard's name on there. This is his records for
18 payroll. The number is just the paycheck number. But we
19 do do direct deposit. It's -- type is paycheck. Axxcess
20 Healthcare's the company and the amount is what he was
21 paid. That was his net amount, not his gross amount.

22 Q. So the gross is the higher amount?

23 A. Right.

24 Q. Okay. And this is for what period of time?

25 A. Paycheck is 10/2/20 -- 2020. I don't know when the

1 last paycheck was.

2 Q. Up at the very top on that third page.

3 A. Oh, September 1st, 2020, through January 1st, 2022.

4 Q. Okay. He was also employed in 2022?

5 A. Yes.

6 Q. And is that reflected on Page 3?

7 A. Yes, January 13, 2022.

8 Q. Okay. So looking at Page 1 and 2 -- I am so sorry
9 I'm making this more complicated.

10 Those are all the weeks he was paid?

11 A. Yes, ma'am.

12 Q. And we've heard from other witnesses -- from Ms.
13 Patton from Axxess that he was a respite and also a CPCA.

14 Was he paid in one check for both of those jobs?

15 A. Yes.

16 Q. Okay. And he was paid weekly?

17 A. Yes, that's that.

18 Q. Okay. So, at the bottom, I'm sorry, the top of Page
19 2 of this exhibit, what does it state that Edward received
20 as his net pay for September 1st, 2020, through
21 January 1st, 2022?

22 A. 20,700 and -- I don't know if that's an eight or a
23 seven.

24 Q. I can hand it to you just to make it easier.

25 A. \$20,788.52.

Alicia Dunnaway - Direct examination
By Solicitor Jordan

1 Q. Okay. And for the period or through the time he was
2 employed in 2022, how much did Edward make?

3 A. It was like \$4,801.36.

4 Q. Okay. Is that roughly \$25,000?

5 A. Yes, ma'am.

6 Q. Okay. If you'll have a seat.

7 (WHEREUPON, the witness returns to the stand.)

8 Q. I'm gonna hand this to you or actually if you'll come
9 down again?

10 (WHEREUPON, the witness comes down from the stand.)

11 Q. And just review the last couple of weeks of pay. I'm
12 assuming, when on weekends, that there's a little lapse
13 and that he received a paycheck.

14 A. You receive your paycheck on Friday for the Sunday
15 through Saturday before.

16 Q. Okay. And so Edward was paid, based on this, through
17 April of 2022?

18 A. Correct.

19 Q. His last paycheck date was 4/22/22?

20 A. Yes.

21 SOLICITOR JORDAN: Okay. Nothing further, Your
22 Honor.

23 Please answer any questions they may have.

24 THE COURT: Thank you.

25 SOLICITOR JORDAN: Have a seat. Sorry.

Alicia Dunnaway - Cross-examination
By Mr. File

1 (WHEREUPON, the witness returns to the stand.)

2 CROSS-EXAMINATION

3 BY MR. FILE:

4 Q. Okay. You're a nurse?

5 A. I am.

6 Q. A trained nurse?

7 A. I am.

8 Q. Did you, did you compile these payroll records?

9 A. I did not compile payroll records.

10 Q. Were you the---

11 A. That's the HR department.

12 Q. Okay. And how are you connected to these payroll
13 records?

14 A. I oversee all operations at Axxcess.

15 Q. Okay.

16 A. Every department.

17 Q. But you, you didn't visit the Baynard home or---

18 A. No.

19 Q. ---the Baynard household or --

20 A. No.

21 Q. -- or any of the folks?

22 A. No.

23 Q. Have you ever met them before?

24 A. I have seen Edward at the office. But it was just in
25 passing when he was there doing his education analysis.

Alicia Dunnaway - Cross-examination
By Mr. Morin

1 Q. All right. That's all I have.

2 MRS. RACINE: No questions, Your Honor.

3 THE COURT: Okay. Mr. Morin.

4 CROSS-EXAMINATION

5 BY MR. MORIN:

6 Q. Ma'am, it's my understanding that direct deposit's
7 done by Axxcess, correct?

8 A. Correct.

9 Q. And State's Exhibit No. 121 shows payments that were
10 made --

11 A. Correct.

12 Q. -- in his name?

13 A. Uh-huh. (Affirmative).

14 Q. And they would have been sent to the account that he
15 wrote when he onboarded?

16 A. Right.

17 Q. And Axxcess doesn't have any way to know whose account
18 that is. It's just that's where he said send it.

19 A. Correct.

20 Q. I notice on this it's listed as Axxcess Healthcare
21 Services, LLC.

22 A. Uh-huh. (Affirmative).

23 Q. Now, is that the name of -- because I've also seen
24 Axxcess Home Care.

25 A. Right.

Alicia Dunnaway - Cross-examination
By Mr. Morin

1 Q. Are those two different things or are they the same
2 thing?

3 A. So, our services are conducted under Axxess
4 Healthcare Services. To the state, to DHHS, DDSN, we're
5 Axxess Healthcare Services. It's more of a payroll
6 problem we had because we outgrew -- we outgrew
7 QuickBooks. We had more employees than QuickBooks could
8 handle.

9 Q. Okay.

10 A. So, Axxess Home Care Spartanburg, Axxess Home Care
11 Columbia, and Axxess Home Care Greenville were created as
12 QuickBook LLCs so that they could handle our payroll.

13 Q. Okay. And so Axxess Healthcare Services is like the
14 umbrella over the whole thing?

15 A. Correct.

16 Q. Thank you.

17 SOLICITOR JORDAN: Your Honor, may this witness be
18 excused?

19 THE COURT: Anything?

20 MR. FILE: No objection.

21 MRS. RACINE: No objection.

22 SOLICITOR BARNETTE: Your Honor, we---

23 THE COURT: Ma'am, you may step down and be excused
24 if you choose.

25 SOLICITOR BARNETTE: May we approach for a second,

1 Your Honor, over on the side?

2 THE COURT: Uh-huh. (Affirmative).

3 (WHEREUPON, a bench conference was held out of the
4 hearing of the jury at this time.)

5 THE COURT: Mr. Foreman, and ladies and gentlemen of
6 the jury, I'm told by the lawyers -- they wanted to talk
7 about timing here.

8 I'm, I'm told that the next witness will be a longer
9 witness and it's a little short of five o'clock here. But
10 I despise breaking up testimony. Somebody starts
11 testifying and, and I didn't like it as a lawyer and I
12 don't like it as a judge. So -- and they agree.

13 So, we're gonna break early today. We'll start at
14 9:00 tomorrow. I don't have anything first thing in the
15 tomorrow. We'll start at 9:00AM.

16 Be here about 8:30 when the courthouse opens. Get
17 some coffee. These fine folks with the jackets make some
18 good coffee. Chat with each other. Stow your belongings,
19 whatever you might need to do. Use the facilities and
20 then we'll start promptly at 9:00.

21 Again, don't try to learn anything about the case.
22 Don't do any homework on it. You're off-duty now. So the
23 last thing you want to do is go home and work.

24 Mr. Foreman, if you'll take your jury out. I'll see
25 everybody at nine o'clock tomorrow morning.

1 (WHEREUPON, the following takes place outside the
2 hearing of the jury panel.)

3 THE COURT: Okay. Solicitor.

4 SOLICITOR BARNETTE: Judge, one thing I need to put
5 on the record.

6 I think -- I know you did the sidebar on Exhibit 118
7 which was the autopsy report. I know we put -- and I
8 think you sustained their objection and we just got it for
9 ID purposes only---

10 THE COURT: Yes, sir.

11 SOLICITOR BARNETTE: ---at that point.

12 THE COURT: Yes, sir.

13 SOLICITOR BARNETTE: I just want to make sure that
14 was on the record from that standpoint.

15 Can we meet with you in chambers just for scheduling
16 for the rest of the trial?

17 THE COURT: Sure. We'll go back there and talk about
18 scheduling.

19 We'll see everybody in the morning. We're in recess
20 until -- anybody need anything before I go in recess?

21 (WHEREUPON, there was no response.)

22 THE COURT: Otherwise, we're in recess until 9:00 in
23 the morning and we'll, we'll talk about scheduling and see
24 where we are.

25 Ms. Brandy, I'm gon' give these to you before I

1 leave.

2 THE CLERK: Yes, sir.

3

4 (WHEREUPON, Court was in recess for the evening.)

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wednesday, October 30th, 2024

THE COURT: Everybody ready to go, solicitor?

SOLICITOR JORDAN: Yes, Your Honor.

SOLICITOR BARNETTE: Yes, Your Honor.

THE COURT: Everybody?

MRS. RACINE: Yes, sir.

THE COURT: Okay. We'll have the jury.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: Good morning, ladies and gentlemen.

THE JUROR: Good morning.

THE COURT: Mr. Foreman, everybody good?

THE FOREMAN: Yes, sir.

THE COURT: Thank you.

THE FOREMAN: Thank you.

THE COURT: Solicitor.

SOLICITOR JORDAN: Thank you, Your Honor.

The State calls Doctor Marcia Parra.

THE CLERK: Please raise your right-hand. Place your left-hand on the Bible.

MARCIA PARRA, being first duly sworn, testified as follows:

THE CLERK: Okay. Watch your step.

THE WITNESS: Thank you.

Marcia Parra - Direct examination
By Solicitor Jordan

1 THE COURT: Good morning, doctor.

2 THE WITNESS: Morning.

3 THE COURT: Tell us who you are and spell your last
4 name for Madam Court Reporter please.

5 THE WITNESS: Sure.

6 I'm Marcia Parra. P-A-R-R-A. I'm a board certified
7 pediatrician. I've been employed with Spartanburg
8 Regional since 2006.

9 THE COURT: Thank you.

10 Solicitor.

11 DIRECT EXAMINATION

12 BY SOLICITOR JORDAN:

13 Q. I'm gonna go back a little further than 2006 and have
14 you tell the jury a little bit about your education, where
15 you went to undergrad, and where you went to medical
16 school.

17 A. Sure.

18 Attended Vanderbilt University. I was -- obtained a
19 B.S. in chemistry and Spanish literature. I then attended
20 Emory Medical School in Atlanta, Georgia where I received
21 my doctorate of medicine.

22 Q. Okay. After that, what did you do professionally?

23 A. I -- in order to attend medical school, I
24 commissioned in the United States Navy. I completed my
25 pediatrics residency at Naval Medical Center Portsmouth in

Marcia Parra - Direct examination
By Solicitor Jordan

1 Portsmouth, Virginia and then, after that, I finished my
2 residency program in 2000.

3 I went down to Beaufort, South Carolina where I was a
4 general pediatrician for Army and Marine Corps families at
5 Naval Hospital Beaufort. After that, in 2004, I went to
6 AnMed Medical and AnMed in Anderson, South Carolina where
7 I worked with the training hospital -- a residency program
8 there where I was a general pediatrician. And, after
9 that, in 2006, I moved to the Upstate to further -- the
10 Upstate to, to Spartanburg.

11 Q. Okay. And you work at Spartanburg Regional?

12 A. I do.

13 SOLICITOR JORDAN: Your Honor, at this time -- as
14 part of your license to practice medicine, do you also
15 have to contend -- you have to do continuing medical hours
16 yearly?

17 A. I have a current South Carolina medical license. So
18 I have to obtain a certain number of hours of continuing
19 medical education.

20 SOLICITOR JORDAN: Your Honor, at this point in time
21 I would move to admit Doctor Parra as an expert in the
22 field of pediatrics.

23 THE COURT: Any questions?

24 MR. FILE: No questions.

25 THE COURT: Questions?

1 MRS. RACINE: No questions.

2 THE COURT: Mr. Morin.

3 MR. MORIN: No questions.

4 THE COURT: She is so certified as a pediatric
5 medical doctor.

6 well, ladies and gentlemen, once again, she's
7 qualified as an expert witness and you give what weight to
8 her testimony you deem advisable.

9 Solicitor.

10 SOLICITOR JORDAN: Thank you.

11 Did you have an occasion to become the pediatrician
12 for Minor [REDACTED] in this case?

13 A. I did.

14 Q. And when did you start treating Minor [REDACTED]?

15 A. Around 2012 between the ages of four and five years
16 of age.

17 Q. Okay. What, what or were Minor [REDACTED] diagnosis then and
18 throughout her life?

19 Tell the jury about Minor [REDACTED].

20 A. Right.

21 So I -- Minor [REDACTED] came under my care around, as I said,
22 age four to five. She was a medically fragile child who
23 had -- born prematurely at 28 weeks and ended up having an
24 intraventricular hemorrhage during her neonatal intensive
25 care stay. That is not, unfortunately, uncommon due to

1 just the fragility of newborn infants born so early.

2 She also had complications of chronic lung disease
3 which required her to have a tracheostomy in order to, to
4 be able to continue to breathe.

5 Q. Did she also have a, a diagnosis of cerebral palsy?

6 A. She had the diagnosis of cerebral palsy, chronic lung
7 disease. She also had a seizure disorder technically
8 termed Lennox-Gastaut which made it a much more
9 complicated seizure disorder.

10 Q. Can you describe to the jury just [Minor's] overall
11 body in the normal situation?

12 A. [Minor] was definitely alert, interactive. However,
13 nonverbal. Was dependent on all of her care. Was unable
14 to walk. Needed to be positioned and moved. She had also
15 a gastrostomy tube, which is direct -- a feeding tube
16 basically directly into the stomach. So she could not eat
17 orally and received her, her nutrition via enteral feeds
18 through, through the G-Tube.

19 Q. I'm gonna jump ahead to just starting in 2000 and --
20 did you see [Minor] in 2017?

21 A. I did.

22 Q. Okay. And how often would you see [Minor]?

23 A. We usually see -- I usually saw [Minor] at least --
24 typically about once a year. Maybe an occasional sick
25 visit that required more immediate care. But typically

Marcia Parra - Direct examination
By Solicitor Jordan

1 about a 30 minute what we deemed a well childcare, a most
2 adjusted visit, to see what the other -- she had several
3 other doctors, subspecialists, neurologists, feeding
4 specialists, surgeon, pulmonologist.

5 And so my role, as her general pediatrician, was
6 basically just to be kept up to speed on, on those things
7 that were going on. And so typically about once a year
8 for about a 30 -- typically about 30 -- 30 plus minutes.

9 Q. Okay. Did -- was [Minor] -- how were [Minor's]
10 appointments paid for?

11 A. [Minor] received Medicaid. And so those visits were
12 covered by that.

13 Q. Okay. Were -- as, as a Medicaid patient, were her
14 supplies also covered?

15 A. A hundred percent, yes.

16 Q. And was that part of your visit to make sure that the
17 supplies were ordered that she may need?

18 A. They were. These, these visits were, were kind of
19 business visits. There was a lot to go over, a lot of
20 paperwork involved.

21 She had home, home health or she had a, a medical
22 supply company that required all the supplies that she
23 needed in order to be fed, to take care of her
24 tracheostomy, to receive oxygen, diapers, things to take
25 care of her -- when she went to the bathroom, those types

1 of things.

2 So, yes. So it's a, a lot of paperwork involved, a
3 lot of prescriptions involved for, for medical supplies.

4 Q. Okay. And when you say it was a business visit,
5 visit, you also physically examined Minor [REDACTED]?

6 A. I absolutely did, yes.

7 Q. Okay.

8 A. Yes. There was a lot of discussion though as a part
9 of just being, again, brought up to speed on things. But
10 the, the physical exam was a part of that visit, yes. And
11 so all my visits with her were where I would also examined
12 (sic) her, yes.

13 Q. Okay. And who -- well, who brought her to most of
14 these visits?

15 A. Her parents, Bobbie and David. Bobbie did not drive.
16 And so David was, was often, often times -- was, was a way
17 she was transported there.

18 Q. Okay. And there's also -- is there also a service
19 out there that provides medical transport if a patient
20 needs it?

21 A. There is, yes.

22 Q. And was---

23 A. And that gets covered also.

24 Q. Covered by --?

25 A. By Medicaid. So, there's not a direct expense to the

1 family.

2 Q. Okay. And was that offered in this case as well?

3 A. It was.

4 Q. Do you recall if it was utilized or was it just
5 offered?

6 A. I, I think it was utilized. I don't think that was
7 the only way they got there though.

8 Q. So, you saw Minor in 2017?

9 A. Yes.

10 Q. You then did not see her again until 2019?

11 A. Yes.

12 Q. Were there canceled visits in-between those -- that
13 visits (sic)?

14 A. Not that I was aware of. We don't get notified with
15 the medical records system because we -- Spartanburg
16 Regional's been on Epic since 2016. And so I don't get
17 notified directly of cancellations. You have to go
18 looking for them.

19 So, if a patient cancels an appointment, they go off
20 the schedule and I don't get any sort of flag or anything
21 like that. So --.

22 Q. Did you look in this case to see if Minor had
23 missed any appointments in 2018?

24 A. I, I don't recall. I don't recall.

25 Q. Okay. You did have a visit with Minor in 2019?

Marcia Parra - Direct examination
By Solicitor Jordan

1 A. I did.

2 Q. Okay. And, in that, you discussed just her general
3 care?

4 A. General care. Again, prescriptions, medical
5 supplies, changes in her integral health. We go over to
6 see if there were emergency room visits, hospitalizations,
7 and just getting caught up with her subspecialty care
8 also, yes.

9 Q. Okay. Thank you.

10 Did you have any visits with Minor in 2020?

11 A. I did not have an actual physical visit with her in
12 2020. There was communication in 2020 but not an actual
13 visit.

14 Q. In reviewing your records, did you note that there
15 were missed appointments in 2020?

16 A. At that point in time I did. The first part of 2020,
17 as in terms of communication with the medical supply
18 company, getting all those things sorted out, taking care
19 of -- to her -- her birthday was in June. So, at my visit
20 in 2019, we talked about a visit in six to 12 months.
21 That was July of 19 -- 2019.

22 So, in the Summer of 2020, it was about that one year
23 mark. And so I started mentioning that we needed to have
24 some, some visits. I, I -- we needed, excuse me, to
25 establish a visit in person as I have it.

Marcia Parra - Direct examination
By Solicitor Jordan

1 Q. Okay. And were visits scheduled?

2 A. Visits were scheduled and then I became aware of
3 cancellations in the later part of 2020 when I was
4 receiving documentation and needs for prescriptions and
5 paperwork to be completed from the medical supply company.

6 Q. Okay. And did you, did you -- based upon the
7 canceled appointments, did you have your office reach out
8 to Bobbie and David or Bobbie or David?

9 A. We, we tried both of them to call. And so, often
10 times, what was happening if a canceled appointment -- if
11 an appointment was canceled, another one was booked. And
12 so, in communication with the home health or, excuse me,
13 with the medical supply company, we would let them know
14 hey, they've canceled this appointment. But there's a
15 pending appointment coming up in the next month.

16 And then I would get, again, notification or needs
17 for prescriptions and paperwork to be completed and then
18 would go back and look and realize that they had again
19 canceled an appointment and rebooked an appointment.

20 Q. Okay. So did they cancel an appointment on -- in
21 July -- on July 22nd of 2020?

22 A. Yes.

23 Q. Did they also cancel an appointment, and by they I
24 mean her -- the people who make the appointments were her
25 mom and her dad.

1 They canceled an appointment on August 31st, 2020?

2 A. Yes.

3 Q. December 4th, 2020?

4 A. Yes.

5 Q. December 30th of 2020?

6 A. Yes.

7 Q. Okay. Did you, did you let them know that you would
8 be open to work her in?

9 A. Absolutely.

10 We -- I, I, myself and my office, really did our best
11 to provide a medical home for [Minor]. And what that
12 means is that they knew the staff. They could call. We
13 would work them in.

14 So, scheduling and being booked out two months for a
15 well visit or something like that, that, that just didn't
16 apply to them and it doesn't apply to our other special
17 needs patients in the practice. So, I absolutely made,
18 made it known that I would be able to work them in at, at
19 their convenience. But they needed to be worked in and
20 they needed to come.

21 Q. Because -- and you needed to see [Minor]?

22 A. Yes, I needed to see [Minor] and the other thing is,
23 with these -- with the medical supply companies, very
24 appropriately so, they need documentation and a part of
25 this documentation, also for reimbursement, goes -- the

1 patient needs to be seen within a certain period of time
2 and that's on those -- these direct certificate of medical
3 need documentation paperwork that needed to be completed.

4 Q. After the visit was canceled in December of 2020
5 twice, when did you finally see Minor ?

6 A. I believe January the 11th in 2021.

7 Q. Okay. Do you recall who brought Minor to your
8 office?

9 A. I remember both Bobbie and David being there.

10 Q. Okay. And, Bobbie and David, they knew how to care
11 for Minor ?

12 A. Yes, I felt very comfortable. In the eight plus
13 years that I took care of her, granted these visits were
14 yearly, not prolonged visits, but I always felt very
15 comfortable that they were providing adequate and
16 appropriate care for her.

17 Q. Okay. Tell us about the visit on January the 11th
18 of, of 2021.

19 A. So, again, we went over all the interim things that
20 happened that -- this was during COVID. To some degree
21 at, at the height of COVID as in terms of, you know, being
22 conscience of that and especially in an adequate --
23 medically fragile child.

24 So, we went through just all the things that kind of
25 transpired in the, in the year and a half that I'd seen

Marcia Parra - Direct examination
By Solicitor Jordan

1 her. I became aware that Axxess Health had become
2 involved. They were now providing both respite care and a
3 personal care, care aid. I did learn that it was Edward
4 and that I got both the names of their Axxess care case
5 coordinator and the DDSN, which is the Department of
6 Disabled and Special Needs. I got the information of
7 their case manager for that also.

8 So, we went over medications. There were multiple
9 appointments coming up that they had already booked in
10 anticipation -- with the pulmonologist, with her
11 dietician, with her neurologist. And so we went over all
12 of those things.

13 Q. Okay. Were some of those appointments Telehealth
14 appointments?

15 A. So, she had one Telehealth appointment with her
16 neurologist in August of 2020. And so one of the pending
17 appointments coming up with her nutritionist was in -- at
18 MUSC in Charleston. And so there was a Telehealth
19 medicine appointment that was booked --

20 Q. Okay.

21 A. -- where they were -- that we were anti -- that they
22 were anticipating.

23 Q. And in that meeting or that visit -- doctor's
24 appointment, did you, did you view Minor's body?

25 A. I fully examined Minor from head to toe.

1 Q. Okay. Can you tell the jury what you saw?

2 A. So, she, she was dressed and dressed appropriately.
3 She had on clothes with -- she did have on tights. It was
4 January. She had on socks.

5 She came in in a wheelchair and I put her out of her
6 wheelchair onto -- to the table to better undress her and
7 to better examine her.

8 So, so I not -- she was well kept, clean, hair done
9 in a bow in a, in a ponytail. She -- her tracheostomy
10 site looked fine. Her G-Tube site did have some, some
11 kind of little bit of inflammation around or just signs
12 of -- that there had been some inflammation there.

13 The thing that we -- so she -- as I mentioned, she
14 was non-ambulatory. Because of her cerebral palsy, she
15 was in contractures and, and what we mean by that is that
16 her tone is really high and stiff. And so she does not
17 move fluidly at all. So she's very tight.

18 And so all that seemed to be really unchanged. I do
19 think the only thing -- so the, the only thing of note was
20 that I did notice some skin findings on her arms, upper
21 extremities, and legs, lower extremities, that were just a
22 little bit darkened. But nothing that was open.

23 No ulceration. No bruise. No scratch. No cut.

24 Q. And did you also note that her back and buttock had
25 no lee -- lesions?

1 A. I did -- I looked in her, her diaper area. I took
2 down her diaper. I looked at her in the front, her female
3 genitalia, and I also looked -- rolled her on her side to
4 look at her back, to look at her buttock, and look at her
5 back, yes.

6 Q. Okay. Doctor Parra, you have seen photographs that
7 were taken of [Minor] the date of her death and at her
8 autopsy?

9 A. Yes.

10 Q. Did you see any indications of that when you last saw
11 her on January the 11th of 2021?

12 A. Absolutely not.

13 Q. Okay. Did -- would [Minor] have any reaction to you
14 if you communicated with her?

15 A. Yeah, I think she did and smiled and I, I -- as a
16 pediatrician in working with medically fragile children,
17 she is awake and she is alert and she can show happiness
18 and she can show sadness. And so it's very important that
19 I -- I realized that the, the main relationship was with
20 the family with these individuals. But I absolutely
21 addressed her, spoke with her, talked to her, and she
22 seemed -- she responded. She responded.

23 Q. At that appointment, was there a change made in how
24 often you would see [Minor]?

25 A. So, we brought up my concerns over the past 18 months

1 that I had not seen her and the fact that we -- my office
2 and myself spent a lot of time really trying to, to, to
3 chase them down, to bring them in. And, again, in the, in
4 the context of COVID, we wanted to be somewhat cognizant
5 of that.

6 But the reality is, is that, in order to continue to
7 maintain our care for her, she needed certain supplies.
8 She needed things to be taken -- she needed things to be
9 taken to the house and all. And so, at that point in
10 time, we mentioned that I wanted to start seeing her every
11 six months.

12 Q. Okay. Did you see [Minor] again?

13 A. I never saw her again.

14 Q. Okay. Were appointments scheduled with Bobbie and
15 David to see [Minor]?

16 A. Yes, there were.

17 And so the first part of 2021, again, good
18 communication as in terms of talking to, talking to them,
19 providing the supplies. I reached out to DDSN to touch
20 base with them, make sure they knew that I was aware of
21 who they were and that they were able to contact me. She
22 did have several subspecialty appointments after that.

23 And so, again, for the first six months of 2021,
24 very -- was, was communication and there was things that
25 were being provided and things were being done.

1 And so, in August, which would of been just after
2 that six month mark, I got something from the home health
3 company or, excuse me, the medical supply company asking
4 for paperwork to be completed and I met -- said sure. I'm
5 happy to go ahead and do the paperwork and make sure the
6 company was okay with that. But I said hey, it's time to
7 go ahead and come in again---

8 Q. Did you---

9 A. ---as we had previously discussed.

10 Q. Did your office schedule an appointment?

11 A. They did.

12 Q. On August the 31st of 2021, did [Minor] appear for
13 that appointment?

14 A. She did not.

15 Q. On September the 8th of 2021, did [Minor] appear for
16 that appointment?

17 A. She did not.

18 Q. September 4th, 2021, did she appear?

19 A. No.

20 Q. October 8th of 2021?

21 A. She did not come.

22 Q. And in-between these visits, would contact be made --
23 I'm sorry.

24 December 27th of 2021, did she appear?

25 A. She did not.

1 Q. January 24th, 2022?

2 A. She did not.

3 Q. February 22nd, 2022?

4 A. No.

5 Q. Okay. And between some of these appointments, were
6 contact -- was contact made with the parents to bring her
7 in?

8 A. Attempts were made multiple times and actual direct
9 contact was made multiple times, yes.

10 Q. Okay. I'm gonna switch topics real quick from the
11 missed appointment to O2 levels.

12 A. Sure.

13 Q. Can you just tell the jury what is a proper O2 level
14 for someone without medical conditions and then someone in
15 **Minor's** position?

16 A. So, a normal oxygen level, realistically, is gonna be
17 anywhere between 97 and a hundred percent.

18 And so, if a, a child has asthma and is wheezing or
19 has something pulmonary going on, something lung wise
20 going on, those oxygen levels can be lower. Ninety-two is
21 typically what we deem as fine to be able to maintain care
22 at home for a child that does not have chronicle (sic)
23 medical conditions, and anything under that, the thought
24 is they need supplemental oxygen, which, often times, will
25 get provided in the -- not off a tank but will get

1 provided in the hospital.

2 So Minor, because of her chronic lung disease and
3 her tracheostomy, had oxygen at home which she used and
4 used all the time. And so oxygen levels for her,
5 realistically, we accepted a little bit lower. About
6 90 percent.

7 Q. Okay. But anything lower than 90, what -- were --
8 was the family told to -- what was -- what was the family
9 told to do if---

10 A. So, she saw pul -- pulmonology and very much at --
11 with all their visits and we would go over these things
12 too. But the pulmonologist specifically, as in terms of
13 what to seek care for, signs of respiratory distress,
14 respiratory distress, acknowledging that these children
15 with chronic lung disease and tracheostomies are at much
16 greater risk for developing pneumonias.

17 Q. And so the family is -- you, you -- you've talked to
18 the family and, and other doctors, through the records,
19 have talked to the family as far as low O2 levels and what
20 should be done?

21 A. What to seek care for, yes.

22 Q. Okay. And you stated Minor should be at a 90 or
23 above?

24 A. Ninety and above when awake. Eighty-eight and above
25 when asleep, resting. But 88 to 90 percent are the lower

1 limits.

2 Q. And below that would be a time to seek treatment?

3 A. Yes.

4 Q. Okay. And the tracheostomy, where does that --
5 just -- where does that take the -- what, what is the
6 purpose of the tracheostomy?

7 A. So, the reasoning for the tracheostomy back in the
8 neonatal intensive care unit is that they were not able to
9 extubate, meaning taking out the breathing tube
10 permanently, without her needing additional support. And
11 so what the tracheostomy does is it goes directly into the
12 trachea, which is the big airway that goes directly down
13 into the lungs.

14 And so you can provide oxygen that way. You can help
15 clear secretions that way. If she did need mechanical
16 ventilation, which would be in the hospital, then you
17 would have -- she would need to be intubated in the
18 traditional sense through the mouth. It could go straight
19 there.

20 Q. Okay.

21 A. And she -- oh, I'm sorry.

22 Q. Go ahead.

23 A. No, she did -- she didn't -- she was not mechanically
24 ventilated. She just had the tracheostomy. So she was
25 not on a mechanical ventilator at home.

1 Q. Okay. And the tracheostomy is how she would get O₂
2 or oxygen?

3 A. She -- yes, she would get -- so that's how we gave
4 her -- that's how we did the supplemental O₂. And so she
5 could breathe. And so she was getting some oxygen from her
6 nose, from her mouth, and all but, but needed that
7 maintained in order to continue to, to breathe
8 appropriately.

9 Q. Can you tell the jury what pulse -- a pulse oximeter
10 is?

11 A. So, a pulse oximeter is a direct way to get an oxygen
12 level without needing to take blood. More specifically,
13 arterial blood, which is the blood that takes oxygen to
14 the rest of the body. And so it's a noninvasive way to
15 check oxygen levels to give you a general idea of where
16 those levels are.

17 Q. And did Minor have that?

18 A. She did.

19 Q. And where does -- where on the body does that go?

20 A. So, I -- we traditionally think of on the finger.
21 But you can put a pulse oximeter on a toe. You can wrap
22 it around their wrist. They're, they're various ways to,
23 to measure that. So, the traditional pulse oximeters are
24 on a finger or you can use it -- the toe.

25 Q. So she was provided with one to measure that---

1 A. She definitely had one, yes.

2 Q. I want to go back to the photograph or I'm gonna ask
3 you this.

4 Did you -- were you here yesterday when Doctor Rose
5 testified as to her findings at the autopsy?

6 A. I was.

7 Q. Tell the jury what signs would you have seen with the
8 description that Doctor Rose had of this visible pus in
9 her lungs.

10 What outward signs would have been seen with the
11 level of pneumonia that Doctor Rose spoke about in
12 addition to the other issues and neglect that she had?

13 A. You know, Doc -- Doctor Rose answered the question
14 are there overt signs of or outward signs of pneumonia and
15 her response was no because we don't have direct
16 visualization of her lungs. However, pneumonia just
17 doesn't happen like that.

18 There are signs before that as in terms of increased
19 respiratory rate, their breathing levels. They will be
20 struggling. They will be using their accessory muscles,
21 meaning their chest wall muscles, to, to work harder to
22 breathe.

23 Because Minor did have a tracheostomy in place,
24 those secretions would of gotten much thicker, more
25 purulent, which is suggest -- suggestive of pus. Those

1 secretions would of increased. She -- temperature
2 instability.

3 we typically will have fever. Children that are
4 neurologically impaired, their blood -- their temperature
5 levels may be actually low. But you can see also
6 fluctuations in heart rate, which her pulse oximeter will
7 also measure. Not just oxygen level but also heart rate.

8 And so, often times -- so, again, all these are signs
9 and symptoms supporting a diagnosis of, of potential for
10 pneumonia.

11 Q. would you, would you also note that -- would her
12 pulse ox note differences with the oxygen level in her?

13 A. Can you rephrase that?

14 Q. Is that---

15 A. No, I'm sorry.

16 Can you rephrase that?

17 Q. what is---

18 A. I'm sorry.

19 Q. would, would those signs of issues in her lungs show
20 on the pulse ox?

21 A. Oh, yes, of course. Yes. I'm sorry. Yes.

22 Q. Going back to the photographs that you've seen of the
23 day that Minor passed and the -- her autopsy, do you --
24 based of your view of those photographs, that I -- and I
25 can show you again if needed what's been marked for

1 identification only. If you need those or if you don't.

2 But did -- in viewing those, and as a pediatrician,
3 do you believe that that creates the, the injuries that
4 she has, creates a substantial risk of death or which
5 causes serious or permanent disfigurement or protracted
6 loss or impairment of the function of the body or an
7 organ?

8 A. Yes.

9 And I, I don't need to look at those pictures. They
10 are ingrained. But what I do want to say is that this
11 just did not happen acutely. We -- they talked yesterday
12 about it being an event. This was a pro -- very prolonged
13 process that occurred and -- yes.

14 Q. When you say it was a very prolonged process, what
15 are you -- what are you speaking about, the, the injuries
16 that you viewed?

17 A. The injuries that I viewed, the state of her body,
18 all, all that led to her diagnoses of, of sepsis,
19 pneumonia, urinary tract infection. But, but that did not
20 occur overnight and, and these children with chronic
21 medical conditions, lung conditions, seizure disorders and
22 all, there can be an event that occurs as in terms of
23 status epilepticus as meaning seizures that can not be
24 broken, a mucus plug that, that blocks their airway and
25 all. But that was not the case looking at the state of

Marcia Parra - Direct examination
By Solicitor Jordan

1 her body.

2 Q. And the conditions that Doctor Rose told the jury
3 about, could those, if treated early, could they have been
4 treated?

5 A. At a very preliminary state. But those, those
6 visualizations and the state of her body were just --
7 there was no turning back. There were -- had to have been
8 a point in time where it could of been.

9 Q. And they had --

10 A. We---

11 Q. -- supplies?

12 A. Supplies, access to care, ability to reach out if
13 they needed help.

14 SOLICITOR JORDAN: If I may have a moment, Your
15 Honor?

16 (Pause.)

17 Q. And they could have called to use an ambulance to
18 transport **Minor**?

19 A. 9-1-1 is a part of the instructions on, on what to
20 call for, yes.

21 Q. Okay. In addition to the medical transport that
22 we've also previously talked about?

23 A. Yes.

24 Q. Please answer any questions the other three may have.

25 THE COURT: Mr. File.

1 CROSS-EXAMINATION

2 BY MR. FILE:

3 Q. Okay, doctor.

4 You said Minor was born at 28 weeks?

5 A. Yes.

6 Q. And she had a chronic lung disease?

7 A. Yes, sir.

8 Q. And a tracheostomy?

9 A. Yes.

10 Q. Okay. She got that at a -- about two years old.

11 Is that correct?

12 Do you know or --?

13 A. I, I, I don't. I'm, I'm sorry. I don't know the
14 exact---

15 Q. Okay.

16 A. ---timeframe of that, no.

17 Q. All right. And she had cerebral palsy?

18 A. She did, yes, sir.

19 Q. And a seizure disorder?

20 A. She did.

21 Q. What was the seizure disorder?

22 Can you tell, tell us about that a little bit more?

23 A. So, she would lose -- develop an altered state of
24 consciousness. Her tone would change. She would have,
25 you know, difficulty breathing and all.

1 There are various types of seizures. Some are small.
2 Some are large events and all that can cause oxygen levels
3 to really go down, for them to stop breathing. So, the
4 goal with such a complicated seizure disorder is you try
5 to minimize the number of seizures that she has.

6 Q. All right. Did she ever have a seizure in your
7 presence?

8 A. Not in front of me, no.

9 Q. Okay. So --.

10 A. Well, sir, I -- I'm sorry. I take -- I, I do -- I
11 feel like there were brief moments where her eyes would
12 flutter and we thought maybe that was a seizure. But a
13 brief one that did not result in anything prolonged.

14 Q. Okay. So, how did -- I assume then Bobbie Jo and
15 David probably told you about what her manifestations with
16 the seizure were?

17 A. Sure.

18 Q. Did they---

19 A. Yes.

20 Q. Okay. So they were aware of her seizures---

21 A. Yes.

22 Q. ---and---

23 A. She had a neurologist that she saw.

24 Q. What she was having one?

25 A. Yes, and I had a specialized diet for her seizure

Marcia Parra - Cross-examination
By Mr. File

1 disorder also.

2 Q. Okay. And from what you could see, when, when she
3 was visiting with you, they were following the diet and
4 they were following the medication and the treatment and
5 you said she -- I believe you said she was -- appeared to
6 be well cared for.

7 Is that correct?

8 A. She was, I believe, drinking and receiving
9 appropriate and adequate care in her visits with me, yes.

10 Q. Okay. And then, in 2020, COVID hit.

11 Is that correct?

12 A. Yes, sir, it did.

13 Q. And I assume you probably had a lot of cancellations
14 from different people or different patients?

15 A. Of course. The first three weeks. I -- yes, we did.
16 I was out the first three weeks. My husband had a severe
17 case of COVID. But I did take great pride in my practice
18 being really very much maintaining in-person visits.

19 We never got a tent outside. We didn't convert over
20 to Telemedicine. So, there were definitely individuals
21 that did want to come in. But we were open for our, our
22 patients.

23 Q. Okay. Now, as far as -- you said **Minor** was capable
24 of, of moving a little bit as far as moving her arms---

25 A. Minimally.

Marcia Parra - Cross-examination
By Mr. File

1 Q. ---that type of things?

2 A. Yes.

3 Q. And, and with all these disabilities, she was high
4 maintenance, wasn't she---

5 A. Very much so, yes.

6 Q. ---as far as -- I mean she needed somebody there
7 about 24 hours a day I guess to, to look after her?

8 A. I -- she -- yes, I mean she, she required a -- yes,
9 she required a lot of care, yes.

10 Q. Okay. And -- that's all, that's all I have. Thank
11 you.

12 A. Thank you.

13 THE COURT: Mrs. Racine.

14 MRS. RACINE: I have no questions for this witness,
15 Your Honor.

16 THE COURT: Okay.

17 CROSS-EXAMINATION

18 BY MR. MORIN:

19 Q. Doctor Parra?

20 A. Yes, sir.

21 Q. Do you know Edward Baynard?

22 A. I do.

23 Q. Do you -- how do you know him?

24 A. I was Edward's pediatrician for a period of time.

25 Q. Okay. Now, you have, on several occasions, referred

Marcia Parra - Cross-examination
By Mr. File

1 to Minor as having -- being a medically fragile child
2 or---

3 A. Can you, can you say that a little bit louder?

4 Q. Okay.

5 A. I'm sorry. I'm sorry.

6 Q. Medically fragile child --

7 A. Yes.

8 Q. -- that was how you described her?

9 A. Yes.

10 Q. And because she had the trach and because she had the
11 feeding tube, there were specialized training for the
12 parents, is that correct, on how to handle those things?

13 A. Along the way, yes. Over the years, yes.

14 Q. Over the years.

15 And it's important to be able to know not just how to
16 handle those things, but you're moving and those things
17 have to be kept in mind.

18 Is that correct?

19 A. Yes.

20 Q. And, to your knowledge, was Bobbie Jo, Jo Baynard
21 trained in that?

22 A. When I took over Minor's care, I did not look into
23 getting her more training at all because I felt, at that
24 point in time, that she had been trained on how to do
25 that.

1 Q. Yes, ma'am, I didn't mean to---

2 A. Yes.

3 Q. ---suggest that she had further training.

4 A. Oh, okay.

5 Q. But you were aware that she had been trained?

6 A. She was able to take care of Minor, yes.

7 Q. Okay. And the same goes for Mr. Baynard, David
8 Baynard?

9 A. Yes.

10 Q. Are you aware of any training Edward would of had to
11 deal with that?

12 A. No, not until I -- he became the PCA as in terms of
13 the requirements that were given by Axxess Health. But
14 prior to that, no.

15 Q. Okay. Now, the parents were also told or, if you, if
16 you know, that animals in their home, things like that,
17 would endanger her because of that.

18 Isn't that correct?

19 A. I don't -- I -- our patients have animals in the
20 homes. So I don't --.

21 Q. But they have to be cared for?

22 A. Well sure.

23 Q. Okay. Now, did you ever advise the parents that
24 someone with training on trach and these devices needed to
25 be with her all the time?

Marcia Parra - Cross-examination
By Mr. File

1 A. Well, I -- at, at -- in, in that 2021 visit, and how
2 we learned about the additional care that was being given,
3 I -- when I made the phonecall to DDSN, I did put it -- I
4 did mention that I had concerns that she needed -- they
5 needed more skilled nursing.

6 Q. Needed more skilled nursing?

7 A. Yes.

8 Q. And again -- and, again, you, you know, from treating
9 **Minor**, you know how he is on how he -- how he relates to
10 his parents and that kind of thing when they come in?

11 A. I don't, I don't know if I understand your question.

12 Q. Yes, it was bad. It was one question.

13 How about this?

14 Was Edward ever present in any of your discussions
15 regarding what his sister needed as far as care?

16 A. Not that I can recall.

17 Q. Okay. The times that you treated Edward as a
18 patient, did you ever observe an ammonia smell?

19 A. I did not.

20 Q. Okay. Now, you also, when Ms. Jordan asked you,
21 discussed and made sure that the parents were aware of the
22 things that they needed to look for.

23 Is that right?

24 A. Yes.

25 Q. And just, in general, whatever parent, I mean -- I

1 take my six year old, who's got lice, the doctor tells me
2 what I need to do, correct?

3 A. Yes.

4 Q. This is what you had to watch out for. This is what
5 you need to clean up for. This is how you need to address
6 this.

7 A. Yes.

8 Q. And that's what you did with the parents?

9 A. Yes.

10 Q. But not Edward?

11 A. No.

12 Q. You asked DDSN or you thought that they needed more
13 skilled care than Edward.

14 Is that fair?

15 A. In, in addition.

16 Q. In addition.

17 Okay. When you saw Edward as a patient, was he
18 brought in by his mother as well?

19 A. Yes.

20 Q. The visits to the doctor that they've gone into about
21 being canceled, those cancellations, could they be made by
22 anybody or did they have to be made by the parents?

23 A. Well, we have HIPAA forms --

24 Q. Uh-huh. (Affirmative).

25 A. -- on, on, on file.

Marcia Parra - Cross-examination
By Mr. File

1 Q. Uh-huh. (Affirmative).

2 A. And so it would have to be somebody on their HIPAA
3 form that was taking care of the patient. And so my staff
4 who, for the most part, had been there for several years,
5 on continuity and all, they, they knew the Baynards.

6 Q. Okay. And when you say the Baynards, you're talking
7 about --?

8 A. I'm sorry. I'm talking about Bobbie and David, yes.

9 Q. Okay. And I believe the -- when discussing the
10 oxygen levels, the State framed it what was the family
11 told.

12 But given what I've already asked you, Edward wasn't
13 told anything by you about assisting or treating anything
14 his sister was dealing with?

15 A. No.

16 Q. In your understanding of the respite care person,
17 isn't that a person that gives the parent a break while
18 they take care of some personal thing?

19 A. It is, yes.

20 Q. And, to your knowledge, Bobbie didn't work?

21 A. She did not, no.

22 Q. So she was home?

23 A. She did not work outside the home, no.

24 Q. Right.

25 She was at home all the time?

Marcia Parra - Cross-examination
By Mr. File

1 A. Yes.

2 Q. And on that January 11th visit, did, did you say or
3 review with Bobbie Jo the need for intense vigilance for
4 monitoring of her trach tube at home?

5 A. I, I don't know if I just concentrated on that part
6 of her.

7 Q. Right.

8 A. But we went over care of the trach, care of the GT,
9 need for integral feeds --

10 Q. Okay.

11 A. -- medication administration.

12 Q. And you did that -- even though she had prior
13 training on it, you were almost giving her a refresher or
14 a reminder?

15 A. All that's reinforcement and, again---

16 Q. Yes.

17 A. ---going to the supplies so then that way we could
18 maintain her care.

19 MR. MORIN: All right. If I may have just a moment?

20 (Pause.)

21 MR. MORIN: That all the questions I have, Your
22 Honor.

23 THE COURT: Solicitor.

24 SOLICITOR JORDAN: Just briefly, Your Honor.

25 REDIRECT EXAMINATION

1 BY SOLICITOR JORDAN:

2 Q. Mr. File spoke to you about the seizures Minor
3 would have.

4 A. Yes.

5 Q. And you saw the pictures when she passed.

6 A. Yes.

7 Q. Would a seizure cause that?

8 A. Absolutely no.

9 Q. Okay. Have you ever seen a seizure cause the
10 injuries that Minor had?

11 A. No.

12 Q. And then Mr. Morin spoke to you about the training or
13 the conversation that you had with Bobbie on January the
14 11th.

15 was David also present on January 11th?

16 A. I, I believe he was.

17 Q. And those injuries, have you ever seen anything like
18 those injuries?

19 A. Never.

20 SOLICITOR JORDAN: Your Honor, I have no further
21 questions.

22 THE COURT: Anything at all?

23 MR. FILE: None, Your Honor.

24 THE COURT: Mrs. Racine.

25 MRS. RACINE: No, Your Honor.

1 MR. MORIN: No, sir.

2 THE COURT: Thank you, doctor. You may step down.

3 Please be careful.

4 SOLICITOR JORDAN: Your Honor, may she be excused?

5 THE COURT: Any objection to being excused?

6 MR. FILE: No objection.

7 MRS. RACINE: No objection.

8 MR. MORIN: No objection.

9 THE COURT: Doctor, you may stay or go, whichever you
10 choose.

11 THE WITNESS: Thank you, sir.

12 SOLICITOR BARNETTE: Can I check with the court
13 reporter on something, Your Honor, just to make sure
14 what's in and what's not?

15 (Pause.)

16 SOLICITOR BARNETTE: Your Honor, thank you for a
17 minute to check with the court reporter and then, Your
18 Honor, the State would rest at this time.

19 THE COURT: Mr. Foreman, ladies and gentlemen of the
20 jury, the State has now rested is what's known as its case
21 in chief. And that means that the State does not intend
22 to call another witness, put up another picture, or a
23 document, a report, anything whatsoever, which now brings
24 us to some matters of law that I have to take up on motion
25 practice.

1 So, I'm gonna excuse you from the courtroom. Don't
2 talk about the case back there. You're gonna be on a, a
3 break and this is gon' take a little bit.

4 If you need some coffee, water, restrooms are back
5 there. whatever you need, if you allow the -- let the
6 bailiffs know, we're happy to try to find it.

7 Okay. Mr. Foreman, if you'd take your jury out
8 please.

9 (WHEREUPON, the following takes place outside the
10 presence of the jury.)

11 THE COURT: Okay. The State has now rested.

12 Any matters from the State?

13 SOLICITOR BARNETTE: None at this time, Your Honor.

14 THE COURT: Okay. Mr. File.

15 MR. FILE: Your Honor?

16 THE COURT: Mr. File.

17 MR. FILE: Your Honor, we would make a motion for a
18 directed verdict of -- against our---

19 MR. RACINE: I'm sorry to interrupt.

20 Can we have a two minute comfort break before we
21 start arguing directed verdict motions so we don't have to
22 split it up?

23 THE COURT: We can do that.

24 MR. RACINE: Thank you, Your Honor.

25 THE COURT: Okay. we'll take a quick, quick five

1 minutes or so.

2 How about that?

3 (WHEREUPON, a short recess was taken at this time.)

4 THE COURT: Thank you. Thank you. Please be seated.
5 Thank you.

6 We can go in any order you want to go in.

7 Okay.

8 MR. RACINE: May I approach the bench?

9 THE COURT: Okay. Mr. -- you gon' argue?

10 MR. RACINE: I'm gonna go first.

11 THE COURT: All right. Mr. Racine.

12 MR. RACINE: Thank you, Your Honor.

13 May it please the Court.

14 Your Honor, I passed up an exhibit that I'm gonna
15 refer to periodically through this. I've numbered the
16 pages 1 through I believe 45 at the bottom right.

17 Your Honor, we have two motions, directed verdict,
18 for child abuse with great bodily injury and directed
19 verdict on the murder charge. Happy to take those in
20 either order, do them both, or do one, let everyone argue
21 that, and then do the next one.

22 How do you want to do that?

23 THE COURT: One at a time---

24 MR. RACINE: One at a time.

25 THE COURT: ---and then let them respond.

1 MR. RACINE: All right. Then I'll start with child
2 abuse with great bodily injury, Your Honor.

3 That charge, as indicted, or on Page 1 of the
4 exhibit, requires three elements for the State to prove.
5 The first is inflicting. The second is great bodily
6 injury and the third is on a child.

7 Your Honor, we'll concede that the second element and
8 the third element, great bodily injury and a child, are
9 proven. The issue we have is with the first element,
10 inflicting.

11 Your Honor, if you flip to Page 2?

12 This is a definition of the term inflict.

13 Your Honor, the definition says to impose, to impose,
14 and to deal. Each one of those definitions are an action
15 verb.

16 The importance of that, Your Honor, is the action
17 verb connotes a level of knowledge related to the term
18 inflict.

19 If Your Honor will turn to the second, excuse me, the
20 third page, DV-3?

21 This is a copy of the session law when the great
22 bodily injury statute was passed in the Legislature in
23 2000.

24 If you would turn to DV-4?

25 The actual statute appears, 16-3-95. The importance

1 of this, Your Honor, is that statute, 16-3-95, was created
2 in this legislative session, and immediately on doing so,
3 the Legislature amended the violent crime statute, which
4 is set forth below it, 16-1-60.

5 Your Honor, in the violent crime statute, the
6 Legislature sets forth numerous violations that constitute
7 a violent crime. If Your Honor looks at each of those
8 criminal acts that constitute violent crimes, each one of
9 those has a element of knowledge meaning the defendant, to
10 be convicted of a violent crime, must have some kind of
11 knowledge. There must be intent.

12 Your Honor, that's evidenced that the term inflict
13 requires intent and the State must prove that beyond a
14 reasonable doubt.

15 Your Honor, if you would flip to the next page?

16 It's DV-6.

17 This is the printout of the actual statute that was
18 passed in 2000 and is charged against David Baynard,
19 infliction or allowing infliction of great bodily injury
20 upon a child.

21 Your Honor, the State is proceeding under Section A
22 where it says it is unlawful to inflict great bodily
23 injury upon a child. Again, this is a knowledge
24 requirement for the statute and the term inflict requires
25 the State to prove that the defendant had some element of

1 knowledge or intent.

2 Your Honor, there are a limited number of cases that
3 have addressed this statute over the course of its
4 existence. One of which is State versus Ledford. This is
5 page DV-17.

6 Your Honor, in State versus Ledford, a defendant was
7 charged with great bodily injury to a child and the
8 importance of Ledford is the defense asked that the jury
9 charge include the word willful. The reason the defense
10 asked that is that, in the indictment, the State charged
11 the defendant with willfully inflicting great bodily
12 injury on a child.

13 Now, that's not in the statute. But, in this
14 particular case, the trial judge allowed that jury
15 instruction and included the term willful.

16 The importance of this case is the State immediately
17 appealed that and the Court of Appeals said you don't have
18 the right to immediately appeal. What the Appeals Court
19 did not do is say there is no willful element to the
20 statute. They, they let that through.

21 Your Honor, the next case I'm, I'm gonna point to is
22 an unpublished opinion. It is State versus Tyree. It is
23 DV-21.

24 The, the only reason I direct Your Honor I talk --
25 Your Honor's attention to this is, on Page 2, the -- DV,

1 excuse me, DV-22, under Note 2, the Court says further, we
2 reject appellate's implication that the State was required
3 to prove the intent element of infliction of great bodily
4 injury on -- upon a child before two charges could be
5 tried together.

6 The importance of that, Your Honor, is it appears
7 that the Court of Appeals is recognizing that there is, in
8 fact, an intent element to infliction of great bodily
9 injury.

10 Your Honor, the next exhibit is again an unpublished
11 case. It's at DV-24 and this is State versus Johnson.

12 Again, Your Honor, if you would turn to Page DV-31?

13 In this case, the State, excuse me, the Court of
14 Appeals says that a defendant is entitled to a directed
15 verdict when the State fails to prove evidence of the
16 offense charged.

17 Your Honor, they, in this case, point to that statute
18 and basically say that the trial judge should grant
19 directed verdict when the evidence merely raises the
20 suspicion that the accused is guilty. Then they say
21 suspicion implies a belief or an opinion as to guilt based
22 on factual circumstances which, which do not amount to
23 proof.

24 Your Honor, that is important for several reasons.
25 First, again, the State must show an intent to cause great

1 bodily injury in order to convict the defendant of, of
2 this charge.

3 So, what's the evidence that the State has of intent?

4 Your Honor, it's our per -- it's our argument they
5 don't have it. Essentially what the State has put forth
6 in this case, through all of its witnesses, is photographs
7 of a dirty house and testimony about medical injuries that
8 essentially arose through negligence. What they have
9 shown is neglect.

10 Your Honor, Mr. Baynard has already conceded guilt to
11 the neglect charge. We're not arguing that. That's been,
12 that's been proven.

13 But the State's evidence is solely dependent on the
14 results of neglect. They have no evidence of intent,
15 either specific or general, to cause great bodily injury
16 to Minor [REDACTED].

17 The problem with that, Your Honor, is their evidence
18 is circumstantial. In fact, there's, there's no evidence
19 at all to suggest that there was any actual intent to
20 cause injury. The, the evidence presented is simply
21 criminal negligence. You know, the evidence presented by
22 the State is these defendants neglected their house,
23 neglected their child, and it got filled with trash and
24 debris and, and other items.

25 What it does not show at all is actual intent to

1 inflict great bodily injury and that's what they need to
2 sustain a conviction for this charge. And it's that
3 element of inflict that they can't prove.

4 The evidence that they presented, if it does
5 anything, is only point to a suspicion of guilt on intent
6 to cause great bodily injury and suspicion is not enough
7 and, therefore, we ask Your Honor direct a verdict of
8 dismissal on that charge.

9 Thank you.

10 THE COURT: Solicitor.

11 SOLICITOR BARNETTE: Thank you, Your Honor.

12 Kind of an interesting thing in this thing was, in
13 looking at the case law, I don't know if I agree with his
14 summarization of the case from that standpoint.

15 Ledford was not decided. If you look at it, they
16 just said the State couldn't appeal that issue. They
17 didn't decide anything on that case other than that.
18 That's what usually Courts do when they decide it. It
19 shouldn't of been appealed to start with at that, at that
20 point.

21 Tyree talks about infliction.

22 well, that's talking about a joinder case. It's
23 actually a case that I tried with Solicitor Trey Gowdy. I
24 think it was the last case we tried together in
25 Spartanburg County from that standpoint, and just talking

1 about there, it just says we object that appellants in the
2 case and the State was required to prove inflict element,
3 infliction of great bodily injury towards the -- before
4 the two charges could be tried together.

5 But infliction is a situation where they neglected
6 her totally from that standpoint. Exposed her to all
7 kinds of things.

8 I remember Doctor Rose's testimony. Insect bites,
9 the infection that was caused from all the things she was
10 exposed to from insects, animals, feces, urine, all
11 through there, and David Baynard was the one that actually
12 carried her and we saw that on the video. Carried her up
13 to the ER from that standpoint in no rushing manner.

14 They knew they called 9-1-1. They been instructed by
15 numerous people they could call 9-1-1. They could do
16 these things.

17 The neglect, the great bodily injury, led to that and
18 then the death led from those injuries those from all
19 that. And it was inflicted by these three individuals
20 that was in charge of her care.

21 She couldn't do anything else. She was dependent
22 totally on them in this situation. And to argue that --
23 and, of course, it's a general intent crime from there.

24 It's kind of interesting. When he's talking about
25 the violent crime cases or whatever, homicide by child

1 abuse is included with that with violent crimes. I know
2 the Court knows that.

3 It's a statute right before this statute that we're
4 trying here. And, in that case, it's indifference to
5 human life from that standpoint.

6 And obviously this is the -- the way they treated
7 her, the way they didn't do things for her or did do
8 things to her from that standpoint is the -- basically the
9 infliction that occurred in this case. And then, like I
10 said, it's a general intent crime and I don't see anything
11 specific intent in there.

12 So, if a general crime, basically if you look at the
13 Mouzon, and I know we're gonna get into that in the murder
14 cases and other cases from there, you can prove that
15 through there and you can tell the actual evidence. And
16 the Court had ruled against us on pictures we wanted to
17 show to the jury obviously. I know the Court has seen
18 those pictures.

19 There is no question there is unbelievable
20 circumstantial evidence, and, of course, looking in the
21 light most favorable to the nonmoving party in this case,
22 we have total evidence that shows infliction that occurred
23 in this case. Basically that child abuse was caused in
24 this, in this case cause she suffered immensely.

25 You've heard the testimony of Doctor Rose. You've

1 heard the testimony of three doctors now that is never
2 seen anything like this in their careers from that
3 standpoint. And these individuals, including the
4 defendant who just argued for that, David Baynard, is
5 responsible for all that.

6 If I could have a moment for a second, Your Honor?

7 (Pause.)

8 SOLICITOR BARNETTE: And, Your Honor, they didn't do
9 what they were required to as parents in this situation in
10 taking care of that child as well as the caregiver of the
11 brother in this case. I don't know if that's gon' spill
12 into his argument or not.

13 But, like I said, I'd ask you deny the motion. I
14 think there's plenty of evidence to support that in the
15 record. I don't think these cases change anything from
16 that standpoint and I don't think they stand for some of
17 the prepositions (sic) that's been supported by the Court
18 to be honest with you.

19 THE COURT: Thank you.

20 Yes, sir.

21 MR. RACINE: Your Honor, may I respond briefly?

22 Your Honor, he's not charged with homicide by child
23 abuse. That's failure of the Legislature to get a, a
24 proper charge. He's charged with infliction of great
25 bodily injury.

1 what the solicitor just said is that, essentially,
2 they neglected her to death. But these facts, as bad as
3 they are, they showed criminal negligence. They, they
4 don't show intent. There's, there's nothing that shows an
5 intent to inflict great bodily injury.

6 Yes, their negligence resulted in great bodily
7 injury. But the charge they're facing on this particular
8 indictment is, is not criminal negligence. It has a
9 knowing element that requires the State to prove that they
10 had intent to cause these injuries and, and they don't
11 have that.

12 They have criminal negligence, and as bad as these
13 are, that's all they have. It simply does not support the
14 element necessary to show that they had intention to
15 create these injuries.

16 SOLICITOR BARNETTE: One short response, Your Honor.

17 He says we haven't shown intent. Intent is when you
18 let a child for weeks, from the testimony of Doctor Rose
19 and from the other doctors that support this, didn't
20 happen overnight.

21 He had to see this and didn't do anything for her.
22 Let her go through the pain and suffering and everything.
23 That's intent cause, like I said, to let her do that --
24 they say it's neglect. No, that's more than neglect.

25 Neglect is letting the dirty house and the bugs run

1 around and neg -- when you're letting somebody suffer and
2 go through what that poor girl went through, that's intent
3 and it's general intent if they -- being specific intent
4 as far as I'm concerned.

5 THE COURT: Okay. All right. As to the murder.

6 MR. RACINE: You want to forward with the other
7 folks?

8 THE COURT: Well, anybody want to -- well, you, you
9 gonna do -- you gonna argue both your motions?

10 You said you have two.

11 One on the murder?

12 MR. RACINE: I do. Yes, Your Honor.

13 THE COURT: Okay.

14 MR. RACINE: I can go ahead.

15 All right. Your Honor, if you would flip to Page
16 DV-34?

17 This is the indictment charging murder against David
18 Baynard.

19 Your Honor, in this indictment, what the State says
20 is defendant, David Eugene Baynard, did, in Cherokee
21 County, at their home located in -- at [REDACTED]
22 [REDACTED], Gaffney, South Carolina on or about April 11th,
23 2022, and here are the elements:

24 Felonious, willfully, and with malice aforethought,
25 expressed or implied, cause the death of one Minor [REDACTED]

1 [REDACTED].

2 what the State has done with this indictment, Your
3 Honor, is set forth four elements that the State must
4 prove to sustain a conviction against David Baynard for
5 murder.

6 Those four elements are, number one, feloniously.

7 Number two, willfully.

8 Number three, with malice aforethought, express or
9 implied.

10 And, number four, cause the death of Minor [REDACTED].

11 The problem with the State's proof is in element
12 number two and three. They have feloniously because,
13 which is element number one, because Mr. Baynard admits to
14 the neglect charge. However, the State must also prove
15 elements two and three. Element two is willful.

16 The State included that in their indictment and there
17 is no evidence of that. Under State versus Green, which
18 is DV-35, that case held that the State is bound by the
19 language of their indictment.

20 If Your Honor looks at Page DV-37, at the top of the
21 page, the Court says, in South Carolina it is a rule of
22 universal observance, in administering the criminal law,
23 that a defendant must be convicted, if convicted at all,
24 of the particular offense charged in the bill of
25 indictment.

1 Here, Your Honor, the particular offense charged in
2 the bill of indictment includes the term willfully.
3 Therefore, under the case law, in order to sustain a
4 conviction for murder in this case, the State must prove
5 willfully.

6 Your Honor, that brings up the question well, what
7 is, what is willfully?

8 If Your Honor will turn to Page DV-39?

9 This is the case State versus Sowell.

10 Your Honor, on Page DV-40, the Court, I believe the
11 Supreme Court, defines a willful act and what they say is
12 a willful act is defined as one "done voluntarily and
13 intentionally with the specific intent to do something the
14 law forbids or with the specific intent to fail to do
15 something the law requires to be done, that is to say with
16 bad purpose, either to disobey or disregard the law."

17 Your Honor, what they're saying is in order to be
18 willful, it's got to be voluntarily or -- and
19 intelligently -- intentionally done. In this particular
20 case, Your Honor, again, the State does not have any
21 evidence that David Baynard voluntarily, intentionally, or
22 with specific intent caused the death of Minor [REDACTED].
23 In contrast, what they have is evidence of neglect.

24 Now, the solicitor pointed out the fact that it is
25 extreme neglect and I don't think anyone challenges that.

1 But, again, intent to neglect is not the same as intent to
2 commit murder.

3 Here they must show that there is a willful element
4 to the charge of murder in order to make it stand and they
5 simply can't do that.

6 Again, their evidence is evidence of criminal
7 negligence. The solicitor said well, our intent is them
8 ignoring the conditions.

9 well, ignoring conditions is negligence. It may be,
10 you know, gross negligence and it may lead to horrible
11 conditions. But, again, it is -- it's negligence. It's
12 not specific intent to, to murder.

13 In this case, Your Honor, they are bound by the
14 indictment. They must show willfulness and, and they have
15 no evidence of willfulness related to David Baynard in
16 this, in this action.

17 Your Honor, also, David Baynard is entitled to
18 directed verdict on the charge of murder because what the
19 State has done is proved a different charge. What they
20 have proved is involuntary manslaughter.

21 In this case, as I said, there is no evidence of a
22 knowing intent to commit murder. Therefore, involuntary
23 manslaughter applies because the elements of in --
24 involuntary manslaughter are shown.

25 You know, the State has repeatedly said that the

1 neglect and the conditions of the house led to the death
2 of Minor . There's no intent. There's no willfulness.
3 The conditions resulted in her death. That's involuntary
4 manslaughter.

5 Your Honor, they didn't charge involuntary
6 manslaughter but they should have. With respect to the
7 indictment on murder, because the State can not prove the
8 elements, we are entitled to a directed verdict.

9 Thank you.

10 THE COURT: Solicitor.

11 SOLICITOR BARNETTE: Thank you, Your Honor.

12 The first thing I want to point out, the Sowell case,
13 Your Honor, that's a contempt of Court case. I think you
14 probably saw that. I mean that -- I mean that's a
15 willful -- obviously that's a direct order from the Court.
16 That doesn't apply in this case. This is a general intent
17 statute, the murder statute is.

18 So, I'd ask the Court just to totally disregard that
19 case cause it's not standing for the proposition in this
20 case from there.

21 And I know I've handed up case law earlier to Your
22 Honor. I believe the defense has that for my jury
23 charges. But basically, in this situation, you have
24 indifference to human life. You have the situations that
25 show that intent or that willful intent from that

1 standpoint is to willfully let somebody go through these
2 conditions and knowingly see them from there.

3 He lived in this residence. All of them lived in
4 this residence and they had to see these conditions and
5 see what that girl went through and see from there.

6 I wish we had homicide by child abuse statute but we
7 don't. Our Legislature has not passed that.

8 But murder, to me, fits in this case because the
9 willfulness in this situation is the willfulness that led
10 to -- led her watching deteriorate over this period of
11 time from that standpoint.

12 And they keep talking about criminal negligence and
13 things like that. I don't see how that fits in this.
14 This is beyond criminal negligence, what happened in this
15 situation.

16 He has a duty to report in this situation to show
17 that, obviously, as a caregiver and everything, he would
18 report to authorities when something like this happens.
19 All three of them, in our position, has that duty from
20 that standpoint.

21 One other thing, Your Honor. He keeps talking about
22 involuntary manslaughter. Well, it has to be a lawful act
23 that with a reckless disregard of the safety of others.

24 This ain't a lawful act. That's one thing, an
25 unlawful act not, not amounting to a felony.

1 well, unlawful neglect is a felony in our state I
2 believe. It carries up to that and not -- and basically
3 they say involuntary manslaughter. It's either an
4 unlawful act, unlawful act not amounting to a felony or
5 not intending to cause the death or serious bodily injury
6 or law acting on reckless regard or safety of others.

7 So, it doesn't really apply in this case. We will
8 ask you later, if they ask you for a lesser included
9 charge, we will ask you obviously to deny that charge
10 based off that law.

11 So, that would be our position, Your Honor. We
12 believe there's ample evidence to show, and, like I said,
13 it's a general intent. I don't think Sowell even covers
14 this cause, like I said, it's a totally different charge
15 too. There was a contempt charge. It's not even enough
16 to make allegedly a criminal charge.

17 And, Your Honor, State versus Wilds, and I believe I
18 handed up to that, it's 355 S.C. 269, 584 S.E.2d 338, Your
19 Honor, Court of Appeals case, (2003). That was actually
20 tried in Spartanburg County too.

21 Judge Clary was the circuit judge. It's still good
22 law in our state, Your Honor, and basically it talks about
23 expressed -- when there's deliberate intention to take the
24 law -- the life of another. Implied malice is when
25 circumstances demonstrate a wanton and reckless disregard

1 for human life or if a reasonably pert -- person would
2 have known that, according to common experience, that the
3 plain, strong likelihood that death would follow the
4 contemplated act, Your Honor, and that is letting her go
5 through what she went through and through the testimony
6 that supports that.

7 Thank you, Your Honor.

8 THE COURT: Okay. That's it?

9 MR. RACINE: Briefly?

10 THE COURT: Yes, sir.

11 MR. RACINE: Just briefly, Your Honor.

12 They still have to prove an intent to cause the death
13 and, and they have not. There's no intent to cause the
14 death. There's no evidence that they intended to cause
15 the death in this case.

16 Even if they have evidence that they ignored the
17 conditions of their house, that's evidence of negligence.
18 It's after -- it's not evidence of an intent to commit the
19 offense of murder.

20 Your Honor, the, the -- involuntary manslaughter is,
21 is a lesser included of murder. They certainly could of
22 charged that but they didn't.

23 They specifically charged murder and they, and they
24 have no evidence of any willfulness to cause the death as,
25 as required. Their argument about malice, again, they,

1 they don't have proof of implied malice.

2 They have proof of criminal negligence. They have
3 proof that they let the conditions get to where they are.
4 But they have no proof that these people believed that
5 those conditions would result in death. In fact, their
6 proof teaches the opposite.

7 what it says -- what the proof is is that these
8 conditions existed for 14 years and, and **Minor** lived in
9 these conditions, as horrible as they are, for 14 years.
10 And then, for some reason that may come out later, but the
11 State didn't put it in, she, she died.

12 So, the fact that they have no evidence of the
13 defendant, David Baynard, changing something, taking some
14 act, doing something to show that he had implied malice or
15 he had the willful intent necessary to cause the death
16 makes their indictment fail. Again, they have no evidence
17 that there was any intent because these conditions were
18 there -- the way they were for 14 years. They don't have
19 any evidence showing any intent of willful or implied
20 malice. And so their indictment fails as a matter of law.

21 THE COURT: Anything further?

22 SOLICITOR BARNETTE: Yes, sir, can I briefly just
23 respond, Your Honor?

24 He saw the house. It's her body that's evidence of
25 this. The house is just part of the neglect that led to

1 all this. But her body alone is in that situation and the
2 representation that their house was like 14 years, the
3 discovery shows differently.

4 In 2016, DSS went out there. We have pictures
5 showing that house clean. So, she didn't live in this---

6 MR. RACINE: Your Honor, that's not in evidence.

7 SOLICITOR BARNETTE: I understand. But to make that
8 representation, they have that discovery, and I want to
9 put that on the record, Your Honor.

10 Thank you.

11 THE COURT: Okay. Those are the two motions for
12 Mr. Baynard.

13 Okay. Mr. File.

14 MR. FILE: Your Honor, we would just join in the
15 motions already argued by, by Mr. Racine. We would join
16 in the same motion.

17 As far as the child abuse, great bodily injury
18 indictment on Mrs. Baynard and the murder indictment on
19 Mrs. Baynard, we would join in that motion with similar
20 argument as to any -- the intent. I think there is in,
21 in -- the word -- using the word inflict I think does
22 connote a -- an, an intent element there.

23 And, and as far as the murder indictment, it does --
24 the State is bound by the language of the indictments
25 which requires a willful act and it'd be our argument that

1 they have failed -- the evidence, as presented by the
2 State, has failed to prove those elements and, therefore,
3 a directed verdict should be had as to those two
4 indictments on Mrs. Baynard.

5 THE COURT: Solicitor.

6 SOLICITOR BARNETTE: Your Honor, as I stated before
7 just briefly, circumstantial evidence in this case shows
8 them inflict, shows the willfulness in this situation.
9 There's abundance of evidence in this that, that would
10 support denying the directed verdict motion on both those
11 counts.

12 THE COURT: Mr. Morin.

13 MR. MORIN: Your Honor, I believe, in the light most
14 favorable to the State, they've proven that Edward Baynard
15 is two things. He's **Minor's** brother and he's a
16 part-time employee. They are attempting to accuse him of
17 murder, unlawful neglect, all three charges, as a
18 part-time employee.

19 I asked agent from Axxess when she was on there, I
20 said well, if he didn't follow the handbook, that would
21 make him a bad employee and she said yes. The State has
22 no evidence in any way to say that he entered that bedroom
23 at anytime. They've been able to show that perhaps Axxess
24 wanted him to.

25 But they're asking you to find him guilty of the

1 infliction of great boldly injury without even proving
2 that he had eyes on her, and they put in ample evidence to
3 show she was in that bed for a long time.

4 Now, I'll also say, and I may proffer of it, that my
5 client is a victim of his parents. And since we're, we're
6 doing this, to say it's unreasonable for him not to do
7 something, that's what it's been and I know we're talking
8 about 2016. But Edward Baynard, in October 6th of 2004
9 at age 2, was removed from the house for deplorable
10 conditions and then he stayed in foster care and then they
11 returned him.

12 And then, in 2006, he was removed with his one year
13 old sister, Minor [REDACTED], for deplorable conditions. And then,
14 in 2016, they were told they couldn't live at [REDACTED] because
15 of deplorable conditions and they went and lived with
16 another family member who then asked them to leave because
17 Minor [REDACTED] wasn't being treated.

18 He is not covered under unlawful neglect. He is not
19 a parent. He is not a guardian. He was not in charge of
20 her. He's a part-time assistant most of what is respite
21 care, which means he sits there while his mother can take
22 care of her issues.

23 And, keep in mind, the State is presented evidence
24 that they actually had to force the door open stepping
25 back from the fact that they are trying to argue he should

1 have gone in there, he should have entered his parent's
2 bedroom. On top of that, he should of forced his way in,
3 which is what all the evidence is.

4 In addition to that, she got in -- illnesses, some of
5 them, as a result of the things that were going in her
6 lunges, that trach. Doctor Parra, today, he should not
7 move her if he doesn't have training. They should have
8 training if they're with her and that -- when I asked
9 Axxess is he allowed to do anything with that, they said
10 no and I asked her twice on that.

11 Because he's not a parent, he's not a guardian, he's
12 not a person in charge, he -- none of those things under
13 the statute, that can't be unlawful neglect of a child.
14 Might be unlawful neglect of a sister and it might be
15 unlawful neglect of a part-time employee.

16 But to raise him up to that level, based on that
17 handbook, based on what he was told when he was 18, after
18 and they know, the abuse and the situation he's been in
19 during his entire life to just say well, he got \$20,000
20 over however long it was, and he should of known better,
21 that was my point in making the proffer that I did. And
22 that just carries over to, to the murder.

23 The murder requires him to have -- them to show he
24 had malice in not entering and not forcing his way into
25 his parent's bedroom to see her. That's not even --

1 the -- that's not even in dispute. They were glad to say
2 it.

3 So, here we are. Mr. Baynard starts out as an 18
4 year old. No driver's license. No training. None.

5 They can say well, we gave him four hours of basic
6 first, first aid but that's not what it is. He's sitting
7 here with his parents, his parents, who as Doctor Rose
8 said, a parent knows when their child is sick.

9 She was in the room with them every day and I don't
10 think a more truthful thing has been said in here than
11 that. But to say well, he was in the house and it was
12 dirty and he was a part-time employee and he should have
13 gone in there, they haven't presented any evidence on
14 that. None.

15 They -- they've proven that he lived in the house.
16 But the question is did he see her and did they -- and
17 that's -- they have the burden of proof. I submit they
18 don't have -- they haven't carried that. Because in order
19 for them to have that, he would of had -- they would of
20 had the same evidence that he was in the room with her.

21 They've done that for the parents. They haven't done
22 that for him.

23 I submit that we're entitled to a directed verdict on
24 all three counts. He's not covered by the statute as a
25 person responsible. He's simply a part-time employee.

1 He's not committing murder if he doesn't have the malice
2 aforethought and they're relying on he was in the house.

3 And, finally, like to point out, the Court has said
4 they're not degrees of malice and that's been turning
5 around in my head this whole trial. When they're trying
6 to put him with -- pictures, when they're talking about
7 him, when they're talking about the devastation to this
8 child, and I don't disagree that it was, but that's
9 degrees of malice.

10 He has -- they have to show malice on my client's
11 part and I submit they haven't shown that he was aware of
12 it. They might have shown he should have been aware of it
13 as a part-time employee for Axxcess.

14 They might of -- their argue -- they like to argue
15 that well, anybody in that house should have been. He'd
16 been in that house and it's just a rollercoaster ride as
17 you go through there and they know it. They got their
18 discovery.

19 2004, take them away. 2005 or six -- 2002, taken
20 away. 2006, bring them back a year later. Then put them,
21 put them -- take them away. Then bring them back. They
22 clean it up. They get it certified. DSS says well, now
23 they're good. Then they're bad. And it even came out
24 today with Doctor Parra.

25 In 2021, they're good. Obviously, in 2022, they're

1 not, because if they're not watched as parents, they don't
2 know what they're doing and they fought for the right to
3 get these children back when they knew they weren't.

4 So, from that standpoint, I would argue the State, in
5 the light most favorable to them, hasn't proven any of
6 those cases, any of those charges.

7 THE COURT: Solicitor.

8 SOLICITOR BARNETTE: May it please the Court, Your
9 Honor.

10 State Exhibit 121, this man was paid two --
11 \$25,589.88 for the care of Minor [REDACTED]. He took care
12 of her 14 hours on that Sunday, April 10th, 2022. That's
13 from State Exhibit 123.

14 On Monday, the day she died, she took -- he took care
15 of her 14 hours supposedly. But that's what he reported
16 to Axxess and was reported to them.

17 He was in charge of her. If he's spending that much
18 time with her, and you can go through these records, Your
19 Honor, in State Exhibit 123 as well as 121, he -- and then
20 he basically has been tested on. He, he, on a test, and I
21 think you saw this evidence, Your Honor, where he said if
22 you suspect abuse, you call and everything.

23 He is an employee for this company from that
24 standpoint. Even -- let's say in working for the parents,
25 from that standpoint, he's taking care of her. That's

1 what the evidence shows in the most light favorable to the
2 State.

3 He's in charge of her 14 hours working with her. I
4 mean this is the information they -- I mean this is the
5 State's evidence. All the money he was paid for. the
6 training, I know they keep saying, well, she (sic) didn't
7 get a whole lot of training.

8 well, he went through a test. He knew he called
9 9-1-1. Knew there was an abuse hotline. He knew all that
10 from that standpoint and did not do anything from that
11 standpoint.

12 I know what his argument is. I understand that. But
13 that evidence, like I said, like I was told earlier, was
14 not -- it's not in front of this Court right now. It's
15 being argued right now from that standpoint.

16 But the evidence in front of this Court shown by the
17 Axxess records shows that he was in charge of her under
18 the unlawful neglect statute cause obviously he spent a
19 lot of time with her according to the information that was
20 given and what he was paid for in this situation.

21 The great bodily injury, to not -- to just let her
22 lay there and go through there and let -- basically watch
23 from there and, like I said, I stated the wilds case. I
24 could repeat it again, Your Honor. But from that
25 standpoint, you knew the consequences from watching what

1 happened to her.

2 If he spent 14 hours a day with her, and he didn't
3 see this, it's been going on for weeks, he's in charge of
4 her. That covers the neglect statute.

5 The infliction of that, he's suppose to be taking
6 care of her. Even though a respite nurse, that's suppose
7 to give a break for the parents and the parents are not
8 with her at that time from that standpoint and he started
9 working -- January 11th 2021, Doctor Parra saw that and
10 had some concerns and addressed them from very minor from
11 that standpoint compared to what happened.

12 He's taking care of her. They're reported in the
13 information that was given from the Axxess records.

14 I think there's plenty of evidence in this, Your
15 Honor, like I say, circumstantial evidence and her body
16 speaks the truth of it from that standpoint.

17 The other thing is she couldn't leave. They all
18 three could including Edward. Could leave at anytime and
19 did leave I'm sure at times all the time. She couldn't.

20 Thank you, Your Honor.

21 THE COURT: Anything, Mr. Morin?

22 MR. MORIN: Just one moment, Your Honor.

23 Can I see 121?

24 (Pause.)

25 MR. MORIN: I need to just look at something, Your

1 Honor.

2 (Pause.)

3 MR. MORIN: Your Honor, on State's 121, I've gone
4 through them and he's reporting problems doing the food
5 every single day. Every single day. Every single day.
6 Every single page that he did report says I'm having
7 trouble with the food.

8 Axxess never said anything. Well, if he's said
9 something, he filed it, it's on every page.

10 The law's clear on unlawful neglect of a child and
11 neglect. It defines who is covered.

12 It does not say part-time employee and the fact that
13 they have some records where he said that is not evidence
14 of anything. The evidence is what they showed when they
15 couldn't get in the room where she was.

16 Even if he saw it, and I'm gonna go out -- even if he
17 did see it, he's not covered under either one of those
18 statutes and it doesn't include a part-time person that's
19 doing respite care. It might make him a liar on his
20 billings and it might make him a bad employee. But it
21 doesn't make him a murderer or unlawful neglect or neglect
22 of a child.

23 No different than anybody else. That's why the
24 Legislature put in there who is covered. A person in
25 charge of or custody of a child is a parent or a guardian

1 or a child. I'm reading 63-5-70 or a person responsible
2 for the welfare defined on 63-7-20. And that goes into
3 child, parent, guardian, foster parent, operator,
4 employee, or caregiver as defined by 16-13-20 and that
5 goes into residential care.

6 They don't get to expand it because they don't like
7 how his 20 hours a week came out. And they don't get to
8 put a new thing on top of it because he was in his
9 parent's house, and, for that reason, I -- that's all I'm
10 gonna say about it.

11 I'm sure Mr. --.

12 THE COURT: Anything?

13 SOLICITOR BARNETTE: Yes, sir, I'd like to respond.

14 If you look at the statute, Your Honor, 63-5-70, it
15 say unlawful person who has charge or custody of a child
16 or who is a parent, guardian of a child who is responsible
17 for the welfare charge as stated in 63-7-20.

18 You give a child -- you give your child to take care
19 by, you know, whoever, you put them in charge of that and
20 he's in charge. He actually signed and initialed all
21 these check -- all these paystubs or whatever through the
22 app or on card of what is it?

23 SOLICITOR JORDAN: Timecard.

24 SOLICITOR BARNETTE: Timecards.

25 So, he's the one that -- responsible for this. He

1 was getting paid for it. He documented, documented that
2 he went ahead and did that from there.

3 So, we think the statute does apply, judge, cause
4 he's in charge at that point when he's taking care of her.
5 And I think it's an or. That's the reason why the
6 Legislature did it the way they did it.

7 Thank you, Your Honor.

8 MR. MORIN: I said I was gonna stop but there is one
9 thing.

10 He wasn't arrested in April with his parents. He
11 wasn't arrested in May, June, and July.

12 There was no malice. There was no unlawful neglect.
13 There was no negligence. He lived there, which is what --
14 one of the things -- but they're saying, magically, when
15 he became this part-time employee, he, all of a sudden,
16 met all that criteria.

17 SOLICITOR BARNETTE: And he's right, Your Honor. We
18 didn't charge him. I'll tell you why it was not charged
19 by SLED or by the Sheriff's Department from that
20 standpoint.

21 We're not charging him because he just lived in the
22 house. We're charging him when they found out, through
23 information through their investigation, that he was an
24 Axxess employee, a resident nurse, that was in charge of
25 her care just like the statute says.

1 That's why he wasn't arrested, I don't think, until
2 August 8th, 2022, and that's the reason why cause law
3 enforcement did the investigation, did what proper they
4 should do.

5 They just didn't charge him cause he was in the
6 house. They charged him because of this.

7 Thank you, Your Honor.

8 THE COURT: Thank you.

9 Okay. Obviously it's under advisement. I got plenty
10 of reading and studying to do.

11 I'm gonna release the jury.

12 Any objection to me releasing them through a bailiff
13 or you want me to bring them back in?

14 SOLICITOR BARNETTE: What time will you be bringing
15 them back, Your Honor?

16 I guess that's the question.

17 THE COURT: I'm considering bringing them back about
18 2:30.

19 SOLICITOR BARNETTE: Okay. Will we be dealing with
20 any other matters prior to it going in front of them?

21 MR. RACINE: We, we need to have---

22 SOLICITOR BARNETTE: I know that -- I know it
23 caught -- I mean we, back in chambers, all the parties
24 did, and spoke to you.

25 THE COURT: Yeah, we, we got to deal with some other

1 matters too or I can bring them back at 3:00.

2 SOLICITOR BARNETTE: Yeah, I don't know. I didn't
3 know how we were gonna handle this other. I, I know you
4 got to deal with the directed verdict motion and there may
5 be some other matters depending on those.

6 THE COURT: I, I know they're some other matters.

7 So you want me to bring them back at 3:00?

8 I mean I don't want them to sit back there, right,
9 cause we got some---

10 MR. FILE: I'll leave that to your discretion, judge.

11 SOLICITOR BARNETTE: I don't know how long the
12 proffer would take, Your Honor, from that standpoint if
13 there is a proffer. I don't know. I don't know.

14 MR. RACINE: If, if there's a proffer, it could
15 take -- it could take up to an hour and that's the length
16 of the videos. So --.

17 SOLICITOR BARNETTE: Well, I'm not gon' -- I don't --
18 he can watch the video. I mean but the problem you're
19 gon' have is you got four other -- you got the other
20 statements and we're gon' ask to be entered if you're gon'
21 do that.

22 MR. RACINE: Those are written. We can just pass
23 those up.

24 THE COURT: Yeah, we still gonna have time to read
25 them and look at them and think about them---

1 MR. RACINE: Yes, sir.

2 THE COURT: ---and argue about it a little bit.

3 Let's all talk over here.

4 (WHEREUPON, a bench conference was held at this
5 time.)

6 THE COURT: Okay. We're gonna stand in re -- recess
7 until 1:45, 1:45 and then we'll reconvene or something if
8 you want to say.

9 (WHEREUPON, Court was in recess for the lunch break.)

10 THE COURT: Thank you. Please be seated.

11 Okay. Before lunch we had some motions and I got
12 some rulings here for us.

13 The first one is to -- I thought I got the
14 indictments.

15 Mr. Racine argued the motions on behalf of David
16 Eugene Baynard and the first one is the child abuse with
17 great bodily injury.

18 I got that right, Mr., Mrs. Racine?

19 MR. RACINE: Yes, judge.

20 THE COURT: Okay. And it's up -- and this is joined
21 into by, by the, the other defendants?

22 MR. MORIN: For different reasons but yes.

23 THE COURT: Yes, sir.

24 Counsel contends that one of the elements of the
25 child abuse with great bodily injury is, is inflict and

1 that the State has presented no evidence to that element
2 of the crime charged. Counsel further contends that
3 inflict is affirmative or overt act such as a strike or a
4 blow under number three definition in what he presided --
5 provided to the Court. But counsel reads his own
6 definition to narrow it.

7 Under, under the definition that was provided to the
8 Court, number two -- number one is impose as something
9 that must be borne or suffered, to inflict punishment.

10 Number two is to impose anything unwelcomed and this
11 Court managed to pull two other definitions, to force
12 someone to experience something very unpleasant or to
13 cause something very unpleasant to be endured and also to
14 cause something unpleasant to be endured, which is also
15 matched up with counsel's definition.

16 This Court does not weigh the evidence. That is for
17 the jury to decide. This Court must view the evidence in
18 the light most favorable to the nonmoving party, here the
19 State, and if there is any evidence supporting the
20 indictment, must deny the motion and send the matter to
21 the trier of fact.

22 Here, the Court finds there is some evidence and
23 hereby denies the motion for directed verdict as to David
24 Baynard, Bobby Jo Baynard, and Edward Baynard.

25 As to the murder charge, this Court, again, does not

1 weigh the evidence but views the evidence in the light
2 most favorable to the State, which is the nonmoving party,
3 and this Court finds there is sufficient evidence and
4 denies the domestic, I'm sorry, the, the, the directed
5 verdict motion.

6 And as to Edward Baynard, counsel argues that, under
7 63-5-70, that it does not meet the definition. But,
8 again, counsel contends that the unlawful conduct must be
9 dismissed because he does not meet the definition of the
10 statute. But, again, that is read too narrowly and this
11 Court does not weigh the evidence. And if there's any
12 evidence in the matter to -- it is to be submitted to the
13 jury, which is the finder of fact.

14 Here, there is some evidence that he was spending
15 hours with **Minor** and a motion is denied. I think it
16 comes under the responsible party at that point
17 responsible for the welfare.

18 Anything from the State?

19 SOLICITOR BARNETTE: None from the State, Your Honor.

20 THE COURT: As to Mr. Racine?

21 MR. RACINE: No, Your Honor.

22 THE COURT: As to -- Mr. File, you were second in
23 that.

24 MR. FILE: None. None, Your Honor.

25 THE COURT: And Mr. Morin.

1 MR. MORIN: That last part you said, something about
2 he became responsible, is that---

3 THE COURT: It---

4 MR. MORIN: ---is that what you said---

5 THE COURT: It's---

6 MR. MORIN: ---Your Honor?

7 THE COURT: It's, it's -- the definition is -- the
8 definition, the statute says, under 63-5-70, responsible
9 for the welfare and then, Subsection 2, or maliciously.
10 So, the Court believes that was read a little bit too
11 narrow there. 63-5 -- here you go.

12 You want the statute?

13 MR. MORIN: I just want to be clear on something,
14 Your Honor. Don't mean to argue with the Court.

15 THE COURT: Oh, you're not.

16 MR. MORIN: Sixty-three---

17 THE COURT: Here it is if you want it.

18 MR. MORIN: Yeah.

19 THE COURT: Top of the page.

20 MR. MORIN: I'm gonna renew my motion after we get
21 done and I'm, I'm gonna look at it. I may --.

22 THE COURT: Hang on to that if you want to.

23 MR. MORIN: Okay.

24 THE COURT: Okay. Okay. Anything else as to the
25 motions?

1 SOLICITOR BARNETTE: Not from the State, Your Honor.

2 THE COURT: Okay. All right. And the State has
3 rested.

4 So, we'll go, Mr. File, does your client desire to
5 testify?

6 MR. FILE: He -- she is decided not to testify the
7 time -- last time we spoke. So --.

8 THE COURT: Okay. I'm gonna take these individually
9 because I think it's that important in this case.

10 Mrs. Baynard, I'm gon' ask that you stand and be
11 sworn.

12 THE CLERK: Please stand. Raise your right-hand.

13 (WHEREUPON, Defendant Bobbie Jo Baynard was placed
14 under oath at this time.)

15 THE CLERK: You can lower your hand.

16 THE COURT: Mrs. Baynard, we have reached the stage
17 of this trial where you may present a defense. You have
18 the right to claim the protections given to you by the
19 Fifth Amendment to the Constitution of the United States,
20 which states, in part, no person shall be compelled in any
21 criminal case to be a witness against herself.

22 Additionally, you have the right to claim, claim the
23 protections given to you by Article 1, Section 12 of the
24 South Carolina Constitution, which states, in part, no
25 person shall be compelled in any criminal case to be a

1 witness against herself.

2 This means that you can not be required to testify.
3 You have the right to do so. But no one can make you
4 testify. This is a personal right and no one except you
5 can make this decision.

6 If you decide to testify, you will be subject to the
7 same rules that govern other witnesses and you may be
8 examined and cross-examined on any relevant issue.

9 Additionally, if you have any convictions involving
10 dishonesty or false statement or for crimes punishable by
11 imprisonment for more than one year, and this Court
12 determines the probative value of admitting the evidence
13 outweighs its present -- prejudicial effect to you, the
14 solicitor will be able to introduce your record to attack
15 your credibility.

16 If you decide to testify, the decision on your part
17 must be freely, intelligently, and voluntarily made with
18 knowledge of the protections given to you by the
19 Constitutions of the United States and the State of South
20 Carolina and the consequences of your decision.

21 If you decide not to testify, I will instruct jurors
22 they can not give the fact that you did not testify any
23 consideration and there is to be no prejudice to you
24 because you did not testify. The decision is entirely up
25 to you as to whether or not you choose to testify.

1 Have you discussed this matter with your lawyer?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Have you discussed it with anyone else
4 that you need to talk with before you make your decision?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you understand what I have explained
7 to you?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you have any questions about what I
10 have explained?

11 THE DEFENDANT: No, sir.

12 THE COURT: Do you wish to talk any -- with your
13 lawyer any further at this time?

14 THE DEFENDANT: No, sir.

15 THE COURT: Ma'am, do you wish to testify?

16 THE DEFENDANT: No, sir.

17 THE COURT: Thank you. You may be seated.

18 Now, Mr. Baynard, if you would stand please and I'm
19 gonna ask you the same questions.

20 THE CLERK: Please raise your right-hand.

21 THE COURT: Sir---

22 (WHEREUPON, the defendant, David Baynard, was placed
23 under oath at this time.)

24 THE CLERK: You can lower your hand.

25 THE COURT: Mr. Baynard, again, I'm gon' read these

1 individually to all three of you.

2 We have reached the trial stage where you may present
3 a defense. You have the right to claim the protections
4 given to you by the Fifth Amendment to the United States
5 Constitution, which states, in part, no person shall be
6 compelled in any criminal case to be a witness against
7 himself.

8 Additionally, you have the right to claim protections
9 given to you by Article 1, Section 12 of our -- of our State
10 Constitution which says no person shall be compelled in a
11 criminal case to be a witness against himself.

12 This means you can not be required to testify. You
13 have a right to do so and -- but no one can make you
14 testify. This is a personal right and no, no one can
15 waive the right except you.

16 If you decide to testify, you will be subject to the
17 same rules that govern other witnesses and you may be
18 examined and cross-examined on any relevant issue.

19 Additionally, if you have any convictions involving
20 dishonesty or false statement or for crimes punishable by
21 imprisonment for more than one year, and this Court
22 determines the probative value of admitting this evidence
23 outweighs its prejudicial effect to you, the solicitor
24 will be able to introduce your record to attack your
25 credibility.

1 If you decide to testify, the decision must be made
2 freely, intelligently, and voluntarily with the knowledge
3 of the protections given to you by the Constitutions of
4 the United States and the State of South Carolina and the
5 consequences of your decision.

6 If you decide not to testify, I will instruct jurors
7 they can not give the fact that you did not testify any
8 consideration and there will be no prejudice to you
9 because you did not testify. The decision must be yours
10 and yours alone.

11 Do you understand what I have told you?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you have any questions about what I
14 have told you?

15 THE DEFENDANT: No, sir.

16 THE COURT: Have you discussed this matter with your
17 lawyer?

18 THE DEFENDANT: I have.

19 THE COURT: Do you wish to speak with your lawyers
20 about this subject any further?

21 THE DEFENDANT: No, sir.

22 THE COURT: Sir, what is your decision?

23 THE DEFENDANT: I've been advised to -- not to
24 testify. That really it's in my best interest not to
25 testify.

1 THE COURT: Thank you so much, sir. You may be
2 seated.

3 Mr. Baynard.

4 THE CLERK: Raise your right-hand.

5 (WHEREUPON, the defendant, Edward Baynard, was placed
6 under oath at this time.)

7 THE COURT: Mr. Edward Baynard, we have reached the
8 trial stage of this trial where you may present your
9 defense. You have a right to claim protections given to
10 you by the Fifth Amendment of the -- to the Constitution
11 of the United States which says, in part, no person shall
12 be compelled in any criminal case to be a witness against
13 himself.

14 Additionally, you have the right to claim the
15 protections given to you by Article 1, Section 12 of our,
16 of our State Constitution which says no person shall be
17 compelled, in any criminal case, to be a witness against
18 himself.

19 Sir, this means that you can not be required to
20 testify. You have a right to do so. But no one can make
21 you testify. This is a personal right and no one except
22 you can make this decision. If you decide to testify, you
23 will be subject to the same rules that govern the other
24 witnesses and you may be examined and cross-examined on
25 any relevant issue.

1 Additionally, if you have any convictions involving
2 dishonesty or false statements or for crimes punishable by
3 imprisonment for more than one year, and this Court
4 determines the probative value of admitting the evidence
5 outweighs its prejudicial effect to you, the solicitor
6 will be able to introduce your record to attack your
7 credibility.

8 If you decide to testify, the decision on your part
9 must be freely, intelligently, and voluntarily made with
10 the knowledge of the protections given to you by the
11 Constitution of the United States and the State of South
12 Carolina and the consequences of your decision.

13 If you decide not to testify, I will instruct jurors
14 they can not give the fact that you did not testify any
15 consideration and there is to be no prejudice to you
16 because you did not testify. The decision is left up to
17 you.

18 Sir, you, you have spoken with your lawyer about this
19 matter?

20 THE DEFENDANT: I have.

21 THE COURT: Do you understand what I have explained
22 to you?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you have any questions about what I
25 have told you?

1 THE DEFENDANT: No, sir.

2 THE COURT: Do you wish to speak to your lawyer any
3 further about this matter?

4 THE DEFENDANT: No, sir.

5 THE COURT: Sir, what is your decision?

6 THE DEFENDANT: I won't testify.

7 THE COURT: You will not?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Thank you, sir. You may be seated.

10 MR. MORIN: Your Honor, I'm ready to give your book
11 back and clarify what you're trying to say.

12 THE COURT: Okay.

13 MR. MORIN: I guess -- and let me hand your book back
14 to you, Your Honor.

15 I just need the record to be clear, Your Honor, and
16 what I'm concerned about is what I just wrote. Section
17 63-7-20. In Subsection 6, it says child abuse or neglect
18 occurs and then goes on to define who the people are.

19 Subsection 19 says person responsible for child's
20 welfare includes, and I want to be clear if you are
21 finding he falls under one of those subsections, both of
22 them?

23 THE COURT: No, sir.

24 MR. MORIN: No?

25 THE COURT: I'm not looking at 63-7-20. When used in

1 this chapter or Chapter 9 or 11 and unless the specific
2 context indicates otherwise. I'm looking under 65 -- I'm
3 sorry. 63-5-70.

4 MR. MORIN: Yes, Your Honor, and it goes on, and even
5 in their indictment, it says welfare of child defined as
6 63-7-20 of South Carolina Code of Laws.

7 So, my position is, in that section that you're
8 looking at, refers us to 67 -- 63-7-20 and the definitions
9 therein.

10 THE COURT: Solicitor, you want to be heard?

11 SOLICITOR BARNETTE: Yes, sir, I, I don't even think
12 we get to that part, Your Honor. I completely understand
13 the Court's ruling on that.

14 My argument is it's an unlawful person who has
15 charged -- has charge and then it says or custody of child
16 or the parent, guardian, or child or who's responsible for
17 the welfare of the child defined in Section 63-7-20.

18 We're at charge right there. That was our position
19 starting with -- I do understand the Court's position
20 that's -- or that can be a second position on this, Your
21 Honor. But I believe there's no question.

22 I think it's enough evidence beyond a directed
23 verdict that he, he was in charge of her care when he was
24 working those hours and that's part of a respite nurse to
25 take care of that child during that time.

1 THE COURT: Mr. Morin.

2 MR. MORIN: We're asking---

3 SOLICITOR BARNETTE: Not, not really---

4 MR. MORIN: Really I just want to be clear cause I
5 need to know what's going on.

6 THE COURT: Yeah, I, I, I don't think I get to
7 63-7-20. It stays with 63-5-70.

8 MR. MORIN: Okay.

9 THE COURT: Yes.

10 Okay. Having said all that, now, while the jury is
11 not with us, and they'll be reporting -- they're already
12 reporting---

13 SOLICITOR BARNETTE: Three o'clock.

14 THE COURT: Three -- at three o'clock. So some of
15 them might be coming in now.

16 Just nuts and bolts here, is there gon' be a, a case
17 for the defense?

18 MR. FILE: We -- we're gon' rest our case and as far
19 as --.

20 THE COURT: Okay.

21 MRS. RACINE: Defense rests, Your Honor.

22 THE COURT: Okay.

23 MR. MORIN: Edward is resting.

24 THE COURT: Okay. Well, you have rested -- all three
25 of you have rested on the record now and I'll let you do

1 that in front of the jury when the jury reassembles.

2 All right. Any -- let's go to motions.

3 Anything from the State?

4 SOLICITOR BARNETTE: None from the State, Your Honor.

5 THE COURT: And Mr. File?

6 MR. FILE: None, Your Honor.

7 THE COURT: You want to renew your motions, correct?

8 MR. FILE: Yes. Yes, sir, judge, we do.

9 THE COURT: Okay. And they are denied for the
10 reasons heretofore enunciated.

11 Mr. Racine or Mrs. Racine, somebody?

12 MRS. RACINE: Your Honor, just like to renew my
13 previous, previous motions that we made.

14 THE COURT: Yes, ma'am, and you're protected.
15 They're denied for the reasons heretofore enunciated.

16 Mr. Morin.

17 MR. MORIN: We renew my motions and take exception to
18 your ruling on unlawful conduct.

19 THE COURT: Yes, sir.

20 Okay. And you are protected. They'll be denied
21 again for the reasons heretofore enunciated by the Court.
22 But I'll let you do -- rest in front of the jury and I
23 will tell the jury that they're done for the afternoon.
24 I'll have them come back at nine o'clock tomorrow morning
25 and then we can spend some time this afternoon with a

1 charge conference.

2 SOLICITOR BARNETTE: If I understood right, we'll do
3 charge -- and we need to do the arguing and then the
4 charge again starting at 9:00 tomorrow.

5 THE COURT: Yes.

6 SOLICITOR BARNETTE: Is that right?

7 THE COURT: Yeah, we'll spend, we'll spend some time
8 this afternoon going over the proposed jury charge so
9 we'll be ready to go first thing in the morning.

10 How about that?

11 MR. RACINE: Your Honor, I apologize. But I, I
12 thought yesterday we had decided that we would handle the
13 jury charges tomorrow. I believe -- I thought your law
14 clerk instructed us to send the charges by tonight.

15 SOLICITOR BARNETTE: But I thought---

16 MR. RACINE: So---

17 SOLICITOR BARNETTE: ---we could get them in today
18 cause we all know that we were gon' be arguing and
19 charging in the morning.

20 THE COURT: Do you have something you want us --
21 specifically?

22 MR. RACINE: I -- I'm sure we will. I mean I can try
23 to create it real quick. But I, I---

24 SOLICITOR BARNETTE: That's my---

25 MR. RACINE: I thought we were gonna submit all that

1 and---

2 SOLICITOR BARNETTE: Well, I got mine done yesterday.

3 MR. RACINE: We were told tomorrow -- tonight.

4 Tonight, to have everything in by tonight.

5 THE COURT: Okay. Well, if you still have anything,
6 we can talk about it first thing in the morning. But I --
7 I'd love to get started first thing in the morning.

8 MR. RACINE: All right.

9 SOLICITOR BARNETTE: Yes, sir.

10 THE COURT: But we'll have 90 percent of it done.
11 How about that?

12 SOLICITOR BARNETTE: May I speak to one witness back
13 there and let her go---

14 THE COURT: Certainly.

15 SOLICITOR BARNETTE: ---at this point?

16 THE COURT: We, we can be in recess right now until
17 three o'clock and then the jury will be here at 3:00.

18 (WHEREUPON, a short recess was taken at this time.)

19 THE COURT: Please be seated. Thank you.

20 Okay. The jury's here. We'll get them in and get
21 them out.

22 SOLICITOR BARNETTE: State's ready, Your Honor.

23 THE COURT: Everybody?

24 MR. FILE: We're ready.

25 MRS. RACINE: Yes, sir.

1 THE COURT: We'll have the jury.

2 (WHEREUPON, the following takes place within the
3 presence of the jury.)

4 THE COURT: Okay. Mr. Foreman, the jury -- everybody
5 ready?

6 THE FOREMAN: Yes, sir.

7 THE COURT: Okay. Mr. File.

8 MR. FILE: The State rests. I mean the defense
9 rests. Sorry.

10 THE COURT: Okay. Mrs. Racine.

11 MRS. RACINE: Defense rests, Your Honor.

12 THE COURT: The defense rests?

13 MRS. RACINE: Yes, sir.

14 THE COURT: Mr. Morin.

15 MR. MORIN: The defense rests.

16 THE COURT: Okay. Mr. Foreman, ladies and gentlemen,
17 what that means is that none of the defendant's intend to
18 put up a case as, as is their right. The State must prove
19 their guilt. They do not have to prove their innocence.

20 Having said that, I will now be releasing you for the
21 day not to -- and tell you and charge you not to do any
22 research or read any news article or so forth and be here
23 in the morning at 9:00AM.

24 The lawyers will then make their closing arguments to
25 you after which I will then charge you the law in this

1 case. And then this case will be coming to you for your
2 decision.

3 Madam Clerk, we will order lunch for tomorrow for the
4 jury so they will not have to make their way out and
5 interrupt your deliberations tomorrow.

6 Okay. So you can expect to have this case tomorrow
7 morning in, in your jury room.

8 Anything from the State?

9 SOLICITOR BARNETTE: Nothing from the State, Your
10 Honor.

11 THE COURT: Defense?

12 MR. FILE: Nothing.

13 THE COURT: Defense?

14 MRS. RACINE: None, Your Honor.

15 MR. MORIN: None.

16 THE COURT: Okay. The case is over as far as the
17 testimony. They'll be no other evidence introduced. No
18 other picture. No other diagram. Nothing. It's gonna be
19 in your hands tomorrow.

20 Okay. Mr. Foreman, take your jury out and be, be
21 back in the morning.

22 THE FOREMAN: Yes, sir.

23 (WHEREUPON, the following takes place outside the
24 presence of the jury.)

25 THE COURT: Okay. We had already, already done that

1 and already done our motions and already renewed our
2 motions. So everybody's protected on the record and it's
3 got to be that in front of the jury.

4 we'll be in recess until tomorrow morning at 9:00 and
5 wade is got the jury charge basically done. So, we can go
6 talk a little bit about that if you want to and we'll
7 reconvene in the morning.

8 SOLICITOR BARNETTE: Thank you, Your Honor.

9
10 (WHEREUPON, Court was in recess for the evening.)
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1 Thursday, October 31st, 2024

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3 THE COURT: Thank you. Thank you. Please be seated.

4 Good morning, everyone.

5 Okay. Anything before we start?

6 SOLICITOR JORDAN: Yes, Your Honor.

7 We sent an email last night to all the parties
8 involved, including Your Honor and the law clerk,
9 requesting changes to the proposed charge. It's my
10 understanding that those changes have been made and I
11 apologize for sending three separate emails, and it's also
12 my understanding that the three parties do not have any
13 objection to the changes that we requested.

14 THE COURT: Okay.

15 MR. FILE: No objection.

16 MRS. RACINE: No objection.

17 MR. MORIN: No objection.

18 THE COURT: Okay.

19 SOLICITOR JORDAN: That's all, Your Honor.

20 THE COURT: Thank you.

21 Anything at all before we start?

22 SOLICITOR BARNETTE: And my -- the way I understand,
23 Your Honor, I'll fully open here and they'll get last
24 arguments, the three of them.

25 Is that right?

1 I don't have any reply in this case cause I don't
2 think they put any evidence in.

3 MR. MORIN: That's right.

4 SOLICITOR BARNETTE: I just wanted to make sure I'm
5 clear on that.

6 THE COURT: I, I know they marked a couple things.
7 But it was for ID purposes.

8 SOLICITOR BARNETTE: I don't think they ever entered
9 it into evidence.

10 MR. MORIN: No. But I---

11 SOLICITOR BARNETTE: I just wanted to make sure
12 that---

13 MR. MORIN: I marked them but I didn't enter them.

14 SOLICITOR BARNETTE: That's why I want to handle it.
15 Obviously I'll get the one opening or the one closing.

16 THE COURT: One opening and one -- I mean one --
17 yeah.

18 SOLICITOR BARNETTE: Obviously---

19 MR. MORIN: Everybody goes once.

20 THE COURT: Everybody goes once.

21 SOLICITOR BARNETTE: Your Honor, is it okay if Ms.
22 Jordan might get up if she moves over there to help me
23 with the ELMO to show the exhibits?

24 THE COURT: Sure.

25 SOLICITOR BARNETTE: Thank you.

1 MR. MORIN: I, I plan to do that as well with Miss
2 Gowdy.

3 THE COURT: Anybody need anything before we get the
4 jury?

5 (WHEREUPON, there was no response.)

6 THE COURT: We'll have the jury.

7 (WHEREUPON, the following takes place within the
8 presence of the jury.)

9 THE COURT: Good morning, ladies and gentlemen.
10 Mr. Foreman, everybody good?

11 THE FOREMAN: Yes, sir.

12 THE COURT: Please give---

13 THE FOREMAN: Thank you.

14 THE COURT: ---your attention to the solicitor.

15 SOLICITOR BARNETTE: May it please the Court, Your
16 Honor.

17 Mr. Foreman, ladies and gentlemen of the jury,
18 **Minor** was a 14 year old child.

19 MR. MORIN: Hey, stop.

20 I'm trying to get him -- I apologize to the State.

21 SOLICITOR BARNETTE: She is a special needs child.
22 She has a soul like every other human being in this world
23 does and Doctor Parra, yesterday from this witness stand,
24 gave you insight to her soul.

25 She said she couldn't speak, that she could show

1 emotion. She could smile. She could show unhappiness and
2 just to show you what kind of person that little girl was.

3 And Doctor Parra, that last time she saw her,
4 January 11th, 2021, she noticed things about her, you
5 know, around the feeding tube, certain things -- blemishes
6 maybe on her skin. She said well, we're gon' -- we're --
7 maybe need to do this every six months.

8 She talked to her parents again, reiterate, you know,
9 all the emergency procedures, what they need to do, went
10 through all that with them. Six months later, they missed
11 their appointment.

12 Doctor Parra's office keeps calling and you heard all
13 the dates that they called. Got to February 22nd of
14 2022. Canceled that last appointment.

15 What Doctor Parra didn't know. I mean she's trying
16 to reach them, her office is, is the way **Minor** is
17 living. You heard the testimony. This happened over
18 weeks.

19 She couldn't imagine her laying in the urine, with
20 feces, the insects, the ammonia smell, the everything.
21 She's in her crib. It's like she was put into acid and
22 remember Doctor Parra's testimony.

23 She had emotions. She could feel pain. She had to
24 stay in that crib. She couldn't go anywhere. They could
25 and they could drive anywhere, make phonecalls.

1 She stayed in that crib. Just unimaginable. The
2 teeth, rotten, and you got to remember, Doctor Parra saw
3 her January 21st, '21. She didn't notice anything
4 except the blemishes and things that gave her concern.

5 She gave her a full body check. The teeth,
6 everything, the scalp, the way it was as Doctor Rose
7 described it to you. Her back, talking about the insect
8 bites, the sores, everything, obvious to them.

9 Doctor Rose and Doctor Rider telling you about the
10 legs. Just like raw hamburger meat. No skin hardly on
11 them. It's been -- it's dissolved by the -- where the
12 urine just turned into -- like an acid where she has just
13 a lump of whatever you want to call it inside of her she
14 can't pass.

15 The diarrhea has to go around it to get there and it
16 just keeps going in the bed on her legs and everything
17 else. The suffering that she went through not for a
18 minute, not for an hour, not for a day but for weeks.

19 Ladies and gentlemen, if that's not malice I don't
20 know what is. Malice is malice. It's ill-will. It's
21 just total disregard and to have that little girl in that
22 situation where she can't escape. She's totally dependent
23 on them.

24 I'm briefly gonna show you the video and think about
25 this. The night that she died, they find her in distress

1 supposedly and they go to revive her, to put her into the,
2 the washer. I don't know where you could wash her in this
3 house and y'all've seen the pictures.

4 Then they cut her hair. I mean she's in distress.

5 why aren't you calling 9-1-1?

6 why aren't you getting EMS here?

7 why aren't you doing something other than trying to
8 wash her and cut her hair?

9 And when they cut her hair, these are two cuts. You
10 heard Doctor Rose. She's dead. She's dead at their house
11 when they cut her hair.

12 They don't call anybody. They just put her into the
13 van. They drive down. I'm gonna show you State Exhibit 1
14 again. I know y'all've seen it. We'll watch it here.
15 But no urgency whatsoever.

16 There's Amy Vinesett walking by. Didn't yell for
17 her. Didn't scream for help. Didn't ask for anything.
18 He throws her over his shoulder like a sack of potatoes.
19 He just points and Amy Vinesett feels the arm. Cold to
20 the touch. Minor was blue grayish and then that's when
21 it starts rushing and then she evens notices the blood in
22 her back.

23 Show the third video if you would or the second
24 video.

25 You notice how fast she moves. As soon as she

1 touched her she knew and she's taken straight on back and
2 then we're gonna show you the third video.

3 You see the bloody spot on her back. Ms. Vinesett's
4 waiting on the mother. Amy Vinesett meets with them, is
5 going through it with them, and she says -- sits down and
6 David just scrolls through his phone showing no emotion
7 whatsoever. Talking to Bobbie Baynard saying she's
8 showing no emotion and she asked her -- she wants to know
9 what happened.

10 She said was this an accident. She said absolutely
11 not an accident. This is not an accident. That's one
12 thing I do agree with.

13 You heard Doctor Rider and this is a man that's
14 worked in the ER for 31 years. He -- you saw him. You
15 saw his testimony.

16 The one thing you bring to this, to this courtroom is
17 your common sense, the way you dealt with people, seeing
18 people. You bring that to the courtroom and you weigh the
19 credibility of these witnesses.

20 He had never seen anything like this in his career.
21 He described it to you and like he was talking about the
22 hamburger like legs and this man's seen a lot. You could
23 tell by just him talking to you.

24 And then you heard from Dennis Fowler, our coroner.
25 He comes to the ER once he's called and he has seen a lot

1 and he's never seen anything like it in his life.

2 He gets with law enforcement. They actually go to
3 the house. When they arrive at the house, they have to
4 take the gate, you know, take the chain down, go through.

5 I'm not gonna go through every picture with you.
6 Y'all've seen those. I'm gonna go through a few with you.

7 But when they get to the house, it is so bad they
8 have to go out and then come back and get protective
9 equipment cause he says that insects are jumping on them.
10 He talks about the rats outside. He talks about the
11 cockroaches, the flies, the ammonia smell, the smell from
12 the feces coming in. I mean they let animals just run and
13 you can see that.

14 Even in the room that Minor was in, there's cats,
15 all kind of stuff, and they had talked about cutting the
16 hair and everything. You heard Brian Burrell. He
17 actually collected the scissors as well as the hair from
18 there as well as the gauze too that they found in that
19 bedroom.

20 He described to you what that house was like. It was
21 like a horror house. It's something that you may want to
22 see on Halloween. But this wasn't that, ladies and
23 gentlemen. This is real and this is the environment that
24 Minor lived in.

25 I just want to show you a couple of pictures real

1 quick. Show you State Exhibit 69 and 70. Like I said,
2 you saw these pictures. You saw the absolutely (sic)
3 fifth, live and dead cockroaches on them, just all through
4 the house.

5 Showing you State's Exhibit 75 and 76, the ones come
6 from the bathroom, the way they treated the house and
7 everything in it including Minor .

8 In State Exhibits 83 and 84, look at where she
9 stayed. Look at the walls. Look in the crib. Look all
10 around the crib where she basically rotted to death.

11 Through investigation, they found Edward was being
12 paid to take care of her. He went to actually meet and
13 got training on it. He actually went through a test.

14 Showing State Exhibit 120 and they asked him
15 questions there.

16 What is one early sign of pressure sore?

17 He answered. Slightly red in the skin over a bony
18 area.

19 You remember Doctor Rose's descriptions about the
20 knees, the absolute holes in them, the dead skin and
21 everything, all the sores, and she said it's so numerous
22 she couldn't even remember -- she couldn't tell you the
23 number that was on there.

24 And whose responsibility is it to report the abuse
25 and neglect?

1 He marks everyone's.

2 Is neglect a type of abuse?

3 True.

4 And they keep going through there talking about
5 sponge baths. Goes through and have -- you'll have all
6 this. I'm not gon' go through every question. She'll
7 have these available to you back there.

8 They found out he was getting paid. Look at State
9 Exhibit 121 and you'll have these documents back with you
10 and the total amount that he got paid was \$25,589.88.
11 We're starting from October 2nd, 2020, to April 11th,
12 2022, the day she died.

13 And, on the day she died, I'm gonna show you exhibit,
14 exhibit -- State Exhibit 123. And the day before she
15 died, Edward reported that he worked 14 hours that Sunday
16 before and 14 hours that Monday that she died. They
17 wanted to make sure they got every dollar out of her and
18 they did.

19 And then, on April 7th and April 8th, State
20 Exhibit 122, remember he's paid for two different types of
21 treatment or care, he turns in hours April 7th, 2022, as
22 well as April 8th, 2022, that he cared for her.

23 There is no way I submit to you the evidence shows,
24 and you've seen all the evidence, there is no way you
25 couldn't tell that she was in the condition she was if you

1 were taken care of her and getting paid for it.

2 I want to go back to Doctor Parra for a second cause
3 I think y'all heard -- you weigh her credibility. I think
4 she loves working with special needs kids. She expressed
5 that to you and she cared for Minor .

6 But one of the things she said was about the ammonia.
7 You remember Doctor Rose talking about the pus in the
8 lungs. She said you would of seen obvious signs of that.
9 You would see the raising in her chest. You'd see the
10 increased mucus coming out. You would see a raise in
11 temperature. You would see the O2 levels, the oxygen
12 levels in her that's measured by the device that's on her,
13 go drop down. It would of been obvious.

14 And the other thing Edward, and both parents, David
15 and Bobbie was, they were both told how to call, how to
16 get help. Remember Medicaid, and Doctor Parra told you
17 this, pays for 100 percent of everything for Minor .
18 They didn't pay one dime.

19 But it paid for her care. They would pay for
20 transportation to get her for that care. Anything she
21 needed.

22 They show how much she cared, y'all saw the diapers.
23 You saw how they used them, didn't use them, threw them
24 everywhere. Oxygen tanks. Those are needed supplies that
25 that little girl needed and they could care less.

1 And she even told you, when she saw the pictures of
2 Minor, what happened to her. She didn't need to see
3 them again. They are ingrained in her mind.

4 Let me talk to you a little bit about the jury
5 charges the judge will give you and we're submitting
6 they're all guilty of three charges.

7 The first one is neglect. Obviously no question
8 about neglect. I mean you got it everywhere in this case.

9 No question she receives great bodily injury cause it
10 gets to a certain part when her injuries are not treated,
11 it's -- I mean it's -- her legs, at a certain point, could
12 never been treated and taken care of. At a certain point,
13 items on her back, inside of her, could not be fixed.

14 So, it's definitely great bodily injury and this is
15 child abuse, ladies and gentlemen, plain and simple and
16 these three people that are responsible for it.

17 And let me talk about murder, and, like I said,
18 malice is malice. There's not different types of malice.
19 There's only one malice. But there's different
20 descriptions for it. I can put this up on a screen.

21 And in murder cases in South Carolina, we just have
22 to prove that the person died from the actions with malice
23 aforethought. It could be expressed or implied and it
24 could be that quick, which did not happen in this case
25 obviously. Sat there for weeks.

1 So, malice is agreeing -- it doesn't say that it will
2 but right -- signifies a general, malignant, recklessness
3 of lives and safety of others. It's a condition of the
4 mind which shows a heart regardless of social duty and
5 fatally bent on mischief and malice can be expressed or
6 implied and, and we're not saying it's expressed in here.
7 But it's definitely implied from that standpoint.

8 Implied malice is when circumstances demonstrate a
9 wanton or reckless disregard for human life and I submit
10 to you this is reckless disregard for the human life of
11 **Minor** or a prudently person, man or person, would have
12 known that, according to common experiences, that were the
13 plain, strong likely that death would of follow the
14 contemplated act.

15 what do you think when you let somebody lay for weeks
16 what's gonna happen to them in the condition she was
17 living?

18 Although must be at fault, there's no required for
19 how long that it lasts, and, like you said, this lasted
20 for weeks. And, like I said, malice is abundantly clear
21 through the actions and through all the evidence that you
22 have in front of you.

23 One thing the judge is gonna charge you, and this is
24 absolutely not what it is, he's also gonna charge you what
25 we call lesser included offense of involuntary

1 manslaughter. The defense unintentionally killed the
2 victim without malice, acted -- unlawful activity did not
3 naturally tending the cause of death or great bodily harm
4 to somebody.

5 This is not what this is, ladies and gentlemen. It's
6 not that. Then unintentionally killing the victim without
7 malice while engaged in a lawful activity.

8 You let your house get like this. You let her get in
9 this situation. That's totally unlawful. It's not
10 involuntary manslaughter, ladies and gentlemen. This is
11 murder as well as the felony child abuse with great bodily
12 injury as well as the neglect.

13 One thing the judge will charge you is reasonable
14 doubt and we're -- I'm gon' give you part of that charge
15 right now. After you consider the evidence that's been
16 presented to you in this case, if you're firmly convinced
17 the defendant is guilty of the crime charged, then you
18 must find him or her guilty. If, on the other hand, you
19 think there's a real possibility that the defendant is not
20 guilty, you must give him or her the benefit of the doubt
21 and find them not guilty.

22 Ladies and gentlemen, this evidence leaves you firmly
23 convinced. No question about it. There's no real
24 possibility of not guilty in this case I'd submit to you.

25 They are guilty of this and we've proven this case

1 beyond a reasonable doubt based on all the evidence you
2 saw.

3 One thing. We don't have to prove everything in a
4 case. We just have to prove enough to show you -- to be
5 firmly convinced, and, like I say, we may not have every
6 piece of the puzzle. But you definitely have enough
7 pieces of the puzzle to know what this is. It's unlawful
8 neglect, unlawful conduct towards a child, felony child
9 abuse which occurred after the neglect occurred, and then
10 the death that was caused by everything that happened.

11 It's like this puzzle I show you. We don't have all
12 the pieces of the puzzle. But you got enough to know what
13 it is and that's what we got here, ladies and gentlemen of
14 the jury.

15 That's the last place she was alive. Her soul left
16 her that night thank God because imagine what she lived
17 through for weeks. Imagine, you know, a human being lived
18 in there and lived through that and the people that are
19 responsible for that are these three right over here.

20 They could of called. They could of done anything.
21 Doctor Parra would of done anything for that girl. They
22 didn't do nothing but decided to clean her up, cut her
23 hair, and they took her to the ER just in -- and just
24 carried her in like a sack of potatoes.

25 She's not a sack of potatoes, ladies and gentlemen.

1 She's a human being. Every person in this world's a human
2 being and every person -- and, like I said, we might have
3 different ways we live, different situations. But this
4 was not right. This is not right what happened.

5 She couldn't leave. She couldn't call anybody but
6 they could. They didn't do it. They let her die and what
7 I'm asking you to do is hold them responsible and find
8 them guilty of all charges.

9 Thank you very much, ladies and gentlemen, for your
10 time.

11 MR. FILE: May it please the Court?

12 THE COURT: Yes, sir.

13 MR. FILE: Ladies and gentlemen of the jury, I'll be
14 brief. I'm not going a long winded -- one of these long
15 winded lawyers that -- certainly not a preacher. So --.

16 But one thing I do -- I do have some things to say
17 and about this case.

18 One thing that jumps out to me in this case is that
19 if, if Bobbie Baynard really wanted to murder her
20 daughter, I can think of about a half a dozen ways or more
21 that she could of done that and accomplish that with less
22 scrutiny, less investigation, less exposure of their, of
23 their living situation, the filth that they were living
24 in, and less exposure of everything about the way that
25 **Minor** died. I think that needs -- I think you need to

1 think about that.

2 You know, they, they, they took her to the -- take
3 her to the hospital in the condition that she's in, any
4 reasonable person would know that there's gon' be a lot of
5 questions asked and, and a lot of answers -- questions to
6 answer and that's gon' call attention to the situation --
7 whole situation. So, if they really wanted something to
8 happen to their daughter, there's a, a half a dozen other
9 ways that that could of happened.

10 They were, they were even, you know, as much as I
11 hate to say this, it sounds cold, but they were even
12 drawing money from the government for their daughter.

13 why would they intentionally kill their daughter and,
14 and lose that money if they're that cold?

15 I propose and submit to you that this is, as I told
16 you at the beginning of the trial, that this is a case of
17 neglect. It -- yes, and it's neglect that steamrolled out
18 of control.

19 You know, one, one neglectful situation, especially
20 with a special needs daughter that has about four or five
21 different afflictions to her lungs, her, her cerebral
22 palsy, her, her, her seizures and everything, that any
23 number of things could of happened and neglect can happen
24 and then one thing leads to another and, and, like a bad
25 loan with high interest, you're in over your head. And,

1 and then you become embarrassed or, or, or depressed about
2 it to the point that you start thinking about, you know,
3 what you're gon' do and you don't start thinking right.

4 I submit to you that, that there is not any malice in
5 this case for murder and I submit to you that what I
6 propose to you is and should be reasonable doubt about --
7 for a murder charge.

8 Call it whatever you want but don't call it murder.
9 You know, maybe it's voluntary manslaughter.

10 SOLICITOR BARNETTE: Objection, Your Honor.

11 MR. FILE: You make the call.

12 SOLICITOR BARNETTE: Objection, Your Honor.

13 THE COURT: What's the objection?

14 MR. FILE: I mean involuntary. I'm sorry.

15 SOLICITOR BARNETTE: Yeah.

16 MR. FILE: I correct myself. Involuntary.

17 SOLICITOR BARNETTE: Thank you.

18 MR. FILE: You make the call.

19 As finders of fact, it's, it's your, your call on
20 this, okay, and we respect that.

21 The State brought all their resources in and called
22 this murder. However, they have to prove murder and they
23 have to prove that it was willful and they have to prove
24 that it was with malice.

25 But they, they are the ones that have to prove that

1 and I think the facts of this case and the, the situation
2 would lead a reasonable person to believe -- you didn't,
3 you didn't check your common sense at the door when you
4 came in here to serve as jurors. That's why we want you
5 as jurors.

6 I think a reasonable person would believe that a, a
7 person like the Baynards could not have the malice to kill
8 their daughter. Therefore, it's, it's my belief that
9 there is reasonable doubt in this case for a murder
10 charge.

11 Yes, it's neglect. We admit to neglect. We admit to
12 an aggravated case of neglect. But it's not murder.
13 There's no, no way -- any way that you can make this
14 murder.

15 Thank you.

16 MRS. RACINE: May it please the Court?

17 THE COURT: Yes, ma'am.

18 MRS. RACINE: On April 11th, 2022, Minor
19 was found unresponsive by her parents who took her to the
20 hospital for help.

21 The State will try to convince you they're bad
22 parents but bad parents, parents who have malice, don't
23 try to save their children. Unfortunately we know she
24 couldn't be saved. But the fact that she died doesn't
25 make David a murderer.

1 The State's also gonna try to convince you that the
2 condition of the Baynard home proved that David had
3 malice. Don't let the way the Baynards live convince you
4 that David had malice toward [Minor].

5 Yes, that house was absolutely, completely the worst,
6 nastiest, most disgusting house most of you will ever see
7 in your lifetime. However, despite that, Doctor Parra who
8 last saw [Minor] a year or so before she died, testified
9 that it appeared to her that [Minor] was receiving
10 appropriate and adequate care.

11 Although the State has shown you a filthy house and a
12 death that occurred, it hasn't shown you that that death
13 occurred because of the filthy house or because of any
14 malice [Minor] -- David had for [Minor]. Having a filthy
15 house, no matter how disgusting it may be, is not a crime
16 nor does it show malice beyond a reasonable doubt.

17 When I first talked to you a few days ago, I told you
18 you're probably gonna dislike David and that was okay and
19 it's still okay. It's okay to think he's a slob. It's
20 okay to think he's the worst person in the world. But
21 it's not okay to convict him on just those feelings alone.

22 The State must convince you, beyond a reasonable
23 doubt, that he's guilty. Dislike or disgust, they're not
24 enough.

25 I also told you you're gonna be asked to determine if

1 David was guilty of any or all three charges. The first
2 was unlawful conduct toward a child also known as neglect.
3 I told you that's the charge he was guilty of.

4 He's also charged with infliction of great bodily
5 injury upon a child and murder. well, you now have a
6 fourth option which is involuntary manslaughter.

7 The judge will tell you each charge and its elements,
8 and I think, after you hear those charges and those
9 elements, you'll agree that involuntary manslaughter is
10 the appropriate charge in this case.

11 The judge is also gonna instruct you on a definition
12 of beyond a reasonable doubt. You must follow the judge's
13 instruction. Judge Kelly will mostly likely tell you that
14 beyond a reasonable doubt is proof that leaves you firmly
15 convinced of the defendant's guilt.

16 He may also instruct you that reasonable doubt can
17 arise from evidence which is in the case or it can arise
18 from evidence that is not in the case and here I want you
19 to focus on the evidence that's not in the case and what
20 evidence is that?

21 Evidence of malice.

22 The State is attempting to convict murder -- David of
23 murder by arguing malice can be inferred from the
24 conditions of the house and the condition of **Minor's**
25 body. But that's not enough.

1 You may even think that because the house was filthy
2 and Minor was in extremely poor condition that maybe
3 David had malice or that maybe these facts could show
4 malice. That isn't enough. That's not proof beyond a
5 reasonable doubt.

6 To find proof beyond a reasonable doubt, you must be
7 firmly convinced of David's guilt. The State has simply
8 failed to establish, beyond a reasonable doubt, the
9 elements of malice necessary to convince (sic) David of
10 murder.

11 And why is that?

12 Because David had no malice, and if he's guilty of
13 anything, it's involuntary manslaughter and that's the
14 verdict I'm asking you to return.

15 Thank you.

16 MR. MORIN: I represent Edward Baynard. Those are
17 his parents.

18 You know, this case -- and I'm gonna tell you now.
19 I, I don't know how I'm gonna do on this.

20 My job is to make the State prove the evidence
21 against my client and most of the time, during my long
22 career, it's not a problem. But this case takes me from
23 mad to sad all the time. All the time.

24 I'm mad at those parens over there. Now I sit over
25 there with them. But you might of noticed during this

1 trial I ain't with them.

2 I told you at the beginning, and most of you nodded
3 and agreed, a parent is responsible for the health and
4 welfare of their children. And when you look at those
5 pictures of that house, you're not just looking at
6 Minor's environment. You're looking at my client's.
7 You're looking at his life from these people and they know
8 it.

9 I'm mad at the unnamed DS -- Department of Disability
10 and Special Needs caseworker and we don't know -- I'm mad
11 at them. I'm mad at Axxess Healthcare.

12 My client had just turned 18. They hired him and
13 they said here's a handbook. Go out and do that thing and
14 they showed -- they spent a lot of time explaining to him
15 about how to fill his time.

16 I'm mad. They said it doesn't matter what kind of
17 healthcare -- the, the person -- the client, as they
18 called Minor, the client, it doesn't matter what kind of
19 healthcare she needs. Everybody gets the same four hour,
20 no demonstration of anything.

21 And they brought in Doctor Rose and Doctor Parra and
22 both of them, both of them said should not be dealing with
23 those things if you haven't had training on them. Should
24 not be moving, Doctor Parra, should not be moving people
25 who had GI tracts and, and trachs unless they have it,

1 that training.

2 who had that training?

3 They did.

4 Her parents had that training.

5 How do we know?

6 well, because Doctor Parra said she did and Doctor
7 Parra saw her and it was clear that they were doing what
8 they were suppose to. Those two knew what to do and they
9 didn't do it. They didn't do it.

10 Axxess Healthcare, who were they calling to see how
11 things were going?

12 Calling my client?

13 No.

14 Calling mama and their own lawyer says well, they
15 were getting money. Yeah, they were getting money. They
16 were getting it.

17 Now, we're very excited about the time sheets. You
18 got them. We're, we're very excited about it. It is the
19 only, I submit the only link to my client being in any way
20 responsible for any of this. And, remember, before I
21 point this out, this appears on every single page.

22 Remember when the -- when I was through -- when the
23 lady from Axxess was here and said well, you know,
24 sometimes you have these things where they submit the time
25 wrong where they put AM instead -- they don't put PM.

1 Right here. Issues feeding and reheating food. He
2 checked yes. He checked yes on every one and Axxess wants
3 you to say well, we review these and we see if there's any
4 problems and we'll go through everything and we'll let him
5 know what was -- changes need to be done. Every one.

6 You're gonna have it back there with you. Turn it to
7 any page. There it is. Keeps doing it. Nobody's saying
8 anything.

9 I said to him you got a handbook that says the things
10 he's suppose to report to the caregiver. You'll have that
11 back there too. The caregiver.

12 She said well, I don't know what you mean by that.
13 It's their handbook. You're gonna -- she's a nurse.
14 She's been working there nine years. She's talking to a
15 teenager.

16 Remember when you had your first job when you were
17 18?

18 This was his.

19 And I said and guess who picked him?

20 Guess who picked him?

21 His parents picked him.

22 You know why?

23 Because if anybody had ever seen anything like what
24 was going on in that house, that would of been the end of
25 the meal ticket. That would of been the end of it. And

1 there's only one person in this world that would go into
2 that house and say yeah, this is all right and it's my
3 client and it's sad. It's sad. That's what his
4 environment was normalized to.

5 The solicitor said multiple times the only reason
6 those three are alive is cause they -- because they can
7 move.

8 No, the Baynards had two children. One of them could
9 move and one of them couldn't. And the only reason one of
10 them lived is because they could move.

11 I'll agree with the State on that. Because if Edward
12 had been in his sister's shoes, I wouldn't be here because
13 he wouldn't be here because he would of suffered the same
14 fate with these parents.

15 I can't -- I get mad when we're talking about medical
16 professionals saying you need specialized training to deal
17 with this and the State comes in here -- the government
18 comes in here and says well, he passed this multiple
19 choice test.

20 You heard that fragile, medical condition his sister
21 was in and they're like well, he, he passed this multiple
22 choice test.

23 That poor child was in the same room every single
24 night with those two. They looked at him and those of who
25 are parents know what I'm talking about. When your child

1 makes a noise in the night, they might as well have
2 another hurricane come through here. You're up and
3 moving. Not them.

4 They knew and they let it happen and they're trying
5 to lump a teenager in with them that this is what he's
6 seen. They're trying to lump him in and I asked her. I
7 said well, if he filled out these things and he didn't do
8 that job, he'd, he'd be a bad, bad employee and she said
9 yeah.

10 They say that makes him a murderer. A part-time,
11 teenage aid, with no training and their medical doctors
12 say should not be doing that if you don't have training
13 about this, murder, and that makes me mad cause they know.

14 You might say to yourself well, he should of done
15 something and I thought that many times myself coming
16 through this case. But then, when we got to these
17 pictures of the house and they talk about how long this
18 happened and I don't disagree with it, this house was
19 putting at that -- has been in a bad situation for more
20 than a year and more than two years and more than before
21 he even started.

22 He was 18 years old. Just a few months passed when
23 he was -- started this job and he was -- only two years
24 later he was in jail. He lived in that jail with those
25 two jailors for 18 years and then we wonder why he would

1 say he wouldn't do those things.

2 why wouldn't he call?

3 And the other thing about it is and this is a couple
4 other things that troubles me. Every one of us has got a
5 parent or parents. Every one of us, they have a bedroom
6 and I've never seen anybody say they can just go into
7 their bedroom at anytime. That is not allowed in pretty
8 much anybody's house.

9 And I asked Axxess, I said well, when, when you
10 trained him, is the parent in charge or is he in charge
11 and she said it depends and I said well, what if the
12 person that's in charge is also his parent?

13 Did you tell them anything about how they're to
14 resolve that kind of conflict?

15 No.

16 We just, we just get paid by Medicaid for every
17 client we have and we take some and we do this fancy
18 training. That makes me mad.

19 What happened to **Minor** makes me sad. What's
20 happened to my client makes me sad because, as the
21 solicitor likes saying to all these people, well, I'll
22 start with Ms. Jordan and go all the way down to
23 Mr. Baynard, they all know and they ignored it and they
24 continued to ignore it.

25 My client is not guilty of murder. He's not guilty

1 of great bodily injury for child, for child neglect.

2 Is he -- if you had to, is he guilty of unlawful
3 conduct to a child?

4 I'm not gonna say no. Well, well, maybe.

5 Is he guilty of involuntary manslaughter, which the
6 State says it can't be?

7 But the judge is gonna tell you that if a defendant
8 is unintentionally killed -- I mean if a defendant
9 unintentionally kills the victim without malice while
10 engaged in lawful activity, getting paid by a home care or
11 medical, we don't know -- Access is both but it's neither,
12 with reckless disregard to for the safety of others, and
13 if you want to say he was working there and he recklessly
14 disregarded the safety of his sister, that's un -- that is
15 man -- that is un -- involuntary manslaughter.

16 But what it is not is having parents who have this
17 kind of house, who have this kind of children, who have
18 them in there, in there and they know it and they ignore
19 it. He is separate from him -- them down there at the
20 end.

21 And I switch back and forth between understanding
22 what Doctor Parra and understanding what Doctor Rose has
23 said and struggled with how a person, a parent would put
24 their children, and the government lawyer likes to lump my
25 client in when he's talking bad about him, but my client's

1 a victim of these parents as well and they're prosecuting
2 him for it.

3 He's not guilty of murder and you can -- by their --
4 there's been arguments about what malice is, about what
5 malice isn't, about what willful is, about what willful
6 isn't. But these are the facts and y'all've heard it and
7 I asked these questions of these people to show what we're
8 really talking about when it comes to him. And I submit
9 to you he is not guilty of murder.

10 I even go so far as to say he's a victim of those two
11 right over there. They put him right into this.

12 Do you know who we want our caretaker to be?

13 This person.

14 And, as I said earlier, you know why we want him?

15 Because if you go in there, you're gon' come out and
16 then children are gon' -- that child's gon' come out.

17 I appreciate the attention you've given me. I hope
18 you understand my emotions on this case. I'm sure you
19 have your own.

20 Thank you.

21 THE COURT: Mr. Foreman, and ladies and gentlemen of
22 the jury, you have seen and heard the evidence presented
23 as well as the arguments of the lawyers, and it is now my
24 duty and my obligation to instruct you on the law. It
25 will then be your duty and your obligation to begin your

1 deliberations through which process you will decide the
2 facts and apply the law as I now in -- instruct it to you
3 and render a fair and impartial verdict.

4 It is your exclusive duty to determine what the facts
5 are in this case and you will do that based on your own
6 common sense evaluation and examination of the testimony
7 and the evidence received during this trial.

8 You 12 alone will decide what effect, value, and
9 weight is to be given to any particular testimony or
10 evidence received. Quite simply, your job and your
11 obligation, as jurors, is to give both the State and this
12 defendant a fair and impartial trial based on the evidence
13 presented and the law in this case that I now charge you.

14 The indictment ending in 129, I'm sorry, yes, 1296
15 charges the defendant, David Eugene Baynard, with the
16 offense of murder.

17 Specifically the State alleges that he did, in
18 Cherokee County, South Carolina, on or about April 11 of
19 2022, feloniously, willfully, and with malice
20 aforethought, either expressed or implied, cause the death
21 of Minor [REDACTED] in violation of our law.

22 The indictment ending in 0447 charges the defendant,
23 David Eugene Baynard, with the offense of unlawful conduct
24 towards a child.

25 Specifically, the State alleges that he did, in

1 Cherokee County, South Carolina, between the dates of
2 October 2, 2020 and April 11, 2022, willfully and
3 unlawfully have charge -- having charge or custody and/or
4 being the parent or guardian of a minor child or who is
5 responsible for the welfare of a child as defined by our
6 state law, placed that child in unreasonable risk of harm
7 affecting the child's life, physical or mental health or
8 safety, and/or did do or cause to be done, unlawfully or
9 maliciously, any bodily harm to the child so that the life
10 or health of the child was in danger or likely to be in
11 danger in violation of South Carolina law.

12 The indictment ending in 0448 charges the defendant,
13 David Eugene Baynard, with the offense of child abuse
14 with, with great bodily injury.

15 Specifically, the State alleges that he did, in
16 Cherokee County, South Carolina, between the dates of
17 October 20 -- 2 of 2020 to April 11, 2022, inflict great
18 bodily injury upon Minor, a child
19 under the age of 18 years, in violation of state law.

20 The indictment ending in 1299 charges the defendant,
21 Bobbie Jo Baynard, with the offense known as murder.

22 Specifically the State alleges that she did, in
23 Cherokee County, South Carolina, on or about April 11 of
24 2022, feloniously, willfully, and with malice
25 aforethought, either expressed or implied, cause the death

1 of Minor in violation of South
2 Carolina law.

3 The indictment ending in 0449 charges the defendant,
4 Bobbie Jo Baynard, with the offense of unlawful conduct
5 towards a child.

6 Specifically, the State alleges that this defendant
7 did, in Cherokee County, South Carolina, between the dates
8 of October 2, 2020, up to April 11, 2022 -- October 11 --
9 2 of 2020 up to April 11, 2020, willfully and unlawfully,
10 having charge or custody, and/or be the parent or guardian
11 of a minor child, or who was responsible for the welfare
12 of a child as defined by state law, did place the child at
13 unreasonable risk of harm affecting the child's life,
14 physical or mental health or safety, and/or did do or
15 cause to be done, unlawfully or maliciously, any bodily
16 harm to the child so that the life or health of the child
17 was endangered or likely to be endangered in violation of
18 South Carolina law.

19 The indictment ending in 0450 charges the defendant,
20 Bobbie Jo Baynard, with the offense of child abuse with
21 great bodily injury.

22 Specifically, the State says that this defendant did,
23 in Cherokee County, South Carolina, between the dates of
24 October 2, 2020, up to April 11, 2022, inflict great
25 bodily injury upon Minor, a child

1 under the age of 18 years, in violation of state law.

2 The indictment ending in 1304 charges the defendant,
3 Edward Vincent Baynard, with the offense of murder.

4 Specifically the State alleges that he did, in
5 Cherokee County, South Carolina, on or about April 11 of
6 2022, feloniously, willfully, and with malice
7 aforethought, either expressed or implied, caused the
8 death of Minor [REDACTED] in violation of state
9 law.

10 The indictment ending in 0452 charges the defendant,
11 Edward Vincent Baynard, with the offense of unlawful
12 conduct towards a child.

13 Specifically, the State alleges that he did, in
14 Cherokee County, South Carolina, between the dates of
15 October 2, 2020, up to April 11, 2022, willfully and
16 unlawfully, having charge or custody and/or being the
17 parent or guardian of a minor child, or was responsible
18 for the welfare of a child defined by state law, did place
19 that child at unreasonable risk of harm affecting the
20 child's life, physical or mental health or safety, and/or
21 did do or cause to be done, unlawfully or maliciously, any
22 bodily harm to the child so that the life or health of the
23 child was endangered or likely to be endangered in
24 violation of South Carolina law.

25 The indictment ending in 0451 charges the defendant,

1 Edward Vincent Baynard, with the offense of child abuse
2 with great bodily injury.

3 Specifically, the State alleges that he did, in
4 Cherokee County, South Carolina, between the dates of
5 October 2, 2020, up to April 11, 2022, inflict greater --
6 great bodily injury upon **Minor**, a
7 child under the age of 18 years, in violation of state
8 law.

9 I remind you that the fact that these defendants were
10 arrested, charged, and indicted is not evidence in the
11 case and can not be considered by you as evidence of guilt
12 nor does it create a presumption or an inference of guilt.
13 The indictments are simply written instruments which
14 contain the charges made against each defendant. They are
15 the formal documents by which this case is brought before
16 this Court.

17 Each defendant has pled not guilty to the indictments
18 against them and that plea puts the burden on the State of
19 South Carolina to prove each defendants' guilt beyond a
20 reasonable doubt. A person charged with committing a
21 criminal offense in South Carolina is never required to
22 prove himself or herself innocent.

23 I charge you it is a cardinal, important, and vital
24 rule of law that, in a criminal trial, no matter what the
25 seriousness of the charge may be for which he or she

1 stands charged, the -- each defendant is always presumed
2 to be innocent of the crime for which the indictment was
3 issued unless guilt has been proven by evidence satisfying
4 you of that guilt beyond a reasonable doubt.

5 The presumption of innocence does not end when you
6 begin your deliberations. It accompanies each defendant
7 throughout the trial until you reach a verdict of guilt
8 based on evidence satisfying you of guilt beyond a
9 reasonable doubt.

10 The presumption of innocence has been described as
11 being like a robe of innocence placed about the shoulders
12 of the defendant which remains with that defendant from
13 the moment of his or her arrest and it continues until it
14 is stripped from his or her shoulders by evidence
15 satisfying you of that defendant's guilt beyond a
16 reasonable doubt.

17 Ladies and gentlemen, the presumption of innocence is
18 not a legal theory. It is not a legal phrase. It is a
19 substantial right to which every defendant is entitled
20 unless you 12 are satisfied from the evidence of that
21 defendant's guilt beyond a reasonable doubt.

22 I remind you that, during this trial, you and I have
23 certain duties to perform. As the trial judge, it is my
24 responsibility to preside over this case and I have the
25 duty to rule on admissibility of evidence offered during a

1 trial.

2 You are to consider only the evidence before you.
3 You are to consider only the testimony which has been
4 presented from the witness stand, any exhibits which have
5 been made a part of the record, and any stipulations by
6 the lawyer.

7 Additionally, I have the duty to charge you the law
8 applicable to the case. As the presiding judge, I am the
9 sole judge of the law and it is your duty to accept it and
10 apply it as I now state it to you. If you have any idea
11 as to what the law is or what the law should be or ought
12 to be and it does not agree with what I now tell you the
13 law is, you must abandon your idea because you are sworn
14 to accept it and apply it as I now state it to you.

15 In every case tried in this courtroom before a jury,
16 you 12 become the sole and exclusive judge of the facts.
17 A trial judge, in South Carolina, can not make a comment
18 or a statement to a trial jury about a fact. You 12 are
19 the sole judge of the facts and you are not to infer, from
20 anything that I might have said during the progress of
21 this trial, any ruling upon admissibility of evidence,
22 that I have an opinion about a fact in this case.

23 I tell you and I charge you that South Carolina law
24 does not allow a trial judge to have an opinion about a
25 fact. This is -- matter is solely for you 12 to

1 determine.

2 Now, the State has the burden of proving each
3 defendants' guilt beyond a reasonable doubt.

4 Ladies and gentlemen, proof beyond a reasonable doubt
5 is proof that leaves you firmly convinced of a defendant's
6 guilt. There are very few things in this world that we
7 know with absolute certainty, and, in criminal cases, our
8 law does not require proof that overcomes every possible
9 doubt.

10 A reasonable doubt has also been described as the
11 kind of doubt that would cause a reasonable person to
12 hesitate to act. If you have such a doubt as to the guilt
13 of a defendant, then he or she is entitled to a verdict of
14 not guilty.

15 Reasonable doubt may arise from evidence in a case or
16 from absence or lack of evidence. If, based on your
17 considerations of the evidence, you are firmly convinced
18 that a defendant is guilty of, of an indictment as
19 charged, you must find him or her guilty. But if you
20 believe there is a real possibility that defendant is not
21 guilty, you must give him or her the benefit of the doubt
22 and find him or her not guilty. You alone must make this
23 determination as to whether or not reasonable doubt exists
24 as to the guilt of each defendant.

25 Now there are two types of evidence that are

1 generally presented during a trial and they are known as
2 direct evidence and circumstantial evidence.

3 Direct evidence is testimony of a person who claims
4 to have actual knowledge of a fact such as an eye witness.
5 It is evidence which immediately establishes the main fact
6 to be proven.

7 Circumstantial evidence is proof of a chain of facts
8 and circumstances indicating the existence of a fact. It
9 is evidence which immediately establishes collateral facts
10 from which the main fact may be inferred. Circumstantial
11 evidence is based on inference, not on personal knowledge
12 or observation.

13 Our state law makes no distinction between the weight
14 or value to be given either direct or circumstantial
15 evidence. Nor is a great degree of certainty required for
16 circumstantial evidence. You 12 should weigh all
17 evidence, and, after doing so, if you are not convinced of
18 the guilt of a defendant beyond reasonable doubt, you must
19 find that defendant not guilty.

20 Now, under our Constitution, you 12 are the finders
21 of facts and, necessarily, you must determine the
22 credibility of witnesses who have testified.

23 Ladies and gentlemen, credibility simply means
24 believability. It is your duty, as jurors, to analyze and
25 to evaluate the evidence and determine which evidence is

1 convincing to you.

2 In determining believability of witnesses, you may
3 believe one witness over several or several over one. You
4 may believe part of a witness' testimony and you may
5 reject the remaining part of that testimony. You may
6 believe the testimony of a witness in its entirety or you
7 may reject it in its, in its entirety.

8 You may consider whether any witness has exhibited
9 any interest, bias, prejudice, or motive in this case.
10 whatever your good judgment and common sense tells you is
11 the most believable is the testimony you should accept and
12 reject all other testimony that you find not to be
13 credible.

14 Now, our rules of evidence ordinarily do not permit
15 witnesses to testify to opinions or, or conclusions. But
16 an exception to this rule exists for what we call an
17 expert witness.

18 A witness, who by their education or experience or
19 training, has become an expert in some science,
20 profession, or calling may give an opinion as to relevant
21 matters in which that witness claims to be an expert. You
22 should consider the expert opinion received in evidence in
23 this case like all other evidence. You give it the weight
24 you believe it deserves.

25 If you decide that the opinion of that expert witness

1 is not based on sufficient education or experience or if
2 you conclude that the reasons given in support of the
3 opinion are not sound or that the opinion is outweighed by
4 other evidence, you may disregard the opinion entirely.

5 Ladies and gentlemen, an expert witness' testimony is
6 to be given no greater weight than that of other witnesses
7 simply because they were qualified as an expert.

8 I instruct you and emphasize the fact that the
9 defendants in this case did not testify is not a factor to
10 be considered in anyway and should not be considered and
11 talked about in the jury room. Each defendant has a
12 constitutional right to remain silent and the assertion of
13 this right must not be considered by you in deliberations.
14 The fact that each defendant did not testify should not be
15 discussed.

16 The burden of proof, as I have previously said, is on
17 the State. The defendants are not required to prove their
18 innocence. The burden re -- of proof remains on the State
19 to prove each defendant guilty beyond a reasonable doubt.

20 Now, criminal intent is a necessary element of each
21 crime that must be proven by the State beyond a reasonable
22 doubt. Criminal intent is a matter that must be
23 determined by you 12 from the circumstances surrounding
24 this situation.

25 There is no way to prove intent to a mathematical

1 certainty. Medical science can not dissect a person's
2 brain and determine what he or she had in mind. So, our
3 law says that criminal intent may be inferred from the
4 circumstances shown to have existed and this is how you,
5 the jury, makes a determination of whether or not the
6 element requiring intent was present.

7 Criminal intent has been defined as a state of mind
8 which operated jointly with the act is the commission of a
9 crime. It is a mental state. It is a conscience
10 wrongdoing.

11 So, it is up to you 12 to determine what each
12 defendant intended to do based on the circumstances shown
13 to have existed. I tell you the State must prove criminal
14 intent beyond a reasonable doubt just as the State must
15 prove every element beyond a reasonable doubt.

16 It is not necessary to establish intent by direct and
17 positive evidence. It may be established by inference the
18 same way any other fact -- by any other fact by taking
19 into consideration the acts of the parties and all the
20 facts and circumstances. While the State may prove
21 motive, it is unnecessary for the State to do so. But
22 they must, must prove criminal intent.

23 Now, unlawful conduct toward a child has been, has
24 been defined as against -- each defendant is charged with
25 unlawful conduct toward a child and it is unlawful for a

1 person who has charge or custody of a child or who is the
2 parent or guardian of a child or his -- or who is
3 responsible for the welfare of that child, as defined by
4 state law, to place that child at an unreasonable risk of
5 harm affecting the child's life, physical, or mental
6 health or safety, or to do or cause to be done unlawfully
7 or maliciously any bodily harm to the child so that the
8 life or health of the child is endangered or likely to be
9 endangered.

10 Each defendant is charged with infliction of great
11 bodily injury upon a child. Great bodily injury is bodily
12 injury which creates a substantial risk of death or which
13 causes serious or permanent disfigurement or protracted
14 loss or impairment of the function of any bodily member or
15 organ.

16 Each defendant is charged with murder. In order to
17 prove this crime, the State must prove each defendant
18 killed another person with malice aforethought either
19 expressed or implied.

20 Ladies and gentlemen, malice, as an ess -- is an
21 essential ingredient of murder. It does not necessarily
22 import ill will toward the individual injured but
23 signifies rather a general, malignant, recklessness of the
24 life and safety of others or a condition of the mind which
25 shows a heart regardless -- a heart regardless of social

1 duty and fatality (sic) bent on mis-child -- on mischief,
2 mischief.

3 Malice may be expressed or, expressed or implied.
4 The words expressed or implied add nothing to the meaning
5 of the word malice. They do not imply different kinds of
6 malice but merely the manner in which the only kind known
7 to the law may be shown to have, have existed. That is
8 either by positive evidence or inference.

9 Expressed malice is when there is a deliberate intent
10 to unlawfully take the life of another. Implied malice is
11 when circumstances demonstrate a wanton or reckless
12 disregard for human life or a reasonably prudent person
13 would have known that, according to common experience,
14 there was a plain and strong likelihood that death would
15 follow the contemplated act.

16 Although malice must be aforethought, there is no
17 requirement that it must exist for any appreciable length
18 of time before the commission of the act.

19 Now, if you find that the State has failed to prove
20 that a defendant is guilty of the murder of Minor
21 [REDACTED], you must find the defendants not
22 guilty of murder and then you must consider whether the
23 State has proven that a defendant is guilty of voluntary
24 manslaughter.

25 To convict for involuntary manslaughter, the burden

1 is upon the State to prove, beyond a reasonable doubt, a
2 defendant unintentionally killed the victim without malice
3 but while engaged in an unlawful activity not naturally
4 tending to cause death or great bodily harm or that the
5 defendant unintentionally killed the victim without malice
6 while engaged in a lawful activity with reckless disregard
7 for the safety of others.

8 Now, there are three defendants in this case. Each
9 is charged with three separate indictments. Whatever
10 verdict you find, it does not have to be the same as to
11 each defendant. You take each defendant, consider the
12 evidence as to him or her, and write the verdict in
13 accordance and in conformity with the evidence in the case
14 and the instructions that I have provided.

15 Where more than one person is charged with a crime,
16 if the evidence, evidence warrants it, you make convict
17 one and acquit others or you may acquit all three or you
18 may convict all three. It will depend upon your view of
19 the testimony and the evidence which you 12 alone are to
20 pass on.

21 Again, Mr. Foreman, ladies and gentlemen, you must
22 consider each defendant separately and each indictment
23 separately as to each defendant.

24 You 12 have been selected as fair and impartial
25 jurors sworn to impartially try and determine the facts in

1 this case and you are to decide this case according to the
2 testimony you have heard from the witnesses along with all
3 other evidence that has been introduced.

4 Now, during your deliberations, you may only discuss
5 this case in the jury room with fellow jurors because they
6 have seen and heard the same evidence you have seen and
7 heard. You must not discuss this case with anyone else
8 until you have returned verdicts in this case and the case
9 is ended.

10 Whenever a member of the jury requires a break,
11 restroom or otherwise, Mr. Foreman, please discontinue the
12 deliberations until that juror returns. All 12 must be
13 together during deliberations.

14 After your service in this trial has ended, you have
15 the right to either refuse to discuss the case or talk
16 about it as much as you choose.

17 Ladies and gentlemen, your verdict must be unanimous.

18 Mr. Foreman, when the jury agrees on the various
19 verdicts, you will indicate the verdicts in the space
20 provided on a verdict form that I'm gonna discuss in just
21 a moment and sign your name as the foreman of the jury.
22 You would then knock on the jury room door and tell the
23 bailiff that a verdict has been reached and we would
24 return you into this courtroom to receive the verdicts of
25 the jury.

1 Again, you must all 12 be together during the
2 deliberations.

3 Mr. Foreman, there are nine verdict forms that's
4 going back. Three for each, for each defendant.

5 This is the verdict form of which I speak. My law
6 clerk, who's been seated with me all week, prepares these
7 in every case.

8 It has the caption of the case here and it has a
9 number. That just tells the clerk and me which case is
10 the -- matches up to which indictment and here it says
11 State of South Carolina versus David Eugene Baynard.

12 We, the jury, unanimously find the defendant, David
13 Eugene Baynard, on the charge of murder, not guilty or
14 guilty. I tell all of you there is no significance to
15 which -- not guilty being first and guilty being second.
16 They have to be in some order and I've put them in this
17 order every case that I try.

18 You will answer that, that the jury, 12 jury
19 unanimously, will answer that guilty -- not guilty or
20 guilty.

21 And it says, Mr. Foreman, if the answer to the
22 question one is guilty, stop here and sign your name at
23 the bottom. It also says if the answer to question one is
24 not guilty, please answer question two.

25 Question two, we, the jury, unanimously find the

1 defendant, David Eugene Baynard, on the charge of
2 involuntary manslaughter, not guilty or guilty. So, it's
3 guilty on one, stop, sign your name. If it's not guilty
4 on one, answer question two and sign your name.

5 The other one, again, State of South Carolina versus
6 David Eugene Baynard. We find, the jury -- we, the jury,
7 unanimously find the defendant, on the charge of unlawful
8 conduct toward a child, not guilty or guilty.

9 And the third one, on infliction of great bodily
10 injury upon a child, not guilty or guilty and sign your
11 name.

12 The other, the other jury forms are identical except
13 they are to -- of the two other defendants in this case.

14 I'm getting ready to send all 13 of you to the jury
15 room. Please do not begin your deliberations.

16 I practiced law in this courthouse and others across
17 the state for many years before I came up here on this
18 bench. It is so very easy to be practic -- when you're
19 practicing law to pick up an -- a piece of evidence down
20 there and be talking to the jury about it and then go back
21 to my table and sit down and I lay it down and now it's
22 missing.

23 When you leave the courtroom, all 13 of you, I'm
24 gonna ask the lawyers to gather up with Madam Court
25 Reporter. She's been putting stickers on all of these and

1 you're gonna have them and she's gonna verify -- they're
2 gonna verify that everything is there. That will take
3 four or five minutes.

4 In a medical malpractice case, I've seen it take an
5 hour and a half cause we had boxes of, of documents.

6 Okay. It will take a few minutes.

7 Once they confirm that everything is there, my
8 bailiff is gonna bring that evidence to you. It's yours.
9 It belongs to you. That -- the bailiff will bring it to
10 you along with these verdict forms.

11 When the bailiff delivers that to you, Mr. Foreman,
12 Madam Alternate, you will then leave with the bailiff.

13 Okay. It would not be proper for you to be with the,
14 with the 12.

15 Okay. You will come back with him and I will release
16 you for your service here in the courtroom on the record.

17 Okay. So 13 are going out and you'll come back with
18 the bailiff with -- once he delivers these. When he
19 delivers that and removes the alternate, that will be your
20 signal to begin your deliberations.

21 Mr. Foreman, if you'll take all 13 out.

22 (WHEREUPON, the following takes place outside the
23 presence of the jury.)

24 THE COURT: Anything from the State?

25 SOLICITOR BARNETTE: Nothing from the State, Your

1 Honor.

2 THE COURT: From defense.

3 MR. FILE: None, Your Honor.

4 THE COURT: Defense.

5 MRS. RACINE: No, Your Honor.

6 THE COURT: Defense.

7 MR. MORIN: No, Your Honor.

8 THE COURT: All right.

9 (Pause.)

10 THE COURT: We got everything?

11 We need to, we need to go back here real quick, Ms.
12 Brandy, before we sent it out.

13 (WHEREUPON, an out-of-court conference was held at
14 this time.)

15 THE BAILIFF: Remain seated.

16 THE COURT: Okay. You got everything, Mr. Bailiff?

17 THE BAILIFF: Yes, sir.

18 THE COURT: All right. If you'll bring our alternate
19 back.

20 (WHEREUPON, the alternate juror enters the courtroom
21 at this time.)

22 THE COURT: Madam Alternate, come on up next to, to
23 the microphone.

24 Ma'am.

25 SOLICITOR BARNETTE: Right here, ma'am. Right here.

1 THE COURT: Right, right up here.

2 The, the jury is now deliberating. And so your
3 service has now ended.

4 (WHEREUPON, the juror nods affirmatively.)

5 THE COURT: Thank you so very much.

6 THE JUROR: All right.

7 THE COURT: Turn, turn your badge in.

8 THE JUROR: All right. Y'all have a good day.

9 THE COURT: Yes, ma'am. Thank you. You too.

10 (WHEREUPON, the jury began with deliberations at
11 10:48AM.)

12 THE COURT: Okay. Ms. Brandy, let's put, put that on
13 the record.

14 THE CLERK: It come to my attention that Juror 20,
15 who was seated as a juror, her juror information card was
16 not keyed in on the report that was handed out to the --
17 all the attorneys. It was keyed in under Juror 19.
18 However, that juror was noted not here, was unable to
19 locate.

20 But Ms. Bright I think did stand during, when I
21 called the roll, they are advised to stand, state where
22 you work, what you do there, where your spouse works, and
23 what he or she does at their place of business.

24 They don't take that down. But I think Pam did say
25 she had that recorded if it needs to be verified.

1 SOLICITOR BARNETTE: Your Honor, my understanding was
2 she identified herself as a wife of a sheriff's deputy at
3 the Cherokee County Sheriff's Department.

4 THE COURT: I think that's correct.

5 SOLICITOR BARNETTE: She did identify herself during
6 the questioning.

7 THE COURT: Anything, Mr. File?

8 MR. FILE: None, Your Honor.

9 THE COURT: Mrs. Racine.

10 MRS. RACINE: No, Your Honor.

11 THE COURT: Mr. Morin.

12 MR. MORIN: No, sir.

13 THE COURT: Okay. All right. Well, we put it on the
14 record anyway. Everybody's satisfied with the jury.

15 Okay. We'll stand at ease and everybody be --.

16 MR. FILE: Yes, sir.

17 MR. MORIN: While we're doing that on the record, I
18 think I should also say on the record that I'm confident
19 that the alternate slept through at least half of the
20 entire days proceedings and would not have been
21 functional.

22 THE COURT: Yeah.

23 Anything else?

24 (WHEREUPON, there was no response.)

25 THE COURT: Okay. We'll kind of stand at ease then

1 and, and if they have a question. So nobody go very far
2 anyway. We'll take a break.

3 (WHEREUPON, the jury sent out a question and, at
4 11:50AM, the jury charge was sent back to the jury.)

5 (WHEREUPON, the jury charge was marked as Court's
6 Exhibit No. 9 and received into evidence at this time.)

7 (WHEREUPON, the jury returned with a verdict at
8 12:49PM.)

9 THE COURT: Please be seated. Thank you.

10 I'm told we have a verdict. I'm gonna ask everyone
11 to talk to your respective people here. We're not gon'
12 have any celebrations one way or the other no matter what
13 it is. No outburst. If there's gon be an outburst,
14 somebody will be in custody.

15 So if you need to leave, please leave now.

16 Okay. We ready, solicitor?

17 SOLICITOR BARNETTE: State's ready, Your Honor.

18 THE COURT: Defense?

19 SOLICITOR BARNETTE: Thank you.

20 MRS. RACINE: Ready, Your Honor.

21 MR. FILE: Ready.

22 MR. MORIN: We're ready.

23 THE COURT: We'll have the jury.

24 (WHEREUPON, the following takes place within the
25 presence of the jury.)

1 THE COURT: Mr. Foreman, has the jury reached its
2 verdicts?

3 THE FOREMAN: Yes, sir.

4 THE COURT: Please give that to Mr. Bailiff.

5 (WHEREUPON, the foreman complies.)

6 THE COURT: Madam Clerk will publish.

7 THE CLERK: 2022-GS-11-1299, State of South Carolina
8 versus Bobbie Jo Baynard. We, the jury, unanimously find
9 the defendant, Bobbie Jo Baynard, on the charge of murder,
10 guilty. Signed by foreperson, Jack Harris, Junior.

11 Indictment 2024-GS-11-449, State of South Carolina
12 versus Bobbie Jo Baynard. We, the jury, unanimously find
13 the defendant, Bobbie Jo Baynard, on the charge of
14 unlawful conduct towards a child, guilty. Signed by
15 foreperson, Jack Mr. Harris, Jr.

16 2024-GS-11-450, State of South Carolina versus Bobbie
17 Jo Baynard. We, the jury, unanimously find the defendant
18 Bobbie Jo Baynard, on the charge of infliction of great
19 bodily injury upon a child, guilty. Signed by foreperson,
20 Jack M. Harris, Jr.

21 2022-GS-11-1296, State of South Carolina versus David
22 Eugene Baynard. We, the jury, unanimously find the
23 defendant, David Eugene Baynard, on the charge of murder,
24 guilty. Signed by foreperson, Jack M. Harris, Junior.

25 2024-GS-11-447, State of South Carolina versus David

1 Eugene Baynard. We, the jury, unanimously find the
2 defendant, David Eugene Baynard, on the charge of unlawful
3 conduct towards a child, guilty. Signed by foreperson,
4 Jack M. Harris, Jr.

5 2024-GS-11-448, State of South Carolina versus David
6 Eugene Baynard. We, the jury, unanimously find the
7 defendant, David Eugene Baynard, on the charge of
8 infliction of great bodily injury upon a child, guilty.
9 Signed by foreperson, Jack M. Harris, Jr.

10 2022-GS-11-1304, State of South Carolina versus
11 Edward Vincent Baynard. We, the jury, unanimously find
12 the defendant, Edward Vincent Baynard, on the charge of
13 murder, guilty. Signed by foreperson, Jack M. Harris, Jr.

14 2022-GS-11-452, State of South Carolina versus Edward
15 Vincent Baynard. We, the jury, unanimously find the
16 defendant, Edward Vincent Baynard, on the charge of
17 unlawful conduct towards a child, guilty. Signed by
18 foreperson, Jack M. Harris, Jr.

19 2024-GS-11-451, State of South Carolina versus Edward
20 Vincent Baynard. We, the jury, unanimously find the
21 defendant, Edward Vincent Baynard, on the charge of
22 inflict -- infliction of great bodily injury upon a child,
23 guilty. Signed by foreperson, Jack M. Harris, Jr.

24 Mr. Foreman, ladies and gentlemen of the jury, if
25 this is the verdict of you-all, please indicate by raising

1 your right-hand.

2 (WHEREUPON, all jurors raise their hands at this
3 time.)

4 THE CLERK: Thank you.

5 THE COURT: Polling of the -- polling of the jury by
6 the State?

7 SOLICITOR BARNETTE: Not from the State, Your Honor.

8 THE COURT: From defense?

9 MR. FILE: Yes, Your Honor.

10 THE COURT: Okay. Madam Clerk.

11 THE CLERK: When I call your name, please raise your
12 right-hand, please leave your hand remaining until I ask
13 you the question. Then you will respond yes or no.

14 THE CLERK: Juror 80, Jack M. Harris, Jr., is this
15 your verdict?

16 THE JUROR: Yes.

17 THE CLERK: Juror 124, Michael Murray, is this your
18 verdict?

19 THE JUROR: Yes.

20 THE CLERK: Juror 96, Dylan Leagon, is this your
21 verdict?

22 THE JUROR: Yes.

23 THE CLERK: Juror 20, Tina Bright, is this your
24 verdict?

25 THE JUROR: Yes.

1 THE CLERK: Juror 2, Jessup Allison, is this your
2 verdict?

3 THE JUROR: Yes.

4 THE CLERK: Juror 78, Virginia Hamwright, is this
5 your verdict?

6 THE JUROR: Yes.

7 THE CLERK: Juror 182, Bryan Thomas, is this your
8 verdict?

9 THE JUROR: Yes.

10 THE CLERK: Juror 15, Tonja Blackwell, is this your
11 verdict?

12 THE JUROR: Yes.

13 THE CLERK: Juror 181, Ashley Thomas, is this your
14 verdict?

15 THE JUROR: Yes.

16 THE CLERK: Juror 89, Imani Jefferies, is this your
17 verdict?

18 THE JUROR: Yes.

19 THE COURT: Juror 56, John D. Falls, is this your
20 verdict?

21 THE JUROR: Yes.

22 THE CLERK: Juror 187, Hunter Vinesett, is this your
23 verdict?

24 THE JUROR: Yes.

25 THE COURT: Anything from the State regarding the

1 jury?

2 SOLICITOR BARNETTE: Nothing from the State, Your
3 Honor.

4 THE COURT: From defense?

5 MR. FILE: Nothing.

6 THE COURT: From defense?

7 MRS. RACINE: Nothing, Your Honor.

8 THE COURT: From defense?

9 MR. MORIN: No, sir.

10 THE COURT: Okay. We need Mr. Foreman to sign.

11 THE CLERK: Yes, sir.

12 (Pause.)

13 THE CLERK: Judge, while he's doing that, may I pass
14 out their work excuses?

15 THE COURT: Yes, ma'am.

16 (Pause.)

17 THE COURT: Okay. Mr. Foreman, and ladies and
18 gentlemen, this concludes your service on jury this week
19 on jury duty. I thank you very much for, for serving and,
20 and being with us.

21 It's been a long case. It's been a tough case. But
22 thank you again so much.

23 I'm gon' excuse you at this point.

24 Mr. Foreman, I'm gon' let you take the jury out and I
25 think the bailiffs will collect the badges and you can

1 exit the courthouse through the side door if you choose
2 or, a lot of times, the jury wants -- we're gonna proceed
3 to sentencing here just in a few moments and a lot of
4 times the -- members of the jury want to see that.

5 You're more than welcome to do that. And once you go
6 down the steps, if you just take the -- I guess it's the
7 second floor there all the way up to the other end and you
8 have to be seated in the gallery out here instead of where
9 you are if you choose to stay. Otherwise you're free to
10 go.

11 Mr. Foreman, if you take the jury out. Thank you so
12 much.

13 (WHEREUPON, the jury leaves the courtroom at this
14 time.)

15 THE COURT: Matters from the State?

16 SOLICITOR BARNETTE: None from the State. You're
17 not -- Your Honor, we're doing the sentencing sheets right
18 now.

19 THE COURT: Yes, sir.

20 SOLICITOR BARNETTE: I can get those to you.

21 THE COURT: Matters for the defense?

22 MR. FILE: Your Honor, we renew our motions.

23 THE COURT: You're renewing your motions?

24 MR. FILE: Previous motions, yes.

25 THE COURT: Yes, sir, and they are -- you are renewed

1 and they are denied for the reasons heretofore enunciated.

2 MRS. RACINE: Your Honor, we also renew our previous
3 motions.

4 THE COURT: Yes.

5 And they are denied for the reasons heretofore
6 enunciated.

7 Mr. Morin.

8 MR. MORIN: We renew our motions, Your Honor.

9 THE COURT: Yes, sir, you're protected on the record
10 and they are denied for the reasons heretofore enunciated.
11 Anything else from anyone at this point?

12 SOLICITOR BARNETTE: No.

13 THE COURT: Okay.

14 (Pause.)

15 THE COURT: Solicitor.

16 SOLICITOR BARNETTE: May it please the Court, Your
17 Honor.

18 We shouldn't be put in this position. They should of
19 took care of her. They should of protected her. They
20 didn't.

21 I actually went out to the crime scene. I saw what
22 that girl had to live through and I've seen the pictures.
23 They're horrific what that poor girl suffered through for
24 weeks.

25 Nobody should have to go through that. No child. No

1 person and you've seen the evidence. I know you have.
2 You've heard it. They deserve the maximum for what
3 they've done.

4 We can't have this. We got to protect our children
5 and I ask for a sentence for what they've done in this
6 case.

7 Thank you, Your Honor.

8 THE COURT: Thank you, solicitor.

9 Mr. File.

10 MR. FILE: May it please the Court, Your Honor.

11 Bobbie is 45 years old. She actually turned 45 the
12 day before yesterday during the trial in this case.

13 She went to Landrum High School and graduated in
14 1998. She had one year of college at Spartanburg Tech.

15 In the -- I'm, of course, her third attorney that was
16 appointed to represent her. In my dealings with her, just
17 in talking with her and, and my developing a rapport with
18 her and all this, it's, it's very hard for me to
19 comprehend how she could get tied up in all this.

20 It's just a very sad situation. She has expressed
21 remorse to me about the situation. She is especially
22 remorseful about losing her child, believe it or not, and
23 she, she also realizes and knows that she can -- should
24 of -- should have and could have done things differently.

25 She does have a family -- she does have a friend here

1 who went to school with her, Mr. Gabriel Penfield, and he
2 would like to speak on her behalf if you would allow it.

3 THE COURT: I will.

4 MR. FILE: He's known her much longer than I have.

5 THE COURT: Sir, just stand wherever the officer asks
6 you to stand.

7 Tell me your name for my court reporter please.

8 MR. PENFIELD: My name's Gabriel Penfield.

9 THE COURT: Yes, sir, Mr. Penfield.

10 MR. PENFIELD: I serve on the Irmo Town Council. I'm
11 reluctant to speak against the efforts of the State.

12 I haven't been here for the entirety of the trial.
13 But I feel she was under-resourced at this stage of her
14 life. I'm personally aware that she had suffered abuse
15 both in childhood, adolescence, adulthood, in her
16 marriage. It's no excuse for what has happened. But I'm
17 asking for grace in her sentencing.

18 THE COURT: Thank you, sir, for coming.

19 MR. FILE: I don't know if she wishes to address the
20 Court.

21 THE COURT: Ma'am, would you like to speak?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Yes, please.

24 THE DEFENDANT: Your Honor, I understand if you don't
25 want to give me leniency. I wouldn't either.

1 My son was a victim and I don't understand why he was
2 con -- even charged. I loved my children. But I failed
3 them both and I have been trying to take responsibility
4 since my bond hearing in May of 2022.

5 I tried to come to agreement with Mr. Barnette to
6 take responsibility for my part. Not my husband's
7 responsibility like I've been asked to by him multiple,
8 multiple, multiple times.

9 I am a survivor of abuse as a child and through our
10 marriage. My husband mentally and emotionally abused me
11 and I just got to a point I couldn't do anything anymore.

12 It doesn't excuse what I did. I can't change it.
13 All I can do is be the best person I can be and try to
14 make changes in the law and everything else.

15 I understand, I understand y'all are angry at me.
16 I'm angry too.

17 I rededicated my life to God September 15th of 2022.
18 I lost everything. I only have -- I don't even have my --
19 I, I didn't -- I haven't seen my son from now until the
20 last two years. I don't have any family anymore. Only my
21 son.

22 I don't have but two friends and then the church
23 ladies that I have been in contact with. I have been in
24 lockup for 21 months and I have been in therapy as much as
25 I possibly can since then.

1 I am in -- when I go back, I'll have to go back into
2 lockup and hopefully will be able to continue, continue to
3 have church until wherever I go.

4 But I do understand. I fucked up. I told them that
5 that night and please pardon the language. I'm sorry.

6 My husband asked me to help him cover it up. Every
7 other time we were involved with DSS, I had to take the
8 fall. I had to manage everything for him. Not him.

9 He worked, he drank, and he slept. He didn't do
10 shit.

11 My son, he wasn't suppose to have that job. My
12 sisters were. The only reason why we had it was to keep
13 that Medicaid waiver because the one that she was on, the
14 children's waiver, was not gonna follow her for life and
15 we could only refuse it so many times before they would
16 take away the one that would follow her for life.

17 At the time, yeah, I should of known she was that
18 bad. I don't lie. But I couldn't go against my husband
19 to give her up.

20 I was trying to make arrangements to leave my husband
21 but she died before I could because I had to figure out
22 what to do with her because there was no way I'd be able
23 to work. No one to take care of her.

24 None of our family was there to support us through
25 birth or, you know, Edward and I mean none of our family.

1 All of our family knew where we lived. Nobody come by. I
2 had to chase them down.

3 I chose not to testify so things that didn't belong
4 in court didn't get brought up in court.

5 That's all.

6 THE COURT: Thank you, ma'am.

7 THE DEFENDANT: Do I stay standing or sit?

8 THE COURT: You, you may sit. Thank you.

9 THE DEFENDANT: You're welcome.

10 THE COURT: Anything else, Mr. File?

11 MR. FILE: No, Your Honor.

12 THE COURT: Mrs. Racine.

13 MRS. RACINE: Thank you, Your Honor.

14 Please the Court.

15 Mr. Baynard's 55 years old, Your Honor. He has a
16 GED. He tells me he had an extremely difficult childhood.
17 He moved about every six months for the majority of his
18 life. He suffered by a lot of abuse as a child and he
19 would never want his children to go through that and yet
20 they did.

21 Your Honor, basically what had happened is he had
22 been assisting and caring for **Minor** and he was working
23 third shift and sleeping most of the day. And then he was
24 also in therapy where he had hurt his shoulder and his
25 mother was in hospice care. So, he was, he was taking

1 care of a lot of other people and he did leave the care to
2 Bobbie. She was taking care of her most of the time.

3 Part of the limitations when he hurt his shoulder at
4 work was, was he could pick up no more than 10 pounds.
5 So, he wasn't able to help pick her up, change her diaper,
6 bathe her, or any of that kind of stuff. So that was one
7 of the reasons that he ended up not able to do the things
8 that he had been doing.

9 He -- Your Honor, there was a videotaped confession
10 from Mrs. Baynard and, at one point, she said that it
11 wasn't anyone's fault basically but her own.

12 David, he does take responsibility for his failures.
13 He has failed her and he's very remorseful for that and I,
14 I would ask that you would consider concurrent sentencing.
15 He's already 55 years old. Even with the other sentences,
16 it's basically a life sentence for him. If you can't do
17 that, I'd ask that you just be lenient as possible.

18 THE COURT: Sir, would you like to speak?

19 THE DEFENDANT: Yes, sir, I would.

20 I understand the charges that I've been brought here
21 on today. I've been in jail for the past 30 months.

22 I've had a lot of time to reflect on a lot of things,
23 and come to grips with a lot of things.

24 I know I messed up. I failed my whole family. I
25 didn't just fail my kids. I failed my wife. I failed my

1 family. I failed the people that were suppose to be my
2 friends as this is come down and they just, they just
3 turned against us and everything else.

4 I understand I've messed up.

5 Can you see -- if you see fit not to give me an
6 opportunity, I understand that also. I don't find any
7 fault of yours. You're doing a job that you have to do.
8 I understand that for a life you could do. You know, I
9 understand that.

10 You know, that's it, that's it. I would like to say
11 sorry to **Minor** cause she didn't have nothing. I think
12 we all deserve -- especially Edward cause he didn't, he
13 doesn't deserve any of this. He didn't do anything wrong.
14 He didn't.

15 When he's told not to do something, as, as a child,
16 you took on -- you obey your parents one way or the other.
17 You do it and you listen to your parents. He listened to
18 his parents. Just keep that in mind.

19 Thank you, sir.

20 THE COURT: Thank you.

21 Mr. Morin.

22 MR. MORIN: I agree with the solicitor.

23 We do have to protect the children. My client was
24 removed from the -- his parent's home when he was two
25 years old. Deplorable conditions. Animals in the house.

1 He stayed away for two years.

2 When he was six and he had a sister who was one, they
3 were removed from the house. Deplorable conditions.

4 Animals in the house, feces, bugs.

5 A few years later they were returned again. When he
6 was six -- when he was 16 and Minor would of been nine
7 or ten, Department of Social Service come around a third
8 time.

9 You have to leave the house. You can't be at
10 anymore. Deplorable conditions. We can't have these
11 children in this house -- in this living situation.

12 DSS records show that, when he was six and they told
13 him he was going home, he said I'm scared to. Went back
14 anyway.

15 So, the parents took advantage of them so they could
16 keep money flowing into the house. Twenty years of his
17 life, that's what he had. They ruined it all.

18 He has no one. The closest thing he had to anything
19 was his sister. He has no friends. He had no family and
20 he's gonna have to spend the next 30 years of his life in
21 prison at least because of what his parents have done.
22 There's no denying that.

23 I understand this Court's position when it comes to
24 children and injuries and damage to children.
25 Mr. Baynard, Edward Baynard's been damaged by these people

1 his entire life, and, if he's lucky, when he turns 50, he
2 might be able to have a life. He might be able to, and if
3 he can't because of what happened in the last 20 years --
4 the first 20 years of his life.

5 He, he said he can't speak without getting emotional.
6 I'm gonna try to read what he had written.

7 One of the first things he says is, is I can't speak
8 without breaking down. I've missed my sister this whole
9 time. I wish I didn't, didn't put -- align with my
10 parents and I think he longed (phonetic) but I'm not sure.

11 My whole life is been controlled by my -- by others.
12 My parents -- my -- for my personal choices, it's simply
13 won't -- I'm sorry. I can't read it.

14 All right. I'm gonna try but -- he's gonna try, Your
15 Honor.

16 THE DEFENDANT: I missed my sister this whole time.
17 Every day.

18 Most of my life I've been living by the guidance of
19 others if you can call it that.

20 I want the last few personal choices before you
21 sentence me to be that one day I will find peace away from
22 the influence of others and make my own decisions. But
23 that will not be, not be today.

24 MR. MORIN: I---

25 THE DEFENDANT: That's all.

1 MR. MORIN: I -- and I, and I would ask the Court
2 consider a concurrent sentence on this given his age and
3 what have -- have happened to him over the last two
4 decades.

5 Thank you, Your Honor.

6 THE COURT: It's a horrific case. It's a sad case.
7 No winners here. Only losers.

8 In 2022-GS-11-1299, Bobbie Jo Baynard, you are
9 confined to the Department of Correction on the murder
10 charge for life.

11 2024-0450, Mrs. Bay -- Bobbie Jo Baynard, you are
12 confined, on the child abuse with great bodily injury, to
13 the Department of Corrections for 20 years. It is
14 consecutive to all indictments. Credit for time.

15 2024-0449, on the unlawful conduct, 10 years. It is
16 consecutive to all indictments. Credit for time.

17 Mr. David Eugene Baynard, Baynard, on 2022-1296, on
18 the murder, you're confined to the Department of
19 Corrections for life. Credit for time.

20 2024-0448, that is the great bodily injury, 20 years
21 consecutive to all indictments. Credit for time.

22 2024-0447, unlawful conduct, 10 years Department of
23 Corrections. Consecutive to all indictments. Credit for
24 time.

25 Mr. Edward Vincent Baynard, on 2022-1304, murder,

1 you're confined in the Department of Corrections for a
2 period of 30 years. Concurrent with credit for time.

3 2024-0452, unlawful conduct, 10 years. Concurrent.
4 Credit for time.

5 2024-0451, great bodily injury, 20 years in -- 20
6 years Department of Corrections. Concurrent. Credit for
7 time.

8 Very best of luck to everyone.

9 SOLICITOR BARNETTE: Thank you, Your Honor.

10 MR. FILE: Thank you, Your Honor.

11 SOLICITOR JORDAN: Thank you, Your Honor.

12 MR. FILE: Thank you, Your Honor.

13 (Pause.)

14 SOLICITOR BARNETTE: Your Honor, can we put one more
15 thing on the record real quick?

16 THE COURT: Sure.

17 Hang on. We got something for the record.

18 SOLICITOR BARNETTE: Exhibits 2 through 27 and 100 to
19 117, we ask the Court to seal those records.

20 THE COURT: Any objection to me sealing those
21 records, Mr. File?

22 MR. FILE: We have---

23 SOLICITOR BARNETTE: Those are the pictures that we,
24 we moved to get in and the -- I know the Court's ruled on
25 that. But I feel like we probably need to seal those.

1 THE COURT: Yes, we'll seal those. They're horrific
2 pictures.

3 we're gonna stand in recess.
4

5 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *
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WITNESSES

Cherokee County Sheriff's Office

[Signature]

ARREST WARRANT NUMBER

2022A1110100496

ACTION OF GRAND JURY

Carr Harris
Foreperson of Grand Jury
Date: *9-19-2022*

VERDICT

Guilty

TRUE BILL

Jack M. Harris, Jr.
Foreperson of Petit Jury
Date: *10/31/2024*

DOCKET NO.

22-GS-11-01299

The State of South Carolina

County of Cherokee

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

September 19, 2022 TERM

THE STATE

v.

BOBBIE JO BAYNARD

Indictment for

MURDER

SC Code 16-03-0010, 0020
CDR Code 116
Class FEL-EXM

FILED IN THE OFFICE
CLERK OF COURT

2022 SEP 19 A 10:51

BRANDY W. MCBEE
CHEROKEE COUNTY, SC

STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)

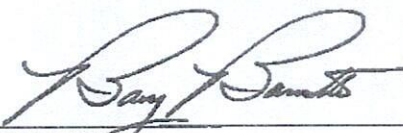
INDICTMENT

At a Court of General Sessions, convened on September 19, 2022, the
Grand Jurors of Cherokee County present upon their oath:

MURDER

That the Defendant, Bobbie Jo Baynard, did in Cherokee County at their home located at [REDACTED] Gaffney, South Carolina on or about April 11, 2022, feloniously, willfully, and with malice aforethought, expressed or implied, cause the death of one Minor [REDACTED] all in violation of §16-3-0010, 0020, *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.


SOLICITOR

WITNESSES

CHEROKEE COUNTY SHERIFF'S OFFICE

ARREST WARRANT NUMBER

DIRECT INDICTMENT

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 3/25/24

VERDICT

Guilty

Foreperson of Petit Jury

DOCKET NO.

24-GS-11-449

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

March 25, 2024 TERM

THE STATE

vs.

BOBBIE JO BAYNARD

Indictment for

UNLAWFUL NEGLECT / CONDUCT
TOWARDS CHILD

SC Code: 63-5-70

CDR Code: 2481

Class FFI/E

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

2024 MAR 25 A 11:13

BRANDY W. MCBEE

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHEROKEE)

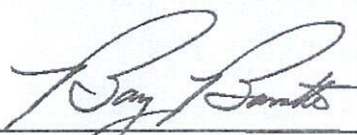
INDICTMENT

At a Court of General Sessions, convened on March 25, 2024 the
 Grand Jurors of Cherokee County present upon their oath:

UNLAWFUL CONDUCT TOWARDS CHILD

That the Defendant, Bobbie Jo Baynard, did in Cherokee County, between the dates of October 2, 2020 to April 11, 2022, willfully and unlawfully, having charge or custody, and/or being the parent or guardian of a minor child, or who is responsible for the welfare of a child as defined in §63-7-20 of the South Carolina Code of Laws, did (1) place the child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety, and/or (2) did do or cause to be done unlawfully or maliciously any bodily harm to the child so that the life or health of the child was endangered or likely to be endangered, in violation of §63-5-70, OF THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



 SOLICITOR

WITNESSES

CHEROKEE COUNTY SHERIFF'S OFFICE

ARREST WARRANT NUMBER

DIRECT INDICTMENT

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 3/23/24

VERDICT

Guilty

Foreperson of Petit Jury

Date: 10/31/2024

DOCKET NO. 24-GS-11-450

The State of South Carolina

County of Cherokee

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

March 25, 2024 TERM

THE STATE

VS.

BOBBIE JO BAYNARD

Indictment for

CHILD ABUSE WITH GREAT BODILY INJURY

SC Code: 16-3-95

CDR Code: 2766

Class FEL-C

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

2024 MAR 25 A 11:14

BRANDY W. MCBEE

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHEROKEE)

INDICTMENT

At a Court of General Sessions, convened on March 25, 2024, the
 Grand Jurors of Cherokee County present upon their oath:

CHILD ABUSE WITH GREAT BODILY INJURY

That the Defendant, Bobbie Jo Baynard, did in Cherokee County between
 the dates of October 2, 2020 to April 11, 2022, inflict great bodily injury upon
Minor a child under the age of eighteen (18), as defined
 by § 16-3-95 of the SOUTH CAROLINA CODE OF LAWS, (1976), as amended.

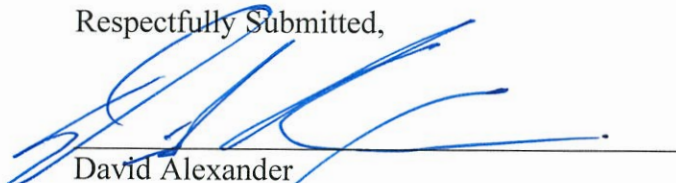
Against the peace and dignity of the State, and contrary to the statute in
 such case made and provided.


 SOLICITOR

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,



David Alexander
Deputy Chief Attorney for Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

RECEIVED

Feb 12 2026

SC Court of Appeals

This 12th day of February, 2026.